FIRST DAY - JANUARY 9, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

FIRST DAY

Legislative Chamber, Lincoln, Nebraska
Wednesday, January 9, 1991

Pursuant to the provisions of Section 10, Article III of the Constitution of Nebraska, the Ninety-Second Legislature, First Session of the Legislature of Nebraska, assembled in Legislative Hall of the Capitol Building at the hour of 10:00 a.m. on Wednesday, January 9, 1991, and was called to order by President Nichol.

PRAYER

The prayer was offered by Rev. Harland Johnson, Chaplain Coordinator.

PRESENTATION OF COLORS

Presentation of Colors by the Nebraska National Guard.

ROLL CALL

The roll was called and the following members were present:

Abboud, Chris	Crosby, LaVon	Johnson, Rod
Ashford, Brad	Cudaback, Jim D.	Kristensen, Doug
Baack, Dennis	Dierks, Merton L.	Labedz, Bernice
Bernard-Stevens, David F.	Elmer, W. Owen	Lamb, Howard A.
Beutler, Chris	Haberman, Rex S.	Landis, David M.
Beyer, Emil E., Jr.	Hall, Tim	Lindsay, John C.
Byars, Dennis M.	Hartnett, D. Paul	Lynch, Daniel C.
Chambers, Ernie	Hefner, Elroy M.	Moore, Scott
Chizek, Jerry	Hillman, Joyce	Morrissey, Spencer W.
Conway, Gerald	Horgan, Thomas R.	Nelson, Arlene
Coordsen, George	Johnson, Lowell C.	Peterson, Richard

Pirsch, Carol McBride	Schimek, DiAnna R.	Warner, Jerome
Rasmussen, Jessie K.	Schmit, Loran	Wehrbein, Roger R.
Robak, Jennie	Schrock, Edward	Wesely, Don
Robinson, C. N. Bud	Scofield, Sandra K.	Will, Eric
Rogers, Carson	Smith, Jacklyn	Withem, Ron
Schellpeper, Stan		

MOTION - Adopt Rules

Mr. Lynch moved that the Rules, as now in our possession, be adopted for today only, Wednesday, January 9, 1991.

The motion prevailed.

MOTION - Temporary Clerk and Sergeant at Arms

Mr. Hefner moved that we appoint Mr. Patrick J. O'Donnell as temporary Clerk of the Legislature and Mr. Carl Kamprath as temporary Sergeant at Arms.

The motion prevailed.

RESIGNATION

December 13, 1990

The Honorable Kay A. Orr
Governor, State of Nebraska
State Capitol
Lincoln, NE 68509

Dear Governor Orr:

This is to inform you that I am resigning my 39th District legislative seat effective December 15, 1990.

As a member of the Unicameral Legislature for more than eleven years, I have enjoyed representing my constituents as well as all Nebraskans. I look forward to a continuation of service to Nebraska as a member of the U. S. House of Representatives.

Thank you.

Sincerely,
(Signed) Senator William E. Barrett

Speaker

WEB:j

MESSAGE FROM THE SECRETARY OF STATE

January 9, 1991

Mr. Patrick J. O'Donnell
Clerk of the Legislature
State Capitol
Lincoln, Nebraska

I hand you herewith the official appointment and oath of Edward Schrock, as a Member of the Legislature from the thirty-ninth(39) Legislative District for the unexpired term of William E. Barrett, resigned.

Sincerely,
(Signed) ALLEN J. BEERMANN
Secretary of State

CERTIFICATE

STATE OF NEBRASKA

United States of America,)
) ss. Department of State
State of Nebraska)

I, Allen J. Beermann, Secretary of State of the State of Nebraska do hereby certify that Edward Schrock has been appointed as a Member of the Nebraska Unicameral Legislature from the Thirty-ninth (39) District for the unexpired term of William E. Barrett, resigned. The term beginning January 3, 1991 shall continue until January 6, 1993 or such time as he shall satisfactorily perform all the duties imposed upon such officer by law, and until a successor is duly elected and qualified.

I further certify that the foregoing appointment was made by Governor Kay A. Orr under the authority granted by the Constitution and by Section 32-1042 of the Revised Statutes of Nebraska.

In Testimony Whereof, I have hereunto set my hand and affixed the Great Seal of the State of Nebraska.

Done at Lincoln this Ninth day of January, in the year of our Lord, one thousand nine hundred and ninety-one.

(SEAL) Allen J. Beermann, Secretary of State
Ralph Englert, Deputy

OFFICIAL OATH

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

"I Edward Schrock, do solemnly swear (or affirm) that I will support the Constitution of the United States, and the Constitution of the State of Nebraska, and will faithfully discharge the duties of Member, Unicameral Legislature, Dist. #39 according to the best of my ability, and that at the election at which I was chosen to fill said office, I have not improperly influenced in any way the vote of any elector, and have not accepted, nor will I accept or receive, directly or indirectly, any money or other valuable thing from any corporation, company or person, or any promise of office, for any official act or influence (for any vote I may give or withhold on any bill, resolution, or appropriation)."*

(Signed) Edward J. Schrock

Subscribed in my presence and sworn to before me this 3rd day of January, 1991.

(Signed) Allen J. Beermann
Notary Public

(SEAL)
*Constitution of the State of Nebraska,
Article XV, Section One.

GUBERNATORIAL APPOINTMENT

Know Ye, that I, KAY A. ORR, on behalf of the State of Nebraska and as Governor, do hereby appoint Edward Schrock as State Senator District #39.

Reposing special trust in your ability, integrity and patriotism, I do authorize and empower you to discharge the duties of said appointment, according to law.

This appointment shall take effect on December 31, 1990 and continue until as provided by law provided you shall satisfactorily perform all the duties imposed by law.

(Signed) Kay A. Orr
Governor

MOTION - Committee on Credentials

Mrs. Labedz moved that we proceed to the election of five (5) persons to serve as the Committee on Credentials, who will forthwith report to the Legislature on the credentials of those claiming to be elected to the Legislature in the General Election in November, 1990.

The motion prevailed.

Mrs. Labedz moved to elect the five senior members of the Legislature to serve on the Committee on Credentials: Messrs. Warner, Chambers, Hefner, Schmit, and Mrs. Labedz.

The motion prevailed.

EASE

The Legislature was at ease from 10:18 a.m. until 10:24 a.m.

MOTION - Credentials Committee Report

Messrs. Warner, Schmit, Hefner, and Mrs. Labedz moved to approve the attached report as certified and presented by the Secretary of State and furthermore, the committee takes notice of statutory section 32-1001.22, RRS., which states in part that when an election is contested, the person holding the certificate of election shall exercise the duties of office until the election contest is decided.

Furthermore, that the matter of the election contest for the 30th Legislative District be referred to the Reference Committee so as to identify the appropriate legislative entity to consider the election

contest and to have the Reference Committee report back to the Legislature with its recommendation.

The motion prevailed with 44 ayes, 0 nays, and 5 present and not voting.

REPORT OF COMMITTEE ON CREDENTIALS

State of Nebraska

United States of America,)
) ss. Department of State
State of Nebraska)

I, Allen J. Beermann, Secretary of State of the State of Nebraska do hereby certify that the attached is a true and correct copy of the Official Roster of members of the Nebraska Unicameral Legislature elected or appointed to serve in the Ninety-second Legislature, First Session (Regular), 1991.

Further, I hereby certify that the members so listed on the Official Roster attached hereto are the duly elected or appointed members of the Unicameral Legislature in the State of Nebraska for the Ninety-second Legislature, First Session (Regular), 1991.

Finally, I hereby certify that all election returns, abstracts, canvass and appointment records with reference to said members are on file in the office of Secretary of State and are a matter of public record.

In Testimony Whereof, I have hereunto set my hand and affixed the Great Seal of the State of Nebraska.

Done at Lincoln this ninth day of January in the year of our Lord, one thousand nine hundred and ninety-one.

(SEAL) Allen J. Beermann, Secretary of State

DISTRICT	NAME	ELECTED
1	Spencer W. Morrissey	November 8, 1988
2	Roger R. Wehrbein	November 6, 1990
3	Emil E. Beyer, Jr.	November 8, 1988
4	Thomas R. Horgan	November 6, 1990
5	Bernice Koziol Labedz	November 8, 1988

6	Brad Ashford	November 6, 1990
7	Tim Hall	November 8, 1988
8	Eric Will	November 6, 1990
9	John C. Lindsay	November 8, 1988
10	Carol McBride Pirsch	November 6, 1990
11	Ernie Chambers	November 8, 1988
12	Chris Abboud	November 6, 1990
13	Daniel C. Lynch	November 8, 1988
14	Ron Withem	November 6, 1990
15	Lowell C. Johnson	November 8, 1988
16	C. N. Bud Robinson	November 6, 1990
17	Gerald Conway	November 8, 1988
18	Stan Schellpeper	November 6, 1990
19	Elroy M. Hefner	November 8, 1988
20	Jessie K. Rasmussen	November 6, 1990
21	Richard Peterson	November 8, 1988
22	Jennie Robak	November 6, 1990
23	Loran Schmit	November 8, 1988
24	Scott Moore	November 6, 1990
25	Jerome Warner	November 8, 1988
26	Don Wesely	November 6, 1990
27	DiAnna R. Schimek	November 8, 1988
28	Chris Beutler	November 6, 1990
29	LaVon Crosby	November 8, 1988
30	Dennis M. Byars	November 6, 1990
31	Jerry Chizek	November 8, 1988
32	George Coordsen	November 6, 1990
33	Jacklyn Smith	November 8, 1988
34	Rod Johnson	November 6, 1990
35	Arlene Nelson	November 8, 1988
36	Jim D. Cudaback	November 6, 1990
37	Doug Kristensen	November 8, 1988
38	W. Owen Elmer	November 6, 1990
39	Edward Schrock	Appointed 12-31-90 *
40	Merton L. Dierks	November 6, 1990
41	Carson Rogers	November 8, 1988
42	David F. Bernard-Stevens	November 6, 1990
43	Howard A. Lamb	November 8, 1988
44	Rex S. Haberman	November 6, 1990
45	D. Paul Hartnett	November 8, 1988
46	David M. Landis	November 6, 1990
47	Dennis Baack	November 8, 1988
48	Joyce Hillman	November 6, 1990
49	Sandra K. Scofield	November 8, 1988

*Appointed 12-31-90 to replace William E. Barrett (resigned)

NOTICE OF ELECTION CONTEST

December 14, 1990

Mr. Paul L. Korslund
2314 High Street
Beatrice. Nebraska 68310

Re: Nebraska Legislature, District No. 30

Dear Mr. Korslund:

NOTICE

This letter is to advise you that I am contesting the results of the general election held on November 6, 1990, in the election of the Nebraska Legislature, 30th District, inasmuch as it may be argued that you have been proclaimed elected by the votes recounted and certified to the Secretary of State by the County Clerk of Gage County and Jefferson County, following the recount conducted on December 5, 1990, and the inaction of the Board of State Canvassers thereafter.

SERVICE

Pursuant to Nebraska Statute, I am hand delivering this notice to you personally, or delivering it to your house where you last resided on this date. Also, I am sending this notice by First Class Mail, postage prepaid, certified, return receipt requested, to you at:

Paul L. Korslund
2314 High Street
Beatrice, Nebraska 68310

CONTESTED VOTES

Attached hereto as Exhibit "A" and incorporated herein by this reference, is a list of 513 absentee voters whose votes were not counted in the recount held on December 5, 1990; said 513 absentee votes constitute individuals whose votes are at issue, and the failure of those votes to be counted is being contested.

GROUNDS OF CONTEST

1. Article III, Section 10 of the Constitution of the State of Nebraska which states:

"...A majority of the members elected to the Legislature shall constitute a quorum; the Legislature shall determine the rules of its proceedings and be the judge of the election, returns, and qualifications of its members,...."

2. Article I, Section 2 of the Constitution of the State of Nebraska which states:

"All elections shall be free; and there shall be no hinderance or impediment to the right of a qualified voter to exercise the elective franchise."

3. Article VI, Section 6 of the Constitution of the State of Nebraska which states:

"All votes shall be by ballot or by other means authorized by the Legislature whereby the vote and secrecy of the electors' vote will be preserved."

4. Article V, Section 2 of the Constitution of the State of Nebraska which states:

"...The Supreme Court shall have jurisdiction in all cases relating to the revenue; civil cases in which the state is a party, mandamus, warranto quo, habeas corpus, election contests involving state officers other than members of the Legislature, and such appellate jurisdiction as may be provided by law."

5. For misconduct on the part of the Judge and Board of State Canvassers sufficient to change the result of the election.

6. For the rejection of legal ballots sufficient to change the result of the election.

7. For error by the Board of State Canvassers in counting the votes and in declaring the result of the election; said error sufficient to change the result of the election.

8. For other cause, more particularly stated below which would show I was legally elected, and that the intent of the voters is not being recognized.

9. That the absentee voters of Gage County, Nebraska, have been deprived of equal protection under the laws and violation of the Fourteenth Amendment of the Constitution of the United States.

10. That absentee ballots from other counties within the State of Nebraska showing the initials rather than names in full have been counted and certified by the local and State Canvassing Boards in other elections, including State Legislative races.

11. That the action of the County Clerk of Gage County, Nebraska, and the irregularities in the conduct of the election, and the counting of the ballots had the effect of disfranchising voters contrary to law.

12. That the irregularities of the County Clerk of Gage County, and his employees, in not complying with the provisions of Neb.Rev.Stat. §32-835(2), have deprived electors of the right to have their votes counted where they have complied with all mandatory provisions of the statute applicable to them.

13. That the language of Neb.Rev.Stat. §32-835(2) specifically requiring that the County Clerk or his employee write his or her name in full on the back of each ballot is directory, and that the failure to do so does not invalidate the votes of absentee and disabled voters.

14. That the irregularities of the County Clerk of Gage County, Nebraska, and his employees, and the Board conducting the canvass of the votes cast at the general election held on November 6, 1990, will not invalidate the votes of electors otherwise valid absent fraud, and proper effect can be given to them.

15. That the substantial compliance of the County Clerk of Gage County, Nebraska, and his staff, with Neb.Rev.Stat. §32-835(2), is not a material defect, and is not grounds sufficient to disfranchise the absentee voters.

16. That the purpose of Neb.Rev.Stat. §32-835(2) is to identify ballots that have been sent to absentee voters upon their return, and to assure the voter that he is given an authentic ballot to enable the public to identify the actual ballot cast in the event of an election contest and to prevent fraud, and that the purpose is substantially complied with by the initialing rather than the signature on each ballot when obtained by the absentee voter.

17. That the absentee voters in Gage County, Nebraska should not be deprived of their right to vote because of the neglect or carelessness of election officials.

18. The validity and legal effect of ballots cast for a State Legislative race is in the sole and exclusive jurisdiction of the Legislature, and a question for the Legislature to determine, and the Legislature should make a determination of voters' intent.

19. The State Canvassing Board has, at the time of the service of this notice upon Paul Korslund, not yet certified a winner, of the election for the 30th Legislative District. (I reserve the right to amend this notice upon the certification of election by the Board of State Canvassers at any time.)

NOTICE OF DEPOSITIONS

Pursuant to statute, the taking of your deposition and the deposition of other necessary witnesses, said depositions to be conducted in the manner provided by law for the taking of depositions in civil procedure, will be taken beginning at 9:00 a.m., on the 4th day of January, 1991, at the Gage County Courthouse, Beatrice, Nebraska, will be continued day to day and place to place until all depositions are taken in their entirety, or as otherwise stipulated by the parties.

Sincerely,
(Signed) Dennis M. Byars

DMB:jh
Enclosures

NOTICE OF CONTEST OF ELECTION

MEMBER OF THE NEBRASKA LEGISLATURE, DISTRICT 30

TO: Dennis M. Byars, 823 North Eighth Street, Beatrice, NE 68310

Notice is hereby given to you that Paul Korslund contests your election as member of the Nebraska Legislature, District 30, in the general election on November 6, 1990.

The names of the voters whose votes are contested are attached hereto, marked Exhibit A and incorporated herein by reference.

Said votes are illegal because they do not meet the requirements of Section 32-835, Nebraska Revised Statutes (Reissue 1988), in that said votes were cast by absentee ballots; and the County Clerk of Gage County, or any employee working in his office, did not write his or her name in full on the back of such ballots; and such votes were counted in said general election contrary to law.

A recount of the votes cast in said election for member of the legislature was held on December 5, 1990; and Paul Korslund received the most votes and is the apparent person elected to said office. The votes of the voters listed on Exhibit A were not counted in said recount pursuant to the Order of the District Court of Lancaster County, Nebraska, in the case entitled Paul Korslund, Petitioner, vs. Allen J. Beermann, et al., at Docket 460, Page 80.

The taking of depositions of necessary witnesses pursuant to the Rules of Civil Procedure including Rule 30(b)(6) will be taken, beginning at 9:00 a.m., on the 4th day of January, 1991, at the Gage County Courthouse, Beatrice, Nebraska, and will be continued from day to day and place to place until all depositions are taken in their entirety, or as otherwise stipulated by the parties.

(Signed) Paul Korslund

Enclosures

MOTION - Escort Chief Justice

Mr. Moore moved that a Committee of five (5) members be appointed to escort the Chief Justice of the Supreme Court to the Legislative Chamber for the purpose of administering the oath of office to the members of the Legislature.

The motion prevailed.

The Chair appointed Messrs. Moore, Hefner, Dierks, Morrissey, and Abboud to serve on said Committee.

MEMBERS' OATH OF OFFICE

STATE OF NEBRASKA)
)ss.
LANCASTER COUNTY)

Do you and each of you solemnly swear that you will support the Constitution of the United States, and the Constitution of the State of Nebraska, and that you will faithfully discharge the duties of a member of the Legislature according to the best of your ability, and that at the election at which you were chosen to fill such office, you have not accepted, nor will you accept or receive, directly or indirectly, any money or other valuable thing from any corporation, company or person, or any promise of office, for any official act or influence (for any vote you may give or withhold on any bill, resolution, or appropriation), so help you God.

Chris Abboud
Brad Ashford
Chris Beutler
David F. Bernard-Stevens
Dennis M. Byars
George Coordsen
Jim D. Cudaback
Merton L. Dierks
W. Owen Elmer
Rex S. Haberman
Joyce Hillman
Thomas R. Horgan
Rod Johnson
David M. Landis
Scott Moore
Carol McBride Pirsch
Jessie K. Rasmussen
Jennie Robak
C. N. Bud Robinson
Stan Schellpeper
Roger R. Wehrbein
Don Wesely
Eric Will
Ron Withem

Subscribed in my presence and sworn to before me this ninth day of January, 1991.

(Signed) William C. Hastings,
Chief Justice

The Committee escorted the Chief Justice from the Chamber.

MOTION - Election of Officers

Mr. L. Johnson moved that the following officers recommended by the Executive Board be approved for this Ninety-Second Legislature, First Session:

Clerk of the Legislature	Patrick J. O'Donnell
Assistant Clerk of the Legislature	Richard Brown
Sergeant at Arms	Carl E. Kamprath
Chaplain Coordinator	Harland Johnson

The motion prevailed with 46 ayes, 0 nays, and 3 present and not voting.

MOTION - Election of Speaker

Mr. Chizek moved to proceed to the election of the Speaker of the Legislature.

The motion prevailed.

Mr. Baack placed his name in nomination.

Mr. Moore moved to cease nominations and to cast a unanimous vote for Mr. Baack.

The motion prevailed with 42 ayes, 0 nays, and 7 present and not voting.

Mr. Baack was duly elected Speaker of the Legislature.

MOTION - Escort Chief Justice

Mr. Conway moved that a Committee of five (5) members be appointed to escort the Chief Justice of the Supreme Court to the

Legislative Chamber for the purpose of administering the oath of office to the officers of the Legislature.

The motion prevailed.

The Chair appointed Messrs. Chizek, Hall, Beutler, Mmes. Nelson, and Hillman to serve on said Committee.

EASE

The Legislature was at ease from 10:39 a.m. until 10:41 a.m.

The Committee escorted the Chief Justice to the rostrum to administer the Oath of Office to the newly elected officers.

OFFICERS' OATH OF OFFICE

STATE OF NEBRASKA)
) ss.
LANCASTER COUNTY)

We, and each of us, do solemnly swear (or affirm) that we will support the Constitution of the United States, the Constitution of the State of Nebraska, and faithfully discharge the duties of our respective offices to the best of our ability, so help us God.

Speaker	Dennis Baack
Clerk of the Legislature	Patrick J. O'Donnell
Assistant Clerk of the Legislature	Richard Brown
Sergeant at Arms	Carl E. Kamprath
Chaplain Coordinator	Harland Johnson

The Committee escorted the Chief Justice from the Chamber.

ANNOUNCEMENT

Ms. Scofield introduced Mr. Wickersham to the Legislature.

MOTION - Chairperson of Committee on Committees

Mrs. Pirsch moved to proceed to the election of the Chairperson of the Committee on Committees.

The motion prevailed.

Mr. Morrissey placed his name in nomination.

Mr. Abboud placed his name in nomination.

Mr. Conway moved the nominations be closed.

The motion prevailed.

The Chair appointed Messrs. Baack, Conway, and Mrs. Labedz as tellers.

Morrissey	27
Abboud	22
	49

Mr. Morrissey was duly elected Chairperson of the Committee on Committees.

MOTION - Committee on Committees Members

Mrs. Smith moved to proceed to the election of the remaining twelve members of the Committee on Committees, and that we authorize the members residing within each of the four districts, as enumerated in Rule 3, Sec. 2a, to nominate three members to be elected by the Legislative body to serve on the Committee on Committees.

The motion prevailed.

District 1
Wesely
Coordsen
Landis

District 2
Lynch
Withem
Chizek

District 3
L. Johnson
Conway
Dierks

District 4
Elmer
Rogers
Lamb

Mr. Morrissey moved the approval of the nominees to the Committee on Committees.

The motion prevailed.

The Chair declared the nominees duly elected.

MOTION - Chairperson of Executive Board

Mr. Dierks moved to proceed to the election of the Chairperson of the Executive Board of the Legislative Council.

The motion prevailed.

Mr. Warner placed his name in nomination.

Mrs. Labedz placed her name in nomination.

The Chair declared the nominations closed.

The Chair appointed Messrs. Wehrbein, Kristensen, and Mrs. Robak as tellers.

Warner	28
Labedz	20
	48

Mr. Warner was duly elected Chairperson of the Executive Board.

MOTION - Vice Chairperson of Executive Board

Mr. Hall moved to proceed to the election of the Vice Chairperson of the Executive Board of the Legislative Council.

The motion prevailed.

Mr. Lindsay placed his name in nomination.

Mr. Peterson placed his name in nomination.

Mr. Hall moved the nominations be closed.

The motion prevailed.

The Chair appointed Messrs. Robinson, Abboud, and Ms. Scofield as tellers.

Lindsay	33
Peterson	16
	49

Mr. Lindsay was duly elected Vice Chairperson of the Executive Board.

MOTION - Executive Board Members

Mr. Hartnett moved to proceed to the election of the other six members of the Executive Board of the Legislative Council as outlined in 50-401.01.

The motion prevailed.

Ms. Schimek and Mr. Wehrbein were nominated from District 1.

Mr. Chambers and Mr. Hall were nominated from District 2.

Mr. Hefner and Mr. Haberman were nominated from District 3.

Mr. Lindsay moved the approval of the nominees to the Executive Board of the Legislative Council.

The motion prevailed.

The Chair declared the nominees duly elected.

MOTION - Committee Chairpersons

Mr. Haberman moved to proceed to the election of the Standing Committee Chairpersons, by secret ballot, in accordance with Rule 3, Sec. 7a.

The motion prevailed.

CHAIRPERSON - Agriculture

Mr. Schellpeper placed his name in nomination.

Mr. Rogers placed his name in nomination.

The Chair declared the nominations closed.

The Chair appointed Messrs. Cudaback, Will, and Mrs. Smith as tellers.

Schellpeper	22
Rogers	26
	48

Mr. Rogers was duly elected Chairperson of Agriculture Committee.

CHAIRPERSON - Appropriations

Mr. L. Johnson placed his name in nomination.

Mr. Moore placed his name in nomination.

Mr. Wehrbein placed his name in nomination.

The Chair declared the nominations closed.

The Chair appointed Mr. Hartnett, Mmes. Rasmussen, and Crosby as tellers.

Johnson, L.	13
Moore	27
Wehrbein	8
	48

Mr. Moore was duly elected Chairperson of Appropriations Committee.

CHAIRPERSON - Banking, Commerce and Insurance

Mr. Landis placed his name in nomination.

Mr. Conway moved to cease nominations and to cast a unanimous vote for Mr. Landis.

The motion prevailed.

Mr. Landis was duly elected Chairperson of Banking, Commerce and Insurance Committee.

CHAIRPERSON - Business and Labor

Mr. Coordsen placed his name in nomination.

Mr. Hall moved to cease nominations and to cast a unanimous vote for Mr. Coordsen.

The motion prevailed.

Mr. Coordsen was duly elected Chairperson of Business and Labor Committee.

CHAIRPERSON - Education

Mr. Withem placed his name in nomination.

Mr. Landis moved to cease nominations and to cast a unanimous vote for Mr. Withem.

The motion prevailed.

Mr. Withem was duly elected Chairperson of Education Committee.

CHAIRPERSON - General Affairs

Mrs. Smith placed her name in nomination.

Mr. Lamb moved to cease nominations and to cast a unanimous vote for Mrs. Smith.

The motion prevailed.

Mrs. Smith was duly elected Chairperson of General Affairs Committee.

CHAIRPERSON - Government, Military and Veterans Affairs

Mr. Conway placed his name in nomination.

Mr. R. Johnson moved to cease nominations and to cast a unanimous vote for Mr. Conway.

The motion prevailed.

Mr. Conway was duly elected Chairperson of Government, Military and Veterans Affairs Committee.

CHAIRPERSON - Health and Human Services

Mr. Wesely placed his name in nomination.

Mr. Chambers moved to cease nominations and to cast a unanimous vote for Mr. Wesely.

The motion prevailed.

Mr. Wesely was duly elected Chairperson of Health and Human Services Committee.

CHAIRPERSON - Judiciary

Mr. Ashford nominated Mr. Chizek.

Mr. Ashford moved to cease nominations and to cast a unanimous vote for Mr. Chizek.

The motion prevailed.

Mr. Chizek was duly elected Chairperson of Judiciary Committee.

CHAIRPERSON - Natural Resources

Mr. Dierks placed his name in nomination.

Mrs. Robak nominated Mr. Schmit.

Mr. R. Johnson placed his name in nomination.

The Chair declared the nominations closed.

The Chair appointed Messrs. Schrock, Lynch, and Beyer as tellers.

Dierks	12
Schmit	19
Johnson, R.	18
	49

The Chair announced that a second ballot would be cast between Mr. Schmit and Mr. R. Johnson.

The Chair appointed Mr. Hefner, Mmes. Pirsch, and Hillman as tellers.

Schmit	21
Johnson, R.	28
	49

Mr. R. Johnson was duly elected Chairperson of Natural Resources Committee.

CHAIRPERSON - Revenue

Mr. Hefner placed his name in nomination.

Mr. Hall placed his name in nomination.

The Chair declared the nominations closed.

The Chair appointed Messrs. Elmer, Beutler, and Ms. Schimek as tellers.

Hefner	17
Hall	32
	49

Mr. Hall was duly elected Chairperson of Revenue Committee.

CHAIRPERSON - Transportation

Mr. Kristensen placed his name in nomination.

Mr. Lamb placed his name in nomination.

The Chair declared the nominations closed.

The Chair appointed Messrs. Coordsen, Bernard-Stevens, and Haberman as tellers.

Kristensen	26
Lamb	23
	49

Mr. Kristensen was duly elected Chairperson of Transportation Committee.

CHAIRPERSON - Urban Affairs

Mr. Hartnett placed his name in nomination.

Mr. Chambers moved to cease nominations and to cast a unanimous vote for Mr. Hartnett.

The motion prevailed.

Mr. Hartnett was duly elected Chairperson of Urban Affairs Committee.

MOTION - Committee Chairperson

Ms. Schimek moved to proceed to the election of the Nebraska Retirement Systems Committee Chairperson, by secret ballot, in accordance with Statute 50-416.01.

The motion prevailed.

CHAIRPERSON - Nebraska Retirement Systems

Mr. Haberman placed his name in nomination.

Mrs. Nelson placed her name in nomination.

The Chair declared the nominations closed.

The Chair appointed Messrs. Horgan, Schellpeper, and Warner as tellers.

Haberman	21
Nelson	27
	48

Mrs. Nelson was duly elected Chairperson of Nebraska Retirement Systems Committee.

MOTION - Special and Select Committees

Mr. Wesely moved to proceed to the election of the Chairpersons of the Special and Select Committees.

The motion prevailed.

CHAIRPERSON - Intergovernmental Cooperation

Mr. Elmer placed his name in nomination.

Mr. Bernard-Stevens placed his name in nomination.

The Chair declared the nominations closed.

The Chair appointed Mmes. Labedz, Hillman, and Mr. Landis as tellers.

Elmer	26
Bernard-Stevens	22
	48

Mr. Elmer was duly elected Chairperson of Intergovernmental Cooperation Committee.

CHAIRPERSON - Rules

Mr. Lynch placed his name in nomination.

Mr. Abboud moved to cease nominations and to cast a unanimous vote for Mr. Lynch.

The motion prevailed.

Mr. Lynch was duly elected Chairperson of Rules Committee.

CHAIRPERSON - Enrollment and Review

Mr. Lindsay nominated Mr. Will.

Mr. Lindsay moved to cease nominations and to cast a unanimous vote for Mr. Will.

The motion prevailed.

Mr. Will was duly elected Chairperson of Enrollment and Review Committee.

MOTION - Election Returns

Mr. Kristensen moved that a committee of three (3) be appointed to escort the Secretary of State to the Chamber to deliver the election returns of the General Election of November, 1990.

The motion prevailed.

The Chair appointed Messrs. Dierks, Lamb, and Mrs. Crosby to serve on said Committee.

The Committee escorted Secretary of State Allen J. Beermann to the rostrum where he delivered the following report at 1:10 p.m.

REPORT FROM THE SECRETARY OF STATE

January 9, 1991

Speaker of the Legislature
Ninety-second Legislature, First Session (Regular) 1991
State Capitol
Lincoln, Nebraska

Honorable Speaker:

In accordance with Article IV, Section 4 of the Constitution of the State of Nebraska, I have the honor of herewith delivering to you, under Seal, the abstract of votes cast in the ninety-three counties of the State of Nebraska at the General Election held on November 6, 1990, for the offices of Governor, Lieutenant Governor, Secretary of State, Auditor of Public Accounts, Treasurer, Attorney General and

Member of the Public Service Commission, which votes are required by law to be canvassed by the Nebraska State Legislature, pursuant to Section 32-4,110 R.S. Nebraska 1943, Reissue of 1988 as submitted to me for delivery to the Honorable Speaker of the Legislature.

I also deliver to you, under Seal, the list of candidates receiving the highest vote for each particular office enumerated. The certificate of the Secretary of State accompanies this list.

The original abstract sheets containing the tabulation of votes for these candidates for the ninety-three counties, covering the General Election on November 6, 1990, which constitutes a part of the official record of the State Board of Canvassers, are submitted for your examination.

Further, my report contains the abstracts of canvass from the ninety-three counties with reference to four Constitutional Amendments, two Initiatives and a Referendum Measure. A certification of these returns is also attached.

Inasmuch as these canvass sheets are part of the records of the Office of Secretary of State, we respectfully request that they be returned to our office files immediately upon the completion of your official canvass.

Respectfully submitted,
(Signed) Allen J. Beermann
Secretary of State

CERTIFICATE

STATE OF NEBRASKA

I, Allen J. Beermann, Secretary of State of the State of Nebraska do hereby certify that the attached is a true and correct list of the candidates for the offices of Governor, Lieutenant Governor, Secretary of State, Auditor of Public Accounts, Treasurer, Attorney General and member of the Public Service Commission, receiving the highest number of votes cast at the General Election in the State of Nebraska held on November 6, 1990.

In Testimony Whereof, I have hereunto set my hand and affixed the Great Seal of the State of Nebraska.

Done at Lincoln this ninth day of January in the year of our Lord, one thousand nine hundred and ninety-one.

(SEAL) Allen J. Beermann, Secretary of State

GOVERNOR
Ben Nelson

LIEUTENANT GOVERNOR
Maxine Moul

SECRETARY OF STATE
Allen J. Beermann

AUDITOR OF PUBLIC ACCOUNTS
John Breslow

STATE TREASURER
Dawn E. Rockey

ATTORNEY GENERAL
Don Stenberg

PUBLIC SERVICE COMMISSIONER
James F. Munnelly, Second District

CERTIFICATE

STATE OF NEBRASKA

I, Allen J. Beermann, Secretary of State of the State of Nebraska do hereby certify that the attached is a true and correct listing of the four Constitutional Amendments proposed by the Ninety-first Legislature, first session (Regular) and Ninety-first Legislature, second session (Regular), two Initiatives and one Referendum ordered by Petition of the People, Numbers 404, 405 and 406, showing the number of votes cast for each at the General Election in the State of Nebraska held on November 6, 1990.

In Testimony Whereof, I have hereunto set my hand and affixed the Great Seal of the State of Nebraska.

Done at Lincoln this ninth day of January in the year of our Lord, one thousand nine hundred and ninety-one.

(SEAL) Allen J. Beermann, Secretary of State

Constitutional Amendment to authorize the Legislature to provide that agricultural land and horticultural land, as defined by the Legislature, constitutes a separate and distinct class of property for purposes of taxation and that such land may be taxed by a method which results in values that are not uniform and proportionate with all other tangible property and franchises but which results in values that are uniform and proportionate upon all property within the class of agricultural land and horticultural land and to eliminate a provision permitting separate and distinct classification of such property.

FOR	317,534
AGAINST	200,744

A Constitutional Amendment to provide a right of direct appeal to the Supreme Court in capital cases, to provide that the right of appeal in all other cases shall be to the appellate court or to the Supreme Court as may be provided by law, to provide for an appellate court, to authorize the Supreme Court to assign duties to judges of the appellate court, to eliminate specific provisions on the clerk and reporter of the Supreme Court, and to harmonize provisions.

FOR	337,667
AGAINST	166,185

A Constitutional Amendment to empower the Legislature to authorize incorporated cities and village to use local sources of revenue for economic and industrial development with voter approval.

FOR	302,981
AGAINST	202,155

A Constitutional Amendment to establish the Coordinating Commission for Postsecondary Education, to provide powers for the Commission, and to provide for membership on the Commission.

FOR	268,037
AGAINST	210,599

Initiative ordered by Petition of the People Number 404: Shall the Nebraska Constitution be amended to provide for a Nebraska State Lottery System where, through 1995, certain nonprofit organizations could conduct mechanical, electronic or video lotteries under supervision of a Veterans Lottery Control Council appointed by the

Governor with approval of the Legislature, and where the state would receive fees for the use of lottery equipment by vendors to be deposited in a Nebraska State Lottery System Fund, and allocated no more than ten per cent to pay administrative expenses, twenty five per cent to the Nebraska State Veterans Aid Fund, and the remainder to property tax relief?

FOR	202,814
AGAINST	371,711

Initiative ordered by Petition of the People Number 405: Shall the Nebraska Constitution be amended to provide that, for fiscal years ending after January 1, 1991; (1) total appropriations for the state, funded with state taxes and fees, shall not be increased more that 2 percent over the prior fiscal year: and (2) budgets of local governments shall not be increased by more than 2 percent over the prior fiscal year? An increase exceeding 2 percent in state appropriations would be permitted if authorized by a four-fifths vote of the Legislature. An increase exceeding 2 percent for local governments would be permitted if approved by a majority vote of the local electorate.

FOR	178,749
AGAINST	400,872

Referendum ordered by Petition of the People Number 406: Shall Legislative Bills 1059 and 1059A, enacted by the Second Session of the Ninety First Nebraska Legislature, the purposes of which are to increase state support for public school districts and create formulas for apportionment of state support, to reduce reliance on property taxes for the support of public school districts through increased state sales and income taxes, and to limit, with various exceptions, the growth of the general fund budgets of public school districts and property tax increases by certain political subdivisions, be retained?

FOR	313,215
AGAINST	244,741

Mr. Withem moved to approve the report of the Secretary of State and the candidates stated therein be declared duly elected.

The motion prevailed with 37 ayes, 0 nays, and 12 present and not voting.

The Secretary of State was escorted from the Chamber.

MOTION - Inaugural Ceremonies

Mr. Morrissey moved to arrange to hold the inaugural ceremonies for the newly elected State officials on Thursday, January 10, 1991 at 1:45 p.m.

The motion prevailed with 29 ayes, 0 nays, and 20 present and not voting.

ANNOUNCEMENT

Mr. Morrissey announced the Committee on Committees will meet at 2:30 p.m. in Room 1517.

VISITOR

The Doctor of the Day was Dr. Paul Paulman from Omaha.

ADJOURNMENT

At 1:15 p.m., on a motion by Mr. Baack, the Legislature adjourned until 10:00 a.m., Thursday, January 10, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

SECOND DAY - JANUARY 10, 1991

LEGISLATIVE JOURNAL

SECOND DAY - JANUARY 10, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

SECOND DAY

Legislative Chamber, Lincoln, Nebraska
Thursday, January 10, 1991

Pursuant to adjournment, the Legislature met at 10:00 a.m., Speaker Baack presiding.

PRAYER

The prayer was offered by Rev. Harland Johnson, Chaplain Coordinator.

ROLL CALL

The roll was called and all members were present except Messrs. Bernard-Stevens and Moore who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the First Day was approved.

MOTION - Adopt Rules

Mr. Rogers moved to adopt the rules as now in our possession for today only, January 10, 1991.

The motion prevailed.

RESIGNATION

January 9, 1991

Governor E. Benjamin Nelson

P.O. Box 94848
Lincoln, NE 68509-4848

Dear Governor Nelson:

It has been a privilege to serve in the Nebraska Unicameral for the past 7 years representing the 49th legislative district. I feel great appreciation for the legislative process in Nebraska and my constituents, the people in Northwest Nebraska. I do look forward to the opportunity of working with you and hereby tender my resignation for the office of State Senator for the 49th district effective 4:00 p.m. January 9, 1991.

Sincerely,
(Signed) Sandra K. Scofield

cc: Nebraska State Legislature

MESSAGE FROM THE GOVERNOR

January 9, 1991

President
Nebraska State Legislature
State Capitol Building
Lincoln, Nebraska

Dear Mr. President:

On this date I have appointed Mr. William R. Wickersham to fill the vacancy in the 49th District created by the resignation of Senator Sandra K. Scofield. This appointment will take effect January 9, 1991.

Very truly yours,
(Signed) E. Benjamin Nelson
Governor

EBN:cc

MESSAGE FROM THE SECRETARY OF STATE

January 9, 1991

Patrick J. O'Donnell

Clerk of the Legislature
State Capitol
Lincoln, Nebraska

Dear Mr. Clerk:

I hand you herewith the official appointment and oath of William R. Wickersham as a Member of the Legislature from the forty-ninth (49) Legislative District for the unexpired term of Sandra K. Scofield, resigned.

Sincerely,
(Signed) Allen J. Beermann
Secretary of State

CERTIFICATE

STATE OF NEBRASKA

I, Allen J. Beermann, Secretary of State of the State of Nebraska do hereby certify that William R. Wickersham has been appointed as a Member of the Nebraska Unicameral Legislature from the Forty-ninth (49) District for the unexpired term of Sandra K. Scofield. resigned. The term beginning January 9, 1991 shall continue until January 6, 1993 or such time as he shall satisfactorily perform all the duties imposed upon such officer by law, and until a successor is duly elected and qualified.

I further certify that the foregoing appointment was made by E. Benjamin Nelson under the authority granted by the Constitution and by Section 32-1042 of the Revised Statutes of Nebraska.

In Testimony Whereof, I have hereunto set my hand and affixed the Great Seal of the State of Nebraska.

Done at Lincoln this ninth day of January in the year of our Lord, one thousand nine hundred and ninety-one.

(SEAL) Allen J. Beermann, Secretary of State

OFFICIAL OATH

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

"I William R. Wickersham, do solemnly swear (or affirm) that I will support the Constitution of the United States, and the Constitution of the State of Nebraska, and will faithfully discharge the duties of Member, Unicameral Legislature, D-49 according to the best of my ability, and that at the election at which I was chosen to fill said office, I have not improperly influenced in any way the vote of any elector, and have not accepted, nor will I accept or receive, directly or indirectly, any money or other valuable thing from any corporation, company or person, or any promise of office, for any official act or influence (for any vote I may give or withhold on any bill, resolution, or appropriation)."*

(Signed) Wm. R. Wickersham

Subscribed in my presence and sworn to before me this 9th day of January, 1991.

(Signed) Allen J. Beermann
Notary Public

(SEAL)
*Constitution of the State of Nebraska,
Article XV, Section One.

GUBERNATORIAL APPOINTMENT

Know All Men By These Presents:

That I, E. Benjamin Nelson, Governor of the State of Nebraska, do hereby appoint William R. Wickersham of Harrison as Member of the Legislature, 49th District. This appointment shall take effect on January 9, 1991 and continue until January 6, 1993 provided you shall perform all the duties imposed by law.

Said appointee replaces Sandra K. Scofield--resigned

Done at Lincoln, Nebraska, this 9th day of January 1991.

(Signed) E. Benjamin Nelson
Governor, State of Nebraska

(Signed) Allen J. Beermann
Secretary of State

ATTORNEY GENERAL'S OPINIONS

May 18, 1990

Joanne M. Pepperl
Revisor of Statutes and
Bill Drafter
Room 358, State Capitol
Lincoln, NE 68509-4945

Dear Ms. Pepperl:

This letter is in response to your correspondence dated April 18 and April 20, 1990, in which you posed several questions with respect to the preparation of slip laws and the printing of the session laws for the 1990 session of the Unicameral. We have reviewed your correspondence together with the various supporting materials which you provided to us. Our views on the questions which you presented to us are set out below.

Your first question involves §9 of LB 1031 which establishes appropriations for the Department of Social Services. Governor Orr used her line-item veto on a number of sections of LB 1031 and communicated those various vetoes to the Legislature by means of a veto message dated April 4, 1990. That veto message indicates that the Governor line-item vetoed $35,000 from the Domestic Violence Program Aid portion of the Department of Social Services appropriation for Fiscal Year 1989-90 and for Fiscal Year 1990-91. However, the $35,000 line-item veto for Fiscal Year 1989-90 was not marked out of the General Fund and Program Total amounts shown as appropriated to Program Number 347 on page 38 of LB 1031. On the other hand, the line-item veto of $35,000 for the domestic violence program was properly indicated in other portions of LB 1031. An override motion concerning line-item vetoes of programs for the Department of Social Services was passed by the Legislature. However, the line-item veto of the $35,000 appropriation for Fiscal Year 1989-90 was not part of the override motion because it was believed that the Governor's failure to note that on LB 1031 constituted a failure to actually make that line-item veto. You now ask what figures you should print for the slip law version of LB 1031. You wish to know whether the General Fund and Program Total amounts for Program Number 347 for Fiscal Year 1989-90 should

reflect the line-item veto exercised by the Governor. We believe that the Governor's line-item veto of $35,000 from that appropriation was effective, and, since there was no override effort, the figure printed in the slip law for Program Number 347 should reflect the $35,000 reduction by the Governor for Fiscal Year 1989-90.

Under Neb.Rev.Stat. §49-702(4) (Reissue 1988) you must "prepare, arrange, and correlate for publication" the session laws enacted during each session of the Legislature. Any changes made by you as Revisor of Statutes cannot change the substantive meaning of any statute as enacted by the Legislature. State v. Karel, 204 Neb. 573, 284 N.W.2d 12 (1979). Consequently, the slip law which you prepare must reflect the cumulative actions taken by the Legislature and by the Governor in the passage of each bill.

In Opinion No. 101, dated May 23, 1977, we considered a situation where the Governor indicated by correspondence to the Legislature that he wished to line-item veto a certain portion of a bill but did not actually strike those sums from the face of the legislation. Our opinion was requested as to the status of the appropriation in question. We concluded that the line-item veto was effective even though the sums were not deleted from the face of the bill. We stated:

> The effect of these two provisions of the Constitution {Article IV, Section 7 and Article IV, Section 15} is to authorize the Governor to reduce legislative appropriations. The language about which you are concerned is clearly specified in the Governor's letter of May 17, 1977, as the sum stricken. As such, that language from page 26, line 26, through page 27, line 1, of the final reading copy of the bill was effectively stricken by the actual language used by the Governor. No specific action is required in striking or deleting sums from the face of a bill. The necessity is to specify the sum disapproved. The veto message made clear the intent of the Governor.

Report of the Attorney General 1977-1978, No. 101 at 152 (Emphasis added). We believe that this opinion deals squarely with the issue which you have raised. Article IV, Section 15 of our state Constitution does not require that line-item vetoes be set out on the face of the bill. That constitutional provision simply provides that the Governor shall return a bill with his objections to the Legislature when he reduces any item or items of appropriations. In essence, the language of the correspondence containing the Governor's objections controls. If it is clear as to the amounts reduced, the line-item veto is operative even if the actual reductions are not made on the face of the bill.

In the present instance, the Governor's correspondence of April 4, 1990, clearly indicates that Governor Orr intended to veto the

$35,000 appropriation to the Department of Social Services for Domestic Violence Program Aid for Fiscal Year 1989-90. As a result, we believe that the Governor's intent was clear, and that this line-item veto was effective even though the numbers were not changed on the face of LB 1031. Therefore, since the Legislature did not override this gubernatorial veto, the bill as it was ultimately passed does not contain the $35,000 appropriation to the Department of Social Services. You should change the numbers for the General Fund appropriation and the Program Total appropriation in the slip law version of LB 1031 to reflect the actual numbers appropriated even though those changes were not placed on the face of the bill by the Governor.

Your second question also involves LB 1031. In §19 of LB 1031, the Governor line-item vetoed certain appropriations for the Legislative Council. Specifically, the Governor line-item vetoed $130,000 from the Fiscal Year 1989-90 appropriation and $120,000 from the Fiscal Year 1990-91 appropriation for that body. However, the Governor failed to adjust for those line-item vetoes in a later portion of §19, in the "For Informational Purposes Only" section. That latter portion simply lists the fund source for the appropriations within that section. Those line-item vetoes for the Legislative Council were included in the veto correspondence from the Governor dated April 4, 1990. The Legislature failed to override those line-item vetoes. You now ask whether you may change the numbers in the For Informational Purposes Only portion of §19 of LB 1031 to reflect the Governor's line-item vetoes within that section.

We believe that this question again may be answered based upon our Opinion No. 101 cited above. The line-item veto made by the Governor is effected by the correspondence to the Legislature, and those changes do not necessarily have to be made on the face of the bill itself. Therefore the line-item vetoes for activities of the Legislative Council which were made in §19 of LB 1031 were effected by the Governor's veto message. As a result, the line-item vetoes were made in the For Informational Purposes Only portion of §19 even though they were not written into the face of the bill. Since you cannot make any substantive changes in legislation as a part of your duties, you must print the bill as it was ultimately passed. We believe that the portion of §19 labeled For Informational Purposes Only should reflect the line-item vetoes listed in the Governor's veto message.

Your final question involves LB 1220. This bill makes changes in a number of various statutes so as to place $1,740,000 in the University of Nebraska Eppley Science Hall Construction Fund to be used as partial funding for a construction project. The title of the

bill indicates that it will transfer and appropriate funds. In several places in the bill where the $1,740,000 figure was listed, Governor Orr reduced that figure to $475,000. By correspondence dated April 4, 1990, the Governor indicated that those reductions were line-item vetoes to reduce the funding for construction of the Eppley Science Hall. You have now asked whether the slip version of LB 1220 should reflect the lower number noted in each instance by the Governor. You are apparently concerned that some of these changes in various existing statutes did not constitute a change or veto of an appropriations measure. Since the Governor's line-item veto authority extends only to appropriations measures, you question whether the Governor could use a line-item veto to change the figures in the various statutes.

First of all, we believe that LB 1220 is indeed an appropriations bill. The title of the bill itself indicates that it is intended to make appropriations. Moreover, in §3 of the bill, one of the sections at issue in connection with your inquiry, there is some specific language which indicates that money in the University of Nebraska Eppley Science Hall Construction Fund is appropriated to the Board of Regents of the University of Nebraska. Consequently, we believe that the bill is by reasonable definition, an appropriations bill.

We also believe that all of the various listings of the amounts in question in LB 1220 are part of the item of appropriation. Section 3 of LB 1220, on page 9 of the bill, provides:

> There is hereby created the University of Nebraska Eppley Science Hall Construction Fund. All money accruing to the fund is hereby appropriated to the Board of Regents of the University of Nebraska and shall be used exclusively for the project authorized pursuant to this section.

Obviously, this language in itself, while it creates an appropriation, does not define the amount of the appropriation. Those numbers are provided by the other sections of the bill. For example, section 1 of the bill, on page 4, provides that "an amount not to exceed $1,740,000 shall be transferred to the University of Nebraska Eppley Science Hall Construction Fund to be used as partial funding for the University of Nebraska Eppley Science Hall Construction Project. . ." Therefore, if the Governor were to line-item veto the amount of this appropriation, it would be necessary for her to change the other figures involved in order to indicate the lesser amount created by her veto. Consequently, we believe that the item of appropriation which was altered by the Governor's line-item veto message in this case included all of the various instances where the figure $1,740,000 was listed in LB 1220. We believe that you should

change each of those figures to represent the line-item veto amount of $475,000 on the slip version of LB 1220.

Sincerely yours,
ROBERT M. SPIRE
Attorney General
(Signed) Dale A. Comer
Assistant Attorney General

5-168-2

Opinion No. 90033

DATE: August 31, 1990

SUBJECT: Whether existing Nebraska statutes address the discretion of a political subdivision in allowing non-profit health and welfare groups to solicit contributions from employees during work hours.

REQUESTED BY: Senator Don Wesely

WRITTEN BY: Robert M. Spire, Attorney General
Denise E. Frost, Assistant Attorney General

We write in response to your request whether existing case law and Nebraska statutes address the question of a political subdivision's decision to allow one non-profit health and welfare group to solicit donations from employees in the workplace during working hours, but to deny like access to other similar non-profit health and welfare organizations.

According to Neb.Rev.Stat. §28-1440 et seq. (Reissue 1989) entitled "Illegal Solicitation of Funds", every person or organization soliciting funds in this state in any county other than the county in which its home office is located shall register with and be subject to the jurisdiction of the Secretary of State. Further, each such person or organization must file an annual financial report with the Secretary of State. However, the section is silent as to the fora in which solicitations may be made. In view of that significant silence, a review of case law is mandated.

There appears to be no Nebraska case law directly on point with this issue. Federally, however, this issue has arisen several times, with analysis of the issue primarily couched within the auspices of First Amendment or free speech considerations (U.S. Const. amend. I; See

also Neb.Const.art.I, §5), as well as equal protection claims (U.S.Const. amend.XIV, §1).

I. Charitable Solicitations As Protected Speech

Perhaps the best analysis of this question to date as a free speech issue is provided in Cornelius v. NAACP Legal Defense and Educational Fund, Inc., 473 U.S. 788, 105 S.Ct. 3439, 87 L.Ed.2d 567 (1985). There, relying on its holding in Village of Schaumberg v. Citizens for a Better Environment, 444 U.S. 620, 100 S.Ct. 826, 63 L.Ed.2d 73 (1980), the Court began its analysis of facts much like the question posed by this legislative opinion with the cornerstone proposition that charitable solicitations involve interests protected by the First Amendment's guarantee of freedom of speech. Further, they do not lose that constitutional protection merely because the solicitation occurs in the contest of a payroll appeal rather than a personal, face-to-face exchange. Pilsen Neighbors Community Council v. Burns, 672 F.Supp. 295 (N. Dist. Ill. 1987).

In Cornelius, the plaintiff NAACP, along with six other legal defense funds, sought to be included in a combined charity fund drive aimed at federal employees in the workplace. However, NAACP was denied permission to participate, arguably because it was not dedicated to health and welfare. However, other non-profit groups not dedicated to health and welfare were allowed to participate in the charity drive. The plaintiffs sued, alleging that their First Amendment rights were unconstitutionally abridged by their exclusion from the fund drive.

In evaluating the plaintiff's First Amendment claims, the Court applied a tripartite analysis: 1) whether the speech is protected by the First Amendment, 2) the nature of the forum in which the speech occurs, and 3) the standard of the Court's review of the government's restriction of the speech.

The Cornelius Court identified charitable solicitations as speech that is constitutionally protected by the First Amendment. The next element in the analytic formula is a determination whether the forum in which the charity wishes to speak/solicit--here, a government office--is public or nonpublic. Cornelius at 796, 105 S.Ct. at 3446. According to the Cornelius Court, the fact that the government owns or controls the workplace does not make it a per se public forum accessible for all First Amendment purposes. Rather, the Cornelius Court found that the workplace is a nonpublic forum despite its government nature because it is there for a dedicated purpose -- attending to the affairs of the government -- and "the government, as an employer, must have wide discretion and control over the management of its personnel and internal affairs." Id. at 805, 105 S.Ct. at 3451. That analysis of the federal government workplace is

likely applicable to Nebraska state and municipal offices as well, since they too are created by the government for a similar dedicated purpose.

Following the Cornelius model, the third and final determination in the First Amendment analysis is whether the restrictions that the government has imposed on access to that forum conform to the level of protection the First Amendment mandates for that particular speech in that particular forum. Here, since the workplace is a nonpublic forum, the government's reason for restricting access to it need not be compelling, as is the case with a traditional public forum, or even the most reasonable alternative, but simply reasonable.

> Implicit in the concept of the non-public forum is the right to make distinctions in access on the basis of subject matter and speaker identity. These distinctions may be impermissible in a public forum but are inherent and inescapable in the process of limiting a nonpublic forum to activities compatible with the intended purpose of the property. The touchstone for evaluating these distinctions is whether they are reasonable in light of the purpose which the forum at issue serves.

Perry Education Association v. Perry Local Educators Association, 460 U.S. 37, 49, 103 S.Ct. 948, 74 L.Ed.2d 794, 807 (1983). In other words, a government office may assert a "legitimate interest in preserving the property for the use to which it is lawfully dedicated." {Citations omitted.} Id. at 50, 74 L.Ed.2d at 808.

Therein lies the crux of the matter: May a political subdivision in Nebraska, upon its own discretion, deny access to participation by a voluntary health and welfare organization in a charity drive aimed at government employees? Following Cornelius and Perry, nothing in Nebraska state law bars a political subdivision from denying access to any organization from participation in a charity drive aimed at employees in the government workplace as long as the political subdivision can articulate a reasonable basis for that denial.

Some examples of reasonable denial are avoiding controversy or distraction that would disrupt the workplace, as well as a determination that a dollar spent by one charity for its purposes may be more beneficial than a dollar spent by another charity for its particular purpose. Cornelius, supra; Perry, supra. See also United Black Community Fund, Inc. v. City of St. Louis, Missouri, 800 F.2d 758 (8th Cir. 1986). Examples of unreasonable government denial of access to a workplace forum for the purpose of charitable solicitation include findings by the coordinator of such fund drives that the activities of one of the petitioning organizations were "detestable", NAACP Legal Defense and Educational Fund v. Horner, 636 F.Supp. 762 (D.D.C. 1986), as well as exclusion of a charity based

simply upon the fact that it was not in existence at the same time as the charity receiving preferential treatment received its exclusive grant of access to the workplace forum. Black United Fund of New Jersey, Inc. v. Kean, 593 F.Supp. 1567 (1984) rev'd on other grounds 763 F.2d 1956 (1985).

II. Equal Protection

Generally, when a law or government practice operates with the effect of conferring or denying a benefit to some but not all persons, an equal protection analysis may be merited to determine whether the law is being applied in an unconstitutionally discriminatory manner. A threshold issue in an equal protection inquiry is a determination of the type of right in question. Then, the government's reason for conferring or denying that right is examined to ascertain its constitutional relationship to the right itself.

Some rights, such as speech in a traditional public fora like a park or sidewalk, are considered fundamental. Likewise, the right to be free from discrimination based on certain immutable or "suspect" characteristics like race, national origin, alienage, gender or birth legitimacy are also considered fundamental. There, the government's reason for controlling or suppressing that right must be compelling, able to survive strict scrutiny. However, when the right is more limited in its scope and is not considered fundamental, the government's regulation of or infringement upon that right need only be rational to withstand a constitutional challenge.

The Court in Cornelius, supra, found that charitable solicitation in a government office is not a fundamental right, because a government workplace is a nonpublic forum. Where, as here, the right at issue is not fundamental, all that the government must articulate in order to abridge or deny it is a rational reason for doing so. Perry, supra, 460 U.S. at 54, 74 L.Ed.2d at 810. The "rational" test required in this equal protection analysis where no fundamental right is at stake is a less stringent standard than the "reasonable" standard applied in the context of a First Amendment analysis. Black United Fund of New Jersey, supra, 593 F.Supp. at 1575.

Turning to the inquiry at hand, if a political subdivision excludes a charitable organization from soliciting contributions in the government workplace and can articulate a basis for doing so that is sufficient to meet the higher "reasonableness" standard required by First Amendment considerations, it seems virtually certain that the basis will satisfy the lesser "rational" test as well. If the charitable organization cannot meet the First Amendment test, it probably will also fail as an equal protection agreement. Perry, 460 U.S. at 54, 74 L.Ed.2d 810. ("We have rejected this contention when cast as a First

Amendment argument, and it fares no better in equal protection garb.")

In sum, in the context of a political subdivision's decision to deny a charitable organization access to the government workplace for the purpose of soliciting contributions, an assertion of equal protection issues will fail if the political subdivision can articulate a rational basis for excluding the charitable organization.

CONCLUSION

Currently, there is no Nebraska statutory or case authority that addresses limitations upon a political subdivision's decision to allow or disallow a charitable organization access to the government workplace for the purpose of soliciting donations from government employees. Federal courts addressing this question have found that a government workplace is a nonpublic forum, and, although charitable solicitations are a form of speech deserving First Amendment protection, charitable organizations have no fundamental right to solicit contributions from employees in the government workplace. In the analytical context of the First Amendment, the government need only articulate a reasonable basis to sustain its exclusion of the charitable organization from the government workplace. (Note, however, that "{t}he existence of reasonable grounds for limiting access to a nonpublic forum will not save a regulation that is in reality a facade for viewpoint-based discretion." Cornelius at 811, 105 S.Ct. at 3453-54.) Applying an equal protection analysis, the government need only have a rational basis for denying the charitable organization access to the government workplace.

At this time, resolution of a dispute regarding access to the workplace of a Nebraska political subdivision by a charitable organization for the purpose of soliciting contributions would most likely have to be settled by the courts, relying on federal case law. Should there be a move to initiate a bill in the Nebraska legislature to statutorily address the questions discussed herein, it may be wise to look at statutes that have been passed in other states, cf. N.J.Stat. Ann. §52.14-15.9c1 (West 1985).

Respectfully submitted,
ROBERT M. SPIRE
Attorney General
(Signed) Denise E. Frost
Assistant Attorney General

cc: Patrick J. O'Donnell
Clerk of the Legislature
39-15-4

Opinion No. 90034

DATE: September 7, 1990

SUBJECT: Meaning of Neb.Rev.Stat. §12-1211 (Cum.Supp. 1990); Provisions of the Unmarked Human Burial Sites Act

REQUESTED BY: Senator Jerome Warner

WRITTEN BY: Robert M. Spire, Attorney General
Dale A. Comer, Assistant Attorney General

In your opinion request letter, you state that you are considering introduction of legislation during the next session of the Nebraska Legislature which would clarify portions of the Unmarked Human Burial Sites Act, Neb.Rev.Stat. §12-1201 et seq. (Cum.Supp. 1990). Specifically, you may wish to clarify the final portion of §12-1211 which provides, in pertinent part:

> When the disposition of any human skeletal remains or burial goods is disputed and subject to arbitration under this section, the party in possession of the remains or goods shall retain possession until the arbitration process and appeals provided for in this section are completed.

You are concerned that this statute might be subject to two different interpretations in instances where there is a dispute over disposition of part of the remains or goods for which a request for return is made. You ask, "Does this section mean that if there is any dispute, then the entire requested remains and goods must be retained by the possessing entity until the dispute is resolved? Or does it allow the possessing entity to provide the requesting party with such portions which are not in dispute, retaining only the portion which is in dispute, and thus discharging its obligation as to those undisputed items?" From the proposed legislation which you submitted to us, we assume that you prefer the latter result which allows return of the portion of the human remains and goods not in dispute. You wish to know whether legislative clarification is necessary.

At the outset, we would note that our normal policy, as set out in our Opinion No. 57 to Senator Beutler on December 20, 1985, is not to respond to legislative opinion requests concerning the meaning of existing statutes. This policy is based, in part, upon the legislative role with respect to existing law, and also, in part, upon the possibility that we may be called upon to defend current statutes. However, in

this case you have provided us with proposed legislation and clearly contemplate introduction of that legislation if necessary. In essence, your opinion request concerns that proposed legislation. Under those circumstances, we will respond to your request.

As a general rule, statutory language, in the absence of anything indicating to the contrary, is to be given its plain and ordinary meaning. State v. Quandt, 234 Neb. 402, 451 N.W.2d 272 (1990). Moreover, in construing a statute, all parts of an act relating to the same subject must be considered together, not each by itself. State v. Jennings, 195 Neb. 434, 238 N.W.2d 477 (1976). Effect must be given, if possible, to all the several parts of a statute; no sentence, clause or word should be rejected as meaningless or superfluous if it can be avoided. NC+ Hybrids v. Growers Seed Association, 219 Neb. 296, 363 N.W.2d 362 (1985).

In the present case, it seems to us that the language at issue from §12-1211, read in its plain and ordinary sense, indicates that the party in possession of disputed remains and burial goods retains possession of those disputed objects until the arbitration process is complete. This is the clear meaning of that language, and this view is consistent with the remainder of §12-1211 which deals with arbitration procedures for disposition of human remains or burial goods "whenever a dispute arises." Since §12-1211 thus applies only to remains and burial goods involved in a dispute, non-disputed objects would not be covered by that statute and must be returned to the requesting party under the other various procedures set out in the Act.

This analysis is consistent with the language of §12-1211 and also with the remainder of the Act. One of the purposes for the Unmarked Human Burial Sites Act, as discussed in §12-1203, is to "Establish procedures for the proper care and protection of unmarked human burial sites, human skeletal remains, and burial goods found in this state." Reading §12-1211 to allow the return of undisputed objects during the arbitration of disputes involving other objects comports with that legislative purpose.

Consequently, we believe that §12-1211, as presently drafted, allows a possessing entity to transfer possession of requested human remains and burial goods which are not subject to any dispute while retaining possession, pending arbitration, of other disputed remains and goods which are responsive to the same request. Nevertheless, if you believe that §12-1211 "might be subject to two different interpretations," you may still wish to introduce your clarifying legislation.

Sincerely,

ROBERT M. SPIRE
Attorney General
(Signed) Dale A. Comer
Assistant Attorney General

5-190-2
cc: Patrick J. O'Donnell
Clerk of the Legislature

Opinion No. 90040

DATE: December 18, 1990

SUBJECT: Authority to Regulate Funeral Establishments

REQUESTED BY: Senator Jacklyn J. Smith

WRITTEN BY: Robert M. Spire, Attorney General
Marilyn B. Hutchinson,
Assistant Attorney General

You have asked whether the Department of Health has authority in Neb.Rev.Stat. §71-1325 to 71-1338 to adopt different regulations which apply to a "parent" funeral establishment and to its branch establishment(s). We have concluded it does not, as discussed below. What is a funeral establishment? We have concluded a funeral establishment for purposes of regulation by the state is a business which meets the statutory definition.

A "funeral establishment" is defined in Neb.Rev.Stat. §71-1325(3) (Reissue 1990) to mean:

> a place of business situated at a specific street address or location, devoted to the care and preparation for burial, disposition, or cremation of dead human bodies, and for the purpose of conducting funeral services therefrom. . .

You describe a parent funeral establishment as one where dead human bodies are prepared for final disposition and a branch establishment as one where such preparation does not occur. The viewing of the body and other funeral services occur at whichever establishment is appropriate.

In the absence of anything to indicate the contrary, words in a statute must be given their ordinary meaning. Garza v. City of Omaha, 215 Neb. 714, 717, 340 N.W.2d 409 (1983). However, sometimes a court will interpret "and" in a statute to mean "or," but only if such an interpretation is necessary to avoid an absurd result or to achieve the intent of the Legislature. State v. Kinkaid, 235 Neb.

89, 93, 453 N.W.2d 738 (1990) and Ledwith v. Banker's Life Insurance Co. of Nebraska, 156 Neb. 107, 125, 54 N.W.2d 409 (1954). What was the intent of the Legislature? We have concluded there is no certainty of the general intent of the Legislature in regulating funeral establishments but it is clear that it did not create two classes of them for different regulation.

There is no suggestion in the statute that the Legislature intended to create two classes of funeral establishments and apply different regulations to them. There is not even any suggestion in the statute about why funeral establishments are regulated. So we consider the legislative history. See, Otto v. Hahn, 209 Neb. 114, 118, 306 N.W.2d 587 (1981).

The legislative history contains no hint that the Legislature intended to create two classes of funeral establishments, but it does contain some language suggesting the purpose of the regulation. As enacted in 1937, c. 154 authorized the Department of Health to adopt reasonable regulations:

> relating to the business of a funeral director, to the sanitary condition of places where such business or practice is conducted, with particular regard to plumbing, sewage, ventilation and equipment, and generally to carry out the various provisions of sections 71-1301 to 71-1324 in the protection of the peace, health, safety, welfare and morals of the public.

Neb.Rev.Stat. §71-1312 (Reissue 1950). The definition of a "funeral establishment" included the current language and the requirement that it consist of:

> a preparation room equipped with a sanitary floor, necessary drainage and ventilation, and containing necessary instruments and supplies for the preparation and embalming of dead human bodies for burial or transportation, and a display room containing a stock of funeral caskets and shipping cases.

Neb.Rev.Stat. §71-1301 (Reissue 1950). To get a license, the proposed funeral establishment had to be constructed and equipped as required by that statute. Neb.Rev.Stat. §71-1306 (Reissue 1950). The person in charge had to be knowledgeable in the signs of death, the manner by which death may be determined, the laws governing the preparation, burial and disposal of dead human bodies and the shipment of bodies dying from infections or contagious diseases, and local health and sanitary ordinances and regulations relating to funeral directing and embalming. Neb.Rev.Stat. §71- 1303 (Reissue 1950).

All those sections were repealed by Laws 1957, LB 116. The introducer called it a "recodification" but the new law omitted the

specifics cited above. They were not reinserted by Laws 1979, LB 94, effective in 1980.

In conclusion, there is no suggestion in the current law or in the legislative history that the Legislature intended to create two classes of funeral establishments and to treat those classes differently. Thus, there is no support for an interpretation of Neb.Rev.Stat. §71-1325(3) which would substitute "or" for "and." There is a suggestion that a funeral establishment is a business location where dead human bodies are prepared for final disposition. It follows that an establishment where no preparation of dead human bodies for final disposition occurs is not a "funeral establishment" and therefore is not subject to any regulation by the Department of Health under Neb.Rev.Stat. §71-1325 to 71-1338. Thus, there is support for a conclusion that a branch establishment as you describe it is not a funeral establishment. May the Department of Health create two classes of funeral establishments by rules and regulations? We have concluded it may not.

In this case the Department of Health has been given the following rule-making authority:

> The Department of Health, upon recommendation of the Board of Examiners in Embalming and Funeral Directing, may adopt such rules and regulations as may be reasonable and proper for the purpose of carrying into effect the provisions of sections 71-1325 to 71-1338.

Neb.Rev.Stat. §71-1326 (Reissue 1990). The purpose of sections 71-1325 to 71-1338 is not stated in the statute.

> It is fundamental that the Legislature may not delegate legislative power to an administrative or executive authority. . . . The Legislature does have power to authorize an administrative or executive department to make rules and regulations to carry out an expressed legislative purpose, or for the complete operation and enforcement of a law within designated limits. . . . It is fundamental, also, that in the legislative grant of power to an administrative agency, such power must be limited to the expressed legislative purpose and administered in accordance with standards prescribed in the legislative act.

(Citations omitted.) Lincoln Dairy v. Finigan, 170 Neb. 777, 780, 104 N.W.2d 227 (1960).

> "The crucial test, for determining that which is legislative and that which is administrative, is whether the ordinance was one making a law or one executing a law already in existence; . . . ."

State ex rel. Nelson v. Butler, 145 Neb. 638, 647, 17 N.W.2d 683 (1945).

The powers of the board not granted by statute are withheld . . .

Police regulations with no other guide than the uncontrolled discretion of a board are discriminatory, and when so applied that all persons may not engage in legitimate callings upon equal terms, are void.

(Citations omitted.) State ex rel. Woolridge v. Morehead, 100 Neb. 864, 872, 161 N.W. 569 (1917).

In Seignious v. Rice, 273 N.Y. 44, 6 N.E.2d 91, 93 (1936), the court specifically held that classifying persons for different treatment was making a law and therefore could only be done by the legislature.

In conclusion, where the Legislature has not created two classes of funeral establishments, has not expressed the legislative purpose and has not prescribed standards in the statute, the Department of Health has no authority by rule and regulation to create two classes and regulate them differently.

Sincerely yours,
ROBERT M. SPIRE
Attorney General
(Signed) Marilyn B. Hutchinson
Assistant Attorney General

16-254-13

Opinion No. 90041

DATE: December 31, 1990

SUBJECT: LB 708 (1989 - Need-based Student Aid)

REQUESTED BY: Senator Ernest Chambers
Nebraska State Legislature

WRITTEN BY: Robert M. Spire
Attorney General

You have given me a copy of LB 708, which you introduced during the 1989 session of the Legislature. You have advised me that the 1989 Legislature did not act on LB 708 and that you intend to introduce a bill in 1990 which will be essentially the same as LB 708.

You ask two specific questions about legislation in a form which is essentially the same as LB 708. These questions are:

1. Does the Legislature have the constitutional authority to pass such legislation?

Yes it does. Legislation of this nature is within the constitutional authority granted to the Legislature.

2. If such legislation is passed, which will prevail in the event of a conflict: NCAA regulations or state law?

State law as enacted by the Legislature will prevail. If there are conflicts between NCAA regulations and Nebraska statutes, Nebraska statutes will prevail. Therefore, if legislation in a form which is essentially the same as LB 708 were enacted, it would prevail over any conflicting NCAA regulations.

Sincerely yours,
(Signed) ROBERT M. SPIRE
Attorney General

cc: Mr. Patrick J. O'Donnell
Clerk of the Legislature

NATURAL RESOURCE DISTRICT REPORTS

In compliance with Section 2-3262 (R.R.S. 1943) a summary of all fees paid to date during calendar year 1990 to attorneys, lobbyists, and public relations representatives is indicated below by individual and by amount paid thereto.

DISTRICT	FEE
Central Platte Natural Resources District	
Cook, Wightman, Doyle, Attorneys	58,157.27
Robert Grimit, Attorney	409.15
PRA, Inc., Public Relations Representatives	42,173.32
H.J. Moors & Associates Legislative Representation	2,000.00
Lewis and Clark Natural Resources District	
James P. Sheldon, Attorney	13,015.04
Dennis Collins, Attorney	2,944.24
John Thomas, Attorney	30.00
Little Blue Natural Resources District	
Shoemaker & Witt, Attorneys	3,410.50
Lower Big Blue Natural Resources District	
Everson, Wullschleger, Sutter, Korslund and Willet, Attorneys	783.00
Lower Elkhorn Natural Resources District	
Jewell, Gatz, Collins, Dreier & Fitzgerald, Attorneys	18,707.89

Knudsen, Berkheimer, Richardson & Endacott, Attorneys	280.00
Lower Loup Natural Resources District	
J. Marvin Weems, P.C.	1,311.67
Leininger, Grant, Rogers & Maul, Attorneys	281.79
Lower Niobrara Natural Resources District	None
Lower Platte North Natural Resources District	
George Svoboda, Attorney	71,731.02
Lower Platte South Natural Resources District	
Crosby, Guenzel, Davis, Kessner & Kuester, Attorneys	21,979.80
Lower Republican Natural Resources District	
Duncan, Duncan, Jelken & Walker, Attorneys	80.00
Nebraska Natural Resources Commission	
Howard S. Bellman, Attorney	5,900.00
North Platte Natural Resources District	
Holtorf, Kovarik, Ellison & Mathis, P.C.	302.40
Tri-Basin Natural Resources District	
Anderson, Klein, Peterson & Swan, Attorneys	1,763.23
Upper Big Blue Natural Resources District	
Crosby, Guenzel, Davis, Kessner & Kuester, Attorneys	59,617.28
Upper Loup Natural Resources District	None
Upper Niobrara-White Natural Resources District	
James W. Slavik, Attorney	95.00
Upper Republican Natural Resource District	
Attorney fees	548.00

COMMUNICATIONS

Received copies from the General Assembly of Virginia pertaining to prohibiting federal taxation of income derived from state and local obligations (No. 53), and enabling three-fourths of the states to amend the Constitution (No. 140).

Received copy of Senate Resolution No. 2 SD2 from the State of Hawaii pertaining to the labeling uniformity in plastic material.

Received copy of House Concurrent Resolution Number 41 from the Ohio House of Representatives pertaining to the Social Security Act.

REPORTS

The following reports were received by the Legislature:

Semi-annual report of Wastewater Construction Grants, Program #518, from the Department of Environmental Control in accordance with Section 81-1533 of the Reissue Revised Statutes of Nebraska, 1943.

Statements of deposits to the Highway Cash Fund and Roads Operation Cash Fund for the calendar months of March, April, May, June, July, August, September, October, and November 1990, from the Nebraska Department of Roads in compliance with Section 66-476, R.S. Supp. 1988.

Minutes of the Board of Public Roads Classifications and Standards for the months of March, April, May, June, July, September, October, and November 1990.

Reports for the quarters ending March 31, June 30, and September 30, 1990, covering the financial condition of the Natural Gas Revolving Loan Fund as required by Section 010 of the regulations for the Municipal Natural Gas Regulation Act (Sec. 19-4617, R.R.S. 1943).

Annual report of the Department of Motor Vehicles for 1989.

Quarterly reports from the Department of Roads for the Nebraska State Highway Commission as of March and September 1990.

State summary of investment securities of the state of Nebraska from the State Treasurer's office for April and June 1990.

Audit reports from the Auditor of Public Accounts for the following: Department of Labor, Department of Education, Nebraska State Board of Public Accountancy, Nebraska Library Commission, Nebraska State Treasurer, Department of Social Services, Statement of Federal Land Payments, Nebraska Natural Resources Commission, Nebraska Equal Opportunity Commission, Department of Revenue, Department of Economic Development, Department of Administrative Services, Nebraska State Historical Society, Nebraska Commission on Law Enforcement and Criminal Justice, Nebraska Department of Agriculture, Nebraska Oil and Gas Conservation Commission, Nebraska Department of Roads, State Board of Examiners for Land Surveyors, Workers' Compensation Court, Military Department, Department of Environmental Control, Nebraska Supreme Court, Nebraska State Patrol, University of

Nebraska, Governor's Policy Research and Energy Office, Agricultural Activities, Department of Health, Nebraska Department of Motor Vehicles, Department of Public Institutions, Nebraska Aid to Technical Community Colleges, Nebraska Beef Industry Development Board, Abstracters Board of Examiners, Department of Correctional Services, Nebraska Commission for the Hearing Impaired, Nebraska Power Review Board, and Nebraska Brand Committee.

Annual report from the Nebraska State Historical Society for 1989-1990.

Biennial report from the Natural Resources Commission on the Nebraska Resources Development Fund in compliance with Section 2-1588 R.R.S., 1943 of the Nebraska Resources Development Fund Act.

Report of Examination of the Auditor of Public Accounts from the Nebraska Department of Revenue in accordance with Statute 81-106, for the fiscal year ending June 30, 1989.

Annual Report and Plan of Work for the State Water Planning and Review Process from the Natural Resources Commission in accordance with Section 2-15,106 of the Nebraska Revised Statutes.

Annual report for the Nebraska Department of Economic Development in accordance with Nebraska Statutes 81-120.111.

Nebraska Research Initiative progress report for the fiscal years 1988-1989 and 1989-1990.

Nineteenth annual report of the Nebraska Public Counsel from the Ombudsman's office for 1989 pursuant to Section 81-8,251.

Semi-annual report from the Department of Environmental Control for Construction Loan Fund Small Town Grants Program #523 in accordance with the provisions of Section 81-15,153 of the Statutes of Nebraska.

Annual report for 1988-1989 from the Nebraska Research and Development Authority in accordance with Nebraska Revised Statutes Supp., 1986 Sec. 58-401 et seq.

Individual reports of loans made under the Agricultural Division of the Nebraska Investment Finance Authority fiscal year July 1, 1989 to June 30, 1990, pursuant to legislation enacted within Section 45 of LB 626, 1983 Legislative Session.

Annual report prepared by the Highway Safety Division, Nebraska Department of Roads for 1989.

Annual report from the Nebraska Municipal Power Pool/Municipal Energy Agency of Nebraska for the fiscal year ending March 31, 1990.

Cost allocation plan for the fiscal year 1991 from the Nebraska Department of Administrative Services, Division of Central Data Processing as defined in Section 81-117, R.R. Statutes of Nebraska, 1943.

Copy from the US Ecology, Inc. of a formal application for the construction, operation and closure of a low-level radioactive waste disposal facility to be located in Boyd County, Nebraska.

Correspondence from the Department of Environmental Control in regard to a license application from US Ecology, Inc.

Report from the Nebraska Educational Telecommunications Commission concerning Nebraska's public radio development.

Initial report from the Antique Farm Machinery and Equipment Commission in accordance with LB 838, 1988 Legislature.

Final report from the Select Committee on Prison Overcrowding in accordance with Legislative Resolution 222 (1989), divided into three sections: Current and Future Status, Policy Goals, and an Executive Summary of Recommendations to Alleviate Overcrowding.

State of Nebraska Comprehensive Annual Financial report for the fiscal year ended June 30, 1989, in accordance with Nebraska Statutes.

Report entitled "Interstate Transfers of Water: State Options after 'Sporhase' " prepared by the University of Nebraska College of Law pursuant to the direction of the Legislature in LB 710.

Report from the Nebraska Department of Roads on the 1990 state highway system's plan and needs, the priority listings of highway groupings, and current inventory and condition data in accordance with the Nebraska Revised Statutes, Section 39-1365.02, 1988 Supplement.

The Department of Social Services' report regarding LB 182A.

Air Service Study report from the Nebraska State Airline Authority pursuant to Section 6 of LB 1184, 1990.

Annual Early Childhood Licensing report of the Nebraska Department of Social Services for the fiscal year 1989-90, in compliance with Nebraska Revised Statutes, Section 71-1910.

Forty-Eighth annual report of the Nebraska Workers' Compensation Court in accordance with Section 48-166, Reissue Revised Statutes of Nebraska, 1943.

Report from the Nebraska Game and Parks Commission on a one-year recreation road construction program and the list of certified recreation road projects representing the parks in the extended five-year construction program, in accordance with provisions of Section 39-1391-92, R.R. Statutes 1974.

Correspondence from Department of Public Institutions in regard to intent language contained in LB 1031 (1990) requiring a methodology for the future allocation of state aid for mental retardation services.

Annual report from the Department of Social Services for the Disabled Persons and Family Support Program covering the fiscal year July 1, 1989, through June 30, 1990, in accordance with Section 68-1518, Reissue Revised Statutes of Nebraska, 1943.

Biennial report from the Nebraska Coordinating Commission for Postsecondary Education for 1989 and 1990, including programmatic proposals for 1991, adopted by the Commissioners in 1990.

Second annual report from the Nebraska Ethanol Authority and Development Board in accordance with Section 66-1307.01 of the Ethanol Authority and Development Act.

Annual report on the status of the Nebraska telecommunications industry from the Nebraska Public Service Commission in

compliance with the Telecommunications Act of 1986, Section 86-804, Neb. Rev. Stat. (1943).

ANNOUNCEMENT

Mr. Morrissey announced the Committee on Committees elected Mr. L. Johnson as Vice Chairperson.

BILLS ON FIRST READING

The following bills were read for the first time by title:

LEGISLATIVE BILL 1. Introduced by Executive Board: Labedz, 5, Chairperson.

A BILL FOR AN ACT relating to justice of the peace courts; to amend sections 16-729, 23-137, 25-2210, 33-145, 46-562, 76-230, and 77-1607, Reissue Revised Statutes of Nebraska, 1943; to eliminate and replace references to such courts; to change certain appeal provisions; to change provisions relating to court costs and fees; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 2. Introduced by Executive Board: Labedz, 5, Chairperson.

A BILL FOR AN ACT relating to federal agencies; to amend sections 8-319, 16-1016, 16-1036, 23-2529, 37-214.03, 48-225, 48-229, 48-1202, 58-213, 71-183.01, 71-1,103, 71-1,107.13, 71-2622, 71-6104, 72-1246.04, 77-202.24, 77-3508, 77-3514, 77-3526, 77-3527, 79-1051.05, 79-1455, 80-301, 80-401.03, 80-601, 80-602, 80-604, 80-605, 80-701, and 84-712.02, Reissue Revised Statutes of Nebraska, 1943; to change references to the Veterans' Administration, the Department of Health, Education, and Welfare, and other federal entities which have been renamed or reorganized; and to repeal the original sections.

LEGISLATIVE BILL 3. Introduced by Executive Board: Labedz, 5, Chairperson.

A BILL FOR AN ACT relating to public power; to amend sections 70-619 and 70-623.02, Reissue Revised Statutes of Nebraska, 1943; to change references to certain board and district officers to harmonize with changes made by Laws 1984, LB 49; and to repeal the original sections.

LEGISLATIVE BILL 4. Introduced by Executive Board: Labedz, 5, Chairperson.

A BILL FOR AN ACT relating to the Director of Medical Services; to amend section 83-1,148, Reissue Revised Statutes of Nebraska, 1943; to eliminate a reference to a repealed section; to harmonize provisions with former acts of the Legislature; and to repeal the original section.

LEGISLATIVE BILL 5. Introduced by Executive Board: Labedz, 5, Chairperson.

A BILL FOR AN ACT relating to the State Highway Commission; to amend section 39-1102, Reissue Revised Statutes of Nebraska, 1943; to harmonize provisions governing the designation of certain districts; and to repeal the original section.

LEGISLATIVE BILL 6. Introduced by Executive Board: Labedz, 5, Chairperson.

A BILL FOR AN ACT relating to state colleges; to amend sections 48-193, 81-1331, and 85-941, Reissue Revised Statutes of Nebraska, 1943; to change references to the four state colleges; and to repeal the original sections.

LEGISLATIVE BILL 7. Introduced by Executive Board: Labedz, 5, Chairperson.

A BILL FOR AN ACT relating to mental health commitment; to amend sections 83-1012 and 83-1040, Reissue Revised Statutes of Nebraska, 1943; to change references from court to board for consistency with other statutes; and to repeal the original sections.

LEGISLATIVE BILL 8. Introduced by Executive Board: Labedz, 5, Chairperson.

A BILL FOR AN ACT relating to prior legislation; to amend Laws 1990, LB 1153, section 67; to change an incorrect citation of a statute which was being repealed; and to repeal the original section.

LEGISLATIVE BILL 9. Introduced by Executive Board: Labedz, 5, Chairperson.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-2106.01, 77-3437, 77-3509.03, 77-3510, 77-3512, 77-3516, and 77-3517, Reissue Revised Statutes of Nebraska, 1943; to correct internal references; to eliminate the Property Tax Relief Act; to eliminate the 1989 homestead exemption for certain homesteads; to eliminate a section relating to refunds of certain estate tax; to harmonize provisions; and to repeal the original sections, and also sections 77-2106.03, 77-3509.04, and 77-4201 to 77-4207, Reissue Revised Statutes of Nebraska, 1943.

LEGISLATIVE BILL 10. Introduced by Executive Board: Labedz, 5, Chairperson.

A BILL FOR AN ACT relating to public health and welfare; to amend sections 71-121.01, 71-1,278, 71-1325, 71-1326, 71-1331, and 83-1010, Reissue Revised Statutes of Nebraska, 1943; to correct internal references; to eliminate certain obsolete sections relating to massage therapists, the Alzheimer's Disease Task Force, and funeral directors; to harmonize provisions; and to repeal the original sections, and also sections 71-1,284, 71-516 to 71-518, 71-1337, and 71-1338, Reissue Revised Statutes of Nebraska, 1943.

LEGISLATIVE BILL 11. Introduced by Executive Board: Labedz, 5, Chairperson.

A BILL FOR AN ACT relating to oil, fuel, and energy; to amend section 66-503, Reissue Revised Statutes of Nebraska, 1943; to eliminate a reference to oil inspection laws which have been repealed; to eliminate a section providing an operative date; to eliminate provisions providing tax exemptions for certain energy conservation measures and provisions authorizing grants for geothermal energy utilization; and to repeal the original section, and also sections 66-465.01, 66-1019 to 66-1028, and 66-1056 to 66-1059, Reissue Revised Statutes of Nebraska, 1943.

LEGISLATIVE BILL 12. Introduced by Executive Board: Labedz, 5, Chairperson.

A BILL FOR AN ACT relating to officeholders; to amend section 70-624.04, Reissue Revised Statutes of Nebraska, 1943, and sections 16-305, 17-108.02, 19-613, 32-563, and 32-1037, Revised Statutes Supplement, 1990; to transfer provisions relating to holding multiple offices; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 13. Introduced by Executive Board: Labedz, 5, Chairperson.

A BILL FOR AN ACT relating to public lands and funds; to eliminate provisions requiring payment of certain tolls, relating to the transfer of funds, and relating to the Lydick Fund; and to repeal sections 72-232.05, 72-270, 72-421, and 72-422, Reissue Revised Statutes of Nebraska, 1943.

LEGISLATIVE BILL 14. Introduced by Executive Board: Labedz, 5, Chairperson.

A BILL FOR AN ACT relating to civil procedure; to amend section 75-802, Reissue Revised Statutes of Nebraska, 1943; to transfer a provision providing a statute of limitations for certain actions against a common carrier; to provide a duty for the Revisor of Statutes; and to repeal the original section.

LEGISLATIVE BILL 15. Introduced by Executive Board: Labedz, 5, Chairperson.

A BILL FOR AN ACT relating to political subdivisions; to amend sections 2-3201, 2-3228, 2-3235, 3-507, 13-502, 13-908, 13-916, 13-919, 18-2153, and 23-114.05, Reissue Revised Statutes of Nebraska, 1943; to change internal references in provisions relating to natural resources districts, airport authorities, the Nebraska Budget Act, the Political Subdivisions Tort Claims Act, the Community Development Law, and county zoning; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 16. Introduced by Withem, 14.

A BILL FOR AN ACT relating to workers' compensation; to amend section 48-1,110, Revised Statutes Supplement, 1990; to provide a method for computation for workers' compensation insurance; to harmonize provisions; to provide an operative date; and to repeal the original section.

LEGISLATIVE BILL 17. Introduced by Baack, 47; Withem, 14.

A BILL FOR AN ACT relating to elections; to amend sections 48-115 and 48-603, Reissue Revised Statutes of Nebraska, 1943, and sections 32-705 and 32-1403, Revised Statutes Supplement, 1990; to regulate the payment of petition circulators as prescribed; to provide

for the applicability of the Employment Security Law and the Nebraska Workers' Compensation Act; and to repeal the original sections.

LEGISLATIVE BILL 18. Introduced by Withem, 14.

A BILL FOR AN ACT relating to elections; to prohibit the scheduling of certain meetings, events, or activities on election day.

LEGISLATIVE BILL 19. Introduced by Withem, 14.

A BILL FOR AN ACT relating to labor; to amend sections 48-302, 48-310 to 48-312, 48-313, 79-205, and 79-206, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to the age, places, and hours a child may be employed; to change provisions relating to a penalty; to change provisions relating to enforcement of certain labor laws; to provide mandatory meal and rest periods for certain working children as prescribed; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 20. Introduced by Coordsen, 32.

A BILL FOR AN ACT relating to elective offices; to amend sections 32-425, 32-4,155, and 70-624.04, Reissue Revised Statutes of Nebraska, 1943; to change certain ballot and filing restrictions; to authorize holding of other elective office by certain directors; and to repeal the original sections.

LEGISLATIVE BILL 21. Introduced by Coordsen, 32.

A BILL FOR AN ACT relating to the Nebraska Ground Water Management and Protection Act; to amend section 2-3211.01, Revised Statutes Supplement, 1990; to eliminate a provision authorizing a tax levy for special ground water quality protection areas; to harmonize provisions; and to repeal the original section, and also section 46-674.19, Reissue Revised Statutes of Nebraska, 1943.

LEGISLATIVE BILL 22. Introduced by Coordsen, 32.

A BILL FOR AN ACT relating to the Administrative Procedure Act; to amend section 84-920, Reissue Revised Statutes of Nebraska, 1943; to provide for legislative review of administrative rules and regulations; to provide a duty for the chairperson of the Executive

Board of the Legislative Council; to harmonize provisions; and to repeal the original section. Introduced by Coordsen, 32.

LEGISLATIVE BILL 23. Introduced by Abboud, 12.

A BILL FOR AN ACT relating to sexual assault; to amend section 28-320.01, Reissue Revised Statutes of Nebraska, 1943; to increase the penalty for second and subsequent convictions for sexual assault of a child; and to repeal the original section.

LEGISLATIVE BILL 24. Introduced by Abboud, 12.

A BILL FOR AN ACT relating to postsecondary education; to authorize certain institutions to offer Reserve Officer Training Corps; and to provide procedures for students withdrawing from certain institutions for certain military-service obligations.

LEGISLATIVE BILL 25. Introduced by Withem, 14.

A BILL FOR AN ACT relating to the Records Management Act; to amend sections 84-1202 and 84-1208, Reissue Revised Statutes of Nebraska, 1943; to redefine terms; to provide for preservation duplicates to be made using optical imagery; and to repeal the original sections.

LEGISLATIVE BILL 26. Introduced by Withem, 14.

A BILL FOR AN ACT relating to sanitary and improvement districts; to amend sections 14-204, 14-810, 17-103, 17-104, 17-202, 17-203, 19-404, 19-612, 31-702, 31-727, 31-727.01, 31-748, and 77-2704, Reissue Revised Statutes of Nebraska, 1943, and sections 14-201, 19-405, 19-411, and 19-613, Revised Statutes Supplement, 1990; to require districts to have more than one means of ingress and egress; to provide for a district representative on city councils or village boards as prescribed; to provide for the annexation of districts by a certain time as prescribed; to change provisions relating to certain construction standards; to provide for the maintenance of certain improvements as prescribed; to change a provision relating to the rights for resident taxpayers to bring certain actions as prescribed; to exempt district purchases from sales tax; to harmonize provisions; to provide an operative date; and to repeal the original sections.

LEGISLATIVE BILL 27. Introduced by Bernard-Stevens, 42.

A BILL FOR AN ACT relating to firefighters; to prohibit the sale and purchase of certain clothing and equipment as prescribed; to provide a penalty; and to define a term.

LEGISLATIVE BILL 28. Introduced by Bernard-Stevens, 42.

A BILL FOR AN ACT relating to liability; to amend section 28-1417, Reissue Revised Statutes of Nebraska, 1943; to require political subdivisions to defend and pay judgments in behalf of firefighters and emergency medical services providers; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 29. Introduced by Bernard-Stevens, 42.

A BILL FOR AN ACT relating to motor vehicles; to amend section 60-519, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to the satisfaction of judgments for the restoration of licenses, registrations, or operating privileges as prescribed; and to repeal the original section.

LEGISLATIVE BILL 30. Introduced by Bernard-Stevens, 42.

A BILL FOR AN ACT relating to motor vehicle registration; to amend section 60-303, Reissue Revised Statutes of Nebraska, 1943; to require proof of payment of outstanding distress warrants; and to repeal the original section.

LEGISLATIVE BILL 31. Introduced by Bernard-Stevens, 42.

A BILL FOR AN ACT relating to employment; to adopt the Parental Leave Act; and to provide severability.

LEGISLATIVE BILL 32. Introduced by Bernard-Stevens, 42.

A BILL FOR AN ACT relating to elections; to amend section 32-307, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to election of the clerk of the district court in certain counties; and to repeal the original section.

LEGISLATIVE BILL 33. Introduced by Bernard-Stevens, 42; Baack, 47; Withem, 14.

A BILL FOR AN ACT relating to education; to define terms; to establish the Nebraska Institute for Education; to create an advisory board; to provide procedures for participation; to provide powers and duties; and to provide for rules and regulations.

LEGISLATIVE BILL 34. Introduced by Hefner, 19.

A BILL FOR AN ACT relating to liquefied petroleum gas; to amend sections 57-504 and 57-505, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to the marking and filling of cylinders and liquified petroleum gas tanks, storage vessels, and containers; and to repeal the original sections.

LEGISLATIVE BILL 35. Introduced by Hefner, 19.

A BILL FOR AN ACT relating to motor vehicles; to amend section 60-311.11. Revised Statutes Supplement, 1990; to provide for personalized collegiate license plates; to provide for fees and disbursement therefor; to change provisions relating to prestige plates as prescribed; to provide a duty for the Revisor of Statutes; and to repeal the original section.

LEGISLATIVE BILL 36. Introduced by Kristensen, 37.

A BILL FOR AN ACT relating to landlord and tenant; to adopt the Disposition of Personal Property Landlord and Tenant Act.

LEGISLATIVE BILL 37. Introduced by Kristensen, 37.

A BILL FOR AN ACT relating to bills of exceptions; to amend section 25-1140.09, Reissue Revised Statutes of Nebraska, 1943; to change the fees allowed court reporters for preparation of a transcribed copy of proceedings; and to repeal the original section.

LEGISLATIVE BILL 38. Introduced by Kristensen, 37.

A BILL FOR AN ACT relating to public target ranges; to authorize the use of federal funds; and to provide powers and duties for the Game and Parks Commission.

LEGISLATIVE BILL 39. Introduced by Baack, 47.

A BILL FOR AN ACT relating to the Employment Security Law; to amend section 48-601, Reissue Revised Statutes of Nebraska, 1943,

and section 48-628, Revised Statutes Supplement, 1990; to remove benefits for seasonal employees as prescribed; to define terms; to provide duties for the Commissioner of Labor; to harmonize provisions; to provide an operative date; and to repeal the original sections.

LEGISLATIVE BILL 40. Introduced by Baack, 47.

A BILL FOR AN ACT relating to motor vehicle registration; to amend section 60-320, Reissue Revised Statutes of Nebraska, 1943; to provide for certification in lieu of registration for trailers used by boat dealers as prescribed; to provide a fee; and to repeal the original section.

LEGISLATIVE BILL 41. Introduced by Baack, 47.

A BILL FOR AN ACT relating to school retirement; to amend section 79-1515, Reissue Revised Statutes of Nebraska, 1943; to change a provision relating to credit for military service by school employees as prescribed; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 42. Introduced by Baack, 47.

A BILL FOR AN ACT relating to roads; to define open range road; and to provide for liability for injury or damage on an open range road as prescribed.

LEGISLATIVE BILL 43. Introduced by Baack, 47.

A BILL FOR AN ACT relating to the Nebraska Educational Telecommunications Commission; to amend section 79-2102, Revised Statutes Supplement, 1990; to add a member to the commission; and to repeal the original section.

LEGISLATIVE BILL 44. Introduced by Baack, 47.

A BILL FOR AN ACT relating to motor vehicles; to amend section 60-4,123, Revised Statutes Supplement, 1990; to change provisions authorizing certain persons to drive on the highways as prescribed; and to repeal the original section.

LEGISLATIVE BILL 45. Introduced by Schellpeper, 18.

A BILL FOR AN ACT relating to public power districts; to amend sections 70-612, 70-617, 70-620, 70-624, and 70-637, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to the boundaries of certain subdivisions; to authorize an alternative to corporate surety bonds; to eliminate a publication requirement for certain salaries; to exempt certain projects from bidding requirements; and to repeal the original sections.

LEGISLATIVE BILL 46. Introduced by Schellpeper, 18.

A BILL FOR AN ACT relating to appropriations; to amend Laws 1990, LB 520A, sections 1 and 2; to appropriate funds to aid in carrying out the provisions of Legislative Bill 520, Ninety-first Legislature, Second Session, 1990; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 47. Introduced by Schellpeper, 18.

A BILL FOR AN ACT relating to motor vehicles; to amend sections 60-315, 60-320, 60-320.01, and 60-1411.02, Reissue Revised Statutes of Nebraska, 1943, and section 60-106, Revised Statutes Supplement, 1990; to extend the time to apply for a certificate of title and during which certain vehicles may be operated without registration; and to repeal the original sections.

LEGISLATIVE BILL 48. Introduced by Schmit, 23.

A BILL FOR AN ACT relating to savings and loan associations; to require certain mortgage loans to be serviced by the lender as prescribed; and to define terms.

LEGISLATIVE BILL 49. Introduced by Schmit, 23.

A BILL FOR AN ACT relating to water; to amend section 46-252, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to conducting water into or along natural streams or channels; and to repeal the original section.

LEGISLATIVE BILL 50. Introduced by Schmit, 23.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2704, Reissue Revised Statutes of Nebraska, 1943; to exempt purchases of natural resources districts from sales and use tax; and to repeal the original section.

LEGISLATIVE BILL 51. Introduced by Schmit, 23.

A BILL FOR AN ACT relating to ground water; to amend sections 46-657, 46-673.05, 46-673.08, 46-673.09, 46-673.13, 46-674, 46-674.06 to 46-674.10, 46-674.12, 46-674.14, 46-674.18, and 46-674.19, Reissue Revised Statutes of Nebraska, 1943; to redefine a term; to change provisions relating to management areas and special protection areas; to require the amendment of ground water management plans to address water quality as prescribed and authorize management areas for protection of water quality; to provide powers and duties; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 52. Introduced by Haberman, 44.

A BILL FOR AN ACT relating to scholarships; to establish a medical education scholarship program; to provide powers and duties for the Board of Regents of the University of Nebraska; to provide powers and duties for the Department of Health; to provide procedures and criteria; and to declare an emergency.

LEGISLATIVE BILL 53. Introduced by Haberman, 44.

A BILL FOR AN ACT relating to the Legislature; to amend section 5-201, Reissue Revised Statutes of Nebraska, 1943; to provide for an additional legislative district; and to repeal the original section, and also section 5-252, Reissue Revised Statutes of Nebraska, 1943.

LEGISLATIVE BILL 54. Introduced by Withem, 14; Lindsay, 9.

A BILL FOR AN ACT relating to the University of Nebraska; to amend sections 32-1401, 32-1402, 32-1405, 32-1406, and 32-1407, Revised Statutes Supplement, 1990; to provide for elections to recall members of the Board of Regents of the University of Nebraska; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 55. Introduced by Withem, 14; Lynch, 13.

A BILL FOR AN ACT relating to infants; to amend section 43-2007, Reissue Revised Statutes of Nebraska, 1943; to provide a penalty for failure to perform certain duties relating to flagged school records; and to repeal the original section.

LEGISLATIVE BILL 56. Introduced by Smith, 33.

A BILL FOR AN ACT relating to the Gaming Commission; to eliminate provisions relating to the creation and purpose of the commission; and to repeal section 9-1,102, Revised Statutes Supplement, 1990.

LEGISLATIVE BILL 57. Introduced by Smith, 33; Wesely, 26.

A BILL FOR AN ACT relating to public assistance; to provide a personal needs allowance for persons receiving assistance to the aged, blind, and disabled; and to provide an operative date.

LEGISLATIVE BILL 58. Introduced by Smith, 33; Wesely, 26.

A BILL FOR AN ACT relating to the Department on Aging; to amend sections 71-6054, 81-101, 81-2201 to 81-2204, 81-2207 to 81-2210, 81-2212 to 81-2214, 81-2217, 81-2218 to 81-2224, 81-2227, and 81-2228, Reissue Revised Statutes of Nebraska, 1943; to define and redefine terms; to provide and change provisions relating to the powers and duties of the Department on Aging and area agencies on aging as prescribed; to change provisions relating to qualifications of chief executive officers of area agencies on aging as prescribed; to authorize access to and provide for the confidentiality of certain records; to authorize the development of an intrastate funding formula; to harmonize references to the federal Older Americans Act; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 59. Introduced by Withem, 14; Beyer, 3; Hartnett, 45.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-1719, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to return of distress warrants for collection of taxes as prescribed; and to repeal the original section.

LEGISLATIVE BILL 60. Introduced by Beyer, 3.

A BILL FOR AN ACT relating to motor carriers; to amend section 75-308, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to tariffs; and to repeal the original section.

LEGISLATIVE BILL 61. Introduced by Beyer, 3.

A BILL FOR AN ACT relating to motor vehicles; to amend sections 60-2303 and 60-2304, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to odometers and odometer statements as prescribed; and to repeal the original sections.

LEGISLATIVE BILL 62. Introduced by Beyer, 3.

A BILL FOR AN ACT relating to city planning; to amend section 19-926, Revised Statutes Supplement, 1990; to provide for an alternate member on the planning commission as prescribed; and to repeal the original section.

LEGISLATIVE BILL 63. Introduced by Beyer, 3; Hartnett, 45.

A BILL FOR AN ACT relating to county roads; to amend section 39-1647, Reissue Revised Statutes of Nebraska, 1943; to change the rate of interest authorized for special assessments for road improvements; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 64. Introduced by Beyer, 3.

A BILL FOR AN ACT relating to auctioneers; to amend sections 14-109, 25-1536, 25-2144, 54-1186, 69-1331, and 79-1066, Reissue Revised Statutes of Nebraska, 1943; to adopt the Auctioneer Licensing Act; to require certain sales to be conducted by licensed auctioneers; to eliminate provisions relating to municipal regulation of auctioneers and nonresident auctioneers; to harmonize provisions; and to repeal the original sections, and also sections 15-217, 16-237, and 81-887.01 to 81-887.03, Reissue Revised Statutes of Nebraska, 1943.

LEGISLATIVE BILL 65. Introduced by Kristensen, 37.

A BILL FOR AN ACT relating to counties; to amend section 23-119, Reissue Revised Statutes of Nebraska, 1943; to remove the tax levies of certain entities from calculations relating to the levy limitation on counties; and to repeal the original section.

LEGISLATIVE BILL 66. Introduced by Schmit, 23.

A BILL FOR AN ACT relating to the Erosion and Sediment Control Act; to amend section 2-4603, Revised Statutes Supplement, 1990; to

change a provision relating to application of the act to certain construction activities; and to repeal the original section.

LEGISLATIVE BILL 67. Introduced by Schmit, 23.

A BILL FOR AN ACT relating to nonhazardous solid waste disposal systems; to amend section 81-1528, Reissue Revised Statutes of Nebraska, 1943; to limit an exemption from certain licensing and control provisions for cities of the second class and villages; and to repeal the original section.

LEGISLATIVE BILL 68. Introduced by Chambers, 11.

A BILL FOR AN ACT relating to the University of Nebraska-Lincoln; to require payment of football players as prescribed; to state intent; and to provide a limitation.

LEGISLATIVE BILL 69. Introduced by Chambers, 11.

A BILL FOR AN ACT relating to colleges and universities; to state intent; to prohibit certain acts by intercollegiate athletic associations, colleges, and universities relating to certain financial aid; to provide penalties; to provide for civil actions; to provide duties for the Attorney General; and to provide for applicability.

LEGISLATIVE BILL 70. Introduced by Dierks, 40.

A BILL FOR AN ACT relating to low-level radioactive waste; to amend sections 81-15,102.01, 81-15,107, and 81-15,113.01, Revised Statutes Supplement, 1990; to change provisions relating to compensation for loss of property value; to provide for the protection of certain endangered species as prescribed; to change a provision relating to allocations from the Community Improvements Cash Fund; and to repeal the original sections.

LEGISLATIVE BILL 71. Introduced by Dierks, 40.

A BILL FOR AN ACT relating to state funds; to amend sections 72-1243 and 72-1269, Reissue Revised Statutes of Nebraska, 1943; to authorize the State Treasurer to deposit funds in lending institutions for small business loans; to state intent; to define terms; to provide requirements for the deposits and loans; to provide a duty for the state investment officer; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 72. Introduced by Dierks, 40.

A BILL FOR AN ACT relating to the Low-Level Radioactive Waste Disposal Act; to amend section 81-1578, Revised Statutes Supplement, 1990; to state intent; to provide for an election to determine community consent; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 73. Introduced by Dierks, 40.

A BILL FOR AN ACT relating to the Low-Level Radioactive Waste Disposal Act; to amend section 81-1578, Revised Statutes Supplement, 1990; to restrict the issuance of a license as prescribed; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 74. Introduced by Dierks, 40.

A BILL FOR AN ACT relating to motor vehicles; to amend sections 60-1407.03 to 60-1407.06, Reissue Revised Statutes of Nebraska, 1943, and section 60-1401.02, Revised Statutes Supplement, 1990; to redefine a term; to change provisions for special permits for display of motor vehicles as prescribed; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 75. Introduced by Hartnett, 45.

A BILL FOR AN ACT relating to accountants; to amend sections 1-106, 1-114 to 1-121, 1-124, 1-136.04, and 1-169, Reissue Revised Statutes of Nebraska, 1943; to create an advisory committee; to provide powers and duties; to change requirements for the certificate of certified public accountant; to harmonize provisions; to provide duties for the Revisor of Statutes; and to repeal the original sections.

LEGISLATIVE BILL 76. Introduced by Withem, 14; Hartnett, 45.

A BILL FOR AN ACT relating to industrial development; to amend section 13-1115, Reissue Revised Statutes of Nebraska, 1943; to change a provision relating to restrictions on annexation of industrial areas as prescribed.

LEGISLATIVE BILL 77. Introduced by Conway, 17.

A BILL FOR AN ACT relating to the Federal Home Loan Bank Act; to amend sections 8-714 to 8-716, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to membership in a Federal Home Loan Bank; and to repeal the original sections.

LEGISLATIVE BILL 78. Introduced by Lindsay, 9; Labedz, 5; Dierks, 40; Crosby, 29.

A BILL FOR AN ACT relating to abortion; to amend sections 28-326 and 28-327, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to informed consent; to redefine a term; and to repeal the original sections.

LEGISLATIVE BILL 79. Introduced by Lindsay, 9; Hall, 7.

A BILL FOR AN ACT relating to sales and use taxes; to amend section 77-2702, Reissue Revised Statutes of Nebraska, 1943; to redefine the terms gross receipts and retail sale; to provide an operative date; and to repeal the original section.

LEGISLATIVE BILL 80. Introduced by Warner, 25.

A BILL FOR AN ACT relating to state government; to amend section 50-419, Reissue Revised Statutes of Nebraska, 1943, and section 84-612, Revised Statutes Supplement, 1990; to require certain statements of General Fund receipts; to require the transfer of funds as prescribed; to provide calculations for the General Fund budget limitation; to provide duties for the Legislative Fiscal Analyst, the Director of Administrative Services, and the Tax Commissioner; to define a term; to harmonize provisions; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 81. Introduced by Warner, 25.

A BILL FOR AN ACT relating to local government; to amend sections 13-804, 13-903, 48-193, 71-5034, 71-6220, 81-1164, 81-1331, 83-1,143.01, and 84-1202, Reissue Revised Statutes of Nebraska, 1943, and sections 81-8,210, 81-8,239.01, and 81-8,303, Revised Statutes Supplement, 1990; to provide that entities created by local public agencies are not state agencies; to change provisions relating to the plans of expenditures prepared by certain regional governing boards and mental retardation regions as prescribed; to harmonize provisions; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 82. Introduced by Warner, 25.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-379, 77-382, 77-385, and 81-125, Reissue Revised Statutes of Nebraska, 1943; to change the name of an act; to require submission of tax expenditure reports and summaries as prescribed; to change provisions relating to such reports; to eliminate obsolete language; to harmonize provisions; and to repeal the original sections, and also section 77-384, Reissue Revised Statutes of Nebraska, 1943.

LEGISLATIVE BILL 83. Introduced by Warner, 25.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-2715.01, 77-2715.02, 77-2734.02, 77-27,156, and 81-125, Reissue Revised Statutes of Nebraska, 1943; to require the State Board of Equalization and Assessment to set the rates for sales and income taxes; to provide powers and duties for the board, the Tax Commissioner, the Director of Administrative Services, and the Legislative Fiscal Analyst; to harmonize provisions; to eliminate provisions setting the rates of sales and income tax; to provide an operative date; and to repeal the original sections, and also sections 77-2701.01 and 77-2701.02, Reissue Revised Statutes of Nebraska, 1943.

LEGISLATIVE BILL 84. Introduced by Dierks, 40; Lindsay, 9; Rogers, 41; Crosby, 29; Schmit, 23; Labedz, 5.

A BILL FOR AN ACT relating to abortion; to prohibit certain acts by public employees relating to abortions; to prohibit the use of public facilities and funds for certain abortions as prescribed; to define terms; and to provide for enforcement.

LEGISLATIVE BILL 85. Introduced by Schimek, 27; Morrissey, 1; Crosby, 29; Withem, 14; Horgan, 4.

A BILL FOR AN ACT relating to elections; to provide for the inclusion of voter registration cards with individual income tax forms; to provide duties for the Tax Commissioner and Department of Revenue; and to declare an emergency.

LEGISLATIVE BILL 86. Introduced by Schimek, 27.

A BILL FOR AN ACT relating to repair services; to adopt the Repair and Services Act; and to provide severability.

EASE

The Legislature was at ease from 10:44 a.m. until 11:09 a.m.

BILLS ON FIRST READING

The following bills were read for the first time by title:

LEGISLATIVE BILL 87. Introduced by Schimek, 27; Withem, 14; Conway, 17; Smith, 33; Lindsay, 9; Robak, 22.

A BILL FOR AN ACT relating to elections; to amend sections 32-1051 and 32-1052, Reissue Revised Statutes of Nebraska, 1943; to create a committee to develop written standards for election dispute decisions; to provide powers and duties for the Secretary of State; to provide powers and duties for the Governor; and to repeal the original sections.

LEGISLATIVE BILL 88. Introduced by Ashford, 6; Conway, 17.

A BILL FOR AN ACT relating to civil procedure; to amend sections 25-702, 25-21,185, and 39-619, Reissue Revised Statutes of Nebraska, 1943; to provide for the reduction of damages in certain actions for contributory fault as prescribed; to define fault; to provide for joint and several liability as prescribed; to provide for allocation of damages between parties; to provide for payment of uncollectible judgments; to prescribe forms; to provide for release from liability; to provide for contribution; to provide applicability; to provide for third-party defendants; to harmonize provisions; to provide an operative date; to provide severability; and to repeal the original sections.

LEGISLATIVE BILL 89. Introduced by Landis, 46.

A BILL FOR AN ACT relating to African-Americans; to establish the Commission on African-American Affairs; to provide powers and duties; and to provide for an executive board and a director.

LEGISLATIVE BILL 90. Introduced by Landis, 46.

A BILL FOR AN ACT relating to dispute resolution; to adopt the Dispute Resolution Act.

LEGISLATIVE BILL 91. Introduced by Lynch, 13.

A BILL FOR AN ACT relating to the Help Education Lead to Prosperity Act; to amend sections 79-3501 and 79-3505, Revised Statutes Supplement, 1990; to change a provision relating to the values used to determine the distribution of funds; to provide for the treatment of funds; to eliminate a termination date; to harmonize provisions; and to repeal the original sections, and also section 79-3511, Revised Statutes Supplement, 1990.

LEGISLATIVE BILL 92. Introduced by Landis, 46.

A BILL FOR AN ACT relating to the Mobile Home Landlord and Tenant Act; to amend sections 76-1450 and 76-1457, Reissue Revised Statutes of Nebraska, 1943; to define a term; to provide procedures for the sale or transfer of a mobile home park and for changing the use of a mobile home park; to state intent; to authorize resolutions or ordinances to regulate rent and the creation of review boards; to provide powers and duties; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 93. Introduced by Landis, 46.

A BILL FOR AN ACT relating to motor vehicles; to amend section 39-669.22, Reissue Revised Statutes of Nebraska, 1943, and sections 39-669.07, 39-669.08, and 39-6,122, Revised Statutes Supplement, 1990; to provide for the use of ignition interlock devices as prescribed; to change provisions relating to the assessment of points against operators' licenses; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 94. Introduced by Landis, 46.

A BILL FOR AN ACT relating to libraries; to amend section 51-201, Reissue Revised Statutes of Nebraska, 1943; to permit levying a tax for contracting for library services without an election; and to repeal the original section.

LEGISLATIVE BILL 95. Introduced by Landis, 46.

A BILL FOR AN ACT relating to decedents' estates; to amend section 30-2485, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to claims against decedents' estates; and to repeal the original section.

LEGISLATIVE BILL 96. Introduced by L. Johnson, 15.

A BILL FOR AN ACT relating to consumer protection; to adopt the Invention Development Services Disclosure Act.

LEGISLATIVE BILL 97. Introduced by L. Johnson, 15.

A BILL FOR AN ACT relating to credit unions; to amend section 21-17,120.01, Revised Statutes Supplement, 1990; to change provisions relating to powers of credit unions; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 98. Introduced by L. Johnson, 15.

A BILL FOR AN ACT relating to savings and loan associations; to amend section 8-355, Revised Statutes Supplement, 1990; to change provisions relating to powers of savings and loan associations; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 99. Introduced by L. Johnson, 15.

A BILL FOR AN ACT relating to the Nebraska Bingo Act; to amend sections 9-201, 9-203, and 9-216, Revised Statutes Supplement, 1990; to define and redefine a term; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 100. Introduced by L. Johnson, 15.

A BILL FOR AN ACT relating to the Local Option Revenue Act; to amend section 77-27,147, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to point of sale as prescribed; to provide an operative date; and to repeal the original section.

LEGISLATIVE BILL 101. Introduced by L. Johnson, 15.

A BILL FOR AN ACT relating to the State Department of Education; to provide for the employment of a consultant trained in environmental issues as prescribed; and to provide an appropriation.

LEGISLATIVE BILL 102. Introduced by Pirsch, 10.

A BILL FOR AN ACT relating to the Nebraska Crime Victim's Reparations Act; to amend sections 81-1801, 81-1806, 81-1808, 81-1810, 81-1812, 81-1815, 81-1817 to 81-1820, and 81-1823, Reissue Revised Statutes of Nebraska, 1943, and sections 81-1809, 81-1816, and 81-1832, Revised Statutes Supplement, 1990; to define a term; to provide for hearings to be conducted by the executive director of the Nebraska Commission on Law Enforcement and Criminal Justice; to eliminate hearing officers; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 103. Introduced by Pirsch, 10.

A BILL FOR AN ACT relating to grand juries; to amend section 29-1401, Reissue Revised Statutes of Nebraska, 1943; to change provisions on when a district court is required to call a grand jury and the scope of review; and to repeal the original section.

LEGISLATIVE BILL 104. Introduced by Pirsch, 10.

A BILL FOR AN ACT relating to zoning; to require notices of proposed changes in use or zoning classification for property within the zoning jurisdiction of a city of the metropolitan class as prescribed.

LEGISLATIVE BILL 105. Introduced by Pirsch, 10.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2701, Reissue Revised Statutes of Nebraska, 1943; to provide for rights and privileges of certain taxpayers; to provide duties for the Department of Revenue and the Tax Commissioner; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 106. Introduced by Pirsch, 10.

A BILL FOR AN ACT relating to fees and salaries; to amend section 33-117, Reissue Revised Statutes of Nebraska, 1943; to provide for fees for service and return of documents in garnishment matters; and to repeal the original section.

LEGISLATIVE BILL 107. Introduced by Pirsch, 10.

A BILL FOR AN ACT relating to schools and school districts; to prohibit school districts from requiring certificated employees to reside within the employing district.

LEGISLATIVE BILL 108. Introduced by Pirsch, 10.

A BILL FOR AN ACT relating to crimes and offenses; to amend section 28-908, Reissue Revised Statutes of Nebraska, 1943; to change the offense of interference with a firefighter to include emergency medical services providers; to define a term; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 109. Introduced by Pirsch, 10.

A BILL FOR AN ACT relating to travel agencies; to define terms; to require the registration of travel agencies; to require proof of financial responsibility; to provide a fee; to provide penalties; to provide certain exemptions; and to provide rules and regulations.

LEGISLATIVE BILL 110. Introduced by Pirsch, 10.

A BILL FOR AN ACT relating to crimes and punishments; to amend sections 28-808 and 28-809, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to the sale of obscene materials to minors and the admission of minors to an obscene motion picture, show, or presentation as prescribed; and to repeal the original sections.

LEGISLATIVE BILL 111. Introduced by Pirsch, 10.

A BILL FOR AN ACT relating to theft; to amend section 28-518, Reissue Revised Statutes of Nebraska, 1943; to provide for aggregation of amounts in determining the classification of offenses; and to repeal the original section.

LEGISLATIVE BILL 112. Introduced by Pirsch, 10.

A BILL FOR AN ACT relating to crimes and punishments; to amend section 28-101, Revised Statutes Supplement, 1990; to make delivery of a controlled substance to a minor a crime as prescribed; to provide a penalty; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 113. Introduced by Cudaback, 36.

A BILL FOR AN ACT relating to motor vehicles; to amend sections 60-311.14 and 60-311.25, Reissue Revised Statutes of Nebraska, 1943, and sections 60-106, 60-112, and 60-114, Revised Statutes Supplement, 1990; to change signature requirements for certificates of title as prescribed; to provide for the issuance of special license plates for handicapped or disabled persons; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 114. Introduced by Schimek, 27; Baack, 47; Conway, 17; Schmit, 23; Wickersham, 49.

A BILL FOR AN ACT relating to the Commission on Indian Affairs; to amend sections 81-1214 and 81-1218, Reissue Revised Statutes of Nebraska, 1943; to change the membership of the commission; to change the per diem for members; and to repeal the original sections.

LEGISLATIVE BILL 115. Introduced by Schimek, 27; Baack, 47; Wesely, 26; Bernard-Stevens, 42; Lindsay, 9.

A BILL FOR AN ACT relating to elections; to amend sections 32-4,104, 32-548, and 32-556, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to selection of presidential electors; to require presidential electors to cast their votes as prescribed; and to repeal the original sections.

LEGISLATIVE BILL 116. Introduced by Schimek, 27; Bernard-Stevens, 42; Baack, 47.

A BILL FOR AN ACT relating to schools; to amend section 79-4,140.17, Revised Statutes Supplement, 1990; to state intent; to change provisions relating to the requirements for health education in public schools; and to repeal the original section.

LEGISLATIVE BILL 117. Introduced by Schimek, 27; Crosby, 29.

A BILL FOR AN ACT relating to the civil service system; to amend section 23-2519, Reissue Revised Statutes of Nebraska, 1943; to include additional persons in the unclassified service as prescribed; and to repeal the original section.

LEGISLATIVE BILL 118. Introduced by Schimek, 27; Conway, 17; Smith, 33.

A BILL FOR AN ACT relating to the Nebraska Real Estate License Act; to amend sections 81-885.21 and 81-885.47, Reissue Revised Statutes of Nebraska, 1943, and sections 81-885.01 and 81-885.14, Revised Statutes Supplement, 1990; to require licensees to have errors and omissions insurance; to provide powers and duties for the commission; to provide for inactive brokers; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 119. Introduced by Smith, 33.

A BILL FOR AN ACT relating to schools; to amend section 79-4,141.01, Revised Statutes Supplement, 1990; to change provisions relating to accounting examinations; and to repeal the original section.

LEGISLATIVE BILL 120. Introduced by Will, 8.

A BILL FOR AN ACT relating to property taxation; to amend sections 77-3501, 77-3509.01 to 77-3509.03, 77-3510, 77-3512 to 77-3514, 77-3516, 77-3522, 77-3523, and 77-3529, Reissue Revised Statutes of Nebraska, 1943; to provide a homestead exemption for all homesteads; to harmonize provisions; to provide a duty for the Revisor of Statutes; and to repeal the original sections.

LEGISLATIVE BILL 121. Introduced by Rogers, 41.

A BILL FOR AN ACT relating to brands; to amend section 54-134, Revised Statutes Supplement, 1990; to add Howard County to the brand inspection area; and to repeal the original section.

LEGISLATIVE BILL 122. Introduced by Rogers, 41.

A BILL FOR AN ACT relating to county medical facilities; to amend section 23-343.01, Reissue Revised Statutes of Nebraska, 1943; to change a residency restriction on the boards of trustees in certain counties; and to repeal the original section.

LEGISLATIVE BILL 123. Introduced by Rogers, 41.

A BILL FOR AN ACT relating to business relationships; to amend sections 69-1501 and 69-1503, Reissue Revised Statutes of Nebraska, 1943; to adopt the Equipment Business Regulation Act; to harmonize

provisions; to provide severability; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 124. Introduced by Elmer, 38.

A BILL FOR AN ACT relating to liquor; to amend section 53-184, Reissue Revised Statutes of Nebraska, 1943; to authorize the refilling of original packages for private use; and to repeal the original section.

LEGISLATIVE BILL 125. Introduced by Elmer, 38.

A BILL FOR AN ACT relating to criminal procedure; to authorize the Supreme Court to award defense costs in certain criminal prosecutions when a statute, ordinance, rule, or regulation is found unconstitutional as prescribed.

LEGISLATIVE BILL 126. Introduced by Elmer, 38.

A BILL FOR AN ACT relating to the state highway system; to amend section 39-1315.01, Reissue Revised Statutes of Nebraska, 1943; to provide for the removal of certain roads from the state highway system; and to repeal the original section.

LEGISLATIVE BILL 127. Introduced by Elmer, 38.

A BILL FOR AN ACT relating to oil and gas; to require proceeds from the sale of oil, gas, or associated products to be paid as prescribed; to define terms; to provide powers and duties for the Nebraska Oil and Gas Conservation Commission; and to provide a penalty.

LEGISLATIVE BILL 128. Introduced by Ashford, 6.

A BILL FOR AN ACT relating to sanitary and improvement districts; to amend section 31-727.03, Reissue Revised Statutes of Nebraska, 1943; to provide a late filing fee for an annual statement; to change requirements for the statement; and to repeal the original section.

LEGISLATIVE BILL 129. Introduced by Wickersham, 49; Hillman, 48; Baack, 47.

A BILL FOR AN ACT relating to the University of Nebraska; to authorize the Board of Regents to develop plans for a Trailside

Complex at Fort Robinson State Park; to state intent; to provide for appropriations as prescribed; and to declare an emergency.

LEGISLATIVE BILL 130. Introduced by Schimek, 27; Nelson, 35; Dierks, 40.

A BILL FOR AN ACT relating to cigarettes; to amend section 59-1502, Reissue Revised Statutes of Nebraska, 1943; to state intent; to prohibit the use of vending machines and similar devices to dispense cigarettes; to provide penalties; to harmonize provisions; to provide an operative date; and to repeal the original section.

LEGISLATIVE BILL 131. Introduced by Baack, 47; Robinson, 16.

A BILL FOR AN ACT relating to schools; to amend section 79-3349, Reissue Revised Statutes of Nebraska, 1943; to provide for reimbursement of attorney's fees as prescribed; and to repeal the original section.

LEGISLATIVE BILL 132. Introduced by Baack, 47; Schellpeper, 18; Nelson, 35; Bernard-Stevens, 42; Conway, 17; Dierks, 40; Wickersham, 49; Hefner, 19; Peterson, 21; Hillman, 48.

A BILL FOR AN ACT relating to postsecondary education; to adopt the Nebraska Education Centers Act; and to declare an emergency.

LEGISLATIVE BILL 133. Introduced by Baack, 47; Withem, 14.

A BILL FOR AN ACT relating to emergency telephone communications systems; to amend section 86-1003, Revised Statutes Supplement, 1990; to authorize interlocal agreements for the provision of 911 service; and to repeal the original section.

LEGISLATIVE BILL 134. Introduced by Smith, 33; Ashford, 6.

A BILL FOR AN ACT relating to appropriations; to state intent; and to appropriate funds for geographic education.

LEGISLATIVE BILL 135. Introduced by Lindsay, 9; Landis, 46.

A BILL FOR AN ACT relating to computers; to amend sections 28-1343 to 28-1348, Reissue Revised Statutes of Nebraska, 1943, and section 28-101, Revised Statutes Supplement, 1990; to create the Computer Crimes Act; to state intent; to define and redefine terms;

to change provisions relating to unauthorized use of computers; to prohibit use of destructive computer programs; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 136. Introduced by Lindsay, 9.

A BILL FOR AN ACT relating to child support; to amend section 42-358.02, Reissue Revised Statutes of Nebraska, 1943; to change the rate of interest on delinquent child support payments; and to repeal the original section.

LEGISLATIVE BILL 137. Introduced by Moore, 24; R. Johnson, 34; Coordsen, 32.

A BILL FOR AN ACT relating to ground water conservation districts; to amend section 46-634.01, Reissue Revised Statutes of Nebraska, 1943, and Laws 1981, LB 81, section 5, as amended by Laws 1986, LB 124, section 3; to change the dissolution date of such districts; to change the date of the repeal of the Ground Water Conservation Act of Nebraska; and to repeal the original sections.

LEGISLATIVE BILL 138. Introduced by Moore, 24; Lamb, 43.

A BILL FOR AN ACT relating to early childhood programs; to amend section 71-1911, Reissue Revised Statutes of Nebraska, 1943; to provide an exemption from a license requirement; and to repeal the original section.

LEGISLATIVE BILL 139. Introduced by Smith, 33.

A BILL FOR AN ACT relating to state government; to provide for an official slogan for the state; to eliminate provisions relating to an official symbol and slogan; and to repeal section 90-105, Reissue Revised Statutes of Nebraska, 1943.

LEGISLATIVE BILL 140. Introduced by Smith, 33; Nelson, 35; Crosby, 29; Robak, 22; Chambers, 11.

A BILL FOR AN ACT relating to homestead exemptions; to amend sections 77-3512 to 77-3514, 77-3516, and 77-3517, Reissue Revised Statutes of Nebraska, 1943; to provide for the extension of certain filing deadlines as prescribed; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 141. Introduced by R. Johnson, 34.

A BILL FOR AN ACT relating to economic development; to amend sections 81-1201.01, 81-1201.03, 81-1201.09, and 81-1201.20, Reissue Revised Statutes of Nebraska, 1943, and sections 81-1201.07 and 81-1201.10, Revised Statutes Supplement, 1990; to provide for creation of the International Trade Office Division in the Department of Economic Development; to provide powers and duties; to state intent; to harmonize provisions; to provide a duty for the Revisor of Statutes; and to repeal the original sections.

LEGISLATIVE BILL 142. Introduced by R. Johnson, 34.

A BILL FOR AN ACT relating to animal damage control; to amend section 81-2,236, Reissue Revised Statutes of Nebraska, 1943; to state intent regarding state funding of the animal damage control program; and to repeal the original section.

LEGISLATIVE BILL 143. Introduced by R. Johnson, 34.

A BILL FOR AN ACT relating to emergency medical services; to amend section 39-669.13, Reissue Revised Statutes of Nebraska, 1943, and section 39-6,122, Revised Statutes Supplement, 1990; to provide additional fees be assessed as court costs; to provide for the distribution of such fees; to create a fund; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 144. Introduced by Lynch, 13; Dierks, 40; Schellpeper, 18.

A BILL FOR AN ACT relating to nurse practitioner-anesthetists; to amend sections 71-1704, 71-1728, 71-1729, 71-1730, 71-1731, 71-1734, and 71-1737, Reissue Revised Statutes of Nebraska, 1943; to redefine terms; to change provisions relating to the practice of anesthesia as prescribed; to change provisions relating to certification and temporary certification; to change provisions relating to duties of nurse practitioner-anesthetists; to harmonize provisions; to provide a duty for the Revisor of Statutes; to eliminate provisions relating to the certification of certain registered nurses and the supervision of nurse practitioner-anesthetists; and to repeal the original sections, and also sections 71-1732 and 71-1733, Reissue Revised Statutes of Nebraska, 1943.

LEGISLATIVE BILL 145. Introduced by Wesely, 26; Chambers, 11; Schimek, 27; Schellpeper, 18; Morrissey, 1; Bernard-Stevens, 42.

A BILL FOR AN ACT relating to public health and welfare; to adopt the Family Medical Leave Act.

RESOLUTION

LEGISLATIVE RESOLUTION 1CA. Introduced by Schimek, 27; Crosby, 29; Will, 8.

A Resolution to propose an amendment to the Constitution of Nebraska by amending Article IV, section 2, and Article IV, section 3, and by adding new sections 3A, 3B, and 3C to Article IV.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

Section 1. That at the general election in November 1992 there shall be submitted to the electors of the State of Nebraska for approval the following amendment to the Constitution of Nebraska by amending Article IV, section 2, and Article IV, section 3, and by adding new sections 3A, 3B, and 3C to Article IV, which are hereby proposed by the Legislature:

CIV-2 "No person shall be eligible to the office of Governor~~,~~ or Lieutenant Governor, who ~~shall~~ has not ~~have~~ attained the age of thirty years~~,~~ and who ~~shall~~ has not ~~have~~ been for five years next preceding ~~his~~ the election a resident and citizen of this state and a citizen of the United States. None of the appointive officers mentioned in this article shall be eligible to any other state office during the period for which they have been appointed.

The Governor shall be ineligible to the office of Governor for four years next after the expiration of two consecutive terms for which he or she was elected.

The Lieutenant Governor shall be ineligible to the office of Lieutenant Governor for four years next after the expiration of two consecutive terms for which he or she was elected."

~~CIV-3~~ "The ~~treasurer~~ State Treasurer shall be ineligible to the office of ~~treasurer,~~ State Treasurer for ~~two~~ four years next after the expiration of two consecutive terms for which he or she was elected."

CIV-3A "The Secretary of State shall be ineligible to the office of Secretary of State for four years next after the expiration of two consecutive terms for which he or she was elected."

CIV-3B "The Auditor of Public Accounts shall be ineligible to the office of Auditor of Public Accounts for four years next after the

expiration of two consecutive terms for which he or she was elected."

CIV-3C "The Attorney General shall be ineligible to the office of Attorney General for four years next after the expiration of two consecutive terms for which he or she was elected.".

Sec. 2. That the proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1. The proposition for the submission of the proposed amendment shall be placed upon the ballot in the following form:

"A constitutional amendment to limit the offices of Governor, Lieutenant Governor, State Treasurer, Secretary of State, Auditor of Public Accounts, and Attorney General to two consecutive terms.

For

Against".

Sec. 3. That the proposed amendment, if adopted, shall be in force and take effect immediately upon the completion of the canvass of the votes, at which time it shall be the duty of the Governor to proclaim it as a part of the Constitution of Nebraska.

Referred to the Reference Committee.

REPORT OF COMMITTEE ON COMMITTEES

Mr. Morrissey, Chairperson of Committee on Committees, offered the follow report:

Agriculture - Rogers, Chairperson

Chambers	Hefner
Coordsen	Morrissey
Cudaback	Schellpeper
Elmer	

Appropriations - Moore, Chairperson

Ashford	L. Johnson
Bernard-Stevens	Lynch
Crosby	Robinson
Hillman	Wehrbein

Banking, Commerce and Insurance - Landis, Chairperson

Abboud	Lindsay
Conway	Schmit
Haberman	Wesely
Hall	

Business and Labor - Coordsen, Chairperson

Chambers
Elmer
Hefner
Morrissey
Schellpeper
Schimek

Education - Withem, Chairperson

Beutler
Chizek
Dierks
Lamb
Nelson
Schrock
Warner

General Affairs - Smith, Chairperson

Cudaback
Hartnett
R. Johnson
Labedz
Rasmussen
Rogers
Will

Government, Military and Veterans Affairs - Conway, Chairperson

Coordsen
Lindsay
Robak
Schimek
Schrock
Smith
Withem

Health and Human Services - Wesely, Chairperson

Beyer
Byars
Cudaback
Dierks
Rasmussen
Schellpeper

Judiciary - Chizek, Chairperson

Abboud
Chambers
Kristensen
Labedz
Nelson
Pirsch
Wickersham

Natural Resources - R. Johnson, Chairperson

Beutler
Elmer
Hartnett
Horgan
Lamb
Morrissey
Schmit

Nebraska Retirement Systems - Nelson, Chairperson

Abboud
Crosby
Elmer
Moore
Schellpeper

Revenue - Hall, Chairperson

Haberman	Rogers
Hefner	Warner
Landis	Will
Peterson	

Transportation - Kristensen, Chairperson

Beyer	Pirsch
Byars	Robak
Horgan	Wickersham
Peterson	

Urban Affairs - Hartnett, Chairperson

R. Johnson	Schimek
Labedz	Smith
Rasmussen	Will

Rules - Lynch, Chairperson

Beutler	Rogers
Robinson	Withem

Intergovernmental Cooperation - Elmer, Chairperson

Beyer	Labedz
Conway	Wesely
Cudaback	Will

Mr. Morrissey moved to approve the Committee on Committees report.

Mmes. Pirsch and Labedz offered the following amendment to the Committee on Committees report:

by replacing Senator Labedz on the Intergovernmental Cooperations Committee with Senator Pirsch.

The Pirsch-Labedz amendment was adopted with 29 ayes, 0 nays, and 20 present and not voting.

The Morrissey motion to approve the Committee on Committees report, as amended, was adopted with 29 ayes, 0 nays, and 20 present and not voting.

BILLS ON FIRST READING

The following bills were read for the first time by title:

LEGISLATIVE BILL 146. Introduced by Will, 8; Warner, 25.

A BILL FOR AN ACT relating to the Legislature; to amend section 50-412, Reissue Revised Statutes of Nebraska, 1943; to change the manner of selection of the Director of Research; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 147. Introduced by Wehrbein, 2.

A BILL FOR AN ACT relating to jurors; to amend section 33-138, Reissue Revised Statutes of Nebraska, 1943; to increase juror fees as prescribed; and to repeal the original section.

LEGISLATIVE BILL 148. Introduced by Bernard-Stevens, 42; Withem, 14; R. Johnson, 34; Wickersham, 49; Moore, 24.

A BILL FOR AN ACT relating to railroads; to amend sections 74-902 and 75-419, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to the hours an employee may work; to define a term; and to repeal the original sections.

ANNOUNCEMENT

Mr. Wesely announced the Health and Human Services Committee elected Mr. Schellpeper as Vice Chairperson.

MOTION - Escort Committees

Mr. Hefner moved that a series of committees be appointed to escort the various state and constitutional officers for the purpose of administering their oaths of office.

The motion prevailed.

RECESS

At 11:45 a.m., on a motion by Mr. Schrock, the Legislature recessed until 1:45 p.m.

AFTER RECESS

The Legislature reconvened at 1:49 p.m., Speaker Baack presiding.

ROLL CALL

The roll was called and all members were present.

MESSAGE FROM THE SECRETARY OF STATE

January 10, 1991

Speaker of the Legislature
Ninety-second Legislature, First Session (Regular) 1991
State Capitol
Lincoln, Nebraska

Honorable Speaker:

We are submitting to you a certificate stating that the bonds and oaths for the following elected officials, for the terms beginning the third day and ninth day of January, 1991, and ending on the first Thursday after the first Tuesday in January, 1995 or 1997, are on file in the office of Secretary of State:

Governor Ben Nelson
Lieutenant Governor Maxine Moul
Auditor of Public Accounts John Breslow
State Treasurer Dawn E. Rockey
Attorney General Don Stenberg

The certificate further states that the required oaths are on file in the office of Secretary of State for:

James F. Munnelly, Public Service Commissioner, Second District, ending January 1997
Charles Wilson, Regent, University of Nebraska, First District, term ending January, 1997
Nancy L. O'Brien, Regent, University of Nebraska, Second District, term ending January, 1997
Caren Hamilton, Member of State Board of Education, District Five
Russell Worthman, Member of State Board of Education, District Six
Thelma L. Lang, Member of State Board of Education, District Seven

William C. Ramsey, Member of State Board of Education, District Eight
William C. Hastings, Chief Justice of the Supreme Court
Leslie Boslaugh, Judge of the Supreme Court, Fifth District
Theodore W. Vrana, Judge of the Nebraska Workers Compensation Court.

Respectfully submitted,
(Signed) Allen J. Beermann
Secretary of State

CERTIFICATE

STATE OF NEBRASKA

United States of America,)
) ss. Department of State
State of Nebraska)

I, Allen J. Beermann, Secretary of State of the State of Nebraska do hereby certify that

Governor Ben Nelson
Lieutenant Governor Maxine Moul
Auditor of Public Accounts John Breslow
State Treasurer Dawn E. Rockey
Attorney General Don Stenberg

have filed their bonds and oaths with the Secretary of State as required by law.

I further certify that the required oaths have been filed in the office of Secretary of State, as required by law: James F. Munnelly, Public Service Commissioner, Charles Wilson and Nancy L. O'Brien, Regents of the University of Nebraska; Caren Hamilton, Russell Worthman, Thelma L. Lang and William C. Ramsey, Members of the State Board of Education; William C. Hastings, Chief Justice of the Supreme Court and Leslie Boslaugh, Justice of the Supreme Court and Theodore W. Vrana, Judge of the Nebraska Workers Compensation Court.

In Testimony Whereof, I have hereunto set my hand and affixed the Great Seal of the State of Nebraska.

Done at Lincoln this tenth day of January in the year of our Lord, one thousand nine hundred and ninety-one.

(SEAL) Allen J. Beermann, Secretary of State

ANNOUNCEMENT

Mr. Withem announced an executive session of the Education Committee January 11, at 9:45 a.m. in the senator's lounge.

PRESENTATION OF COLORS

Presentation of Colors by the Nebraska National Guard.

PRAYER

The prayer was offered by Darrell Berg, Campus Pastor, United Christian Ministries, University of Nebraska at Omaha.

INAUGURAL CEREMONIES

Chief Justice William C. Hastings administered the Oath of Office to the newly elected State officials.

PRESIDENT MOUL PRESIDING

Governor Ben Nelson delivered the following Inaugural address:

MADAM PRESIDENT, MR. SPEAKER, MR. CHIEF JUSTICE, MEMBERS OF THE NINETY-SECOND LEGISLATURE, HONORED GUESTS, MY FRIENDS, MY FAMILY, AND ALL NEBRASKANS:

AS I ACCEPT THE HONOR AND THE CHALLENGE OF BECOMING YOUR THIRTY-SEVENTH GOVERNOR, I AM HUMBLED BY THE CONFIDENCE THE PEOPLE OF NEBRASKA HAVE PLACED IN ME, AND MINDFUL OF THE TASKS THAT LIE AHEAD.

THE CHALLENGES OF THE FUTURE ARE FORMIDABLE, BUT I AM CONFIDENT IN OUR ABILITY TO MEET THEM. NEBRASKANS HAVE A HERITAGE OF WORKING TOGETHER TOWARD COMMON OBJECTIVES. WHENEVER THERE IS A JOB TO BE DONE, WE PUT ASIDE OUR OWN INTERESTS AND PULL TOGETHER AS ONE COMMUNITY, ONE NEIGHBORHOOD, OR ONE FAMILY.

BUILDING ON THIS HERITAGE, WE WILL SUCCEED IN THE YEARS THAT LIE AHEAD IF WE JOIN TOGETHER AS ONE NEBRASKA. FOR THESE ARE TIMES TROUBLED BY UNCERTAINTY:

*THE MEN AND WOMEN OF THE NEBRASKA NATIONAL GUARD AND THE ARMY AND NAVAL RESERVE JOIN THEIR COMRADES IN READINESS FOR ARMED COMBAT IN THE PERSIAN GULF;

*THE FEDERAL DEFICIT BALLOONS BY DOUBLE DIGITS, CAUSING PROBLEMS THAT ARE TRICKLING DOWN TO STATE AND LOCAL GOVERNMENTS THROUGHOUT THE COUNTRY;

*THE NATIONAL GOVERNORS' ASSOCIATION REPORTS THAT TWENTY EIGHT STATES WILL HAVE NEGATIVE TREASURY BALANCES IF THEY DO NOT CUT SPENDING OR INCREASE REVENUES BEFORE THE END OF THE FISCAL YEAR. WHILE THESE TROUBLED STATES TEND TO BE IN THE EASTERN PART OF THE NATION, THE REPORT CONCLUDES IT IS ONLY A MATTER OF TIME BEFORE THE NATIONAL RECESSION IS FELT THROUGHOUT THE COUNTRY.

NEBRASKA'S STATE BUDGET MAY NOT SEEM AS STRESSED AS SOME, BUT INDICATIONS ARE CLEAR THAT OUR OBLIGATIONS ARE SURPASSING EXPECTED GROWTH IN REVENUE. AS I TAKE OFFICE, NEBRASKA STATE GOVERNMENT IS SPENDING DOLLARS FASTER THAN THEY ARE COMING IN.

OUR DESIRE TO BOLSTER OUR ECONOMY AND ENHANCE GOVERNMENT SERVICES, FROM ELEMENTARY, SECONDARY AND HIGHER EDUCATION TO HUMAN SERVICES, HAS CAUSED THIS STATE TO SUBSTANTIALLY INCREASE ITS FINANCIAL COMMITMENTS.

THESE POLICY CHOICES, COUPLED WITH CONTINUING INCREASES IN ENTITLEMENT PROGRAMS, ESPECIALLY MEDICAID, REQUIRE MORE GROWTH IN OUR ECONOMY THAN ANYONE COULD REASONABLY EXPECT, GIVEN THE CURRENT NATIONAL TRENDS.

IN SPITE OF OUR TIGHT FISCAL SITUATION, THERE ARE NEEDS TO BE MET, ISSUES TO BE ADDRESSED, CHALLENGES WHERE STATE GOVERNMENT HAS A PROPER ROLE TO PLAY. WE CANNOT IGNORE WHAT IS HAPPENING AROUND US, NOT ONLY WITHIN OUR STATE'S BORDERS, BUT IN THE NATION AND THE WORLD AS WELL:

*PRELIMINARY CENSUS DATA INDICATE THAT 83 OF OUR 93 COUNTIES CONTINUE TO LOSE THEIR POPULATION BASE, AND WITH IT THEIR LOCAL ECONOMIES, HEALTH CARE SERVICES, AND TAX BASE;

*POVERTY LEVELS CONTINUE TO BE UNACCEPTABLY HIGH BOTH IN URBAN AND RURAL NEBRASKA;

*HEALTH CARE COSTS ARE INCREASING THE FINANCIAL BURDEN ON OUR FAMILIES AND BUSINESSES. RURAL NEBRASKANS IN PARTICULAR FACE THE THREAT OF LOSING ACCESS TO ESSENTIAL HEALTH SERVICES;

*REDUCTIONS IN FEDERAL FUNDING HAVE, AND WILL CONTINUE, TO IMPACT PROGRAMS RANGING FROM FARM PAYMENTS TO LOCAL GOVERNMENT AID, WITH NO CORRESPONDING REDUCTION IN MANDATES OR NEEDS. WE RECOGNIZE HOW INTERDEPENDENT WE HAVE BECOME UPON NATIONAL DECISIONS.

*THE NIGHTLY MESSAGES TELEVISED INTO OUR LIVING ROOMS FROM THE MIDDLE EAST ARE A GRAPHIC REMINDER THAT WE ARE ALSO PART OF AN INTERNATIONAL COMMUNITY.

YES, THESE ARE UNCERTAIN TIMES, TIMES THAT RAISE QUESTIONS IN OUR MINDS: WILL THE PEACE BE PRESERVED? CAN THE FEDERAL DEFICIT BE CONTROLLED? HOW LONG WILL IT TAKE FOR THE ECONOMY TO REBOUND? DO WE AS AMERICANS, AND CITIZENS OF THE FIFTY STATES, HAVE THE STRENGTH TO MEET THE CHALLENGES BEFORE US?

IT WOULD BE EASY TO RESPOND WITH DESPAIR, OR CYNICISM, OR SELF-CENTEREDNESS. AND PERHAPS SOME IN THIS NATION WILL CHOOSE SUCH A COURSE. BUT NOT IN NEBRASKA.

FOR WE ARE AN OPTIMISTIC PEOPLE ACCUSTOMED TO INNOVATION AND ACHIEVEMENT. IT IS NO ACCIDENT THAT OUR STATE

IS THE HOME OF INNOVATIVE IDEAS AND PRODUCTS FROM VISE GRIPS TO KOOL-AID TO STROBE LIGHTS. ENTERPRISING MEN AND WOMEN OF NEBRASKA HAVE TRADITIONALLY SEEN OPPORTUNITIES AND CREATED SOLUTIONS. SO WILL WE.

SOME WILL CAUTION A "WAIT AND SEE" APPROACH TO THE UNCERTAINTY WE FACE: WAIT AND SEE IF THE CONFLICT COMES. WAIT AND SEE WHAT WASHINGTON DOES. WAIT AND SEE IF OUR STATE'S ECONOMY SAGS OR STABILIZES.

BUT WE CANNOT AFFORD TO WAIT AND SEE. JUST AS OUR FARMERS CONTINUE TO PLANT A CROP EVERY SEASON, WITH NO GUARANTEE OF RAIN OR PRICES, WE MUST WORK TO IMPROVE THE LIVES AND OPPORTUNITIES OF OUR CITIZENS -- ALL OF OUR CITIZENS, WEST TO EAST, NORTH TO SOUTH.

NEBRASKANS ARE NOT A RECKLESS PEOPLE, AND WE WILL NOT BE RECKLESS. NEBRASKANS ARE CAPABLE OF FACING HARSH REALITIES, AND WE WILL NOT ABANDON OUR DREAMS IN THE FACE OF UNCERTAINTY. FOR THERE IS MUCH TO BE DONE.

AND, LIKE NEIGHBORS HELPING NEIGHBORS TO HARVEST A CROP, WE NEED TO FACE THESE CHALLENGES TOGETHER, AS ONE NEBRASKA. WE HAVE A DIVERSE STATE, AND WE RECOGNIZE AND CELEBRATE THAT DIVERSITY. BUT WE MUST NOT LET OUR DIFFERENCES STAND IN THE WAY OF UNITY OF PURPOSE.

FIRST, WE NEED TO BRACE OUR ECONOMY FOR THE POSSIBILITY OF A RECESSION. UNLIKE OTHER PARTS OF THE COUNTRY, WE HAVE THE BENEFIT OF SOME LEAD TIME; BUT WE DARE NOT BE COMPLACENT. THE LESSONS OF THE AGRICULTURAL CRISIS IN THE MID-1980'S -- AND THE RIPPLE EFFECT ON THE REST OF NEBRASKA'S ECONOMY -- MUST NOT BE FORGOTTEN.

WE CANNOT UNDERESTIMATE THE INTERRELATIONSHIPS OF NEBRASKA'S ECONOMY. IF OUR FARMERS AND RANCHERS ARE NOT DOING WELL, THE IMPACT IS FELT ON MAIN STREET IN OUR SMALL COMMUNITIES. IF OUR SMALL COMMUNITIES ARE IN TROUBLE, THE EFFECTS RADIATE TO COMMUNITIES LIKE BEATRICE, NORTH PLATTE AND NORFOLK, AND ON INTO OUR METROPOLITAN AREAS. WE'RE ALL IN THIS TOGETHER.

ECONOMIC DEVELOPMENT MUST BE DIRECTED TO ALL OF NEBRASKA, NOT JUST TO THOSE WHO ARE ALREADY THE STRONGEST. AND ECONOMIC DEVELOPMENT IS MORE -- MUCH MORE -- THAN TAX POLICY. ANY ECONOMIC STRATEGY MUST CONSIDER MANY COMPONENTS, FROM SCHOOLS TO HEALTH CARE TO TRANSPORTATION AND COMMUNICATION NETWORKS.

STATE GOVERNMENT HAS A KEY ROLE TO PLAY IN STRENGTHENING NEBRASKA'S ECONOMY, BUT IT SHOULD NOT BE THE DOMINANT PLAYER. THE STATE'S ROLE IN ECONOMIC DEVELOPMENT, AS IN MANY OTHER AREAS, SHOULD BE ONE OF A PARTNER AND CATALYST: IDENTIFYING THE RESOURCES, CONNECTING THEM, HELPING TO MAKE THINGS HAPPEN. THE REAL ACTION TAKES PLACE AT THE COMMUNITY LEVEL WITH THE HARD WORK AND DEDICATION OF LOCAL LEADERS.

THERE ARE COUNTLESS AGENCIES AND ORGANIZATIONS, BOTH PUBLIC AND PRIVATE, WORKING TO ASSIST COMMUNITIES AND BUSINESS LEADERS IN BUILDING OUR ECONOMY. MUCH OF THIS ACTIVITY NEEDS TO BE DIRECTED TOWARD RURAL NEBRASKA, WHERE ECONOMIC CONCERNS ARE MOST IMMEDIATE. I WILL EMPHASIZE THROUGHOUT MY TERM IN OFFICE: ECONOMIC DEVELOPMENT IS FOR ALL NEBRASKANS.

AS I HAVE MENTIONED MANY TIMES DURING THE PAST SEVERAL MONTHS, I INTEND TO ESTABLISH A RURAL DEVELOPMENT COMMISSION UNDER THE CAPABLE LEADERSHIP OF LIEUTENANT GOVERNOR MAXINE MOUL. LIEUTENANT GOVERNOR MOUL HAS ALREADY DONE AN ENORMOUS AMOUNT OF LISTENING AND LEARNING, BUILDING ON HER CONSIDERABLE EXPERIENCE WITH NEBRASKA'S RURAL ECONOMY. WITH THE HELP OF THIS RURAL DEVELOPMENT COMMISSION, WE WILL ASSESS THE ACTIVITY ALREADY UNDER WAY AND IDENTIFY THE MOST APPROPRIATE MEANS FOR STATE GOVERNMENT TO REACH OUT AND SUPPORT THE EFFORTS OF NEBRASKA CITIZENS.

DURING THIS PROCESS, THE UNIQUE NEEDS OF OUR URBAN AREAS WILL NOT BE FORGOTTEN. I HAVE ESTABLISHED THE POSITION OF URBAN AFFAIRS DIRECTOR WITHIN MY OFFICE TO ENSURE THAT THESE CONCERNS RECEIVE THE ATTENTION THEY DESERVE.

SECOND, WE MUST NOT LOSE SIGHT OF THE IMPERATIVE TO PROTECT OUR ENVIRONMENT AS WE GO ABOUT THE BUSINESS OF STRENGTHENING OUR ECONOMIC BASE. SHORT-TERM ECONOMIC GAIN WITHOUT ENVIRONMENTAL FORESIGHT WILL COST US DEARLY IN THE LONG RUN.

NEBRASKA CURRENTLY ENJOYS AN ADVANTAGE OVER MANY OTHER STATES IN THE AREA OF ENVIRONMENT AND NATURAL RESOURCES. WE STILL HAVE A BOUNTIFUL SUPPLY OF CLEAN AIR, SPARKLING WATER, AND FERTILE SOIL.

WHILE THERE IS NO QUESTION THAT ENVIRONMENTAL DAMAGE HAS BEEN DONE IN SOME PARTS OF NEBRASKA, WE HAVE BEEN FORTUNATE TO AVOID, THUS FAR, MAJOR INCIDENTS SUCH AS THOSE EXPERIENCED IN OTHER PARTS OF THE COUNTRY. BUT THERE ARE THREATS ON THE HORIZON THAT CANNOT BE IGNORED.

WE MUST CONTINUE TO TAKE AGGRESSIVE STEPS TO PROTECT THE QUALITY OF OUR WATER, BOTH ABOVE AND BELOW THE GROUND, AND WE MUST WASTE NO TIME IN CLEANING UP THOSE AREAS WHERE CONTAMINATION HAS OCCURRED. A NEBRASKA SOLUTION CAN BE ACHIEVED TO QUESTIONS SURROUNDING THE DISTRIBUTION OF WATER IN OUR RIVERS AND STREAMS, ONE WHICH BALANCES ECONOMIC AND ENVIRONMENTAL CONCERNS. FAILURE TO DO SO WILL LEAVE THE DECISION IN THE HANDS OF THOSE OUTSIDE OUR BORDERS.

IT IS CLEAR THAT OTHER STATES, PARTICULARLY WYOMING, COLORADO, AND THE DAKOTAS, HAVE A WATCHFUL AND ENVIOUS EYE ON NEBRASKA'S WATER SUPPLY. IT IS IMPORTANT THAT WE COOPERATE AND NEGOTIATE WITH NEIGHBORING STATES CONCERNING WATER THAT CROSSES STATE BOUNDARIES. BUT WE CANNOT LET DOWN OUR GUARD WHEN IT COMES TO LEGAL PROTECTION OF WATER THAT IS RIGHTFULLY OURS.

WE MUST DEVELOP A CLEAR PLAN TO DISPOSE OF THE WASTE WE GENERATE; NOT JUST LOW-LEVEL RADIOACTIVE WASTE, BUT OTHER TYPES OF WASTE AS WELL. IN PARTICULAR, SOLID WASTE IS AN ISSUE ON THE FRONT BURNER. THERE IS A GROWING AWARENESS AMONG NEBRASKANS ABOUT THE IMPORTANCE OF REDUCING THE WASTE WE GENERATE, ALONG WITH INCREASING THE AMOUNT OF RESOURCES WE RECYCLE.

WE MUST ALSO RECOGNIZE THAT OTHER STATES WILL CONTINUE TO KNOCK AT OUR DOOR WITH THEIR OWN WASTE, AND WE MUST DEAL WITH THEM FAIRLY BUT FIRMLY.

THIRD, UNITED ACTION ON OUR SHARED VISION OF EDUCATION IS A VITAL ELEMENT OF A STRONG STATE AND NATION. WE CANNOT ACCEPT THAT OUR ELEMENTARY AND SECONDARY EDUCATION SYSTEM IS SOUND MERELY ON THE BASIS OF GRADUATION RATES AND S.A.T./A.C.T. SCORES. WHILE THESE MEASURES TELL US THAT WE ARE DOING AT LEAST SOME THINGS RIGHT, WE HAVE TO ASK OURSELVES, "IS OUR EDUCATION SYSTEM PREPARING STUDENTS FOR THE 21ST CENTURY?"

A NUMBER OF EDUCATION LEADERS IN THIS STATE RECOGNIZE THAT WE ARE TRYING TO PROVIDE AN INFORMATION-AGE EDUCATION WITH AN INDUSTRIAL-ERA STRUCTURE. IMPROVING OUR EDUCATION SYSTEM WITH A "MORE OF THE SAME" APPROACH WILL NOT PREPARE STUDENTS TO COMPETE INTERNATIONALLY. NEW AND INNOVATIVE WAYS TO ACHIEVE OUR EDUCATION OBJECTIVES ARE NEEDED. AND THERE IS ACTIVITY IN THAT DIRECTION ALREADY UNDERWAY.

SEVERAL COMMUNITIES IN NEBRASKA ARE DEVELOPING AND IMPLEMENTING INNOVATIVE IDEAS TO RESTRUCTURE SCHOOLS AND CLASSROOMS. I COMMEND THE INITIATIVE OF THESE LEADERS, WHO ARE ON THE CUTTING EDGE OF EDUCATION REFORM IN THE UNITED STATES. THERE IS MUCH TO BE LEARNED FROM THEIR EXPERIENCE.

TEACHERS ARE THE KEY COMPONENT IN THE EDUCATION DELIVERY SYSTEM. THESE DEDICATED MEN AND WOMEN PLAY A PIVOTAL ROLE BECAUSE OF THEIR DAILY CONTACT WITH NEBRASKA'S CHILDREN AND YOUTH. OUR SCHOOLS SHOULD BE STRUCTURED TO EMPOWER AND REWARD TEACHERS FOR INNOVATION IN THE CLASSROOM.

INVOLVEMENT OF OUR STUDENTS, FACULTY AND SCHOOL ADMINISTRATORS IN THEIR COMMUNITIES IS A "WIN-WIN" SITUATION. THE COMMUNITY BENEFITS FROM THE SERVICE ACTIVITIES THAT SCHOOLS AND STUDENTS CAN PROVIDE; CONVERSELY, STUDENTS LEARN ABOUT THE ROOTS OF THEIR COMMUNITY AND HOW IT FUNCTIONS.

MY ADMINISTRATION WILL ENCOURAGE MORE COOPERATIVE RELATIONSHIPS BETWEEN COMMUNITY BUSINESSES AND THE SCHOOLS. GROWING SUPPORT FOR THE ROLE OF SCHOOLS IN A COMMUNITY'S ECONOMIC VITALITY IS EVIDENT THROUGHOUT THE UNITED STATES, AND THIS IS A TREND THAT SHOULD CONTINUE.

OUR EDUCATION SYSTEM MUST BE EQUIPPED TO DEAL WITH SOCIAL CONCERNS AFFECTING NEBRASKA'S QUALITY OF LIFE. FAMILY AND PERSONAL PROBLEMS AFFECTING OUR CHILDREN OFTEN SURFACE FOR THE FIRST TIME AT SCHOOL. EFFORTS ARE NEEDED TO IMPROVE OUR UNDERSTANDING OF THE DYNAMICS OF CHILDREN AND FAMILIES. DRUG AWARENESS EDUCATION CONTINUES TO BE A PRIORITY, AND OUR CHILDREN AT RISK NEED CARING ATTENTION TO THE DEVELOPMENT OF THEIR SELF-ESTEEM.

PARENTAL INVOLVEMENT IN THE SCHOOLS IS CRUCIAL TO SUCCESS IN THE CLASSROOM. THINK ABOUT HOW MUCH TIME OUR CHILDREN AND GRANDCHILDREN SPEND IN SCHOOL. THE CHANGING NATURE OF FAMILIES AND THE INCREASED DEMANDS THEY FACE MAKE IT ESSENTIAL THAT PARENTS AND SCHOOLS WORK TOGETHER. THE WELFARE OF NEBRASKA'S CHILDREN AND FAMILIES DEPENDS ON IT.

HIGHER EDUCATION IN NEBRASKA IS IN A STATE OF TRANSITION, AND I CHALLENGE OUR POST-SECONDARY INSTITUTIONS TO TAKE ADVANTAGE OF THIS OPPORTUNITY. HIGHER EDUCATION

ACCOUNTS FOR NEARLY ONE-FOURTH OF OUR STATE BUDGET, AND AS I HAVE SAID, WE'RE STRETCHED TO THE LIMIT. WE MUST FIND WAYS TO GET MORE MILEAGE OUT OF THE EDUCATION DOLLARS WE SPEND.

NEBRASKA'S COLLEGES AND UNIVERSITIES CAN AND MUST PLAY AN ACTIVE, COORDINATED ROLE IN PROBLEM-SOLVING FOR NEBRASKA. I PLACE PARTICULAR EMPHASIS ON COORDINATED, BECAUSE THE VOTERS OF THIS STATE HAVE CLEARLY INDICATED THEIR DESIRE FOR COORDINATION IN HIGHER EDUCATION. THIS MUST GO BEYOND LIP SERVICE; IT MUST BECOME A REALITY.

ROLE AND MISSION FOR THE COMMUNITY COLLEGES, STATE COLLEGES, AND THE UNIVERSITY OF NEBRASKA SHOULD BE CLEARLY ARTICULATED AND IMPLEMENTED. WE MUST EXAMINE CLOSELY WHO DOES WHAT, AND MOVE FORWARD SO THAT THE VARIOUS INSTITUTIONS ARE WORKING TOGETHER TO MAKE THE BEST OF THEIR TALENT AND RESOURCES TO SERVE OUR CITIZENS.

HIGHER EDUCATION PROVIDES TREMENDOUS BENEFITS TO THIS STATE. THEY, LINKED WITH ALL OF THE OTHER HUMAN RESOURCES IN NEBRASKA, CAN HELP US REACH OUR ASPIRATIONS FOR A PROSPEROUS STATE AND AN UNPARALLELED QUALITY OF LIFE.

EDUCATION DOES NOT STOP WITH A HIGH SCHOOL DIPLOMA OR A COLLEGE DEGREE. "LIFELONG LEARNING" IS A NECESSITY. IT IS A BIT OVERWHELMING TO CONTEMPLATE THE THINGS WE LEARN AFTER WE LEAVE THE CLASSROOM. HOW MANY OF US KNEW ABOUT SATELLITE DISHES, CELLULAR PHONES AND COMPACT DISKS WHEN WE WERE IN SCHOOL?

TECHNOLOGICAL INNOVATIONS EARLIER IN THIS CENTURY SERVED THEIR PURPOSE FOR DECADES AT A TIME, BUT THEY OFTEN BECOME OBSOLETE WITHIN YEARS OR EVEN MONTHS IN THE 1990'S. AS A RESULT, OUR WORKERS MUST BE PREPARED TO UPGRADE THEIR SKILLS FREQUENTLY, AND OUR EDUCATION SYSTEM MUST BE FLEXIBLE TO MEET THE CHALLENGE.

THE PACE OF TECHNOLOGICAL AND SOCIAL CHANGE IS ACCELERATING, AND THE IMPLICATIONS ARE PROFOUND. THE POLICY QUESTIONS WE FACE ARE MORE NUMEROUS AND MORE COMPLEX THAN EVER BEFORE, AS THOSE OF YOU IN THIS CHAMBER KNOW VERY WELL.

IF WE ARE TO TAKE SERIOUSLY THE NOTION THAT "THE SALVATION OF THE STATE IS WATCHFULNESS IN THE CITIZEN," WE AS POLICY MAKERS MUST WORK TIRELESSLY TO EDUCATE AND INFORM THE PEOPLE OF NEBRASKA ABOUT THE MYRIAD OF ISSUES AND CHOICES WE FACE.

THE AGENDA IS IMMENSE. WE WILL SUCCEED ONLY IF WE APPROACH THE TASK TOGETHER, AS ONE NEBRASKA. I DID NOT SEEK THIS OFFICE TO TAKE THE CREDIT FOR ALL THE SUCCESS STORIES WE WILL SEE IN THE COMING YEARS. RIBBON-CUTTINGS ARE IMPORTANT, BUT THE CREDIT WILL BE GIVEN TO THOSE WHO DO THE WORK.

THESE WILL BE THE GUIDING PRINCIPLES OF MY ADMINISTRATION: TEAMWORK, COOPERATION, STRENGTHENING THE ABILITY OF NEBRASKA CITIZENS TO TACKLE THEIR PROBLEMS, TO PURSUE THEIR DREAMS. MY PHILOSOPHY OF GOVERNMENT IS ONE OF SPREADING RESPONSIBILITY, OF EMPOWERING PEOPLE BOTH INSIDE AND OUTSIDE GOVERNMENT TO PLAY A PART IN BUILDING THE FUTURE OF THIS STATE.

GOVERNMENT, IN MY VIEW, IS A PARTNER IN HELPING PEOPLE AND COMMUNITIES REACH THEIR POTENTIAL. GOVERNMENT CANNOT

DO THE JOB ITSELF. IT IS UP TO US AS INDIVIDUAL CITIZENS TO SHAPE GOVERNMENT TO BEST SERVE OUR NEEDS. THAT WILL NOT HAPPEN UNLESS WE ARE WILLING TO GIVE OF OURSELVES, OUR TIME AND RESOURCES, TO MAKE THE DEMOCRATIC PROCESS WORK.

I CHALLENGE THE PEOPLE OF NEBRASKA TO RENEW THEIR COMMITMENT TO CITIZENSHIP. I AM PROUD THAT NEBRASKA IS CONSISTENTLY AMONG THE TOP STATES IN VOTER TURNOUT. BUT CITIZENSHIP GOES BEYOND THE BALLOT BOX. I ASK THE CITIZENS OF THIS STATE TO JOIN WITH ME IN PURSUING THE GOAL OF A BETTER NEBRASKA. OFFER YOUR ENERGY, YOUR SKILLS, YOUR EXPERIENCE. DEMONSTRATE YOUR COMMITMENT AND INTEREST WITH YOUR TIME AND ACTIONS, NOT MERELY YOUR WORDS AND SUGGESTIONS.

IN RETURN, I PLEDGE TO YOU MY COMMITMENT TO DEVELOP A DYNAMIC BUT POLITE AND RESPONSIVE STATE GOVERNMENT, ONE IN WHICH THE PEOPLE OF THIS STATE CAN HAVE TRUST AND CONFIDENCE: A STATE GOVERNMENT THAT DOES NOT PUSH PEOPLE TOWARD DEPENDENCE, BUT INSTEAD PROMOTES INDEPENDENCE.

TO ACCOMPLISH THIS GOAL, FIRST WE MUST REINFORCE THE BELIEF THAT STATE GOVERNMENT CANNOT BE ALL THINGS TO ALL PEOPLE. WE ARE LIVING IN A TIME IN WHICH PUBLIC RESOURCES CANNOT POSSIBLY BE STRETCHED TO MEET ALL OF SOCIETY'S NEEDS. GOVERNMENT SHOULD BE VIEWED NOT AS THE PROBLEM NOR THE SOLUTION, BUT AS A PARTNER AND CATALYST WHOSE ROLE IS TO FACILITATE PROBLEM SOLVING BY CITIZENS AND COMMUNITIES.

GOVERNMENT SHOULD BREAK DOWN BARRIERS, NOT CONSTRUCT NEW ONES. NEBRASKA CITIZENS DESERVE A GOVERNMENT COMMITTED TO PUBLIC SERVICE, ONE THAT CARES ABOUT AND RESPECTS AN INDIVIDUAL'S CIRCUMSTANCES AND NEEDS.

SECOND, PUBLIC EXPENDITURES ARE INVESTMENTS, AND THE CAPACITY TO MEASURE THE RETURN ON INVESTMENT MUST BE DEVELOPED. WE WILL SEEK TO BETTER MEASURE THE OUTPUTS THAT RESULT FROM STATE APPROPRIATIONS. OUR BUDGETING SYSTEM SHOULD BE BASED ON OUTCOMES, NOT SIMPLY INPUTS.

THIRD, I INTEND TO ENCOURAGE AND REWARD INNOVATION BY STATE EMPLOYEES. AT TIMES, I THINK OUR DEDICATED STATE WORKERS GET LITTLE APPRECIATION FROM THOSE OUTSIDE GOVERNMENT. TO THOSE OF YOU WORKING IN STATE GOVERNMENT, I THANK YOU FOR YOUR COMMITMENT, AND I CHALLENGE YOU TO REDOUBLE YOUR EFFORTS IN HELPING ME SET NEW STANDARDS FOR PUBLIC SERVICE IN THIS STATE.

FINALLY, I WILL LOOK FOR EVERY OPPORTUNITY TO INVOLVE CITIZENS IN THE DECISIONS THAT WILL AFFECT THEM. THIS WILL OBVIOUSLY INCLUDE APPOINTMENTS TO BOARDS AND COMMISSIONS, BUT THE EFFORT TO PROMOTE CITIZEN PARTICIPATION MUST BE MUCH BROADER. THE BEST DECISIONS ARE THOSE MADE CLOSEST TO THE GRASS ROOTS LEVEL, AND MY ADMINISTRATION WILL WORK DILIGENTLY TO ASSURE THAT POLICY DECISIONS ARE MADE WITH THE BEST INFORMATION POSSIBLE.

AT NO TIME IN THE HISTORY OF THE UNITED STATES HAS THE FEDERAL GOVERNMENT PLACED MORE PRESSURE UPON THOSE OF US IN STATE AND LOCAL GOVERNMENT. MY ADMINISTRATION WILL SEEK EVERY OPPORTUNITY TO COMMUNICATE EFFECTIVELY WITH NEBRASKA'S LOCAL GOVERNMENTS ABOUT OUR SHARED RESPONSIBILITIES CAUSED BY THE POLICY GRIDLOCK IN WASHINGTON.

THERE IS NO BETTER REPRESENTATION OF NEBRASKA'S DIVERSITY THAN THIS LEGISLATURE: UNIQUE, THE MOST OPEN, AND MOST RESPONSIVE STATE LEGISLATIVE BODY IN THE COUNTRY. YOUR UNDERSTANDING OF THE NEEDS AND DESIRES OF YOUR RESPECTIVE DISTRICTS PROVIDES A VITAL LINK BETWEEN COMMUNITY AND REGIONAL INTERESTS AND THOSE OF THE ENTIRE STATE.

I INVITE YOU TO JOIN ME IN MY ENDEAVOR TO BRING NEBRASKA CITIZENS INTO THE DECISION-MAKING PROCESS. BY WORKING TOGETHER, WE CAN RECONNECT NEBRASKA.

THE FUTURE OF THIS STATE DEPENDS ON A STRONG RURAL NEBRASKA AND A STRONG URBAN NEBRASKA. IN THE YEARS AHEAD, WE WILL FIND COUNTLESS OPPORTUNITIES TO STRENGTHEN OUR STATE IF WE MERELY LOOK. IT IS UP TO EACH OF US AS CITIZENS OF NEBRASKA TO CONTRIBUTE WHAT WE CAN TO MAKE THIS STATE GREAT AS WE MOVE INTO THE NEXT MILLENNIUM. WE'RE ALL IN THIS TOGETHER. WE ARE INDEED ONE NEBRASKA.

ONE NEBRASKA. A STATE OF GEOGRAPHIC VARIETY AND NATURAL BEAUTY: THE MISSOURI RIVER, PINE RIDGE, INDIAN CAVE, ASH HOLLOW, THE PLATTE VALLEY, THE SANDHILLS, THE NIOBRARA RIVER, CHIMNEY ROCK.

ONE NEBRASKA. A STATE OF CULTURAL AND ETHNIC DIVERSITY: NATIVE AMERICAN, HISPANIC, AFRICAN AMERICAN, ASIAN AMERICAN, CZECH, GERMAN, POLISH, IRISH, SCANDINAVIAN, AND MUCH MORE.

ONE NEBRASKA. A HERITAGE OF LEADERSHIP AND INNOVATION: WILLIAM JENNINGS BRYAN, STANDING BEAR, WILLA CATHER, GEORGE NORRIS, MARI SANDOZ, JOHN NEIHARDT, ROSCOE POUND, HAROLD EDGERTON, FATHER FLANIGAN.

ONE NEBRASKA. A COMMON VISION, UNITY OF PURPOSE, COURAGE AND CONVICTION, WORKING TOGETHER FOR A BRIGHT FUTURE.

PLEASE JOIN ME AS WE FACE THE CHALLENGES AHEAD. THANK YOU VERY MUCH.

PRAYER

The closing prayer was offered by Father George Sullivan.

SPEAKER BAACK PRESIDING

The Governor, Chief Justice, associate Justices, newly elected state officials, Congressional delegation, and families were escorted from the Chamber.

VISITOR

The Doctor of the Day was Dr. Dale Michels from Lincoln.

ADJOURNMENT

At 3:01 p.m., on a motion by Mrs. Rasmussen, the Legislature adjourned until 10:00 a.m., Friday, January 11, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

THIRD DAY - JANUARY 11, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

THIRD DAY

Legislative Chamber, Lincoln, Nebraska
Friday, January 11, 1991

Pursuant to adjournment, the Legislature met at 10:00 a.m., President Moul presiding.

PRAYER

The prayer was offered by Rev. Harland Johnson, Chaplain Coordinator.

ROLL CALL

The roll was called and all members were present except Mrs. Labedz who was excused; and Messrs. Ashford, Bernard-Stevens, Hartnett, R. Johnson, Landis, Morrissey, Schmit, and Mrs. Pirsch who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Second Day was approved.

MOTION - Adopt Rules

Mr. Lynch moved to adopt temporary rules for today only, January 11, 1991.

The motion prevailed with 25 ayes, 0 nays, 15 present and not voting, and 9 excused and not voting.

ANNOUNCEMENT

Mr. Withem announced the Education Committee elected Mr. Dierks as Vice Chairperson.

UNANIMOUS CONSENT - Add Co-Introducers

Mr. Dierks and Mrs. Smith asked unanimous consent to have their names added as co-introducers to LB 46. No objections. So ordered.

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the attached report on the referral of legislative bills 1 through 75.

LB	Committee
1	General File
2	General File
3	General File
4	General File
5	General File
6	General File
7	General File
8	General File
9	General File
10	General File
11	General File
12	General File
13	General File
14	General File
15	General File
16	Business and Labor
17	Government, Military and Veterans Affairs
18	Government, Military and Veterans Affairs
19	Business and Labor
20	Government, Military and Veterans Affairs
21	Natural Resources
22	Government, Military and Veterans Affairs
23	Judiciary
24	Education
25	Government, Military and Veterans Affairs
26	Urban Affairs
27	Government, Military and Veterans Affairs
28	Judiciary
29	Transportation
30	Transportation

31	Business and Labor
32	Government, Military and Veterans Affairs
33	Education
34	Natural Resources
35	Transportation
36	Judiciary
37	Judiciary
38	Natural Resources
39	Business and Labor
40	Transportation
41	Nebraska Retirement Systems
42	Judiciary
43	Education
44	Transportation
45	Natural Resources
46	Appropriations
47	Transportation
48	Banking, Commerce and Insurance
49	Natural Resources
50	Revenue
51	Natural Resources
52	Education
53	Government, Military and Veterans Affairs
54	Government, Military and Veterans Affairs
55	Judiciary
56	General Affairs
57	Health and Human Services
58	Health and Human Services
59	Revenue
60	Transportation
61	Transportation
62	Urban Affairs
63	Revenue
64	Government, Military and Veterans Affairs
65	Revenue
66	Natural Resources
67	Natural Resources
68	Government, Military and Veterans Affairs
69	Judiciary
70	Natural Resources
71	Banking, Commerce and Insurance
72	Natural Resources
73	Natural Resources

74 Transportation
75 Banking, Commerce and Insurance

(Signed) Jerome Warner, Chairperson
Legislative Council
Executive Board

BILLS ON FIRST READING

The following bills were read for the first time by title:

LEGISLATIVE BILL 149. Introduced by Hall, 7; Wehrbein, 2; Will, 8.

A BILL FOR AN ACT relating to education; to amend sections 79-1901 to 79-1904, 79-1907, 79-1908, 79-1910.01, 79-1911 to 79-1913, 79-2001 to 79-2007, 79-2009.01, and 79-3333, Reissue Revised Statutes of Nebraska, 1943, and sections 79-328 and 79-3330, Revised Statutes Supplement, 1990; to require the state to fund certain schools as prescribed; to change provisions relating to the purposes of the Nebraska School for the Deaf and the Nebraska School for the Visually Handicapped; to change provisions relating to the payment of transportation costs; to authorize the provision of clothing as prescribed; to harmonize provisions; to repeal the original sections, and also section 79-3331, Reissue Revised Statutes of Nebraska, 1943.

LEGISLATIVE BILL 150. Introduced by Schmit, 23.

A BILL FOR AN ACT relating to water; to amend sections 46-229.02 and 46-292, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to cancellations and transfers of water appropriations as prescribed; and to repeal the original sections.

LEGISLATIVE BILL 151. Introduced by Schmit, 23.

A BILL FOR AN ACT relating to rural highways; to amend section 39-2103, Reissue Revised Statutes of Nebraska, 1943; to change a requirement for service by certain rural highways; and to repeal the original section.

LEGISLATIVE BILL 152. Introduced by Cudaback, 36.

A BILL FOR AN ACT relating to crimes and punishments; to amend section 28-611, Reissue Revised Statutes of Nebraska, 1943; to provide for waiver of the fee for collection of a bad check; and to repeal the original section.

LEGISLATIVE BILL 153. Introduced by Wickersham, 49; Cudaback, 36.

A BILL FOR AN ACT relating to sheriffs; to eliminate a provision requiring the county clerk to serve as sheriff when there is a vacancy in the office of sheriff; and to repeal section 23-1712, Reissue Revised Statutes of Nebraska, 1943.

LEGISLATIVE BILL 154. Introduced by Haberman, 44.

A BILL FOR AN ACT relating to plea agreements; to require prosecuting attorneys to prepare reports.

LEGISLATIVE BILL 155. Introduced by Haberman, 44.

A BILL FOR AN ACT relating to plea agreements; to amend section 29-120, Reissue Revised Statutes of Nebraska, 1943, and section 29-119, Revised Statutes Supplement, 1990; to redefine terms; to change a requirement for consultation of victims; and to repeal the original sections.

LEGISLATIVE BILL 156. Introduced by Haberman, 44.

A BILL FOR AN ACT relating to plea agreements; to amend section 29-119, Revised Statutes Supplement, 1990; to require county attorneys and city attorneys to file plea agreement reports; and to repeal the original section.

LEGISLATIVE BILL 157. Introduced by Haberman, 44.

A BILL FOR AN ACT relating to the Administrative Procedure Act; to amend section 84-907, Reissue Revised Statutes of Nebraska, 1943; to provide for transmitting copies of proposed action on rules and regulations to the chairperson of the Executive Board of the Legislative Council as prescribed; and to repeal the original section.

LEGISLATIVE BILL 158. Introduced by Robak, 22.

A BILL FOR AN ACT relating to traffic-control signals; to amend section 39-6,122, Revised Statutes Supplement, 1990; to provide for the synchronization of traffic-control signals as prescribed; and to repeal the original section.

LEGISLATIVE BILL 159. Introduced by Landis, 46.

A BILL FOR AN ACT relating to the Uniform Commercial Code; to amend sections 1-105, 1-201, 9-113, 9-203, and 9-302, Uniform Commercial Code; to redefine a term; to adopt uniform provisions governing leases of goods; to harmonize provisions; to provide duties for the Revisor of Statutes; and to repeal the original sections.

LEGISLATIVE BILL 160. Introduced by Landis, 46.

A BILL FOR AN ACT relating to funds transfers; to amend section 1-105, Uniform Commercial Code; to adopt uniform provisions governing funds transfers; to harmonize provisions; to provide duties for the Revisor of Statutes; and to repeal the original section.

LEGISLATIVE BILL 161. Introduced by Landis, 46.

A BILL FOR AN ACT relating to the Uniform Commercial Code; to amend sections 1-201, 1-207, 2-103, 2-511, 4-101 to 4-108, 4-201 to 4-214, 4-301 to 4-303, 4-401 to 4-403, 4-405 to 4-407, 4-501 to 4-504, 5-103, 9-203, 9-206, 9-302, and 9-312, Uniform Commercial Code; to change and adopt uniform provisions relating to negotiable instruments and bank deposits and collections; to eliminate provisions governing commercial paper; to harmonize provisions; to provide duties for the Revisor of Statutes; and to repeal the original sections, and also sections 3-101 to 3-122, 3-201 to 3-208, 3-301 to 3-307, 3-401 to 3-419, 3-501 to 3-511, 3-601 to 3-606, 3-701, and 3-801 to 3-805, Uniform Commercial Code.

LEGISLATIVE BILL 162. Introduced by Landis, 46.

A BILL FOR AN ACT relating to the Uniform Commercial Code; to amend sections 1-105 and 2-403, Uniform Commercial Code; to eliminate provisions relating to bulk transfers; to harmonize provisions; to provide for validity and enforceability of certain rights and obligations; and to repeal the original sections, and also sections 6-101 to 6-105, 6-107 to 6-111, and 9-111, Uniform Commercial Code.

EASE

The Legislature was at ease from 10:21 a.m. until 10:42 a.m.

BILLS ON FIRST READING

The following bills were read for the first time by title:

LEGISLATIVE BILL 163. Introduced by Peterson, 21.

A BILL FOR AN ACT relating to the Uniform Residential Landlord and Tenant Act; to amend section 76-1416, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to security deposits; and to repeal the original section.

LEGISLATIVE BILL 164. Introduced by Robak, 22.

A BILL FOR AN ACT relating to all-terrain vehicles; to amend sections 60-2801 and 60-2808, Reissue Revised Statutes of Nebraska, 1943; to authorize the Game and Parks Commission to close river or stream beds as prescribed; to provide penalties; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 165. Introduced by Peterson, 21.

A BILL FOR AN ACT relating to political advertising; to amend section 49-1474.01, Revised Statutes Supplement, 1990; to provide for the regulation of billboards, placards, posters, and other signs by the Nebraska Accountability and Disclosure Commission; to provide a penalty; and to repeal the original section.

LEGISLATIVE BILL 166. Introduced by Coordsen, 32.

A BILL FOR AN ACT relating to education; to amend section 79-12,108, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to tenure of certain employees as prescribed; and to repeal the original section.

LEGISLATIVE BILL 167. Introduced by Kristensen, 37.

A BILL FOR AN ACT relating to public employees; to amend section 44-1615, Reissue Revised Statutes of Nebraska, 1943; to authorize self-insurance and retention of risks for employee benefit plans as prescribed; and to repeal the original section.

LEGISLATIVE BILL 168. Introduced by Kristensen, 37.

A BILL FOR AN ACT relating to property taxation; to amend sections 77-201, 77-1343, 77-1344, 77-1371, and 77-1506.02, Reissue Revised Statutes of Nebraska, 1943; to change the taxation of agricultural land and horticultural land; to define terms; to harmonize provisions; to provide a duty for county treasurers; to eliminate provisions relating to valuation of such land; to eliminate an advisory board; to provide an operative date; and to repeal the original sections, and also sections 77-1359 to 77-1367, 77-1369, and 77-1370, Reissue Revised Statutes of Nebraska, 1943.

LEGISLATIVE BILL 169. Introduced by Bernard-Stevens, 42; Smith, 33; Crosby, 29.

A BILL FOR AN ACT relating to social services; to amend section 43-905, Reissue Revised Statutes of Nebraska, 1943, and section 81-8,239.01, Revised Statutes Supplement, 1990; to require the Department of Social Services to provide liability and property damage insurance and the payment of liability and property damage claims to foster parents; to state intent; to create a fund; to provide duties for the Risk Manager; and to repeal the original sections.

LEGISLATIVE BILL 170. Introduced by Coordsen, 32; Haberman, 44; Rogers, 41; Wehrbein, 2; Lamb, 43; Dierks, 40; Schellpeper, 18.

A BILL FOR AN ACT relating to rules of the road; to amend section 39-6,181, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to limitations on certain load weights as prescribed; and to repeal the original section.

LEGISLATIVE BILL 171. Introduced by Transportation Committee: Kristensen, 37, Chairperson; Beyer, 3; Byars, 30; Horgan, 4; Peterson, 21; Pirsch, 10; Robak, 22; Wickersham, 49.

A BILL FOR AN ACT relating to the Nebraska Motor Vehicle Industry Licensing Board; to amend section 60-1407.01, Revised Statutes Supplement, 1990; to require liability insurance and workers compensation coverage by licensees as prescribed; to provide for revocation of licenses; and to repeal the original section.

LEGISLATIVE BILL 172. Introduced by Conway, 17.

A BILL FOR AN ACT relating to secured transactions; to amend section 9-203, Uniform Commercial Code; to eliminate a provision relating to a debtor's rights in property; and to repeal the original section.

LEGISLATIVE BILL 173. Introduced by Crosby, 29.

A BILL FOR AN ACT relating to teachers; to amend section 79-1254.10, Reissue Revised Statutes of Nebraska, 1943; to require certain school districts to provide a period of preparation time as prescribed; and to repeal the original section.

LEGISLATIVE BILL 174. Introduced by Robak, 22; Beyer, 3; Chizek, 31; Coordsen, 32; Horgan, 4.

A BILL FOR AN ACT relating to park entry permits; to amend sections 37-1101, 37-1102, 37-1103, and 37-1112, Reissue Revised Statutes of Nebraska, 1943; to provide for the issuance of park entry permits to veterans as prescribed; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 175. Introduced by Elmer, 38.

A BILL FOR AN ACT relating to highways and streets; to amend section 39-2304, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to members of the Board of Examiners for County Highway and City Street Superintendents; and to repeal the original section.

EASE

The Legislature was at ease from 10:45 a.m. until 11:37 a.m.

MRS. CROSBY PRESIDING

SPEAKER BAACK PRESIDING

BILLS ON FIRST READING

The following bills were read for the first time by title:

LEGISLATIVE BILL 176. Introduced by Chizek, 31; Crosby, 29.

A BILL FOR AN ACT relating to criminal procedure; to amend section 29-210, Reissue Revised Statutes of Nebraska, 1943; to authorize the Nebraska State Patrol to establish a computer network for fingerprint identification; and to repeal the original section.

LEGISLATIVE BILL 177. Introduced by R. Johnson, 34; Wehrbein, 2.

A BILL FOR AN ACT relating to agriculture; to create the Climate Assessment Response Committee; and to provide duties.

LEGISLATIVE BILL 178. Introduced by Hartnett, 45.

A BILL FOR AN ACT relating to county budgets; to amend section 23-906, Revised Statutes Supplement, 1990; to change a provision relating to the appointment of a budget-making authority; and to repeal the original section.

LEGISLATIVE BILL 179. Introduced by Withem, 14; Chizek, 31.

A BILL FOR AN ACT relating to the University of Nebraska; to amend section 85-102.01, Revised Statutes Supplement, 1990; to change a provision relating to the composition of the university; and to repeal the original section.

LEGISLATIVE BILL 180. Introduced by Robak, 22; Coordsen, 32; Byars, 30; Conway, 17; Dierks, 40; Hartnett, 45.

A BILL FOR AN ACT relating to the Nebraska Rules of Evidence; to amend section 27-504, Revised Statutes Supplement, 1990; to redefine the term physician for purposes of the physician-patient privilege; and to repeal the original section.

LEGISLATIVE BILL 181. Introduced by Chizek, 31; Lindsay, 9; Kristensen, 37; Will, 8; Rasmussen, 20; Horgan, 4; Abboud, 12; Lynch, 13.

A BILL FOR AN ACT relating to district courts; to amend section 24-301.02, Revised Statutes Supplement, 1990; to increase the number of judges of the district court; and to repeal the original section.

LEGISLATIVE BILL 182. Introduced by Byars, 30.

A BILL FOR AN ACT relating to county assessors; to amend sections 23-3202 and 23-3203, Revised Statutes Supplement, 1990; to require proof of certification prior to filing for office as prescribed; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 183. Introduced by Kristensen, 37.

A BILL FOR AN ACT relating to chemigation; to amend section 46-1101, Reissue Revised Statutes of Nebraska, 1943; to prohibit the sale of chemigation chemicals unless the seller determines that application will be pursuant to a permit; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 184. Introduced by Kristensen, 37.

A BILL FOR AN ACT relating to public records; to amend sections 71-612 and 84-712.05, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to confidentiality of death certificates and certain birth certificates as prescribed; and to repeal the original sections.

LEGISLATIVE BILL 185. Introduced by Robak, 22; Crosby, 29; Chizek, 31.

A BILL FOR AN ACT relating to juror fees; to amend section 33-138, Reissue Revised Statutes of Nebraska, 1943; to authorize reimbursement to jurors for child care services as prescribed; and to repeal the original section.

LEGISLATIVE BILL 186. Introduced by Lindsay, 9; Schimek, 27; Will, 8; Rasmussen, 20; Abboud, 12.

A BILL FOR AN ACT relating to crime victims; to amend section 81-1848, Revised Statutes Supplement, 1990; to provide certain information to victims of crime as prescribed; to provide for certain information in the file of a convicted person; to provide duties for the Board of Parole, county attorneys, and the Department of Correctional Services; to require certain convicted persons to submit to testing as prescribed; and to repeal the original section.

LEGISLATIVE BILL 187. Introduced by Lindsay, 9; Kristensen, 37.

A BILL FOR AN ACT relating to guardians and conservators; to amend section 30-2641, Reissue Revised Statutes of Nebraska, 1943; to prohibit proceedings against sureties as prescribed; and to repeal the original section.

LEGISLATIVE BILL 188. Introduced by Lindsay, 9.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2704, Reissue Revised Statutes of Nebraska, 1943; to exempt from sales and use tax purchases and rentals of art and historical artifacts by nonprofit fine arts and historical museums; to provide an operative date; and to repeal the original section.

LEGISLATIVE BILL 189. Introduced by Chizek, 31.

A BILL FOR AN ACT relating to the Jail Standards Board; to amend sections 83-4,124, 83-4,125, and 83-4,127 to 83-4,134, Reissue Revised Statutes of Nebraska, 1943, and section 83-4,126, Revised Statutes Supplement, 1990; to change provisions relating to membership on the board; to redefine a term; to change provisions relating to standards for criminal detention facilities; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 190. Introduced by Schmit, 23; Haberman, 44; Conway, 17; Lindsay, 9; Hall, 7.

A BILL FOR AN ACT relating to banks and banking; to amend section 8-157, Revised Statutes Supplement, 1990; to change a provision relating to detached auxiliary offices; and to repeal the original section.

LEGISLATIVE BILL 191. Introduced by Chizek, 31; Robinson, 16; Elmer, 38; Conway, 17; Dierks, 40; Peterson, 21; Byars, 30; Schrock, 39; Beyer, 3.

A BILL FOR AN ACT relating to crimes and offenses; to prohibit interference with sport hunting as prescribed; to define terms; to provide for enforcement; to provide penalties; to provide for revocation or suspension of licenses and permits; to provide for injunctions; and to provide for actions for damages.

LEGISLATIVE BILL 192. Introduced by Robak, 22; Schimek, 27.

A BILL FOR AN ACT relating to elections; to amend section 32-707, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to voting for referendum measures; and to repeal the original section.

LEGISLATIVE BILL 193. Introduced by Will, 8.

A BILL FOR AN ACT relating to the documentary stamp tax; to amend section 76-902, Reissue Revised Statutes of Nebraska, 1943; to change exemption provisions; and to repeal the original section.

LEGISLATIVE BILL 194. Introduced by Ashford, 6; Chizek, 31; Abboud, 12; Nelson, 35; Wickersham, 49.

A BILL FOR AN ACT relating to courts; to amend sections 24-517, 25-2706, and 30-2488, Reissue Revised Statutes of Nebraska, 1943; to change the jurisdictional amount in county court as prescribed; and to repeal the original sections.

LEGISLATIVE BILL 195. Introduced by Robinson, 16; Withem, 14.

A BILL FOR AN ACT relating to technical community colleges; to provide for an appropriation for the Nebraska Indian Community College; to provide a formula; to provide duties for the board of governors of the Northeast Technical Community College Area and the Director of Administrative Services; and to declare an emergency.

LEGISLATIVE BILL 196. Introduced by Hefner, 19.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-399 and 77-1233.04, Reissue Revised Statutes of Nebraska, 1943; to change the penalty for omitted personal property; and to repeal the original sections.

LEGISLATIVE BILL 197. Introduced by Robak, 22; Byars, 30; Cudaback, 36; R. Johnson, 34.

A BILL FOR AN ACT relating to license plates; to amend sections 60-311.03 and 60-311.04, Revised Statutes Supplement, 1990; to permit the issuance of Pearl Harbor survivor and prisoner of war license plates to unremarried surviving spouses; and to repeal the original sections.

EASE

The Legislature was at ease from 11:40 a.m. until 11:50 a.m.

BILLS ON FIRST READING

The following bills were read for the first time by title:

LEGISLATIVE BILL 198. Introduced by Schmit, 23.

A BILL FOR AN ACT relating to the Department of Water Resources; to amend section 46-209, Reissue Revised Statutes of Nebraska, 1943; to authorize the requesting of assistance from peace officers; and to repeal the original section.

LEGISLATIVE BILL 199. Introduced by Lynch, 13.

A BILL FOR AN ACT relating to Workers Memorial Day; to require proclamation of such day; and to provide duties for the Governor.

LEGISLATIVE BILL 200. Introduced by Smith, 33; R. Johnson, 34; Will, 8; Rogers, 41; Hartnett, 45; Cudaback, 36; Rasmussen, 20.

A BILL FOR AN ACT relating to horseracing; to amend section 2-1203, Reissue Revised Statutes of Nebraska, 1943; to provide for revocation and suspension of licenses and imposition of fines; to require fingerprinting and criminal history record information of applicants and licensees; and to repeal the original section.

LEGISLATIVE BILL 201. Introduced by Smith, 33; R. Johnson, 34; Will, 8; Rogers, 41; Hartnett, 45; Cudaback, 36; Rasmussen, 20.

A BILL FOR AN ACT relating to gambling; to authorize the Governor to negotiate a tribal-state compact regulating certain gambling as prescribed; and to provide public policy regarding the compact.

LEGISLATIVE BILL 202. Introduced by Smith, 33; R. Johnson, 34; Will, 8; Rogers, 41; Rasmussen, 20.

A BILL FOR AN ACT relating to the Nebraska Liquor Control Act; to amend sections 53-123.12, 53-130, 53-138.01, and 53-1,117, Reissue Revised Statutes of Nebraska, 1943, and sections 53-117.05 and

53-131, Revised Statutes Supplement, 1990; to provide for certain materials to be distributed without charge; to change fees; to provide for the disposition of fees; and to repeal the original sections.

LEGISLATIVE BILL 203. Introduced by Beutler, 28.

A BILL FOR AN ACT relating to real estate appraisers; to amend sections 76-2201 to 76-2203, 76-2207 to 76-2210, 76-2212, 76-2213, 76-2218 to 76-2230, 76-2232 to 76-2236, 76-2238 to 76-2243, 76-2245, 76-2246, 76-2248, and 76-2249, Reissue Revised Statutes of Nebraska, 1943; to rename the Real Estate Appraiser Licensing and Certification Act; to define and redefine terms; to rename a board and fund; to change and terminate exemptions from the act; to transfer funds; to provide, change, and eliminate qualifications for licensure and certification; to provide and change fees; to eliminate and provide requirements for appraisal services; to require a directory; to harmonize provisions; to repeal the original sections, and also sections 76-2231 and 76-2247, Reissue Revised Statutes of Nebraska, 1943; and to declare an emergency.

MESSAGES FROM THE GOVERNOR

May 8, 1990

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Foster Care Review Board, requiring legislative confirmation.

Appointee: Carol S. Holyoke, Rt. 1, Box 306, Scottsbluff, NE 69361, (308) 632-6660

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) KAY A. ORR
Governor

KAO:cw

May 8, 1990

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Modular Housing Advisory Board, requiring legislative confirmation.

Appointee: Gary Rickett, 715 S. Jeffers, North Platte, NE 69101, (308) 534-7728

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) KAY A. ORR
Governor

KAO:cw

May 8, 1990

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Modular Housing Advisory Board, requiring legislative confirmation.

Appointee: Max A. Burroughs, Box 1903, Kearney, NE 68847, (308) 236-5960

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) KAY A. ORR

Governor

KAO:cw

May 8, 1990

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Crime Victim's Reparation Committee, requiring legislative confirmation.

Appointee: Phyllis H. Lainson, 220 N. Hastings Avenue, Hastings, NE 68901, (402) 462-2525

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) KAY A. ORR
Governor

KAO:cw

May 8, 1990

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Modular Housing Advisory Committee, requiring legislative confirmation.

Appointee: Lyle O'Hare, 3730 N. 44 Street, Lincoln, NE 68504, (402) 466-2649

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) KAY A. ORR
Governor

KAO:cw

May 8, 1990

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Modular Housing Advisory Board, requiring legislative confirmation.

Appointee: Roger Cross, 5020 Howard Blvd., Columbus, NE 68601, (402) 564-3721

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) KAY A. ORR
Governor

KAO:cw

May 31, 1990

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Commission for Industrial Relations, requiring legislative confirmation.

Appointee: Verne Moore, 1 Pacific Place, Suite 800, Omaha, NE 68124, (402) 390-9500

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) KAY A. ORR
Governor

KAO:cw

May 31, 1990

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the School Restructuring Commission, requiring legislative confirmation.

Appointee: Russell Worthman, Rt. 2, Gering, NE 69341, (308) 436-4763

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) KAY A. ORR
Governor

KAO:cw

May 31, 1990

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the School Restructuring Commission, requiring legislative confirmation.

Appointee: Dr. James G. Merritt, 512 Philip, Box 139, Norfolk, Ne 68701, (402) 371-9370

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) KAY A. ORR
Governor

KAO:cw

May 31, 1990

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Foster Care Review Board, requiring legislative confirmation.

Appointee: Violet Fickel, 2006 S. 164th Avenue, Omaha, Ne 68130, (402) 341-8471

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) KAY A. ORR
Governor

KAO:cw

May 31, 1990

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the School Restructuring Commission, requiring legislative confirmation.

Appointee: Mike McCarthy, 121 W. 2nd Street, North Platte, NE 69103, (308) 532-0551

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) KAY A. ORR
Governor

KAO:cw

May 31, 1990

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the School Restructuring Commission, requiring legislative confirmation.

Appointee: Sharon Krueger, 909 South 76th Street, Omaha, Ne 68114, (402) 390-2100

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) KAY A. ORR
Governor

KAO:cw

May 31, 1990

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Modular Housing Advisory Committee, requiring legislative confirmation.

Appointee: Rod Tompkins, Box 37, Wayne, NE 68787, (402) 375-4770

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) KAY A. ORR
Governor

KAO:cw

May 31, 1990

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the School Restructuring Commission, requiring legislative confirmation.

Appointee: Senator LaVon Crosby, 3440 Hillside, Lincoln, NE 68506. (402) 488-1700

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) KAY A. ORR
Governor

KAO:cw

May 31, 1990

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building

Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the School Restructuring Commission, requiring legislative confirmation.

Appointee: John S. Harms, 1601 E. 27th Street, N.E., Scottsbluff, NE 69361, (308) 635-3606

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) KAY A. ORR
Governor

KAO:cw

June 7, 1990

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Nebraska State Airline Authority, requiring legislative confirmation.

Appointee: Dr. Samuel Rankin, 10th & Main Streets, Chadron, NE 69337, (308) 432-6201

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) KAY A. ORR
Governor

KAO:cw

June 7, 1990

Mr. President, Mr. Speaker

and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Nebraska School Restructuring Commission, requiring legislative confirmation.

Appointee: Marshal Faith, 10315 Rockbrook Road, Omaha, NE 68124, (402) 342-3500

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) KAY A. ORR
Governor

KAO:cw

June 7, 1990

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Nebraska State Airline Authority, requiring legislative confirmation.

Appointee: Bill Hamilton, 1222 Beechcraft, Lincoln, NE 68527, (402) 483-1222

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) KAY A. ORR
Governor

KAO:cw

June 7, 1990

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Nebraska State Airline Authority, requiring legislative confirmation.

Appointee: Valerie Nienhueser, Rt. 2, Box 53, Sidney, NE 69162, (308) 254-4399

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) KAY A. ORR
Governor

KAO:cw

June 7, 1990

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the School Restructuring Commission, requiring legislative confirmation.

Appointee: Dr. William Kelley, Box 77, Sidney, NE 69162, (308) 254-4677

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) KAY A. ORR
Governor

KAO:cw

June 7, 1990

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Nebraska State Airline Authority, requiring legislative confirmation.

Appointee: Catherine Hutton, 1800 W. Eisenhower, Norfolk, NE 68701, (402) 371-4866

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) KAY A. ORR
Governor

KAO:cw

June 7, 1990

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Nebraska School Restructuring Commission, requiring legislative confirmation.

Appointee: Catherine Sellmyer, 3100 Plymouth Avenue, Lincoln, NE 68502, (402) 489-6496

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) KAY A. ORR

Governor

KAO:cw

June 7, 1990

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following reappointment to the Crime Victims Reparation Committee, requiring legislative confirmation.

Appointee: Colonel Harold LeGrande, Nebraska State Patrol, Lincoln, NE 68509, (402) 471-4545

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) KAY A. ORR
Governor

KAO:cw

June 7, 1990

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Nebraska State Airline Authority, requiring legislative confirmation.

Appointee: Keeta Thompson, 3105 18th Avenue, Scottsbluff, NE 69361, (308) 632-8472

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) KAY A. ORR
Governor

KAO:cw

June 7, 1990

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Nebraska State Airline Authority, requiring legislative confirmation.

Appointee: Gary Warren, 1910 "O" Street, Aurora, NE 68818, (402) 694-6241

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) KAY A. ORR
Governor

KAO:cw

June 7, 1990

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Nebraska School Restructuring Commission, requiring legislative confirmation.

Appointee: Dr. Ruth Randall, 5401 S. 20 Circle, Lincoln, NE 68512, (402) 423-0330

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) KAY A. ORR
Governor

KAO:cw

June 11, 1990

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Parole Board, requiring legislative confirmation.

Appointee: Mike Gomez, 5730 Dennis Drive, Lincoln, NE 68506, (402) 489-5580

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) KAY A. ORR
Governor

KAO:cw

June 29, 1990

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Nebraska State Airline Authority, requiring legislative confirmation.

Appointee: Jess C. Nielsen, 410 N. Ash, Box 1006, North Platte, NE 69103, (308) 532-3150

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) KAY A. ORR
Governor

KAO:cw

June 29, 1990

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Nebraska State Airline Authority, requiring legislative confirmation.

Appointee: William F. Shea, Director, The Aviation Inst., UNO, Omaha, NE 68182-0508, (402) 554-2262

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) KAY A. ORR
Governor

KAO:cw

July 2, 1990

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following reappointment to the Nebraska Dry Bean Commission, requiring legislative confirmation.

Appointee: Terrance Terrell, HC 56, Box 117, Hay Springs, NE 69347, (308) 232-4463

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) KAY A. ORR
Governor

KAO:cw

July 2, 1990

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Nebraska Dry Bean Commission, requiring legislative confirmation.

Appointee: Robert L. Kelley, 2100 4th Avenue, Scottsbluff, NE 69361, (308) 632-5170

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) KAY A. ORR
Governor

KAO:cw

July 10, 1990

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Department of Administrative Services, requiring legislative confirmation.

Appointee: John Rochford, 1165 S. 48th Street, Lincoln, NE 68510, (402) 488-4820

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) KAY A. ORR
Governor

KAO:cw

July 10, 1990

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Department of Social Services, requiring legislative confirmation.

Appointee: Deb Thomas, 2325 Marilynn Avenue, Lincoln, NE 68502, (402) 423-1730

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) KAY A. ORR
Governor

KAO:cw

July 10, 1990

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building

Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Nebraska School Restructuring Commission, requiring legislative confirmation.

Appointee: Sue Biggs, P.O. Box 1420, Kearney, NE 68847, (308) 237-2213

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) KAY A. ORR
Governor

KAO:cw

July 20, 1990

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following reappointment to the Motor Vehicle Industry Licensing Board, requiring legislative confirmation.

Appointee: Denny Miller, 8402 Maple, Omaha, NE 68134, (402) 493-5862

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) KAY A. ORR
Governor

KAO:cw

July 25, 1990

Mr. President, Mr. Speaker

and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Board of Trustees of Nebraska State Colleges, requiring legislative confirmation.

Appointee: Peter Claussen, 624 E. Bismark Rd., Grand Island, NE 68801, (308) 384-3058

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) KAY A. ORR
Governor

KAO:cw

August 8, 1990

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Game and Parks Commission, requiring legislative confirmation.

Appointee: Gloria J. Erickson, 315 18th Avenue, Holdrege, NE 68949, (308) 995-6286

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) KAY A. ORR
Governor

KAO:cw

August 8, 1990

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Child Abuse Prevention Fund Board, requiring legislative confirmation.

Appointee: Nancy O'Brien, 2833 Sheridan Blvd., Lincoln, NE 68502, (402) 476-2191

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) Kay A Orr
Governor

KAO:cw

August 22, 1990

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Nebraska Public Employees Retirement Board, requiring legislative confirmation.

Appointee: Denis Blank, 2451 Winchester S., Lincoln, NE 68512, (402) 423-9321

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) KAY A. ORR
Governor

KAO:cw

August 22, 1990

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Nebraska Safety Center Advisory Council, requiring legislative confirmation.

Appointee: Ben Novicoff, P.O. Box 98908, Lincoln, NE 68509-8908, (402) 471-2568

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) KAY A. ORR
Governor

KAO:cw

August 22, 1990

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following reappointment to the Nebraska Safety Center Advisory Council, requiring legislative confirmation.

Appointee: Gene Siefford, 818 5th Street, Fairbury, NE 68352, (402) 729-5253

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) KAY A. ORR

Governor

KAO:cw

August 22, 1990

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Child Abuse Prevention Fund Board, requiring legislative confirmation.

Appointee: Dr. Samuel H. Perry, II, 210 McNeel Lane, North Platte, NE 69101, (308) 534-9650

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) KAY A. ORR
Governor

KAO:cw

August 22, 1990

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following reappointment to the Nebraska Safety Center Advisory Council, requiring legislative confirmation.

Appointee: Ken Sieckmeyer, Box 94759, Lincoln, NE 68509, (402) 479-4645

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) KAY A. ORR
Governor

KAO:cw

August 22, 1990

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following reappointment to the Nebraska Safety Center Advisory Council, requiring legislative confirmation.

Appointee: James Pearson, P.O. Box 94907, Lincoln, NE 68509, (402) 471-4545

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) KAY A. ORR
Governor

KAO:cw

August 22, 1990

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following reappointment to the Nebraska Safety Center Advisory Council, requiring legislative confirmation.

Appointee: Harold Sobotka, P.O. Box 94677, Lincoln, NE 68509-4677, (402) 471-2027

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) KAY A. ORR
Governor

KAO:cw

August 22, 1990

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Nebraska Safety Center Advisory Council, requiring legislative confirmation.

Appointee: Tobin Anderson, 22 Main Street, Stromsburg, NE 68666, (402) 764-2371

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) KAY A. ORR
Governor

KAO:cw

August 22, 1990

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following reappointment to the Nebraska Safety Center Advisory Council, requiring legislative confirmation.

Appointee: Gary Hirsh, Box 9502, Lincoln, NE 68509, (402) 471-4712

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) KAY A. ORR
Governor

KAO:cw

August 28, 1990

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Department of Correctional Services, requiring legislative confirmation.

Appointee: Harold Clarke, 2835 Ponca, Lincoln, NE 68506, (402) 483-4065

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) KAY A. ORR
Governor

KAO:cw

August 30, 1990

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Accountability and Disclosure Commission, requiring legislative confirmation.

Appointee: Charlene Hirsch, R.R. 1, Box 96, Merna, NE 68856, (308)643-2552

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) KAY A. ORR
Governor

KAO:cw

August 30, 1990

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Nebraska Safety Center Advisory Council, requiring legislative confirmation.

Appointee: Dr. Pearl A. Hansen, Wayne State College, Wayne, NE 68787, (402)375-3507

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) KAY A. ORR
Governor

KAO:cw

August 30, 1990

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Nebraska Safety Center Advisory Council, requiring legislative confirmation.

Appointee: Kim Whitehouse, 2504 Meredith Ave., Omaha, NE 68111, (402)554-6111

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) KAY A. ORR
Governor

KAO:cw

September 4, 1990

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following reappointment to the Nebraska Arts Council, requiring legislative confirmation.

Appointee: Helen L. Hayes, 11711 Van Dorn, Walton, NE 68461, (402)489-4374

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) KAY A. ORR
Governor

KAO:cw

September 4, 1990

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building

Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following reappointment to the Nebraska Arts Council, requiring legislative confirmation.

Appointee: Helen W. Cherniak, 215 Fairacres Road, Omaha, NE 68132, (402)556-2575

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) KAY A. ORR
Governor

KAO:cw

September 4, 1990

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following reappointment to the Nebraska Arts Council, requiring legislative confirmation.

Appointee: Jacquelyn H. Rosenlof, 18 Mustang Trail, Kearney, NE 68847, (308)234-8224

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) KAY A. ORR
Governor

KAO:cw

September 5, 1990

Mr. President, Mr. Speaker

and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following reappointment to the Nebraska Arts Council, requiring legislative confirmation.

Appointee: Thomas J. Milliken, 152 E. 6th Street, Fremont, NE 68025, 721-9604

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) KAY A. ORR
Governor

KAO:cw

September 6, 1990

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Foster Care Review Board, requiring legislative confirmation.

Appointee: Joyce Bunger, 10825 Farnam, Omaha, NE 68154, 493-5473

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) KAY A. ORR
Governor

KAO:cw

September 12, 1990

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Board of Parole, requiring legislative confirmation.

Appointee: Shirley J. Howell, 1710 H Street, #202, Fairbury, NE 68352, 729-2152

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) KAY A. ORR
Governor

KAO:cw

September 26, 1990

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Investment Council, requiring legislative confirmation.

Appointee: Mel Adams, 1020 Adams Drive, Ogallala, NE 69153, (308) 284-4800

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) KAY A. ORR
Governor

KAO:cw

September 28, 1990

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following reappointment to the Board of Health, requiring legislative confirmation.

Appointee: Bruce L. Gilmore, 2418 Manhood Drive, Columbus, NE 68601, 564-2807

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) KAY A. ORR
Governor

KAO:cw

October 2, 1990

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Environmental Control Council, requiring legislative confirmation.

Appointee: Jim Cleary, City Hall, 1819 Farnam Street, Omaha, NE 68983, 558-6443 (H)

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) KAY A. ORR

Governor

KAO:cw

October 18, 1990

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Nebraska Arts Council, requiring legislative confirmation.

Appointee: Dr. Lee R. Smith, 2215 8th Ave., Kearney, NE 68847, (308) 236-5693

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) KAY A. ORR
Governor

KAO:cw

October 18, 1990

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the State Personnel Board, requiring legislative confirmation.

Appointee: Shari Miller, Box 98, Kearney, NE 68848, (308) 234-4199

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) KAY A. ORR
Governor

KAO:cw

November 1, 1990

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the State Electrical Board, requiring legislative confirmation.

Appointee: Ted Kayton, P.O. Box 27, Holdrege, NE 68949, (308)995-5027

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) KAY A. ORR
Governor

KAO:cw

November 1, 1990

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the State Electrical Board, requiring legislative confirmation.

Appointee: Ted Stutheit, 10840 Cromwell Drive, Lincoln, NE 68516, (402) 423-6325

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) KAY A. ORR
Governor

KAO:cw

August 22, 1990

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Modular Housing Advisory Board, requiring legislative confirmation.

Appointee: Cynthia Lewis-Trujillo, 6001 S. 28 Street, Lincoln, NE 68516, (402) 423-5750

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) KAY A. ORR
Governor

KAO:cw

December 17, 1990

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following reappointment to the Foster Care Review Board, requiring legislative confirmation.

Appointee: Jo Lamb. HC 71, Box 20, Anselmo, NE 68813, (308) 643-2535

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) KAY A. ORR
Governor

KAO:cw

December 17, 1990

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following reappointment to the Power Review Board, requiring legislative confirmation.

Appointee: Pat Dorwart, 2310 11th Avenue, Sidney, NE 69162, (308) 254-2330

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) KAY A. ORR
Governor

KAO:cw

December 17, 1990

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following reappointment to the Boiler Safety Code Advisory Board, requiring legislative confirmation.

Appointee: Timothy G. Wentz, Box 30205, Lincoln, NE 68503, (402) 474-4341

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) KAY A. ORR
Governor

KAO:cw

December 17, 1990

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following reappointment to the Board of Educational Lands and Funds, requiring legislative confirmation.

Appointee: Tom Creigh, Sr., 1959 N. Elm, Hastings, NE 68901, (402) 462-5262

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) KAY A. ORR
Governor

KAO:cw

January 2, 1991

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following reappointment to the Nebraska Public Employees Retirement Board, requiring legislative confirmation.

Appointee: Denis Blank, 2451 Winchester S., Lincoln, NE 68512, (402) 423-9321

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) KAY A. ORR
Governor

KAO:cw

January 2, 1991

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Nebraska Public Employees Retirement Board, requiring legislative confirmation.

Appointee: Gerald Bucher, Rt. 1, Box 149, Humboldt, NE 68376, (402) 862-3161

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) KAY A. ORR
Governor

KAO:cw

January 2, 1991

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building

Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Nebraska Public Employees Retirement Board, requiring legislative confirmation.

Appointee: Ron Saalfield, 2704 16th Street, Columbus, NE 68601, (402) 564-8684

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) KAY A. ORR
Governor

KAO:cw

January 2, 1991

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Motor Vehicle Industry Licensing Board, requiring legislative confirmation.

Appointee: Mel Auch, Box 127, Aurora, NE 68818, (402) 694-3707

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) KAY A. ORR
Governor

KAO:cw

May 8, 1990

Mr. President, Mr. Speaker

and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Modular Housing Advisory Board, requiring legislative confirmation.

Appointee: Bruce D. Bailey, 3200 "O" Street, #5, Lincoln, NE 68503, (402) 488-8633

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) KAY A. ORR
Governor

KAO:cw

September 6, 1990

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Foster Care Review Board, requiring legislative confirmation.

Appointee: Dr. Alva Barnett, 60th & Dodge, Annex 40, Omaha, NE 68182-0293, (402) 451-3267

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) KAY A. ORR
Governor

KAO:cw

MESSAGE FROM THE GOVERNOR

January 10, 1991

The President, The Speaker and
Members of the Legislature
c/o Clerk of the Legislature
State Capitol
Lincoln, Nebraska 68509

Dear Senators:

Under the authority granted me by the Constitution and Nebraska Law, I hereby notify you, the members of the 92nd Legislature, that I am on this day recalling for further review the following appointments that were submitted by the Honorable Kay Orr after the November election, but not yet confirmed.

Jim Cleary, Environmental Control Council

Gloria Erickson, Game and Parks Commission (District 5)

Pat Dorwart, Power Review Board

Mike Gomez, Parole Board
Shirley Howell, Parole Board

Mel Adams, Nebraska Investment Council

Shari Miller, State Personnel Board

Verne Moore, Commission of Industrial Relations

Russell Worthman, Nebraska School Restructuring Committee (NSRC)
Dr. James Merritt, NSRC
Mike McCarthy, NSRC
Sharon Krueger, NSRC
Marshal Faith, NSRC
Senator LaVon Crosby, NSRC
Catherine Sellmyer, NSRC
Dr. William Kelley, NSRC
Dr. Ruth Randall, NSRC
John S. Harms, NSRC
Sue Biggs, NSRC

Bruce Gilmore, Board of Health

Violet Fickel, Foster Care Review Board (FCRB)
Carol Holyoke, FCRB
Joyce Bunger, FCRB
Dr. Alva Barnett, FCRB
Jo Lamb, FCRB

Tom Creigh, Jr., Board of Educational Lands and Funds

Peter Claussen, Board of Trustees of the Nebraska State Colleges

Col. Harold LeGrande, Crime Victims Reparation Committee (CVRC)
Phyllis Lainson, CVRC

Denny Miller, Motor Vehicle Industry Licensing Board (MVILB)
Mel Auch, MVILB

Robert Kelley, Nebraska Dry Bean Commission (NDBC)
Terrance Terrell, NDBC

Cynthia Lewis-Trujillo, Modular Housing Advisory Board (MHAB)
Bruce Bailey, MHAB
Lyle O'Hara, MHAB
Gary Rickett, MHAB
Max Burroughs, MHAB
Roger Cross, MHAB
Rod Tompkins, MHAB

Valerie Nienhueser, State Airline Authority (SAA)
Catherine Hutton, SAA
Gary Warren, SAA
Samuel Rankin, SAA
William Hamilton, SAA
Keeta Thompson, SAA
William F. Shea, SAA
Jess Nielsen, SAA

Nancy O'Brien, Child Abuse Prevention Fund Board (CAPFB)
Dr. Samuel Perry, CAPFB

James Pearson, Nebraska Safety Center Advisory Council (NSCAC)
Harold Sobotka, NSCAC
Gene Siefford, NSCAC
Kenneth Sieckmeyer, NSCAC
Gary Hirsch, NSCAC

Ben Novicoff, NSCAC
Tobin Anderson, NSCAC
Dr. Pearl Hansen, NSCAC
Kim Whitehouse, NSCAC

Tim Wentz, Boiler Safety Code Advisory Board

Denis Blank, Nebraska Public Employees Retirement Board (NPERB)
Gerald Bucher, NPERB
Ron Saalfield, NPERB

Helen Hayes, Nebraska Arts Council (NAC)
Helen Cherniak, NAC
Jacquelyn Rosenlof, NAC
Thomas Milliken, NAC
Dr. Lee Smith, NAC

Theodore Stutheit, State Electrical Board (SEB)
Theodore Kayton, SEB

Charlene Hirsch, Accountability and Disclosure Commission

I recognize the need to move quickly and will, therefore, place a high priority on expeditiously returning to you those appointments from the above list in which I concur, and submitting new nominations where required.

Thank you for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN/br

ANNOUNCEMENTS

Mrs. Nelson announced the Nebraska Retirement Systems Committee elected Mr. Elmer as Vice Chairperson.

Mrs. Smith announced the General Affairs Committee elected Mr. Will as Vice Chairperson.

Mr. Lynch announced the Rules Committee elected Mr. Beutler as Vice Chairperson.

Mr. Lynch announced the Rules Committee will meet in Room 1520 this afternoon at 1:30 to discuss their 1991 Proposed Rule Changes with interested senators.

Mr. Kristensen announced the Transportation Committee will hold an organizational meeting Monday, January 14, under the North Balcony upon adjournment.

UNANIMOUS CONSENT - Add Co-Introducers

Mrs. Robak asked unanimous consent to have her name added as co-introducer to LB 173. No objections. So ordered.

Mr. Horgan asked unanimous consent to have his name added as co-introducer to LB 146. No objections. So ordered.

Messrs. Bernard-Stevens, Byars, Beutler, Chizek, Will, Ashford, Horgan, Withem, Mmes. Crosby, and Rasmussen asked unanimous consent to have their names added as co-introducers to LB 91. No objections. So ordered.

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 204. Introduced by Conway, 17; Schimek, 27.

A BILL FOR AN ACT relating to the Nebraska Real Estate License Act: to amend section 81-885.21, Reissue Revised Statutes of Nebraska, 1943, and sections 81-885.01, 81-885.07, 81-885.14, 81-885.19, and 81-885.20, Revised Statutes Supplement, 1990; to change provisions relating to fees: to authorize the commission to establish fees: to provide for inactive brokers; and to repeal the original sections.

ADJOURNMENT

At 11:55 a.m., on a motion by Mrs. Crosby, the Legislature adjourned until 9:00 a.m., Monday, January 14, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

FOURTH DAY - JANUARY 14, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

FOURTH DAY

Legislative Chamber, Lincoln, Nebraska
Monday, January 14, 1991

Pursuant to adjournment, the Legislature met at 9:02 a.m., Speaker Baack presiding.

PRAYER

The prayer was offered by Lew Champ, Bethany Christian Church, Lincoln, Nebraska.

ROLL CALL

The roll was called and all members were present except Mr. Hall who was excused; and Messrs. Ashford, Chambers, Conway, Coordsen, Hartnett, R. Johnson, Landis, Moore, Peterson, Wehrbein, Mrs. Hillman, and Ms. Schimek who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

Page 102, line 4, strike "Bernice Labedz" and insert "Jerome Warner".
The Journal for the Third Day was approved as corrected.

MOTION - Adopt Rules

Mr. Lynch moved to adopt temporary rules for today only, January 14, 1991.

The motion prevailed.

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the attached report on the referral of legislative bills 76 through 93, 95 through 108, and 110 through 137.

LB	Committee
76	Urban Affairs
77	Banking, Commerce and Insurance
78	Judiciary
79	Revenue
80	Appropriations
81	Government, Military and Veterans Affairs
82	Revenue
83	Revenue
84	Judiciary
85	Revenue
86	Banking, Commerce and Insurance
87	Government, Military and Veterans Affairs
88	Judiciary
89	Government, Military and Veterans Affairs
90	Judiciary
91	Education
92	Judiciary
93	Transportation
95	Judiciary
96	Banking, Commerce and Insurance
97	Banking, Commerce and Insurance
98	Banking, Commerce and Insurance
99	General Affairs
100	Revenue
101	Appropriations
102	Judiciary
103	Judiciary
104	Urban Affairs
105	Revenue
106	Judiciary
107	Education
108	Judiciary
110	Judiciary
111	Judiciary
112	Judiciary
113	Transportation

114 Government, Military and Veterans Affairs
115 Government, Military and Veterans Affairs
116 Education
117 Government, Military and Veterans Affairs
118 Banking, Commerce and Insurance
119 Education
120 Revenue
121 Agriculture
122 Government, Military and Veterans Affairs
123 Banking, Commerce and Insurance
124 General Affairs
125 Judiciary
126 Transportation
127 Government, Military and Veterans Affairs
128 Urban Affairs
129 Appropriations
130 Judiciary
131 Education
132 Education
133 Transportation
134 Appropriations
135 Judiciary
136 Judiciary
137 Natural Resources

(Signed) Jerome Warner, Chairperson
Legislative Council
Executive Board

UNANIMOUS CONSENT - Members Excused

Messrs. Hefner and Withem asked unanimous consent to be excused until they return. No objections. So ordered.

BILLS ON FIRST READING

The following bills were read for the first time by title:

LEGISLATIVE BILL 205. Introduced by Abboud, 12.

A BILL FOR AN ACT relating to commercial paper; to amend section 3-106, Uniform Commercial Code; to define and redefine terms; and to repeal the original section.

LEGISLATIVE BILL 206. Introduced by Warner, 25.

A BILL FOR AN ACT relating to appropriations; to require appropriations for laws enacted which increase total inmate populations in state correctional facilities; and to provide for the use of such appropriations.

LEGISLATIVE BILL 207. Introduced by Baack, 47.

A BILL FOR AN ACT relating to the enrollment option program; to amend sections 79-451, 79-3403, 79-3407, 79-3409, and 79-3410, Revised Statutes Supplement, 1990; to change provisions relating to program participation as prescribed; to provide for an automatic acceptance of applications and waiver of deadlines as prescribed; to change a provision relating to transportation reimbursement; to harmonize provisions; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 208. Introduced by Withem, 14.

A BILL FOR AN ACT relating to schools and school districts; to amend section 79-1303, Revised Statutes Supplement, 1990; to change provisions relating to valuation of school lands and saline lands as prescribed; and to repeal the original section.

LEGISLATIVE BILL 209. Introduced by Withem, 14; Conway, 17; Warner, 25.

A BILL FOR AN ACT relating to higher education; to adopt the Midwestern Higher Education Compact; and to provide for certain appointments.

LEGISLATIVE BILL 210. Introduced by Baack, 47; Withem, 14.

A BILL FOR AN ACT relating to schools; to amend sections 79-3415 and 79-3806, Revised Statutes Supplement, 1990; to change provisions relating to calculation of payments to option school districts; to change provisions relating to calculation of state aid under the Tax Equity and Educational Opportunities Support Act; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 211. Introduced by Schmit, 23.

A BILL FOR AN ACT relating to irrigation; to prohibit interference with lawful irrigation activity as prescribed; and to provide for enforcement and a penalty.

MOTION - Adopt Rules

Mr. Lynch moved to adopt the permanent rules for the Ninety-Second Legislature, first session.

The Rules Committee offered the following amendment to the rules: Amend Rule 3, Sections 3, 5, and 6 to read as follows:

Sec. 3. Standing Committees. (a) The standing committees of the Legislature shall be as follows:

Agriculture	8 members
Appropriations	9 members
Banking, Commerce and Insurance	8 members
Business and Labor	7 members
Education	8 members
General Affairs	8 members
Government, Military and Veterans Affairs	8 members
Health and Human Services	7 members
Judiciary	8 members
Natural Resources	8 members
Nebraska Retirement Systems	6 members
Revenue	8 members
Transportation	8 members
Urban Affairs	7 members

(b) The Speaker shall not be a regular member of a standing committee.

Sec. 5. Special Committees. (a) Special committees shall include all authorized committees other than standing and select committees. Unless otherwise specifically provided, special committees shall not have jurisdiction over legislative bills, but shall be subject to the same procedural rules as standing committees, insofar as they are applicable.

(b) The special committees authorized by statute as of January 1, 1980 are as follows:

Building Maintenance. RRS 81-185	6 members
Education Commission of the States.	

RRS 79-2504 ..... 3 members
Executive Board of the Legislative Council.
RRS 50-401.01 ..... 9 members
Intergovernmental Cooperation. RRS 81-816 ..... 5 members
~~Nebraska Retirement Systems. RRS 50-416 ..... 6 members~~
Performance Review and Audit.
RRS 50-701.02 ..... 9 members

(c) The following special provisions shall be in force with regard to the following special committees:

(i) Intergovernmental Cooperation Committee.

In addition to the members of the Intergovernmental Cooperation Committee chosen in accordance with Section 81-816, the Executive Board may appoint temporary members to serve on such assignments as the chairperson shall direct.

~~(ii) Nebraska Retirement Systems Committee.~~

~~The Nebraska Retirement Systems Committee (RRS 50-416) shall have jurisdiction over all bills proposing new or amending existing retirement systems of the state and its political subdivisions.~~

Sec. 6. Meeting Times. (a) After consultation with the Speaker, the Committee on Committees shall publish a schedule of standing committee meetings, in such manner as to avoid, as far as possible, conflicts in the assignment of members to committees. Standing committees shall meet at 1:30 p.m. on weekdays, unless otherwise approved by the Legislature, except for the Nebraska Retirement Systems Committee, which shall meet as called by the chairperson.

(b) A standing committee deciding not to hold meetings on the appointed day must receive permission from the Reference Committee.

(c) Any legislative committee shall be subject to the call of its chairperson or to the call of a majority of its members, in accordance with the notice and procedural requirements set forth in its committee rules.

The Rules Committee amendment was adopted with 32 ayes, 0 nays, 7 present and not voting, and 10 excused and not voting.

The Rules Committee offered the following amendment to the rules: Strike Rule 5, Section 4(c)3 which reads as follows:

The special committee created by Legislative Resolution 5 on January 11, 1989, and continued by Legislative Resolution 232 on January 4, 1990, regarding the Franklin Credit Union investigation and matters related thereto, may introduce bills at any time during the course of the 1990 legislative session. Said bills to be introduced must receive endorsement of a majority of the committee members whose names shall appear on the bill in order to fall within the purview of this section.

The Rules Committee amendment was adopted with 28 ayes, 0 nays, 11 present and not voting, and 10 excused and not voting.

The Rules Committee offered the following amendment to the rules: Amend Rule 8, Section 4 to read as follows:

Sec. 4. Standing Committee Appropriations Review. (a) Each standing committee may hold a budget request review hearing on the agency, board and commission budgets reasonably encompassed in its subject matter jurisdiction. ANY SUCH REVIEW HEARING SHALL NOT BE HELD UNTIL THE APPROPRIATIONS COMMITTEE HAS HELD ITS PUBLIC HEARING ON THAT AGENCY, BOARD, OR COMMISSION. The chairperson of the standing committee shall coordinate the scheduling of such hearings with the Chairperson of the Appropriations Committee. The standing committee shall obtain a determination from the Executive Board that the budget to be reviewed is within its subject matter jurisdiction. ~~It~~ THE STANDING COMMITTEE may ~~make~~ recommed~~ations~~ TO THE LEGISLATURE ~~with regard to~~ AMENDMENTS TO proposed appropriations ~~to the Appropriations Committee~~.

ADD A NEW SUBSECTION (b).

STANDING COMMITTEE AMENDMENTS, IF ANY, MUST BE FILED BY THE SIXTH LEGISLATIVE DAY FOLLOWING THE PLACEMENT OF APPROPRIATIONS BILLS ON GENERAL FILE. STANDING COMMITTEE AMENDMENTS SHALL BE PRINTED IN THE JOURNAL AND SHALL BE CONSIDERED BY THE LEGISLATURE NO SOONER THAN THE EIGHTH LEGISLATIVE DAY FOLLOWING THE PLACEMENT OF THE APPROPRIATIONS BILLS ON GENERAL FILE. STANDING COMMITTEE AMENDMENTS SHALL BE CONSIDERED BY THE LEGISLATURE AFTER APPROPRIATIONS COMMITTEE AMENDMENTS BUT

BEFORE ALL OTHER AMENDMENTS. STANDING COMMITTEE AMENDMENTS SHALL BE CONSIDERED IN THE ORDER OF FILING.

STRIKE original subsections (b), (c), (d), and (e), of Rule 8, section 4.

Mr. Bernard-Stevens offered the following amendment to the pending amendment:
Insert the following new language:
No amendment offered by a standing committee shall have priority over any other amendment if that Comm. has not held a hearing with the Approp. agency.

The Bernard-Stevens amendment lost with 1 aye, 14 nays, 26 present and not voting, and 8 excused and not voting.

MR. WARNER PRESIDING

Mr. Baack asked unanimous consent to be excused until he returns. No objections. So ordered.

The pending Rules Committee amendment was adopted with 26 ayes, 5 nays, 16 present and not voting, and 2 excused and not voting.

The Rules Committee offered the following amendment to the rules:
Amend Rule 7, by adding a new Section 10 to read as follows:

Sec. 10. At any stage of consideration the principal introducer of the bill under consideration, a co-introducer with the consent of the principal introducer, or the chairperson of the committee, if the bill is introduced by that committee, may move for a cloture to the presiding officer after eight hours of debate on the bill at that stage of consideration, except that the appropriation bills introduced by the Appropriations committee shall be subject to a cloture motion after twelve hours of debate at that stage of consideration. The presiding officer shall immediately recognize such introducer or chairperson and shall then order debate on the pending amendment or motion to cease. A vote on such pending amendment or motion shall be taken immediately. Following the vote on such pending matter, a vote on the cloture motion shall be taken. A two-thirds majority of the elected members shall be required for the cloture motion to be successful. A motion for cloture shall be in order except while a member is

speaking, and a motion for cloture is not debatable. If the motion for cloture is successful a vote on the advancement of the bill shall be taken, without debate, immediately following the vote on cloture.

A motion for cloture shall have precedence over other motions except a motion to adjourn.

An unsuccessful motion for cloture shall result in the debate on the bill ending for the day. When the speaker chooses to resume debate on the bill, successive motions for cloture shall not be in order until two additional hours of debate on the bill has occurred.

Pending.

BILLS ON FIRST READING

The following bills were read for the first time by title:

LEGISLATIVE BILL 212. Introduced by Schmit, 23.

A BILL FOR AN ACT relating to water; to amend section 46-295, Revised Statutes Supplement, 1990; to state intent; to require a study and legislative proposal concerning conjunctive use and integrated management of ground and surface water; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 213. Introduced by Haberman, 44.

A BILL FOR AN ACT relating to judicial nominating commissions; to amend section 24-809, Reissue Revised Statutes of Nebraska, 1943, and sections 24-810 and 84-1409, Revised Statutes Supplement, 1990; to require public voting on judicial nominees; to require that all commission hearings and meetings be subject to statutory requirements for open meetings; to redefine a term; and to repeal the original sections.

LEGISLATIVE BILL 214. Introduced by Haberman, 44.

A BILL FOR AN ACT relating to postsecondary education; to define terms; to require faculty members of public postsecondary institutions to be fluent in English; to provide exceptions; and to provide powers and duties for the Nebraska Coordinating Commission for Postsecondary Education and public postsecondary institutions as prescribed.

LEGISLATIVE BILL 215. Introduced by Haberman, 44.

A BILL FOR AN ACT relating to retirement; to amend section 84-1319, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to retirement benefits for state employees; and to repeal the original section.

LEGISLATIVE BILL 216. Introduced by Pirsch, 10.

A BILL FOR AN ACT relating to littering; to amend sections 28-523, 39-683, and 39-6,190, Reissue Revised Statutes of Nebraska, 1943; to provide and harmonize penalties for littering of public and private property, depositing rubbish on highways, and depositing materials on roads and ditches; and to repeal the original sections.

LEGISLATIVE BILL 217. Introduced by Pirsch, 10.

A BILL FOR AN ACT relating to the Uniform Controlled Substances Act; to amend section 28-416, Reissue Revised Statutes of Nebraska, 1943, and section 29-2262, Revised Statutes Supplement, 1990; to enhance penalties for violation of drug laws by certain persons; to define terms; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 218. Introduced by Bernard-Stevens, 42; Schellpeper, 18.

A BILL FOR AN ACT relating to livestock; to amend sections 28-518, 54-101, and 54-114, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to a penalty; to redefine terms; to eliminate a term; to change provisions relating to branding or defacing a brand on another's livestock; and to repeal the original sections.

LEGISLATIVE BILL 219. Introduced by Peterson, 21.

A BILL FOR AN ACT relating to state funds; to state intent; to require state agencies and political subdivisions requesting increases in budgets or spending to submit proposals for raising the needed funds; and to declare an emergency.

LEGISLATIVE BILL 220. Introduced by Warner, 25.

A BILL FOR AN ACT relating to the Clerk of the Legislature; to amend section 49-1485, Reissue Revised Statutes of Nebraska, 1943;

to change provisions relating to the furnishing of statements filed by lobbyists and summaries of the statements; and to repeal the original section.

LEGISLATIVE BILL 221. Introduced by Landis, 46; Kristensen, 37.

A BILL FOR AN ACT relating to secured transactions; to amend section 9-504, Uniform Commercial Code; to change provisions relating to a secured party's right to dispose of collateral after default; and to repeal the original section.

LEGISLATIVE BILL 222. Introduced by Bernard-Stevens, 42; Kristensen, 37.

A BILL FOR AN ACT relating to the Small Claims Court; to amend sections 25-2733 and 25-2803, Reissue Revised Statutes of Nebraska, 1943; to change and eliminate provisions relating to appeals from the Small Claims Court; to change a provision relating to the number of claims allowed to be filed by a party; and to repeal the original sections, and also section 25-2734, Reissue Revised Statutes of Nebraska, 1943.

LEGISLATIVE BILL 223. Introduced by Lamb, 43; Elmer, 38.

A BILL FOR AN ACT relating to educational lands; to amend section 72-240.26, Reissue Revised Statutes of Nebraska, 1943; to require the sale of educational lands; to provide for disposition of the proceeds of such sales; to provide reporting requirements; and to repeal the original section.

LEGISLATIVE BILL 224. Introduced by Abboud, 12; Lindsay, 9; Elmer, 38; Chizek, 31; Hall, 7; Ashford, 6.

A BILL FOR AN ACT relating to insurance; to prohibit the use of certain conditions in bodily injury and property damage liability insurance policies and contracts as prescribed.

LEGISLATIVE BILL 225. Introduced by Schellpeper, 18.

A BILL FOR AN ACT relating to schools and school districts; to amend section 79-1247.05, Revised Statutes Supplement, 1990; to change a reference to entry-level teacher or administrator certificates; and to repeal the original section.

MOTION - Adopt Rules

The Rules Committee renewed their pending amendment found in this day's Journal.

PRESIDENT MOUL PRESIDING

Mr. Chambers offered the following amendment to the pending rules amendment:

Amend proposed Rule amendment #4
In line 6, strike "eight" and insert "twelve".

Mrs. Labedz moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 4 nays, and 19 not voting.

The Chambers amendment lost with 2 ayes, 18 nays, 28 present and not voting, and 1 excused and not voting.

Mr. Moore moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 1 nay, and 23 not voting.

Mr. Wesely requested a record vote on the pending Rules Committee amendment.

Voting in the affirmative, 29:

Abboud	Cudaback	Johnson, L.	Moore	Schellpeper
Beutler	Dierks	Kristensen	Peterson	Schrock
Beyer	Hartnett	Labedz	Pirsch	Smith
Byars	Hefner	Lamb	Rasmussen	Wickersham
Coordsen	Hillman	Lindsay	Robinson	Withem
Crosby	Horgan	Lynch	Rogers	

Voting in the negative, 12:

Ashford	Bernard-Stevens	Conway	Schimek	Wehrbein
Baack	Chambers	Haberman	Schmit	Wesely
		Robak	Warner	

Present and not voting, 7:

Chizek	Johnson, R.	Morrissey	Nelson	Will
Elmer	Landis			

Excused and not voting, 1:

Hall

The Rules Committee amendment was adopted with 29 ayes, 12 nays, 7 present and not voting, and 1 excused and not voting.

The Lynch motion to adopt permanent rules, as amended, was renewed.

Mr. Ashford asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Haberman requested a division of the question on the motion to adopt the permanent rules, as amended.

The Chair ruled a motion to adopt permanent rules, as amended, is not divisible.

Mr. Moore requested a record vote on the motion to adopt the permanent rules, as amended.

Voting in the affirmative, 33:

Abboud	Dierks	Kristensen	Morrissey	Schellpeper
Beutler	Elmer	Labedz	Peterson	Schrock
Beyer	Hartnett	Lamb	Pirsch	Smith
Byars	Hefner	Landis	Rasmussen	Wickersham
Coordsen	Hillman	Lindsay	Robinson	Will
Crosby	Horgan	Lynch	Rogers	Withem
Cudaback	Johnson, L.	Moore		

Voting in the negative, 12:

Baack	Chambers	Nelson	Schmit	Wehrbein
Bernard-Stevens	Conway	Robak	Warner	Wesely
	Haberman	Schimek		

Present and not voting, 2:

Chizek	Johnson, R.

Excused and not voting, 2:

Ashford Hall

The Lynch motion to adopt permanent rules, as amended, was adopted with 33 ayes, 12 nays, 2 present and not voting, and 2 excused and not voting.

ANNOUNCEMENTS

Mr. Hartnett announced the Urban Affairs Committee elected Mrs. Rasmussen as Vice Chairperson.

Mr. Elmer announced the Intergovernmental Cooperation Committee elected Mrs. Pirsch as Vice Chairperson.

Mr. Rogers announced the Agriculture Committee elected Mr. Schellpeper as Vice Chairperson.

NOTICE OF COMMITTEE HEARING
Transportation

LB 61	Tuesday, January 22, 1991	1:30 p.m.
LB 47	Tuesday, January 22, 1991	1:30 p.m.
LB 74	Tuesday, January 22, 1991	1:30 p.m.
LB 40	Tuesday, January 22, 1991	1:30 p.m.
LB 29	Tuesday, January 22, 1991	1:30 p.m.

(Signed) Doug Kristensen, Chairperson

REPORT OF REGISTERED LOBBYISTS

In accordance with LB 987, passed in the 1976 session of the Legislature and amended by LB 4 and LB 41 in the 1977 session of the Legislature, the attached is a list of all Lobbyists who have registered as of January 11, 1991. Further lists listing additional lobbyists who have registered will be filed weekly.

(Signed) Patrick J. O'Donnell
Clerk of the Legislature

Allan, Marilyn J. - Lincoln
Andersen, Robert C. - Lincoln
Ryan, P. C., James E.
Nebraska Cooperative Council

Anderson, Robert L. - Lincoln	Anderson Management Services, Inc.
Anderson, Tim W. - Holdrege	Central Nebraska Public Power and Irrigation District
	Nebraska Fertilizer & Ag-Chemical Institute, Inc.
Andrew, M. Jean - Lincoln	Nebraska Chapter of National Association of Social Workers
	Voters for Choice
Arfmann, William W. - Lincoln	Nebraska Association of Public Employees AFSCME Local 61
Bacon, Charles E. - Lincoln	Nebraska Motor Carriers Association
Baker, Donna R. - Lincoln	Nebraska Nurses Association
Ball Jr. Charles E. - Lincoln	Nebraska Cattlemen
Barrett, Michael S. - Lincoln	Nebraska Cooperative Council
Baum Jr., Richard H. - Lincoln	Nebraska School Improvement Association
Bauman, K. N. - Columbus	GTE North Incorporated
Bayer, Russell J. - Lincoln	Eastern Ambulance Service
Beattie, J. Gerald - Lincoln	Nebraska Farm Bureau Federation
Behnke, Judy - Lincoln	Nebraska State Education Association
Bequette, Micheal R. - Lincoln	Citizens Against Pornography
Biel, Bob - Lincoln	Communications Workers of America
Bligh, Robert - Lincoln	Nebraska Association of School Boards
Bluedorn, Ralph - Omaha	Cornhusker Casualty Company
Bokemper, Duane - Lincoln	The American Legion, Dept. of Nebraska
Bones, Amy S. - Omaha	Services for Children
Boucher, Richard L. - Lincoln	Nebraska County Attorneys Association
Brown, Vincent D. - Lincoln	American Petroleum Institute
Buchholz, Robert J. - Lincoln	State Troopers Are Retired (S.T.A.R.)
Bunger, Joyce Davis - Omaha	First Data Resources Inc.
Campbell, Mary M. - Lincoln	Ryan, P.C., James E.
Carlson, Karen C. - Lincoln	US WEST Communications
Carney, Patrick P.- Kearney	Associated Students of Kearney State College
Carpenter, Elaine K - Lincoln	Lincoln Telephone & Telegraph Co.
Carpenter, Rex - Lincoln	Nebraska Rural Electric Association
Carstenson, Eric B. - Lincoln	Lincoln Chamber of Commerce
Cavanaugh, James P. - Omaha	Independent Insurance Agents of Nebraska
	O'Hara & Associates, Inc.
Chambers, David L. - Lincoln	League of Nebraska Municipalities
Christensen, Deborah D. - Fremont	Nebraska Dietary Managers Association
Clark, Douglas R. - Lincoln	Retail Merchants Association of Nebraska

Clubine, Ginger - Lincoln	Association for Retarded Citizens/Nebraska
Colladay, Martin G. - Omaha	ConAgra, Inc.
Crosby, Guenzel, Davis, Kessner & Kuester	
Crosby, Robert B. - Lincoln	Alliance of American Insurers
	Better Nebraska Association
	Central Nebraska Public Power & Irrigation District
	Lower Platte South NRD
	Nebraska Association of Retired Federal Employees
	Nebraska State Education Association
	Security Investment Company
McGuire, Mark D. - Lincoln	Ferret Exploration Company of Nebraska, Inc.
	Nebraska State Education Association
Moody, Randall J. - Lincoln	American Association of University Professors (UNL)
	American National Bank
	Better Nebraska Association
	Ferret Exploration Company of Nebraska, Inc.
	Nebraska Library Association
	Nebraska State Education Association
Cuca Jr., Ralph P. - Lincoln	Nebraska Motor Carriers Association
Cunningham, James R. - Lincoln	Nebraska Catholic Conference
Cutshall, Bruce A. - Lincoln	Board of Trustees of Nebraska State College System
	Lincoln Medical Education Foundation
	Midwest Association of Medical Equipment Suppliers
	Nebraska Academy of Family Physicians
	Nebraska Association of Area Agencies on Aging
	Nebraska Association of Home & Community Health Agencies
	Nebraska Association of Resources Districts
	Nebraska Cattlemen
	Nebraska Corn Growers Association
	Nebraska Financial Services Association
	Nebraska Railroad Association
	Nebraska Thoroughbred Breeders' Association
	Nebraska Wheat Growers Association
	U.S. Ecology

Davenport, Gerald D. - Cozad	American Association of Retired Persons
DeCamp Legal Services, P.C.	
DeCamp, John - Lincoln	Disabled American Veterans
	Nebraska Chiropractic Physicians Association
	Veterans of Foreign Wars
Defoe, Donald H. - Springfield, IL	Caterpillar Inc.
Dirrim, Delbert E. - Omaha	Omaha Public Power District
Dobler, James B. - Lincoln	Farmers Mutual Insurance Co. of Nebraska
Doyle, Larry B. - Bellevue	American-Irish Political Education Committee (AIPEC)
Edgerton, Steve - Omaha	Nebraska Credit Union League
Edmunds, Jerry G. - Lincoln	TCU-Transportation Communication International Union
Edson, Dean E. - Lincoln	Nebraska Farm Bureau Federation
Ellerbee, Don - Hastings	Nebraska Funeral Directors Association
	Nebraska Veterinary Medical Association
Enewold, Richard H. - Omaha	American Telephone & Telegraph Company
Erickson & Sederstrom	
Butler, Rich - Lincoln	Nebraska Mortgage Association
Thone, Charles - Lincoln	Nebraska Investment Finance Authority
	Nebraska Society for Medical Technology
Erickson, Neal - Lincoln	Lombardi-Erickson/American Communications Group, Inc.
Fischer, Ralph J. - Beatrice	General Agricultural Services Ltd.
Fischer, Thomas B. - Lincoln	FirsTier Financial, Inc.
Fraizer, T. J. - Lincoln	American Insurance Association
	Health Insurance Association of America
	Mutual of Omaha Insurance Company
Francl, Edward A. - Omaha	Metropolitan Utilities District
Frazier, Lawrence A. - Lincoln	Farmers Mutual Insurance Co. of Nebraska
Frey, John O. - Lincoln	Lincoln Restaurant Association (LRA)
	Nebraska Vocational Association (NVA)
Funk, Christine - Lincoln	Planned Parenthood of Lincoln
Gilbert, Ann - Lincoln	O'Hara & Associates, Inc.
Goc, John J. - Lincoln	City of Lincoln
Goldberg, Gary S. - Kearney	American Corn Growers Association
Graham, M. J. - Lincoln	American Association of Retired Persons

Guenzel, Robert C. - Lincoln	Red Deer Hunting Club
Hale, Brian - Lincoln	Nebraska Association of School Boards
Hale, Susan - Lincoln	Planned Parenthood of Omaha-Council Bluffs
Hallstrom, Robert J. - Lincoln	National Federation of Independent Business
	Nebraska Bankers Association
	Nebraska Pharmacists Association
	NETWORKS
Hamilton, James S. - Lincoln	Nebraska Council on Alcohol and Drug Education
Hansen, JoAnn - Lincoln	Nebraska Public Power District
Hartmann, William - Lincoln	Nebraska Land Improvement Contractors Association
Hersch, Alan - Lincoln	Minnegasco, Inc.
Hoke, C. J. - Grand Island	Southern Nebraska Rural Public Power District
Hoke, Fred A. - Lincoln	Nebraska Council of School Administrators
Holmquist, Jay - Lincoln	Nebraska Rural Electric Association
Hood, Jane Renner - Lincoln	Nebraska Humanities Council
Howard, Robert N. - Omaha	National Electrical Contractors Association - Nebraska Chapter
Hudkins, Larry D. - Lincoln	Nebraska Cattlemen
Huff Jr., Walt - Lincoln	Nebraska Associated General Contractors
Humpal, John E. - Omaha	Blue Cross and Blue Shield of Nebraska
	HMO Nebraska, Inc.
Hunzeker, Mark A. - Lincoln	Insurance Federation of Nebraska
Inbody, Rick - Lincoln	Communications Workers of America
Jennings, Warren E. - Lincoln	Farmers Mutual Insurance Co. of Nebraska
Jensen Assocates, Inc.	
Jensen, Ronald L. - Lincoln	Nebraska Association of Homes for the Aging
	Nebraska Association of Nurse Anethetists
	Nebraska Cosmetology Association
	The Sierra Club-Nebraska Chapter
Jensen, Ronald L. - Lincoln	Jensen Associates, Inc.
Jensen, S. Michael - Blair	Great Plains Communication, Inc.
Johnson, Forrest A. - Lincoln	American Association of Retired Persons
Johnston, Thomas S. - Lincoln	Nebraska Technical Community College Association
Jordison, John C. - Lincoln	Nebraska Tax Research Council, Inc.
Keetle, Roger S. - Lincoln	Nebraska Hospital Association

Kendrick, Leslie - Omaha	Opera/Omaha Services for Children
Kennedy, Barry L. - Lincoln	Nebraska Chamber of Commerce & Industry
Kirkpatrick, Jeff - Lincoln	Nebraska Farmers Union
Kissel, Gordon - Lincoln	Nebraska Association of Resources Districts
Koch, Clarence F. - Lincoln	Veterans of Foreign Wars
Kratz, Dean G. - Omaha	Nebraska Building Chapter Associated General Contractors Nebraska League of Savings Institutions
Krivosha, Norman M. - Lincoln	Ameritas Life Insurance Corporation
Kroger, Burma - Lincoln	Nebraska Association of School Boards
LaPadula, Joseph - Omaha	Disabled American Veterans
Larsen, Carlin L. - Chadron	US WEST Communications
Larsen, Roger Hans - Lincoln	Nebraska State Education Association
Lauerman, Meg - Lincoln	Lincoln Public Schools
Lenzi, John C. - Washington, DC	National Rifle Association of America
Licht, Alice L. - Lincoln	Anderson Management Services Automotive Service Council of Nebraska Nebraska Auto & Truck Salvage, Inc. Nebraska Autobody Association, Inc. Nebraska Fertilizer & Ag-Chemical Institute Nebraska State Pest Control Association Outstate Nebraska Electrical Association
Lombardi-Erickson/American Communications Group	
Lombardi, Richard A. - Lincoln	American Physical Therapy Association, Nebraska Chapter Nebraska Academy of Physician Assistants Nebraska Association of Community Mental Health Providers Nebraska Association of Public Employees, AFSCME Local 61 Nebraska Professional Counselors Assocation Nebraska Society of Professional Psychologists Nebraska State Board of Agriculture Nebraska State Education Association Papio-Missouri Natural Resources District

Lombardi, Richard A. - Lincoln	American Communications Group, Inc.
Long, Donald P. - Holdrege	The Central Nebraska Public Power and Irrigation District
Lostroh, Julia J. - Lincoln	Nebraska Coalition for Life
Lowder, Leonard R. - Omaha	The American Society of Mechanical Engineers
Lutz, Mark - Lincoln	Employers Unemployment Insurance Company
Lutz, Richard - Lincoln	Employers Unemployment Insurance Company
MacDowell, L. J. - Lincoln	American Association of Retired Persons
MacLean, Chauncey A. - Lincoln	Paul Korslund for Legislature Committee
Mancuso, Mary - Lincoln	O'Hara & Associates, Inc.
Mass, Ken E. - Omaha	Nebraska State AFL-CIO
Matthies, Marcia L. - Lincoln	Nebraska Health Care Association
Matzke Jr., Stan - Lincoln	Nebraska Bankers Association
McBride, David S. - Lincoln	Nebraska Optometric Association
	Nebraska State Association of Life Underwriters
McCullough, Mardy - Lincoln	American Heart Association - Nebraska Affiliate
McDonald, Gordon L. - Omaha	Nebraska State AFL-CIO
McLaurin, Michael K. - Omaha	UNO Student Government
Miesbach, Neal L. - Omaha	Driver Education Promotion Task Force
	Nebraska Surety Association
	Professional Insurance Agents of Nebraska
Miller, Cy - Lincoln	55 Alive/Mature Driving Education
Mills, Jack D. - Lincoln	Nebraska Association of County Officials
Moeller, James E. - Lincoln	Brotherhood of Locomotive Engineers
Moen, Thomas E. - Omaha	Omaha Police Union Local 101
Moldenhauer, Howard H. - Omaha	FirsTier Financial, Inc.
Moors, H. Jack - Lincoln	Anheuser-Busch Companies
	Central Platte Natural Resources District
	Donald D. Adams
	Friends of the Faculty Senate
	Nebraska Corn Growers Association
	Norwest Bank Nebraska, N. A.
	Village of Butte
Moylan, James H. - Omaha	Douglas County, Nebraska
	Nebraska Licensed Beverage Association

	Nebraska Lodging Association
	R. J. Reynolds Tobacco
Mueller, William J./Knudsen, Berkheimer, et al.	
Mueller, William J. - Lincoln	American Express Travel Related Services Company, Inc.
	American Telephone & Telegraph Company
	Call Interactive
	Committee for Regional High School Systems
	First Commerce Bancshares, Inc.
	First Data Resources Inc.
	Forest Laboratories, Inc.
	IDS Financial Services, Inc.
	Integrated Marketing Services
	Kansas-Nebraska League of Savings Institutions
	Lutheran Medical Center
	Nebraska Academy of Ophthalmology
	Nebraska Collectors Association, Inc.
	Nebraska Methodist Health System, Inc.
	Nebraska Petroleum Marketers, Inc.
	Nebraska Rural Community Schools Association
	Nebraska Shorthand Reporters Association
	Nebraska Society of Independent Accountants
	Nebraska State Bar Association
	Printing Industries of the Midlands, Inc.
	The Nebraska Methodist Hospital, Inc.
	The Western Sugar Company
Neidig, Bryce P. - Lincoln	Nebraska Farm Bureau Federation
Niemann, Nicholas K. - Omaha	ConAgra, Inc.
Noren, Charles F. - Lincoln	Nebraska Professional Firefighters Association
Nowka, Trent P. - Lincoln	Nebraska Farm Bureau Federation
Obst, Robert E. - Grand Island	US WEST Communications
O'Hara & Associates	
O'Hara, Paul V. - Lincoln	Association for Retarded Citizens/Nebraska
	Bishop Clarkson Hospital
	Blue Cross & Blue Shield of Nebraska
	Blue Flame Gas Association
	Columbus City Schools
	Enron Corporation
	Finocchiaro Wine Company, Inc.

	First National Bank of Omaha
	Grand Island Public Schools
	Nebraska Association of Private Resources
	Nebraska Association of Trial Attorneys
	Nebraska Chapter of National Society for Children & Adults with Autism
	Nebraska Committee for the Humanities
	Nebraska Dental Association
	Nebraska Indian Community College
	Nebraska Soft Drink Association
	Nebraskans for Equity in Higher Education
	Norfolk Public Schools
	North Platte School District
	Northern Natural Gas Company
	Omaha Public Power District
	Pioneer Hi-Bred International, Inc.
	Sarpy County
O'Hara, Paul V. - Lincoln	O'Hara & Associates, Inc.
Olson, William E. - Lincoln	Runza National, Inc.
	T.O. Haas Tire Company Inc.
O'Neill, Jr., Thomas J. - Lincoln	Association of Independent College and Universities of Nebraska
Osland, Norman A. - Lincoln	Nebraska Telephone Assoication
Pack, Mary - Lincoln	Radcliffe, Walter/Radcliffe & Associates
Pappas, James E. - Lincoln	The Martell State Bank
	Waste-Tech Services, Incorporated
Parker, David R. - Lincoln	Great West Casualty Company
	Joe Morten & Son, Inc.
	Northern Nebraska Rail Preservation Association, Inc.
Parkin, Jerry D. - Des Moines, IA	Deere & Company
Peppie, Lana K. - Lincoln	Nebraska Optometric Association
Peregoy, Robert M. - Boulder, CO	Pawnee Tribe of Oklahoma
Peters, William E. - Lincoln	Burlington Northern Railroad
	Golden Rule Insurance Company
	The Tobacco Institute
Peterson, Alan E. - Lincoln	Media of Nebraska
Peterson, Debra D. - St. Paul, MN	United Telephone Company
Peterson, Robert F. - Lincoln	Nebraska Association of School Boards
Philbin, Robert J. - Omaha	First Data Resources, Inc.
Pierson, Darwin R. - McCook	Nebraska Independent Oil & Gas Association

Pistillo, Donald J. - Omaha	Citizens for a True State Lottery
Popken, Kent T. - Lincoln	US WEST Communications
	US WEST, Inc.
Prazan, Jerome J. - Omaha	City of Omaha
Preston, James N. - Lincoln	Nebraska Motor Carriers Association
Prettyman, Keith - Lincoln	Woodmen Accident and Life Company
Quick, Gerald D. - Omaha	Peoples Natural Gas
Radcliffe and Associates	
Radcliffe, Walter H. - Lincoln	American Paper Institute, Inc.
	Central Interstate Low-Level Radioactive Waste Compact Commission
	Federal Home Loan Bank (of Topeka)
	Friends of Higher Education
	Investment Company Institute
	Koerselman, Virginia
	Lincoln Telephone & Telegraph Company
	Media of Nebraska
	Motion Picture Association of America
	Nebraska Association of Correctional Employees
	Nebraska Automatic Merchandising Council
	Nebraska Cable Communications Association
	Nebraska Depositors Action Committee
	Nebraska Financial Services Association
	Nebraska Health Care Association
	Nebraska Manufactured Housing Institute, Inc.
	Nebraska Occupational Therapy Association
	Nebraska Operators Association
	Nebraska Pyrotechnics Association
	Nebraska Realtors Association
	Nebraska Securities Industry Association
	Nebraska Society of Certified Public Accountants
	Nebraska State Cemetery Association
	Nebraskans Against the Death Penalty
	Safeway Stores Inc.
	Shaeffer, J. Murry
	Shearson Lehman Hutton, Chiles Heider Division
	Smokeless Tobacco Council, Inc.

	The Council for Solid Waste Solutions
	The Wine Institute
Raglin, James H. - Lincoln	Nebraska Press Advertising Service, Inc.
Rasmussen, Dennis - Lincoln	Great Plains Communications
	Iowa/Nebraska Farm Equipment Association
	Lancaster County Commissioners
	Lens Crafters
	Nebraska Historical Society
	Nebraska Independent Auto Dealers Assoc.
	Nebraska Petroleum Marketers
	Philip Morris U.S.A.
	Propane Gas Association of Nebraska
Ratigan, Bonnie - Lincoln	Nebraska Health Care Association
Rea, Jim - Lincoln	Nebraska State Education Association
Remington, S. June - Lincoln	Nebraska Council of School Administrators
	Nebraska Educational Service Units Board Association
Remmers, R. Wiley - Auburn	Radcliffe, Walter/Radcliffe & Associates
Rex, L. Lynn - Lincoln	League of Nebraska Municipalities
Richard, Dwayne - Lincoln	Retail Merchants Association of Nebraska
Riha, James E. - Omaha	Nebraska Self-Service Storage Association
Roberts, John L. - Lincoln	Nebraska Hospital Association
Robinson, Al - North Platte	Nebraska Society of Radiologic Technologists
Rupp, Lee - Lincoln	University of Nebraska
Russell, Claudia - Lincoln	Nebraska Bankers Association
Ruth, Larry L./Knudsen, Berkheimer, et al.	
Ruth, Larry L. - Lincoln	American Express Travel Related Services Company, Inc.
	American Telephone & Telegraph Company
	Call Interactive
	Committee for Regional High School System
	First Commerce Bancshares, Inc.
	First Data Resources, Inc.
	Forest Laboratories, Inc.
	IDS Financial Services, Inc.
	Integrated Marketing Services
	Kansas-Nebraska League of Savings Institutions
	Lutheran Medical Center

	Nebraska Academy of Ophthalmology
	Nebraska Collectors Association, Inc.
	Nebraska Methodist Health System, Inc.
	Nebraska Petroleum Marketers, Inc.
	Nebraska Rural Community Schools Association
	Nebraska Shorthand Reporters Association
	Nebraska Society of Independent Accountants
	Nebraska State Bar Association
	Printing Industries of the Midlands, Inc.
	The Nebraska Methodist Hospital, Inc.
	The Western Sugar Company
Ryan, Beth - Lincoln	Nebraska Railroad Association
Ryan, P.C., James E.	
Ryan, James E. - Lincoln	FirsTier Financial, Inc.
	Friends of Higher Education
	Health Future Foundation
	Kimberly-Clark
	National Association of Independent Insurers
	Nebraska Association of Tobacco & Candy Distributors
	Nebraska Beer Wholesalers Association
	Nebraska Judicial Council
	Nebraska Motor Carriers Association
	Nebraska Optometric Association
	Nebraska Public Power District
	Nebraska Wholesale Liquor Distributors Association
	Norwest Banks - Nebraska, N.A.
	US West Communications
	3M
Scarpello, Sam M. - Omaha	Nebraska State Council of Electrical Workers
	Nebraska State Utility Worker Conference
Sahling, Shelley R. - Lincoln	Lincoln Electric System
Sailors, Scott - Lincoln	Nebraska Association of County Officials
Sands, David - Lincoln	National Audubon Society
Sanne, Richard D. - Lincoln	Nebraska Grain and Feed Association
Scates, W. Thomas - Omaha	Omaha Education Association
Schatz, William R. - Lincoln	Nebraska Civil Liberties Union
Schellpeper, William L. - Lincoln	Nebraska Medical Association
Schimek, Herbert H. - Lincoln	Nebraska State Education Association

Schmit-Albin, Julie - Lincoln	Nebraska Coalition for Life
Schoenrock, Robert L. - Lincoln	Brotherhood of Maintenance of Way Employees
Schulz, Terry - Lincoln	Nebraska Motorcyclist Coalition
Schwartz, Harvey - Lincoln	Nebraska Research & Development Authority
Schwartze, L. J. Rusty - Omaha	Nebraska State Home Builders Association
Scott, Richard - Lincoln	Nebraska Sheriffs' Association
Sedlacek, Ronald J. - Lincoln	Nebraska Bankers Association
	Nebraska Chamber of Commerce and Industry
Semerad, Mark F. - Omaha	ConAgra, Inc.
Shaeffer, J. Murry - Lincoln	Nebraska Association of Correctional Employees
	State Troopers Association of Nebraska
Shaw, Timothy F. - Lincoln	Nebraska Advocacy Services, Inc.
Sherbert, Norman R. - Denver, CO	General Motors Corporation
Shuler, James O. - Omaha	Central States Health & Life Co. of Omaha
Shultz, Jack L. - Lincoln	Motorcycle Industry Council, Inc.
	Nebraska Telephone Association
Sibley, Stan - Omaha	Omaha Public Schools
Siefkes, Dale - Lincoln	Nebraska Association of School Boards
Siefkes, John J. - Lincoln	Safety Council of Nebraska
Skochdopole, R. A. - Omaha	Governors of the Knights of Ak-Sar-Ben
Smith, Alvin T. - Lincoln	Nebraska Water Resources Association
Smith, B. Frederick - Omaha	Christian Science Committee on Publication
Smith, Dwayne G. - Columbus	Loup River Public Power District
Smith, Jeffry H. - Arapahoe	Arapahoe Telephone Company
	Benkelman Telephone
	Cozad Telephone Company
	Curtis Telephone Company
	Keystone-Arthur Telephone Company
Snyder, Patricia C. - Lincoln	Nebraska Health Care Association
Solem, Cal - Omaha	Associated General Contractors
Stading, Donald R. - Lincoln	Ameritas Life Insurance Corporation
Starnes, Marcia A. - Lincoln	Nebraska Water Resources Association
Stone, Fred R. - Lincoln	Nebraska Petroleum Marketers, Inc.
Sullivan, J. Scott - Omaha	Nebraska Credit Union League
Sullivan, Patrick H. - Lincoln	Mid-America Lumbermens Association

Swartz, Jack - Lincoln	Nebraska Chamber of Commerce and Industry
Thomas, Owen - Omaha	Integrated Marketing Services
Thompson, Richard D. - Scottsbluff	American Association of Retired Persons
Tipton, Kevin W. - Denver, Co.	Distilled Spirits Council of the U.S., Inc.(DISCUS)
Todd Jr., A. Loy - Lincoln	National Association of Theatre Owners
	Nebraska New Car & Truck Dealers Association
Ullstrom, Galen F. - Omaha	Mutual of Omaha Insurance Company
Urdahl, Michael B. - Blair	Great Plains Communication, Inc.
Vickers, Tom - Lincoln	Class III's of Nebraska
	Common Cause/Nebraska
	Nebraska Historical Society
	Nebraska Motorcyclist Coalition
	Nebraska Technical Community College Association
Vitek, James C. - Omaha	Blue Cross and Shield of Nebraska
	HMO Nebraska, Inc.
Vodvarka, Dan - Lincoln	Nebraska Society of Certified Public Accountants
Watson, Donna R. - Lincoln	Citizens Against Pornography
White, Mary - Lincoln	Nebraska Bankers Association
Widholm, Paula - Lincoln	Nebraska Farm Bureau Federation
Willey, Bobby T. - Lincoln	Farmers Insurance Group of Companies
Williams, David Michael - Lincoln	Ameritas Life Insurance Corporation
Wilson, Dwaine - Lincoln	Veterans of Foreign Wars
Wilson, Robert W. - Papillion	Peoples Natural Gas
Wood, Alan M. - Lincoln	Nebraska Manufactured Housing Association
Wreed, V. Delight - Lincoln	Nebraska Health Care Association
Wurtz, Thomas A. - Omaha	Metropolitan Utilities District
Wylie, William M. - Elgin	Nebraska Insurance Information Services
Yost, Kurt T. - Lincoln	Nebraska Independent Bankers Association
Young, Harry D. - Beatrice	Norris Public Power
Young, Marge - Lincoln	League of Women Voters of Nebraska

MOTION - Withdraw LB 215

Mr. Haberman moved to withdraw LB 215.

Laid over.

BILLS ON FIRST READING

The following bills were read for the first time by title:

LEGISLATIVE BILL 226. Introduced by Nelson, 35; Pirsch, 10; Wesely, 26.

A BILL FOR AN ACT relating to physical exercise clubs; to adopt the Physical Exercise Club Act; and to provide severability.

LEGISLATIVE BILL 227. Introduced by Abboud, 12; Cudaback, 36; Byars, 30; Wickersham, 49; Hefner, 19; L. Johnson, 15; Schellpeper, 18; Dierks, 40; Beyer, 3.

A BILL FOR AN ACT relating to county general assistance; to amend sections 68-151 to 68-155, Reissue Revised Statutes of Nebraska, 1943; to restate legislative findings; to redefine a term; to provide for the performance of community service by employable recipients; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 228. Introduced by Kristensen, 37; Conway, 17.

A BILL FOR AN ACT relating to the Legislature; to create the position of Counsel to the Legislature; to provide for selection of the counsel; to provide powers and duties; and to provide for treatment of communications between the counsel and members and staff of the Legislature.

LEGISLATIVE BILL 229. Introduced by Lynch, 13.

A BILL FOR AN ACT relating to labor; to provide for the registration of contractors; to define terms; to provide powers and duties for the Commissioner of Labor; and to provide a penalty.

LEGISLATIVE BILL 230. Introduced by Crosby, 29.

A BILL FOR AN ACT relating to to Employment Security Law; to amend section 48-604, Reissue Revised Statutes of Nebraska, 1943; to exclude certain services from the definition of employment; and to repeal the original section.

LEGISLATIVE BILL 231. Introduced by Chizek, 31; Chambers, 11.

A BILL FOR AN ACT relating to civil rights; to amend section 20-148, Reissue Revised Statutes of Nebraska, 1943; to authorize an award of attorney's fees in certain civil actions; and to repeal the original section.

LEGISLATIVE BILL 232. Introduced by Withem, 14; Kristensen, 37; Warner, 25.

A BILL FOR AN ACT relating to the Nebraska Political Accountability and Disclosure Act; to amend sections 49-1403, 49-1483, 49-1488, 49-1490, 49-14,113, and 49-14,131, Reissue Revised Statutes of Nebraska, 1943, and section 49-1401, Revised Statutes Supplement, 1990; to change provisions relating to certain statements filed by lobbyists and principals as prescribed; to redefine a term; to provide a fee for late filing of statements as prescribed; to provide a duty for the Nebraska Accountability and Disclosure Commission; to change provisions relating to appeal procedure; to change provisions relating to terms of the Nebraska Accountability and Disclosure Commission as prescribed; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 233. Introduced by Landis, 46; Lindsay, 9; Conway, 17; Wesely, 26; Schmit, 23; Haberman, 44.

A BILL FOR AN ACT relating to insurance; to amend sections 8-442 and 44-2909, Reissue Revised Statutes of Nebraska, 1943, and sections 44-108.01, 44-114, 44-116, 44-348, 44-522, and 44-1525, Revised Statutes Supplement, 1990; to adopt the Property and Casualty Insurance Rate and Form Act; to harmonize provisions; to eliminate provisions relating to rates and rating organizations; to provide an operative date; to provide severability; and to repeal the original sections, and also sections 44-1401, 44-1403 to 44-1409, 44-1411 to 44-1434, 44-1436 to 44-1443, 44-1445 to 44-1452, 44-1454 to 44-1465, 44-1465.02 to 44-1479, and 44-1481 to 44-1486, Reissue Revised Statutes of Nebraska, 1943, and sections 44-1402, 44-1410, 44-1435, 44-1444, 44-1453, 44-1465.01, 44-1480, and 44-1499 to 44-14,102, Revised Statutes Supplement, 1990.

LEGISLATIVE BILL 234. Introduced by Landis, 46; Lindsay, 9; Conway, 17; Wesely, 26; Schmit, 23; Haberman, 44.

A BILL FOR AN ACT relating to insurance; to amend sections 44-10,105, 44-1522, 44-1524, 44-1526 to 44-1532, 44-1534, 44-1535, 44-1925, 44-2115, 44-3610, 44-4028, 44-4031, 44-4407, and 48-146.02, Reissue Revised Statutes of Nebraska, 1943, and sections 44-1523, 44-1525, 44-1533, 44-1803 to 44-1805, 44-32,179, 44-4607, and 44-4711, Revised Statutes Supplement, 1990; to name provisions relating to unfair trade practices as the Unfair Insurance Trade Practices Act; to define and redefine terms; to change provisions relating to unfair trade practices; to adopt the Unfair Insurance Claims Settlement Practices Act; to harmonize provisions; to provide a duty for the Revisor of Statutes; to provide severability; and to repeal the original sections.

LEGISLATIVE BILL 235. Introduced by Landis, 46; Lindsay, 9; Conway, 17; Wesely, 26; Schmit, 23; Haberman, 44; Abboud, 12.

A BILL FOR AN ACT relating to title insurance; to amend sections 25-1292, 44-309.02, 44-413.01, 44-1487 to 44-1490, 44-1492, 44-1494 to 44-1497, 44-1901, 44-1902, 44-1905 to 44-1907, 44-1909, 44-1910, 44-1912, 44-1913, 44-1917, 44-1919, 44-1922 to 44-1926, and 76-1003, Reissue Revised Statutes of Nebraska, 1943, and sections 44-201, 44-203, 44-1491, 44-1493, 44-1498, 44-1525, 44-1908, 44-1911, 44-1914 to 44-1916, and 44-4802, Revised Statutes Supplement, 1990; to rename and include provisions in the Nebraska Title Insurance Act; to define and redefine terms; to provide limitations on title insurers and the issuance of title insurance; to describe an unfair or deceptive act or practice; to transfer sections; to eliminate definitions and provisions on prohibited business and kinds of insurance; to harmonize provisions; and to repeal the original sections, and also sections 44-1903, 44-1904, 44-1918, and 44-1921, Reissue Revised Statutes of Nebraska, 1943.

LEGISLATIVE BILL 236. Introduced by Landis, 46; Lindsay, 9; Conway, 17; Wesely, 26; Schmit, 23; Haberman, 44.

A BILL FOR AN ACT relating to insurance; to amend sections 44-224.11, 44-417, 44-4401, 44-4403 to 44-4405, 44-4407 to 44-4409, 44-4413, 44-4414, 44-4417, and 44-4418, Reissue Revised Statutes of Nebraska, 1943, and sections 44-221, 44-251, 44-416, 44-416.01, 44-416.03, 44-416.04, 44-32,177, 44-4421, 44-4711, 44-4801, 44-4803, 44-4804, 44-4805, 44-4808 to 44-4819, 44-4821, 44-4822, 44-4824, 44-4826, 44-4827, 44-4830, 44-4842, 44-4851, 44-4853, 44-4861, 44-4902, and 44-4906, Revised Statutes Supplement, 1990; to adopt the Insurance Holding Company System Act; to eliminate provisions

relating to insurance holding companies; to change provisions relating to the supervision, rehabilitation, and liquidation of insurers; to redefine terms; to change provisions relating to personal jurisdiction; to change the powers of the Director of Insurance and of rehabilitators and liquidators as prescribed; to change confidentiality requirements; to authorize advisory committees; to require appeal-pendency plans; to change and provide notice requirements; to provide liability for fraudulent transfers; to change setoff provisions; to change distribution priorities as prescribed; to provide for rules and regulations; to redefine terms; to change application procedures for chartering and licensing risk retention groups; to provide for applicability of unfair claims settlement provisions; to change and provide notice requirements; to change provisions relating to the applicability of insolvency guaranty laws; to change requirements for and other provisions relating to purchasing groups; to harmonize provisions; to provide severability; to repeal the original sections, and also sections 44-416.02, 44-2101 to 44-2105, 44-2107 to 44-2111, 44-2113 to 44-2116, 44-2118, and 44-2119, Reissue Revised Statutes of Nebraska, 1943, and sections 44-2106, 44-2112, and 44-2117, Revised Statutes Supplement, 1990; and to declare an emergency.

LEGISLATIVE BILL 237. Introduced by Landis, 46; Lindsay, 9; Conway, 17; Wesely, 26; Schmit, 23; Haberman, 44; Abboud, 12.

A BILL FOR AN ACT relating to insurance; to amend sections 21-1339, 21-2108, 44-319.01, 44-322, 44-386, 44-402.03, 44-821, 44-2102, 44-2103, 44-2202, 44-2213, 44-2909, 44-3106, and 44-4313, Reissue Revised Statutes of Nebraska, 1943, and sections 21-2109, 44-2827.01, and 44-32,137, Revised Statutes Supplement, 1990; to adopt the Insurers Investment Act; to change provisions relating to authorized investments; to harmonize provisions; to provide a duty for the Revisor of Statutes; and to repeal the original sections, and also sections 44-309 to 44-310.09, 44-311.01 to 44-316, 44-321, 44-397 to 44-399, and 44-824, Reissue Revised Statutes of Nebraska, 1943.

LEGISLATIVE BILL 238. Introduced by Warner, 25.

A BILL FOR AN ACT relating to fees; to amend sections 54-147, 71-1,237, 71-1,243, 71-1,257, 71-1,268, 71-1,283, 71-1,288, and 81-885.15, Reissue Revised Statutes of Nebraska, 1943, and section 45-621, Revised Statutes Supplement, 1990; to eliminate provisions requiring the deposit of a portion of certain fees in the General Fund and provisions relating to disbursement of funds; to harmonize

provisions; and to repeal the original sections, and also sections 33-150 to 33-152, Reissue Revised Statutes of Nebraska, 1943.

LEGISLATIVE BILL 239. Introduced by Warner, 25.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2703, Reissue Revised Statutes of Nebraska, 1943; to change a provision relating to the collection of sales tax by certain lessors as prescribed; to provide an operative date; and to repeal the original section.

LEGISLATIVE BILL 240. Introduced by Warner, 25.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-2788, 77-2792, and 77-2794, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to interest on certain taxes and provide the Tax Commissioner with power to waive certain penalties and abate certain interest as prescribed; to change provisions relating to the allowance of interest on overpayment of income tax; and to repeal the original sections.

LEGISLATIVE BILL 241. Introduced by Landis, 46; R. Johnson, 34; Rasmussen, 20; Cudaback, 36; Haberman, 44; Schrock, 39; Beutler, 28; Labedz, 5; Crosby, 29; Byars, 30; Kristensen, 37; Robak, 22; L. Johnson, 15; Hillman, 48; Nelson, 35; Lamb, 43; Elmer, 38; Wehrbein, 2; Pirsch, 10; Bernard-Stevens, 42; Rogers, 41; Coordsen, 32; Schellpeper, 18.

A BILL FOR AN ACT relating to capital construction; to amend sections 77-2602, 85-1,111, 85-1,112, 85-1,113, and 85-1,114, Reissue Revised Statutes of Nebraska, 1943; to change provisions for disbursement of the cigarette tax; to provide for capital construction projects by the Board of Regents of the University of Nebraska; to provide for disbursement of money in certain funds; to state intent; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 242. Introduced by Dierks, 40.

A BILL FOR AN ACT relating to public roads; to amend sections 39-703, 39-703.01, and 46-266, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to injuring or obstructing a public road and allowing irrigation water to be on a public road as prescribed; to change penalty provisions relating to irrigation systems; and to repeal the original sections.

LEGISLATIVE BILL 243. Introduced by Nelson, 35; Rogers, 41; Schrock, 39.

A BILL FOR AN ACT relating to motor carriers; to amend section 75-363, Reissue Revised Statutes of Nebraska, 1943; to change a provision relating to the adoption of federal safety regulations; and to repeal the original section.

LEGISLATIVE BILL 244. Introduced by Schellpeper, 18.

A BILL FOR AN ACT relating to health care facilities; to amend section 71-2017.01, Reissue Revised Statutes of Nebraska, 1943; to redefine terms; to change staffing requirements for skilled nursing facilities and intermediate care facilities; to authorize a waiver of the requirements; to eliminate waiver provisions; to harmonize provisions; to repeal the original section, and also section 71-2017.06, Reissue Revised Statutes of Nebraska, 1943; and to declare an emergency.

LEGISLATIVE BILL 245. Introduced by Withem, 14.

A BILL FOR AN ACT relating to schools and school districts; to create the Nebraska Schools Accountability Commission; to state intent; to provide for membership on the commission; to provide powers and duties; to provide a termination date; and to declare an emergency.

LEGISLATIVE BILL 246. Introduced by Lynch, 13; Robak, 22; Schimek, 27; Crosby, 29.

A BILL FOR AN ACT relating to income tax; to amend section 77-2716, Reissue Revised Statutes of Nebraska, 1943; to provide an adjustment to income for qualified federal governmental pension benefits; to provide an operative date; and to repeal the original section.

LEGISLATIVE BILL 247. Introduced by Ashford, 6.

A BILL FOR AN ACT relating to landmark heritage preservation districts; to amend section 14-2004, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to membership on a landmark heritage preservation commission as prescribed; and to repeal the original section.

LEGISLATIVE BILL 248. Introduced by Ashford, 6.

A BILL FOR AN ACT relating to aid to dependent children; to amend section 43-512.11, Reissue Revised Statutes of Nebraska, 1943, and section 43-512, Revised Statutes Supplement, 1990; to require the provision of certain services; to change a provision relating to transitional benefits; to require additional reporting; to require an appropriation; and to repeal the original sections.

LEGISLATIVE BILL 249. Introduced by Ashford, 6; Abboud, 12.

A BILL FOR AN ACT relating to juvenile courts; to amend section 43-2,119, Reissue Revised Statutes of Nebraska, 1943; to increase the number of separate juvenile court judges in certain counties; and to repeal the original section.

LEGISLATIVE BILL 250. Introduced by Ashford, 6.

A BILL FOR AN ACT relating to nonprofit corporations; to amend sections 21-1912 and 21-1921, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to board of director meetings; and to repeal the original sections.

LEGISLATIVE BILL 251. Introduced by Kristensen, 37; Warner, 25.

A BILL FOR AN ACT relating to judicial nominating commissions; to amend sections 24-802, 24-803, 24-806, 24-807, 24-809, and 24-810.01, Reissue Revised Statutes of Nebraska, 1943, and section 24-810, Revised Statutes Supplement, 1990; to change a residency requirement for commission members as prescribed; to change a provision relating to the nomination and election of certain commission members as prescribed; to provide for the election of alternate members of commissions as prescribed; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 252. Introduced by Moore, 24; Robak, 22; Peterson, 21; Morrissey, 1; L. Johnson, 15; Smith, 33; Conway, 17; Elmer, 38; Schellpeper, 18; Coordsen, 32.

A BILL FOR AN ACT relating to motorcycles; to amend sections 39-6,211 to 39-6,213, Reissue Revised Statutes of Nebraska, 1943; to change a provision relating to the wearing of protective helmets as

prescribed; to change provisions relating to approved protective helmets and conformance with federal standards; and to repeal the original sections.

LEGISLATIVE BILL 253. Introduced by Banking, Commerce and Insurance Committee: Landis, 46, Chairperson; Abboud, 12; Conway, 17; Lindsay, 9; Schmit, 23; Wesely, 26.

A BILL FOR AN ACT relating to the Nebraska Investment Finance Authority Act; to amend sections 58-204 to 58-206, 58-208 to 58-210, 58-211 to 58-213, 58-216 to 58-218, 58-220 to 58-223, 58-225, 58-226, 58-228 to 58-232, 58-234 to 58-239.01, 58-242 to 58-249, 58-252 to 58-257, 58-259 to 58-262, 58-264 to 58-266, and 58-268 to 58-270, Reissue Revised Statutes of Nebraska, 1943, and sections 58-201 to 58-203, 58-207, 58-207.01, 58-210.01, 58-214, 58-219, 58-223.01, 58-240, and 58-250, Revised Statutes Supplement, 1990; to define and redefine terms; to change provisions relating to loans and bond issues as prescribed; to add and eliminate duties for the executive director and the authority; to eliminate a provision relating to divisions of the authority; to provide for reports as prescribed; to change provisions relating to reserves; to change provisions relating to refunding bonds; to provide for notification of pending bond issues as prescribed; to harmonize provisions; and to repeal the original sections, and also section 58-233, Reissue Revised Statutes of Nebraska, 1943.

LEGISLATIVE BILL 254. Introduced by Haberman, 44.

A BILL FOR AN ACT relating to retirement; to require the Public Employees Retirement Board to provide an educational and planning program for certain state employees as prescribed.

LEGISLATIVE BILL 255. Introduced by Warner, 25.

A BILL FOR AN ACT relating to motor vehicle fuels; to amend section 66-476, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to the excise tax rate set by the State Board of Equalization and Assessment; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 256. Introduced by Schimek, 27; Schellpeper, 18; Labedz, 5; Crosby, 29; Rasmussen, 20; Robak, 22.

A BILL FOR AN ACT relating to public health; to define terms; to provide for a statewide program of mammography screening; to

provide powers and duties; to establish a committee; to provide for a fee and for waiver of the fee; to create a fund; to provide requirements for mammography equipment systems and mammography suppliers; to require record keeping as prescribed; and to provide for rules and regulations.

LEGISLATIVE BILL 257. Introduced by Elmer, 38.

A BILL FOR AN ACT relating to real property; to authorize actions to compensate for the reduction in value of real property caused by state and political subdivision regulations as prescribed; and to require a reduction in assessed valuation as prescribed.

LEGISLATIVE BILL 258. Introduced by Elmer, 38.

A BILL FOR AN ACT relating to motor vehicles; to amend sections 39-6,127, 39-6,130, 39-6,162 to 39-6,164, 60-2013, and 60-2803, Reissue Revised Statutes of Nebraska, 1943, and section 39-6,138, Revised Statutes Supplement, 1990; to change provisions relating to lights as prescribed; and to repeal the original sections.

LEGISLATIVE BILL 259. Introduced by Coordsen, 32.

A BILL FOR AN ACT relating to county government; to amend section 23-114.01, Reissue Revised Statutes of Nebraska, 1943; to provide compensation for members of county planning commissions; and to repeal the original section.

LEGISLATIVE BILL 260. Introduced by Lindsay, 9; Wickersham, 49.

A BILL FOR AN ACT relating to insurance; to amend section 44-1525, Revised Statutes Supplement, 1990; to change provisions relating to unfair methods of competition or unfair or deceptive acts or practices; to provide for a cause of action for any person injured by such actions as prescribed; to provide for damages; and to repeal the original section.

LEGISLATIVE BILL 261. Introduced by Schmit, 23.

A BILL FOR AN ACT relating to telecommunications; to amend sections 75-109, 75-604, and 75-609, Reissue Revised Statutes of Nebraska, 1943; to eliminate provisions deregulating telecommunications; to provide jurisdiction to the Public Service

Commission to regulate telecommunications as prescribed; to harmonize provisions; and to repeal the original sections, and also sections 86-801 to 86-811, Reissue Revised Statutes of Nebraska, 1943.

LEGISLATIVE BILL 262. Introduced by Kristensen, 37.

A BILL FOR AN ACT relating to civil procedure; to amend sections 25-21,185 and 39-619, Reissue Revised Statutes of Nebraska, 1943; to define terms; to provide for the reduction of damages in civil actions for contributory negligence as prescribed; to provide for several liability; to provide for discharge of liability; to provide for the admission of evidence as prescribed; to provide for the applicability of provisions; to provide an operative date; and to repeal the original sections.

ANNOUNCEMENT

Mr. Kristensen announced the Transportation Committee elected Mr. Beyer as Vice Chairperson.

UNANIMOUS CONSENT - Add Co-Introducers

Mr. Will asked unanimous consent to have his name added as co-introducer to LB 88. No objections. So ordered.

Mr. Baack asked unanimous consent to have his name added as co-introducer to LB 32. No objections. So ordered.

Mr. Peterson asked unanimous consent to have his name added as co-introducer to LB 130. No objections. So ordered.

Mr. Rogers asked unanimous consent to have his name added as co-introducer to LB 218. No objections. So ordered.

VISITOR

Visitor to the Chamber was Mark McGreer from Big Springs.

ADJOURNMENT

At 12:19 p.m., on a motion by Mr. Baack, the Legislature adjourned until 9:00 a.m., Tuesday, January 15, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

FIFTH DAY - JANUARY 15, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

FIFTH DAY

Legislative Chamber, Lincoln, Nebraska
Tuesday, January 15, 1991

Pursuant to adjournment, the Legislature met at 9:02 a.m., President Moul presiding.

PRAYER

The prayer was offered by Rev. Harland Johnson, Chaplain Coordinator.

ROLL CALL

The roll was called and all members were present except Mr. Withem who was excused; and Messrs. Abboud, Ashford, Baack, Beutler, Chambers, Hall, Hartnett, R. Johnson, Landis, Moore, Morrissey, Robinson, Schmit, Warner, Mmes. Labedz, and Rasmussen who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Fourth Day was approved.

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the attached report on the referral of legislative bills 94, 109, 138 through 204, and LR 1CA.

LB	Committee
94	Revenue
109	Government, Military and Veterans Affairs

138 Health and Human Services
139 General Affairs
140 Revenue
141 Government, Military and Veterans Affairs
142 Agriculture
143 Judiciary
144 Health and Human Services
145 Business and Labor
146 Government, Military and Veterans Affairs
147 Judiciary
148 Business and Labor
149 Education
150 Natural Resources
151 Transportation
152 Judiciary
153 Government, Military and Veterans Affairs
154 Judiciary
155 Judiciary
156 Judiciary
157 Government, Military and Veterans Affairs
158 Transportation
159 Banking, Commerce and Insurance
160 Banking, Commerce and Insurance
161 Banking, Commerce and Insurance
162 Banking, Commerce and Insurance
163 Judiciary
164 Natural Resources
165 Government, Military and Veterans Affairs
166 Education
167 Banking, Commerce and Insurance
168 Revenue
169 Health and Human Services
170 Transportation
171 Transportation
172 Banking, Commerce and Insurance
173 Education
174 Natural Resources
175 Transportation
176 Appropriations
177 Agriculture
178 Government, Military and Veterans Affairs
179 Education
180 Judiciary
181 Judiciary

182 Government, Military and Veterans Affairs
183 Natural Resources
184 Health and Human Services
185 Judiciary
186 Judiciary
187 Judiciary
188 Revenue
189 Government, Military and Veterans Affairs
190 Banking, Commerce and Insurance
191 Judiciary
192 Government, Military and Veterans Affairs
193 Revenue
194 Judiciary
195 Appropriations
196 Revenue
197 Transportation
198 Natural Resources
199 General Affairs
200 General Affairs
201 General Affairs
202 General Affairs
203 Banking, Commerce and Insurance
204 Banking, Commerce and Insurance

LR Committee
1CA Government, Military and Veterans Affairs

(Signed) Jerome Warner, Chairperson
Legislative Council
Executive Board

REPORT

Received report from State Claims Board of officers and employees who are bonded and the amount of each pursuant to Section 11-203.

ANNOUNCEMENTS

Mr. R. Johnson announced the Natural Resources Committee elected Mr. Morrissey as Vice Chairperson.

Mr. Conway announced the Government, Military and Veterans Affairs Committee elected Ms. Schimek as Vice Chairperson.

MOTION - Withdraw LB 215

Mr. Haberman renewed his pending motion found in the Journal on page 183 to withdraw LB 215.

The motion prevailed with 27 ayes, 0 nays, 5 present and not voting, and 17 excused and not voting.

REFERENCE COMMITTEE REPORT

The Reference Committee reports that the matter of the election contest in the 30th legislative district has been referred to the Executive Board, pursuant to the report of the Credentials Committee adopted on January 9, 1991, and found on page 6 of the Legislative Journal; furthermore, that the committee have full power to issue subpoenas, compel attendance of and testimony from witnesses, as well as books, documents, papers, materials, or other information needed to produce a report which shall be presented to the Legislature as required by law.

(Signed) Jerome Warner, Chairperson
Legislative Council
Executive Board

The motion to adopt the report prevailed with 30 ayes, 0 nays, 8 present and not voting, and 11 excused and not voting.

BILLS ON FIRST READING

The following bills were read for the first time by title:

LEGISLATIVE BILL 263. Introduced by Robak, 22.

A BILL FOR AN ACT relating to sentence and punishment; to amend section 47-502, Reissue Revised Statutes of Nebraska, 1943; to authorize the imposition of intermittent sentences; to provide for sentence reduction for intermittent sentences; and to repeal the original section.

LEGISLATIVE BILL 264. Introduced by Schrock, 39; Elmer, 38; Beutler, 28; R. Johnson, 34; Smith, 33.

A BILL FOR AN ACT relating to natural resources districts; to amend section 2-3218, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to per diem payments for district board members; and to repeal the original section.

LEGISLATIVE BILL 265. Introduced by Smith, 33.

A BILL FOR AN ACT relating to the Department on Aging; to amend sections 71-2023, 71-5906, 71-6019, 71-6021, 71-6035, and 71-6054, Reissue Revised Statutes of Nebraska, 1943; to authorize the establishment of and to provide powers and duties for a state long-term care ombudsman, an office of the state long-term care ombudsman, and regional long-term care ombudsman programs; to define terms; to authorize access to certain facilities and records; to change provisions relating to grounds for certain disciplinary actions; to change provisions relating to the powers and duties of the Department on Aging and area agencies on aging as prescribed; to provide immunity as prescribed; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 266. Introduced by Haberman, 44.

A BILL FOR AN ACT relating to the Nebraska Criminal Code; to amend sections 28-514 and 28-518, Reissue Revised Statutes of Nebraska, 1943; to change penalties relating to theft offenses; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 267. Introduced by Haberman, 44.

A BILL FOR AN ACT relating to the Nebraska Criminal Code; to amend section 28-1201, Reissue Revised Statutes of Nebraska, 1943, and section 28-101, Revised Statutes Supplement, 1990; to provide a penalty for selling, leasing, transferring, giving, or delivering a firearm to felons as prescribed; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 268. Introduced by Haberman, 44.

A BILL FOR AN ACT relating to the Nebraska Criminal Code; to amend sections 28-1201, 28-1205, 83-1,107, and 83-1,107.01, Reissue Revised Statutes of Nebraska, 1943, and section 28-101, Revised Statutes Supplement, 1990; to change provisions relating to use of a firearm to commit a felony; to create the offense of use of deadly weapons to commit a felony; to change and provide penalties; to

change provisions relating to good time; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 269. Introduced by Haberman, 44.

A BILL FOR AN ACT relating to installment sales; to amend section 45-338, Reissue Revised Statutes of Nebraska, 1943, and section 45-335, Revised Statutes Supplement, 1990; to redefine a term; to permit a nonrefundable origination fee; and to repeal the original sections.

LEGISLATIVE BILL 270. Introduced by Elmer, 38.

A BILL FOR AN ACT relating to plastic containers; to adopt the Plastic Container Coding Act; and to provide severability.

LEGISLATIVE BILL 271. Introduced by Coordsen, 32.

A BILL FOR AN ACT relating to motor vehicles; to amend sections 60-312, 60-528, 60-533, and 60-569, Reissue Revised Statutes of Nebraska, 1943, and section 60-302, Revised Statutes Supplement, 1990; to change provisions relating to registration of motor vehicles; to require proof of financial responsibility as required; to provide and eliminate penalties; to eliminate provisions relating to proof of financial responsibility; to harmonize provisions; to provide an operative date; and to repeal the original sections, and also section 60-570, Reissue Revised Statutes of Nebraska, 1943.

LEGISLATIVE BILL 272. Introduced by Coordsen, 32.

A BILL FOR AN ACT relating to the Research and Development Authority Act; to amend sections 58-405, 58-407, 58-409, and 58-437, Reissue Revised Statutes of Nebraska, 1943, and sections 58-401 and 58-413, Revised Statutes Supplement, 1990; to change provisions relating to membership on the board and meetings of and votes taken by the board; to require the filing of statements of financial interest as prescribed; to change provisions relating to powers of the authority and performance reviews as prescribed; to restrict activities of board members and employees as prescribed; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 273. Introduced by Peterson, 21.

A BILL FOR AN ACT relating to carbonated soft drinks; to amend section 77-381, Reissue Revised Statutes of Nebraska, 1943; to impose a tax on the privilege of engaging in business as a manufacturer or distributor at wholesale; to provide procedures for reporting and paying the tax; to provide a penalty; to provide an operative date; and to repeal the original section.

EASE

The Legislature was at ease from 9:27 a.m. until 10:17 a.m.

SPEAKER BAACK PRESIDING

NOTICE OF COMMITTEE HEARINGS
Banking, Commerce and Insurance

LB 48	Tuesday, January 22, 1991	1:30 p.m.
LB 75	Tuesday, January 22, 1991	1:30 p.m.
LB 77	Tuesday, January 22, 1991	1:30 p.m.
LB 97	Tuesday, January 22, 1991	1:30 p.m.
LB 98	Tuesday, January 22, 1991	1:30 p.m.

(Signed) David Landis, Chairperson

Urban Affairs

LB 76	Tuesday, January 22, 1991	1:30 p.m.
LB 62	Tuesday, January 22, 1991	1:30 p.m.

(Signed) D. Paul Hartnett, Chairperson

Education

LB 24	Tuesday, January 22, 1991	1:30 p.m.
LB 43	Tuesday, January 22, 1991	1:30 p.m.
LB 107	Tuesday, January 22, 1991	1:30 p.m.

(Signed) Ron Withem, Chairperson

ANNOUNCEMENTS

Mr. Landis announced the Banking, Commerce and Insurance Committee elected Mr. Schmit as Vice Chairperson.

Mr. Moore announced the Appropriations Committee elected Mr. L. Johnson as Vice Chairperson.

RESOLUTIONS

LEGISLATIVE RESOLUTION 2. Introduced by Landis, 46.

WHEREAS, the Legislature of Nebraska in its 1976 session passed a resolution requesting a federal Constitutional Convention limited to the adoption of a balanced budget amendment; and

WHEREAS, legal opinions suggest that there is no limitation on changes that may be made to the constitution when a Constitutional Convention is convened and that any changes the delegates desire may be adopted; and

WHEREAS, there has only been one Constitutional Convention in our country's history, and the constitution then in effect was discarded and our present constitution written although the purpose of the convention was to amend the constitution not to eliminate it; and

WHEREAS, the restriction placed on the Constitutional Convention can be ignored.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature hereby withdraws its request for a Constitutional Convention.

2. That the State of Nebraska hereby requests that its name be removed from the present document calling for a Constitutional Convention.

3. That the Clerk of the Legislature transmit a copy of this resolution to the President of the Senate of the United States, the Speaker of the House of Representatives of the United States, each member of the Nebraska Congressional delegation, the Secretaries of State and the Legislatures of each of the several states, and the Secretary of State for the State of Nebraska.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 3. Introduced by Hefner, 19.

WHEREAS, during the 1990 Federal Decennial Census college students were counted as residents of the communities in which they attended college; and

WHEREAS, prior to 1950, college students were counted as residents of the communities in which their parents were residents or could declare their residence; and

WHEREAS, most college students consider their stay at college temporary; and

WHEREAS, college students register to vote in the voting districts in which their parents reside and are also considered, for federal income tax purposes, as residents of the communities in which their parents reside; and

WHEREAS, the original purpose of the Federal Decennial Census was to apportion Representatives in the United States House of Representatives; and

WHEREAS, the Federal Decennial Census results are used to redistrict elected officials in the federal, state, and local governments and to determine the allocation of services and funds to state and local governments; and

WHEREAS, counting college students as residents of the communities in which they attend college skews the results in a fashion which harms communities without colleges; and

WHEREAS, Congress has delegated the responsibility of determining the policy on how college students are to be counted to the Bureau of the Census.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature states that the policy of counting college students as residents of the communities where they attend college should be changed by the Bureau of the Census to instead count them as residents of the communities in which their parents reside or allow them to declare their residence, and in absence of such action by the Bureau of the Census, it should be changed by Congress.

2. That this policy change should be made before the 2000 Federal Decennial Census.

3. That copies of this resolution be sent to the Nebraska congressional delegation, the Secretary of Commerce, and the Director of the Bureau of the Census.

Laid over.

LEGISLATIVE RESOLUTION 4CA. Introduced by Hefner, 19; Warner, 25; L. Johnson, 15.

A Resolution to propose an amendment to the Constitution of Nebraska by adding a new section 19 to Article XV.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

Section 1. That at the general election in November 1992 there shall be submitted to the electors of the State of Nebraska for approval the following amendment to the Constitution of Nebraska by adding a new section 19 to Article XV, which is hereby proposed by the Legislature:

CXV-19 "No money derived from sales or use taxes imposed by the state on motor vehicles, trailers, or semitrailers or from fees, excises, or license fees imposed by the state relating to the registration, ownership, operation, or use of vehicles on the public highways, roads, or streets or to fuels used for the propulsion of such vehicles shall be expended for any purpose other than the cost of administering laws under which such money is derived, statutory refunds and adjustments provided therein, the payment of highway obligations, including highway construction bonds authorized by Article XIII, section 1, of this Constitution, and the cost of construction, reconstruction, maintenance, and repair of public highways and bridges and county, city, township, and village roads, streets, bridges, public transportation services, and offstreet public parking. This section shall not apply to money derived from motor vehicle operator's license fees.".

Sec. 2. That the proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1. The proposition for the submission of the proposed amendment shall be placed upon the ballot in the following form:

"A constitutional amendment to provide that the net proceeds from highway use taxes, including motor vehicle license fees, motor vehicle fuel taxes, and motor vehicle sales or use taxes imposed by the state shall be used only for the purpose of construction, reconstruction, repair, and maintenance of highways, streets, roads, and bridges and the payment of highway obligations, including highway construction bonds.

For

Against".

Sec. 3. That the proposed amendment, if adopted, shall be in force and take effect immediately upon the completion of the canvass of the votes, at which time it shall be the duty of the Governor to proclaim it as a part of the Constitution of Nebraska.

Referred to the Reference Committee.

BILLS ON FIRST READING

The following bills were read for the first time by title:

LEGISLATIVE BILL 274. Introduced by Wehrbein, 2.

A BILL FOR AN ACT relating to agriculture; to create the Climate Assessment Response Committee; and to provide duties.

LEGISLATIVE BILL 275. Introduced by Wehrbein, 2; Rogers, 41.

A BILL FOR AN ACT relating to milk; to adopt the Dairy Industry Development Act; and to provide operative dates.

LEGISLATIVE BILL 276. Introduced by Schmit, 23.

A BILL FOR AN ACT relating to interstate ditches; to amend section 46-213, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to duties of the Department of Water Resources; and to repeal the original section.

LEGISLATIVE BILL 277. Introduced by Schmit, 23.

A BILL FOR AN ACT relating to water; to amend section 46-242, Reissue Revised Statutes of Nebraska, 1943; to authorize permits to appropriate certain water for instream uses; and to repeal the original section.

LEGISLATIVE BILL 278. Introduced by Schmit, 23.

A BILL FOR AN ACT relating to irrigation; to amend sections 46-238, 46-2,114, 46-640, and 46-658, Reissue Revised Statutes of Nebraska, 1943; to provide for payment of certain publication costs as prescribed; and to repeal the original sections.

LEGISLATIVE BILL 279. Introduced by Lynch, 13; Withem, 14; Conway, 17.

A BILL FOR AN ACT relating to schools; to amend section 79-445, Reissue Revised Statutes of Nebraska, 1943; to change a provision relating to the payment of nonresident tuition for certain students in special education programs as prescribed; and to repeal the original section.

LEGISLATIVE BILL 280. Introduced by Lynch, 13.

A BILL FOR AN ACT relating to elections; to amend section 49-1401, Revised Statutes Supplement, 1990; to state findings; to limit expenditures by candidates as prescribed; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 281. Introduced by Lynch, 13.

A BILL FOR AN ACT relating to liability; to provide immunity from civil liability for retired physicians as prescribed.

LEGISLATIVE BILL 282. Introduced by Dierks, 40; Nelson, 35.

A BILL FOR AN ACT relating to dogs; to provide for the licensing of commercial operators; to provide fees and a penalty; and to provide for an inspection program.

LEGISLATIVE BILL 283. Introduced by Dierks, 40; Schellpeper, 18; Lindsay, 9; Horgan, 4; Byars, 30.

A BILL FOR AN ACT relating to public health and welfare; to amend sections 71-5201, 71-5203, 71-5206, and 71-5647, Reissue Revised Statutes of Nebraska, 1943; to provide funding for certain family practice residency programs as prescribed; to provide duties for the Office of Rural Health and the Legislature; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 284. Introduced by Landis, 46.

A BILL FOR AN ACT relating to community development; to amend sections 13-204 and 13-205, Reissue Revised Statutes of Nebraska, 1943, and section 13-203, Revised Statutes Supplement, 1990; to redefine terms; to change provisions relating to applying for tax credit status and department approval of programs; and to repeal the original sections.

LEGISLATIVE BILL 285. Introduced by Landis, 46.

A BILL FOR AN ACT relating to insurance; to amend section 44-320, Reissue Revised Statutes of Nebraska, 1943; to provide exceptions to the prohibition on sales to and borrowing from domestic insurance companies by directors and officers of the

companies; to provide remedies for violations; and to repeal the original section.

LEGISLATIVE BILL 286. Introduced by Landis, 46; Moore, 24.

A BILL FOR AN ACT relating to telecommunications; to amend sections 86-803 and 86-804, Reissue Revised Statutes of Nebraska, 1943; to change complaint procedures as prescribed; to eliminate termination dates; to require a plan for disposition of revenue resulting from tax law changes; to change the date a report is due; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 287. Introduced by Lindsay, 9; Byars, 30; Rasmussen, 20; Lynch, 13; Rogers, 41.

A BILL FOR AN ACT relating to health care; to amend sections 71-1,132.06 and 83-1,143.04, Reissue Revised Statutes of Nebraska, 1943; to authorize home care of the sick and developmentally disabled by certain persons; to provide for training for special care personnel; to require approval of core curricula; to define terms; to eliminate a provision relating to procedures authorized to be performed by special care providers; to provide operative dates; to provide severability; to repeal the original sections, and also section 71-6502, Revised Statutes Supplement, 1990; and to declare an emergency.

LEGISLATIVE BILL 288. Introduced by Lindsay, 9.

A BILL FOR AN ACT relating to public meetings; to amend sections 84-1410 and 84-1414, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to permissible reasons for a public body to conduct a closed session; to define a term; to change a provision relating to certain prohibited acts as prescribed; to provide and change penalties; and to repeal the original sections.

LEGISLATIVE BILL 289. Introduced by Crosby, 29; Byars, 30; Chambers, 11; Rasmussen, 20.

A BILL FOR AN ACT relating to public health and welfare; to amend section 71-1912, Reissue Revised Statutes of Nebraska, 1943; to provide for the adoption of standards which prohibit the use of corporal punishment by provider's of early childhood programs; and to repeal the original section.

LEGISLATIVE BILL 290. Introduced by Crosby, 29.

A BILL FOR AN ACT relating to government documents; to state intent; to require the use of alkaline paper as prescribed; and to provide for a study and report.

LEGISLATIVE BILL 291. Introduced by Beyer, 3; Rogers, 41; Crosby, 29; Hefner, 19; L. Johnson, 15; Lamb, 43; Byars, 30; Warner, 25; Pirsch, 10; Wehrbein, 2; Peterson, 21; Schellpeper, 18.

A BILL FOR AN ACT relating to motor vehicle operator's licenses; to amend sections 39-669.15 to 39-669.17, Reissue Revised Statutes of Nebraska, 1943, and sections 39-669.07, 39-669.08, and 60-498, Revised Statutes Supplement, 1990; to state intent; to provide for the administrative revocation of licenses for drug and alcohol violations as prescribed; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 292. Introduced by Landis, 46.

A BILL FOR AN ACT relating to credit services; to adopt the Credit Services Organization Act.

LEGISLATIVE BILL 293. Introduced by Schimek, 27; Beutler, 28; Hall, 7.

A BILL FOR AN ACT relating to education; to establish the Legal Services Loan Assistance Repayment Program; to state intent; to define terms; to provide powers and duties for the Nebraska Coordinating Commission for Postsecondary Education; to provide for funding; and to require a report.

LEGISLATIVE BILL 294. Introduced by Hefner, 19.

A BILL FOR AN ACT relating to motor vehicles; to amend sections 60-462 and 60-479, Revised Statutes Supplement, 1990; to require proof of education to obtain an operator's license; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 295. Introduced by Hefner, 19; Chizek, 31.

A BILL FOR AN ACT relating to athletics; to adopt the Athlete Agents Registration Act; and to provide severability.

LEGISLATIVE BILL 296. Introduced by Beyer, 3; Hartnett, 45.

A BILL FOR AN ACT relating to motor vehicles; to amend section 60-326.01, Reissue Revised Statutes of Nebraska, 1943; to change a provision relating to fees collected by the county treasurer for registration of certain motor vehicles; and to repeal the original section.

LEGISLATIVE BILL 297. Introduced by Hall, 7; Chambers, 11; Morrissey, 1.

A BILL FOR AN ACT relating to the Wage and Hour Act; to amend sections 48-1202 and 48-1209, Reissue Revised Statutes of Nebraska, 1943, and section 48-1203, Revised Statutes Supplement, 1990; to change the minimum wage rates as prescribed; to provide a training wage rate; to harmonize provisions; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 298. Introduced by Hall, 7.

A BILL FOR AN ACT relating to workers' compensation; to amend section 48-122, Reissue Revised Statutes of Nebraska, 1943; to provide for a death benefit as prescribed; and to repeal the original section.

LEGISLATIVE BILL 299. Introduced by Hall, 7.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 10-612, 13-1108, 14-1821, 15-318, 15-319, 15-808, 16-702, 21-17,126, 23-320.07, 23-343, 23-343.01, 23-343.15, 31-411.02, 31-447, 35-504, 35-505, 35-506, 35-507, 35-514, 35-531, 35-535, 39-1518, 44-2414, 46-541, 46-542, 46-543, 46-544, 77-103, 77-202 to 77-202.06, 77-202.24, 77-202.25, 77-381, 77-398, 77-399, 77-3,100, 77-415, 77-505, 77-506, 77-507.01, 77-508, 77-509, 77-510, 77-602, 77-604, 77-802, 77-908, 77-1202, 77-1209, 77-1209.03, 77-1238, 77-1239, 77-1239.02, 77-1240, 77-1240.01, 77-1242.02, 77-1247, 77-1250, 77-1250.03, 77-1250.04, 77-1301, 77-1318, 77-1342, 77-1503.01, 77-1504, 77-1506.01, 77-1506.02, 77-1507, 77-1613, 77-1613.02, 77-1616, 77-27,139, 77-3437, 77-4105, and 79-481, Reissue Revised Statutes of Nebraska, 1943; to exempt personal property other than certain vehicles from taxation; to eliminate provisions relating to taxation of personal property other than vehicles, to the applicability of prior legislation, to certain exemptions from taxation, to the treatment of improvements, and to the distribution of a former tax

on intangible property; to harmonize provisions; to provide duties for the Tax Commissioner and the Revisor of Statutes; to provide operative dates; and to repeal the original sections, and also sections 15-320, 77-103.01, 77-202.46, 77-202.47, 77-205, 77-206, 77-1201, 77-1202.01, 77-1209.04, 77-1209.05, 77-1210, 77-1211, 77-1212, 77-1214, 77-1215, 77-1216, 77-1229, 77-1229.01, 77-1233, 77-1233.02, 77-1233.03, 77-1241.01, 77-1244, 77-1245, 77-1246, 77-1248, 77-1249, 77-1249.01, and 77-27,140, Reissue Revised Statutes of Nebraska, 1943.

LEGISLATIVE BILL 300. Introduced by Hall, 7; Hefner, 19; Peterson, 21; Haberman, 44.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-2702, 77-2704, and 77-2716.01, Reissue Revised Statutes of Nebraska, 1943; to exempt certain rebates by motor vehicle manufacturers and dealers from taxation; to correct subdivision numbering and lettering; to change provisions relating to personal income tax exemptions as prescribed; to provide an operative date; and to repeal the original sections.

LEGISLATIVE BILL 301. Introduced by Hall, 7.

A BILL FOR AN ACT relating to privately owned utilities; to adopt the Appliance Free Trade Act.

UNANIMOUS CONSENT - Add Co-Introducers

Ms. Schimek asked unanimous consent to have her name added as co-introducer to LB 148. No objections. So ordered.

Mr. Coordsen asked unanimous consent to have his name added as co-introducer to LB 191. No objections. So ordered.

Mr. Hefner asked unanimous consent to have his name added as co-introducer to LB 255. No objections. So ordered.

Messrs. Cudaback, Haberman, and R. Johnson asked unanimous consent to have their names added as co-introducers to LB 91. No objections. So ordered.

VISITORS

Visitors to the Chamber were Joyce Lindner from Broken Bow and Mary Lee, Eric, and Colin Olson from Lincoln; 13 members of Knox County Doer Program; and Keith Neimann from Sarpy County.

ADJOURNMENT

At 10:25 a.m., on a motion by Mr. Beyer, the Legislature adjourned until 9:00 a.m., Wednesday, January 16, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

SIXTH DAY - JANUARY 16, 1991

LEGISLATIVE JOURNAL

SIXTH DAY - JANUARY 16, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

SIXTH DAY

Legislative Chamber, Lincoln, Nebraska
Wednesday, January 16, 1991

Pursuant to adjournment, the Legislature met at 9:02 a.m., President Moul presiding.

PRAYER

The prayer was offered by Rev. Harland Johnson, Chaplain Coordinator.

ROLL CALL

The roll was called and all members were present except Messrs. Abboud, Ashford, Bernard-Stevens, Chambers, Chizek, Hall, R. Johnson, Kristensen, Landis, Lindsay, Moore, Schmit, Wesely, Will, Mrs. Pirsch, and Ms. Schimek who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Fifth Day was approved.

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the attached report on the referral of legislative bills 205 through 214, and 216 through 262.

LB	Committee
205	Banking, Commerce and Insurance
206	Appropriations

207	Education
208	Revenue
209	Education
210	Education
211	Judiciary
212	Natural Resources
213	Judiciary
214	Education
216	Judiciary
217	Judiciary
218	Agriculture
219	Government, Military and Veterans Affairs
220	Government, Military and Veterans Affairs
221	Banking, Commerce and Insurance
222	Judiciary
223	Education
224	Banking, Commerce and Insurance
225	Education
226	Banking, Commerce and Insurance
227	Health and Human Services
228	Government, Military and Veterans Affairs
229	Business and Labor
230	Business and Labor
231	Judiciary
232	Government, Military and Veterans Affairs
233	Banking, Commerce and Insurance
234	Banking, Commerce and Insurance
235	Banking, Commerce and Insurance
236	Banking, Commerce and Insurance
237	Banking, Commerce and Insurance
238	Appropriations
239	Revenue
240	Revenue
241	Appropriations
242	Judiciary
243	Transportation
244	Health and Human Services
245	Education
246	Revenue
247	Urban Affairs
248	Appropriations
249	Judiciary
250	Banking, Commerce and Insurance
251	Judiciary

252 Transportation
253 Banking, Commerce and Insurance
254 Nebraska Retirement Systems
255 Revenue
256 Health and Human Services
257 Judiciary
258 Transportation
259 Government, Military and Veterans Affairs
260 Banking, Commerce and Insurance
261 Transportation
262 Judiciary

(Signed) Jerome Warner, Chairperson
Legislative Council
Executive Board

RESOLUTIONS

LEGISLATIVE RESOLUTION 5. Introduced by Haberman, 44.

WHEREAS, the Nebraska National Trails Museum Foundation has proposed the establishment of the Nebraska National Trails Museum along Interstate Highway I-80, in rural Keith County, Nebraska, between Brule and Big Springs, Nebraska; and

WHEREAS, this location along the National Trails System is in proximity to other historical sites with national implications such as the California crossing of the Oregon and Mormon Trails, the Beauvais Ranch and Military Post, the Diamond Springs Pony Express and Stage Station, and the End of the Texas Trail; and

WHEREAS, this project represents an important contribution that Nebraskans can make to the nation to honor the pioneers and immigrants of many nationalities who forged westward, as well as the original Americans, the native American Indians, and has the potential of educating and informing thousands of interstate travelers, as well as school children, of this very important part of our national heritage; and

WHEREAS, Nebraska is uniquely situated and equipped to be the site of a museum for the national trails; and

WHEREAS, the Congress of the United States of America should be encouraged to amend the National Trails System Act to specifically provide for the recognition of the Nebraska National Trails Museum and to enact enabling legislation as may appear to be necessary or desirable to help bring this great historical preservation project into reality.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature approves the establishment of the Nebraska National Trails Museum.

2. That the Legislature encourages the Nebraska State Historical Society, the Department of Economic Development, and the Department of Roads to assist in the establishment of the museum.

3. That the Clerk of the Legislature send a copy of this resolution to each member of Nebraska's Congressional delegation and the Nebraska National Trails Museum Foundation.

Laid over.

LEGISLATIVE RESOLUTION 3. Read. Considered.

Mr. Wesely moved to refer LR 3 to the Government, Military and Veterans Affairs Committee.

Mr. Withem asked unanimous consent to be excused until he returns. No objections. So ordered.

The Wesely motion to refer LR 3 prevailed with 30 ayes, 0 nays, 13 present and not voting, and 6 excused and not voting.

GENERAL FILE

LEGISLATIVE BILL 1. Title read. Considered.

Advanced to E & R for review with 29 ayes, 0 nays, 14 present and not voting, and 6 excused and not voting.

LEGISLATIVE BILL 2. Title read. Considered.

Advanced to E & R for review with 32 ayes, 0 nays, 11 present and not voting, and 6 excused and not voting.

LEGISLATIVE BILL 3. Title read. Considered.

Advanced to E & R for review with 31 ayes, 0 nays, 12 present and not voting, and 6 excused and not voting.

LEGISLATIVE BILL 4. Title read. Considered.

Advanced to E & R for review with 28 ayes, 0 nays, 15 present and not voting, and 6 excused and not voting.

LEGISLATIVE BILL 5. Title read. Considered.

Advanced to E & R for review with 31 ayes, 0 nays, 12 present and not voting, and 6 excused and not voting.

LEGISLATIVE BILL 6. Title read. Considered.

Advanced to E & R for review with 30 ayes, 0 nays, 13 present and not voting, and 6 excused and not voting.

LEGISLATIVE BILL 7. Title read. Considered.

Advanced to E & R for review with 27 ayes, 0 nays, 16 present and not voting, and 6 excused and not voting.

LEGISLATIVE BILL 8. Title read. Considered.

Advanced to E & R for review with 27 ayes, 0 nays, 17 present and not voting, and 5 excused and not voting.

LEGISLATIVE BILL 9. Title read. Considered.

Advanced to E & R for review with 27 ayes, 0 nays, 17 present and not voting, and 5 excused and not voting.

LEGISLATIVE BILL 10. Title read. Considered.

Advanced to E & R for review with 28 ayes, 0 nays, 17 present and not voting, and 4 excused and not voting.

LEGISLATIVE BILL 11. Title read. Considered.

Advanced to E & R for review with 27 ayes, 0 nays, 18 present and not voting, and 4 excused and not voting.

LEGISLATIVE BILL 12. Title read. Considered.

Advanced to E & R for review with 30 ayes, 0 nays, 15 present and not voting, and 4 excused and not voting.

LEGISLATIVE BILL 13. Title read. Considered.

Advanced to E & R for review with 30 ayes, 0 nays, 15 present and not voting, and 4 excused and not voting.

LEGISLATIVE BILL 14. Title read. Considered.

Advanced to E & R for review with 26 ayes, 0 nays, 20 present and not voting, and 3 excused and not voting.

LEGISLATIVE BILL 15. Title read. Considered.

Advanced to E & R for review with 30 ayes, 0 nays, 17 present and not voting, and 2 excused and not voting.

NOTICE OF COMMITTEE HEARINGS
Government, Military and Veterans Affairs

LB 17	Wednesday, January 23, 1991	1:30 p.m.
LB 20	Wednesday, January 23, 1991	1:30 p.m.
LB 32	Wednesday, January 23, 1991	1:30 p.m.
LB 157	Wednesday, January 23, 1991	1:30 p.m.
LB 53	Wednesday, January 23, 1991	1:30 p.m.
LB 220	Thursday, January 24, 1991	1:30 p.m.
LB 228	Thursday, January 24, 1991	1:30 p.m.
LB 22	Thursday, January 24, 1991	1:30 p.m.
LB 25	Thursday, January 24, 1991	1:30 p.m.
LB 81	Thursday, January 24, 1991	1:30 p.m.

(Signed) Gerald Conway, Chairperson

Judiciary

LB 37	Wednesday, January 23, 1991	1:30 p.m.
LB 95	Wednesday, January 23, 1991	1:30 p.m.
LB 125	Wednesday, January 23, 1991	1:30 p.m.
LB 135	Wednesday, January 23, 1991	1:30 p.m.

(Signed) Jerry Chizek, Chairperson

Revenue

LB 59	Wednesday, January 23, 1991	1:30 p.m.
LB 63	Wednesday, January 23, 1991	1:30 p.m.

LB 65	Wednesday, January 23, 1991	1:30 p.m.
LB 94	Wednesday, January 23, 1991	1:30 p.m.
LB 85	Wednesday, January 23, 1991	1:30 p.m.
LB 83	Thursday, January 24, 1991	1:30 p.m.
LB 240	Thursday, January 24, 1991	1:30 p.m.
LB 255	Thursday, January 24, 1991	1:30 p.m.

(Signed) Tim Hall, Chairperson

BILLS ON FIRST READING

The following bills were read for the first time by title:

LEGISLATIVE BILL 302. Introduced by Hall, 7; Lindsay, 9; Ashford, 6; Pirsch, 10; Conway, 17; Abboud, 12.

A BILL FOR AN ACT relating to storage; to adopt the Self-Service Storage Act.

LEGISLATIVE BILL 303. Introduced by Warner, 25.

A BILL FOR AN ACT relating to condemnation; to amend section 76-723, Reissue Revised Statutes of Nebraska, 1943; to change a provision relating to appraisers' fees; and to repeal the original section.

LEGISLATIVE BILL 304. Introduced by Schellpeper, 18.

A BILL FOR AN ACT relating to motor vehicles; to amend section 60-311.14, Reissue Revised Statutes of Nebraska, 1943; to provide for the issuance of license plates to certain persons; and to repeal the original section.

LEGISLATIVE BILL 305. Introduced by Landis, 46.

A BILL FOR AN ACT relating to the Securities Act of Nebraska; to amend sections 8-417, 8-1101, 8-1103, 8-1108, and 8-1111, Revised Statutes Supplement, 1990; to change provisions relating to fees; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 306. Introduced by Beutler, 28; Lindsay, 9.

A BILL FOR AN ACT relating to water; to amend sections 46-202, 46-288, 46-2,107 to 46-2,110, and 46-2,115, Reissue Revised Statutes of Nebraska, 1943; to state intent regarding surface water, ground water, and their interrelationship; to declare certain ground water to be subject to appropriation; to redefine terms; to authorize instream appropriations for public water supply; to change factors for approval of applications for instream appropriations; to provide for priority dates; to eliminate provisions on review and modification of instream appropriations; to harmonize provisions; and to repeal the original sections, and also section 46-2,117, Reissue Revised Statutes of Nebraska, 1943.

LEGISLATIVE BILL 307. Introduced by Will, 8.

A BILL FOR AN ACT relating to utility service; to amend sections 14-1015, 14-1030, and 14-1103.02, Reissue Revised Statutes of Nebraska, 1943; to change the powers of metropolitan water districts and utilities districts as prescribed; to authorize certain natural gas users to negotiate and contract directly with utilities for service; to eliminate a provision authorizing the granting of a franchise; to eliminate a provision relating to regulation of water service; to harmonize provisions; and to repeal the original sections, and also sections 14-1009 and 14-1011, Reissue Revised Statutes of Nebraska, 1943.

LEGISLATIVE BILL 308. Introduced by Lynch, 13; Rasmussen, 20; Crosby, 29.

A BILL FOR AN ACT relating to public health and welfare; to define terms; to create a registry of persons with brain or head injury; to provide duties for the Department of Health, other state agencies, health care facilities, and medical personnel; to provide for rules and regulations; to provide for immunity as prescribed; and to provide a termination date.

LEGISLATIVE BILL 309. Introduced by Lynch, 13; Wesely, 26.

A BILL FOR AN ACT relating to commercial infectious waste incinerators; to amend section 81-1532, Reissue Revised Statutes of Nebraska, 1943; to prohibit the granting of a permit as prescribed; and to repeal the original section.

LEGISLATIVE BILL 310. Introduced by Schimek, 27.

A BILL FOR AN ACT relating to natural gas pipeline safety; to amend section 81-546, Reissue Revised Statutes of Nebraska, 1943; to increase the maximum civil penalty for certain violations; and to repeal the original section.

LEGISLATIVE BILL 311. Introduced by Lindsay, 9.

A BILL FOR AN ACT relating to the Nebraska Wage Payment and Collection Act; to amend section 48-1231, Reissue Revised Statutes of Nebraska, 1943, and section 48-1229; Revised Statutes Supplement, 1990; to define a term; to change a provision relating to the recovery of attorney's fees as prescribed; and to repeal the original sections.

LEGISLATIVE BILL 312. Introduced by Schmit, 23.

A BILL FOR AN ACT relating to animals; to adopt the Farm Animal and Research Facilities Protection Act.

LEGISLATIVE BILL 313. Introduced by Conway, 17; Baack, 47.

A BILL FOR AN ACT relating to military memorials; to amend section 55-101, Reissue Revised Statutes of Nebraska, 1943; to require the furnishing of certain flags for military burials as prescribed; to require display of certain memorial flags as prescribed; and to repeal the original section.

LEGISLATIVE BILL 314. Introduced by Hartnett, 45; Will, 8.

A BILL FOR AN ACT relating to bicycles; to amend sections 39-669.26, 39-690, and 39-691, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to bicycles on roadways; to exempt bicycle violations from the point system; to change provisions relating to brakes as prescribed; and to repeal the original sections.

LEGISLATIVE BILL 315. Introduced by Hartnett, 45.

A BILL FOR AN ACT relating to criminal procedure; to amend section 29-1917, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to the taking of certain depositions as prescribed; and to repeal the original section.

LEGISLATIVE BILL 316. Introduced by Hartnett, 45.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-1242.01, Reissue Revised Statutes of Nebraska, 1943; to change an exemption for motor vehicles of members of the armed forces of the United States; and to repeal the original section.

LEGISLATIVE BILL 317. Introduced by Conway, 17; Hefner, 19.

A BILL FOR AN ACT relating to the Department of Roads; to state findings; to require a feasibility study of an expressway from Sioux City, Iowa, to Norfolk; and to declare an emergency.

LEGISLATIVE BILL 318. Introduced by Ashford, 6.

A BILL FOR AN ACT relating to the Nebraska Short Form Act; to amend section 49-1501, Reissue Revised Statutes of Nebraska, 1943; to define terms; to provide short forms for conveyances and deeds and short form expressions as prescribed; to provide principles for the operation of such statutory short form deeds; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 319. Introduced by Smith, 33.

A BILL FOR AN ACT relating to motorcycles; to amend section 60-336, Reissue Revised Statutes of Nebraska, 1943, and sections 39-2215 and 60-4,115, Revised Statutes Supplement, 1990; to change registration fees; to change the distribution of license and registration fees; to provide an operative date; and to repeal the original section.

LEGISLATIVE BILL 320. Introduced by Landis, 46; Lamb, 43; Warner, 25; Rogers, 41; Wehrbein, 2; Schellpeper, 18; Coordsen, 32; Robak, 22.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-112, 77-201, 77-508.01, 77-1301.01, 77-1301.13, 77-1344, 77-1359, 77-1361, 77-1365, 77-1367, 77-1504, and 77-1506.02, Reissue Revised Statutes of Nebraska, 1943; to redefine terms; to change provisions relating to intracounty and intercounty equalization; to change provisions relating to duties of the Tax Commissioner; to state legislative findings; to change the method of computing capitalization rates for agricultural and horticultural land; to change provisions relating to adjustment factors supplied to counties to change the agricultural land valuation manual; to harmonize provisions; and to repeal the original sections, and also sections

77-506.01, 77-1369, 77-1370, and 77-1371, Reissue Revised Statutes of Nebraska, 1943.

LEGISLATIVE BILL 321. Introduced by Lynch, 13; Hartnett, 45; Hall, 7.

A BILL FOR AN ACT relating to the State Electrical Act; to amend sections 81-2102 and 81-2113, Reissue Revised Statutes of Nebraska, 1943; to redefine a term; to require supervision of apprentice electricians as prescribed; to change fees for registration; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 322. Introduced by Hall, 7.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-611 and 77-802, Reissue Revised Statutes of Nebraska, 1943; to require the Tax Commissioner to supply county assessors with a list of certain properties used in valuations and assessments by the Tax Commissioner; and to repeal the original sections.

LEGISLATIVE BILL 323. Introduced by Hall, 7.

A BILL FOR AN ACT relating to schools; to amend sections 79-1903 and 79-2003, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to persons attending the Nebraska School for the Deaf and the Nebraska School for the Visually Handicapped; to provide duties for the State Department of Education; and to repeal the original sections.

LEGISLATIVE BILL 324. Introduced by Hall, 7.

A BILL FOR AN ACT relating to the Uniform Residential Landlord and Tenant Act; to amend sections 76-1401, 76-1440, and 76-1442, Reissue Revised Statutes of Nebraska, 1943; to authorize constructive service for actions to recover possession of premises; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 325. Introduced by Morrissey, 1; R. Johnson, 34; Smith, 33; Landis, 46; Horgan, 4; Robinson, 16; Wehrbein, 2; Rasmussen, 20; Conway, 17; Beutler, 28; Coordsen, 32; Rogers, 41; Will, 8; Nelson, 35; Hall, 7; Hillman, 48; Schellpeper, 18; Dierks, 40; Lynch, 13; Baack, 47; Moore, 24; Elmer, 38; Wesely, 26; Robak, 22; Warner, 25; Bernard-Stevens, 42; Hartnett, 45; Ashford, 6; Cudaback, 36;

Crosby, 29; Schimek, 27; Beyer, 3; Kristensen, 37; Hefner, 19; Lamb, 43.

A BILL FOR AN ACT relating to waste management; to amend section 81-15,166, Revised Statutes Supplement, 1990; to extend the deadline for completion of the comprehensive solid waste management plan; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 326. Introduced by Schimek, 27; Smith, 33; Nelson, 35; Kristensen, 37; Hall, 7.

A BILL FOR AN ACT relating to charitable solicitation; to adopt the Charitable Solicitation Registration Act; to provide severability; to eliminate provisions relating to solicitation of funds; and to repeal sections 28-1440 to 28-1449, Reissue Revised Statutes of Nebraska, 1943.

LEGISLATIVE BILL 327. Introduced by Chambers, 11; Baack, 47; Warner, 25; Rasmussen, 20; Horgan, 4; Landis, 46; Smith, 33; Hall, 7; Lindsay, 9; Lynch, 13; Dierks, 40; Schellpeper, 18; Withem, 14; Hartnett, 45; Will, 8; Ashford, 6; Nelson, 35; Wesely, 26; Schimek, 27; Crosby, 29; Rogers, 41; Schmit, 23; Robak, 22; Bernard-Stevens, 42; Conway, 17.

A BILL FOR AN ACT relating to crimes and punishments; to amend sections 25-1140.09, 28-104, 28-105, 28-201, 28-202, 28-303, 29-1822, 29-2005, 29-2006, 29-2407, 29-2801, 29-3205, and 55-480, Reissue Revised Statutes of Nebraska, 1943, and sections 23-3408 and 29-2020, Revised Statutes Supplement, 1990; to eliminate the death penalty; to change a penalty to provide for life imprisonment without possibility of parole; to provide factors for consideration in imposing certain sentences; to require a change of penalty for death penalty sentences; to eliminate provisions concerning the imposition of the death penalty on persons under eighteen, special procedures for cases involving the imposition of the death penalty, and stay of a death penalty sentence pending a pardon request; to harmonize provisions; to provide severability; and to repeal the original sections, and also sections 28-105.01, 29-2519 to 29-2525, 29-2527, 29-2528, 29-2532 to 29-2546, 29-2811, and 83-1,132, Reissue Revised Statutes of Nebraska, 1943.

LEGISLATIVE BILL 328. Introduced by Schellpeper, 18.

A BILL FOR AN ACT relating to workers' compensation; to amend section 48-125, Reissue Revised Statutes of Nebraska, 1943; to authorize a penalty and an award of attorney's fees in actions to collect medical payments; and to repeal the original section.

LEGISLATIVE BILL 329. Introduced by Chambers, 11.

A BILL FOR AN ACT relating to the Attorney General; to amend sections 32-421.01 and 32-535, Reissue Revised Statutes of Nebraska, 1943; to provide for the nonpartisan election of the Attorney General; to harmonize provisions; and to repeal the original sections.

EASE

The Legislature was at ease from 10:22 a.m. until 10:42 a.m.

SPEAKER BAACK PRESIDING

BILLS ON FIRST READING

The following bills were read for the first time by title:

LEGISLATIVE BILL 330. Introduced by Morrissey, 1.

A BILL FOR AN ACT relating to cities and villages; to amend section 17-563, Reissue Revised Statutes of Nebraska, 1943, and section 16-230, Revised Statutes Supplement, 1990; to change provisions relating to the removal of weeds and litter in cities of the first and second class and villages; to provide penalties; to define terms; to harmonize provisions; and to repeal the original sections, and also section 17-563.01, Reissue Revised Statutes of Nebraska, 1943.

LEGISLATIVE BILL 331. Introduced by Morrissey, 1; Schimek, 27.

A BILL FOR AN ACT relating to elections; to amend sections 32-216, 32-216.01, 32-221, and 32-828, Reissue Revised Statutes of Nebraska, 1943; to provide for voter registration after the deadline and on election day as prescribed; to change provisions relating to voter registration; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 332. Introduced by Hall, 7; Schellpeper, 18; Labedz, 5; Robak, 22; Schmit, 23; Rogers, 41; Dierks, 40; Bernard-Stevens, 42; Will, 8.

A BILL FOR AN ACT relating to income tax; to amend section 77-2716.01, Reissue Revised Statutes of Nebraska, 1943; to provide a deduction from income for certain educational expenses; to define terms; to provide an operative date; and to repeal the original section.

LEGISLATIVE BILL 333. Introduced by Morrissey, 1; Baack, 47.

A BILL FOR AN ACT relating to motor vehicles; to amend sections 60-315 and 77-1240.03, Reissue Revised Statutes of Nebraska, 1943; to provide for the refund of registration fees and taxes when the tax situs is changed to a location outside of the state; and to repeal the original sections.

LEGISLATIVE BILL 334. Introduced by General Affairs Committee: Smith, 33, Chairperson; Cudaback, 36; Hartnett, 45; R. Johnson, 34; Labedz, 5; Rasmussen, 20; Rogers, 41; Will, 8.

A BILL FOR AN ACT relating to horseracing; to amend section 2-1213, Reissue Revised Statutes of Nebraska, 1943; to redefine Nebraska-bred horse; and to repeal the original section.

LEGISLATIVE BILL 335. Introduced by Smith, 33.

A BILL FOR AN ACT relating to motor vehicles; to amend section 60-491, Revised Statutes Supplement, 1990; to change provisions relating to prohibited acts regarding an operator's license or a state identification card as prescribed; and to repeal the original section.

LEGISLATIVE BILL 336. Introduced by Transportation Committee: Kristensen, 37, Chairperson; Beyer, 3; Byars, 30; Horgan, 4; Peterson, 21; Pirsch, 10; Robak, 22; Wickersham, 49.

A BILL FOR AN ACT relating to motor vehicles; to amend sections 39-687 and 60-1403.01, Reissue Revised Statutes of Nebraska, 1943, and sections 39-669.27, 39-6,106.01, 60-462, 60-480, 60-491, 60-4,118, 60-4,124, 60-4,125, and 60-4,126, Revised Statutes Supplement, 1990; to change provisions relating to the minimum age for obtaining a motor vehicle operator's license; to provide an exception; to require a driver's education and training course for certain license holders as prescribed; to provide for revocation as prescribed; to harmonize

provisions; to provide an operative date; and to repeal the original sections.

LEGISLATIVE BILL 337. Introduced by Transportation Committee: Kristensen, 37, Chairperson; Beyer, 3; Byars, 30; Horgan, 4; Peterson, 21; Pirsch, 10; Robak, 22; Wickersham, 49.

A BILL FOR AN ACT relating to the Public Service Commission; to amend sections 75-352 and 75-354, Reissue Revised Statutes of Nebraska, 1943; to change a fee; to adopt the Interstate Operating Authority Agreement Act; to eliminate certain provisions relating to reciprocity and reciprocal agreements regarding certain motor vehicle identification fees as prescribed; to harmonize provisions; and to repeal the original sections, and also sections 75-356 and 75-357, Reissue Revised Statutes of Nebraska, 1943.

LEGISLATIVE BILL 338. Introduced by Natural Resources Committee: R. Johnson, 34, Chairperson; Beutler, 28; Elmer, 38; Hartnett, 45; Horgan, 4; Lamb, 43; Morrissey, 1; Schmit, 23.

A BILL FOR AN ACT relating to ground water quality; to amend section 81-1532, Reissue Revised Statutes of Nebraska, 1943; to state findings; to create a fund; to provide powers and duties relating to water sampling and to enhancement and maintenance of water quality; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 339. Introduced by Natural Resources Committee: R. Johnson, 34, Chairperson; Beutler, 28; Elmer, 38; Hartnett, 45; Horgan, 4; Morrissey, 1; Schmit, 23.

A BILL FOR AN ACT relating to game and parks; to permit certain agreements between the Game and Parks Commission and other agencies as prescribed.

LEGISLATIVE BILL 340. Introduced by Natural Resources Committee: R. Johnson, 34, Chairperson; Beutler, 28; Elmer, 38; Hartnett, 45; Horgan, 4; Morrissey, 1; Schmit, 23.

A BILL FOR AN ACT relating to the habitat stamp; to amend section 37-216.01, Reissue Revised Statutes of Nebraska, 1943; to increase the fee for such stamp; to provide an operative date; and to repeal the original section.

LEGISLATIVE BILL 341. Introduced by Natural Resources Committee: R. Johnson, 34, Chairperson; Beutler, 28; Elmer, 38; Hartnett, 45; Lamb, 43; Morrissey, 1; Schmit, 23.

A BILL FOR AN ACT relating to the Game Law; to amend section 37-505, Revised Statutes Supplement, 1990; to eliminate a prohibition on possession of certain protected game as prescribed; and to repeal the original section.

LEGISLATIVE BILL 342. Introduced by Natural Resources Committee: R. Johnson, 34, Chairperson; Beutler, 28; Elmer, 38; Hartnett, 45; Horgan, 4; Lamb, 43; Morrissey, 1.

A BILL FOR AN ACT relating to the State Boat Act; to amend sections 37-1238, 37-1241, and 37-1259, Reissue Revised Statutes of Nebraska, 1943, and section 37-1274, Revised Statutes Supplement, 1990; to change a citation to a federal act; to provide exceptions to a floatation device requirement as prescribed; to change provisions relating to times during which certain water activities are permitted as prescribed; to prohibit use of certain lights on vessels as prescribed; to require vessels to stop when signaled by authorized persons; to prohibit operation of a vessel to avoid arrest; to provide penalties; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 343. Introduced by Hartnett, 45; Beyer, 3.

A BILL FOR AN ACT relating to public defenders; to amend section 23-3401, Revised Statutes Supplement, 1990; to change provisions relating to the private practice of law by certain public defenders; and to repeal the original section.

LEGISLATIVE BILL 344. Introduced by Smith, 33; Will, 8; Hartnett, 45; Rogers, 41; R. Johnson, 34; Cudaback, 36; Labedz, 5.

A BILL FOR AN ACT relating to the Nebraska Liquor Control Act; to amend sections 20-113, 53-0102, 53-108, 53-118, 53-123 to 53-123.03, 53-123.07, 53-123.09, 53-123.11, 53-123.14, 53-124.11 to 53-124.13, 53-125, 53-126, 53-130, 53-135, 53-135.01, 53-140, 53-142, 53-146, 53-150, 53-157, 53-160, 53-161, 53-165, 53-166, 53-168, 53-168.05, 53-169, 53-169.01, 53-171, 53-176, 53-178.01, 53-179, 53-180.02, 53-180.07, 53-183, 53-184, 53-185, 53-186.01, 53-188, 53-1,100, 53-1,104 to 53-1,106, 53-1,114, and 53-1,118, Reissue Revised Statutes of Nebraska, 1943, and sections 53-101, 53-101.01,

53-101.04, 53-103, 53-110, 53-113, 53-117, 53-122, 53-124, 53-128, 53-131, 53-132, 53-134, 53-145, 53-147, 53-159, 53-164.01, 53-172, and 53-175, Revised Statutes Supplement, 1990; to define and redefine terms; to eliminate references to distributors, distributorships, inspectors, and jobbers in the act; to revise the powers and duties of the Nebraska Liquor Control Commission as prescribed; to provide for a wholesale license, a special designated license, a shipping license, and a catering license; to eliminate distributors' licenses, certain types of retail licenses, special designated permits, catering permits, and shipper's permits; to change provisions relating to off-premises sales of farm winery products; to change provisions relating to license fees; to remove an exemption for persons ineligible to receive a license; to change requirements for issuance of a license to a corporation as prescribed; to change provisions relating to a defense to a charge of selling alcoholic liquor to a minor; to eliminate certain labeling requirements as prescribed; to eliminate a requirement for filing proof of publication as prescribed; to eliminate provisions relating to bonded warehouses; to eliminate certain pricing requirements as prescribed; to remove certain exemptions to restrictions on location of retail outlets; to eliminate an exemption to restrictions on sales to persons in motor vehicles; to eliminate the requirement of a record book for retail licensees; to eliminate certain provisions relating to transportation of alcoholic liquor by a common carrier as prescribed; to harmonize provisions; and to repeal the original sections, and also sections 53-104, 53-119, 53-120, 53-138.02, 53-140.01, 53-144, 53-151 to 53-156, 53-158, 53-166, 53-168.01, 53-170.01 to 53-170.04, 53-173, 53-193, 53-194, 53-195, and 53-1,117, Reissue Revised Statutes of Nebraska, 1943.

LEGISLATIVE BILL 345. Introduced by Smith, 33.

A BILL FOR AN ACT relating to bingo and other gambling; to amend sections 9-235, 9-264, 9-330, 9-339, 9-350, 9-354, 9-401, 9-418, 9-419, 9-420, 9-429, 9-436, 9-509, 9-604, and 9-701, Reissue Revised Statutes of Nebraska, 1943, and sections 9-1,101, 9-1,104, 9-1,105, 9-201, 9-207.01, 9-211, 9-226, 9-227, 9-228, 9-233, 9-233.01, 9-235.02, 9-235.03, 9-239, 9-244, 9-247, 9-253, 9-258, 9-261, 9-266, 9-306.01, 9-309, 9-322, 9-323, 9-324, 9-328, 9-329, 9-329.02, 9-332, 9-340.02, 9-344, 9-345.03, 9-356, 9-421, 9-601, 9-606.01, 9-620, 9-623, 9-630, 9-631, 9-632, 9-639, 9-640, 9-642, 9-646, 9-649, 9-650, and 9-653, Revised Statutes Supplement, 1990; to change provisions relating to the disposition of fees, fingerprinting requirements, and criminal history record check; to redefine terms; to provide for and change

powers and duties of the Department of Revenue; to provide for administrative fines; to provide for personal service for certain notices; to change provisions relating to certain proceedings; to require license and permit renewal applications to be submitted by a certain date; to eliminate provisions relating to bingo occasions; to change provisions relating to the conduct of bingo; to provide for the confidentiality of personal history reports; to provide for the delivery of pickle card units and access to pickle card dispensing devices; to change provisions relating to the conduct of a county or city lottery; to change provisions relating to gift enterprises; to harmonize provisions; to eliminate provisions establishing a Gaming Commission; and to repeal the original sections, and also section 9-1,102, Revised Statutes Supplement, 1990.

LEGISLATIVE BILL 346. Introduced by Hall, 7; Conway, 17; Haberman, 44; Lindsay, 9; Schmit, 23.

A BILL FOR AN ACT relating to insurance; to require records on insurance companies, brokers, and agents as prescribed; to provide access to such records; and to provide a duty for the Revisor of Statutes.

LEGISLATIVE BILL 347. Introduced by R. Johnson, 34.

A BILL FOR AN ACT relating to guardian ad litems; to provide immunity from civil or criminal liability as prescribed.

LEGISLATIVE BILL 348. Introduced by R. Johnson, 34.

A BILL FOR AN ACT relating to retirement; to amend section 79-1515, Reissue Revised Statutes of Nebraska, 1943, and section 79-1043, Revised Statutes Supplement, 1990; to authorize prior service credit for certain military service by teachers; to change a provision relating to credit for time served during a declared emergency; and to repeal the original sections.

LEGISLATIVE BILL 349. Introduced by R. Johnson, 34.

A BILL FOR AN ACT relating to economic poisons; to amend sections 2-2601, 2-2604, 2-2610, 2-2613, 2-2614, 2-2616 to 2-2620, and 81-2,162.04, Reissue Revised Statutes of Nebraska, 1943; to define and redefine terms; to provide powers and duties for the Director of Agriculture; to change provisions relating to private and commercial applicators; to require records; to provide for the denial, suspension,

and revocation of certificates; to change a penalty; to provide for rules and regulations; to prohibit certain uses of pesticides; to provide access to premises; to provide enforcement procedures; to eliminate a penalty; to harmonize provisions; and to repeal the original sections, and also section 2-2621, Reissue Revised Statutes of Nebraska, 1943.

LEGISLATIVE BILL 350. Introduced by Horgan, 4; Hartnett, 45; Rasmussen, 20; Will, 8.

A BILL FOR AN ACT relating to the retirement systems of Class V school districts; to amend sections 79-1035, 79-1037, 79-1051.01, and 79-1060, Reissue Revised Statutes of Nebraska, 1943, and sections 79-1032, 79-1043, 79-1046, and 79-1048, Revised Statutes Supplement, 1990; to redefine terms; to provide for an administrator to transfer duties; to change provisions relating to credit for military service; to provide a minimum number of payments for certain annuities; to change provisions relating to reduction of disability benefits and to investment of funds; to provide for payment of annuities and benefits pursuant to qualified domestic relations orders; and to repeal the original sections.

LEGISLATIVE BILL 351. Introduced by Moore, 24.

A BILL FOR AN ACT relating to crimes and punishments; to amend section 28-807, Reissue Revised Statutes of Nebraska, 1943, and section 28-101, Revised Statutes Supplement, 1990; to limit access of certain materials by minors; to provide exceptions; to provide a penalty; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 352. Introduced by Moore, 24.

A BILL FOR AN ACT relating to horseracing; to amend sections 2-1204, 2-1205, 2-1206, 2-1208, 2-1211, and 2-1223, Reissue Revised Statutes of Nebraska, 1943; to authorize certain persons to apply for licenses to conduct horseraces; to harmonize provisions; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 353. Introduced by Beyer, 3.

A BILL FOR AN ACT relating to private investigators; to amend sections 9-221 and 11-201, Reissue Revised Statutes of Nebraska, 1943; to adopt the Private Investigation Act; to harmonize provisions;

to provide an operative date; to provide severability; to eliminate provisions relating to private detectives; and to repeal the original sections, and also sections 71-3201 to 71-3213, Reissue Revised Statutes of Nebraska, 1943.

NOTICE OF COMMITTEE HEARING
Natural Resources

LB 34	Wednesday, January 23, 1991	1:30 p.m.
LB 38	Wednesday, January 23, 1991	1:30 p.m.
LB 49	Wednesday, January 23, 1991	1:30 p.m.
LB 66	Wednesday, January 23, 1991	1:30 p.m.

(Signed) Rod Johnson, Chairperson

ANNOUNCEMENTS

Mr. Hall announced the Revenue Committee elected Mr. Hefner as Vice Chairperson.

Mr. Coordsen announced the Business and Labor Committee elected Mr. Chambers as Vice Chairperson.

UNANIMOUS CONSENT - Add Co-Introducers

Mrs. Smith asked unanimous consent to have her name added as co-introducer to LB 287. No objections. So ordered.

Mr. Baack asked unanimous consent to have his name added as co-introducer to LB 47. No objections. So ordered.

Mrs. Crosby asked unanimous consent to have her name added as co-introducer to LB 282. No objections. So ordered.

Mr. Baack asked unanimous consent to have his name added as co-introducer to LB 290. No objections. So ordered.

BILLS ON FIRST READING

The following bills were read for the first time by title:

LEGISLATIVE BILL 354. Introduced by Hall, 7; Hartnett, 45; Will, 8.

A BILL FOR AN ACT relating to the Nebraska Liquor Control Act; to amend section 53-179, Reissue Revised Statutes of Nebraska, 1943; to change a provision relating to the retail sale of alcoholic liquor during certain hours as prescribed; and to repeal the original section.

LEGISLATIVE BILL 355. Introduced by Ashford, 6; Will, 8; Crosby, 29; Landis, 46; Hall, 7; Schimek, 27; Beutler, 28; Chambers, 11; Wesely, 26; Rasmussen, 20.

A BILL FOR AN ACT relating to handguns; to require a registration permit to purchase, lease, rent, or receive transfer of a handgun; to provide application procedures; and to define terms.

LEGISLATIVE BILL 356. Introduced by Agriculture Committee: Rogers, 41, Chairperson; Coordsen, 32; Cudaback, 36; Elmer, 38; Hefner, 19: Morrissey, 1; Schellpeper, 18.

A BILL FOR AN ACT relating to weights and measures; to amend sections 14-102, 66-1219, 81-216.29, 81-216.30, 89-183 to 89-188, 89-192 to 89-1,101, and 89-1,103, Reissue Revised Statutes of Nebraska, 1943; to name the Weights and Measures Act; to define and redefine terms; to eliminate a term; to correct the name of an institute; to adopt certain handbooks by reference; to provide additional standards for rules and regulations; to provide for requirements and exemptions for a Certificate of Conformance; to provide for modification and removal from service of certain weighing and measuring devices; to provide for testing of weighing and measuring devices; to provide duties for the Director of Agriculture, county attorneys, and the Attorney General; to limit existing penalties; to harmonize provisions; to provide for a permit and to operate certain weighing and measuring devices as prescribed; to provide for hearings; to change provisions relating to inspections; to change provisions relating to labeling; to prohibit certain acts as unlawful as prescribed and prescribe procedure for prevention; to provide for payment of certain costs; to provide for maintenance of records as prescribed; to provide for a Division of Weights and Measures as prescribed; to eliminate certain powers and duties of the Director of Agriculture and weights and measures officials; to eliminate provisions relating to weights and measures officials; to eliminate provisions relating to certain acts as unlawful; to eliminate provisions relating to prior acts and certain cities establishing standard weights and measures; and to repeal the original sections, and also sections 15-213, 16-223, 17-553, 89-189, 89-190, 89-191, and 89-1,102, Reissue Revised Statutes of Nebraska, 1943.

LEGISLATIVE BILL 357. Introduced by Agriculture Committee: Rogers, 41, Chairperson; Coordsen, 32; Cudaback, 36; Elmer, 38; Hefner, 19; Morrissey, 1; Schellpeper, 18.

A BILL FOR AN ACT relating to agriculture; to amend section 2-4816, Revised Statutes Supplement, 1990; to extend the termination date of the Farm Mediation Act; and to repeal the original section.

LEGISLATIVE BILL 358. Introduced by Agriculture Committee: Rogers, 41, Chairperson; Coordsen, 32; Cudaback, 36; Elmer, 38; Hefner, 19; Morrissey, 1; Schellpeper, 18.

A BILL FOR AN ACT relating to the Department of Agriculture; to amend sections 2-1802, 2-1803, 2-3407, 54-1350, 54-1902, 81-201.03, 81-201.04, 81-216.03 to 81-216.13, 81-216.15 to 81-216.32, and 81-216.34 to 81-216.37, Reissue Revised Statutes of Nebraska, 1943, and sections 81-216.01, 81-216.02, 81-216.33, 81-216.38, and 81-216.39, Revised Statutes Supplement, 1990; to change the title of certain division heads; to define, redefine, and eliminate terms; to transfer and change procedures for the application for, posting of, and retention of permits and for disciplinary actions under the Nebraska Pure Food Act; to provide for inspections by the department as prescribed; to change provisions relating to exceptions to the lease, loan, trade, or sale of certain swine; to change provisions relating to administrative services in the department; to create and change provisions relating to a fund; to provide sanitary and safety provisions for food establishments as prescribed; to provide duties for certain permitholders and the department; to harmonize provisions; to change provisions relating to penalties; to eliminate a fund; and to repeal the original sections, and also sections 81-201.01, 81-201.02, and 81-216.14, Reissue Revised Statutes of Nebraska, 1943.

LEGISLATIVE BILL 359. Introduced by Agriculture Committee: Rogers, 41, Chairperson; Coordsen, 32; Cudaback, 36; Elmer, 38; Hefner, 19; Morrissey, 1; Schellpeper, 18.

A BILL FOR AN ACT relating to Pseudorabies Control and Eradication Act; to amend sections 54-2203, 54-2205, 54-2206, 54-2209, 54-2210, 54-2212 to 54-2218, 54-2219, 54-2220, and 54-2222, Reissue Revised Statutes of Nebraska, 1943, and sections 54-2201, 54-2202, 54-2208 to 54-2208.03, 54-2208.06, 54-2218.01, 54-2220.02, 54-2220.03, 54-2221, 54-2221.04, 54-2221.05, 54-2221.07, 54-2221.09 to 54-2221.14, 54-2223, 54-2223.01, 54-2223.03 to 54-2229, and

54-2232 to 54-2234, Revised Statutes Supplement, 1990; to define, redefine, and eliminate terms; to eliminate and change provisions relating to assessment, and funding for certain swine herds as prescribed; to transfer sections; to harmonize provisions; to change provisions relating to surveillance of certain herds; to change provisions relating to certain swine testing programs; to change provisions relating to penalties; to change provisions relating to testing expenses and funding; to change provisions relating to access to premises; to change provisions relating to programs for the control and eradication of pseudorabies as prescribed; to change provisions relating to rules and regulations; to eliminate a committee; to change certain official tests and their use; and to repeal the original sections, and also sections 54-2204 and 54-2211, Reissue Revised Statutes of Nebraska, 1943, and sections 54-2208.04, 54-2208.05, 54-2218.02, 54-2220.01, 54-2220.04, 54-2221.02, 54-2221.03, 54-2221.06, 54-2221.08, 54-2223.02, 54-2230, 54-2231, 54-2231.01, and 54-2232, Revised Statutes Supplement, 1990; and to declare an emergency.

LEGISLATIVE BILL 360. Introduced by Business and Labor Committee: Coordsen, 32, Chairperson; Chambers, 11; Elmer, 38; Hefner, 19; Morrissey, 1; Schellpeper, 18.

A BILL FOR AN ACT relating to workers' compensation; to amend sections 48-125, 48-155, 48-156, 48-170, 48-178, 48-182, and 48-185, Reissue Revised Statutes of Nebraska, 1943, and section 48-1,110, Revised Statutes Supplement, 1990; to eliminate rehearings; to harmonize provisions; and to repeal the original sections, and also section 48-179, Reissue Revised Statutes of Nebraska, 1943.

VISITORS

Visitor to the Chamber was Royce Schaeffer from Mitchell.

The Doctor of the Day was Ron Klutman from Columbus.

ADJOURNMENT

At 10:57 a.m., on a motion by Mr. Byars, the Legislature adjourned until 10:00 a.m., Thursday, January 17, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

SEVENTH DAY - JANUARY 17, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

SEVENTH DAY

Legislative Chamber, Lincoln, Nebraska
Thursday, January 17, 1991

Pursuant to adjournment, the Legislature met at 10:00 a.m., Speaker Baack presiding.

PRAYER

The prayer was offered by John Kruger, Capitol City Free Will Baptist, Lincoln, Nebraska.

ROLL CALL

The roll was called and all members were present except Messrs. Elmer and Withem who were excused; and Messrs. Ashford, Bernard-Stevens, Hartnett, Morrissey, and Mrs. Smith who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Sixth Day was approved.

REPORT OF THE EXECUTIVE BOARD

Mr. Warner, Chairperson of the Executive Board, offered the following report:

Building Maintenance - Abboud, Chairperson
Moore
L. Johnson
Beyer

Nelson
Cudaback

Education Commission of the States

Withem
Hartnett
Rasmussen

NOTICE OF COMMITTEE HEARINGS
Judiciary

LB 36	Thursday, January 24, 1991	1:30 p.m.
LB 69	Thursday, January 24, 1991	1:30 p.m.
LB 143	Thursday, January 24, 1991	1:30 p.m.
LB 147	Thursday, January 24, 1991	1:30 p.m.
LB 88	Friday, January 25, 1991	1:30 p.m.
LB 262	Friday, January 25, 1991	1:30 p.m.

(Signed) Jerry Chizek, Chairperson

Natural Resources

LB 67	Thursday, January 24, 1991	1:30 p.m.
LB 137	Thursday, January 24, 1991	1:30 p.m.
LB 198	Thursday, January 24, 1991	1:30 p.m.
LB 150	Thursday, January 24, 1991	1:30 p.m.

(Signed) Rod Johnson, Chairperson

Education

LB 116	Monday, January 28, 1991	1:30 p.m.
LB 119	Monday, January 28, 1991	1:30 p.m.
LB 207	Monday, January 28, 1991	1:30 p.m.
LB 210	Monday, January 28, 1991	1:30 p.m.

(Signed) Ron Withem, Chairperson

NATURAL RESOURCE DISTRICT REPORT

In compliance with Section 2-3262 (R.R.S. 1943) a summary of all fees paid to date during calendar year 1990 to attorneys, lobbyists,

and public relations representatives is indicated below by individual and by amount paid thereto.

DISTRICT	FEE
Papio-Missouri River Natural Resources District	
Golby Uhlir, Attorney	2,709.00
Paul F. Peters	
Gast & Peters, Attorneys	83,555.90
Baird, Holm, McEachen,	
Pedersen, Hamann & Strasheim, Attorneys	3,173.55
Richard A. Lombardi	
American Communications Group, Lobbyist	8,800.00

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the attached report on the referral of legislative bills 263 through 301, and LR 4.

LB	Committee
263	Judiciary
264	Natural Resources
265	Health and Human Services
266	Judiciary
267	Judiciary
268	Judiciary
269	Banking, Commerce and Insurance
270	Natural Resources
271	Transportation
272	Banking, Commerce and Insurance
273	Revenue
274	Agriculture
275	Agriculture
276	Natural Resources
277	Natural Resources
278	Natural Resources
279	Education
280	Government, Military and Veterans Affairs
281	Judiciary
282	Agriculture
283	Appropriations
284	Revenue
285	Banking, Commerce and Insurance
286	Transportation

287	Health and Human Services
288	Government, Military and Veterans Affairs
289	Health and Human Services
290	Government, Military and Veterans Affairs
291	Transportation
292	Banking, Commerce and Insurance
293	Education
294	Transportation
295	Judiciary
296	Transportation
297	Business and Labor
298	Business and Labor
299	Revenue
300	Revenue
301	Natural Resources

LR	**Committee**
4	Revenue

(Signed) Jerome Warner, Chairperson
Legislative Council
Executive Board

BILLS ON FIRST READING

The following bills were read for the first time by title:

LEGISLATIVE BILL 361. Introduced by Wesely, 26.

A BILL FOR AN ACT relating to political accountability and disclosure; to amend section 49-1433, Reissue Revised Statutes of Nebraska, 1943; to redefine a term; and to repeal the original section.

LEGISLATIVE BILL 362. Introduced by Robak, 22.

A BILL FOR AN ACT relating to all-terrain vehicles; to amend section 60-2801, Reissue Revised Statutes of Nebraska, 1943; to restrict the operation of all-terrain vehicles as prescribed; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 363. Introduced by Wesely, 26.

A BILL FOR AN ACT relating to health; to amend section 71-5403, Reissue Revised Statutes of Nebraska, 1943; to change provisions

relating to drug product selection as prescribed; and to repeal the original section.

LEGISLATIVE BILL 364. Introduced by Baack, 47.

A BILL FOR AN ACT relating to technical community colleges; to amend section 79-2650.07, Revised Statutes Supplement, 1990; to change provisions relating to capital improvements; to provide severability; and to repeal the original section.

LEGISLATIVE BILL 365. Introduced by Rogers, 41.

A BILL FOR AN ACT relating to life insurance; to require the payment of interest on proceeds from a policy as prescribed; and to declare an emergency.

LEGISLATIVE BILL 366. Introduced by Rogers, 41.

A BILL FOR AN ACT relating to grain; to amend sections 88-535, 88-544, and 88-549, Reissue Revised Statutes of Nebraska, 1943, and section 88-547, Revised Statutes Supplement, 1990; to change provisions relating to warehouses with regard to scale tickets, termination of storage, closure, and storage rates as prescribed; to create a fund; and to repeal the original sections.

LEGISLATIVE BILL 367. Introduced by Wehrbein, 2.

A BILL FOR AN ACT relating to agriculture; to amend sections 2-3304, 2-3305, and 2-3306, Reissue Revised Statutes of Nebraska, 1943; to increase the number of members on the Soybean Development, Utilization, and Marketing Board; to change provisions relating to districts for selection of board members as prescribed; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 368. Introduced by Schimek, 27.

A BILL FOR AN ACT relating to the Nebraska Investment Council; to amend sections 72-1237 and 72-1239, Reissue Revised Statutes of Nebraska, 1943; to provide that the State Treasurer is an ex officio member of the council; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 369. Introduced by R. Johnson, 34.

A BILL FOR AN ACT relating to zoning; to amend sections 14-402, 15-902, 19-902, 23-114, and 23-174.01, Reissue Revised Statutes of Nebraska, 1943; to prohibit certain zoning ordinances, resolutions, or regulations limiting the location of manufactured homes; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 370. Introduced by Chizek, 31.

A BILL FOR AN ACT relating to collective bargaining; to amend section 48-816, Reissue Revised Statutes of Nebraska, 1943; to require certain classes of school districts to recognize certain bargaining units as prescribed; and to repeal the original section.

LEGISLATIVE BILL 371. Introduced by Kristensen, 37.

A BILL FOR AN ACT relating to civil procedure; to amend section 25-224, Reissue Revised Statutes of Nebraska, 1943; to eliminate a provision relating to the commencement and limitation of a product liability action; and to repeal the original section.

EASE

The Legislature was at ease from 10:19 a.m. until 10:52 a.m.

PRESIDENT MOUL PRESIDING

BILLS ON FIRST READING

The following bills were read for the first time by title:

LEGISLATIVE BILL 372. Introduced by Lynch, 13.

A BILL FOR AN ACT relating to public buildings and facilities; to amend sections 32-438, 72-1101, 72-1102, and 72-1119 to 72-1124, Reissue Revised Statutes of Nebraska, 1943; to require the State Fire Marshal to establish standards and specifications; to change provisions relating to the Public Buildings Safety Advisory Committee; to change a penalty provision; to eliminate statutory standards and specifications; to harmonize provisions; and to repeal the original sections, and also sections 72-1103 to 72-1118, Reissue Revised Statutes of Nebraska, 1943.

LEGISLATIVE BILL 373. Introduced by Crosby, 29.

A BILL FOR AN ACT relating to child custody; to amend sections 42-364 and 43-1225, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to custody determinations; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 374. Introduced by Crosby, 29.

A BILL FOR AN ACT relating to counties; to adopt the County Arts, Cultural, and Visitors Improvement Act.

LEGISLATIVE BILL 375. Introduced by Lindsay, 9; Nelson, 35; Chizek, 31.

A BILL FOR AN ACT relating to husband and wife; to amend sections 42-364, 42-364.15, and 42-369, Reissue Revised Statutes of Nebraska, 1943, and section 42-347, Revised Statutes Supplement, 1990; to change provisions relating to child custody and visitation; to state findings and policy; to provide for inclusion of certain items in decrees and orders relating to visitation; to provide for access to certain records; to provide for certain decisionmaking authority; to change provisions relating to petitions for visitation; to provide for a civil action; to change and add provisions relating to enforcement of decrees and orders relating to visitation; to add duties for custodial parents; to provide a penalty; to provide a duty for the Revisor of Statutes; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 376. Introduced by Lindsay, 9.

A BILL FOR AN ACT relating to metropolitan water and utilities districts; to provide restrictions on expansion or enlargement of service areas as prescribed.

LEGISLATIVE BILL 377. Introduced by Coordsen, 32.

A BILL FOR AN ACT relating to the Nebraska State Patrol; to amend section 81-2002, Reissue Revised Statutes of Nebraska, 1943; to require payment of overtime compensation to sworn employees as prescribed; and to repeal the original section.

LEGISLATIVE BILL 378. Introduced by Chambers, 11.

A BILL FOR AN ACT relating to employment; to define terms; to provide duties for employers of non-English-speaking employees; to

provide powers and duties for the Commissioner of Labor; and to provide penalties.

LEGISLATIVE BILL 379. Introduced by Morrissey, 1.

A BILL FOR AN ACT relating to motor vehicles; to amend section 60-4,122, Revised Statutes Supplement, 1990; to require proof of financial responsibility as prescribed; and to repeal the original section.

LEGISLATIVE BILL 380. Introduced by Morrissey, 1.

A BILL FOR AN ACT relating to labor; to amend section 48-1125, Reissue Revised Statutes of Nebraska, 1943; to provide that personnel records are confidential; to make it an unlawful employment practice to withhold access to such records; to provide procedures for correcting or changing information in such records; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 381. Introduced by Horgan, 4.

A BILL FOR AN ACT relating to cities of the metropolitan class; to amend sections 14-1001 and 14-1103.02, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to the territory included in a metropolitan water district; to provide restrictions on the extension or enlargement of the service area of metropolitan water districts and metropolitan utilities districts; to restrict the power of condemnation; and to repeal the original sections.

LEGISLATIVE BILL 382. Introduced by Horgan, 4.

A BILL FOR AN ACT relating to schools and school districts; to amend section 79-520, Reissue Revised Statutes of Nebraska, 1943; to permit Class V school districts to borrow against anticipated receipts as prescribed; to state effect; and to repeal the original section.

LEGISLATIVE BILL 383. Introduced by Morrissey, 1.

A BILL FOR AN ACT relating to railroads; to amend sections 39-1812, 39-1813, 74-608, 74-1311, and 75-412, Reissue Revised Statutes of Nebraska, 1943; to provide for the removal of vegetation or debris at or near public grade railroad crossings; to provide a duty for the Public Service Commission; to provide immunity from civil

liability as prescribed; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 384. Introduced by Conway, 17; Baack, 47; Schmit, 23; Hefner, 19; Hall, 7.

A BILL FOR AN ACT relating to the Nebraska Accountability and Disclosure Commission; to amend sections 49-1447, 49-1449, 49-1450, 49-1451, 49-1462, 49-1484, 49-14,123, and 49-14,133, Reissue Revised Statutes of Nebraska, 1943, and sections 49-1461, 49-14,118, and 49-14,140, Revised Statutes Supplement, 1990; to eliminate enforcement duties of the commission as prescribed; to eliminate late filing fees; to harmonize provisions; and to repeal the original sections, and also sections 49-1446.03, 49-1463, 49-1463.01, and 49-14,124 to 49-14,126, Reissue Revised Statutes of Nebraska, 1943.

LEGISLATIVE BILL 385. Introduced by Lynch, 13; Byars, 30.

A BILL FOR AN ACT relating to the Clinical Laboratories Certification Act; to amend sections 71-6806 and 71-6807, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to education and experience requirements for clinical laboratory technicians as prescribed; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 386. Introduced by Health and Human Services Committee: Wesely, 26, Chairperson; Beyer, 3; Byars, 30; Cudaback, 36; Dierks, 40; Rasmussen, 20; Schellpeper, 18.

A BILL FOR AN ACT relating to home health care; to amend sections 71-2017.01, 71-6601, 71-6602, 71-6603, 71-6605, 71-6607, and 71-6612, Reissue Revised Statutes of Nebraska, 1943; to authorize certain care by home health agencies; to restate intent; to redefine terms; to change provisions relating to qualifications, authorized activities, and supervision of home health aides; to eliminate provisions relating to training of home health aides; to harmonize provisions; and to repeal the original sections, and also sections 71-6604, 71-6608, 71-6610, 71-6611, and 71-6613, Reissue Revised Statutes of Nebraska, 1943.

LEGISLATIVE BILL 387. Introduced by Health and Human Services Committee: Wesely, 26, Chairperson; Beyer, 3; Byars, 30; Cudaback, 36; Dierks, 40; Rasmussen, 20; Schellpeper, 18.

A BILL FOR AN ACT relating to public health and welfare; to amend sections 44-2851, 71-101, 71-108, 71-147.02, 71-148, 71-150, 71-154, 71-155, 71-161.02, 71-161.03, 71-161.07, 71-168, 71-171, 71-171.01, 71-1,132.29, 71-1,194, 71-1,195.03, 71-3,171, 71-2803.01, 71-3711, 71-4708, 71-4712, 71-6054, and 71-6111, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to complaints against physicians and surgeons; to provide for complaints against health professionals; to provide for investigations, reports, and disciplinary actions; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 388. Introduced by Health and Human Services Committee: Wesely, 26, Chairperson; Beyer, 3; Byars, 30; Cudaback, 36; Dierks, 40; Rasmussen, 20; Schellpeper, 18.

A BILL FOR AN ACT relating to public health and welfare; to adopt the Community Public Health Services Act.

LEGISLATIVE BILL 389. Introduced by Byars, 30; Conway, 17; Schmit, 23.

A BILL FOR AN ACT relating to schools; to provide for the payment of grade school or high school tuition for children residing on property owned by the University of Nebraska.

LEGISLATIVE BILL 390. Introduced by Byars, 30.

A BILL FOR AN ACT relating to preferred providers; to amend section 44-4113, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to use of nonpreferred providers; and to repeal the original section.

LEGISLATIVE BILL 391. Introduced by Byars, 30; L. Johnson, 15.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to the Personal Property Tax Reimbursement Fund.

MOTION - Withdraw LB 309

Messrs. Lynch and Wesely moved to withdraw LB 309.

Laid over.

NOTICE OF COMMITTEE HEARINGS
Judiciary

LB 23	Thursday, January 24, 1991	1:30 p.m.

(Signed) Jerry Chizek, Chairperson

Health and Human Services

LB 57	Thursday, January 24, 1991	1:30 p.m.
LB 58	Thursday, January 24, 1991	1:30 p.m.

(Signed) Don Wesely, Chairperson

Revenue

LB 300	Friday, January 25, 1991	1:30 p.m.
LB 50	Friday, January 25, 1991	1:30 p.m.
LB 79	Friday, January 25, 1991	1:30 p.m.
LB 100	Friday, January 25, 1991	1:30 p.m.
LB 188	Friday, January 25, 1991	1:30 p.m.
LB 239	Friday, January 25, 1991	1:30 p.m.

(Signed) Tim Hall, Chairperson

COMMUNICATION - Election Contest

January 17, 1991

Mr. Gary Thompson
118 So. 5th Street
P. O. Box 21
Beatrice, NE 68310

Dear Mr. Thompson:

RE: Election Contest - 30th Legislative District

The Executive Board met on Wednesday, January 16, and decided to schedule oral presentations with respect to the election contest for Saturday, January 26, 1991, at 9:30 a.m. in Room 1517 of the State Capitol Building. As we discussed in the Clerk of the Legislature's Office, it is my understanding that you will initially present your

arguments, followed by a response period for Mr. Spray on behalf of Senator Byars. Parties can reserve rebuttal time if they are so inclined.

Furthermore, consistent with our discussions, the Clerk will be getting in touch regarding public materials that will be presented to the committee.

Please feel free to contact either the Clerk of the Legislature or me if you have questions.

Sincerely,
(Signed) Senator Jerome Warner
Chairperson
Executive Board

cc: Paul Korslund

January 17, 1991

Mr. J. L. Spray
Mattson, Ricketts, Davies, Stewart & Calkins
1401 Firstier Bank Building
233 So. 13th Street
Lincoln, NE 68508

Dear Mr. Spray:

RE: Election Contest - 30th Legislative District

The Executive Board met on Wednesday, January 16, and decided to schedule oral presentations with respect to the election contest for Saturday, January 26, 1991, at 9:30 a.m. in Room 1517 of the State Capitol Building. As we discussed in the Clerk of the Legislature's Office, it is my understanding that Mr. Thompson, representing Mr. Korslund, will go first. Parties can reserve rebuttal time if they are so inclined.

Furthermore, consistent with our discussions, the Clerk will be getting in touch regarding public materials that will be presented to the committee.

Please feel free to contact either the Clerk of the Legislature or me if you have questions.

Sincerely,
(Signed) Senator Jerome Warner
Chairperson
Executive Board

cc: Senator Dennis Byars

EXECUTIVE BOARD ANNOUNCEMENT

Mr. Warner announced the hearing on the election contest will be Saturday, January 26, 1991 at 9:30 a.m.

MESSAGE FROM THE GOVERNOR

January 17, 1991

The Honorable Speaker of the Legislature
and members of the Ninety-Second Legislature
Nebraska State Capitol Building
Lincoln, Nebraska 68509

Dear Senator Baack and members of the Legislature,

With our nation now at war with the Republic of Iraq, through the combined forces of the United Nations, I would ask Nebraskans, here and safe at home, to acknowledge the supreme sacrifice their fellow citizens are now making in foreign lands.

While Nebraskans are not unified in the purpose of this war, we are as one in the concern for the lives and the safe return of our fellow citizens and all Americans to their homes.

At present, more than 1,400 Nebraska reservists and National Guardsmen have joined hundreds of Nebraskans in the regular armed forces already in Saudi Arabia and the Persian Gulf region.

In recognition of the ultimate offering made by these courageous men and women, and the tremendous stress placed on their family and friends, I am asking all Nebraskans to demonstrate their compassion through individual acts of remembrance.

Many will show their care through the wearing of a yellow ribbon. Many Nebraskans will fly the American flag as a show of support.

Many others will go to their houses of worship to pray for the safety of our fellow citizens.

Whatever the form, our remembrance and our regard for the self-giving act of these individuals should be demonstrated now and through the conclusion of this war.

Sincerely,
(Signed) E. Benjamin Nelson

EASE

The Legislature was at ease from 11:00 a.m. until 11:15 a.m.

BILLS ON FIRST READING

The following bills were read for the first time by title:

LEGISLATIVE BILL 392. Introduced by Byars, 30.

A BILL FOR AN ACT relating to civil procedure; to amend section 25-2209, Reissue Revised Statutes of Nebraska, 1943; to change a provision relating to court records; and to repeal the original section.

LEGISLATIVE BILL 393. Introduced by Byars, 30.

A BILL FOR AN ACT relating to motor vehicles; to amend section 60-1438, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to warranty services and repairs; and to repeal the original section.

LEGISLATIVE BILL 394. Introduced by Rogers, 41; Wesely, 26.

A BILL FOR AN ACT relating to health insurance pools; to amend section 44-4228, Revised Statutes Supplement, 1990; to waive an exclusion from coverage for recipients of medical assistance for medically handicapped children; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 395. Introduced by Chambers, 11.

A BILL FOR AN ACT relating to South African investments; to amend sections 72-1271 and 72-1273 to 72-1276, Reissue Revised Statutes of Nebraska, 1943; to define terms; to change provisions

relating to the investment of state funds in banks and companies doing business with and in South Africa; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 396. Introduced by Ashford, 6.

A BILL FOR AN ACT relating to crimes and offenses; to amend section 43-801, Reissue Revised Statutes of Nebraska, 1943, and section 28-101, Revised Statutes Supplement, 1990; to prohibit institutional vandalism and ethnic intimidation; to provide penalties; to authorize a civil action for violations of such offenses; to require the Nebraska State Patrol to maintain information on crimes motivated by bigotry and bias; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 397. Introduced by Beyer, 3.

A BILL FOR AN ACT relating to inheritance tax; to amend section 77-2004, Reissue Revised Statutes of Nebraska, 1943; to change the value of property exempt from ten thousand to one hundred thousand for immediate relatives; and to repeal the original section.

LEGISLATIVE BILL 398. Introduced by Schellpeper, 18.

A BILL FOR AN ACT relating to county agricultural societies; to amend section 2-203.06, Revised Statutes Supplement, 1990; to provide for such societies to comply with the law regarding open meetings; to provide that the budget shall be subject to annual review and audit as prescribed; and to limit the tax levy for capital construction and other work as prescribed; and to repeal the original section.

LEGISLATIVE BILL 399. Introduced by Schellpeper, 18; Dierks, 40.

A BILL FOR AN ACT relating to low-level radioactive waste; to amend section 81-1578, Revised Statutes Supplement, 1990, and Laws 1983, LB 200, section 1; to restrict the issuance of a license under the Low-Level Radioactive Waste Disposal Act as prescribed; to amend the Central Interstate Low-Level Radioactive Waste Compact; to harmonize a provision; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 400. Introduced by Schellpeper, 18; Dierks, 40; Rogers, 41.

A BILL FOR AN ACT relating to public health and welfare; to amend sections 71-1,104, 71-5647, and 71-5649, Reissue Revised Statutes of Nebraska, 1943; to adopt the Rural Health Systems and Professional Incentive Act; to eliminate provisions relating to the Commission on Rural Health Manpower; to eliminate the Nebraska Medical Student Assistance Act; to harmonize provisions; to provide severability; and to repeal the original sections, and also sections 71-5601 to 71-5645 and 71-5648, Reissue Revised Statutes of Nebraska, 1943.

LEGISLATIVE BILL 401. Introduced by Crosby, 29; Rasmussen, 20; Dierks, 40; Landis, 46; Hall, 7; Will, 8; Robak, 22; Schellpeper, 18; Byars, 30; Conway, 17.

A BILL FOR AN ACT relating to child abuse and neglect; to amend sections 43-1901, 43-1902, 43-1904, and 43-1906, Reissue Revised Statutes of Nebraska, 1943; to state intent; to define terms; to authorize appointment of multidisciplinary child protection teams; to provide powers and duties; to provide immunity; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 402. Introduced by Wehrbein, 2.

A BILL FOR AN ACT relating to game and parks; to amend section 37-214.04, Reissue Revised Statutes of Nebraska, 1943, and section 37-202, Revised Statutes Supplement, 1990; to change the age that a person is not required to have certain permits as prescribed; and to repeal the original sections.

LEGISLATIVE BILL 403. Introduced by Morrissey, 1.

A BILL FOR AN ACT relating to game and parks; to amend section 37-102, Revised Statutes Supplement, 1990; to provide for a bow hunter education program; to require a permit for bow and arrow hunting as prescribed; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 404. Introduced by Hall, 7.

A BILL FOR AN ACT relating to property tax; to amend sections 77-112 and 77-201, Reissue Revised Statutes of Nebraska, 1943; to

provide for the valuation of agricultural land and horticultural land for tax year 1991; to define terms; to provide an operative date; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 405. Introduced by Conway, 17; Bernard-Stevens, 42; Byars, 30.

A BILL FOR AN ACT relating to power of attorney; to define terms; to provide for a durable power of attorney for certain medical treatment decisions; to provide powers and duties for patient advocates; to provide for revocation of the durable power of attorney; to provide for liability; to provide restrictions for certain life and health care insurance providers; to provide for the validity of certain designations; and to provide an exception for spiritual healing.

LEGISLATIVE BILL 406. Introduced by Lamb, 43; Smith, 33; R. Johnson, 34; Morrissey, 1; Schellpeper, 18; Coordsen, 32; Hartnett, 45.

A BILL FOR AN ACT relating to solid waste; to amend sections 81-1502, 81-1504, and 81-1532, Reissue Revised Statutes of Nebraska, 1943; to define terms; to provide for issuance of permits to solid waste importers, transfer stations, and disposal facilities; to provide duties for such permittees; to provide requirements for transportation units; to provide powers and duties for the Department of Environmental Control and the Environmental Control Council; to provide a penalty; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 407. Introduced by Will, 8.

A BILL FOR AN ACT relating to school employees; to amend section 79-12,107, Reissue Revised Statutes of Nebraska, 1943; to provide for judicial review of school board decisions relating to certificated employees; to harmonize provisions; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 408. Introduced by Wesely, 26.

A BILL FOR AN ACT relating to deceptive trade practices; to amend sections 87-302 and 87-307, Revised Statutes Supplement, 1990; to define and redefine terms; to enumerate a deceptive trade practice; and to repeal the original sections.

LEGISLATIVE BILL 409. Introduced by R. Johnson, 34; Hartnett, 45; Morrissey, 1; Dierks, 40.

A BILL FOR AN ACT relating to environmental protection; to amend sections 66-1501, 66-1503, 66-1508, 66-1509, 66-1512, 66-1513, 66-1514, 66-1516, 66-1517, 66-1519, 66-1521, 66-1522, 66-1523, and 66-1525, Reissue Revised Statutes of Nebraska, 1943, and section 81-15,119, Revised Statutes Supplement, 1990; to define and redefine terms; to change provisions relating to collection of fees for and reimbursements from the Petroleum Release Remedial Action Cash Fund; to provide for a state interest in certain litigation; to harmonize provisions; and to repeal the original sections.

RESOLUTION

LEGISLATIVE RESOLUTION 6CA. Introduced by Will, 8; Hall, 7.

A Resolution to propose an amendment to the Constitution of Nebraska by amending Article VII, section 10.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

Section 1. That at the general election in November 1992 there shall be submitted to the electors of the State of Nebraska for approval the following amendment to the Constitution of Nebraska by amending Article VII, section 10, which is hereby proposed by the Legislature:

CVII-10 "The general government of the University of Nebraska shall~~, under the direction of the Legislature, be vested in a board~~ be administered by a board, subject to such direction as the Coordinating Commission for Postsecondary Education and the Legislature shall provide, of not less than six nor more than eight regents to be designated the Board of Regents of the University of Nebraska, who shall be ~~elected from and by~~ appointed by the Governor, with the approval of a majority of the Legislature, from districts ~~as herein~~ provided in this section and three students of the University of Nebraska who shall serve as nonvoting members. Such nonvoting student members shall consist of the student body president of the University of Nebraska at Lincoln, the student body president of the University of Nebraska at Omaha, and the student body president of the University of Nebraska Medical Center. The terms of office of ~~elected~~ appointed members shall be ~~for six years~~

~~each~~ four years, except that of the members initially appointed four members shall be appointed for two-year terms as designated by the Governor. The terms of office of student members shall be for the period of service as student body president. Their duties and powers shall be prescribed by law, ; and they shall receive no compensation, but may be reimbursed their actual expenses incurred in the discharge of their duties.

The Legislature shall divide the state, along county lines, into as many compact regent districts, as there are regents provided by the Legislature, of approximately equal population, which shall be numbered consecutively.

The Legislature shall redistrict the state after each federal decennial census. Such districts shall not be changed except upon the concurrence of a majority of the members of the Legislature. In any such redistricting, county lines shall be followed whenever practicable, but other established lines may be followed at the discretion of the Legislature. Whenever the state is so redistricted, the members ~~elected~~ appointed prior to the redistricting shall continue in office, and the law providing for such redistricting shall where necessary specify the newly established district which they shall represent for the balance of their term.".

Sec. 2. That the proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1. The proposition for the submission of the proposed amendment shall be placed upon the ballot in the following form:

"A constitutional amendment to place the Board of Regents of the University of Nebraska under the direction of the Coordinating Commission for Postsecondary Education and the Legislature and to provide that regents be appointed by the Governor for four-year terms.

For

Against".

Sec. 3. That the proposed amendment, if adopted, shall be in force and take effect immediately upon the completion of the canvass of the votes, at which time it shall be the duty of the Governor to proclaim it as a part of the Constitution of Nebraska.

Referred to the Reference Committee.

UNANIMOUS CONSENT - Add Co-Introducers

Mr. Byars asked unanimous consent to have his name added as co-introducer to LB 363. No objections. So ordered.

Mr. Horgan asked unanimous consent to have his name added as co-introducer to LB 136. No objections. So ordered.

Ms. Schimek asked unanimous consent to have her name added as co-introducer to LB 230. No objections. So ordered.

Mr. Rogers asked unanimous consent to have his name added as co-introducer to LB 246. No objections. So ordered.

VISITOR

Visitor to the Chamber was Myron Christensen from Oakland.

ADJOURNMENT

At 11:25 a.m., on a motion by Mrs. Hillman, the Legislature adjourned until 9:00 a.m., Friday, January 18, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

EIGHTH DAY - JANUARY 18, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

EIGHTH DAY

Legislative Chamber, Lincoln, Nebraska
Friday, January 18, 1991

Pursuant to adjournment, the Legislature met at 9:00 a.m., Speaker Baack presiding.

PRAYER

The prayer was offered by Dr. Norman Leach, Executive Director, Lincoln Interfaith Council, Lincoln, Nebraska.

ROLL CALL

The roll was called and all members were present except Messrs. Byars, Withem, and Mrs. Rasmussen who were excused; and Messrs. Abboud, Bernard-Stevens, Chambers, Conway, Hall, Hartnett, R. Johnson, Lamb, Moore, and Schmit who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Seventh Day was approved.

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the attached report on the referral of legislative bills 302 through 308, 310 through 360, and legislative resolution 2.

LB	Committee
302	Judiciary
303	Judiciary

304 Transportation
305 Banking, Commerce and Insurance
306 Natural Resources
307 Urban Affairs
308 Health and Human Services
310 Judiciary
311 Business and Labor
312 Agriculture
313 Government, Military and Veterans Affairs
314 Transportation
315 Judiciary
316 Revenue
317 Transportation
318 Judiciary
319 Transportation
320 Revenue
321 General Affairs
322 Revenue
323 Education
324 Judiciary
325 Natural Resources
326 Judiciary
327 Judiciary
328 Business and Labor
329 Government, Military and Veterans Affairs
330 Urban Affairs
331 Government, Military and Veterans Affairs
332 Revenue
333 Transportation
334 General Affairs
335 Transportation
336 Transportation
337 Transportation
338 Natural Resources
339 Natural Resources
340 Natural Resources
341 Natural Resources
342 Natural Resources
343 Judiciary
344 General Affairs
345 General Affairs
346 Banking, Commerce and Insurance
347 Judiciary
348 Nebraska Retirement Systems

349	Agriculture
350	Nebraska Retirement Systems
351	Judiciary
352	General Affairs
353	Government, Military and Veterans Affairs
354	General Affairs
355	Government, Military and Veterans Affairs
356	Agriculture
357	Agriculture
358	Agriculture
359	Agriculture
360	Business and Labor

LR	**Committee**
2	Government, Military and Veterans Affairs

(Signed) Jerome Warner, Chairperson
Legislative Council
Executive Board

NOTICE OF COMMITTEE HEARINGS
Business and Labor

LB 16	Monday, January 28, 1991	1:30 p.m.
LB 19	Monday, January 28, 1991	1:30 p.m.
LB 31	Monday, January 28, 1991	1:30 p.m.
LB 145	Monday, January 28, 1991	1:30 p.m.

(Signed) George Coordsen, Chairperson

Transportation

LB 35	Monday, January 28, 1991	1:30 p.m.
LB 197	Monday, January 28, 1991	1:30 p.m.
LB 113	Monday, January 28, 1991	1:30 p.m.
LB 296	Monday, January 28, 1991	1:30 p.m.
LB 258	Tuesday, January 29, 1991	1:30 p.m.
LB 171	Tuesday, January 29, 1991	1:30 p.m.
LB 170	Tuesday, January 29, 1991	1:30 p.m.
LB 271	Tuesday, January 29, 1991	1:30 p.m.

(Signed) Doug Kristensen, Chairperson

MESSAGE FROM THE GOVERNOR

January 17, 1991

The Speaker and Senators
Nebraska Legislature
State Capitol
Lincoln, NE 68509

Dear Senators:

On January 10 I asked that you defer, pending my review, the confirmation process for a number of gubernatorial appointments made by my predecessor since the end of the 91st Legislature.

Today, I am pleased to provide a list of appointments on which I have completed my review, and which I present for Legislative confirmation.

Gloria Erickson, Game and Parks Commission (District 5)

Verne Moore, Commission on Industrial Relations

Violet Fickel, Foster Care Review Board (FCRB)
Carol Holyoke, FCRB
Dr. Alva Barnett, FCRB
Jo Lamb, FCRB

Denny Miller, Motor Vehicle Industry Licensing Board (MVILB)
Mel Auch, MVILB

Robert Kelley, Nebraska Dry Bean Commission (NDBC)
Terrance Terrell, NDBC

Cynthia Lewis-Trujillo, Modular Housing Advisory Board (MHAB)
Bruce Bailey, MHAB
Lyle O'Hara, MHAB
Gary Rickett, MHAB
Max Burroughs, MHAB
Roger Cross, MHAB
Rod Tompkins, MHAB

James Pearson, Nebraska Safety Center Advisory Council (NSCAC)
Harold Sobotka, NSCAC

Gene Siefford, NSCAC
Kenneth Sieckmeyer, NSCAC
Gary Hirsch, NSCAC
Ben Novicoff, NSCAC
Tobin Anderson, NSCAC
Dr. Pearl Hansen, NSCAC
Kim Whitehouse, NSCAC

Charlene Hirsch, Accountability and Disclosure Commission

As before, I assure you of my awareness of the need to move expeditiously with this review process. I will return to you as quickly as possible further appointments in which I concur, and will submit new nominations where necessary.

Thank you for your cooperation and assistance.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN/br

MOTION - Withdraw LB 309

Messrs. Lynch and Wesely renewed their pending motion, found in the Journal on page 244, to withdraw LB 309.

The motion prevailed with 26 ayes, 0 nays, 10 present and not voting, and 13 excused and not voting.

BILLS ON FIRST READING

The following bills were read for the first time by title:

LEGISLATIVE BILL 410. Introduced by Wesely, 26; Byars, 30; Rasmussen, 20.

A BILL FOR AN ACT relating to state government; to amend section 81-8,244, Reissue Revised Statutes of Nebraska, 1943; to provide for a deputy public counsel for child welfare services; and to repeal the original section.

LEGISLATIVE BILL 411. Introduced by Hefner, 19.

A BILL FOR AN ACT relating to labor; to amend section 48-649, Reissue Revised Statutes of Nebraska, 1943; to change provisions for the computation of the employer's contribution rate as prescribed; and to repeal the original section.

LEGISLATIVE BILL 412. Introduced by Wesely, 26.

A BILL FOR AN ACT relating to public health and welfare; to adopt the Critical Incident Stress Debriefing Act.

LEGISLATIVE BILL 413. Introduced by Baack, 47.

A BILL FOR AN ACT relating to the Environmental Protection Act; to amend section 81-1508, Reissue Revised Statutes of Nebraska, 1943; to change penalty provisions as prescribed; and to repeal the original section.

LEGISLATIVE BILL 414. Introduced by Wesely, 26.

A BILL FOR AN ACT relating to mental health; to adopt the Rehabilitation and Support Mental Health Services Incentive Act.

LEGISLATIVE BILL 415. Introduced by Peterson, 21.

A BILL FOR AN ACT relating to cities of the first class; to eliminate a provision relating to the publication of city financial statements; and to repeal section 16-722, Reissue Revised Statutes of Nebraska, 1943.

LEGISLATIVE BILL 416. Introduced by Wesely, 26.

A BILL FOR AN ACT relating to mental health; to amend section 83-380.01, Reissue Revised Statutes of Nebraska, 1943; to authorize the Department of Public Institutions to provide necessary prescription medications for indigent persons receiving mental health treatment; and to repeal to the original section.

LEGISLATIVE BILL 417. Introduced by Wesely, 26; Byars, 30; Lynch, 13.

A BILL FOR AN ACT relating to appropriations; to state intent to increase payments to certain caregivers; and to appropriate funds.

LEGISLATIVE BILL 418. Introduced by Schimek, 27; Smith, 33.

A BILL FOR AN ACT relating to the Nebraska Juvenile Code; to amend section 43-285, Revised Statutes Supplement, 1990; to provide for a written independent living plan for certain juveniles as prescribed; and to repeal the original section.

LEGISLATIVE BILL 419. Introduced by Wesely, 26; Schellpeper, 18.

A BILL FOR AN ACT relating to public health and welfare; to amend section 71-6038, Reissue Revised Statutes of Nebraska, 1943; to provide qualifications for certified nursing assistants; and to repeal the original section.

LEGISLATIVE BILL 420. Introduced by Kristensen, 37.

A BILL FOR AN ACT relating to motor vehicle operators' licenses; to amend sections 39-669.06, 39-669.22, 39-669.23, 39-669.24, 39-6,110, 60-516, and 60-517, Reissue Revised Statutes of Nebraska, 1943, and sections 39-669.27, 60-487, 60-498 to 60-4,102, and 60-4,125, Revised Statutes Supplement, 1990; to eliminate requirements for certified copies of judgments; to change provisions relating to transmission of judgment records to the Department of Motor Vehicles; to harmonize provisions; to provide an operative date; and to repeal the original sections.

LEGISLATIVE BILL 421. Introduced by Wesely, 26; Dierks, 40; Byars, 30.

A BILL FOR AN ACT relating to public health and welfare; to amend section 71-1,132.05, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to the definition of licensed practical nurse; and to repeal the original section.

LEGISLATIVE BILL 422. Introduced by Kristensen, 37.

A BILL FOR AN ACT relating to civil procedure; to amend section 25-2721, Reissue Revised Statutes of Nebraska, 1943; to authorize the filing of county court judgments in any county court and provide for execution on such judgments; and to repeal the original section.

LEGISLATIVE BILL 423. Introduced by Wesely, 26; Nelson, 35.

A BILL FOR AN ACT relating to medicaid; to amend section 68-1026, Reissue Revised Statutes of Nebraska, 1943; to provide for drug-related and alcohol-related treatment and services as prescribed; to harmonize a provision; and to repeal the original section.

LEGISLATIVE BILL 424. Introduced by Wesely, 26.

A BILL FOR AN ACT relating to elections; to amend sections 32-705 and 32-1403, Revised Statutes Supplement, 1990; to require badges for paid petition circulators as prescribed; and to repeal the original sections.

LEGISLATIVE BILL 425. Introduced by Labedz, 5; Lindsay, 9; Dierks, 40; Robinson, 16; Byars, 30; R. Johnson, 34; Kristensen, 37; Coordsen, 32; Abboud, 12; Schmit, 23; Conway, 17; Horgan, 4; Smith, 33; Hall, 7; Robak, 22; Crosby, 29; Rogers, 41; Beyer, 3; Pirsch, 10; Hefner, 19; Schrock, 39; Cudaback, 36; Chizek, 31; Elmer, 38; Peterson, 21; Wehrbein, 2; Hartnett, 45; L. Johnson, 15; Lamb, 43; Schellpeper, 18.

A BILL FOR AN ACT relating to abortion; to amend sections 25-1914 and 71-148, Reissue Revised Statutes of Nebraska, 1943; to define terms; to require parental notice and provide for judicial authorization as prescribed; to provide a penalty; to provide for immunity from liability; to eliminate a notice requirement; to harmonize provisions; to provide severability; and to repeal the original sections, and also section 28-347, Reissue Revised Statutes of Nebraska, 1943.

LEGISLATIVE BILL 426. Introduced by Wesely, 26; Dierks, 40.

A BILL FOR AN ACT relating to the University of Nebraska; to amend section 85-107, Reissue Revised Statutes of Nebraska, 1943, and section 85-122, Revised Statutes Supplement, 1990; to authorize a College of Osteopathic Medicine and Surgery as a cooperative venture; to create a fund; to provide powers for the Board of Regents; and to repeal the original sections.

EASE

The Legislature was at ease from 9:30 a.m. until 10:07 a.m.

UNANIMOUS CONSENT - Members Excused

Messrs. Kristensen, Schellpeper, Dierks, and Hefner asked unanimous consent to be excused until they return. No objections. So ordered.

BILLS ON FIRST READING

The following bills were read for the first time by title:

LEGISLATIVE BILL 427. Introduced by Haberman, 44.

A BILL FOR AN ACT relating to bingo; to amend section 9-250, Revised Statutes Supplement, 1990; to change provisions relating to restrictions on participation and presence at certain bingo occasions as prescribed; and to repeal the original section.

LEGISLATIVE BILL 428. Introduced by Kristensen, 37; Lindsay, 9; Rasmussen, 20.

A BILL FOR AN ACT relating to health care services; to adopt the Patient Protection In Utilization Review Act.

LEGISLATIVE BILL 429. Introduced by R. Johnson, 34.

A BILL FOR AN ACT relating to the Resource Recovery Fund; to amend section 81-1647, Revised Statutes Supplement, 1990; to provide for the deposit of proceeds from the sale of surplus property as prescribed; and to repeal the original section.

LEGISLATIVE BILL 430. Introduced by R. Johnson, 34; Smith, 33; Morrissey, 1; Schimek, 27.

A BILL FOR AN ACT relating to waste reduction and recycling; to amend section 81-15,161, Revised Statutes Supplement, 1990; to change procedures for awarding grants; to provide for rules and regulations; and to repeal the original section.

LEGISLATIVE BILL 431. Introduced by Wesely, 26; Schellpeper, 18; Smith, 33.

A BILL FOR AN ACT relating to public health and welfare; to amend section 79-444.01, Reissue Revised Statutes of Nebraska, 1943; to adopt the Childhood Vaccine Act; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 432. Introduced by Chizek, 31.

A BILL FOR AN ACT relating to law enforcement; to amend section 81-1423, Reissue Revised Statutes of Nebraska, 1943; to create the Nebraska Law Enforcement Accreditation Council as prescribed; to change provisions relating to the duties of the Nebraska Commission on Law Enforcement Accreditation and Criminal Justice; and to repeal the original section.

LEGISLATIVE BILL 433. Introduced by Wesely, 26; Smith, 33; Crosby, 29; Rasmussen, 20.

A BILL FOR AN ACT relating to medical assistance; to amend section 68-1020, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to eligibility for benefits as prescribed; to provide for case management services for high-risk pregnant women as prescribed; to provide an operative date; and to repeal the original section.

LEGISLATIVE BILL 434. Introduced by Chizek, 31.

A BILL FOR AN ACT relating to criminal procedure; to amend section 29-2002, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to joinder of offenses and defendants as prescribed; and to repeal the original section.

LEGISLATIVE BILL 435. Introduced by Chizek, 31.

A BILL FOR AN ACT relating to courts; to amend section 29-1901, Revised Statutes Supplement, 1990; to change provisions relating to payment of certain witness fees and mileage as prescribed; and to repeal the original section.

LEGISLATIVE BILL 436. Introduced by Chizek, 31.

A BILL FOR AN ACT relating to the Probation Supervision Cash Fund; to amend section 29-2259.01, Revised Statutes Supplement, 1990; to change a provision relating to the use of the fund; and to repeal the original section.

LEGISLATIVE BILL 437. Introduced by Chizek, 31.

A BILL FOR AN ACT relating to courts; to amend section 24-515, Reissue Revised Statutes of Nebraska, 1943, and section 29-2259, Revised Statutes Supplement, 1990; to provide for payment of data processing and word processing hardware and software expenses by the Supreme Court as prescribed; to eliminate a requirement that the Supreme Court provide security personnel; to authorize electronic research capabilities for judges of the district court and judges of the county court as prescribed; and to repeal the original sections.

LEGISLATIVE BILL 438. Introduced by Chizek, 31.

A BILL FOR AN ACT relating to crimes and punishments; to amend sections 28-929 to 28-931, Reissue Revised Statutes of Nebraska, 1943; to change provisions and penalties relating to the crime of assault on an officer; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 439. Introduced by Chizek, 31.

A BILL FOR AN ACT relating to civil procedure; to amend section 25-213, Reissue Revised Statutes of Nebraska, 1943; to limit the tolling of statutes of limitations due to imprisonment; and to repeal the original section.

LEGISLATIVE BILL 440. Introduced by Chizek, 31.

A BILL FOR AN ACT relating to criminal procedure; to amend section 29-908, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to penalties when a person fails to appear after being released under bail, recognizance, or a conditional release; and to repeal the original section.

LEGISLATIVE BILL 441. Introduced by Chizek, 31.

A BILL FOR AN ACT relating to insurance; to adopt the Health Care Fraudulent Claims Act; and to provide severability.

LEGISLATIVE BILL 442. Introduced by Chizek, 31.

A BILL FOR AN ACT relating to the Nebraska Criminal Code; to amend section 28-101, Revised Statutes Supplement, 1990; to create the offense of disarming a peace officer; to provide a penalty; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 443. Introduced by Chizek, 31.

A BILL FOR AN ACT relating to search warrants; to amend sections 29-814.03 and 29-814.05, Reissue Revised Statutes of Nebraska, 1943; to change procedures for issuance of a warrant by telephone; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 444. Introduced by Will, 8.

A BILL FOR AN ACT relating to sales and use tax; to amend sections 77-2701 and 77-2704, Reissue Revised Statutes of Nebraska, 1943; to change a provision relating to a tax exemption for certain medical equipment and supplies as prescribed; to define terms; to harmonize provisions; to provide an operative date; and to repeal the original sections.

LEGISLATIVE BILL 445. Introduced by Wesely, 26; Kristensen, 37; Rasmussen, 20.

A BILL FOR AN ACT relating to children with special health care needs; to amend section 71-2204, Reissue Revised Statutes of Nebraska, 1943; to state intent; to define terms; to require case management services as prescribed; to provide for the use of certain block grant funds; and to repeal the original section.

LEGISLATIVE BILL 446. Introduced by Schrock, 39; Coordsen, 32; Smith, 33.

A BILL FOR AN ACT relating to reformulated gasoline; to amend section 66-1225, Reissue Revised Statutes of Nebraska, 1943; to change requirements for sale of reformulated gasoline; and to repeal the original section.

LEGISLATIVE BILL 447. Introduced by Bernard-Stevens, 42.

A BILL FOR AN ACT relating to juveniles; to amend sections 43-286, 49-506, 49-617, 81-101, 81-102, 81-1826, 83-171, 83-472, 83-473, 83-4,100, 83-4,103, 83-905, 83-906, and 83-922, Reissue Revised Statutes of Nebraska, 1943, and section 83-911.01, Revised Statutes Supplement, 1990; to create the Department of Juvenile Justice; to provide powers and duties; to eliminate the Division of Juvenile Services of the Department of Correctional Services; to harmonize provisions; to provide an operative date; and to repeal the

original sections, and also sections 83-925 to 83-930, Reissue Revised Statutes of Nebraska, 1943.

LEGISLATIVE BILL 448. Introduced by Pirsch, 10.

A BILL FOR AN ACT relating to civil procedure; to amend section 25-21,190, Reissue Revised Statutes of Nebraska, 1943; to redefine a term; and to repeal the original section.

LEGISLATIVE BILL 449. Introduced by Pirsch, 10.

A BILL FOR AN ACT relating to real property; to amend section 76-1003, Reissue Revised Statutes of Nebraska, 1943; to allow credit unions to be trustees of trust deeds; and to repeal the original section.

LEGISLATIVE BILL 450. Introduced by Pirsch, 10.

A BILL FOR AN ACT relating to credit unions; to amend sections 21-1780 and 21-1790, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to special meetings; to eliminate a provision relating to security for loans; and to repeal the original sections.

LEGISLATIVE BILL 451. Introduced by Pirsch, 10.

A BILL FOR AN ACT relating to marijuana; to amend sections 28-416, 28-438, 29-431, 29-433, and 29-434, Reissue Revised Statutes of Nebraska, 1943, and section 28-101, Revised Statutes Supplement, 1990; to change penalty provisions relating to possession; to harmonize provisions; to transfer sections; and to repeal the original sections.

LEGISLATIVE BILL 452. Introduced by Business and Labor Committee: Coordsen, 32, Chairperson; Chambers, 11; Elmer, 38; Hefner, 19; Morrissey, 1; Schellpeper, 18; Schimek, 27.

A BILL FOR AN ACT relating to the Farm Labor Contractors Act; to amend section 48-1703, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to persons excluded from the act; and to repeal the original section.

LEGISLATIVE BILL 453. Introduced by Smith, 33; Elmer, 38.

A BILL FOR AN ACT relating to political subdivisions; to provide for entry upon property as prescribed; and to provide for damages.

LEGISLATIVE BILL 454. Introduced by Smith, 33.

A BILL FOR AN ACT relating to liquor; to amend sections 53-180.06 and 53-186.01, Reissue Revised Statutes of Nebraska, 1943, and section 53-180.05, Revised Statutes Supplement, 1990; to change provisions relating to minors; to establish methods for proof of age; and to repeal the original sections.

LEGISLATIVE BILL 455. Introduced by Health and Human Services Committee: Wesely, 26, Chairperson; Beyer, 3; Cudaback, 36; Dierks, 40; Schellpeper, 18.

A BILL FOR AN ACT relating to nursing home administrators; to amend section 71-6055, Reissue Revised Statutes of Nebraska, 1943; to change certain training requirements for administrator-in-training programs as prescribed; and to repeal the original section.

LEGISLATIVE BILL 456. Introduced by Health and Human Services Committee: Wesely, 26, Chairperson; Beyer, 3; Cudaback, 36; Dierks, 40; Schellpeper, 18.

A BILL FOR AN ACT relating to the Uniform Licensing Law; to amend sections 28-409, 33-150, 44-2851, 71-101, 71-147, 71-148, 71-161.12, 71-161.13, 71-161.16, 71-161.18, and 71-1,209, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to grounds for discipline under the Uniform Licensing Law; to redefine a term; to provide for a Licensee Assistance Program; to provide powers and duties for the Department of Health; to create a fund; to provide an exemption related to credit of fees to the General Fund; to eliminate provisions relating to automatic suspension of a license to practice medicine and surgery due to mental or physical illness; to harmonize provisions; and to repeal the original sections, and also sections 71-1,104.01 to 71-1,104.05, Reissue Revised Statutes of Nebraska, 1943.

LEGISLATIVE BILL 457. Introduced by Schellpeper, 18; Labedz, 5; Crosby, 29; Robak, 22; Nelson, 35; Schimek, 27; Smith, 33.

A BILL FOR AN ACT relating to the Income Withholding for Child Support Act; to amend sections 42-358, 43-1701, 43-1718, 43-1720,

and 43-1721, Reissue Revised Statutes of Nebraska, 1943; to provide for automatic income withholding for child support obligations as prescribed; to change and provide duties for clerks of the district court, county attorneys, authorized attorneys, and the Department of Social Services; to provide for rules and regulations; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 458. Introduced by Wickersham, 49; Lamb, 43; Bernard-Stevens, 42; Rogers, 41; Hillman, 48; Nelson, 35; Peterson, 21; Dierks, 40; Schellpeper, 18.

A BILL FOR AN ACT relating to fire suppression and rescue services; to authorize charges for negligently or illegally caused fires.

LEGISLATIVE BILL 459. Introduced by Chizek, 31; Pirsch, 10; Nelson, 35; Moore, 24; Elmer, 38; Hillman, 48.

A BILL FOR AN ACT relating to controlled substances; to amend sections 28-431, 28-432, 28-433, 28-438, 28-441, 28-442, 28-445, 28-1439.02 to 28-1439.05, and 71-1,147.09, Reissue Revised Statutes of Nebraska, 1943, and sections 28-101, 28-404, 28-1439.01, and 81-2004.05, Revised Statutes Supplement, 1990; to authorize the seizure of certain property without a warrant; to provide for the forfeiture and sale of such property; to provide procedures; to provide for disposition of the proceeds; to change provisions relating to membership on the County Drug Law Enforcement Fund Board; to transfer certain sections; to eliminate provisions relating to proceedings, rules, and orders prior to January 1, 1979; to harmonize provisions; to provide severability; and to repeal the original sections, and also sections 28-435 and 28-436, Reissue Revised Statutes of Nebraska, 1943.

LEGISLATIVE BILL 460. Introduced by Coordsen, 32.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2704, Reissue Revised Statutes of Nebraska, 1943; to exempt certain agricultural-related items from sales and use tax if purchased by nonresidents; to provide a limitation; to provide an operative date; and to repeal the original section.

LEGISLATIVE BILL 461. Introduced by Transportation Committee: Kristensen, 37, Chairperson; Beyer, 3; Byars, 30; Horgan, 4; Peterson, 21; Pirsch, 10; Robak, 22; Wickersham, 49.

A BILL FOR AN ACT relating to motor carriers; to amend sections 75-363 and 75-364, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to exemptions from federal Motor Carrier Safety Regulations and federal Hazardous Material Regulations as prescribed; and to repeal the original sections.

LEGISLATIVE BILL 462. Introduced by Wesely, 26.

A BILL FOR AN ACT relating to economic development; to amend sections 77-2715.07, 77-2734.03, and 77-27,119, Reissue Revised Statutes of Nebraska, 1943; to adopt the Business Development Capital Act; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 463. Introduced by Wesely, 26; Landis, 46.

A BILL FOR AN ACT relating to economic development; to adopt the Community Economic Development Partnership Act.

LEGISLATIVE BILL 464. Introduced by Conway, 17; Bernard-Stevens, 42.

A BILL FOR AN ACT relating to schools; to amend sections 79-402 and 79-426.02, Revised Statutes Supplement, 1990; to change provisions relating to the creation or reorganization of school districts as prescribed; to provide exceptions; to harmonize provisions; and to repeal the original sections.

NOTICE OF COMMITTEE HEARINGS

Banking, Commerce and Insurance

LB 233	Monday, January 28, 1991	1:30 p.m.
LB 234	Monday, January 28, 1991	1:30 p.m.
LB 235	Monday, January 28, 1991	1:30 p.m.
LB 236	Monday, January 28, 1991	1:30 p.m.
LB 237	Monday, January 28, 1991	1:30 p.m.

(Signed) David Landis, Chairperson

Natural Resources

LB 21	Friday, January 25, 1991	1:30 p.m.
LB 164	Friday, January 25, 1991	1:30 p.m.
LB 174	Friday, January 25, 1991	1:30 p.m.

(Signed) Rod Johnson, Chairperson

General Affairs

LB 124	Monday, January 28, 1991	1:30 p.m.
LB 201	Monday, January 28, 1991	1:30 p.m.
LB 202	Monday, January 28, 1991	1:30 p.m.
LB 344	Monday, January 28, 1991	1:30 p.m.
LB 354	Monday, January 28, 1991	1:30 p.m.

(Signed) Jacklyn Smith, Chairperson

MOTION - Withdraw LB 177

Mr. R. Johnson moved to withdraw LB 177.

Laid over.

MOTION - Withdraw LB 106

Mrs. Pirsch moved to withdraw LB 106.

Laid over.

REPORT OF REGISTERED LOBBYISTS

In accordance with LB 987, passed in the 1976 session of the Legislature and amended by LB 4 and LB 41 in the 1977 session of the Legislature, the attached is a list of all Lobbyists who have registered as of January 17, 1991. Further lists listing additional lobbyists who have registered will be filed weekly.

(Signed) Patrick J. O'Donnell
Clerk of the Legislature

Anderson, Linda D. - Lincoln	Citizens CBA Action Council
Baird, Holm Law Office	
Bredthauer, Trudy Sanders - Omaha	Nebraska Methodist Health System, Inc.
Bones, Amy S. - Omaha	IBM
	Multistate Associates for Air Transportation Association

Botsch, Barbara A. - Omaha	Greater Omaha Chamber of Commerce
Boyer, John K. - Omaha	IBM
	Multistate Associates for Air Transportation Association
	Services for Children, Inc.
Cline, Williams, Wright, Johnson & Oldfather	
Buntain, David R. - Lincoln	Nebraska Medical Association
Renner, Shawn D. - Lincoln	Nebraska Against the Death Penalty
DeCamp Legal Services, P.C.	
DeCamp, John - Lincoln	Nebraska Aviation Trades Association
Erickson & Sederstrom, P.C.	
Thone, Charles - Lincoln	Erickson & Sederstrom, P.C.
	First Federal Lincoln
	Immanuel, Inc.
	Nebraska Florists Society
	Nebraska Municipal Power Pool
	Nebraska Rural Water Association
Howell, William R. - St. Louis, MO	The UpJohn Company
Jensen Assocates, Inc.	
Jensen, Ronald L. - Lincoln	Nebraska Association of Osteopathic Physicians
Johnson, Dick - Lincoln	Associated Builders & Contractors, Inc.
Kelley, Michael - Omaha	Eastern Nebraska Human Services Agency
	First American Savings Company
	Horsemen's Benevolent & Protective Association
	Kelley & Lehan, P.C.
	Metro Area Transit
	Nebraska Criminal Defense Attorneys Association
	United Retailers Liquor Association of Nebraska
King, Peggy - Lincoln	Erickson & Sederstrom, P.C.
McNeil, John - South Sioux City	South Sioux Chamber of Commerce
Norris, Cathy J. - Denver, Co.	Motor Vehicle Manufacturers Association
Pappas, James E. - Lincoln	Citizens for Preserving Platte River
	Millard, Ralston, Papillion Public School Districts
	Northwestern Public Service
	Ryan, P.C., James E.
Radcliffe and Associates	
Radcliffe, Walter H. - Lincoln	Deere & Company
Rall, Frank - Lincoln	Nebraska Public Power District
Rasmussen, Dennis - Lincoln	Nebraska Auctioneers Association

Simon, Ray - Lincoln	American Association of University Professors-UNO
Sturner, Barbara - Lincoln	Peter C. Sturner & Associates
Sturner, Peter C. & Associates Sturner, Peter - Lincoln	Nebraska State Volunteer Firefighters Association
	Peter C. Sturner & Associates
Timmermann, Dennis F. - Lincoln	United Transportation Union
Treu, Jeffrey J. - Hastings	State Troopers Association of Nebraska
Turner, James R. - Topeka, KS	Kansas-Nebraska League of Savings Institutions
Vining, Robert - Lincoln	American Association of Retired Persons
Wright, Norman H. - Omaha	IBM
	Multistate Associates for Air Transportation Association
	Services for Children

RESOLUTION

LEGISLATIVE RESOLUTION 7CA. Introduced by Wesely, 26; Chizek, 31; Chambers, 11.

A Resolution to propose an amendment to the Constitution of Nebraska by amending Article V, section 21.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

Section 1. That at the general election in November 1992 there shall be submitted to the electors of the State of Nebraska for approval the following amendment to the Constitution of Nebraska by amending Article V, section 21, which is hereby proposed by the Legislature:

CV-21 "(1) In the case of any vacancy in the Supreme Court, ~~or~~ in any district court, or in such other court or courts made subject to this provision by law, such vacancy shall be filled by the Governor from a list of at least two nominees presented to him or her by the appropriate judicial nominating commission. If the Governor ~~shall fail~~ fails to make an appointment from the list within sixty days from the date it is presented, ~~to him,~~ the appointment shall be made by the Chief Justice or the acting Chief Justice of the Supreme Court from the same list. Appointments shall be subject to the approval of a majority of the members of the Legislature if the Legislature is in session. If the Legislature is not in session, the

appointment shall be considered temporary until the next session of the Legislature, at which time a majority of the members of the Legislature may approve or disapprove the appointment. No person rejected by the Legislature shall be nominated for the same office at the same session of the Legislature unless at the request of the Legislature, and no person rejected by the Legislature shall be appointed to the same office during the recess or adjournment of the Legislature.

(2) In all other cases, any vacancy shall be filled as provided by law.

(3) At the next general election following the expiration of three years from the date of appointment of any judge under the provisions of subsection (1) of this section and every six years thereafter as long as such judge retains office, each ~~Justice or Judge~~ judge of the Supreme Court, the ~~or~~ district court, or such other court or courts as the Legislature ~~shall provide~~ provides shall have his or her right to remain in office subject to approval or rejection by the electorate in such manner as the Legislature ~~shall provide; PROVIDED,~~ provides, except that every judge holding or elected to an office described in subsection (1) of this section on the effective date of this amendment, whether by election or appointment, upon qualification shall be deemed to have been selected and to have once received the approval of the electorate as ~~herein~~ provided~~,~~ in this section and shall be required to submit his or her right to continue in office to the approval or rejection of the electorate at the general election next preceding the expiration of the term of office for which such judge was elected or appointed~~,~~ and every six years thereafter. In the case of the Chief Justice of the Supreme Court, the electorate of the entire state shall vote on the question of approval or rejection. In the case of any ~~Judge~~ judge of the Supreme Court, other than the Chief Justice, and any judge of the district court or any other court made subject to subsection (1) of this section, the electorate of the district from which such judge was selected shall vote on the question of such approval or rejection.

(4) There shall be a judicial nominating commission for the Chief Justice of the Supreme Court and one for each judicial district of the Supreme Court and of the district court and one for each area or district served by any other court made subject to subsection (1) of this section by law. Each judicial nominating commission shall consist of nine members, one of whom shall be a ~~Judge~~ judge of the Supreme Court who shall be designated by the Governor and shall act as ~~chairman,~~ chairperson but shall not be entitled to vote. The members of the bar of the state residing in the area from which the nominees are to be selected shall designate four of their number to

serve as members of ~~said~~ the commission, and the Governor shall appoint four citizens, not admitted to practice law before the courts of the state, from among the residents of the same geographical area to serve as members of ~~said~~ the commission. Not more than four of such voting members shall be of the same political party. The terms of office for members of each judicial nominating commission shall be staggered and shall be fixed by the Legislature. The nominees of any such commission cannot include a member of such commission or any person who has served as a member of such commission within a period of two years immediately preceding his or her nomination or for such additional period as the Legislature ~~shall provide~~ provides. The names of candidates shall be released to the public prior to a public hearing.

(5) Members of the nominating commission shall vote for the nominee of their choice by roll call. Each candidate must receive a majority of the voting members of the nominating commission to have his or her name submitted to the Governor.".

Sec. 2. That the proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1. The proposition for the submission of the proposed amendment shall be placed upon the ballot in the following form:

"A constitutional amendment to require legislative confirmation of judicial appointments.

For

Against".

Sec. 3. That the proposed amendment, if adopted, shall be in force and take effect immediately upon the completion of the canvass of the votes, at which time it shall be the duty of the Governor to proclaim it as a part of the Constitution of Nebraska.

Referred to the Reference Committee.

MR. LAMB PRESIDING

EASE

The Legislature was at ease from 10:14 a.m. until 11:04 a.m.

MR. ABBOUD PRESIDING

BILLS ON FIRST READING

The following bills were read for the first time by title:

LEGISLATIVE BILL 465. Introduced by Landis, 46; Wesely, 26.

A BILL FOR AN ACT relating to state personnel; to amend sections 81-8,245, 81-1318.01, 81-1348, and 81-1350, Reissue Revised Statutes of Nebraska, 1943; to adopt the State Government Effectiveness Act; to harmonize provisions; to increase the membership of and to change provisions relating to the Suggestion Award Board as prescribed; to change the amount of the award granted under the suggestion system as prescribed; to provide for a report as prescribed; and to repeal the original sections.

LEGISLATIVE BILL 466. Introduced by Wesely, 26; Schimek, 27; Crosby, 29; Landis, 46.

A BILL FOR AN ACT relating to counties; to amend sections 5-108 and 23-151, Revised Statutes Supplement, 1990; to change provisions relating to the nomination and election of members of governing bodies in certain counties as prescribed; to provide an operative date; and to repeal the original sections.

LEGISLATIVE BILL 467. Introduced by Coordsen, 32; Chambers, 11; Morrissey, 1.

A BILL FOR AN ACT relating to workers' compensation; to amend sections 48-121 and 48-128, Reissue Revised Statutes of Nebraska, 1943; to change the compensation schedule; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 468. Introduced by Crosby, 29; Bernard-Stevens, 42; Horgan, 4.

A BILL FOR AN ACT relating to the Local Option Revenue Act; to amend section 77-27,144, Reissue Revised Statutes of Nebraska, 1943; to change an administrative fee; to provide an operative date; and to repeal the original section.

LEGISLATIVE BILL 469. Introduced by Schmit, 23.

A BILL FOR AN ACT relating to banks and banking; to amend section 8-602, Reissue Revised Statutes of Nebraska, 1943, and sections 8-157 and 8-1515, Revised Statutes Supplement, 1990; to change provisions relating to the establishment of detached auxiliary offices; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 470. Introduced by Schmit, 23.

A BILL FOR AN ACT relating to banks and banking; to amend section 8-602, Reissue Revised Statutes of Nebraska, 1943, and sections 8-157 and 8-1515, Revised Statutes Supplement, 1990; to change provisions relating to the establishment of detached auxiliary offices; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 471. Introduced by Schmit, 23.

A BILL FOR AN ACT relating to banks and banking; to amend section 8-602, Reissue Revised Statutes of Nebraska, 1943, and sections 8-157 and 8-1515, Revised Statutes Supplement, 1990; to change provisions relating to the establishment of detached auxiliary offices; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 472. Introduced by Schmit, 23; Conway, 17; Hefner, 19; R. Johnson, 34.

A BILL FOR AN ACT relating to sales and use tax; to amend section 77-2702, Reissue Revised Statutes of Nebraska, 1943; to exempt feed for horses used for breeding purposes from taxation; to provide an operative date; and to repeal the original section.

LEGISLATIVE BILL 473. Introduced by Peterson, 21; Will, 8; Labedz, 5.

A BILL FOR AN ACT relating to the State Electrical Act; to amend section 81-2101, Reissue Revised Statutes of Nebraska, 1943, and section 81-2104, Revised Statutes Supplement, 1990; to require continuing education for electricians; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 474. Introduced by Nebraska Retirement Systems Committee: Nelson, 35, Chairperson; Abboud, 12; Crosby, 29; Elmer, 38; Moore, 24; Schellpeper, 18.

A BILL FOR AN ACT relating to school retirement; to amend sections 79-1558 and 79-1560, Reissue Revised Statutes of Nebraska, 1943; to provide a supplemental retirement benefit as prescribed; to provide an operative date; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 475. Introduced by Nebraska Retirement Systems Committee: Nelson, 35, Chairperson; Crosby, 29; Elmer, 38; Moore, 24; Schellpeper, 18.

A BILL FOR AN ACT relating to school retirement; to amend section 79-1522.01, Revised Statutes Supplement, 1990; to increase the formula annuity retirement allowance as prescribed; and to repeal the original section.

LEGISLATIVE BILL 476. Introduced by Schmit, 23.

A BILL FOR AN ACT relating to juveniles; to amend section 43-272, Reissue Revised Statutes of Nebraska, 1943, and sections 43-272.01 and 43-2,106, Revised Statutes Supplement, 1990; to change provisions relating to the appointment of a guardian ad litem in certain juvenile court actions as prescribed; to change provisions relating to a juvenile's appeal from a county court sitting as a juvenile court to the district court as prescribed; and to repeal the original sections.

LEGISLATIVE BILL 477. Introduced by Abboud, 12; Crosby, 29; Nelson, 35; Cudaback, 36.

A BILL FOR AN ACT relating to firearms; to amend section 28-1212, Reissue Revised Statutes of Nebraska, 1943, and section 28-101, Revised Statutes Supplement, 1990; to prohibit possession, receipt, retention, and disposition of stolen firearms; to provide a penalty; and to repeal the original sections.

LEGISLATIVE BILL 478. Introduced by Crosby, 29; Labedz, 5; Rogers, 41.

A BILL FOR AN ACT relating to abortion; to amend sections 28-343 and 28-345, Reissue Revised Statutes of Nebraska, 1943; to change the name of a form; and to repeal the original sections.

LEGISLATIVE BILL 479. Introduced by Will, 8.

A BILL FOR AN ACT relating to schools; to amend sections 79-12,114, 79-12,116, and 79-12,117, Reissue Revised Statutes of Nebraska, 1943; to eliminate provisions relating to deadlines; to harmonize provisions; to authorize the appointment of a hearing officer; and to repeal the original sections.

LEGISLATIVE BILL 480. Introduced by Rasmussen, 20.

A BILL FOR AN ACT relating to metropolitan water districts; to amend section 14-1001, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to the territory included in a district; and to repeal the original section.

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the attached report on the rereferral of legislative bill 355, the referral of legislative bills 361 through 409, legislative resolution 6CA, and Governor appointments.

LB	Committee
355	Judiciary
361	Government, Military and Veterans Affairs
362	Transportation
363	Health and Human Services
364	Education
365	Banking, Commerce and Insurance
366	Agriculture
367	Agriculture
368	Banking, Commerce and Insurance
369	Urban Affairs
370	Business and Labor
371	Judiciary
372	Government, Military and Veterans Affairs
373	Judiciary
374	Revenue
375	Judiciary
376	Urban Affairs
377	Appropriations
378	Business and Labor
379	Transportation
380	Business and Labor
381	Urban Affairs
382	Education
383	Transportation
384	Government, Military and Veterans Affairs
385	Health and Human Services
386	Health and Human Services
387	Health and Human Services
388	Health and Human Services

389 Education
390 Banking, Commerce and Insurance
391 Appropriations
392 Judiciary
393 Transportation
394 Banking, Commerce and Insurance
395 Banking, Commerce and Insurance
396 Judiciary
397 Revenue
398 Agriculture
399 Natural Resources
400 Health and Human Services
401 Health and Human Services
402 Natural Resources
403 Natural Resources
404 Revenue
405 Judiciary
406 Natural Resources
407 Education
408 Transportation
409 Natural Resources

LR	Committee
6CA	Education

Agriculture
Robert Kelley - Nebraska Dry Bean Commission
Terrance Terrell - Nebraska Dry Bean Commission

Business and Labor
Verne Moore - Commission on Industrial Relations

Education
James Pearson - Nebraska Safety Center Advisory Council
Harold Sobotka - Nebraska Safety Center Advisory Council
Gene Siefford - Nebraska Safety Center Advisory Council
Kenneth Sieckmeyer - Nebraska Safety Center Advisory Council
Gary Hirsch - Nebraska Safety Center Advisory Council
Ben Novicoff - Nebraska Safety Center Advisory Council
Tobin Anderson - Nebraska Safety Center Advisory Council
Dr. Pearl Hansen - Nebraska Safety Center Advisory Council
Kim Whitehouse - Nebraska Safety Center Advisory Council

Government, Military and Veterans Affairs

Charlene Hirsch - Accountability and Disclosure Commission

Health and Human Services
Violet Fickel - Foster Care Review Board
Carol Holyoke - Foster Care Review Board
Dr. Alva Barnett - Foster Care Review Board
Jo Lamb - Foster Care Review Board
Cynthia Lewis-Trujillo - Modular Housing Advisory Board
Bruce Bailey - Modular Housing Advisory Board
Lyle O'Hara - Modular Housing Advisory Board
Gary Rickett - Modular Housing Advisory Board
Max Burroughs - Modular Housing Advisory Board
Roger Cross - Modular Housing Advisory Board
Rod Tompkins - Modular Housing Advisory Board

Natural Resources
Gloria Erickson - Game and Parks Commission (District 5)

Transportation
Denny Miller - Motor Vehicle Industry Licensing Board
Mel Auch - Motor Vehicle Industry Licensing Board

(Signed) Jerome Warner, Chairperson
Legislative Council
Executive Board

ANNOUNCEMENT

Mr. Abboud announced the Building Maintenance Committee elected Mr. Beyer as Vice Chairperson.

NOTICE OF COMMITTEE HEARINGS
Government, Military and Veterans Affairs

LB 122	Friday, January 25, 1991	1:30 p.m.
LB 117	Friday, January 25, 1991	1:30 p.m.
LB 153	Friday, January 25, 1991	1:30 p.m.
LB 189	Friday, January 25, 1991	1:30 p.m.
LB 259	Friday, January 25, 1991	1:30 p.m.

(Signed) Gerald Conway, Chairperson

Agriculture

LB 218	Tuesday, January 29, 1991	1:30 p.m.
LB 121	Tuesday, January 29, 1991	1:30 p.m.
LB 142	Tuesday, January 29, 1991	1:30 p.m.

(Signed) Carson Rogers, Chairperson

UNANIMOUS CONSENT - Add Co-Introducers

Mrs. Smith asked unanimous consent to have her name added as co-introducer to LB 400. No objections. So ordered.

Mr. Cudaback asked unanimous consent to have his name added as co-introducer to LB 280. No objections. So ordered.

Mr. Chambers asked unanimous consent to have his name added as co-introducer to LB 228. No objections. So ordered.

Mr. Conway asked unanimous consent to have his name added as co-introducer to LB 424. No objections. So ordered.

Mr. Haberman asked unanimous consent to have his name added as co-introducer to LB 22. No objections. So ordered.

UNANIMOUS CONSENT - Withdraw Co-Introducer

Mr. Haberman asked unanimous consent to have his name withdrawn as co-introducer to LB 241. No objections. So ordered.

ADJOURNMENT

At 11:09 a.m., on a motion by Mr. Conway, the Legislature adjourned until 10:00 a.m., Tuesday, January 22, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

NINTH DAY - JANUARY 22, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

NINTH DAY

Legislative Chamber, Lincoln, Nebraska
Tuesday, January 22, 1991

Pursuant to adjournment, the Legislature met at 10:00 a.m., President Moul presiding.

PRAYER

The prayer was offered by Pastor Albert Winseman, Havelock United Methodist Church, Lincoln, Nebraska.

ROLL CALL

The roll was called and all members were present except Mr. Wehrbein who was excused; and Messrs. Abboud, Beutler, Coordsen, R. Johnson, Morrissey, Schmit, Wickersham, and Withem who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Eighth Day was approved.

NOTICE OF COMMITTEE HEARING
Banking, Commerce and Insurance

LB 96	Tuesday, January 29, 1991	1:30 p.m.
LB 118	Tuesday, January 29, 1991	1:30 p.m.
LB 203	Tuesday, January 29, 1991	1:30 p.m.
LB 204	Tuesday, January 29, 1991	1:30 p.m.

(Signed) David Landis, Chairperson

UNANIMOUS CONSENT - Member Excused

Mr. Horgan asked unanimous consent to be excused until he returns. No objections. So ordered.

RESOLUTION

LEGISLATIVE RESOLUTION 5. Read. Considered.

LR 5 was adopted with 32 ayes, 0 nays, 7 present and not voting, and 10 excused and not voting.

MOTION - Withdraw LB 106

Mrs. Pirsch renewed her pending motion, found in the Journal on page 271, to withdraw LB 106.

The motion prevailed with 25 ayes, 0 nays, 14 present and not voting, and 10 excused and not voting.

MOTION - Withdraw LB 177

Mr. R. Johnson renewed his pending motion, found in the Journal on page 271, to withdraw LB 177.

The motion prevailed with 25 ayes, 0 nays, 16 present and not voting, and 8 excused and not voting.

MOTION - Suspend Rules

Mr. Hall moved to suspend the rules, Rule 3, Section 13, to permit cancellation of the public hearing on LB 83 and scheduling of LB 82.

The Hall motion to suspend the rules prevailed with 31 ayes, 0 nays, 12 present and not voting, and 6 excused and not voting.

NOTICE OF COMMITTEE HEARING
Revenue

LB 83	Thursday, January 24, 1991 (cancel)	1:30 p.m.
LB 82	Thursday, January 24, 1991	1:30 p.m.

(Signed) Tim Hall, Chairperson

BILLS ON FIRST READING

The following bills were read for the first time by title:

LEGISLATIVE BILL 481. Introduced by Schellpeper, 18.

A BILL FOR AN ACT relating to schools; to amend section 79-3819, Revised Statutes Supplement, 1990; to authorize a district to exceed the allowable growth percentage to fund increased health insurance cost; and to repeal the original section.

LEGISLATIVE BILL 482. Introduced by Bernard-Stevens, 42.

A BILL FOR AN ACT relating to snowmobiles; to amend sections 37-1102, 60-2001 to 60-2005, 60-2009 to 60-2011, 60-2013, 60-2014, 60-2018 to 60-2019, and 60-2021, Reissue Revised Statutes of Nebraska, 1943; to define and redefine terms; to change registration fees as prescribed; to change the disposition of registration fees; to create funds; to provide and change powers and duties; to permit snowmobile operation as prescribed; to change provisions relating to snowmobile safety certificates; to allow for educational materials; to harmonize provisions; to provide an operative date; and to repeal the original sections, and also section 60-2016, Reissue Revised Statutes of Nebraska, 1943.

LEGISLATIVE BILL 483. Introduced by Byars, 30.

A BILL FOR AN ACT relating to the State Boat Act; to amend sections 37-1214, 37-1216, and 37-1226, Reissue Revised Statutes of Nebraska, 1943, and section 37-1274, Revised Statutes Supplement, 1990; to provide an additional requirement for registering a motorboat; to require certificates of title for motorboats as prescribed; to provide powers and duties for county clerks and the Game and Parks Commission; to provide penalties; to harmonize provisions; to provide an operative date; and to repeal the original sections.

LEGISLATIVE BILL 484. Introduced by Pirsch, 10.

A BILL FOR AN ACT relating to the Interstate Compact on Juveniles, to amend section 43-1002, Reissue Revised Statutes of Nebraska, 1943; to redefine the term juvenile; to provide an out-of-state rendition amendment; and to repeal the original section.

LEGISLATIVE BILL 485. Introduced by Ashford, 6; Lynch, 13.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to the Nebraska Coordinating Commission for Postsecondary Education for the Scholarship Assistance Program and the State Scholarship Award Program.

LEGISLATIVE BILL 486. Introduced by Wesely, 26.

A BILL FOR AN ACT relating to the Nebraska Capital Expansion Act; to amend sections 72-1261, 72-1262, 72-1266, and 72-1269, Reissue Revised Statutes of Nebraska, 1943; to restate intent; to define terms; to provide for linked-deposits as prescribed; to provide duties for the state investment officer and the Nebraska Investment Council; to limit liability; to change provisions relating to rules and regulations; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 487. Introduced by Baack, 47.

A BILL FOR AN ACT relating to schools; to provide for the general fund property tax requirement of Class VI school systems as prescribed; and to define a term.

LEGISLATIVE BILL 488. Introduced by Withem, 14.

A BILL FOR AN ACT relating to schools and school districts; to eliminate a provision relating to conflicts of interest for members of boards of education of Class V school districts; to repeal section 79-1004.05, Reissue Revised Statutes of Nebraska, 1943; and to declare an emergency.

LEGISLATIVE BILL 489. Introduced by Warner, 25.

A BILL FOR AN ACT relating to acquisition of private property for public use; to amend sections 25-2501 and 25-2505, Reissue Revised Statutes of Nebraska, 1943; to exempt certain acquisitions from uniform procedures; to eliminate a hearing requirement; and to repeal the original sections.

LEGISLATIVE BILL 490. Introduced by Warner, 25.

A BILL FOR AN ACT relating to the enrollment option program; to amend section 79-3407, Revised Statutes Supplement, 1990; to

change a provision relating to the determination of capacity; and to repeal the original section.

LEGISLATIVE BILL 491. Introduced by Hall, 7; Will, 8.

A BILL FOR AN ACT relating to drunk driving; to amend sections 39-669.16 and 39-669.22, Reissue Revised Statutes of Nebraska, 1943, and sections 39-669.07, 39-669.08, 39-6,122, and 60-4,118, Revised Statutes Supplement, 1990; to provide for installation of ignition interlock devices as prescribed; to provide a penalty; to provide for a restricted motor vehicle operator's license as prescribed; to provide an exception to assessment of points; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 492. Introduced by Hall, 7.

A BILL FOR AN ACT relating to airport authorities; to amend section 3-502, Revised Statutes Supplement, 1990; to terminate the airport authority board in cities of the metropolitan class and to provide for reappointment of the board; and to repeal the original section.

LEGISLATIVE BILL 493. Introduced by Schimek, 27; Conway, 17.

A BILL FOR AN ACT relating to the Auditor of Public Accounts; to amend section 84-304, Reissue Revised Statutes of Nebraska, 1943; to change a provision relating to powers and duties; and to repeal the original section.

LEGISLATIVE BILL 494. Introduced by Wesely, 26.

A BILL FOR AN ACT relating to appropriations; to state intent; to appropriate funds for the Nebraska Food Processing Center; and to require an annual plan and review.

LEGISLATIVE BILL 495. Introduced by Wesely, 26.

A BILL FOR AN ACT relating to children; to amend section 43-701, Reissue Revised Statutes of Nebraska, 1943; to prohibit certain advertisements, offers, payments of money, and other actions relating to adoption of children; to provide a penalty; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 496. Introduced by Wesely, 26.

A BILL FOR AN ACT relating to economic development; to adopt the Nebraska Connection Network Act.

LEGISLATIVE BILL 497. Introduced by R. Johnson, 34.

A BILL FOR AN ACT relating to natural resources; to amend sections 2-1576, 2-1584, and 2-1585, Reissue Revised Statutes of Nebraska, 1943, and section 2-1579, Revised Statutes Supplement, 1990; to change provisions relating to legislative intent; to provide for funding water quality projects and practices from the Nebraska Soil and Water Conservation Fund; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 498. Introduced by Business and Labor Committee: Coordsen, 32, Chairperson; Chambers, 11; Elmer, 38; Hefner, 19; Morrissey, 1; Schellpeper, 18; Schimek, 27.

A BILL FOR AN ACT relating to employment security; to amend section 48-628, Revised Statutes Supplement, 1990; to change provisions relating to the disqualification for benefits as prescribed; and to repeal the original section.

LEGISLATIVE BILL 499. Introduced by Conway, 17.

A BILL FOR AN ACT relating to children and youth; to adopt the Youth Service and Conservation Corps Act.

LEGISLATIVE BILL 500. Introduced by Schrock, 39; Elmer, 38; Nelson, 35; Lamb, 43.

A BILL FOR AN ACT relating to the Game and Parks Commission; to authorize a conveyance of real estate to the Department of Roads; and to declare an emergency.

EASE

The Legislature was at ease from 10:41 a.m. until 11:13 a.m.

UNANIMOUS CONSENT - Member Excused

Mr. Horgan asked unanimous consent to be excused until he returns. No objections. So ordered.

BILLS ON FIRST READING

The following bills were read for the first time by title:

LEGISLATIVE BILL 501. Introduced by Hall, 7; Withem, 14; Moore, 24; Coordsen, 32.

A BILL FOR AN ACT relating to sales and use tax; to amend section 77-2704, Reissue Revised Statutes of Nebraska, 1943; to exempt foods sold through vending machines from taxation; to provide an operative date; and to repeal the original section.

LEGISLATIVE BILL 502. Introduced by Conway, 17.

A BILL FOR AN ACT relating to the personnel system; to amend sections 81-1317 and 81-1317.01, Revised Statutes Supplement, 1990; to change provisions relating to terms of employment as prescribed; and to repeal the original sections.

LEGISLATIVE BILL 503. Introduced by Moore, 24.

A BILL FOR AN ACT relating to optometry; to amend sections 71-1,133, 71-1,135.01, 71-1,135.02, 71-1,135.04, and 71-1,135.05, Reissue Revised Statutes of Nebraska, 1943; to authorize the use of pharmaceutical agents as prescribed; to provide certification requirements; and to repeal the original sections.

LEGISLATIVE BILL 504. Introduced by Coordsen, 32.

A BILL FOR AN ACT relating to the Local Option Revenue Act; to amend section 77-27,148, Reissue Revised Statutes of Nebraska, 1943; to exempt farm machinery and farm equipment from the sales and use tax as prescribed; to provide for rules and regulations; to harmonize provisions; to provide an operative date; and to repeal the original section.

LEGISLATIVE BILL 505. Introduced by Coordsen, 32; Morrissey, 1.

A BILL FOR AN ACT relating to solid waste disposal; to define terms; to provide for formation of solid waste disposal districts; to provide powers and duties; to provide for the creation, conduct, and operation of the Solid Waste Disposal Coordination Board; to

provide powers, functions, duties, and responsibilities of the board; to create a fund; to provide for assessments; to provide for rules and regulations; to provide severability; and to declare an emergency.

LEGISLATIVE BILL 506. Introduced by Hartnett, 45.

A BILL FOR AN ACT relating to municipalities; to amend sections 14-402, 15-902, 19-902, and 71-1910, Reissue Revised Statutes of Nebraska, 1943; to require local legislative bodies to specify in which districts early childhood programs may be provided; to provide duties for municipalities and the Department of Social Services; and to repeal the original sections.

LEGISLATIVE BILL 507. Introduced by Hartnett, 45.

A BILL FOR AN ACT relating to cities and villages; to amend section 19-929, Reissue Revised Statutes of Nebraska, 1943; to provide for setting a time limit as prescribed for certain matters before a planning commission; and to repeal the original section.

LEGISLATIVE BILL 508. Introduced by Hartnett, 45; Bernard-Stevens, 42; Conway, 17; Chizek, 31.

A BILL FOR AN ACT relating to firefighters and emergency response personnel; to amend section 49-506, Reissue Revised Statutes of Nebraska, 1943, and section 81-1316, Revised Statutes Supplement, 1990; to adopt the Fire and Emergency Responders Training Act; to provide for the distribution of session laws; to exempt employees from the State Personnel System; to transfer equipment, books, files, records, and other property; to eliminate the Fire Service and Safety Training Program; to repeal the original sections, and also section 79-341, Reissue Revised Statutes of Nebraska, 1943; and to declare an emergency.

LEGISLATIVE BILL 509. Introduced by Hartnett, 45.

A BILL FOR AN ACT relating to highways and bridges; to amend section 39-2223, Reissue Revised Statutes of Nebraska, 1943; to provide for the issuance of highway bonds as prescribed; and to repeal the original section.

LEGISLATIVE BILL 510. Introduced by Hartnett, 45.

A BILL FOR AN ACT relating to gambling; to amend section 28-1101, Reissue Revised Statutes of Nebraska, 1943, and section 28-101, Revised Statutes Supplement, 1990; to define and redefine terms; to require licenses for acquisition, possession, and disposition of antique slot machines; to provide for the display and forfeiture of antique slot machines; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 511. Introduced by Lamb, 43; Dierks, 40; Hefner, 19; Wickersham, 49; Elmer, 38; Warner, 25; Cudaback, 36.

A BILL FOR AN ACT relating to scenic rivers; to amend sections 23-114, 23-114.01, 23-114.03, 23-172, 46-2,107, and 46-2,108, Reissue Revised Statutes of Nebraska, 1943; to state intent; to provide for the designation of scenic river corridors; to change provisions relating to zoning and planning by counties and instream appropriations; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 512. Introduced by Coordsen, 32; Robak, 22; Hefner, 19; Peterson, 21; Lamb, 43.

A BILL FOR AN ACT relating to schools; to amend sections 79-402.13, 79-402.17, 79-402.18, 79-402.19, 79-402.28, 79-437.03, 79-438.12, 79-4,223, and 79-4,224, Revised Statutes Supplement, 1990, and Laws 1990, LB 259, section 34; to change dates relating to the affiliation of school districts; to change an operative date; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 513. Introduced by Hartnett, 45.

A BILL FOR AN ACT relating to villages; to amend section 17-201, Reissue Revised Statutes of Nebraska, 1943; to provide for annexation of certain sanitary and improvement districts as prescribed; to permit certain districts to incorporate as villages as prescribed; to change a provision relating to a prohibition on incorporating as a village; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 514. Introduced by Hartnett, 45.

A BILL FOR AN ACT relating to public health and welfare; to amend sections 71-1,142 and 71-1,147.33, Reissue Revised Statutes of Nebraska, 1943; to define and redefine terms; to change provisions for employment of supportive pharmacy personnel; to change

provisions relating to rules and regulations; to provide duties for the Board of Examiners in Pharmacy and for pharmacists in charge; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 515. Introduced by Chizek, 31.

A BILL FOR AN ACT relating to courts; to amend sections 24-301.02, 24-503, 24-810, 29-3910, and 83-1017, Revised Statutes Supplement, 1990; to change the number of judges and the judicial districts as prescribed; to change county judicial districts as prescribed; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 516. Introduced by Chizek, 31.

A BILL FOR AN ACT relating to courts; to amend section 24-804, Reissue Revised Statutes of Nebraska, 1943, and sections 24-301.02, 24-503, 24-810, 29-3910, and 83-1017, Revised Statutes Supplement, 1990; to change the number of district court judicial districts and judges; to change the county court judicial districts as prescribed; to change a provision relating to Supreme Court Judges serving on judicial nominating commissions; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 517. Introduced by Chizek, 31.

A BILL FOR AN ACT relating to pension plans; to amend section 18-1723, Reissue Revised Statutes of Nebraska, 1943; to provide a rebuttable presumption of death or disability for certain firefighters and law enforcement personnel as prescribed; and to repeal the original section.

LEGISLATIVE BILL 518. Introduced by Lynch, 13; Wesely, 26.

A BILL FOR AN ACT relating to commercial infectious waste incinerators; to amend section 81-1532, Reissue Revised Statutes of Nebraska, 1943; to prohibit the granting of a permit as prescribed; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 519. Introduced by Lynch, 13.

A BILL FOR AN ACT relating to highways; to amend sections 39-6,129 and 39-6,190, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to transporting refuse on certain

highways as prescribed; to provide a penalty; to change a penalty for littering; and to repeal the original sections.

LEGISLATIVE BILL 520. Introduced by Lynch, 13; Will, 8; Rogers, 41; Peterson, 21; Hefner, 19; Hartnett, 45.

A BILL FOR AN ACT relating to sales and use tax; to amend section 77-2704, Reissue Revised Statutes of Nebraska, 1943; to exempt newspaper advertising supplements from taxation; to provide an operative date; and to repeal the original section.

LEGISLATIVE BILL 521. Introduced by Lynch, 13.

A BILL FOR AN ACT relating to fees; to amend sections 33-106 and 48-139, Reissue Revised Statutes of Nebraska, 1943, and section 33-106.02, Revised Statutes Supplement, 1990; to change provisions relating to fees of the clerk of the district court; and to repeal the original sections.

LEGISLATIVE BILL 522. Introduced by Dierks, 40; Conway, 17; Robak, 22; Pirsch, 10; Hartnett, 45.

A BILL FOR AN ACT relating to criminal history record information; to amend section 29-210, Reissue Revised Statutes of Nebraska, 1943; to permit certain employers and contractors to require criminal clearance verifications; to provide grounds for denial of such verifications; to provide duties for the Nebraska State Patrol, the Commissioner of Education, and the State Board of Education; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 523. Introduced by Kristensen, 37.

A BILL FOR AN ACT relating to criminal procedure; to adopt the Convicted Sex Offender Act; to eliminate provisions relating to evaluation of persons convicted of certain crimes, treatment of mentally disordered sex offenders, and the Sentencing Review Committee; to provide severability; and to repeal sections 29-2911 to 29-2914, 29-2916, 29-2917, 29-2919 to 29-2921, and 83-1081, Reissue Revised Statutes of Nebraska, 1943, and sections 29-2915 and 29-2918, Revised Statutes Supplement, 1990.

LEGISLATIVE BILL 524. Introduced by Hall, 7.

A BILL FOR AN ACT relating to property tax; to amend sections 77-112 and 77-201, Reissue Revised Statutes of Nebraska, 1943; to provide for the valuation of agricultural land and horticultural land for tax year 1991; to define terms; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 525. Introduced by Schmit, 23; Byars, 30.

A BILL FOR AN ACT relating to political subdivisions; to provide for in-lieu-of-property-tax payments by cities of the primary and metropolitan class and metropolitan utilities districts as prescribed.

LEGISLATIVE BILL 526. Introduced by Smith, 33; R. Johnson, 34; Morrissey, 1; Lamb, 43; Kristensen, 37; Dierks, 40.

A BILL FOR AN ACT relating to solid waste management; to state intent; to create the Solid Waste Consensus Task Force; to provide duties for the task force; to provide a termination date; and to declare an emergency.

LEGISLATIVE BILL 527. Introduced by Smith, 33; Labedz, 5; Crosby, 29; Rogers, 41; Hillman, 48; Wickersham, 49; Robak, 22; Morrissey, 1; Wesely, 26; Schrock, 39; Will, 8.

A BILL FOR AN ACT relating to child and spousal support; to amend sections 42-358, 42-358.02, 42-364, 42-369, 43-512.02 to 43-512.10, 43-1406, 43-1411, 43-1701, 43-1703, 43-1708, 43-1709, 43-1716 to 43-1720, 43-1722 to 43-1727, 43-1730, 43-1734, 43-1737, 43-1740, and 43-1743, Reissue Revised Statutes of Nebraska, 1943, and sections 43-512 and 60-484, Revised Statutes Supplement, 1990; to provide for crediting and allocation of child support payments; to define and redefine terms; to change provisions relating to collection of child and spousal support; to provide for medical support as prescribed; to change provisions relating to aid to dependent children payments and paternity actions; to provide and change income withholding provisions for child, spousal, and medical support; to provide for the release of information to consumer reporting agencies; to provide for the use of social security numbers on driver's licenses for purposes of child support enforcement; to harmonize provisions; to repeal the original sections, and also section 43-1408, Reissue Revised Statutes of Nebraska, 1943, and to declare an emergency.

LEGISLATIVE BILL 528. Introduced by Morrissey, 1; Moore, 24; R. Johnson, 34; Schimek, 27; Hartnett, 45; Elmer, 38; Lamb, 43; Smith, 33; Coordsen, 32.

A BILL FOR AN ACT relating to the Department of Environmental Control; to amend section 81-1532, Reissue Revised Statutes of Nebraska, 1943; to require a report regarding fees and funding as prescribed; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 529. Introduced by Lindsay, 9.

A BILL FOR AN ACT relating to elections; to adopt the Campaign Committee Income Tax Act; to provide an operative date; and to provide severability.

LEGISLATIVE BILL 530. Introduced by Lindsay, 9.

A BILL FOR AN ACT relating to criminal procedure; to amend sections 29-824 and 29-2221, Reissue Revised Statutes of Nebraska, 1943; to provide a right of appeal from a denial of a motion to suppress; to authorize a challenge to prior convictions used as a basis for enhancement purposes; to eliminate a provision authorizing refiling of complaints; and to repeal the original sections, and also section 29-827, Reissue Revised Statutes of Nebraska, 1943.

LEGISLATIVE BILL 531. Introduced by Crosby, 29; Beyer, 3; Rogers, 41; Schrock, 39; Lamb, 43; L. Johnson, 15; Smith, 33.

A BILL FOR AN ACT relating to operation of conveyances; to amend sections 39-669.12 and 39-669.26, Reissue Revised Statutes of Nebraska, 1943, and sections 37-1254.01, 37-1254.02, 37-1254.05, 37-1254.06, 37-1254.08, 39-669.07, 39-669.08, 39-669.11, and 39-669.14, Revised Statutes Supplement, 1990; to change provisions relating to boating and driving while under the influence of alcohol or drugs and the administration of tests; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 532. Introduced by Landis, 46; Pirsch, 10; Hefner, 19; Horgan, 4; Dierks, 40; Beyer, 3; L. Johnson, 15; Withem, 14.

A BILL FOR AN ACT relating to motor vehicles; to amend section 60-462, Revised Statutes Supplement, 1990; to authorize the

suspension of driving privileges for certain juveniles as prescribed; and to repeal the original section.

LEGISLATIVE BILL 533. Introduced by Lynch, 13.

A BILL FOR AN ACT relating to the Nebraska Pickle Card Lottery Act; to amend sections 9-301, 9-329, 9-329.01, 9-329.03, 9-344, 9-345.03, and 9-347, Revised Statutes Supplement, 1990; to provide a time limitation for decisions of the Department of Revenue; to change a provision relating to the renewal of certain licenses as prescribed; to change provisions relating to qualifications of sales agents and pickle card operators as prescribed; to change provisions relating to the payment of the tax, decals, and use of profits; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 534. Introduced by Withem, 14; Baack, 47.

A BILL FOR AN ACT relating to the Nebraska Political Accountability and Disclosure Act; to amend section 49-1405, Reissue Revised Statutes of Nebraska, 1943, and section 49-1461, Revised Statutes Supplement, 1990; to redefine a term; to change provisions relating to the filing of campaign statements as prescribed; and to repeal the original sections.

LEGISLATIVE BILL 535. Introduced by Schrock, 39; Rogers, 41; Smith, 33; Schellpeper, 18; R. Johnson, 34; Schmit, 23; Peterson, 21; Coordsen, 32; Dierks, 40.

A BILL FOR AN ACT relating to gasoline tax; to amend section 66-410, Reissue Revised Statutes of Nebraska, 1943; to increase the tax rate as prescribed; to provide an operative date; to repeal the original section; and to declare an emergency.

RESOLUTIONS

LEGISLATIVE RESOLUTION 8CA. Introduced by Schmit, 23.

A Resolution to propose an amendment to the Constitution of Nebraska by amending Article VII, sections 7 and 9.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

Section 1. That at the general election in November 1992 there shall be submitted to the electors of the State of Nebraska for

approval the following amendment to the Constitution of Nebraska by amending Article VII, sections 7 and 9, which is hereby proposed by the Legislature:

CVII-7 "The following are hereby declared to be perpetual funds for common school purposes of which the annual interest or income only can be appropriated, to wit:

~~First.~~ (1) Such ~~per cent~~ percent as has been, or may hereafter be, granted by Congress on the sale of lands in this state; ~~,~~

~~Second.~~ (2) All money arising from the sale or leasing of sections number sixteen and thirty-six in each township in this state~~,~~ and the lands selected~~,~~ or that may be selected~~,~~ in lieu thereof; ~~,~~

~~Third.~~ (3) The proceeds of all lands that have been~~,~~ or may hereafter be~~,~~ granted to this state, ~~where~~ which proceeds by the terms and conditions of such grant ~~the same~~ are not to be otherwise appropriated; ~~,~~

~~Fourth.~~ (4) The net proceeds of lands and other property and effects that may come to this state~~,~~ by escheat or forfeiture~~,~~ or from unclaimed dividends~~,~~ or distributive shares of the estates of deceased persons; ~~,~~

~~Fifth.~~ (5) Five percent of the income received each year on investment of the proceeds from leases of lands under the management of the Board of Educational Lands and Funds; and

(6) All other property of any kind now belonging to the perpetual fund."

CVII-9 "The following funds shall be exclusively used for the support and maintenance of the common schools in each school district in the state as the Legislature shall provide:

~~a.~~ (1) Income arising from the perpetual funds;

~~b.~~ (2) The income from the unsold school lands, except that (a) costs of administration shall be deducted from the income before it is so applied and (b) five percent of such income received each year shall be deducted from such income before it is so applied and shall be deposited in the perpetual fund;

~~c.~~ (3) All other grants, gifts, and devises that have been or may hereafter be made to the state which are not otherwise appropriated by the terms of the grant, gift, or devise; and

~~d.~~ (4) Such other support as the Legislature may provide.

No distribution or appropriation shall be made to any school district for the year in which school is not maintained for the minimum term required by law.".

Sec. 2. That the proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1. The proposition for the submission of the

proposed amendment shall be placed upon the ballot in the following form:

"A constitutional amendment to provide for depositing five percent of the annual investment income from the sale or lease of educational lands into the permanent school fund.

For

Against".

Sec. 3. That the proposed amendment, if adopted, shall be in force and take effect immediately upon the completion of the canvass of the votes, at which time it shall be the duty of the Governor to proclaim it as a part of the Constitution of Nebraska.

Referred to the Reference Committee.

LEGISLATIVE RESOLUTION 9CA. Introduced by Smith, 33; Cudaback, 36; R. Johnson, 34; Rogers, 41; Rasmussen, 20.

A Resolution to propose an amendment to the Constitution of Nebraska by adding a new section 19 to Article XV.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

Section 1. That at the general election in November 1992 there shall be submitted to the electors of the State of Nebraska for approval the following amendment to the Constitution of Nebraska by adding a new section 19 to Article XV, which is hereby proposed by the Legislature:

CXV-19 "Notwithstanding any other provision of this Constitution, the governing bodies of municipalities and counties are empowered to approve or deny retail and bottle club liquor licenses within their jurisdictions as authorized by the Legislature. A liquor license shall not constitute property, an entitlement, or any interest therein and shall be merely a personal privilege.".

Sec. 2. That the proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1. The proposition for the submission of the proposed amendment shall be placed upon the ballot in the following form:

"A constitutional amendment to authorize governing bodies of municipalities and counties to approve or deny retail and bottle club liquor licenses within their jurisdictions as authorized by the Legislature and to provide that a liquor license is a personal privilege and not property, an entitlement, or an interest therein.

For

Against".

Sec. 3. That the proposed amendment, if adopted, shall be in force and take effect immediately upon the completion of the canvass of the votes, at which time it shall be the duty of the Governor to proclaim it as a part of the Constitution of Nebraska.

Referred to the Reference Committee.

NOTICE OF COMMITTEE HEARINGS

Education

LB 33	Tuesday, January 29, 1991	1:30 p.m.
LB 209	Tuesday, January 29, 1991	1:30 p.m.
LB 279	Tuesday, January 29, 1991	1:30 p.m.

(Signed) Ron Withem, Chairperson

Urban Affairs

LB 128	Tuesday, January 29, 1991	1:30 p.m.
LB 247	Tuesday, January 29, 1991	1:30 p.m.
LB 330	Tuesday, January 29, 1991	1:30 p.m.

(Signed) D. Paul Hartnett, Chairperson

EASE

The Legislature was at ease from 11:21 a.m. until 11:50 a.m.

UNANIMOUS CONSENT - Member Excused

Mr. Ashford asked unanimous consent to be excused until he returns. No objections. So ordered.

SPEAKER BAACK PRESIDING

BILLS ON FIRST READING

The following bills were read for the first time by title:

LEGISLATIVE BILL 536. Introduced by Wesely, 26; Dierks, 40.

A BILL FOR AN ACT relating to health insurance; to adopt the Small Business Health Insurance Access Corporation Act.

LEGISLATIVE BILL 537. Introduced by Wesely, 26; Dierks, 40.

A BILL FOR AN ACT relating to health insurance; to adopt the Small Employer Health Insurance Act.

LEGISLATIVE BILL 538. Introduced by Wesely, 26.

A BILL FOR AN ACT relating to health insurance; to adopt the Health Insurance Access Act.

LEGISLATIVE BILL 539. Introduced by Wesely, 26.

A BILL FOR AN ACT relating to public health and welfare; to amend sections 71-3709 and 71-3710, Reissue Revised Statutes of Nebraska, 1943; to eliminate continuing education requirements for sanitarians and sanitarians-in-training; and to repeal the original sections.

LEGISLATIVE BILL 540. Introduced by Wesely, 26; Nelson, 35.

A BILL FOR AN ACT relating to the Department of Public Institutions; to amend section 69-1317, Reissue Revised Statutes of Nebraska, 1943; to create the Children and Adolescent Alcohol and Drug Abuse Treatment and Rehabilitation Fund; to provide for use and funding of such fund; to provide duties for the department; and to repeal the original section.

LEGISLATIVE BILL 541. Introduced by Hall, 7; Will, 8; Lindsay, 9; Labedz, 5.

A BILL FOR AN ACT relating to cigarette tax; to amend sections 77-2602 and 81-638, Reissue Revised Statutes of Nebraska, 1943; to change the distribution of cigarette tax revenue; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 542. Introduced by Nelson, 35; Hartnett, 45; Elmer, 38; R. Johnson, 34; Lynch, 13; Rogers, 41.

A BILL FOR AN ACT relating to the Youth Leadership Academy Act; to amend sections 79-3602 to 79-3604, Revised Statutes Supplement, 1990; to eliminate provisions relating to the Youth

Leadership Academy Act; to harmonize provisions; and to repeal the original sections, and also sections 50-1001 to 50-1009, Revised Statutes Supplement, 1990.

LEGISLATIVE BILL 543. Introduced by Nelson, 35.

A BILL FOR AN ACT relating to retirement; to amend section 84-1319, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to retirement benefits for state employees; and to repeal the original section.

LEGISLATIVE BILL 544. Introduced by Conway, 17.

A BILL FOR AN ACT relating to the Uniform Federal Lien Registration Act; to amend sections 52-1001 to 52-1005 and 52-1008, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to the filing of certain federal liens; to provide powers and duties for the Secretary of State; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 545. Introduced by Lynch, 13; Cudaback, 36; Schellpeper, 18; Rasmussen, 20.

A BILL FOR AN ACT relating to medical costs; to amend sections 29-1004, 68-104, 68-126, 68-133, 68-139, and 77-1601, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to the payment of costs for prisoners; to change responsibilities of the state and counties regarding medical assistance to the poor; to provide requirements for such assistance; to provide procedures for providing such assistance; to provide for audits; to provide for subrogation; to authorize rules and regulations; to limit the total cost of such assistance; to harmonize provisions; to provide operative dates; and to repeal the original sections.

LEGISLATIVE BILL 546. Introduced by Lynch, 13; Schmit, 23; Schellpeper, 18.

A BILL FOR AN ACT relating to zoning; to amend sections 16-902, 17-1001, 17-1002, and 19-901, Reissue Revised Statutes of Nebraska, 1943, and section 16-901, Revised Statutes Supplement, 1990; to change provisions relating to zoning regulations for cities of the first and second class and villages; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 547. Introduced by Lynch, 13; Schmit, 23; Schellpeper, 18.

A BILL FOR AN ACT relating to zoning; to amend sections 16-902, 17-1001, 17-1002, and 19-901, Reissue Revised Statutes of Nebraska, 1943, and sections 16-230, 16-231, 16-246, and 16-901, Revised Statutes Supplement, 1990; to restrict zoning authority for cities of the first and second class and villages as prescribed; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 548. Introduced by Lynch, 13; Schmit, 23; Schellpeper, 18.

A BILL FOR AN ACT relating to villages; to amend section 17-201, Reissue Revised Statutes of Nebraska, 1943; to eliminate a restriction on incorporation of villages; and to repeal the original section.

LEGISLATIVE BILL 549. Introduced by Nebraska Retirement Systems Committee: Nelson, 35, Chairperson; Crosby, 29; Elmer, 38; Moore, 24; Schellpeper, 18.

A BILL FOR AN ACT relating to retirement; to amend sections 23-2301, 23-2305 to 23-2310, 23-2312, 23-2317.01, 23-2319, 23-2320, 23-2331, 23-2332, 24-701, 24-703, 24-704, 24-710, 24-711, 77-27,119, 79-1502, 79-1503, 79-1503.01, 79-1509.02, 79-1513, 79-1514.01, 79-1514.06, 79-1516, 79-1522, 79-1523, 79-1553, 81-2015, 81-2018, 81-2019, 81-2021, 81-2028, 81-2029, 81-2034, 84-1302, 84-1305, 84-1308, 84-1309, 84-1310, 84-1310.01, 84-1311, 84-1312, 84-1319, 84-1322, and 84-1331, Reissue Revised Statutes of Nebraska, 1943, and sections 79-1501, 79-1512, 79-1522.01, 79-1529, 79-1531, 79-1533, 79-1536, 79-1548, 79-1549, 79-1552, 81-2014, 81-2017, 81-2026, 81-2031, 84-1301, and 84-1503, Revised Statutes Supplement, 1990; to provide powers and duties for the Public Employees Retirement Board; to change provisions relating to membership in the Retirement System for Nebraska Counties, guaranteed investment accounts, service credit for certain school employees, a formula annuity retirement allowance, certain applications for disability retirement, the interest rate on certain delinquent contributions, a filing deadline, and certain monthly annuity income; to change terminology; to authorize the Department of Revenue to disclose certain information to the board; to name an act; to rename a system and a fund; to provide for and change certain late fees; to require certain records; to provide for applicability of a provision on vesting; to eliminate the Legislators' Retirement Act; to eliminate a provision on fixing

compensation of school employees; to harmonize provisions; and to repeal the original sections, and also sections 50-901 to 50-919 and 79-1507, Reissue Revised Statutes of Nebraska, 1943.

LEGISLATIVE BILL 550. Introduced by Hartnett, 45.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2716, Reissue Revised Statutes of Nebraska, 1943; to provide an income tax adjustment for military retirees as prescribed; to provide an operative date; and to repeal the original section.

LEGISLATIVE BILL 551. Introduced by Kristensen, 37; Coordsen, 32; Dierks, 40; Elmer, 38; Rogers, 41; Schellpeper, 18.

A BILL FOR AN ACT relating to labor; to amend sections 48-801.01, 48-818, and 48-819, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to orders of the Commission of Industrial Relations and collective-bargaining agreements; and to repeal the original sections.

LEGISLATIVE BILL 552. Introduced by Wesely, 26; Ashford, 6.

A BILL FOR AN ACT relating to economic development; to adopt the Foreign and Domestic Trade Assistance Act.

LEGISLATIVE BILL 553. Introduced by Lynch, 13; Will, 8; Hall, 7.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to the Department of Roads for the transportation of elderly or handicapped persons.

LEGISLATIVE BILL 554. Introduced by Hefner, 19; Withem, 14; Schellpeper, 18; Dierks, 40.

A BILL FOR AN ACT relating to the Tax Equity and Educational Opportunities Support Act; to amend section 79-3803, Revised Statutes Supplement, 1990; to redefine a term; and to repeal the original section.

LEGISLATIVE BILL 555. Introduced by Hall, 7.

A BILL FOR AN ACT relating to courts; to amend section 27-404, Reissue Revised Statutes of Nebraska, 1943; to change the

admissibility of evidence in certain crimes, wrongs, or acts as prescribed; and to repeal the original section.

LEGISLATIVE BILL 556. Introduced by Baack, 47; Hefner, 19; Wesely, 26; Beutler, 28; Coordsen, 32; Morrissey, 1; Schellpeper, 18; Smith, 33; Schimek, 27.

A BILL FOR AN ACT relating to campaign financing; to amend section 49-14,123, Reissue Revised Statutes of Nebraska, 1943; to adopt the Campaign Finance Reform Act; to provide powers and duties for the Nebraska Accountability and Disclosure Commission; and to repeal the original section.

LEGISLATIVE BILL 557. Introduced by Schimek, 27; Baack, 47; Chizek, 31; Lynch, 13; Coordsen, 32; Labedz, 5; Wesely, 26; Schmit, 23.

A BILL FOR AN ACT relating to child abuse and neglect; to amend sections 28-710, 28-711, 28-713 to 28-717, 28-719 to 28-725, Reissue Revised Statutes of Nebraska, 1943, and sections 28-712 and 28-726, Revised Statutes Supplement, 1990; to define terms; to change reporting and record keeping requirements and procedures; to combine a registry and a register and eliminate the register; to change provisions relating to access to records; to harmonize provisions; and to repeal the original sections, and also section 28-718, Reissue Revised Statutes of Nebraska, 1943.

LEGISLATIVE BILL 558. Introduced by Schimek, 27; Baack, 47; Chizek, 31; Lynch, 13; Coordsen, 32; Wesely, 26; Labedz, 5; Schmit, 23.

A BILL FOR AN ACT relating to labor; to require screening of certain job applicants through the Abused and Neglected Child Registry and the local police department; and to authorize the use and release of registry information.

LEGISLATIVE BILL 559. Introduced by Schimek, 27; Baack, 47; Chizek, 31; Lynch, 13; Coordsen, 32; Wesely, 26; Labedz, 5; Schmit, 23.

A BILL FOR AN ACT relating to child abuse and neglect; to provide for an annual training program for providers of services to abused and neglected children.

LEGISLATIVE BILL 560. Introduced by Chizek, 31.

A BILL FOR AN ACT relating to state agencies; to amend section 81-8,239.01, Revised Statutes Supplement, 1990; to authorize the Attorney General to represent certain persons; to provide for indemnification for civil rights violations as prescribed; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 561. Introduced by Robak, 22; Wickersham, 49.

A BILL FOR AN ACT relating to civil procedure; to amend section 25-1905, Reissue Revised Statutes of Nebraska, 1943; to authorize a praecipe directing a tribunal, board, or officer to prepare a transcript of proceedings; and to repeal the original section.

UNANIMOUS CONSENT - Add Co-Introducers

Mr. Kristensen asked unanimous consent to have his name added as co-introducer to LB 398. No objections. So ordered.

Messrs. Peterson, Schellpeper, Kristensen, Wickersham, and Mrs. Robak asked unanimous consent to have their names added as co-introducers to LB 393. No objections. So ordered.

Mr. Robinson asked unanimous consent to have his name added as co-introducer to LB 114. No objections. So ordered.

Mr. Ashford asked unanimous consent to have his name added as co-introducer to LB 181. No objections. So ordered.

Mr. Chambers asked unanimous consent to have his name added as co-introducer to LB 248. No objections. So ordered.

Mr. Robinson asked unanimous consent to have his name added as co-introducer to LB 348. No objections. So ordered.

Mr. Beyer, Mmes. Crosby, and Smith asked unanimous consent to have their names added as co-introducers to LB 100. No objections. So ordered.

Mr. Beyer asked unanimous consent to have his name added as co-introducer to LB 472. No objections. So ordered.

VISITORS

Visitors to the Chamber were Bob and Idell Bissell from Kearney and Vicki Bissell from Omaha; Antonio Perea Oliva and Jorge Fernandez Diaz from Barcelona, Spain and Richard Bernardo, Interpreter.

ADJOURNMENT

At 11:58 a.m., on a motion by Mr. Robinson, the Legislature adjourned until 9:00 a.m., Wednesday, January 23, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

TENTH DAY - JANUARY 23, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

TENTH DAY

Legislative Chamber, Lincoln, Nebraska
Wednesday, January 23, 1991

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Moul presiding.

PRAYER

The prayer was offered by retired Pastor Homer Clements, St. Paul Methodist Church, Lincoln, Nebraska.

ROLL CALL

The roll was called and all members were present except Messrs. Abboud, Ashford, Bernard-Stevens, Beutler, Chambers, Hall, Hartnett, R. Johnson, Lynch, Moore, Morrissey, Schmit, Wesely, and Mrs. Pirsch who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Ninth Day was approved.

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the attached report on the referral of legislative bills 410 through 480 and legislative resolution 7CA.

LB	Committee
410	Health and Human Services
411	Business and Labor
412	Health and Human Services

413 Judiciary
414 Health and Human Services
415 Urban Affairs
416 Health and Human Services
417 Appropriations
418 Judiciary
419 Health and Human Services
420 Transportation
421 Health and Human Services
422 Judiciary
423 Health and Human Services
424 Government, Military and Veterans Affairs
425 Judiciary
426 Education
427 General Affairs
428 Health and Human Services
429 Natural Resources
430 Natural Resources
431 Health and Human Services
432 Government, Military and Veterans Affairs
433 Health and Human Services
434 Judiciary
435 Judiciary
436 Judiciary
437 Judiciary
438 Judiciary
439 Judiciary
440 Judiciary
441 Judiciary
442 Judiciary
443 Judiciary
444 Revenue
445 Health and Human Services
446 Natural Resources
447 Government, Military and Veterans Affairs
448 Judiciary
449 Banking, Commerce and Insurance
450 Banking, Commerce and Insurance
451 Judiciary
452 Business and Labor
453 Government, Military and Veterans Affairs
454 General Affairs
455 Health and Human Services
456 Health and Human Services

457 Judiciary
458 Government, Military and Veterans Affairs
459 Judiciary
460 Revenue
461 Transportation
462 Revenue
463 Government, Military and Veterans Affairs
464 Education
465 Government, Military and Veterans Affairs
466 Government, Military and Veterans Affairs
467 Business and Labor
468 Revenue
469 Banking, Commerce and Insurance
470 Banking, Commerce and Insurance
471 Banking, Commerce and Insurance
472 Revenue
473 General Affairs
474 Nebraska Retirement Systems
475 Nebraska Retirement Systems
476 Judiciary
477 Judiciary
478 Judiciary
479 Education
480 Urban Affairs

LR	**Committee**
7CA	Judiciary

(Signed) Jerome Warner, Chairperson
Legislative Council
Executive Board

ANNOUNCEMENT

Mr. Chizek announced the Judiciary Committee elected Mrs. Pirsch as Vice Chairperson.

NOTICE OF COMMITTEE HEARINGS
Judiciary

LB 327	Wednesday, January 30, 1991	1:30 p.m.
LB 435	Wednesday, January 30, 1991	1:30 p.m.
LB 436	Wednesday, January 30, 1991	1:30 p.m.

LB 437	Wednesday, January 30, 1991	1:30 p.m.
LB 434	Wednesday, January 30, 1991	1:30 p.m.
LB 355	Thursday, January 31, 1991	1:30 p.m.
LB 438	Thursday, January 31, 1991	1:30 p.m.
LB 439	Thursday, January 31, 1991	1:30 p.m.
LB 440	Thursday, January 31, 1991	1:30 p.m.
LB 442	Thursday, January 31, 1991	1:30 p.m.
LB 42	Friday, February 1, 1991	1:30 p.m.
LB 194	Friday, February 1, 1991	1:30 p.m.
LB 222	Friday, February 1, 1991	1:30 p.m.
LB 242	Friday, February 1, 1991	1:30 p.m.

(Signed) Jerry Chizek, Chairperson

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following resolution: LR 5.

BILLS ON FIRST READING

The following bills were read for the first time by title:

LEGISLATIVE BILL 562. Introduced by Coordsen, 32.

A BILL FOR AN ACT relating to the Employment Security Special Contingent Fund; to amend section 48-621, Revised Statutes Supplement, 1990; to eliminate certain uses of the fund; to provide for the transfer of funds; to eliminate the Nebraska Technical Community College Aid Cash Fund, the Nebraska Technical Community College Aid, Grant, and Contract Review Committee, and the Job Training Cash Fund; to provide an operative date; and to repeal the original sections, and also sections 79-2663, 79-2664, and 81-1201.21, Revised Statutes Supplement, 1990.

LEGISLATIVE BILL 563. Introduced by Coordsen, 32.

A BILL FOR AN ACT relating to public power; to amend section 70-626.04, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to making certain surplus line capacity available; and to repeal the original section.

LEGISLATIVE BILL 564. Introduced by Labedz, 5.

A BILL FOR AN ACT relating to liquor; to amend section 53-101, Revised Statutes Supplement, 1990; to authorize imposition of a fee on retailers by cities as prescribed; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 565. Introduced by Morrissey, 1; Wesely, 26; Smith, 33; Dierks, 40; R. Johnson, 34.

A BILL FOR AN ACT relating to the environmental control; to amend sections 46-674.16, 46-1127, 46-1129, 46-1136, 46-1227, 49-617, 66-1518, 81-101, 81-102, 81-1502, 81-1503, 81-1504, 81-1505, 81-1506, 81-1526, 81-1532, 81-1549, 81-1550, 81-1551, 81-1561, 81-15,100, 81-15,103, 81-15,129, and 81-15,130, Reissue Revised Statutes of Nebraska, 1943, sections 81-1578, 81-15,101.01, 81-15,104, 81-15,124.01, 81-15,149, 81-15,151.01, 81-15,151.02, 81-15,152, 81-15,153, 81-15,161, and 81-15,166, Revised Statutes Supplement, 1990, and Laws 1983, LB 200, section 3; to reduce the membership of and eliminate certain representation requirements for the Environmental Control Council; to change meeting requirements; to change provisions relating to appointment of the Director of Environmental Control; to transfer powers and duties from the council to the director; to transfer a provision; to change an authorization for certain technical assistance; to eliminate a provision relating to mineral exploration holes; to harmonize provisions; and to repeal the original sections, and also sections 46-1107, 81-1505.02, 81-1538, and 81-1584, Reissue Revised Statutes of Nebraska, 1943.

LEGISLATIVE BILL 566. Introduced by Labedz, 5.

A BILL FOR AN ACT relating to the Nebraska Rules of Evidence; to amend section 27-504, Revised Statutes Supplement, 1990; to redefine the term physician for purposes of the physician-patient privilege; and to repeal the original section.

LEGISLATIVE BILL 567. Introduced by Labedz, 5; Hall, 7.

A BILL FOR AN ACT relating to bingo; to amend section 9-233, Revised Statutes Supplement, 1990; to change a provision relating to classes of licenses; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 568. Introduced by Morrissey, 1.

A BILL FOR AN ACT relating to radioactive waste; to adopt the Radioactive Waste Disposal Liability Act.

LEGISLATIVE BILL 569. Introduced by Peterson, 21.

A BILL FOR AN ACT relating to income tax; to amend section 77-2715.08, Reissue Revised Statutes of Nebraska, 1943; to change a definition; and to repeal the original section.

LEGISLATIVE BILL 570. Introduced by Hefner, 19.

A BILL FOR AN ACT relating to waste reduction and recycling; to amend sections 81-15,160, 81-15,164, and 81-15,165, Revised Statutes Supplement, 1990, and Laws 1990, LB 163A, section 2; to eliminate a fee; to change provisions relating to uses of a fund; to provide for refunds; to appropriate funds; to harmonize provisions; to provide operative dates; to repeal the original sections, and also section 81-15,163, Revised Statutes Supplement, 1990; and to declare an emergency.

LEGISLATIVE BILL 571. Introduced by Hefner, 19.

A BILL FOR AN ACT relating to the Degradable Products Act; to amend sections 69-2001 and 69-2012, Reissue Revised Statutes of Nebraska, 1943; to prohibit the sale of certain food, beverages, and containers; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 572. Introduced by Baack, 47.

A BILL FOR AN ACT relating to elections; to adopt the Election Act.

LEGISLATIVE BILL 573. Introduced by Baack, 47.

A BILL FOR AN ACT relating to community development; to define terms; to create Nebraska Planning and Development Districts; to provide for creation of development districts and regional councils; to provide financial assistance; and to provide duties.

LEGISLATIVE BILL 574. Introduced by Elmer, 38.

A BILL FOR AN ACT relating to schools; to amend section 79-3819, Revised Statutes Supplement, 1990; to authorize a district to exceed the allowable growth percentage because of increased costs of energy products; and to repeal the original section.

LEGISLATIVE BILL 575. Introduced by Cudaback, 36; Lynch, 13.

A BILL FOR AN ACT relating to elections; to amend sections 14-204, 17-202, 17-203.01, 17-204, 19-621, 19-3002, 19-3005, 32-420.01, 32-428, 32-451, 32-4,101, 32-4,104, 32-505, 32-506, 32-507, 32-512, 32-524, 32-526, 32-526.02, 32-530, 32-542.02, 32-551, 32-558, and 79-706, Reissue Revised Statutes of Nebraska, 1943, and sections 23-343.25, 79-426.19, and 79-701, Revised Statutes Supplement, 1990; to change the statewide primary election date; to change provisions relating to municipal elections; to change provisions relating to a penalty; to change dates for terms of office as prescribed; to change dates relating to filing petitions for new political parties; to eliminate provisions relating to postprimary conventions; to harmonize provisions; and to repeal the original sections, and also sections 32-116, 32-420.02, 32-4,147, 32-504.01, 32-542.03, 32-545, 32-550, 32-556, and 32-560, Reissue Revised Statutes of Nebraska, 1943.

LEGISLATIVE BILL 576. Introduced by Cudaback, 36.

A BILL FOR AN ACT relating to electricity; to amend sections 70-1001 and 70-1014, Reissue Revised Statutes of Nebraska, 1943; to restate policy; to provide an additional requirement for an application to construct or acquire additional facilities; and to repeal the original sections.

LEGISLATIVE BILL 577. Introduced by Baack, 47.

A BILL FOR AN ACT relating to smokeless tobacco products; to define terms; to provide for the distribution of smokeless tobacco products as prescribed; to provide for enforcement; to declare certain ordinances, resolutions, and regulations null and void; to eliminate restrictions on the distribution of smokeless tobacco products; and to repeal sections 69-1901 to 69-1904, Reissue Revised Statutes of Nebraska, 1943.

LEGISLATIVE BILL 578. Introduced by Withem, 14.

A BILL FOR AN ACT relating to the University of Nebraska; to amend sections 2-1066, 2-1601 to 2-1603, 2-2516, 2-2614, 2-3232, 23-116, 46-1128, 54-1515, 54-1601 to 54-1605, 81-2,149 to 81-2,154, 85-107, 85-120, 85-129, 85-150, 85-151, 85-1,104, 85-1,104.01, 85-1,106, and 85-934, Reissue Revised Statutes of Nebraska, 1943, and section 2-3108, Revised Statutes Supplement, 1990; to change provisions relating to the colleges at the university; to rename the College of Agriculture and divisions within the college; to harmonize provisions; and to repeal the original sections, and also section 85-107.01, Reissue Revised Statutes of Nebraska, 1943.

LEGISLATIVE BILL 579. Introduced by Withem, 14; Schimek, 27.

A BILL FOR AN ACT relating to elections; to amend sections 32-216, 32-216.02, 32-221 to 32-224, 32-471, 32-530.01, 32-829, 32-830, 32-831, 32-832, 32-834, and 32-849, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to registration of voters; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 580. Introduced by Withem, 14; Baack, 47; Schimek, 27; Morrissey, 1.

A BILL FOR AN ACT relating to elections; to create the State Board of Elections; to provide for membership, salaries, and expenses; to require a report and a manual; and to provide powers and duties.

LEGISLATIVE BILL 581. Introduced by Smith, 33.

A BILL FOR AN ACT relating to horseracing; to amend section 2-1225, Revised Statutes Supplement, 1990; to define terms; to provide for interstate combined wagering pools and interstate simulcasts as prescribed; to provide restrictions on conducting such activities; to provide for the applicability of laws; to provide severability; and to repeal the original section.

LEGISLATIVE BILL 582. Introduced by Smith, 33.

A BILL FOR AN ACT relating to liquors; to amend section 53-164.01, Revised Statutes Supplement, 1990; to change a provision relating to a liquor tax penalty; and to repeal the original section.

RESOLUTIONS

LEGISLATIVE RESOLUTION 10. Introduced by Hefner, 19; Crosby, 29; Schellpeper, 18; Byars, 30; Pirsch, 10; Robinson, 16; Rogers, 41; Labedz, 5; Peterson, 21; L. Johnson, 15; Lamb, 43; Coordsen, 32; Robak, 22; Dierks, 40.

WHEREAS, the United States flag belongs to all Americans and ought not be desecrated by any one individual, even under principles of free expression; and

WHEREAS, the United States Supreme Court, in contravention of this postulate, has by narrow decisions held the license to destroy the flag in protest to be a First Amendment freedom; and

WHEREAS, although the right of free expression is part of the foundation of the Constitution of the United States, very carefully drawn limits on expression in specific instances have long been recognized as legitimate means of maintaining public safety, decency, orderliness, and the productive value of public debate; and

WHEREAS, certain actions, although arguably related to a person's free expression, nevertheless raise issues concerning public decency, public peace, and the rights of expression and sacred values of others; and

WHEREAS, the members of the Legislature, while respectful of dissenting political views, themselves dissent forcefully from the court decisions, which dissent echoes the belief that the flag is not private property subject to a private prerogative to maim or despoil in the passion of individual protest.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature hereby petitions the Congress of the United States to propose to the states an amendment to the Constitution of the United States, specifying that Congress and the states shall have the power to prohibit the physical desecration of the United States flag.

2. That official copies of this resolution be prepared and forwarded to the Speaker of the House of Representatives and President of the Senate of the Congress of the United States and to all members of the Nebraska delegation to the Congress of the United States, with the request that it be officially entered in the Congressional Record as a memorial to the Congress of the United States.

3. That a copy of the resolution be prepared and forwarded to President George Bush.

Referred to the Reference Committee.

LEGISLATIVE RESOLUTION 11CA. Introduced by Peterson, 21; Hefner, 19.

A Resolution to propose an amendment to the Constitution of Nebraska by amending Article III, section 7.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

Section 1. That at the general election in November 1990 there shall be submitted to the electors of the State of Nebraska for approval the following amendment to the Constitution of Nebraska by amending Article III, section 7, which is hereby proposed by the Legislature:

CIII-7 "(1) At the general election to be held in November 1964, one-half the members of the Legislature, or as nearly thereto as may be practicable, shall be elected for a term of four years and the remainder for a term of two years, and thereafter all members shall be elected for a term of four years, with the manner of such election to be determined by the Legislature. When the Legislature is redistricted, the members elected prior to the redistricting shall continue in office, and the law providing for such redistricting shall where necessary specify the newly established district which they shall represent for the balance of their term. Each member shall be nominated and elected in a nonpartisan manner and without any indication on the ballot that he or she is affiliated with or endorsed by any political party or organization.

(2) No member shall be elected to serve more than two consecutive terms. Any person appointed or elected to fill a vacancy who serves more than one-half of the term of office shall be deemed to have served a term. Terms shall be deemed consecutive unless they are at least four years apart. This subsection shall apply to terms of office beginning on or after January 1, 1993.

(3) Each member of the Legislature shall receive a salary of not to exceed one thousand dollars per month during the term of his or her office. In addition to his or her salary, each member shall receive an amount equal to his or her actual expenses in traveling by the most usual route once to and returning from each regular or special session of the Legislature. Members of the Legislature shall receive no pay nor perquisites other than his or her salary and expenses, and employees of the Legislature shall receive no compensation other than their salary or per diem.".

Sec. 2. That the proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska,

Article XVI, section 1. The proposition for the submission of the proposed amendment shall be placed upon the ballot in the following form:

"A constitutional amendment to limit the election of members of the Legislature to two consecutive terms of office.

For

Against".

Sec. 3. That the proposed amendment, if adopted, shall be in force and take effect immediately upon the completion of the canvass of the votes, at which time it shall be the duty of the Governor to proclaim it as a part of the Constitution of Nebraska.

Referred to the Reference Committee.

LEGISLATIVE RESOLUTION 12. Introduced by Hillman, 48; Baack, 47.

WHEREAS, Chimney Rock has long been the symbol of Nebraska, representing America's westward movement and our nation's pioneering spirit; and

WHEREAS, Chimney Rock was a beacon for overland emigrants in the nineteenth century and holds a powerful attraction for thousand of modern-day travelers; and

WHEREAS, since 1941, when Chimney Rock was deeded to the Nebraska State Historical Society, the interpretation of the enduring historical significance of the landmark has been hampered by lack of a modern visitor center containing appropriate exhibits; and

WHEREAS, despite these limitations, more than 20,000 travelers each summer stop to visit Chimney Rock; and

WHEREAS, the executive board of the Nebraska State Historical Society has made construction of a modern visitor center at Chimney Rock its highest priority and authorized a campaign to raise $475,000 of private funds to construct such a center; and

WHEREAS, support for the project has been demonstrated by Nebraskans and others nationwide who have already contributed $186,000 toward the construction of a Chimney Rock visitor center.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That this Legislature commends and endorses the ongoing initiatives and contributions leading to the construction of a modern visitor center at Chimney Rock.

2. That it is the sense of this Legislature that a Chimney Rock visitor center is essential to the preservation and interpretation of

Nebraska history for public benefit and that the operation of a Chimney Rock visitor center is deserving of public support.

Laid over.

UNANIMOUS CONSENT - Member Excused

Mr. Withem asked unanimous consent to be excused until he returns. No objections. So ordered.

EASE

The Legislature was at ease from 9:24 a.m. until 9:46 a.m.

BILLS ON FIRST READING

The following bills were read for the first time by title:

LEGISLATIVE BILL 583. Introduced by Rogers, 41; Cudaback, 36; Dierks, 40.

A BILL FOR AN ACT relating to livestock; to amend section 54-137.01, Reissue Revised Statutes of Nebraska, 1943; to state findings; to state intent; to provide for a qualified state beef council; to provide duties for the Director of Agriculture and the Auditor of Public Accounts; to provide for suspension of the Nebraska Beef Industry Development Act as prescribed; to provide for transfer of duties and property as prescribed; to change provisions relating to the remittance of fees; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 584. Introduced by Rogers, 41.

A BILL FOR AN ACT relating to radon testing; to provide for radon testing in nonresidential structures and schools; and to provide an operative date.

LEGISLATIVE BILL 585. Introduced by Withem, 14; Warner, 25; L. Johnson, 15.

A BILL FOR AN ACT relating to initiatives; to amend section 32-704, Revised Statutes Supplement, 1990; to provide a hearing requirement for initiatives as prescribed; to state intent; to provide for enforcement of the hearing requirement; to require certain procedures

before circulating an initiative petition as prescribed; to provide duties for the Attorney General and Secretary of State; to provide a duty for the Revisor of Statutes; and to repeal the original section.

LEGISLATIVE BILL 586. Introduced by Will, 8.

A BILL FOR AN ACT relating to liquors; to amend section 53-140.01, Reissue Revised Statutes of Nebraska, 1943; to change a provision relating to a penalty in lieu of suspension of sales as prescribed; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 587. Introduced by Beyer, 3.

A BILL FOR AN ACT relating to schools and school districts; to amend section 79-1249, Reissue Revised Statutes of Nebraska, 1943; to provide a date by which contracts must be negotiated; and to repeal the original section.

LEGISLATIVE BILL 588. Introduced by Beyer, 3.

A BILL FOR AN ACT relating to schools and school districts; to amend section 79-1250, Reissue Revised Statutes of Nebraska, 1943; to provide a penalty for release of a teacher or administrator from a contract as prescribed; and to repeal the original section.

LEGISLATIVE BILL 589. Introduced by Beyer, 3.

A BILL FOR AN ACT relating to suburban development; to amend section 17-1001, Reissue Revised Statutes of Nebraska, 1943; to change a provision relating to the extension of jurisdiction of ordinances of cities of the second class and villages as prescribed; and to repeal the original section.

LEGISLATIVE BILL 590. Introduced by Rogers, 41.

A BILL FOR AN ACT relating to the Public Service Commission; to authorize a civil penalty for violations of law by telecommunication common carriers and automatic dialing-announcing device users as prescribed; to provide procedures; and to provide severability.

LEGISLATIVE BILL 591. Introduced by Morrissey, 1.

A BILL FOR AN ACT relating to solid waste; to adopt the Solid Waste Excise Tax Act.

LEGISLATIVE BILL 592. Introduced by Morrissey, 1.

A BILL FOR AN ACT relating to environmental protection; to amend section 81-15,160, Revised Statutes Supplement, 1990; to state intent; to define terms; to prohibit the disposal or burning of certain solid wastes; to impose a newspaper recycling fee; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 593. Introduced by Morrissey, 1.

A BILL FOR AN ACT relating to the Low-Level Radioactive Waste Disposal Act; to amend sections 81-1578 and 81-1591, Revised Statutes Supplement, 1990; to redefine a term; to require the storage of certain classified low-level radioactive waste in a licensed facility as prescribed; to restrict the state's jurisdiction over such waste; to provide for a cause of action; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 594. Introduced by Chizek, 31.

A BILL FOR AN ACT relating to the Nebraska Hospital-Medical Liability Act; to amend section 44-2825, Reissue Revised Statutes of Nebraska, 1943; to increase the amount recoverable under the act; and to repeal the original section.

LEGISLATIVE BILL 595. Introduced by Withem, 14; Will, 8; Rasmussen, 20.

A BILL FOR AN ACT relating to elections; to amend section 32-1001.40, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to recounts; and to repeal the original section.

LEGISLATIVE BILL 596. Introduced by Lindsay, 9.

A BILL FOR AN ACT relating to powers of attorney; to amend sections 24-517, 30-2671, and 76-246, Reissue Revised Statutes of Nebraska, 1943; to define terms; to provide for and prescribe the effect of filing petitions; to provide a fee; to provide for a hearing, a guardian ad litem, and an appeal; to prescribe the applicability of the provisions; to state intent; to provide and change provisions relating to jurisdiction of the district and county court; to provide for the

filing of a power of attorney with the Secretary of State and the register of deeds; to provide operative dates; and to repeal the original sections.

LEGISLATIVE BILL 597. Introduced by Lindsay, 9.

A BILL FOR AN ACT relating to the county comptroller; to amend sections 23-1401 and 23-1405, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to the duties and salary of the county comptroller; and to repeal the original sections.

LEGISLATIVE BILL 598. Introduced by Crosby, 29.

A BILL FOR AN ACT relating to juries; to amend sections 25-1625 and 25-1626, Reissue Revised Statutes of Nebraska, 1943; to change population requirements relating to jury commissioners; and to repeal the original section.

LEGISLATIVE BILL 599. Introduced by Crosby, 29.

A BILL FOR AN ACT relating to appropriations; to state intent; and to appropriate funds to the Board of Regents of the University of Nebraska for the Bureau of Business Research.

LEGISLATIVE BILL 600. Introduced by Crosby, 29.

A BILL FOR AN ACT relating to appropriations; to state intent; and to appropriate funds to the Department of Social Services for domestic violence programs.

LEGISLATIVE BILL 601. Introduced by Crosby, 29.

A BILL FOR AN ACT relating to professional engineers and architects; to amend section 81-839, Reissue Revised Statutes of Nebraska, 1943; to prohibit the use of certain titles as prescribed; and to repeal the original section.

LEGISLATIVE BILL 602. Introduced by Crosby, 29.

A BILL FOR AN ACT relating to phlebotomists; to amend sections 71-101 and 71-162, Reissue Revised Statutes of Nebraska, 1943; to define terms; to require registration of phlebotomists; to create a fund; to provide for rules and regulations; to provide a penalty; to

provide for fees; to harmonize provisions; to provide severability; and to repeal the original sections.

LEGISLATIVE BILL 603. Introduced by Crosby, 29.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-3507, 77-3508, 77-3509, 77-3513, and 77-3514, Reissue Revised Statutes of Nebraska, 1943; to increase the amount of the homestead exemption; to raise the household income amount for qualified claimants and for disabled individuals; to provide an exemption for blind persons; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 604. Introduced by Crosby, 29.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-3507, 77-3508, 77-3509, 77-3513, and 77-3514, Reissue Revised Statutes of Nebraska, 1943; to increase the amount of the homestead exemption; to raise the household income amount for qualified claimants and for disabled individuals; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 605. Introduced by Crosby, 29.

A BILL FOR AN ACT relating to cosmetology; to amend section 71-394, Reissue Revised Statutes of Nebraska, 1943; to change provisions for waiver of examinations; and to repeal the original section.

LEGISLATIVE BILL 606. Introduced by Lynch, 13.

A BILL FOR AN ACT relating to the Missing Children Identification Act; to amend section 43-2001, Reissue Revised Statutes of Nebraska, 1943; to provide for a free certified birth certificate as prescribed; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 607. Introduced by Lynch, 13.

A BILL FOR AN ACT relating to motor vehicles; to amend section 60-311.02, Reissue Revised Statutes of Nebraska, 1943; to provide a requirement for graphic design on motorcycle number plates; and to repeal the original section.

LEGISLATIVE BILL 608. Introduced by Lynch, 13.

A BILL FOR AN ACT relating to public health and welfare; to amend section 71-1531, Reissue Revised Statutes of Nebraska, 1943; to add a duty for housing authorities as prescribed; and to repeal the original section.

LEGISLATIVE BILL 609. Introduced by Lynch, 13.

A BILL FOR AN ACT relating to public health and welfare; to amend sections 71-1518 and 71-1524, Reissue Revised Statutes of Nebraska, 1943; to change a provision relating to membership of the housing authority; to create an owners advisory board; to provide powers and duties; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 610. Introduced by Lynch, 13.

A BILL FOR AN ACT relating to the Nebraska Housing Authorities Law; to amend section 71-1547, Reissue Revised Statutes of Nebraska, 1943; to provide for appeals of staff decisions; to provide for actions against an authority by a party with an interest in an authority contract; and to repeal the original section.

LEGISLATIVE BILL 611. Introduced by Robak, 22.

A BILL FOR AN ACT relating to sales and income tax; to amend section 77-2702, Reissue Revised Statutes of Nebraska, 1943; to exempt admission fees charged by certain committees; to provide an operative date; and to repeal the original section.

LEGISLATIVE BILL 612. Introduced by Wickersham, 49; Baack, 47; Pirsch, 10; Hillman, 48; Schellpeper, 18.

A BILL FOR AN ACT relating to corrections; to amend section 83-173, Reissue Revised Statutes of Nebraska, 1943, and section 83-176, Revised Statutes Supplement, 1990; to authorize certain contracts for operation of places of correctional confinement; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 613. Introduced by Elmer, 38; Nelson, 35; Wehrbein, 2.

A BILL FOR AN ACT relating to recycling; to adopt the Beverage Containers Deposit and Recycling Act.

LEGISLATIVE BILL 614. Introduced by Conway, 17.

A BILL FOR AN ACT relating to redistricting; to eliminate provisions relating to legislative districts; and to repeal sections 5-107.01, 5-201 to 5-214, 5-216 to 5-252, 79-322.02, and 85-103.02, Reissue Revised Statutes of Nebraska, 1943, and section 5-215, Revised Statutes Supplement, 1990.

LEGISLATIVE BILL 615. Introduced by Conway, 17.

A BILL FOR AN ACT relating to redistricting; to amend section 5-101.01, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to congressional districts; and to repeal the original section.

LEGISLATIVE BILL 616. Introduced by Conway, 17.

A BILL FOR AN ACT relating to redistricting; to eliminate provisions relating to Supreme Court judicial districts; and to repeal section 24-201.02, Revised Statutes Supplement, 1990.

LEGISLATIVE BILL 617. Introduced by Conway, 17.

A BILL FOR AN ACT relating to redistricting; to amend section 85-103, Reissue Revised Statutes of Nebraska, 1943; to eliminate provisions relating to districts for the Board of Regents of the University of Nebraska; to harmonize provisions; and to repeal the original section, and also sections 85-103.01 and 85-103.02, Reissue Revised Statutes of Nebraska, 1943.

LEGISLATIVE BILL 618. Introduced by Conway, 17.

A BILL FOR AN ACT relating to redistricting; to amend section 5-107, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to public service commissioner districts; and to repeal the original section, and also section 5-107.01, Reissue Revised Statutes of Nebraska, 1943.

LEGISLATIVE BILL 619. Introduced by Conway, 17.

A BILL FOR AN ACT relating to redistricting; to amend section 79-322, Reissue Revised Statutes of Nebraska, 1943; to eliminate provisions relating to districts for the State Board of Education; to harmonize provisions; and to repeal the original section, and also sections 79-322.01 and 79-322.02, Reissue Revised Statutes of Nebraska, 1943.

LEGISLATIVE BILL 620. Introduced by Lindsay, 9.

A BILL FOR AN ACT relating to the Political Subdivisions Tort Claims Act; to amend section 13-911, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to liability for damage or injury to innocent third parties; and to repeal the original section.

LEGISLATIVE BILL 621. Introduced by Dierks, 40; Lamb, 43.

A BILL FOR AN ACT relating to crimes and punishments; to amend section 28-611, Reissue Revised Statutes of Nebraska, 1943; to provide for the aggregation of checks or orders when classifying the offense of issuing a bad check; to change a penalty provision; to provide a penalty for issuing a check or order on a closed account after notice; and to repeal the original section.

LEGISLATIVE BILL 622. Introduced by Wickersham, 49.

A BILL FOR AN ACT relating to schools and school districts; to amend section 79-1303, Revised Statutes Supplement, 1990; to change provisions relating to valuation of school lands and saline lands as prescribed; and to repeal the original section.

LEGISLATIVE BILL 623. Introduced by Warner, 25; Lamb, 43.

A BILL FOR AN ACT relating to property taxation; to adopt the Property Tax Full Disclosure Act; to provide an operative date; and to declare an emergency

LEGISLATIVE BILL 624. Introduced by Warner, 25.

A BILL FOR AN ACT relating to appropriations; to appropriate funds for the acquisition of and improvements to certain real property.

LEGISLATIVE BILL 625. Introduced by Warner, 25.

A BILL FOR AN ACT relating to technical community colleges; to amend sections 79-2636 and 79-2637, Revised Statutes Supplement, 1990; to provide for an association representing technical community colleges as prescribed; to state intent; to provide duties; to harmonize provisions; to provide severability; and to repeal the original sections.

LEGISLATIVE BILL 626. Introduced by Warner, 25.

A BILL FOR AN ACT relating to state investments; to allow for alternative investment.

LEGISLATIVE BILL 627. Introduced by Warner, 25.

A BILL FOR AN ACT relating to motor fuel taxes; to amend sections 3-148, 3-149, 60-328.02, 60-328.03, 66-401, 66-402, 66-403, 66-404, 66-407, 66-408, 66-409, 66-410, 66-410.01, 66-410.02, 66-410.03, 66-410.04, 66-410.05, 66-411, 66-412, 66-421, 66-426.01, 66-428, 66-429, 66-433, 66-434, 66-435, 66-436, 66-437, 66-438, 66-439, 66-440, 66-441, 66-445, 66-446, 66-447, 66-448, 66-449, 66-449.01, 66-450, 66-452, 66-458, 66-459, 66-460, 66-461, 66-461.01, 66-462, 66-465, 66-467.01, 66-473, 66-474, 66-474.01, 66-475, 66-477, 66-478, 66-479, 66-481, 66-501, 66-502, 66-503, 66-505, 66-512, 66-514, 66-515, 66-516, 66-517, 66-518, 66-520, 66-601, 66-602, 66-605, 66-605.01, 66-605.02, 66-605.04, 66-606.01, 66-607, 66-608, 66-609, 66-610.01, 66-610.02, 66-610.03, 66-610.04, 66-610.06, 66-612, 66-613, 66-616, 66-617, 66-618, 66-619, 66-620, 66-629, 66-632, 66-633, 66-634.01, 66-638, 66-639, 66-641, 66-642, 66-643, 66-644, 66-645, 66-646.01, 66-1406, 66-1414, 66-1505, and 66-1521, Reissue Revised Statutes of Nebraska, 1943, and section 81-1577.01, Revised Statutes Supplement, 1990; to change and eliminate provisions relating to motor vehicle fuel tax, transportation of fuels, and special fuel tax; to provide powers and duties for the Department of Revenue, the Department of Agriculture, the Attorney General, and the Nebraska State Patrol; to provide penalties; to harmonize provisions; to provide an operative date; and to repeal the original sections, and also sections 66-410.06, 66-410.07, 66-413, 66-414, 66-418, 66-418.01, 66-418.03, 66-419, 66-427, 66-430, 66-431, 66-432, 66-443, 66-451, 66-453, 66-454, 66-455, 66-456, 66-457, 66-464, 66-465.01, 66-466, 66-520.01, 66-522, 66-524, 66-603, 66-606, 66-610.05, 66-611, 66-614, 66-615, 66-621, 66-623, 66-624, 66-625, 66-626, 66-627, 66-630, 66-631, 66-636, 66-637, 66-637.01, 66-646, and 66-649, Reissue Revised Statutes of Nebraska, 1943.

LEGISLATIVE BILL 628. Introduced by Beutler, 28.

A BILL FOR AN ACT relating to the Nebraska Rules of the Road; to amend section 39-6,211, Reissue Revised Statutes of Nebraska, 1943; to exempt law enforcement officers from protective helmet requirements as prescribed; and to repeal the original section.

LEGISLATIVE BILL 629. Introduced by Beutler, 28; Warner, 25.

A BILL FOR AN ACT relating to the Legislative Council; to require policies adopted by the Executive Board of the Legislative Council to be in writing; and to provide for publication of policies.

LEGISLATIVE BILL 630. Introduced by Beutler, 28.

A BILL FOR AN ACT relating to husband and wife; to amend section 42-364, Reissue Revised Statutes of Nebraska, 1943; to provide for continuation of child support beyond the age of nineteen years as prescribed; and to repeal the original section.

LEGISLATIVE BILL 631. Introduced by Beutler, 28.

A BILL FOR AN ACT relating to water wells; to amend sections 46-601, 46-602, 46-602.01, 46-604, 46-606, 46-608, 46-609, 46-610, 46-611, 46-613.01, 46-613.02, 46-625, 46-630, 46-636, 46-637, 46-638, 46-639, 46-640, 46-651, 46-653, 46-654, 46-657, 46-659, 46-660, 46-661, 46-662, 46-663, 46-666, 46-667, 46-673.09, 46-1201, 46-1203, 46-1208, 46-1212, 46-1217, 46-1223, 46-1224, 46-1225, 46-1235, 46-1236, 46-1237, 46-1240, and 46-1241, Reissue Revised Statutes of Nebraska, 1943, and Laws 1981, LB 81, section 6; to change provisions relating to water well registration; to define and redefine terms; to change and authorize fees; to change, provide, and eliminate penalties and a definition; to change and eliminate log requirements; to change provisions of the Water Well Standards and Contractors' Licensing Act; to authorize disciplinary actions and provide procedures for disciplinary actions; to provide reinstatement procedures; to change and provide hearing procedures; to provide immunity for the Water Well Standards and Contractors' Licensing Board; to harmonize provisions; to change a repealer as prescribed; and to repeal the original sections, and also sections 46-603, 46-607, 46-612, and 46-1204, Reissue Revised Statutes of Nebraska, 1943.

LEGISLATIVE BILL 632. Introduced by Beutler, 28.

A BILL FOR AN ACT relating to the Administrative Procedure Act; to amend sections 84-901, 84-914, and 84-920, Reissue Revised Statutes of Nebraska, 1943; to define a term; to prohibit certain ex parte communications; to prohibit certain acts; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 633. Introduced by Beutler, 28; Warner, 25; Wesely, 26; Schimek, 27; Crosby, 29; Landis, 46.

A BILL FOR AN ACT relating to the Tax Equity and Educational Opportunities Support Act; to amend section 79-3805, Revised Statutes Supplement, 1990; to change provisions relating to calculation of tiered cost per student; and to repeal the original section.

LEGISLATIVE BILL 634. Introduced by Will, 8.

A BILL FOR AN ACT relating to motor vehicles; to define terms; to provide for liability of dealers who fail to inform consumers of a defect or condition known to such dealer that impairs the use of such vehicle; and to provide for legal procedure as prescribed.

LEGISLATIVE BILL 635. Introduced by Chizek, 31.

A BILL FOR AN ACT relating to scholarships; to provide for scholarships for children of firefighters and emergency medical service providers; to provide duties for the State Fire Marshal; and to define terms.

LEGISLATIVE BILL 636. Introduced by Wickersham, 49; Kristensen, 37; Landis, 46; Conway, 17.

A BILL FOR AN ACT relating to administrative hearings; to amend sections 8-1,134, 44-108.04, 54-1707, 71-3,173, 79-3350, 81-1318.02, 81-1504, 81-1507, 81-1806, 81-2142, and 84-920, Reissue Revised Statutes of Nebraska, 1943, and sections 2-3938 and 79-2202.08, Revised Statutes Supplement, 1990; to create the Division of Administrative Hearings; to provide powers and duties; to create a fund; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 637. Introduced by Beutler, 28.

A BILL FOR AN ACT relating to judges; to amend sections 24-301 and 24-505.01, Reissue Revised Statutes of Nebraska, 1943, and

sections 24-301.02 and 24-503, Revised Statutes Supplement, 1990; to change district and county judicial districts; to provide for subdistricts and primary service locations; to harmonize provisions; to provide an operative date; to provide severability; and to repeal the original sections.

RESOLUTIONS

LEGISLATIVE RESOLUTION 13CA. Introduced by Crosby, 29.

A Resolution to propose an amendment to the Constitution of Nebraska by amending Article IV, section 1, and by adding a new section 29 to Article IV.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

Section 1. That at the general election in November 1992 there shall be submitted to the electors of the State of Nebraska for approval the following amendment to the Constitution of Nebraska by amending Article IV, section 1, and by adding a new section 29 to Article IV, which is hereby proposed by the Legislature:

CIV-1 "The executive officers of the state shall be the Governor, Lieutenant Governor, Secretary of State, Auditor of Public Accounts, Treasurer, Attorney General, and the heads of such other executive departments as set forth ~~herein~~ in this section or as may be established by law. The Legislature may provide for the placing of the above named officers as heads over such departments of government as it may by law establish.

The Governor, Lieutenant Governor, Attorney General, Secretary of State, ~~Auditor of Public Accounts~~ and the Treasurer shall be chosen at the general election held in November, 1974, and in each alternate even-numbered year thereafter, for a term of four years and until their successors shall be elected and qualified. In the general election one vote shall be cast jointly for the candidates for Governor and Lieutenant Governor nominated by the same party. The Governor shall be ineligible to the office of Governor for four years next after the expiration of two consecutive terms for which he or she was elected. The records, books, and papers of all executive officers shall be kept at the seat of government, and such officers, ~~excepting~~ except the Lieutenant Governor and members of boards and commissions when the board or commission is the head of an executive department, shall reside there during their respective terms of office. Officers in the executive department of the state shall perform such duties as may be provided by law. The Auditor of

Public Accounts and the heads of all executive departments established by law, other than those to be elected as provided ~~herein~~ in this section, shall be appointed by the Governor, with the consent of a majority of all members elected to the Legislature, but officers so appointed may be removed by the Governor. Subject to the provisions of this Constitution, the heads of the various executive or civil departments shall have power to appoint and remove all subordinate employees in their respective departments."

CIV-29 "No person shall be eligible to the office of Attorney General who is not an attorney licensed to practice law in the State of Nebraska.".

Sec. 2. That the proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1. The proposition for the submission of the proposed amendment shall be placed upon the ballot in the following form:

"A constitutional amendment to provide for the appointment of the Auditor of Public Accounts by the Governor with the approval of a majority of the Legislature and to require the Attorney General to be an attorney licensed to practice law in the State of Nebraska.

For

Against".

Sec. 3. That the proposed amendment, if adopted, shall be in force and take effect immediately upon the completion of the canvass of the votes, at which time it shall be the duty of the Governor to proclaim it as a part of the Constitution of Nebraska.

Referred to the Reference Committee.

LEGISLATIVE RESOLUTION 14CA. Introduced by Crosby, 29.

A Resolution to propose an amendment to the Constitution of Nebraska by amending Article IV, sections 1 and 28, by adding a new section 29 to Article IV, and by repealing Article IV, section 3.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

Section 1. That at the general election in November 1992 there shall be submitted to the electors of the State of Nebraska for approval the following amendment to the Constitution of Nebraska by amending Article IV, sections 1 and 28, by adding a new section

29 to Article IV, and by repealing Article IV, section 3, which is hereby proposed by the Legislature:

CIV-1 "The executive officers of the state shall be the Governor, Lieutenant Governor, Secretary of State, Auditor of Public Accounts, ~~Treasurer,~~ and Attorney General, and the heads of such other executive departments as set forth ~~herein~~ in this section or as may be established by law. The Legislature may provide for the placing of the above named officers as heads over such departments of government as it may by law establish.

The Governor, Lieutenant Governor, Attorney General, Secretary of State, and Auditor of Public Accounts ~~and the Treasurer~~ shall be chosen at the general election held in November, 1974, and in each alternate even-numbered year thereafter, for a term of four years and until their successors shall be elected and qualified. In the general election one vote shall be cast jointly for the candidates for Governor and Lieutenant Governor nominated by the same party. The Governor shall be ineligible to the office of Governor for four years next after the expiration of two consecutive terms for which he or she was elected. The records, books, and papers of all executive officers shall be kept at the seat of government, and such officers, ~~excepting~~ except the Lieutenant Governor and members of boards and commissions when the board or commission is the head of an executive department, shall reside there during their respective terms of office. Officers in the executive department of the state shall perform such duties as may be provided by law. The heads of all executive departments established by law, other than those to be elected as provided ~~herein~~ in this section, shall be appointed by the Governor, with the consent of a majority of all members elected to the Legislature, but officers so appointed may be removed by the Governor. Subject to the provisions of this Constitution, the heads of the various executive or civil departments shall have power to appoint and remove all subordinate employees in their respective departments."

CIV-3 "Article IV, section 3, of the Constitution of Nebraska is repealed."

CIV-28 "A Tax Commissioner shall be appointed by the Governor with the advice and consent of the ~~Senate~~ Legislature. He or she shall have jurisdiction over the administration of the revenue laws of the state~~,~~ and together with the Governor, Secretary of State, ~~State Auditor and State Treasurer~~ and Auditor of Public Accounts shall have the power to review and equalize assessments of property for taxation within the state. He or she shall have such other powers and perform such other duties as the Legislature may provide. His or her term of office and compensation shall be as provided by law."

CIV-29 "No person shall be eligible to the office of the Attorney General who is not an attorney licensed to practice law in the State of Nebraska.".

Sec. 2. That the proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1. The proposition for the submission of the proposed amendment shall be placed upon the ballot in the following form:

"A constitutional amendment to eliminate the office of State Treasurer and to require the Attorney General to be an attorney licensed to practice law in the State of Nebraska.

For

Against".

Sec. 3. That the proposed amendment, if adopted, shall be in force and take effect immediately upon the completion of the canvass of the votes, at which time it shall be the duty of the Governor to proclaim it as a part of the Constitution of Nebraska.

Referred to the Reference Committee.

SPEAKER BAACK PRESIDING

BILLS ON FIRST READING

The following bills were read for the first time by title:

LEGISLATIVE BILL 638. Introduced by Rasmussen, 20; Lynch, 13; Robinson, 16.

A BILL FOR AN ACT relating to education; to amend sections 79-1345, 79-3333, 79-3337, and 79-3339, Reissue Revised Statutes of Nebraska, 1943, and sections 79-328 and 79-3330, Revised Statutes Supplement, 1990; to adopt the Children with Disabilities and Family Service System Act; to change and provide duties for the State Board of Education and the State Department of Education; to change provisions relating to the distribution of money in certain cash funds; to eliminate provisions relating to the Nebraska School for the Deaf and the Nebraska School for the Visually Handicapped; to transfer funds; to harmonize provisions; to provide operative dates; and to repeal the original sections, and also sections 79-1901 to 79-1904, 79-1907, 79-1908, 79-1910.01 to 79-1914, 79-2001 to 79-2007, 79-2009.01 to 79-2011, 79-3331, and 79-3355 to 79-3364, Reissue Revised Statutes of Nebraska, 1943.

LEGISLATIVE BILL 639. Introduced by Conway, 17.

A BILL FOR AN ACT relating to intergovernmental cooperation; to state purpose and intent; to create the Geographic Information System Steering Committee; to provide duties; and to require a report.

LEGISLATIVE BILL 640. Introduced by Landis, 46; Schimek, 27; Ashford, 6; Nelson, 35; Chambers, 11; Rasmussen, 20.

A BILL FOR AN ACT relating to abortion; to amend sections 28-326, 28-332, and 28-340, Reissue Revised Statutes of Nebraska, 1943; to prohibit certain governmental actions related to pregnancy; to change provisions relating to state regulation of abortions; to provide for immunity as prescribed; to redefine terms; to harmonize provisions; to eliminate provisions relating to legislative intent and prohibition on performing certain abortions; and to repeal the original sections, and also sections 28-325, 28-329, and 28-330, Reissue Revised Statutes of Nebraska, 1943.

LEGISLATIVE BILL 641. Introduced by Pirsch, 10.

A BILL FOR AN ACT relating to credit unions; to amend section 21-17,118, Reissue Revised Statutes of Nebraska, 1943; to create the Credit Union Act Fund; and to repeal the original section.

LEGISLATIVE BILL 642. Introduced by Pirsch, 10.

A BILL FOR AN ACT relating to escrow accounts; to amend section 8-330, Reissue Revised Statutes of Nebraska, 1943; to define a term; to require the payment of interest on escrow accounts as prescribed; to require an accounting; to provide a penalty; to provide for applicability; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 643. Introduced by Pirsch, 10.

A BILL FOR AN ACT relating to crimes and offenses; to amend section 28-377, Reissue Revised Statutes of Nebraska, 1943, and section 28-726, Revised Statutes Supplement, 1990; to change provisions relating to access to the records of certain abused or neglected persons as prescribed; and to repeal the original sections.

LEGISLATIVE BILL 644. Introduced by Pirsch, 10.

A BILL FOR AN ACT relating to adoption of children; to amend section 43-701, Reissue Revised Statutes of Nebraska, 1943; to prohibit certain advertisements or notices on radio and television stations; to provide a penalty; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 645. Introduced by Pirsch, 10.

A BILL FOR AN ACT relating to public lettings; to prohibit discrimination against Nebraska-based businesses in public lettings.

LEGISLATIVE BILL 646. Introduced by Pirsch, 10; Lynch, 13.

A BILL FOR AN ACT relating to public health and welfare; to amend section 71-116, Reissue Revised Statutes of Nebraska, 1943; to change a provision relating to membership on the Board of Examiners in Pharmacy; and to repeal the original section.

LEGISLATIVE BILL 647. Introduced by Lindsay, 9; Will, 8; Labedz, 5; Coordsen, 32; Robinson, 16; Smith, 33.

A BILL FOR AN ACT relating to postsecondary education; to amend section 77-2602, Reissue Revised Statutes of Nebraska, 1943; to adopt the Postsecondary Education Award Program Act; to provide funding; to provide operative dates; and to repeal the original section.

LEGISLATIVE BILL 648. Introduced by Smith, 33; Crosby, 29; Nelson, 35; Hillman, 48; Labedz, 5; Schimek, 27; Rasmussen, 20; Robak, 22; Chambers, 11.

A BILL FOR AN ACT relating to the Commission on the Status of Women; to amend section 81-8,260, Reissue Revised Statutes of Nebraska, 1943; to change a provision relating to the purpose of the commission; and to repeal the original section.

LEGISLATIVE BILL 649. Introduced by Landis, 46.

A BILL FOR AN ACT relating to persons in custody; to provide for consultation with an attorney as prescribed.

LEGISLATIVE BILL 650. Introduced by Moore, 24; Withem, 14.

A BILL FOR AN ACT relating to real estate improvement contracts; to define terms; to provide for the holding of certain assets in trust in favor of persons entitled to payment under a contract; to authorize an accounting; to provide penalties for misuse of assets; and to provide for the recovery of misappropriated assets.

LEGISLATIVE BILL 651. Introduced by Moore, 24.

A BILL FOR AN ACT relating to state administrative departments; to amend section 81-138.01, Reissue Revised Statutes of Nebraska, 1943; to change a provision relating to encumbrances established in one biennium to be liquidated in a subsequent biennium; to provide an operative date; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 652. Introduced by Moore, 24.

A BILL FOR AN ACT relating to appropriations; to make appropriations for the expenses of Nebraska State Government for the biennium ending June 30, 1993; to define terms; to provide an operative date; and to declare an emergency.

LEGISLATIVE BILL 653. Introduced by Moore, 24.

A BILL FOR AN ACT relating to the Department of Administrative Services; to amend section 81-1176, Revised Statutes Supplement, 1990; to change the mileage reimbursement rate; to provide an operative date; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 654. Introduced by Moore, 24.

A BILL FOR AN ACT relating to early childhood programs; to amend section 71-1911, Reissue Revised Statutes of Nebraska, 1943; to authorize care for additional children as prescribed; and to repeal the original section.

LEGISLATIVE BILL 655. Introduced by Moore, 24.

A BILL FOR AN ACT relating to insurance; to amend sections 44-513.01 and 44-4112, Reissue Revised Statutes of Nebraska, 1943; to require coverage for health care services provided by licensed health professionals as prescribed; to eliminate a provision requiring

such coverage; to harmonize provisions; and to repeal the original sections, and also section 44-513, Revised Statutes Supplement, 1990.

LEGISLATIVE BILL 656. Introduced by Moore, 24.

A BILL FOR AN ACT relating to telegraph, telephone, and similar companies; to amend sections 86-303 and 86-304, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to the location of certain rights-of-way; to limit recovery for damage or interference resulting from certain farming operations; and to repeal the original sections.

LEGISLATIVE BILL 657. Introduced by Moore, 24.

A BILL FOR AN ACT relating to schools and school districts; to amend section 79-3811, Revised Statutes Supplement, 1990; to provide funds for contributions to teachers' health insurance premiums; to provide for appropriations; to provide a termination date; to harmonize provisions; to eliminate the Help Education Lead to Prosperity Act; and to repeal the original section, and also sections 79-3501 to 79-3511, Revised Statutes Supplement, 1990.

LEGISLATIVE BILL 658. Introduced by R. Johnson, 34.

A BILL FOR AN ACT relating to the Game Law; to amend section 37-102, Revised Statutes Supplement, 1990; to state intent; to prohibit trafficking in reptiles and amphibians native to Nebraska as prescribed; to provide exceptions; and to repeal the original section.

LEGISLATIVE BILL 659. Introduced by R. Johnson, 34.

A BILL FOR AN ACT relating to agriculture; to establish an earth receiving station; to require reports; and to appropriate funds.

LEGISLATIVE BILL 660. Introduced by Natural Resources Committee: R. Johnson, 34, Chairperson; Horgan, 4; Lamb, 43; Morrissey, 1; Schmit, 23.

A BILL FOR AN ACT relating to the Water Well Standards and Contractors' Licensing Act; to amend section 46-1201, Reissue Revised Statutes of Nebraska, 1943; to provide for an exemption from the act for employees of natural resources districts; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 661. Introduced by R. Johnson, 34.

A BILL FOR AN ACT relating to solid waste management; to state intent; and to authorize the Department of Environmental Control to hire staff and use funds to carry out certain solid waste management duties.

LEGISLATIVE BILL 662. Introduced by Warner, 25; Robinson, 16.

A BILL FOR AN ACT relating to schools; to amend sections 77-2701.01, 77-2701.02, 77-2715.01, 77-2734.02, 79-447, 79-448, and 79-3332, Reissue Revised Statutes of Nebraska, 1943; to create the School Aid Fund; to provide that a portion of income and sales and use tax receipts be credited to the School Aid Fund; to provide for the use of the fund; to harmonize provisions; to provide an operative date; and to repeal the original sections.

LEGISLATIVE BILL 663. Introduced by Withem, 14; Warner, 25; Lindsay, 9.

A BILL FOR AN ACT relating to postsecondary education; to amend sections 49-506, 49-1493, 85-106, 85-179.01, 85-180.13, 85-180.14, 85-921, 85-945, 85-952, 85-953, 85-956, 85-958, 85-961, 85-962, 85-963, 85-966, 85-969, 85-971, 85-973, 85-975, 85-976, 85-977, 85-978, 85-979, and 85-983, Reissue Revised Statutes of Nebraska, 1943, and sections 79-1429, 79-2636, 79-2644, 79-2650.07, 79-2651, 85-121, 85-121.03, 85-121.04, 85-935, 85-943, 85-947.01, 85-948, 85-974, and 85-981, Revised Statutes Supplement, 1990; to adopt the Coordinating Commission for Postsecondary Education Act; to create a transition commission and transfer certain powers and duties; to provide for the distribution of session laws and statute books; to require statements of financial interest; to change provisions relating to capital improvements at technical community colleges; to change provisions relating to the Nebraska College of Technical Agriculture at Curtis; to change provisions relating to the role and mission and program offerings of public postsecondary educational institutions; to provide for the transfer of an information system as prescribed; to eliminate certain provisions relating to the Nebraska Coordinating Commission for Postsecondary Education, the Transition Commission for Postsecondary Education, and certain programs and studies; to harmonize provisions; to provide operative dates; to repeal the original sections, and also sections 85-901 to 85-909, 85-910.01, 85-911, 85-912, 85-913, 85-915, 85-916.01,

85-916.02, 85-967, 85-972, 85-9,103, 85-9,104, and 85-9,106 to 85-9,109, Reissue Revised Statutes of Nebraska, 1943, sections 85-902.01, 85-910, 85-940, 85-9,105, and 85-9,111 to 85-9,116, Revised Statutes Supplement, 1990, and sections 1 to 3 of this legislative bill; and to declare an emergency.

LEGISLATIVE BILL 664. Introduced by Conway, 17.

A BILL FOR AN ACT relating to the Uniform Commercial Code; to amend sections 9-402, 9-403, and 9-411, Uniform Commercial Code; to provide for filing of telefaxed documents; to provide for disposition of lapsed filings; to change a duty for county clerks; to provide for and increase fees; to provide for payment by credit card as prescribed; and to repeal the original sections.

LEGISLATIVE BILL 665. Introduced by Conway, 17.

A BILL FOR AN ACT relating to veterans; to amend sections 77-2704 and 80-403, Reissue Revised Statutes of Nebraska, 1943; to exempt purchases of patient care and recreational items by service and veteran organizations from sales and use tax; to authorize the Director of Veterans' Affairs to expend funds for such purpose; and to repeal the original sections.

LEGISLATIVE BILL 666. Introduced by Wehrbein, 2.

A BILL FOR AN ACT relating to smoking; to amend sections 71-5701 to 71-5703, 71-5709, 71-5710, and 81-638, Reissue Revised Statutes of Nebraska, 1943; to state findings; to require the Department of Health to develop materials as prescribed; to create a fund; to provide for disbursement of money in the fund; to provide a penalty under the Nebraska Clean Indoor Air Act; to eliminate a provision for waiver of requirements of the act; to eliminate authority for an injunction action as prescribed; to harmonize provisions; to provide an operative date; and to repeal the original sections, and also sections 71-5711 and 71-5713, Reissue Revised Statutes of Nebraska, 1943.

LEGISLATIVE BILL 667. Introduced by Hefner, 19; Morrissey, 1; Moore, 24; Byars, 30; Coordsen, 32.

A BILL FOR AN ACT relating to medical benefit contracts; to amend section 44-513.02, Revised Statutes Supplement, 1990; to prohibit additional copayment requirements or other conditions for

failure to use a mail-order pharmacy; and to repeal the original section.

LEGISLATIVE BILL 668. Introduced by Conway, 17.

A BILL FOR AN ACT relating to the Nebraska State Historical Society; to amend sections 82-105, 82-107, 82-108.02, 82-111, 82-112, 82-118, 82-124, and 84-710, Reissue Revised Statutes of Nebraska, 1943, and section 28-101, Revised Statutes Supplement, 1990; to define terms; to change provisions relating to the acquisition of historical material, funds received by the society, and violations involving monuments and historical markers; to transfer provisions relating to Pioneers' Memorial Day and historical surveys; to eliminate provisions relating to certain historical properties; to harmonize provisions; and to repeal the original sections, and also sections 82-101 to 82-104, 82-106, 82-108, 82-108.01, 82-109, 82-110, 82-114, 82-115, 82-117, 82-119 to 82-123, and 82-125 to 82-132, Reissue Revised Statutes of Nebraska, 1943.

LEGISLATIVE BILL 669. Introduced by R. Johnson, 34; Elmer, 38; Smith, 33; Hartnett, 45.

A BILL FOR AN ACT relating to degradable products; to amend sections 69-2001, 69-2002, and 69-2011, Reissue Revised Statutes of Nebraska, 1943; to define a term; to change provisions relating to disposable diaper requirements; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 670. Introduced by Conway, 17.

A BILL FOR AN ACT relating to condemnation; to amend sections 76-711 and 76-719.01, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to interest; and to repeal the original sections.

LEGISLATIVE BILL 671. Introduced by Landis, 46; Ashford, 6; Bernard-Stevens, 42.

A BILL FOR AN ACT relating to public health and welfare; to adopt the Rights of the Terminally Ill Act; and to provide severability.

LEGISLATIVE BILL 672. Introduced by Nelson, 35; Bernard-Stevens, 42.

A BILL FOR AN ACT relating to cities of the first class; to amend sections 16-1025, 16-1026, 16-1027, 16-1029, 16-1030, and 16-1034 to 16-1038, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to retirement systems and benefits for firefighters; to provide duties and expenses for committee members; and to repeal the original sections.

LEGISLATIVE BILL 673. Introduced by Bernard-Stevens, 42.

A BILL FOR AN ACT relating to juveniles; to amend sections 28-106, 28-107, 29-401, 29-610.02, 29-743, 29-2206, 43-250, 43-251, 43-253, 43-255, 47-117, 49-801, and 83-4,125, Reissue Revised Statutes of Nebraska, 1943, and section 43-245, Revised Statutes Supplement, 1990; to define terms; to require the placement of juveniles in juvenile detention facilities as prescribed; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 674. Introduced by Kristensen, 37; Lindsay, 9.

A BILL FOR AN ACT relating to title insurance; to amend sections 44-1902, 44-1910, and 44-1917, Reissue Revised Statutes of Nebraska, 1943, and sections 44-1525 and 44-1915, Revised Statutes Supplement, 1990; to provide powers for title insurance companies; to provide for uniform premium rates and forms of policies, hearings, and fees; to create a fund; to eliminate provisions relating to rate and form filings and rating organizations; to harmonize provisions; to repeal the original sections, and also sections 44-1487 to 44-1490, 44-1492, 44-1494 to 44-1497, 44-1912, and 44-1913, Reissue Revised Statutes of Nebraska, 1943, and sections 44-1491, 44-1493, 44-1498, 44-1911, and 44-1914, Revised Statutes Supplement, 1990; and to declare an emergency.

LEGISLATIVE BILL 675. Introduced by Wesely, 26.

A BILL FOR AN ACT relating to mental health regions; to amend section 71-5001, Reissue Revised Statutes of Nebraska, 1943; to provide for children's mental health teams; to create the position of coordinator of children's mental health services; and to repeal the original sections.

LEGISLATIVE BILL 676. Introduced by Wesely, 26.

A BILL FOR AN ACT relating to persons with disabilities; to state intent; to provide duties for the State Department of Education; to provide for the establishment and maintenance of independent living centers and programs; to provide for rules and regulations; and to provide priorities for funding.

LEGISLATIVE BILL 677. Introduced by Wesely, 26; Rasmussen, 20.

A BILL FOR AN ACT relating to long-term care facilities; to adopt the Long-Term Care Ombudsman Act.

LEGISLATIVE BILL 678. Introduced by Wesely, 26.

A BILL FOR AN ACT relating to the Nebraska Mental Health Commitment Act; to amend sections 83-1002, 83-1018, and 83-1046, Reissue Revised Statutes of Nebraska, 1943, and section 83-1078, Revised Statutes Supplement, 1990; to define terms; to provide for training of members of mental health boards as prescribed; to authorize additional adjudications regarding board-ordered treatment; to change provisions relating to discharge and changes in treatment; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 679. Introduced by Wesely, 26.

A BILL FOR AN ACT relating to public health and welfare; to adopt the Health Care Data Commission Act.

LEGISLATIVE BILL 680. Introduced by Wesely, 26.

A BILL FOR AN ACT relating to rural health; to adopt the Rural Health Innovation and Enhancement Act.

LEGISLATIVE BILL 681. Introduced by Schmit, 23.

A BILL FOR AN ACT relating to property tax; to provide for in-lieu-of-property-tax payments by the state as prescribed.

LEGISLATIVE BILL 682. Introduced by Schmit, 23.

A BILL FOR AN ACT relating to judges retirement; to amend section 24-701 and 24-710, Reissue Revised Statutes of Nebraska,

1943; to redefine a term; to change provisions relating to monthly payment for a retirement annuity; and to repeal the original sections.

LEGISLATIVE BILL 683. Introduced by Schmit, 23.

A BILL FOR AN ACT relating to sales and use tax; to amend section 77-2704, Reissue Revised Statutes of Nebraska, 1943; to exempt purchases by public museums; to provide an operative date; and to repeal the original section.

LEGISLATIVE BILL 684. Introduced by Schmit, 23.

A BILL FOR AN ACT relating to educational lands; to amend sections 72-240.23, 72-240.26, 72-257 to 72-258, 72-258.01, 72-259, 72-261, and 72-267, Reissue Revised Statutes of Nebraska, 1943; to require the sale of educational lands as prescribed; to change provisions for leases of unsold land; to change provisions for a report; to provide and change duties of the Board of Educational Lands and Funds; to change a provision relating to acquisition of educational lands by the Game and Parks Commission; to eliminate provisions relating to sale and lease of certain property as prescribed; to harmonize provisions; and to repeal the original sections, and also section 72-268, Reissue Revised Statutes of Nebraska, 1943.

NOTICE OF COMMITTEE HEARING
Natural Resources

LB 45	Wednesday, January 30, 1991	1:30 p.m.
LB 183	Wednesday, January 30, 1991	1:30 p.m.
LB 264	Wednesday, January 30, 1991	1:30 p.m.

(Signed) Rod Johnson, Chairperson

EASE

The Legislature was at ease from 10:29 a.m. until 10:41 a.m.

BILLS ON FIRST READING

The following bills were read for the first time by title:

LEGISLATIVE BILL 685. Introduced by R. Johnson, 34.

A BILL FOR AN ACT relating to the Nebraska Wheat Resources Act; to amend sections 2-2304 and 2-2305, Reissue Revised Statutes of Nebraska, 1943; to change the composition of districts of the Nebraska Wheat Development, Utilization, and Marketing Board; to change provisions relating to the terms of board members; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 686. Introduced by Beutler, 28.

A BILL FOR AN ACT relating to homesteads; to amend section 77-3507, Reissue Revised Statutes of Nebraska, 1943; to change a tax exemption based on income as prescribed; and to repeal the original section.

LEGISLATIVE BILL 687. Introduced by Beutler, 28.

A BILL FOR AN ACT relating to divorce; to amend section 42-372, Reissue Revised Statutes of Nebraska, 1943, and section 42-363, Revised Statutes Supplement, 1990; to change provisions relating to the waiting period for a divorce action to be heard and when a divorce decree becomes final; to provide an operative date; and to repeal the original sections.

LEGISLATIVE BILL 688. Introduced by Beutler, 28.

A BILL FOR AN ACT relating to child support referees; to amend sections 43-1608 to 43-1611, Revised Statutes Supplement, 1990; to change provisions relating to the appointment and funding of child support referees as prescribed; to authorize referees to establish and enforce orders for medical support; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 689. Introduced by Beutler, 28.

A BILL FOR AN ACT relating to schools and school districts; to amend section 79-439, Revised Statutes Supplement, 1990; to change provisions relating to school board meetings for Class IV school districts; and to repeal the original section.

LEGISLATIVE BILL 690. Introduced by Hefner, 19; Coordsen, 32.

A BILL FOR AN ACT relating to employment security; to amend section 48-627, Reissue Revised Statutes of Nebraska, 1943, and

sections 48-621 and 48-628, Revised Statutes Supplement, 1990; to provide for grants as prescribed; to change provisions relating to eligibility for benefits for persons in drug or alcohol treatment programs; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 691. Introduced by Bernard-Stevens, 42; L. Johnson, 15.

A BILL FOR AN ACT relating to criminal procedure; to amend sections 29-1002 to 29-1004, and 19-1823, Reissue Revised Statutes of Nebraska, 1943; to provide for the payment of certain costs by the state when a person is determined to be mentally incompetent to stand trial; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 692. Introduced by Chambers, 11; Nelson, 35.

A BILL FOR AN ACT relating to tobacco products; to provide for a warning emblem on tobacco product containers.

LEGISLATIVE BILL 693. Introduced by Moore, 24.

A BILL FOR AN ACT relating to technical community colleges; to amend sections 79-2637, 79-2644, and 79-2651, Revised Statutes Supplement, 1990; to define and redefine terms; to change a provision relating to powers and duties; to change provisions relating to the allocation and distribution of funds; to eliminate provisions relating to equalization aid; and to repeal the original sections, and also sections 79-2651.03 to 79-2651.06, Revised Statutes Supplement, 1990.

LEGISLATIVE BILL 694. Introduced by Chizek, 31.

A BILL FOR AN ACT relating to courts; to amend sections 25-1565, 25-1570, 29-812, 29-2281, and 29-3302, Reissue Revised Statutes of Nebraska, 1943; to change a provision relating to execution against the property of a judgment debtor as prescribed; to change a provision relating to witnesses in proceedings for the discovery of property of a judgment debtor as prescribed; to eliminate fees; to provide that restitution payments be made through the clerk of the court; and to repeal the original sections.

LEGISLATIVE BILL 695. Introduced by Bernard-Stevens, 42.

A BILL FOR AN ACT relating to distress warrants; to amend sections 60-303, 77-1718, and 77-1719, Reissue Revised Statutes of Nebraska, 1943; to authorize refusal of motor vehicle registration because of nonpayment of outstanding distress warrants; to authorize notices as prescribed; and to repeal the original sections.

LEGISLATIVE BILL 696. Introduced by Lindsay, 9.

A BILL FOR AN ACT relating to powers of attorney; to state intent; to define terms; to provide for the execution of a power of attorney for health care; to provide procedures, a form, criteria, limitations, powers, and duties as prescribed; and to provide penalties.

LEGISLATIVE BILL 697. Introduced by Schmit, 23; Nelson, 35; R. Johnson, 34; Cudaback, 36; Schrock, 39.

A BILL FOR AN ACT relating to water; to require an advanced planning study for the Prairie Bend project; and to declare an emergency.

LEGISLATIVE BILL 698. Introduced by Education Committee: Withem, 14, Chairperson; Beutler, 28; Chizek, 31; Dierks, 40; Lamb, 43; Nelson, 35; Schrock, 39; Warner, 25.

A BILL FOR AN ACT relating to schools and school districts; to amend sections 77-3437, 77-3438, 79-403.02, 79-426.22, 79-436, 79-445, 79-446.01 to 79-448, 79-449.01, 79-497, 79-498, 79-506, 79-506.01 to 79-506.04, 79-548.01, 79-1247.07, 79-1254.02, 79-1307.01, 79-1914, 79-2212, 79-3304, and 79-3336, Reissue Revised Statutes of Nebraska, 1943, sections 13-504, 23-3306, 79-101.01, 79-201.09, 79-402, 79-402.13, 79-426.19, 79-437.03, 79-438.09, 79-451, 79-458, 79-494, 79-4,102 to 79-4,104, 79-4,159, 79-4,222, 79-1103, 79-1247.05, 79-1304, 79-1369, 79-2203, 79-3415, 79-3703, 79-3803, 79-3804, 79-3806, 79-3808 to 79-3811, 79-3813, 79-3815 to 79-3820, and 79-3822 to 79-3824, Revised Statutes Supplement, 1990, and Laws 1988, LB 940, section 19; to change, add, and eliminate duties of the State Department of Education; to define and redefine terms; to change provisions relating to budget limitations and budget statements; to change provisions relating to affiliation; to change dates relating to reorganization; to change provisions relating to amounts and disbursement of nonresident high school tuition; to change provisions relating to reports; to change provisions relating

to the effect of a census; to change duties for county superintendents; to change provisions relating to acquisition of facilities by Class II school districts; to eliminate career certification levels for teachers; to provide for substitute teaching certificates or permits; to provide for waiver of a fee; to change a provision relating to contract renewal; to eliminate a prohibition on payment of state apportionment of certain funds; to add and change duties for county treasurers; to change a provision relating to withholding payments to school districts; to provide for membership in and withdrawal from educational service units for certain Class I districts; to change provisions relating to reimbursement of certain special education costs; to change dates relating to certain reports and notification duties; to change and add provisions relating to state aid and equalization aid under the Tax Equity and Educational Opportunities Support Act; to change provisions for determining district formula resources; to change provisions relating to the applicable allowable growth rate for special education; to eliminate the Nebraska Mathematics and Science Teacher Training Act; to harmonize provisions; to provide severability; to repeal the original sections, and also sections 79-493, 79-1247.15, 79-12,142 to 79-12,144, 79-12,146 to 79-12,152, and 79-1912, Reissue Revised Statutes of Nebraska, 1943, and section 79-12,147, Revised Statutes Supplement, 1990; and to declare an emergency.

LEGISLATIVE BILL 699. Introduced by Rasmussen, 20; Will, 8; Robinson, 16; Beutler, 28; Bernard-Stevens, 42; Chambers, 11; Lynch, 13; Chizek, 31.

A BILL FOR AN ACT relating to education; to amend section 77-27,132, Reissue Revised Statutes of Nebraska, 1943, and section 79-3819, Revised Statutes Supplement, 1990; to adopt the Innovation and Excellence in Education Act; to change provisions relating to disbursement of sales and use tax proceeds; to provide an exception to the allowable growth rate; and to repeal the original sections.

LEGISLATIVE BILL 700. Introduced by Rasmussen, 20.

A BILL FOR AN ACT relating to the Special Education Act; to amend section 79-3322, Revised Statutes Supplement, 1990; to change provisions relating to transportation expenses; and to repeal the original section.

LEGISLATIVE BILL 701. Introduced by Rasmussen, 20; Wesely, 26; Withem, 14.

A BILL FOR AN ACT relating to children; to adopt the Early Intervention Act; and to provide an operative date.

LEGISLATIVE BILL 702. Introduced by Health and Human Services Committee: Wesely, 26, Chairperson; Beyer, 3; Byars, 30; Cudaback, 36; Dierks, 40; Schellpeper, 18.

A BILL FOR AN ACT relating to the Department of Health; to amend sections 71-162, 71-1,147.03, 71-1,147.05, 71-1,147.07, 71-1,147.08, 71-382, 71-605.02, 71-612, 71-617.15, 71-627, 71-634, 71-1559, 71-2618, 71-3508.04, 71-4604.01, 71-4624, 71-6303, 77-2602, and 81-638, Reissue Revised Statutes of Nebraska, 1943, and section 44-32,163, Revised Statutes Supplement, 1990; to change certain fees collected by the Department of Health; to eliminate certain cash funds as prescribed; to provide for credit and expenditure of certain funds; to provide for transfer of certain funds as prescribed; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 703. Introduced by Health and Human Services Committee: Wesely, 26, Chairperson; Beyer, 3; Byars, 30; Cudaback, 36; Dierks, 40; Rasmussen, 20; Schellpeper, 18.

A BILL FOR AN ACT relating to the Uniform Licensing Law; to amend sections 71-125, 71-131, 71-132, 71-138, 71-162, 71-503.01, and 71-601, Reissue Revised Statutes of Nebraska, 1943; to change and eliminate provisions relating to examinations and fees; to permit disclosure of certain confidential reports as prescribed; to provide for immunity as prescribed; to change provisions relating to birth certificates; to harmonize provisions; and to repeal the original sections, and also section 71-126, Reissue Revised Statutes of Nebraska, 1943.

LEGISLATIVE BILL 704. Introduced by Health and Human Services Committee: Wesely, 26, Chairperson; Beyer, 3; Byars, 30; Cudaback, 36; Dierks, 40; Rasmussen, 20; Schellpeper, 18.

A BILL FOR AN ACT relating to persons found not responsible by reason of insanity; to amend section 29-3703, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to treatment; and to repeal the original section.

LEGISLATIVE BILL 705. Introduced by Ashford, 6.

A BILL FOR AN ACT relating to Class V school districts; to amend section 79-1043, Revised Statutes Supplement, 1990; to provide for credit for prior service for time spent on certain leaves of absence; and to repeal the original section.

LEGISLATIVE BILL 706. Introduced by Ashford, 6.

A BILL FOR AN ACT relating to historic preservation; to establish the Task Force on Historic Preservation; to state intent; to provide powers and duties; and to provide for termination of the task force.

LEGISLATIVE BILL 707. Introduced by Ashford, 6.

A BILL FOR AN ACT relating to schools and school districts; to adopt the Nebraska Incentives for Excellence Act.

LEGISLATIVE BILL 708. Introduced by Ashford, 6.

A BILL FOR AN ACT relating to physically disabled persons; to amend sections 20-127, 20-128, 20-131.04, 28-1313, and 28-1314, Reissue Revised Statutes of Nebraska, 1943, and section 48-1102, Revised Statutes Supplement, 1990; to authorize the use of service dogs as prescribed; to define and redefine terms; to change and create certain offenses involving guide dogs, hearing aid dogs, and service dogs; to provide penalties; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 709. Introduced by Ashford, 6.

A BILL FOR AN ACT relating to probation; to amend sections 29-2249, 29-2250, and 29-2258, Reissue Revised Statutes of Nebraska, 1943, and section 29-2269, Revised Statutes Supplement, 1990; to increase the number of probation officers and support staff personnel; to create a community punishment grant program under the Nebraska Probation Administration Act; to harmonize provisions; to appropriate funds; and to repeal the original sections.

LEGISLATIVE BILL 710. Introduced by Ashford, 6.

A BILL FOR AN ACT relating to professional corporations; to authorize Nebraska professional corporations to provide services in other states; and to provide for certain foreign professional corporations to provide services in Nebraska as prescribed.

LEGISLATIVE BILL 711. Introduced by Ashford, 6.

A BILL FOR AN ACT relating to injunctions; to authorize consolidation of trial and an application for a temporary injunction as prescribed; to provide for the treatment of evidence; and to authorize appeal from a temporary injunction.

LEGISLATIVE BILL 712. Introduced by Ashford, 6.

A BILL FOR AN ACT relating to sales and use tax; to amend section 77-2704, Reissue Revised Statutes of Nebraska, 1943; to exempt hypodermic syringes and needles, and diabetic testing materials from taxation; to provide an operative date; and to repeal the original section.

LEGISLATIVE BILL 713. Introduced by Beutler, 28.

A BILL FOR AN ACT relating to campaign financing; to amend section 49-14,123, Reissue Revised Statutes of Nebraska, 1943; to adopt the Primary Campaign Finance Reform Act; to provide powers and duties for the Nebraska Accountability and Disclosure Commission; to provide an operative date; and to repeal the original section.

LEGISLATIVE BILL 714. Introduced by Beutler, 28.

A BILL FOR AN ACT relating to the Game and Parks Commission; to adopt the Trail Development Assistance Act; and to declare an emergency.

LEGISLATIVE BILL 715. Introduced by Beutler, 28.

A BILL FOR AN ACT relating to child support; to amend sections 42-364, 42-368, 42-371, 42-792, 42-793, 42-7,101, 43-512.03, 43-512.05, 43-512.06, 43-512.08, 43-512.10, and 43-1727, Reissue Revised Statutes of Nebraska, 1943, and section 43-512, Revised Statutes Supplement, 1990; to provide for review and adjustment of child support orders in certain cases; to change provisions for release and priority of certain liens; to provide duties for county attorneys and authorized attorneys; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 716. Introduced by R. Johnson, 34; Elmer, 38.

A BILL FOR AN ACT relating to technical assistance to local monitoring committees; to amend section 81-15,101.01, Revised Statutes Supplement, 1990; to change a section reference; and to repeal the original section.

LEGISLATIVE BILL 717. Introduced by Schmit, 23.

A BILL FOR AN ACT relating to horseracing; to amend section 2-1207, Revised Statutes Supplement, 1990; to require licensees to withhold a portion of other gambling receipts to maintain purses for live horseracing; and to repeal the original section.

LEGISLATIVE BILL 718. Introduced by Schmit, 23.

A BILL FOR AN ACT relating to parimutuel wagering; to amend sections 2-1216 and 2-1221, Reissue Revised Statutes of Nebraska, 1943, and sections 2-1203.01 and 2-1207, Revised Statutes Supplement, 1990; to change provisions relating to parimutuel wagering; to provide for racetrack messenger services; to provide powers and duties for the State Racing Commission, licensed racetracks, and racetrack messenger services; to provide penalties; and to repeal the original sections.

LEGISLATIVE BILL 719. Introduced by Withem, 14.

A BILL FOR AN ACT relating to schools and school districts; to amend sections 79-438.12 and 79-4,223, Revised Statutes Supplement, 1990; to change a date relating to affiliation of school districts; and to repeal the original sections.

LEGISLATIVE BILL 720. Introduced by Horgan, 4; Labedz, 5; Rasmussen, 20; Lynch, 13; Robinson, 16; Chizek, 31; Will, 8; Wickersham, 49.

A BILL FOR AN ACT relating to military service; to amend section 55-160, Reissue Revised Statutes of Nebraska, 1943; to authorize compensation for state employees called to active duty status since August 1, 1990, as prescribed; and to repeal the original section.

LEGISLATIVE BILL 721. Introduced by Horgan, 4; Labedz, 5; Kristensen, 37; Lynch, 13; Robinson, 16; Rasmussen, 20.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2716, Reissue Revised Statutes of Nebraska, 1943; to adopt the Nebraska Individual Retirement Account Act; to harmonize provisions; to provide an operative date; and to repeal the original section.

RESOLUTIONS

LEGISLATIVE RESOLUTION 15CA. Introduced by Warner, 25.

A Resolution to propose amendments to the Constitution of Nebraska by adding a new section 19 to Article XV.

WHEREAS, in 1974 the United States Supreme Court in Roe v. Wade held that government had no compelling interest to interfere with a woman's fundamental right to have an abortion in the early stages of pregnancy and that laws restricting or criminalizing such right were unconstitutional; and

WHEREAS, in 1989 the United States Supreme Court in Webster v. Reproductive Health Services held that government could enact certain laws restricting a woman's access to or practical ability to obtain an abortion at any stage of pregnancy; and

WHEREAS, one position is that every person should be free from undue governmental interference with fundamental rights, that one of those fundamental rights is the right to control private decisions, that private decisions include decisions regarding reproduction, childbearing, and one's own health and body, and that government should not intrude on these private decisions until such time as those decisions affect the life and health of a viable fetus; and

WHEREAS, one position is that the life of a human being begins at the moment of conception, that such human life is from that moment entitled to the same legal and medical protection as the life of any other human being at other stages of biological development, that abortion at any stage of pregnancy is the death of a human life which should be prohibited by law and have the attendant legal consequences of the death of a human life, and that, consistent with the recognition of the legal status of a fetus as a human being, the ability of a woman to have an abortion should be restricted as much as possible; and

WHEREAS, due to the extensive and polarizing public and legislative debate on this issue, the issue should be submitted to the voters of Nebraska as two alternative constitutional amendments in order for the Legislature to secure guidance as to the type of legislation appropriate to resolving this issue in Nebraska.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

Section 1. That at the general election in November 1992 there shall be submitted to the electors of the State of Nebraska for approval the following amendments to the Constitution of Nebraska, by adding a new section 19 to Article XV, which are hereby proposed by the Legislature:

CXV-19 "No law shall interfere with the right of a woman to choose or refuse to terminate her pregnancy, except that the Legislature may enact reasonable legislation to preserve the life or health of the woman or a fetus more than three months old. This amendment shall be paramount to any other amendment on the same subject which may be adopted at the same election with a fewer number of affirmative votes than this amendment."

CXV-19 "The planned termination of the pregnancy of any woman shall be unlawful except to preserve the life or health of the woman or to increase the probability of the live birth of a fetus. This amendment shall be paramount to any other amendment on the same subject which may be adopted at the same election with a fewer number of affirmative votes than this amendment.".

Sec. 2. That the proposed amendments shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1. The propositions for the submission of the proposed amendments shall be placed upon the ballot in the following form:

"A constitutional amendment to provide that no law shall interfere with the right of a woman to choose or refuse to terminate her pregnancy, except that the Legislature may enact reasonable legislation to preserve the life or health of the woman or a fetus more than three months old.

For

Against"

"A constitutional amendment to provide that the planned termination of the pregnancy of any woman shall be unlawful except to preserve the life or health of the woman or to increase the probability of the live birth of a fetus.

For

Against".

Sec. 3. That either of the proposed amendments, if adopted, shall be in force and take effect immediately upon the completion of the canvass of the votes, at which time it shall be the duty of the Governor to proclaim it as a part of the Constitution of Nebraska.

Referred to the Reference Committee.

LEGISLATIVE RESOLUTION 16CA. Introduced by Beutler, 28.

A Resolution to propose an amendment to the Constitution of Nebraska by amending Article III, sections 2 and 4, and Article XVI, section 1, and by adding a new section 3A to Article III.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

Section 1. That at the general election in November 1992 there shall be submitted to the electors of the State of Nebraska for approval the following amendment to the Constitution of Nebraska by amending Article III, sections 2 and 4, and Article XVI, section 1, and by adding a new section 3A to Article III, which is hereby proposed by the Legislature:

CIII-2 "The first power reserved by the people is the initiative whereby laws may be enacted and constitutional amendments adopted by the people independently of the Legislature. This power may be invoked by petition wherein the proposed measure shall be set forth at length. If the petition ~~be~~ is for the enactment of a law, it shall be signed by seven percent of the registered voters of the state, and if the petition ~~be~~ is for the amendment of the Constitution, the petition therefor shall be signed by ten percent of such registered voters. In all cases the registered voters signing such petition shall be so distributed as to include five percent of the registered voters of each of two-fifths of the counties of the state, and when thus signed, the petition shall be filed with the Secretary of State who shall submit the measure thus proposed to the electors of the state at the first general election held not less than four months after such petition shall have been filed. The measure thus proposed shall be submitted to the electors together with any alternative measures offered by the Legislature and shall be submitted in such manner that the people can choose between the alternative measures or reject both but cannot adopt both. The same measure, either in form or in essential substance, shall not be submitted to the people by initiative petition, either affirmatively or negatively, more often than once in three years. If conflicting measures submitted to the people at the same election ~~be~~ are approved, the one receiving the highest number of affirmative votes shall thereby become law as to all conflicting provisions. The constitutional limitations as to the scope and subject matter of statutes enacted by the Legislature shall apply to those enacted by the initiative."

CIII-3A "The Legislature may enact laws expressly conditioned upon ratification by the people. Such laws shall not be presented to the Governor. Such laws may be presented on the ballot as alternative measures to measures initiated by the people or may be presented independently of measures initiated by the people."

CIII-4 "The whole number of votes cast for Governor at the general election next preceding the filing of an initiative or referendum petition shall be the basis on which the number of signatures to such petition shall be computed. The veto power of the Governor shall not extend to measures initiated by or referred to the people, to alternative measures offered by the Legislature to measures initiated by the people, to laws enacted by the Legislature expressly conditioned upon ratification by the people, or to such measures ratified by the people. A measure initiated by the people, an alternative measure offered by the Legislature, or a law enacted by the Legislature expressly conditioned upon ratification by the people shall become a law or part of the Constitution, as the case may be, when a majority of the votes cast thereon, and not less than thirty-five ~~per cent~~ percent of the total vote cast at the election at which the same was submitted, are cast in favor thereof, and shall take effect upon proclamation by the Governor which shall be made within ten days after the official canvass of such votes. The vote upon initiative, ~~and~~ referendum, and ratified measures shall be returned and canvassed in the manner prescribed for the canvass of votes for president. The method of submitting and adopting amendments to the Constitution provided by this section shall be supplementary to the method prescribed in ~~the article~~ Article XVI of this Constitution, ~~entitled, "Amendments"~~ and the latter shall in no case be construed to conflict ~~herewith~~ with this section. The provisions with respect to the initiative, ~~and~~ referendum, and ratification shall be self-executing, but legislation may be enacted to facilitate their operation. All propositions submitted in pursuance hereof shall be submitted in a ~~non-partisan~~ nonpartisan manner and without any indication or suggestion on the ballot that they have been approved or endorsed by any political party or organization. Only the title or proper descriptive words of measures shall be printed on the ballot and when two or more measures have the same title they shall be numbered consecutively in the order of filing with the Secretary of State and the number shall be followed by the name of the first petitioner on the corresponding petition."

CXVI-1 "The Legislature may propose amendments to this Constitution. ~~If the same be~~ Such amendments may be presented on the ballot as alternative measures to measures initiated by the people or may be presented independently of measures initiated by the

people. If the proposed amendments are agreed to by three-fifths of the members elected to the Legislature, such proposed amendments shall be entered on the journal, with yeas and nays, and published once each week for three consecutive weeks, in at least one newspaper in each county, where a newspaper is published, immediately preceding the next election of members of the Legislature or a special election called by the vote of four-fifths of the members elected to the Legislature for the purpose of submitting such proposed amendments to the electors. At such election, the ~~said~~ amendments shall be submitted to the electors for approval or rejection upon a ballot separate from that upon which the names of candidates appear. If a majority of the electors voting on any such amendment adopt the same, it shall become a part of this Constitution, provided the votes cast in favor of such amendment shall not be less than thirty-five ~~per cent~~ percent of the total votes cast at such election. ~~When~~ Except as otherwise provided in Article III, section 2, of this Constitution, when two or more amendments are submitted at the same election, they shall be so submitted as to enable the electors to vote on each amendment separately.".

Sec. 2. That the proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1. The proposition for the submission of the proposed amendment shall be placed upon the ballot in the following form:

"A constitutional amendment to authorize the Legislature to offer alternative measures to measures initiated by the people and to enact laws expressly conditioned upon ratification by the people, to prohibit the veto power of the Governor from extending to such measures, and to provide for the manner of submission and adoption of such measures.

For

Against".

Sec. 3. That the proposed amendment, if adopted, shall be in force and take effect immediately upon the completion of the canvass of the votes, at which time it shall be the duty of the Governor to proclaim it as a part of the Constitution of Nebraska.

Referred to the Reference Committee.

EASE

The Legislature was at ease from 10:50 a.m. until 10:55 a.m.

BILLS ON FIRST READING

The following bills were read for the first time by title:

LEGISLATIVE BILL 722. Introduced by Schimek, 27; Conway, 17.

A BILL FOR AN ACT relating to the Nebraska Political Accountability and Disclosure Act; to amend sections 49-1446.01 and 49-1446.02, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to expenditure or transfer of certain funds as prescribed; and to repeal the original sections.

LEGISLATIVE BILL 723. Introduced by Conway, 17; Bernard-Stevens, 42.

A BILL FOR AN ACT relating to marijuana and controlled substances; to amend sections 28-429, 28-1439.02 to 28-1439.05, 77-4301, 77-4307 to 77-4309, 77-4311, 77-4313, 77-4315, and 77-4316, Reissue Revised Statutes of Nebraska, 1943; to provide for disbursement of proceeds from a tax on marijuana and controlled substances; to rename funds; to rename boards; to define a term; to provide powers and duties for the Superintendent of Law Enforcement and Public Safety and for County Drug Law Enforcement and Education Boards; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 724. Introduced by Crosby, 29; Horgan, 4; Rasmussen, 20.

A BILL FOR AN ACT relating to school nurses; to require the Department of Health to employ a school nurse consultant; and to provide powers and duties.

LEGISLATIVE BILL 725. Introduced by Conway, 17.

A BILL FOR AN ACT relating to residential dwelling construction; to adopt the Housing Contractor Act.

LEGISLATIVE BILL 726. Introduced by Ashford, 6.

A BILL FOR AN ACT relating to appropriations; to state intent; and to appropriate funds to the Board of Regents of the University of Nebraska.

LEGISLATIVE BILL 727. Introduced by Hillman, 48; Will, 8; Hefner, 19; Wickersham, 49; Rogers, 41.

A BILL FOR AN ACT relating to sales and use taxes; to amend section 77-2702, Reissue Revised Statutes of Nebraska, 1943; to redefine occasional sale; to provide an operative date; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 728. Introduced by Ashford, 6; Rasmussen, 20; Chizek, 31; Will, 8.

A BILL FOR AN ACT relating to infants; to amend sections 42-364 and 43-1412, Reissue Revised Statutes of Nebraska, 1943; to adopt the Parenting Act; to provide for inclusion of a parenting plan in decrees as prescribed; to provide an operative date; and to repeal the original sections.

LEGISLATIVE BILL 729. Introduced by Kristensen, 37.

A BILL FOR AN ACT relating to corrections; to amend sections 29-2266 and 83-173, Reissue Revised Statutes of Nebraska, 1943; to adopt the Community Punishment Act; to provide a duty for probation officers; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 730. Introduced by Elmer, 38.

A BILL FOR AN ACT relating to interbasin transfers of water; to amend section 46-289, Reissue Revised Statutes of Nebraska, 1943; to specify that certain parties are parties in interest; and to repeal the original section.

LEGISLATIVE BILL 731. Introduced by Coordsen, 32; Morrissey, 1.

A BILL FOR AN ACT relating to the Interlocal Cooperation Act; to amend sections 13-801 to 13-807, Reissue Revised Statutes of Nebraska, 1943; to provide for bonds; to provide for the construction of sections; to harmonize provisions; to provide severability; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 732. Introduced by Kristensen, 37; Lindsay, 9; Wickersham, 49; Robak, 22; Nelson, 35; Baack, 47.

A BILL FOR AN ACT relating to courts; to amend sections 2-4613, 7-111, 8-190, 8-196, 8-221, 8-334, 12-528, 13-512, 15-1205, 17-414, 18-2432, 19-705, 19-2204, 19-4607, 19-4619, 19-4620, 24-101, 24-106, 24-201.03, 24-203, 24-204, 24-209, 24-337.01, 24-701, 24-703, 24-714, 24-729, 24-739, 25-1002, 25-1010, 25-1064, 25-1081, 25-1090, 25-1140, 25-1148, 25-1315.03, 25-1542, 25-1911, 25-1912, 25-1913, 25-1914, 25-1915, 25-1916, 25-1919, 25-1920, 25-1923, 25-1924, 25-1925, 25-1926, 25-1930, 25-1935, 25-1936, 25-1937, 25-21,167, 25-21,213, 25-2728, 27-1101, 29-116, 29-812, 29-824, 29-901, 29-2301, 29-2302, 29-2305, 29-2306, 29-2308, 29-2315.01, 29-2316, 29-2320, 29-2321, 29-2322, 29-2323, 29-2324, 29-3002, 29-3302, 31-433, 32-421.01, 32-4,101, 32-517, 32-706, 32-1039, 33-103, 33-145, 39-1719, 42-351, 42-358, 46-210, 46-229.05, 46-238, 46-554, 46-646, 48-125, 48-182, 48-185, 48-188, 48-640, 48-808, 48-812, 49-506, 49-617, 55-445, 59-823, 65-101, 70-604.06, 70-1016, 70-1325, 70-1326, 70-1327, 70-1328, 75-106, 75-121, 75-134, 75-136, 75-136.01, 75-137, 75-138, 75-139, 75-143, 76-719, 77-509, 77-510, 77-615, 77-1510, 77-1609, 77-1610, 77-1736.04, 79-4,205, 79-1068, 79-3354, 81-1379, 81-1383, 81-1385, 81-1387, 83-471, 83-4,133, 83-1043, and 86-811, Reissue Revised Statutes of Nebraska, 1943, and sections 8-1736, 23-3402, 24-1002, 29-3903, 43-287.06, 43-2,106, 43-2,126, 60-4,105, 81-8,216, 83-1133, 84-205, and 84-918, Revised Statutes Supplement, 1990; to create the Court of Appeals; to provide judges for the court; to provide powers and duties for such judges, the court, and the Supreme Court; to change appeal procedures as prescribed; to eliminate a restriction on writs of certiorari; to provide for distribution of certain publications; to harmonize provisions; to provide an operative date; to eliminate provisions relating to certain county judges and the Appellate Division of the District Court; and to repeal the original sections, and also sections 24-351 to 24-354, 24-821, and 24-822, Reissue Revised Statutes of Nebraska, 1943.

EASE

The Legislature was at ease from 10:59 a.m. until 11:08 a.m.

BILLS ON FIRST READING

The following bills were read for the first time by title:

LEGISLATIVE BILL 733. Introduced by Hall, 7.

A BILL FOR AN ACT relating to liquors; to amend section 53-179, Reissue Revised Statutes of Nebraska, 1943; to change provisions

relating to the hours during which the sale of alcoholic liquors is unlawful; and to repeal the original section.

LEGISLATIVE BILL 734. Introduced by Hall, 7.

A BILL FOR AN ACT relating to real estate; to create a statewide file on real estate sales; to create a fund; and to require the Department of Revenue to study matters relating to assessors.

LEGISLATIVE BILL 735. Introduced by Hall, 7.

A BILL FOR AN ACT relating to workers compensation; to amend section 48-121, Reissue Revised Statutes of Nebraska, 1943, and section 48-121.01, Revised Statutes Supplement, 1990; to change provisions relating to disability and maximum weekly income benefits; and to repeal the original sections.

LEGISLATIVE BILL 736. Introduced by Hall, 7.

A BILL FOR AN ACT relating to the Legislature; to amend section 50-401.01, Reissue Revised Statutes of Nebraska, 1943; to eliminate the ex officio member of the executive board; and to repeal the original section.

LEGISLATIVE BILL 737. Introduced by Hall, 7.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2701.02, Reissue Revised Statutes of Nebraska, 1943; to change the rate of sales and use tax on motor vehicles, trailers, and semitrailers, as prescribed; and to repeal the original section.

LEGISLATIVE BILL 738. Introduced by Hall, 7.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-202, Reissue Revised Statutes of Nebraska, 1943; to define business inventory as prescribed; and to repeal the original section.

LEGISLATIVE BILL 739. Introduced by Hall, 7.

A BILL FOR AN ACT relating to industrial loan and investment companies; to amend Laws 1990, LB 272A, section 4; to change provisions relating to certain distributions from appropriated money by the Department of Banking and Finance as prescribed; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 740. Introduced by Hall, 7.

A BILL FOR AN ACT relating to industrial loan and investment companies; to eliminate provisions relating to and procedures for the payment of certain claims of depositors as prescribed; to eliminate the appropriation for such payments; to repeal Laws 1990, LB 272A, sections 1 to 7; and to declare an emergency.

LEGISLATIVE BILL 741. Introduced by Hall, 7.

A BILL FOR AN ACT relating to military service; to amend section 55-101, Reissue Revised Statutes of Nebraska, 1943; to require the state and political subdivisions to provide health insurance for families of certain employees as prescribed; to harmonize provisions; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 742. Introduced by L. Johnson, 15; Pirsch, 10.

A BILL FOR AN ACT relating to the Uniform Controlled Substances Act; to amend section 28-416, Reissue Revised Statutes of Nebraska, 1943, and section 29-2262, Revised Statutes Supplement, 1990; to prohibit delivery of certain controlled substances to minors as prescribed; to prohibit use of minors to perform certain acts related to certain controlled substances as prescribed; to provide penalties; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 743. Introduced by Schmit, 23; Labedz, 5; Lynch, 13; Nelson, 35; Smith, 33.

A BILL FOR AN ACT relating to the Nebraska Juvenile Code; to amend section 43-2,129, Revised Statutes Supplement, 1990; to provide for the expungement of juvenile records as prescribed; to define terms; to eliminate a provision relating to the sealing of records; to harmonize provisions; and to repeal the original section, and also section 43-2,105, Reissue Revised Statutes of Nebraska, 1943.

LEGISLATIVE BILL 744. Introduced by Schmit, 23; Warner, 25; Lynch, 13; Nelson, 35; Smith, 33.

A BILL FOR AN ACT relating to crime victims; to amend sections 29-119, 42-905, and 81-1848, Revised Statutes Supplement, 1990; to redefine a term; to require additional services for victims of abuse; to provide additional rights for victims of certain crimes; and to repeal the original sections.

LEGISLATIVE BILL 745. Introduced by Urban Affairs Committee: Hartnett, 45, Chairperson; R. Johnson, 34; Labedz, 5; Rasmussen, 20; Schimek, 27; Smith, 33; Will, 8.

A BILL FOR AN ACT relating to cities of the metropolitan class; to amend sections 14-363, 14-364, 14-3,127, 14-536, and 14-537, Reissue Revised Statutes of Nebraska, 1943; to authorize the armor coating of streets; to change provisions relating to assessments for paving repairs, street grading, and other improvements; and to repeal the original sections.

LEGISLATIVE BILL 746. Introduced by Urban Affairs Committee: Hartnett, 45, Chairperson; R. Johnson, 34; Labedz, 5; Rasmussen, 20; Schimek, 27; Smith, 33; Will, 8.

A BILL FOR AN ACT relating to metropolitan utilities districts; to amend sections 10-126, 14-542, 14-554, 14-814, 14-815, 14-1001 to 14-1004, 14-1006 to 14-1013, 14-1015 to 14-1019, 14-1021 to 14-1024, 14-1026 to 14-1030, 14-1032, 14-1034 to 14-1036, 14-1038, 14-1039, 14-1041, 14-1042, 14-1101 to 14-1102.01, 14-1103.01 to 14-1105, 14-1108 to 14-1117, 18-401, 18-403, 18-404, 18-405, 18-406, 18-408, 18-409, 18-410, 77-2342, 77-2344, and 77-2349, Reissue Revised Statutes of Nebraska, 1943, and sections 14-1005, 32-1401, and 32-1406, Revised Statutes Supplement, 1990; to change provisions relating to public utilities; to harmonize provisions; to eliminate provisions relating to private water plants; to eliminate obsolete sections relating to gas plants; and to repeal the original sections, and also sections 14-1031, 14-1037, 14-1040, and 14-1103, Reissue Revised Statutes of Nebraska, 1943.

LEGISLATIVE BILL 747. Introduced by Natural Resources Committee: R. Johnson, 34, Chairperson; Elmer, 38; Hartnett, 45; Lamb, 43; Morrissey, 1.

A BILL FOR AN ACT relating to public power; to amend section 70-1001, Reissue Revised Statutes of Nebraska, 1943; to define a term; to restrict sales of electric energy by independent power

producers as prescribed; to restate policy; and to repeal the original section.

LEGISLATIVE BILL 748. Introduced by Natural Resources Committee: R. Johnson, 34, Chairperson; Elmer, 38; Hartnett, 45; Morrissey, 1; Schmit, 23.

A BILL FOR AN ACT relating to low-level radioactive waste; to accept certain real estate on behalf of the state as prescribed.

LEGISLATIVE BILL 749. Introduced by Schmit, 23.

A BILL FOR AN ACT relating to the Tax Equity and Educational Opportunities Support Act; to amend section 79-3803, Revised Statutes Supplement, 1990; to eliminate a provision relating to adjustment factors; to harmonize provisions; and to repeal the original section, and also section 79-3809, Revised Statutes Supplement, 1990.

LEGISLATIVE BILL 750. Introduced by Schmit, 23.

A BILL FOR AN ACT relating to ethanol; to require the State Energy Office to develop and implement a loan program; and to appropriate funds for the program.

LEGISLATIVE BILL 751. Introduced by Schmit, 23.

A BILL FOR AN ACT relating to education; to state intent; to define terms; to provide for an alternative performance-based employment contract for certain employees as prescribed; to provide for the development of an employee evaluation system; and to provide duties for the State Department of Education.

LEGISLATIVE BILL 752. Introduced by Elmer, 38; Schrock, 39.

A BILL FOR AN ACT relating to water; to amend sections 46-635 and 46-657, Reissue Revised Statutes of Nebraska, 1943; to state that a hydrogeologic connection exists between surface water and ground water; and to repeal the original sections.

LEGISLATIVE BILL 753. Introduced by Ashford, 6; Labedz, 5.

A BILL FOR AN ACT relating to nonprofit associations; to define terms; and to provide immunity from civil damages as prescribed.

LEGISLATIVE BILL 754. Introduced by Schmit, 23.

A BILL FOR AN ACT relating to ethanol; to amend sections 66-410, 66-428, 66-467.01, 66-470, 66-1214, 66-1303, 66-1304, 66-1307, 66-1326, and 77-27,189, Reissue Revised Statutes of Nebraska, 1943; to extend tax reductions for certain motor fuels; to increase the amount of a fund transfer; to eliminate a label requirement; to define and redefine terms; to increase and provide per diems; to change termination dates; to change and create tax credits; to harmonize provisions; to provide severability; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 755. Introduced by Schmit, 23.

A BILL FOR AN ACT relating to ethanol; to amend section 66-1326, Reissue Revised Statutes of Nebraska, 1943; to change a provision relating to a tax credit; and to repeal the original section.

LEGISLATIVE BILL 756. Introduced by Nebraska Retirement Systems Committee: Nelson, 35, Chairperson; Crosby, 29; Elmer, 38; Moore, 24; Schellpeper, 18.

A BILL FOR AN ACT relating to retirement; to amend sections 24-704, 72-1237, 72-1243, 79-1503, 81-2019, 81-2022, and 84-1513, Reissue Revised Statutes of Nebraska, 1943, and sections 79-1556, 81-2014, and 84-1503, Revised Statutes Supplement, 1990; to change provisions relating to the investment of funds of certain retirement systems; to define terms; to provide and change powers and duties; to restrict personal liability as prescribed; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 757. Introduced by Banking, Commerce and Insurance Committee: Landis, 46, Chairperson; Conway, 17; Hall, 7; Lindsay, 9; Wesely, 26.

A BILL FOR AN ACT relating to financial institutions; to amend sections 8-342, 8-343, 8-346, 8-385, 8-602, and 21-1777, Reissue Revised Statutes of Nebraska, 1943, and sections 8-108, 8-157, and 8-1515, Revised Statutes Supplement, 1990; to provide for the examination of electronic data processing centers as prescribed; to change provisions relating to the establishment of detached auxiliary offices, foreign building and loan associations, building and loan association examinations, the requirement to maintain insurance on

certain instruments, fees and services, and credit union examinations; and to repeal the original sections.

LEGISLATIVE BILL 758. Introduced by Banking, Commerce and Insurance Committee: Landis, 46, Chairperson; Conway, 17; Hall, 7; Lindsay, 9; Wesely, 26.

A BILL FOR AN ACT relating to the Securities Act of Nebraska; to amend sections 8-1110 and 8-1111, Revised Statutes Supplement, 1990; to change provisions relating to exemptions; and to repeal the original sections.

LEGISLATIVE BILL 759. Introduced by Banking, Commerce and Insurance Committee: Landis, 46, Chairperson; Conway, 17; Hall, 7; Lindsay, 9; Wesely, 26.

A BILL FOR AN ACT relating to seller-assisted marketing plans; to amend sections 59-1722, 59-1724, 59-1733, and 59-1753, Reissue Revised Statutes of Nebraska, 1943; to change a provision relating to compliance with Federal Trade Commission rules; to provide a fee; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 760. Introduced by Schmit, 23; Moore, 24.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2602, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to crediting proceeds of the cigarette tax; to harmonize provisions; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 761. Introduced by Beutler, 28.

A BILL FOR AN ACT relating to the Game and Parks Commission; to authorize and direct the purchase of certain railroad right-of-way; to provide for development of a recreational trail; to authorize sale of the property by the commission; and to declare an emergency.

LEGISLATIVE BILL 762. Introduced by Schmit, 23.

A BILL FOR AN ACT relating to the Department of Roads; to amend section 81-102, Reissue Revised Statutes of Nebraska, 1943; to rename the Director-State Engineer the Director of Roads; to provide qualifications for the Director of Roads; to provide a duty for the Revisor of Statutes; and to repeal the original section.

EASE

The Legislature was at ease from 11:15 a.m. until 11:23 a.m.

BILLS ON FIRST READING

The following bills were read for the first time by title:

LEGISLATIVE BILL 763. Introduced by Chambers, 11.

A BILL FOR AN ACT relating to police; to prohibit high-speed chases.

LEGISLATIVE BILL 764. Introduced by Schellpeper, 18.

A BILL FOR AN ACT relating to sanitary and improvement districts; to amend sections 31-723, 31-733, 31-735, and 31-739, Reissue Revised Statutes of Nebraska, 1943; to provide for treatment of a district as a purchasing agent; to change the powers of the board of trustees; to change the terms of office for trustees as prescribed; to change election procedures; to authorize appointment of a treasurer; to provide an additional use of a fund; to require equal treatment of property owners; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 765. Introduced by Hartnett, 45.

A BILL FOR AN ACT relating to municipalities; to amend sections 17-614, 19-903, 19-929, Reissue Revised Statutes of Nebraska, 1943, and section 16-404, Revised Statutes Supplement, 1990; to define a term; to provide duties and limitations for municipalities annexing territory as prescribed; to change provisions relating to procedure in passing ordinances as prescribed; to change provisions relating to comprehensive development plans regarding identification of future areas for certain sanitary improvement districts, commercial tracts, and other areas as prescribed; to change provisions relating to planning commissions procedure on certain matters; and to repeal the original sections.

LEGISLATIVE BILL 766. Introduced by Hartnett, 45.

A BILL FOR AN ACT relating to the Strategic Air Command Museum; to state intent; to authorize divestiture of the state's interest

in the museum as prescribed; and to provide a duty for the State Treasurer.

LEGISLATIVE BILL 767. Introduced by Hartnett, 45.

A BILL FOR AN ACT relating to municipalities; to adopt the Municipal Impact Fee Authorization Act; and to provide severability.

LEGISLATIVE BILL 768. Introduced by Hartnett, 45.

A BILL FOR AN ACT relating to environmental protection; to adopt the Local Solid Waste Management Control Act.

LEGISLATIVE BILL 769. Introduced by Hartnett, 45.

A BILL FOR AN ACT relating to Class V school districts; to amend sections 79-1032, 79-1048, 79-1049, and 79-1049.04, Revised Statutes Supplement, 1990; to authorize retirement contributions for prior service by former University of Nebraska employees as prescribed; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 770. Introduced by Hartnett, 45.

A BILL FOR AN ACT relating to smoke detectors; to amend section 81-5,142, Reissue Revised Statutes of Nebraska, 1943; to require the provision of smoke detectors as prescribed; and to repeal the original section.

LEGISLATIVE BILL 771. Introduced by Hartnett, 45.

A BILL FOR AN ACT relating to school retirement; to amend section 79-1501, Revised Statutes Supplement, 1990; to provide for cost-of-living increases for members of the school retirement system; to create a fund; to provide for the transfer of certain investment income as prescribed; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 772. Introduced by Schmit, 23.

A BILL FOR AN ACT relating to natural resources; to amend sections 2-1507, 37-435, 46-209, 46-2,116, and 46-2,116.01, Reissue Revised Statutes of Nebraska, 1943; to eliminate the Water Management Board; to eliminate the Nebraska Water Project Revenue Bonding Act; to transfer a fund; to harmonize provisions;

and to repeal the original sections, and also sections 2-15,107 to 2-15,120, 2-4501 to 2-4528, and 46-2,117, Reissue Revised Statutes of Nebraska, 1943.

LEGISLATIVE BILL 773. Introduced by Revenue Committee: Hall, 7, Chairperson; Hefner, 19; Landis, 46; Peterson, 21; Rogers, 41; Will, 8.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-2701, 77-2702, 77-2704, 77-2711, 77-2715.08, 77-2715.09, 77-2716, 77-2717, 77-2727, 77-2768, 77-2792, 77-27,114, and 77-27,131, Reissue Revised Statutes of Nebraska, 1943; to prohibit disclosure of certain information; to redefine terms for purposes of the sales and use tax; to authorize the waiver of interest; to change adjustments to income; to change provisions relating to taxation of trusts and partnerships; to change a provision relating to abatement of tax; to change a penalty provision; to change tax procedures; to harmonize provisions; to provide operative dates; and to repeal the original sections.

LEGISLATIVE BILL 774. Introduced by Will, 8.

A BILL FOR AN ACT relating to public power and irrigation districts; to amend section 70-612, Reissue Revised Statutes of Nebraska, 1943; to change a provision relating to election of the board of directors for certain districts; and to repeal the original section.

LEGISLATIVE BILL 775. Introduced by Schmit, 23.

A BILL FOR AN ACT relating to criminal procedure; to amend section 29-110, Revised Statutes Supplement, 1990; to change limitations on commencement of certain prosecutions; and to repeal the original section.

LEGISLATIVE BILL 776. Introduced by Hartnett, 45.

A BILL FOR AN ACT relating to motor vehicles; to amend section 60-4,122, Revised Statutes Supplement, 1990; to require the completion of a driver's education training course prior to renewal of an operator's license as prescribed; and to repeal the original section.

LEGISLATIVE BILL 777. Introduced by Crosby, 29.

A BILL FOR AN ACT relating to motor vehicles; to amend section 60-4,122, Revised Statutes Supplement, 1990; to require the completion of a driver's training course for the issuance or renewal of an operator's license as prescribed; and to repeal the original section.

LEGISLATIVE BILL 778. Introduced by Elmer, 38; R. Johnson, 34.

A BILL FOR AN ACT relating to the Nebraska Power Review Board; to amend section 70-1012.01, Reissue Revised Statutes of Nebraska, 1943; to adopt the Utility Construction Review Act; to harmonize provisions; to provide severability; and to repeal the original section.

LEGISLATIVE BILL 779. Introduced by Schmit, 23.

A BILL FOR AN ACT relating to telecommunications; to amend section 86-803, Reissue Revised Statutes of Nebraska, 1943; to require telecommunications companies to offer a plan which provides service in a prescribed area for a flat rate; to provide powers and duties for the Public Service Commission; to harmonize provisions; to provide severability; and to repeal the original section.

LEGISLATIVE BILL 780. Introduced by Schmit, 23.

A BILL FOR AN ACT relating to telecommunications; to amend sections 75-613, 75-614, 86-802, 86-803, 86-809, and 86-811, Reissue Revised Statutes of Nebraska, 1943; to eliminate territorial and certificate requirements for telecommunications companies; to harmonize provisions; and to repeal the original sections, and also sections 75-601 to 75-606, Reissue Revised Statutes of Nebraska, 1943.

LEGISLATIVE BILL 781. Introduced by Natural Resources Committee: R. Johnson, 34, Chairperson; Hartnett, 45; Horgan, 4; Morrissey, 1; Schmit, 23.

A BILL FOR AN ACT relating to environmental protection; to amend sections 66-1501, 66-1513, 66-1518, 66-1519, 66-1525, and 81-1532, Reissue Revised Statutes of Nebraska, 1943; to redefine a term; to change provisions relating to reimbursements from and use of the Petroleum Release Remedial Action Cash Fund; to provide for

the disposition of certain property; to provide powers for the Department of Environmental Control concerning audits, remedial actions, and access to property; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 782. Introduced by Kristensen, 37; Crosby, 29.

A BILL FOR AN ACT relating to relating to banks and banking; to amend section 8-157, Revised Statutes Supplement, 1990; to change a provision relating to detached auxiliary offices; and to repeal the original section.

LEGISLATIVE BILL 783. Introduced by Lamb, 43; Dierks, 40; Wickersham, 49; Peterson, 21; Morrissey, 1; Schellpeper, 18; Coordsen, 32; Elmer, 38.

A BILL FOR AN ACT relating to relating to the Agriculture and Industrial Branch Rail Line Revitalization Act of 1980; to amend sections 74-1401, 74-1402, 74-1404 to 74-1407, 74-1410, 74-1413 to 74-1415, 74-1420 to 74-1422, 74-1427, and 74-1429, Reissue Revised Statutes of Nebraska, 1943; to restate intent; to define and redefine terms; to rename the act; to rename and revise the membership, duties, and powers of the Branch Rail Revitalization Council as prescribed; to create a division of railroads in the Department of Roads; to provide powers and duties for the division and the Director-State Engineer; to rename a fund; to create a fund; to provide for hiring priority as prescribed; to provide for appropriations; to eliminate regional branch rail councils; to eliminate a bonding restriction; to harmonize provisions; to provide severability; to repeal the original sections, and also sections 74-1403, 74-1408, 74-1409, 74-1411, 74-1412, 74-1416 to 74-1419, 74-1423 to 74-1426, and 74-1428, Reissue Revised Statutes of Nebraska, 1943; and to declare an emergency.

LEGISLATIVE BILL 784. Introduced by Lamb, 43; Schrock, 39; Elmer, 38.

A BILL FOR AN ACT relating to technical community colleges; to amend sections 79-2638, 79-2639, 79-2643, 79-2646, 79-2646.01, 79-2651.02, and 85-401 to 85-403.01, Reissue Revised Statutes of Nebraska, 1943, and sections 79-2636, 79-2637, 79-2640, 79-2644, 79-2647, 79-2651, 79-2651.04, 79-2663, and 79-2664, Revised Statutes Supplement, 1990; to restate intent; to define and redefine terms; to

rename technical community colleges; to create the Nebraska Community College Coordinating Board; to provide for state funding of community colleges; to create funds; to provide for the transfer of rights, contracts, title to facilities, obligations, personnel, and retirement benefits; to eliminate the power to levy a property tax; to provide a duty for the Revisor of Statutes; to harmonize provisions; and to repeal the original sections, and also sections 79-2650.03, 79-2650.06, 79-2650.08, and 79-2650.10 to 79-2650.15, Reissue Revised Statutes of Nebraska, 1943, and sections 79-2648, 79-2649, 79-2650, 79-2650.07, 79-2650.09, 79-2651.03, 79-2651.05, and 79-2651.06, Revised Statutes Supplement, 1990.

LEGISLATIVE BILL 785. Introduced by Lamb, 43; Wickersham, 49.

A BILL FOR AN ACT relating to schools; to amend sections 79-438.09 to 79-438.11 and 79-4,102, Revised Statutes Supplement, 1990, and Laws 1988, LB 940, section 19; to change provisions for budget computations for affiliated school districts and nonresident high school education; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 786. Introduced by Lamb, 43.

A BILL FOR AN ACT relating to the Tax Equity and Educational Opportunities Support Act; to amend section 79-3806, Revised Statutes Supplement, 1990; to provide an adjustment to the amount of state aid received by a school district as prescribed; and to repeal the original section.

LEGISLATIVE BILL 787. Introduced by Peterson, 21.

A BILL FOR AN ACT relating to the Nebraska Condominium Act; to amend sections 76-837 and 76-854, Reissue Revised Statutes of Nebraska, 1943; to provide a cause of action for enforcement as prescribed; to change provisions relating to amending the declaration as prescribed; and to repeal the original sections.

LEGISLATIVE BILL 788. Introduced by Schmit, 23; Rogers, 41; Lamb, 43; Schrock, 39; Conway, 17; Hefner, 19.

A BILL FOR AN ACT relating to capital construction; to authorize development of plans for and construction of a public events center

and headquarters building; to appropriate funds; and to set a project cost limit.

COMMUNICATION

January 23, 1991

Senator Jerome Warner
Chairperson - Executive Board
1401 State Capitol
Lincoln, NE 68509

Dear Senator Warner:

Enclosed is a communication received from Dr. Richard Bringelson, Executive Officer, State College Board of Trustees. The communication concerns the construction of Phase II of the Student Union facility on the campus of Chadron State College.

I am forwarding this information to you for reference to the appropriate standing committee.

With kind regards.

Sincerely,
(Signed) Patrick J. O'Donnell
Clerk of the Legislature

PJO:r

Attachment: a resolution adopted by the State College Board of Trustees.

NOTICE OF COMMITTEE HEARING
Revenue

LB 105	Wednesday, January 30, 1991	1:30 p.m.
LB 444	Wednesday, January 30, 1991	1:30 p.m.
LB 472	Wednesday, January 30, 1991	1:30 p.m.
LB 374	Wednesday, January 30, 1991	1:30 p.m.
LB 468	Wednesday, January 30, 1991	1:30 p.m.

(Signed) Tim Hall, Chairperson

EASE

The Legislature was at ease from 11:29 a.m. until 11:41 a.m.

BILLS ON FIRST READING

The following bills were read for the first time by title:

LEGISLATIVE BILL 789. Introduced by Chambers, 11; Pirsch, 10; Hall, 7; Rasmussen, 20; Robinson, 16; Abboud, 12; Chizek, 31; Lindsay, 9; Will, 8.

A BILL FOR AN ACT relating to elections; to amend sections 23-148 and 23-149, Reissue Revised Statutes of Nebraska, 1943, and sections 5-108, 5-108.02, and 23-151, Revised Statutes Supplement, 1990; to change provisions relating to drawing district boundaries; to provide for seven county commissioners in certain counties; to change provisions relating to the election of county board members; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 790. Introduced by Lindsay, 9; Abboud, 12; Hall, 7; Will, 8; Schmit, 23; Lynch, 13.

A BILL FOR AN ACT relating to comprehensive health insurance pools; to amend section 44-4225, Reissue Revised Statutes of Nebraska, 1943; to change a provision relating to assessments; and to repeal the original section.

LEGISLATIVE BILL 791. Introduced by Crosby, 29.

A BILL FOR AN ACT relating to public health and welfare; to amend sections 71-4720, 71-4728, and 71-4729, Reissue Revised Statutes of Nebraska, 1943; to provide for access to comprehensive mental health services for hearing-impaired persons; to provide for a coordinator of services; to provide for a special committee as prescribed; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 792. Introduced by Crosby, 29.

A BILL FOR AN ACT relating to public health and welfare; to create the Commission on Health Promotion and Physical Fitness; to state findings; to define terms; to provide for membership; to provide powers and duties; to provide for an executive director and other personnel; and to provide for a report.

LEGISLATIVE BILL 793. Introduced by Crosby, 29.

A BILL FOR AN ACT relating to state officers; to amend sections 77-362 and 84-604, Reissue Revised Statutes of Nebraska, 1943, and sections 81-1107, 84-612, 84-721, 84-801, and 84-803, Revised Statutes Supplement, 1990; to provide powers and duties for certain state officers; to eliminate provisions relating to the State Treasurer; to provide an operative date; to repeal the original sections, and also sections 72-1250.01, 84-601, 84-602, 84-603, 84-605, 84-606, 84-607, 84-608, 84-614, and 84-615, Reissue Revised Statutes of Nebraska, 1943, and sections 84-613 and 84-616, Revised Statutes Supplement, 1990.

LEGISLATIVE BILL 794. Introduced by Hefner, 19; Pirsch, 10.

A BILL FOR AN ACT relating to crimes and punishment; to amend sections 28-105, 28-201, and 28-416, Reissue Revised Statutes of Nebraska, 1943; to change the classifications of felonies; to change the penalties for certain drug offenses; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 795. Introduced by Hall, 7.

A BILL FOR AN ACT relating to the Nebraska County and City Lottery Act; to amend sections 9-625 and 9-643, Revised Statutes Supplement, 1990; to change a provision relating to local control over a lottery and the power of counties to impose a tax; to eliminate a provision relating to the effect of annexation on the prohibition of lotteries; to harmonize provisions; and to repeal the original sections, and also section 9-644, Revised Statutes Supplement, 1990.

LEGISLATIVE BILL 796. Introduced by Hall, 7; Hartnett, 45.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 13-509, 13-513, 23-909, 60-305.15, 66-474.01, 66-476, 77-370, 77-510, 77-1234, 77-1250, 77-1301.01, 77-1301.02, 77-1301.03, 77-1301.04, 77-1301.06, 77-1301.07, 77-1301.08, 77-1301.12, 77-1301.13, 77-1301.14, 77-1301.15, 77-1306.01, 77-1311, 77-1314, 77-1327, 77-1329, 77-1330, 77-1331, 77-1332, 77-1333, 77-1334, 77-1336, 77-1338, 77-1339, 77-1340, 77-1342, 77-1345, 77-1346, 77-1359, 77-1360, 77-1361, 77-1362, 77-1363, 77-1364, 77-1367, 77-1502, 77-1503.01, 77-1506.02, 77-1507, 77-1514, 77-1515, 77-1601, 77-1602, 77-1613, 77-1613.02, 77-1615.01, 77-1775.01, and 77-3617, Reissue Revised States of Nebraska, 1943; to adopt the Property Tax Equalization Commission Act; to eliminate the State Board of

Equalization and Assessment and the Division of Property Taxation; to transfer powers and duties; to harmonize provisions; to provide an operative date; and to repeal the original sections, and also sections 77-367, 77-368, 77-501 to 77-503, 77-505, 77-506, 77-506.01, 77-507.01, 77-508 to 77-509, 77-511, and 77-1325, Reissue Revised Statutes of Nebraska, 1943.

LEGISLATIVE BILL 797. Introduced by Schmit, 23.

A BILL FOR AN ACT relating to lotteries; to amend sections 9-204, 9-312, 9-315, 9-402, 9-411, 9-422, 9-502, 9-507, 9-509, 14-102, 15-258, 16-226, 17-120, 17-207, 28-1101, 28-1105, 28-1113, 49-506, and 49-617, Reissue Revised Statutes of Nebraska, 1943, and sections 9-1,104, 9-607, and 9-620, Revised Statutes Supplement, 1990; to adopt the Nebraska State Lottery Act; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 798. Introduced by L. Johnson, 15.

A BILL FOR AN ACT relating to county medical facilities; to amend sections 23-343.03 and 23-343.07, Reissue Revised Statutes of Nebraska, 1943; to change a cost limitation on improvements, additions, and equipment; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 799. Introduced by Conway, 17; Hillman, 48; Morrissey, 1; Wickersham, 49; Byars, 30; Hefner, 19; Wehrbein, 2; Elmer, 38; Schmit, 23; Schellpeper, 18; Labedz, 5; Baack, 47; R. Johnson, 34.

A BILL FOR AN ACT relating to capital construction; to amend sections 77-2602, 85-322, 85-323, and 85-325, Reissue Revised Statutes of Nebraska, 1943, and section 85-324, Revised Statutes Supplement, 1990; to change provisions for disbursement of the cigarette tax; to provide for capital construction projects by the Board of Trustees of the Nebraska State Colleges; to provide for disbursement of money in certain funds; to state intent; to appropriate funds; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 800. Introduced by Hall, 7.

A BILL FOR AN ACT relating to liquor; to amend section 53-101, Revised Statutes Supplement, 1990; to authorize a civil action for

damages resulting from a misrepresentation of age by a minor; to provide procedures; to harmonize a provision; and to repeal the original section.

LEGISLATIVE BILL 801. Introduced by Schellpeper, 18; Elmer, 38; Peterson, 21; Robinson, 16; Bernard-Stevens, 42; Abboud, 12; Hefner, 19; Dierks, 40; L. Johnson, 15; Schrock, 39; Moore, 24; Haberman, 44; Robak, 22; Rogers, 41; Byars, 30; Smith, 33; Coordsen, 32; Lamb, 43; Beyer, 3; Kristensen, 37; R. Johnson, 34; Wickersham, 49.

A BILL FOR AN ACT relating to handguns; to require a criminal history record check prior to sale or delivery of a handgun as prescribed; to provide procedures; to provide duties for the Nebraska State Patrol; to exempt certain activities; to create offenses and provide penalties; and to provide operative dates.

LEGISLATIVE BILL 802. Introduced by Schellpeper, 18.

A BILL FOR AN ACT relating to the Nebraska State Patrolmen's Retirement System; to amend section 81-2016, Reissue Revised Statutes of Nebraska, 1943, and sections 81-2017, 81-2025, and 81-2026, Revised Statutes Supplement, 1990; to change provisions relating to membership in the system and certain benefits; to harmonize provisions; to provide an operative date; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 803. Introduced by Schellpeper, 18; Robak, 22; Will, 8; Morrissey, 1; Lindsay, 9.

A BILL FOR AN ACT relating to recycling; to amend section 77-2734.03, Reissue Revised Statutes of Nebraska, 1943; to state intent; to define terms; to provide for a corporate income tax credit as prescribed; to harmonize provisions; to provide an operative date; and to repeal the original section.

LEGISLATIVE BILL 804. Introduced by Hartnett, 45; Will, 8.

A BILL FOR AN ACT relating to economic development; to amend sections 77-2715.07 and 77-2734.03, Reissue Revised Statutes of Nebraska, 1943; to state intent; to define a term; to provide powers and duties for the Department of Economic Development and urban enterprise associations; to provide for the designation of enterprise zones; to provide procedures and conditions; to create urban

enterprise associations; to provide for rules and regulations; to authorize exemptions from certain ordinances as prescribed; to provide certain tax credits; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 805. Introduced by Hall, 7; Will, 8; Bernard-Stevens, 42.

A BILL FOR AN ACT relating to lotteries; to amend sections 9-204, 9-312, 9-315, 9-402, 9-411, 9-415, 9-422, 9-502, 9-507, 9-509, 14-102, 15-258, 16-226, 17-120, 17-207, 28-1101, 28-1105, 28-1113, 49-506, 49-617, and 77-2704, Reissue Revised Statutes of Nebraska, 1943, and sections 9-1,104, 9-226, 9-322, 9-607, and 9-620, Revised Statutes Supplement, 1990; to adopt the State Lottery Act; to harmonize provisions; to provide an operative date; to provide severability; and to repeal the original sections.

LEGISLATIVE BILL 806. Introduced by Abboud, 12.

A BILL FOR AN ACT relating to Political Subdivisions Tort Claims Act; to amend section 13-919, Reissue Revised Statutes of Nebraska, 1943; to change a provision relating to the statute of limitations; and to repeal the original section.

LEGISLATIVE BILL 807. Introduced by Abboud, 12.

A BILL FOR AN ACT relating to motor vehicles; to amend section 60-1417.01, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to the buyer's information form required for auction sales; and to repeal the original section.

LEGISLATIVE BILL 808. Introduced by Abboud, 12.

A BILL FOR AN ACT relating to motor vehicles; to amend sections 60-315, 60-320, and 60-320.01, Reissue Revised Statutes of Nebraska, 1943; to extend the time during which vehicles may be operated without registration; and to repeal the original sections.

LEGISLATIVE BILL 809. Introduced by Abboud, 12.

A BILL FOR AN ACT relating to political subdivisions; to prohibit the personal use of motor vehicles owned by political subdivisions; and to provide a penalty.

LEGISLATIVE BILL 810. Introduced by Abboud, 12.

A BILL FOR AN ACT relating to cities of the first class; to provide powers as prescribed.

LEGISLATIVE BILL 811. Introduced by Abboud, 12; Lindsay, 9.

A BILL FOR AN ACT relating to the Administrative Procedure Act; to amend section 84-917, Revised Statutes Supplement, 1990; to change provisions relating to judicial review of contested cases; and to repeal the original section.

LEGISLATIVE BILL 812. Introduced by Abboud, 12.

A BILL FOR AN ACT relating to grand juries; to authorize state grand juries; to provide for impaneling a state grand jury; to provide powers and duties; and to provide for compensation of jurors.

UNANIMOUS CONSENT - Member Excused

Mr. Lynch asked unanimous consent to be excused. No objections. So ordered.

RESOLUTIONS

LEGISLATIVE RESOLUTION 17CA. Introduced by Hartnett, 45.

A Resolution to propose an amendment to the Constitution of Nebraska by amending Article XV, section 6.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

Section 1. That at the general election in November 1992 there shall be submitted to the electors of the State of Nebraska for approval the following amendment to the Constitution of Nebraska by amending Article XV, section 6, which is hereby proposed by the Legislature:

CXV-6 "The right to divert unappropriated waters of every natural stream for beneficial use shall never be denied except when such denial is demanded by the public interest. Priority of appropriation shall give the better right as between those using the water for the same purpose, but when the waters of any natural stream are not sufficient for the use of all those desiring to use the ~~same~~ water, those using the water for domestic purposes shall have preference

over those claiming it for any other purpose, those using the water for municipal purposes shall have preference over those claiming it for any other purpose except domestic, and those using the water for agricultural purposes shall have the preference over those using ~~the same~~ it for manufacturing purposes. No ~~PROVIDED, no~~ inferior right to the use of the waters of this state shall be acquired by a superior right without just compensation therefor to the inferior user.

Preference in the use of underground water shall be given to those using the water for domestic purposes. They shall have preference over those claiming it for any other purpose. Those using the water for municipal purposes shall have preference over those claiming it for any other purpose except domestic. Those using the water for agricultural purposes shall have the preference over those using the same for manufacturing or industrial purposes.".

Sec. 2. That the proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1. The proposition for the submission of the proposed amendment shall be placed upon the ballot in the following form:

"A constitutional amendment to establish a preference in the use of waters of any natural stream for those using the water for municipal purposes over those claiming it for any other purpose except domestic and to establish preferences in the use of underground water.

For

Against".

Sec. 3. That the proposed amendment, if adopted, shall be in force and take effect immediately upon the completion of the canvass of the votes, at which time it shall be the duty of the Governor to proclaim it as a part of the Constitution of Nebraska.

Referred to the Reference Committee.

LEGISLATIVE RESOLUTION 18CA. Introduced by Hall, 7.

A Resolution to propose an amendment to the Constitution of Nebraska by amending Article III, section 24.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

Section 1. That at the general election in November 1992 there shall be submitted to the electors of the State of Nebraska for approval the following amendment to the Constitution of Nebraska

by amending Article III, section 24, which is hereby proposed by the Legislature:

CIII-24 "(1) The Legislature shall not authorize any game of chance~~, nor~~ or any lottery~~,~~ or gift enterprise when the consideration for a chance to participate involves the payment of money for the purchase of property, services, or a chance or admission ticket or requires an expenditure of substantial effort or time, except that ~~it~~ the Legislature may authorize and regulate other lotteries, raffles, and gift enterprises which are intended solely as business promotions or the proceeds of which are to be used solely for charitable or community betterment purposes without profit to the promoter of such lotteries, raffles, or gift enterprises.

(2) The Legislature shall establish a state lottery system to generate revenue in a manner consistent with contemporary gaming operating practices and technology. The Legislature shall establish a commission to supervise and administer the state lottery system and to perform other duties as directed by the Legislature. The commission shall be composed of seven members. The Governor shall appoint, with the approval of a majority of the Legislature, one member from each congressional district. Each of such members shall be appointed for a four-year term, except that the terms of the initial appointees may be staggered as designated by the Legislature. The Governor, the State Treasurer, the Tax Commissioner, and the executive director of the commission shall also be members of the commission. The Governor shall be the chairperson of the commission. The members shall be reimbursed for their actual and necessary expenses. The Governor shall appoint the executive director of the commission with the approval of a majority of the Legislature. Revenue resulting from operation of the state lottery system shall be distributed as directed by the Legislature.

(3) Nothing in this section shall be construed to prohibit (a) the enactment of laws providing for the licensing and regulation of wagering on the results of horseraces, wherever run, either within or outside of the state, by the parimutuel method, when such wagering is conducted by licensees within a licensed racetrack enclosure~~;~~ or (b) ~~to prohibit~~ the enactment of laws providing for the licensing and regulation of bingo games conducted by nonprofit associations which have been in existence for a period of five years immediately preceding the application for license, except that bingo games cannot be conducted by agents or lessees of such associations on a percentage basis.".

Sec. 2. That the proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1. The proposition for the submission of the

proposed amendment shall be placed upon the ballot in the following form:

"A constitutional amendment to provide for a state lottery system and a commission and executive director to supervise and administer the system.

For

Against".

Sec. 3. That the proposed amendment, if adopted, shall be in force and take effect immediately upon the completion of the canvass of the votes, at which time it shall be the duty of the Governor to proclaim it as a part of the Constitution of Nebraska.

Referred to the Reference Committee.

LEGISLATIVE RESOLUTION 19CA. Introduced by Hall, 7; Hartnett, 45.

A Resolution to propose an amendment to the Constitution of Nebraska by amending Article IV, section 28, and by adding a new section 29 to Article IV.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

Section 1. That at the general election in November 1992 there shall be submitted to the electors of the State of Nebraska for approval the following amendment to the Constitution of Nebraska by amending Article IV, section 28, and by adding a new section 29 to Article IV, which is hereby proposed by the Legislature:

CIV-28 "A Tax Commissioner shall be appointed by the Governor with the advice and consent of the ~~Senate. He shall have~~ Legislature. The Tax Commissioner has jurisdiction over the administration of the revenue laws of the state~~,~~ and ~~together with the Governor, Secretary of State, State Auditor and State Treasurer shall have power to review and equalize assessments of property for taxation within the state. He~~ shall have such other powers and perform such other duties as the Legislature may provide. ~~His~~ The term of office and compensation of the Tax Commissioner shall be as provided by law."

CIV-29 "The Property Tax Equalization Commission shall be appointed by the Governor with the advice and consent of the Legislature. The commission shall equalize assessments between counties and, as provided by law, shall hear appeals from local boards of equalization in individual cases and correct any assessment which is shown to be unlawful, unfair, arbitrary, or capricious. The

commission shall perform all other duties prescribed by law. The Legislature shall otherwise provide for the membership of the commission.".

Sec. 2. That the proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1. The proposition for the submission of the proposed amendment shall be placed upon the ballot in the following form:

"A constitutional amendment to eliminate the equalization powers of the Tax Commissioner, Governor, Secretary of State, State Auditor, and State Treasurer and to establish the Property Tax Equalization Commission.

For

Against".

Sec. 3. That the proposed amendment, if adopted, shall be in force and take effect immediately upon the completion of the canvass of the votes, at which time it shall be the duty of the Governor to proclaim it as a part of the Constitution of Nebraska.

Referred to the Reference Committee.

BILLS ON FIRST READING

The following bills were read for the first time by title:

LEGISLATIVE BILL 813. Introduced by Beutler, 28.

A BILL FOR AN ACT relating to solid waste disposal; to require site approval by a city, village, or county prior to construction of any waste disposal and treatment project; to provide procedures; to restrict the issuance of a license to construct a commercial waste incinerator as prescribed; and to provide for a notation on a deed as prescribed.

LEGISLATIVE BILL 814. Introduced by Schmit, 23; Labedz, 5; Baack, 47; Warner, 25; Lynch, 13; Crosby, 29; Robak, 22; Chambers, 11.

A BILL FOR AN ACT relating to children; to state intent; and to adopt Civil Rights for Children.

LEGISLATIVE BILL 815. Introduced by Chambers, 11.

A BILL FOR AN ACT relating to warrants; to amend section 29-411, Reissue Revised Statutes of Nebraska, 1943; to change procedures for issuance; to require identification of informants as prescribed; to provide requirements for applications for search warrants; and to repeal the original section.

LEGISLATIVE BILL 816. Introduced by Chambers, 11.

A BILL FOR AN ACT relating to correctional services; to amend sections 83-1,107, 83-1,108, 83-1,109, 83-1,110, 83-1,118, 83-1,122, 83-1,123, and 83-1,125, Reissue Revised Statutes of Nebraska, 1943, and section 83-170, Revised Statutes Supplement, 1990; to define and redefine terms; to change and eliminate provisions relating to good time; to change a provision relating to parole revocation; to harmonize provisions; and to repeal the original sections, and also section 83-1,107.01, Reissue Revised Statutes of Nebraska, 1943.

LEGISLATIVE BILL 817. Introduced by Peterson, 21.

A BILL FOR AN ACT relating to the Nebraska Political Accountability and Disclosure Act; to amend sections 43-1408, 49-1414, 49-1415, 49-1419, 49-1431, 49-1433, 49-1434, 49-1484 to 49-1486, 49-1490, and 49-1492, Reissue Revised Statutes of Nebraska, 1943, and section 49-1401, Revised Statutes Supplement, 1990; to define and redefine terms; to change duties for the Clerk of the Legislature; to prohibit lobbying without registration as prescribed; to provide a penalty; to prohibit honoraria and certain types of employment as prescribed; to prohibit receipt of certain items by public officials and to provide exemptions; to prohibit certain public officials and employees from representing persons as provided; to prohibit certain actions by public officials; to limit certain contributions; to define certain conflicts of interest; to prohibit influencing of action as prescribed; to harmonize provisions; and to repeal the original sections, and also section 49-1437, Reissue Revised Statutes of Nebraska, 1943.

LEGISLATIVE BILL 818. Introduced by Beutler, 28; Landis, 46; Wickersham, 49; Bernard-Stevens, 42; Rasmussen, 20; Morrissey, 1; Ashford, 6; Schimek, 27.

A BILL FOR AN ACT relating to picketing; to amend sections 28-1317 and 28-1318, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to the offenses of unlawful and mass picketing; and to repeal the original sections.

LEGISLATIVE BILL 819. Introduced by Will, 8.

A BILL FOR AN ACT relating to crimes and offenses; to amend section 28-101, Revised Statutes Supplement, 1990; to create an offense involving criminal street gang activities; to define a term; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 820. Introduced by Rasmussen, 20.

A BILL FOR AN ACT relating to workers' compensation; to amend section 48-120, Reissue Revised Statutes of Nebraska, 1943; to require the employer to be liable for nursing and home health care services; and to repeal the original section.

LEGISLATIVE BILL 821. Introduced by Abboud, 12; Nelson, 35; Crosby, 29; Ashford, 6.

A BILL FOR AN ACT relating to product liability actions; to amend section 25-21,181, Reissue Revised Statutes of Nebraska, 1943; to provide for treatment of sellers and lessors as manufacturers for purposes of certain actions; and to repeal the original section.

LEGISLATIVE BILL 822. Introduced by Wesely, 26; Smith, 33.

A BILL FOR AN ACT relating to public health and welfare; to adopt the Family Services Incentive Act for Communities.

LEGISLATIVE BILL 823. Introduced by Lynch, 13; Hall, 7.

A BILL FOR AN ACT relating to infants; to amend section 43-102, Reissue Revised Statutes of Nebraska, 1943, and section 43-107, Revised Statutes Supplement, 1990; to require a preplacement home study in certain adoption proceedings; and to repeal the original sections.

LEGISLATIVE BILL 824. Introduced by Wesely, 26.

A BILL FOR AN ACT relating to State Capitol environs; to amend sections 90-302 and 90-303, Reissue Revised Statutes of Nebraska, 1943, and section 90-301, Revised Statutes Supplement, 1990; to rename an act; to change and authorize regulation of the Nebraska State Capitol Environs District; to authorize appeals of decisions; to

require an annual report; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 825. Introduced by Wesely, 26.

A BILL FOR AN ACT relating to housing; to amend sections 18-1724, 20-105 to 20-107, 20-109, 20-110, 20-112, 20-113, 20-121, 20-125, 20-139, and 71-1528, Reissue Revised Statutes of Nebraska, 1943, and sections 20-168 and 48-1116, Revised Statutes Supplement, 1990; to rename an act; to define and redefine terms; to prohibit discriminatory actions based on handicap or familial status; to provide exemptions; to require that certain new structures be accessible to and usable by handicapped persons as prescribed; to provide powers, duties, and penalties; to authorize administrative proceedings and civil actions; to transfer provisions relating to local enforcement of civil rights; to change the investment powers of housing authorities; to require a comprehensive housing affordability strategy; to eliminate provisions relating to group homes and discriminatory housing practices; to harmonize provisions; and to repeal the original sections, and also sections 18-1745 to 18-1747, 20-108, 20-114, 20-115, and 20-117 to 20-120, Reissue Revised Statutes of Nebraska, 1943, and sections 18-1744 and 20-116, Revised Statutes Supplement, 1990.

LEGISLATIVE BILL 826. Introduced by Crosby, 29; Wesely, 26.

A BILL FOR AN ACT relating to insurance; to adopt the Continuing Care Retirement Community Act.

LEGISLATIVE BILL 827. Introduced by R. Johnson, 34; Morrissey, 1; Schmit, 23.

A BILL FOR AN ACT relating to the Low-Level Radioactive Waste Disposal Act; to amend sections 81-1578, 81-15,101.01, 81-15,101.04, 81-15,104, 81-15,107, and 81-15,113.01, Revised Statutes Supplement, 1990; to change provisions relating to local monitoring committees; to provide powers and duties; to change a provision relating to the storage of certain waste; to change a provision relating to fees and surcharges; to change provisions relating to certain appeals; to provide procedures in case of release; to harmonize provisions; to provide severability; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 828. Introduced by Wesely, 26; Warner, 25.

A BILL FOR AN ACT relating to Morrill Hall; to authorize continued renovation; to appropriate funds for exhibit renovation as prescribed; and to require matching nonstate funds.

LEGISLATIVE BILL 829. Introduced by Will, 8.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-202, Reissue Revised Statutes of Nebraska, 1943; to eliminate certain items from the personal property tax exemption; to provide an operative date; and to repeal the original section.

RESOLUTION

LEGISLATIVE RESOLUTION 20CA. Introduced by Wesely, 26; Baack, 47.

A Resolution to propose an amendment to the Constitution of Nebraska by amending Article III, section 10.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

Section 1. That at the general election in November 1992 there shall be submitted to the electors of the State of Nebraska for approval the following amendment to the Constitution of Nebraska by amending Article III, section 10, which is hereby proposed by the Legislature:

CIII-10 "~~Beginning with the year 1975, regular~~ Regular sessions of the Legislature shall be held ~~annually, commencing~~ for ninety and sixty days on an alternating basis. Beginning December 1, 1992, ninety-day sessions shall commence at 10 a.m. on the fifth Wednesday after the general election in each even-numbered year and sixty-day sessions shall commence at 10 a.m. on the first Wednesday after the first Monday in January of each even-numbered year. Commencing in 1992 the terms of members of the Legislature shall commence on the first day of the regular ninety-day legislative session and the preceding terms shall terminate on such date. The duration of regular sessions held shall not exceed ninety or sixty legislative days, respectively, ~~in odd-numbered years~~ unless extended by a vote of four-fifths of all members elected or appointed to the Legislature.~~, and shall not exceed sixty legislative days in even-numbered years unless extended by a vote of four-fifths of all members elected to the Legislature.~~ Bills and resolutions under consideration by the Legislature upon adjournment of

a ~~regular~~ ninety-day session ~~held in an odd-numbered year~~ may be considered at the next regular sixty-day session~~,~~ as if there had been no such adjournment. The Lieutenant Governor shall preside~~,~~ but shall vote only when the Legislature is equally divided. A majority of the members elected or appointed to the Legislature shall constitute a quorum. The~~; the~~ Legislature shall determine the rules of its proceedings and be the judge of the election, returns, and qualifications of its members, shall choose its own officers, including a Speaker to preside when the Lieutenant Governor shall be absent, incapacitated, or shall act as Governor. No member shall be expelled except by a vote of two-thirds of all members elected or appointed to the Legislature, and no member shall be twice expelled for the same offense. The Legislature may punish by imprisonment any person not a member thereof who ~~shall be~~ is guilty of disrespect to the Legislature by disorderly or contemptuous behavior in its presence, but no such imprisonment shall extend beyond twenty-four hours at one time, unless the person ~~shall persist~~ persists in such disorderly or contemptuous behavior.".

Sec. 2. That the proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1. The proposition for the submission of the proposed amendment shall be placed upon the ballot in the following form:

"A constitutional amendment to change the date on which the Legislature convenes in regular ninety-day sessions and on which terms of members shall commence.

For

Against".

Sec. 3. That the proposed amendment, if adopted, shall be in force and take effect immediately upon the completion of the canvass of the votes, at which time it shall be the duty of the Governor to proclaim it as a part of the Constitution of Nebraska.

Referred to the Reference Committee.

NOTICE OF COMMITTEE HEARINGS
Health and Human Services

LB 455	Wednesday, January 30, 1991	1:30 p.m.
LB 244	Wednesday, January 30, 1991	1:30 p.m.
LB 419	Wednesday, January 30, 1991	1:30 p.m.
LB 421	Wednesday, January 30, 1991	1:30 p.m.
LB 386	Wednesday, January 30, 1991	1:30 p.m.

LB 308	Thursday, January 31, 1991	1:30 p.m.
LB 385	Thursday, January 31, 1991	1:30 p.m.
LB 363	Thursday, January 31, 1991	1:30 p.m.
LB 387	Friday, February 1, 1991	1:30 p.m.
LB 456	Friday, February 1, 1991	1:30 p.m.

(Signed) Don Wesely, Chairperson

Government, Military and Veterans Affairs

Governor Appointment Wednesday, January 30, 1991 1:30 p.m.
Charlene Hirsch - Accountability and Disclosure Commission

LB 313	Wednesday, January 30, 1991	1:30 p.m.
LB 114	Wednesday, January 30, 1991	1:30 p.m.
LB 141	Wednesday, January 30, 1991	1:30 p.m.
LB 68	Wednesday, January 30, 1991	1:30 p.m.

(Signed) Gerald Conway, Chairperson

STANDING COMMITTEE REPORTS

Transportation

LEGISLATIVE BILL 29. Indefinitely postponed.

LEGISLATIVE BILL 40. Placed on General File.

(Signed) Doug Kristensen, Chairperson

Banking, Commerce and Insurance

LEGISLATIVE BILL 77. Placed on General File.
LEGISLATIVE BILL 97. Placed on General File.
LEGISLATIVE BILL 98. Placed on General File.

(Signed) David Landis, Chairperson

UNANIMOUS CONSENT - Add Co-Introducers

Mr. Conway asked unanimous consent to have his name added as co-introducer to LB 302. No objections. So ordered.

Mr. Ashford asked unanimous consent to have his name added as co-introducer to LB 556. No objections. So ordered.

Mrs. Nelson asked unanimous consent to have her name added as co-introducer to LB 671. No objections. So ordered.

Mr. Beutler asked unanimous consent to have his name added as co-introducer to LB 671. No objections. So ordered.

Mr. Beutler asked unanimous consent to have his name added as co-introducer to LB 603. No objections. So ordered.

Mr. Conway asked unanimous consent to have his name added as co-introducer to LB 503. No objections. So ordered.

Mr. Beyer asked unanimous consent to have his name added as co-introducer to LR 10CA. No objections. So ordered.

Mr. Conway asked unanimous consent to have his name added as co-introducer to LB 483. No objections. So ordered.

Mr. Hall asked unanimous consent to have his name added as co-introducer to LB 405. No objections. So ordered.

Mrs. Robak asked unanimous consent to have her name added as co-introducer to LB 36. No objections. So ordered.

Mrs. Nelson asked unanimous consent to have her name added as co-introducer to LB 167. No objections. So ordered.

UNANIMOUS CONSENT - Withdraw Co-Introducer

Mrs. Crosby asked unanimous consent to have her name withdrawn as co-introducer to LB 466. No objections. So ordered.

BILLS ON FIRST READING

The following bills were read for the first time by title:

LEGISLATIVE BILL 830. Introduced by Wesely, 26.

A BILL FOR AN ACT relating to developmental disabilities; to amend sections 68-1021, 68-1204, 71-5014, 79-1448, and 79-1449, Reissue Revised Statutes of Nebraska, 1943; to adopt the

Developmental Disabilities Services Act; to require the delegation and transfer of certain powers and duties; to eliminate the mental retardation regions and provisions relating to determination of mental retardation; to harmonize provisions; and to repeal the original sections, and also sections 83-1,141 to 83-1,144.01, 83-1,146, 83-1101 to 83-1130, 83-1132, and 83-1134 to 83-1139, Reissue Revised Statutes of Nebraska, 1943, and sections 83-1131 and 83-1133, Revised Statutes Supplement, 1990.

LEGISLATIVE BILL 831. Introduced by Wesely, 26.

A BILL FOR AN ACT relating to developmental disabilities; to amend sections 20-162, 49-506, 49-617, 68-621, 68-703, 71-2049, 71-2066, 72-249, 72-1302 to 72-1304, 79-1254.02, 79-1254.09, 79-3326, 81-101, 81-102, 81-604.01, 83-101.08, 83-107.01, 83-108, 83-112, 83-180, 83-1,147, 83-217, 83-218, 83-223, 83-363, 83-376, 83-381, 83-382, 83-384 to 83-387, 83-389, 83-390, and 83-1069, Reissue Revised Statutes of Nebraska, 1943, and sections 43-289, 79-3330, 83-109, 83-383, and 83-388, Revised Statutes Supplement, 1990; to create the Department of Developmental Disabilities; to provide powers and duties; to transfer responsibility for the Beatrice State Developmental Center and other facilities; to harmonize provisions; and to repeal the original sections, and also section 83-227.01, Reissue Revised Statutes of Nebraska, 1943.

LEGISLATIVE BILL 832. Introduced by Wesely, 26.

A BILL FOR AN ACT relating to the Department of Public Institutions; to adopt the Mental Retardation and Developmental Disabilities Salary Enhancement Act.

LEGISLATIVE BILL 833. Introduced by Wesely, 26.

A BILL FOR AN ACT relating to developmental disabilities; to adopt the Mental Retardation and Developmental Disabilities Comprehensive Training Act; and to provide an operative date.

LEGISLATIVE BILL 834. Introduced by Wesely, 26.

A BILL FOR AN ACT relating to developmental disabilities; to adopt the Community-Based Mental Retardation and Developmental Disabilities Personnel Certification Act; to state intent; to establish the Nebraska Center for Excellence in Training in Mental

Retardation and Developmental Disabilities; to provide powers and duties; and to provide an operative date.

LEGISLATIVE BILL 835. Introduced by Wesely, 26.

A BILL FOR AN ACT relating to insurance; to amend sections 44-4219, 44-4223, 44-4225, 44-4226, 44-4233, 77-908, and 77-913, Reissue Revised Statutes of Nebraska, 1943, and sections 44-4216 and 44-4227, Revised Statutes Supplement, 1990; to change provisions relating to the Comprehensive Health Insurance Pool board, the board's plan of operation, the selection of an administering insurer, assessments, major medical expense coverage, the calculation of risk rates, member limited liability, and taxes on premiums; to provide for studies; and to repeal the original sections.

LEGISLATIVE BILL 836. Introduced by Wesely, 26; Rasmussen, 20.

A BILL FOR AN ACT relating to children; to amend sections 68-1206, 71-901, 71-1903, 71-1910, 71-1913, and 77-202, Reissue Revised Statutes of Nebraska, 1943, and section 79-444, Revised Statutes Supplement, 1990; to adopt the Quality Child Care Act; to require a schedule for rates charged for certain child care services; to change provisions relating to authority to set health and sanitation standards as prescribed; to redefine a term; to provide a tax exemption; to authorize transportation to and from certain programs; to eliminate a requirement for certain statewide child care services; to provide operative dates; to provide severability; to repeal the original sections, and also section 43-531, Reissue Revised Statutes of Nebraska, 1943; and to declare an emergency.

VISITORS

Visitors to the Chamber were Charlie Gulley from Gering; and Gloria Erickson from Holdrege.

The Doctor of the Day was Dr. Rebecca Rezaei.

ADJOURNMENT

At 12:02 p.m., on a motion by Mrs. Crosby, the Legislature adjourned until 9:00 a.m., Thursday, January 24, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

ELEVENTH DAY - JANUARY 24, 1991

LEGISLATIVE JOURNAL

ELEVENTH DAY - JANUARY 24, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

ELEVENTH DAY

Legislative Chamber, Lincoln, Nebraska
Thursday, January 24, 1991

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Moul presiding.

PRAYER

The prayer was offered by Pastor Carl Godwin, Bible Baptist Church, Lincoln, Nebraska.

ROLL CALL

The roll was called and all members were present except Messrs. Abboud, Ashford, Hall, Hartnett, R. Johnson, Kristensen, Lindsay, Morrissey, Peterson, Schmit, Withem, and Mrs. Pirsch who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Tenth Day was approved.

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the attached report on the referral of legislative bills 481 through 561, legislative resolutions 8CA and 9CA, and State College Board of Trustees construction request.

LB	Committee
481	Education
482	Transportation

483	Natural Resources
484	Judiciary
485	Appropriations
486	Banking, Commerce and Insurance
487	Revenue
488	Education
489	Urban Affairs
490	Education
491	Transportation
492	Urban Affairs
493	Government, Military and Veterans Affairs
494	Appropriations
495	Judiciary
496	Banking, Commerce and Insurance
497	Natural Resources
498	Business and Labor
499	Business and Labor
500	Natural Resources
501	Revenue
502	Appropriations
503	Health and Human Services
504	Revenue
505	Natural Resources
506	Urban Affairs
507	Urban Affairs
508	Government, Military and Veterans Affairs
509	Revenue
510	General Affairs
511	Government, Military and Veterans Affairs
512	Education
513	Urban Affairs
514	Health and Human Services
515	Judiciary
516	Judiciary
517	Nebraska Retirement Systems
518	Natural Resources
519	Transportation
520	Revenue
521	Judiciary
522	Education
523	Judiciary
524	Revenue
525	Revenue
526	Natural Resources

527	Judiciary
528	Natural Resources
529	Revenue
530	Judiciary
531	Natural Resources
532	Transportation
533	General Affairs
534	Government, Military and Veterans Affairs
535	Revenue
536	Banking, Commerce and Insurance
537	Banking, Commerce and Insurance
538	Banking, Commerce and Insurance
539	Health and Human Services
540	Appropriations
541	Appropriations
542	Government, Military and Veterans Affairs
543	Nebraska Retirement Systems
544	Banking, Commerce and Insurance
545	Health and Human Services
546	Urban Affairs
547	Urban Affairs
548	Urban Affairs
549	Nebraska Retirement Systems
550	Revenue
551	Business and Labor
552	Banking, Commerce and Insurance
553	Appropriations
554	Education
555	Judiciary
556	Government, Military and Veterans Affairs
557	Judiciary
558	Health and Human Services
559	Health and Human Services
560	Judiciary
561	Judiciary

LR	**Committee**
8CA	Education
9CA	General Affairs

Appropriations

Request from the State College Board of Trustees for the approval of construction for Phase II of the Student Union on the campus of Chadron State College.

(Signed) Jerome Warner, Chairperson
Legislative Council
Executive Board

NOTICE OF COMMITTEE HEARING
Agriculture

LB 356	Tuesday, February 5, 1991	1:30 p.m.
LB 357	Tuesday, February 5, 1991	1:30 p.m.
LB 358	Tuesday, February 5, 1991	1:30 p.m.
LB 359	Tuesday, February 5, 1991	1:30 p.m.

(Signed) Carson Rogers, Chairperson

MOTION - Withdraw LB 578

Mr. Withem moved to withdraw LB 578 pursuant to Rule 5, Section 11.

Laid over.

SELECT COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 1. Placed on Select File.

LEGISLATIVE BILL 2. Placed on Select File as amended.
E & R amendment to LB 2:
AM5000

1. On page 26, line 19, before "Department" insert "United States".
2. On page 41, line 20, after "custody" insert "of".

LEGISLATIVE BILL 3. Placed on Select File.
LEGISLATIVE BILL 4. Placed on Select File.
LEGISLATIVE BILL 5. Placed on Select File.
LEGISLATIVE BILL 6. Placed on Select File.
LEGISLATIVE BILL 7. Placed on Select File.
LEGISLATIVE BILL 8. Placed on Select File.
LEGISLATIVE BILL 9. Placed on Select File.

(Signed) Eric Will, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 12. Read. Considered.

LR 12 was adopted with 32 ayes, 0 nays, 5 present and not voting, and 12 excused and not voting.

GENERAL FILE

LEGISLATIVE BILL 77. Title read. Considered.

Advanced to E & R for review with 31 ayes, 0 nays, 8 present and not voting, and 10 excused and not voting.

LEGISLATIVE BILL 97. Title read. Considered.

Advanced to E & R for review with 29 ayes, 0 nays, 12 present and not voting, and 8 excused and not voting.

LEGISLATIVE BILL 98. Title read. Considered.

Advanced to E & R for review with 29 ayes, 0 nays, 12 present and not voting, and 8 excused and not voting.

LEGISLATIVE BILL 40. Title read. Considered.

Advanced to E & R for review with 31 ayes, 0 nays, 13 present and not voting, and 5 excused and not voting.

STANDING COMMITTEE REPORTS
Education

LEGISLATIVE BILL 43. Placed on General File as amended.
Standing Committee amendment to LB 43:
AM0006

1. On page 2, line 24, strike "ten" and insert "eleven".

2. On page 3, line 6, strike "five", show as stricken, and insert "six" and strike "at least one", show as stricken, and insert "none of whom shall be associated with any of the institutions listed in subdivisions (a) through (e) of this subsection and"; in line 7 strike "but not more than" and show as stricken;

and in line 18 strike "three", show as stricken, and insert "four".

(Signed) Ron Withem, Chairperson

Transportation

LEGISLATIVE BILL 61. Placed on General File as amended.
Standing Committee amendment to LB 61:
AM0007

1. On page 3, strike beginning with "and" in line 21 through "100-551" in line 24.

(Signed) Doug Kristensen, Chairperson

NOTICE OF COMMITTEE HEARING
Nebraska Retirement Systems

LB 41	Thursday, January 31, 1991	12:00 Noon
LB 348	Thursday, January 31, 1991	12:00 Noon

(Signed) Arlene Nelson, Chairperson

EASE

The Legislature was at ease from 9:56 a.m. until 10:22 a.m.

UNANIMOUS CONSENT - Add Co-Introducers

Mr. Morrissey asked unanimous consent to have his name added as co-introducer to LB 503. No objections. So ordered.

Ms. Schimek asked unanimous consent to have her name added as co-introducer to LB 825. No objections. So ordered.

Mr. Chambers asked unanimous consent to have his name added as co-introducer to LB 825. No objections. So ordered.

Mr. Withem asked unanimous consent to have his name added as co-introducer to LB 343. No objections. So ordered.

Mrs. Hillman asked unanimous consent to have her name added as co-introducer to LB 801. No objections. So ordered.

STANDING COMMITTEE REPORTS
Urban Affairs

LEGISLATIVE BILL 62. Placed on General File.

(Signed) D. Paul Hartnett, Chairperson

Revenue

LEGISLATIVE BILL 59. Placed on General File.
LEGISLATIVE BILL 63. Placed on General File.
LEGISLATIVE BILL 94. Placed on General File.

(Signed) Elroy M. Hefner, Vice Chairperson

NOTICE OF COMMITTEE HEARINGS
Natural Resources

LB 51	Thursday, January 31, 1991	1:30 p.m.
LB 338	Thursday, January 31, 1991	1:30 p.m.
LB 429	Thursday, January 31, 1991	1:30 p.m.
LB 276	Friday, February 1, 1991	1:30 p.m.
LB 277	Friday, February 1, 1991	1:30 p.m.
LB 278	Friday, February 1, 1991	1:30 p.m.
LB 325	Friday, February 1, 1991	1:30 p.m.
LB 430	Friday, February 1, 1991	1:30 p.m.

(Signed) Rod Johnson, Chairperson

Government, Military and Veterans Affairs

LB 127	Thursday, January 31, 1991	1:30 p.m.
LB 146	Thursday, January 31, 1991	1:30 p.m.
LB 178	Thursday, January 31, 1991	1:30 p.m.
LB 219	Thursday, January 31, 1991	1:30 p.m.
LB 288	Thursday, January 31, 1991	1:30 p.m.
LB 290	Thursday, January 31, 1991	1:30 p.m.

(Signed) Gerald Conway, Chairperson

VISITORS

Visitors to the Chamber were Doyal Lund and Donald Stubby from Scottsbluff.

ADJOURNMENT

At 10:23 a.m., on a motion by Mrs. Rasmussen, the Legislature adjourned until 9:00 a.m., Friday, January 25, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

TWELFTH DAY - JANUARY 25, 1991

LEGISLATIVE JOURNAL

TWELFTH DAY - JANUARY 25, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

TWELFTH DAY

Legislative Chamber, Lincoln, Nebraska
Friday, January 25, 1991

Pursuant to adjournment, the Legislature met at 9:02 a.m., President Moul presiding.

PRAYER

The prayer was offered by Pastor James Cooke, Fourth Presbyterian Church, Lincoln, Nebraska.

ROLL CALL

The roll was called and all members were present except Mr. Conway and Mrs. Labedz who were excused; and Messrs. Abboud, Ashford, Beyer, Chambers, Chizek, Hall, Hartnett, Horgan, R. Johnson, Lindsay, Moore, Morrissey, Rogers, Schmit, Will, Withem, Mmes. Nelson, Smith, and Ms. Schimek who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Eleventh Day was approved.

SELECT COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 10. Placed on Select File as amended.
E & R amendment to LB 10:
AM5001

1. On page 6, line 22, strike the underscored comma and insert "(a)"; and in line 24 strike the underscored comma and strike "(a)", show as stricken,

and insert "(i)".

2. On page 7, line 1, strike "(b)", show as stricken, and insert "(ii)"; in line 2 strike "(c)", show as stricken, and insert "or (iii)"; in line 5 strike the comma and show as stricken; and in line 7 strike "(d)", show as stricken, and insert "(b)".

LEGISLATIVE BILL 11. Placed on Select File.
LEGISLATIVE BILL 12. Placed on Select File.
LEGISLATIVE BILL 13. Placed on Select File.
LEGISLATIVE BILL 14. Placed on Select File.
LEGISLATIVE BILL 15. Placed on Select File.
LEGISLATIVE BILL 77. Placed on Select File.
LEGISLATIVE BILL 97. Placed on Select File.
LEGISLATIVE BILL 98. Placed on Select File.

LEGISLATIVE BILL 40. Placed on Select File as amended.
E & R amendment to LB 40:
AM5002

1. On page 11, line 19, after "dealer" insert "or manufacturer".

(Signed) Eric Will, Chairperson

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the attached report on the referral of legislative bills 562 through 700, legislative resolutions 10, 11CA, 13CA, 14CA, 15CA, and 16CA.

LB	Committee
562	Business and Labor
563	Natural Resources
564	General Affairs
565	Natural Resources
566	Judiciary
567	General Affairs
568	Judiciary
569	Revenue
570	Appropriations
571	Natural Resources
572	Government, Military and Veterans Affairs
573	Government, Military and Veterans Affairs
574	Education

575	Government, Military and Veterans Affairs
576	Natural Resources
577	Judiciary
578	Education
579	Government, Military and Veterans Affairs
580	Government, Military and Veterans Affairs
581	General Affairs
582	General Affairs
583	Agriculture
584	Health and Human Services
585	Government, Military and Veterans Affairs
586	General Affairs
587	Education
588	Education
589	Urban Affairs
590	Judiciary
591	Revenue
592	Natural Resources
593	Natural Resources
594	Judiciary
595	Government, Military and Veterans Affairs
596	Judiciary
597	Government, Military and Veterans Affairs
598	Judiciary
599	Appropriations
600	Appropriations
601	Government, Military and Veterans Affairs
602	Health and Human Services
603	Revenue
604	Revenue
605	Health and Human Services
606	Health and Human Services
607	Transportation
608	Urban Affairs
609	Urban Affairs
610	Urban Affairs
611	Revenue
612	Government, Military and Veterans Affairs
613	Natural Resources
614	Government, Military and Veterans Affairs
615	Government, Military and Veterans Affairs
616	Government, Military and Veterans Affairs
617	Government, Military and Veterans Affairs
618	Government, Military and Veterans Affairs

619 Government, Military and Veterans Affairs
620 Judiciary
621 Judiciary
622 Education
623 Revenue
624 Appropriations
625 Education
626 Banking, Commerce and Insurance
627 Revenue
628 Transportation
629 Government, Military and Veterans Affairs
630 Judiciary
631 Natural Resources
632 Government, Military and Veterans Affairs
633 Education
634 Judiciary
635 Government, Military and Veterans Affairs
636 Government, Military and Veterans Affairs
637 Judiciary
638 Education
639 Government, Military and Veterans Affairs
640 Judiciary
641 Appropriations
642 Banking, Commerce and Insurance
643 Judiciary
644 Judiciary
645 Government, Military and Veterans Affairs
646 Health and Human Services
647 Appropriations
648 Government, Military and Veterans Affairs
649 Judiciary
650 Banking, Commerce and Insurance
651 Appropriations
652 Appropriations
653 Appropriations
654 Health and Human Services
655 Banking, Commerce and Insurance
656 Transportation
657 Appropriations
658 Natural Resources
659 Appropriations
660 Natural Resources
661 Natural Resources
662 Revenue

663	Education
664	Banking, Commerce and Insurance
665	Revenue
666	Appropriations
667	Banking, Commerce and Insurance
668	Government, Military and Veterans Affairs
669	Natural Resources
670	Judiciary
671	Judiciary
672	Nebraska Retirement Systems
673	Judiciary
674	Banking, Commerce and Insurance
675	Health and Human Services
676	Education
677	Health and Human Services
678	Health and Human Services
679	Health and Human Services
680	Health and Human Services
681	Revenue
682	Nebraska Retirement Systems
683	Revenue
684	Education
685	Agriculture
686	Revenue
687	Judiciary
688	Judiciary
689	Education
690	Business and Labor
691	Judiciary
692	Health and Human Services
693	Appropriations
694	Judiciary
695	Transportation
696	Health and Human Services
697	Natural Resources
698	Education
699	Education
700	Education

LR	**Committee**
10	Judiciary
11CA	Government, Military and Veterans Affairs
13CA	Government, Military and Veterans Affairs
14CA	Government, Military and Veterans Affairs

15CA Judiciary
16CA Government, Military and Veterans Affairs

(Signed) Jerome Warner, Chairperson
Legislative Council
Executive Board

NOTICE OF COMMITTEE HEARING
Government, Military and Veterans Affairs

LB 165	Friday, February 1, 1991	1:30 p.m.
LB 232	Friday, February 1, 1991	1:30 p.m.
LB 280	Friday, February 1, 1991	1:30 p.m.
LB 361	Friday, February 1, 1991	1:30 p.m.
LB 331	Friday, February 1, 1991	1:30 p.m.

(Signed) Gerald Conway, Chairperson

REPORT OF REGISTERED LOBBYISTS

In accordance with LB 987, passed in the 1976 session of the Legislature and amended by LB 4 and LB 41 in the 1977 session of the Legislature, the attached is a list of all Lobbyists who have registered as of January 24, 1991. Further lists listing additional lobbyists who have registered will be filed weekly.

(Signed) Patrick J. O'Donnell
Clerk of the Legislature

Baird, Holm Law Office	
Bredthauer, Trudy Sanders	
Omaha	Cable U.S.A. Inc.
Bird, Kenneth M.-Omaha	Westside Community Schools
Cavanaugh, James P.-Omaha	Creighton University
	Peoples Natural Gas
Cline, Williams, Wright, Johnson & Oldfather	
Peterson, Alan E.-Lincoln	Central Interstate Low-Level Radioactive Waste Compact Commission
Crosby, Guenzel, Davis, Kessner & Kuester	
Bartels, Gregory B.-Lincoln	Nebraska Cooperative Council
Frisk, Deanna M.-Lincoln	League of Women Voters of Nebraska
Gady, Richard L.-Omaha	ConAgra, Inc.
Gordon, James E.-Lincoln	Erickson & Sederstrom, P.C.
Kelley, Michael-Omaha	Mainline Enertech Corporation

Lineweber, Ray L.-Lincoln	United Transportation Union
Lowrey, Lon D.-Florissant, Mo	Sadoz Pharmaceuticals
Minor, Timothy H.-Long Grove, Il	CF Industries, Inc.
O'Hara & Associates	
O'Hara, Paul V.-Lincoln	Nebraska Licensed Landfill Operators Association
Radcliffe and Associates	
Radcliffe, Walter H.-Lincoln	Handgun Control, Inc.
	National Taxpayers Union
	The National Tax-Limitation Committee
Reutzel, Barry-Lincoln	DeCamp Legal Services, P.C.
Scarpello, Sam M.-Omaha	Omaha Building & Construction Trades Council
Suttle, Deborah S.-Omaha	Omaha Council PTA/PTSA

RESOLUTION

LEGISLATIVE RESOLUTION 21. Introduced by Robinson, 16; L. Johnson, 15.

WHEREAS, Dr. C. Clifford Madsen served as President of Dana College from 1956 until his retirement in 1971; and

WHEREAS, during his tenure as president, Dana College received full accreditation, completed a program of campus expansion which resulted in ten large buildings and more than one hundred acres added to campus, and experienced its highest enrollment in history; and

WHEREAS, the Madsen Fine Arts Center on the Dana College campus was named in honor of Dr. and Mrs. Madsen in recognition of their lifetime of service to the college; and

WHEREAS, Dr. Madsen's work as a teacher, scholar, and administrator served as a great inspiration to the Dana community and to the State of Nebraska; and

WHEREAS, among the numerous honors accorded Dr. Madsen were the cross of the Knight Order of Dannebrog by King IX of Denmark, an honorary Doctor of Divinity degree by Midland College in Fremont, and the distinction of being named the first and only President Emeritus by the Dana College Board of Regents; and

WHEREAS, Dr. Madsen served with distinction with the United States Marine Corps at Guadalcanal and other South Pacific combat areas and retired as a captain in the United States Naval Reserve; and

WHEREAS, Dr. C. Clifford Madsen passed away on January 21, 1991; and

WHEREAS, Dr. Madsen is survived by his wife Esther, son Lowell and daughter-in-law Sue, and daughter Carole and son-in-law Raymond Dickson, two grandchildren, two brothers, and two sisters.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the members of the Legislature express their deepest sympathy to the family of Dr. C. Clifford Madsen.

2. That a copy of this resolution be presented to the family of Dr. Madsen.

Laid over.

SELECT FILE

LEGISLATIVE BILL 1. Advanced to E & R for engrossment.

LEGISLATIVE BILL 2. E & R amendment, AM5000, found in the Journal on page 395, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 3. Advanced to E & R for engrossment.
LEGISLATIVE BILL 4. Advanced to E & R for engrossment.
LEGISLATIVE BILL 5. Advanced to E & R for engrossment.
LEGISLATIVE BILL 6. Advanced to E & R for engrossment.
LEGISLATIVE BILL 7. Advanced to E & R for engrossment.
LEGISLATIVE BILL 8. Advanced to E & R for engrossment.
LEGISLATIVE BILL 9. Advanced to E & R for engrossment.

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following resolution: LR 12.

GENERAL FILE

LEGISLATIVE BILL 43. Title read. Considered.

Standing Committee amendment, AM0006, found in the Journal on page 396, was adopted with 28 ayes, 0 nays, 4 present and not voting, and 17 excused and not voting.

Advanced to E & R for review with 30 ayes, 0 nays, 4 present and not voting, and 15 excused and not voting.

LEGISLATIVE BILL 61. Title read. Considered.

Standing Committee amendment, AM0007, found in the Journal on page 397, was adopted with 27 ayes, 0 nays, 9 present and not voting, and 13 excused and not voting.

Advanced to E & R for review with 29 ayes, 0 nays, 7 present and not voting, and 13 excused and not voting.

LEGISLATIVE BILL 62. Title read. Considered.

Mr. Beyer moved for a call of the house. The motion prevailed with 20 ayes, 0 nays, and 29 not voting.

Advanced to E & R for review with 26 ayes, 8 nays, 4 present and not voting, and 11 excused and not voting.

The Chair declared the call raised.

UNANIMOUS CONSENT - Member Excused

Mr. Schmit asked unanimous consent to be excused until he returns. No objections. So ordered.

GENERAL FILE

LEGISLATIVE BILL 59. Title read. Considered.

Mr. Bernard-Stevens offered the following amendment:
AM0024

1. Insert the following new sections:

"Section 1. That section 60-303, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-303. In registering motor vehicles, the county treasurer shall neither receive nor accept such application nor registration fee nor issue any registration certificate for any motor vehicle, unless the applicant ~~shall first exhibit~~ first exhibits proof by tax receipt or otherwise that he or she has paid all personal taxes upon such motor vehicle or, if

applicable, ~~has furnished~~ furnishes proof of payment, in the form prescribed by the Director of Motor Vehicles as directed by the United States Secretary of the Treasury, of the federal heavy vehicle use tax imposed by the Internal Revenue Code, 26 U.S.C. 4481. The county treasurer may adopt a policy to refuse to receive or accept all such applications or registration fees or to issue registration certificates for all motor vehicles unless the applicants exhibit proof of payment of all distress warrants outstanding in the county on personal property.

Sec. 2. That section 77-1718, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-1718. On or before October 1 of each year, the county treasurer shall issue and deliver to the sheriff of the county distress warrants against all persons having delinquent personal tax for that year (1) unless such a person ~~shall have~~ has paid such delinquent personal taxes in full, on or before July 1, with interest at the rate specified in section 45-104.01, as such rate may from time to time be adjusted by the Legislature, or (2) unless such person, ~~shall,~~ on or before July 1, ~~file~~ has filed with the treasurer an affidavit that he or she is unable by reason of poverty to pay any such tax, in which case a distress warrant shall not be issued until ordered by the county board. At least thirty days prior to the issuance of a distress warrant, the county treasurer shall mail a notice to the delinquent taxpayer that, unless payment of the delinquent tax is made within thirty days, a distress warrant will be issued. The county treasurer may include in the notice a provision that failure to pay the personal property taxes may result in refusal of motor vehicle registration as provided in section 60-303. Each such distress warrant shall include all delinquent personal taxes of the person against whom issued. When distress warrants have been issued and turned over to the sheriff, the county treasurer shall report and certify to the county board the total number of distress warrants issued and the total amount of money involved.".

2. On page 2, line 7, after the period insert "Upon receipt of a distress warrant from the treasurer,

the sheriff may notify the taxpayer by mail. The notice may include a provision that failure to pay the personal property taxes may result in refusal of motor vehicle registration as provided in section 60-303." and insert paragraphing.

3. On page 2, line 25, strike "section" and insert "sections 60-303, 77-1718,".

4. On page 3, line 1, strike "is" and insert "are".

5. Renumber the remaining sections accordingly.

Mr. Bernard-Stevens withdrew his pending amendment.

Advanced to E & R for review with 37 ayes, 0 nays, 4 present and not voting, and 8 excused and not voting.

LEGISLATIVE BILL 63. Title read. Considered.

Advanced to E & R for review with 28 ayes, 0 nays, 15 present and not voting, and 6 excused and not voting.

Mr. Lindsay asked unanimous consent to be excused until he returns. No objections. So ordered.

LEGISLATIVE BILL 94. Title read. Considered.

Advanced to E & R for review with 30 ayes, 0 nays, 12 present and not voting, and 7 excused and not voting.

MOTION - Withdraw LB 578

Mr. Withem renewed his pending motion, found in the Journal on page 395, to withdraw LB 578.

The motion prevailed with 29 ayes, 1 nay, 12 present and not voting, and 7 excused and not voting.

STANDING COMMITTEE REPORTS
Revenue

LEGISLATIVE BILL 82. Placed on General File as amended.
Standing Committee amendment to LB 82:
AM0025

1. Insert the following new section:
"Sec. 5. This act shall become operative on October 1, 1991.".
2. Renumber the remaining section accordingly.

LEGISLATIVE BILL 240. Placed on General File as amended.
Standing Committee amendment to LB 240:
AM0026
1. On page 5, line 23, strike the comma and insert "and"; and strike beginning with the comma in line 24 through line 25.
2. On page 6, line 1, strike "accurate".

LEGISLATIVE BILL 255. Placed on General File as amended.
Standing Committee amendment to LB 255:
AM0027
1. On page 5, line 13, strike "may" and insert "shall".

(Signed) Tim Hall, Chairperson

Health and Human Services

LEGISLATIVE BILL 57. Placed on General File.

LEGISLATIVE BILL 58. Placed on General File as amended.
Standing Committee amendment to LB 58:
AM0023
1. On page 12, line 13, strike "document"; and strike beginning with "program" in line 15 through "the" in line 16.
2. On page 20, line 17, after "department" insert ", or for purposes of the Adult Protective Services Act".

(Signed) Don Wesely, Chairperson

Judicary

LEGISLATIVE BILL 23. Placed on General File.
LEGISLATIVE BILL 95. Placed on General File.
LEGISLATIVE BILL 125. Placed on General File.
LEGISLATIVE BILL 135. Placed on General File.

LEGISLATIVE BILL 147. Placed on General File.

LEGISLATIVE BILL 37. Placed on General File as amended.
Standing Committee amendment to LB 37:
AM0020
1. On page 2, line 16, strike "seventy-five" and insert "fifty".

(Signed) Jerry Chizek, Chairperson

NOTICE OF COMMITTEE HEARINGS
Transportation

LB 286	Monday, February 4, 1991	1:30 p.m.
LB 336	Monday, February 4, 1991	1:30 p.m.
LB 420	Monday, February 4, 1991	1:30 p.m.
LB 133	Monday, February 4, 1991	1:30 p.m.
LB 126	Monday, February 4, 1991	1:30 p.m.

Governor Appointment Monday, February 4, 1991 1:30 p.m.
Mel Auch - Motor Vehicle Industry Licensing Board

LB 60	Tuesday, February 5, 1991	1:30 p.m.
LB 243	Tuesday, February 5, 1991	1:30 p.m.
LB 337	Tuesday, February 5, 1991	1:30 p.m.
LB 461	Tuesday, February 5, 1991	1:30 p.m.
LB 393	Tuesday, February 5, 1991	1:30 p.m.

(Signed) Doug Kristensen, Chairperson

Business and Labor

LB 230	Monday, February 4, 1991	1:30 p.m.
LB 297	Monday, February 4, 1991	1:30 p.m.
LB 311	Monday, February 4, 1991	1:30 p.m.

(Signed) George Coordsen, Chairperson

Revenue

LB 196	Friday, February 1, 1991	1:30 p.m.
LB 208	Friday, February 1, 1991	1:30 p.m.
LB 316	Friday, February 1, 1991	1:30 p.m.

LB 487	Friday, February 1, 1991	1:30 p.m.
LB 623	Friday, February 1, 1991	1:30 p.m.

(Signed) Tim Hall, Chairperson

MOTION - Withdraw LB 657

Mr. Moore moved to withdraw LB 657.

Laid over.

UNANIMOUS CONSENT - Add Co-Introducers

Mr. Lindsay asked unanimous consent to have his name added as co-introducer to LB 332. No objections. So ordered.

Mr. L. Johnson asked unanimous consent to have his name added as co-introducer to LB 35. No objections. So ordered.

Mr. Coordsen asked unanimous consent to have his name added as co-introducer to LB 409. No objections. So ordered.

VISITOR

The Doctor of the Day was Dr. Rick Gustafson from Lincoln.

ADJOURNMENT

At 10:47 a.m., on a motion by Mr. Baack, the Legislature adjourned until 9:00 a.m., Monday, January 28, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

THIRTEENTH DAY - JANUARY 28, 1991

LEGISLATIVE JOURNAL

THIRTEENTH DAY - JANUARY 28, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

THIRTEENTH DAY

Legislative Chamber, Lincoln, Nebraska
Monday, January 28, 1991

Pursuant to adjournment, the Legislature met at 9:00 a.m., Speaker Baack presiding.

PRAYER

The prayer was offered by Pastor Harry Shoemaker, Missionary Independent Baptist Church, Lincoln, Nebraska.

ROLL CALL

The roll was called and all members were present except Messrs. Ashford, Beutler, Hall, R. Johnson, Kristensen, Lindsay, Moore, Morrissey, Schmit, Wesely, Withem, Ms. Schimek, and Mrs. Smith who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Twelfth Day was approved.

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the attached report on the referral of legislative bills 701 through 836, legislative resolutions 17CA, 18CA, 19CA, and 20CA.

LB	Committee
701	Education
702	Health and Human Services
703	Health and Human Services

704 Health and Human Services
705 Nebraska Retirement Systems
706 Government, Military and Veterans Affairs
707 Education
708 Judiciary
709 Judiciary
710 Banking, Commerce and Insurance
711 Judiciary
712 Revenue
713 Government, Military and Veterans Affairs
714 Appropriations
715 Judiciary
716 Natural Resources
717 General Affairs
718 General Affairs
719 Education
720 Government, Military and Veterans Affairs
721 Revenue
722 Government, Military and Veterans Affairs
723 Appropriations
724 Health and Human Services
725 Health and Human Services
726 Appropriations
727 Revenue
728 Judiciary
729 Judiciary
730 Natural Resources
731 Government, Military and Veterans Affairs
732 Judiciary
733 General Affairs
734 Revenue
735 Business and Labor
736 Government, Military and Veterans Affairs
737 Revenue
738 Revenue
739 Banking, Commerce and Insurance
740 Banking, Commerce and Insurance
741 Government, Military and Veterans Affairs
742 Judiciary
743 Judiciary
744 Judiciary
745 Urban Affairs
746 Urban Affairs
747 Natural Resources

748 Natural Resources
749 Revenue
750 Appropriations
751 Education
752 Natural Resources
753 Judiciary
754 Revenue
755 Revenue
756 Nebraska Retirement Systems
757 Banking, Commerce and Insurance
758 Banking, Commerce and Insurance
759 Banking, Commerce and Insurance
760 Appropriations
761 Natural Resources
762 Transportation
763 Government, Military and Veterans Affairs
764 Urban Affairs
765 Urban Affairs
766 Appropriations
767 Urban Affairs
768 Natural Resources
769 Nebraska Retirement Systems
770 Health and Human Services
771 Nebraska Retirement Systems
772 Natural Resources
773 Revenue
774 Natural Resources
775 Judiciary
776 Transportation
777 Transportation
778 Natural Resources
779 Transportation
780 Transportation
781 Natural Resources
782 Banking, Commerce and Insurance
783 Transportation
784 Education
785 Education
786 Education
787 Banking, Commerce and Insurance
788 Appropriations
789 Government, Military and Veterans Affairs
790 Banking, Commerce and Insurance
791 Health and Human Services

792	Health and Human Services
793	Government, Military and Veterans Affairs
794	Judiciary
795	General Affairs
796	Revenue
797	General Affairs
798	Government, Military and Veterans Affairs
799	Appropriations
800	Judiciary
801	Judiciary
802	Nebraska Retirement Systems
803	Revenue
804	Revenue
805	General Affairs
806	Judiciary
807	Transportation
808	Transportation
809	Judiciary
810	Urban Affairs
811	Government, Military and Veterans Affairs
812	Judiciary
813	Natural Resources
814	Judiciary
815	Judiciary
816	Judiciary
817	Government, Military and Veterans Affairs
818	Judiciary
819	Judiciary
820	Business and Labor
821	Judiciary
822	Health and Human Services
823	Health and Human Services
824	Government, Military and Veterans Affairs
825	Judiciary
826	Banking, Commerce and Insurance
827	Natural Resources
828	Appropriations
829	Revenue
830	Health and Human Services
831	Health and Human Services
832	Health and Human Services
833	Health and Human Services
834	Health and Human Services

835 Banking, Commerce and Insurance
836 Health and Human Services

LR	Committee
17CA	Natural Resources
18CA	General Affairs
19CA	Revenue
20CA	Government, Military and Veterans Affairs

(Signed) Jerome Warner, Chairperson
Legislative Council
Executive Board

MESSAGE FROM THE GOVERNOR

January 25, 1991

The Speaker and Senators
Nebraska Legislature
State Capitol
Lincoln, NE 68509

Dear Senators:

Today I am forwarding for your consideration several individuals whose appointments to boards and commissions, made by my predecessor, I had withdrawn for review.

Those appointments are:

Colonel Harold LeGrande, Crime Victims Reparations Board
Phyllis Lainson, Crime Victims Reparations Board

Peter Claussen, State College Board of Trustees

Helen Hayes, Nebraska Arts Council
Helen Cherniak, Nebraska Arts Council
Jacquelyn Rosenlof, Nebraska Arts Council
Thomas Milliken, Nebraska Arts Council
Dr. Lee Smith, Nebraska Arts Council

Dr. Samuel Perry, Child Abuse Prevention Fund Board

I continue to recognize the need to move with dispatch in reviewing appointments, and will forward additional names as soon as possible. Thank you for your cooperation and assistance.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN/br

UNANIMOUS CONSENT - Print in Journal

Mr. Baack asked unanimous consent to print the following amendment to LB 40 in the Journal. No objections. So ordered.

AM0040
1. On page 10, line 14, after "may" insert "annually".

NATURAL RESOURCE DISTRICT REPORT

In compliance with Section 2-3262 (R.R.S. 1943) a summary of all fees paid to date during calendar year 1990 to attorneys, lobbyists, and public relations representatives is indicated below by individual and by amount paid thereto.

DISTRICT	FEE
Twin Platte Natural Resources District	
Nielsen & Birch Law Office	2,497.71

REPORTS

The following reports were received by the Legislature:

Audit reports from the Auditor of Public Accounts for the following: Board of Educational Lands and Funds for fiscal years 87-89, Department of Banking and Finance and Nebraska Real Estate Commission for fiscal years 88-90, Wayne State College, Peru State College, Kearney State College, Chadron State College, University of Nebraska, and Department of Administrative Service Letters-of-Credit for fiscal years 89-90.

Insurance Profitability Report from the Department of Insurance, as required by Section 44-4605 of the 1989 Legislature.

Semi-annual report from the Department of Environmental Control of Small Town Grants, Program #523, in accordance with Section 81-15,153 of the Statutes of Nebraska.

Semi-annual report of Wastewater Construction Grants, Program #518, from the Department of Environmental Control in accordance with Section 81-1533 of the Reissue Revised Statutes of Nebraska, 1943.

Statement of deposits to the Highway Cash Fund and Roads Operation Cash fund for December 1990 from the Department of Roads in compliance with section 66-476, R.S. Supp. 1988.

Biennial report for the Nebraska Public Transportation Assistance Program for fiscal years 1989-1990 from the Department of Roads in accordance with Section 19-3905 of the Nebraska Public Transportation Act of 1975, as amended.

Annual report on the Status of the Nebraska Telecommunications Industry from the Nebraska Public Service Commission in compliance with the Telecommunications Act of 1986, Section 86-804, Neb.Rev.Stat. (1943), as amended.

Annual report from Nebraska Investment Finance Authority (NIFA).

Reports from the three fund managers who handle investments for the Omaha School Employees Retirement System, in compliance with Nebraska State Statute 79-1051.06.

RESOLUTION

LEGISLATIVE RESOLUTION 21. Read. Considered.

LR 21 was adopted with 26 ayes, 0 nays, and 23 not voting.

SELECT FILE

LEGISLATIVE BILL 10. E & R amendment, AM5001, found in the Journal on page 400, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 11. Advanced to E & R for engrossment.

LEGISLATIVE BILL 12. Advanced to E & R for engrossment.
LEGISLATIVE BILL 13. Advanced to E & R for engrossment.
LEGISLATIVE BILL 14. Advanced to E & R for engrossment.
LEGISLATIVE BILL 15. Advanced to E & R for engrossment.

LEGISLATIVE BILL 77. Mr. Conway offered the following amendment:
AM0032

1. Insert the following new section:
"Sec. 5. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.".

The Conway amendment was adopted with 26 ayes, 0 nays, 14 present and not voting, and 9 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 97. Advanced to E & R for engrossment.
LEGISLATIVE BILL 98. Advanced to E & R for engrossment.

STANDING COMMITTEE REPORTS
Government, Military and Veterans Affairs

LEGISLATIVE BILL 17. Placed on General File as amended.
Standing Committee amendment to LB 17:
AM0030

1. Strike original section 4.
2. On page 5, line 13; and page 10, line 6, after "at" insert "no less than".
3. On page 5, line 16; and page 10, line 9, strike beginning with "and" through "Law".
4. On page 22, strike beginning with "sections" in line 24 through "48-603" in line 25 and insert "section 48-115".
5. Renumber the remaining section accordingly.

LEGISLATIVE BILL 20. Placed on General File as amended.
Standing Committee amendment to LB 20:
AM0029

1. Insert the following new section:
"Sec. 5. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.".

LEGISLATIVE BILL 32. Placed on General File as amended.
Standing Committee amendment to LB 32:
AM0028

1. On page 2, strike beginning with "and" in line 9 through the comma in line 10 and show the old matter as stricken; and in line 15 strike "all other" and show as stricken and after "counties" insert ", when such a determination is not made,".

(Signed) Gerald Conway, Chairperson

ANNOUNCEMENT

Mr. Elmer announced that the Intergovernmental Cooperation Committee will meet in executive session on Tuesday, January 29, 1991 in Room 2102 at 8:30 a.m.

GENERAL FILE

LEGISLATIVE BILL 82. Title read. Considered.

Standing Committee amendment, AM0025, found in the Journal on page 410, was adopted with 25 ayes, 0 nays, 15 present and not voting, and 9 excused and not voting.

Advanced to E & R for review with 25 ayes, 0 nays, 18 present and not voting, and 6 excused and not voting.

LEGISLATIVE BILL 240. Title read. Considered.

Standing Committee amendment, AM0026, found in the Journal on page 411, was adopted with 25 ayes, 0 nays, 18 present and not voting, and 6 excused and not voting.

Messrs. Lindsay and Dierks asked unanimous consent to be excused until they return. No objections. So ordered.

Advanced to E & R for review with 30 ayes, 0 nays, 12 present and not voting, and 7 excused and not voting.

Mr. Kristensen asked unanimous consent to be excused until he returns. No objections. So ordered.

LEGISLATIVE BILL 255. Title read. Considered.

Standing Committee amendment, AM0027, found in the Journal on page 411, was adopted with 29 ayes, 0 nays, 12 present and not voting, and 8 excused and not voting.

Advanced to E & R for review with 27 ayes, 0 nays, 14 present and not voting, and 8 excused and not voting.

LEGISLATIVE BILL 57. Title read. Considered.

MR. WARNER PRESIDING

Advanced to E & R for review with 25 ayes, 6 nays, 12 present and not voting, and 6 excused and not voting.

BILLS ON FIRST READING

The following bills were read for the first time by title:

LEGISLATIVE BILL 837. Introduced by Beutler, 28, at the request of the Governor.

A BILL FOR AN ACT relating to low-level radioactive waste; to amend sections 81-1578 and 81-1599.02, Revised Statutes Supplement, 1990, and Laws 1983, LB 200, section 1; to restrict the issuance of a license under the Low-Level Radioactive Waste Disposal Act as prescribed; to amend the Central Interstate Low-Level Radioactive Waste Compact regarding commission membership, open meetings, and public records; to harmonize provisions; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 838. Introduced by Beutler, 28, at the request of the Governor.

A BILL FOR AN ACT relating to low-level radioactive waste; to amend section 81-1578, Revised Statutes Supplement, 1990, and Laws 1983, LB 200, section 1; to restrict the issuance of a license under the Low-Level Radioactive Waste Disposal Act as prescribed; to amend the Central Interstate Low-Level Radioactive Waste Compact regarding liability for damages; to harmonize a provision; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 839. Introduced by R. Johnson, 34, at the request of the Governor.

A BILL FOR AN ACT relating to solid waste; to adopt the Regional Waste Disposal Act; and to provide severability.

NOTICE OF COMMITTEE HEARINGS

Education

LB 488	Monday, February 4, 1991	1:30 p.m.
LB 689	Monday, February 4, 1991	1:30 p.m.
LB 490	Monday, February 4, 1991	1:30 p.m.
LB 382	Monday, February 4, 1991	1:30 p.m.

(Signed) Ron Withem, Chairperson

Banking, Commerce and Insurance

LB 167	Monday, February 4, 1991	1:30 p.m.
LB 224	Monday, February 4, 1991	1:30 p.m.
LB 250	Monday, February 4, 1991	1:30 p.m.
LB 292	Monday, February 4, 1991	1:30 p.m.
LB 86	Tuesday, February 5, 1991	1:30 p.m.
LB 226	Tuesday, February 5, 1991	1:30 p.m.
LB 253	Tuesday, February 5, 1991	1:30 p.m.
LB 305	Tuesday, February 5, 1991	1:30 p.m.

(Signed) David Landis, Chairperson

General Affairs

LB 56	Monday, February 4, 1991	1:30 p.m.
LB 99	Monday, February 4, 1991	1:30 p.m.
LB 345	Monday, February 4, 1991	1:30 p.m.
LB 427	Monday, February 4, 1991	1:30 p.m.
LB 510	Monday, February 4, 1991	1:30 p.m.

(Signed) Jacklyn Smith, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 22. Introduced by Lindsay, 9; Hall, 7.

WHEREAS, the Honorable Gerald R. Ford, thirty-eighth president of the United States, was born in Omaha, Nebraska; and

WHEREAS, President Gerald R. Ford led the nation with distinction during a time of national crisis; and

WHEREAS, the birthsite of Gerald R. Ford was recognized by James M. Paxson as being worthy of preservation as a memorial to the only Nebraska-born United States President; and

WHEREAS, James M. Paxson acquired the Ford Birthsite and created a memorial and rose garden in honor of Gerald R. Ford and Betty Ford and donated the birthsite and garden to the City of Omaha for public enjoyment; and

WHEREAS, James M. Paxson donated the sum of two million dollars to the Nebraska State Historical Society Foundation to be used by the Nebraska State Historical Society to construct and operate the Gerald R. Ford Conservation Center and Museum at the Ford Birthsite; and

WHEREAS, the Gerald R. Ford Conservation Center to be constructed and operated by the Nebraska State Historical Society will enable the preservation of priceless artifacts, documents, and collections of Nebraska history and make Nebraska a leader in the conservation of such historical collections; and

WHEREAS, the Gerald R. Ford Museum at the Ford Birthsite will be a fitting reminder of Gerald R. Ford's Nebraska origins.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature commends the generosity, foresight, and public spiritedness of James M. Paxson for his creation of the Ford Birthsite Memorial and for his endowment to construct the Gerald R. Ford Conservation Center and Museum.

2. That the Nebraska State Historical Society is urged to proceed with all deliberate speed to construct and operate the Gerald R. Ford Conservation Center and Museum at the Ford Birthsite in accordance with plans agreed to by James M. Paxson and the Executive Board of the Nebraska State Historical Society.

Laid over.

STANDING COMMITTEE REPORTS
Judiciary

LEGISLATIVE BILL 88. Placed on General File.

LEGISLATIVE BILL 69. Placed on General File as amended.
Standing Committee amendment to LB 69:
AM0033

1. On page 6, line 16, strike "effective" and insert "operative".
2. Insert the following new section:
"Sec. 14. This act shall become operative on February 1, 1992.".

(Signed) Jerry Chizek, Chairperson

Natural Resources

LEGISLATIVE BILL 137. Placed on General File as amended.
Standing Committee amendment to LB 137:
AM0039

1. On page 2, lines 5 and 14, strike "1997" and insert "1995".

LEGISLATIVE BILL 150. Indefinitely postponed.
LEGISLATIVE BILL 164. Indefinitely postponed.

(Signed) Rod Johnson, Chairperson

Government, Military and Veterans Affairs

LEGISLATIVE BILL 220. Placed on General File.

LEGISLATIVE BILL 22. Placed on General File as amended.
Standing Committee amendment to LB 22:
AM0031

1. On page 2, line 8, strike beginning with "a" through the second comma.
2. On page 3, line 7, after the period insert "The standing committee may request a draft copy of the rule or regulation or any portion thereof.".

(Signed) Gerald Conway, Chairperson

Education

LEGISLATIVE BILL 24. Indefinitely postponed.
LEGISLATIVE BILL 107. Indefinitely postponed.

(Signed) Ron Withem, Chairperson

Revenue

LEGISLATIVE BILL 239. Placed on General File.

(Signed) Tim Hall, Chairperson

SELECT COMMITTEE REPORTS
Enrollment and Review

Correctly Engrossed

The following bills were correctly engrossed: 1, 2, 3, 4, 5, 6, 7, 8, and 9.

(Signed) Eric Will, Chairperson

GENERAL FILE

LEGISLATIVE BILL 58. Title read. Considered.

Standing Committee amendment, AM0023, found in the Journal on page 411, was adopted with 26 ayes, 0 nays, 19 present and not voting, and 4 excused and not voting.

Advanced to E & R for review with 26 ayes, 0 nays, 19 present and not voting, and 4 excused and not voting.

SPEAKER BAACK PRESIDING

LEGISLATIVE BILL 23. Title read. Considered.

Advanced to E & R for review with 34 ayes, 0 nays, 11 present and not voting, and 4 excused and not voting.

LEGISLATIVE BILL 95. Title read. Considered.

Messrs. Peterson and Moore asked unanimous consent to be excused. No objections. So ordered.

Advanced to E & R for review with 31 ayes, 0 nays, 13 present and not voting, and 5 excused and not voting.

SELECT COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 43. Placed on Select File as amended.
E & R amendment to LB 43:
AM5003

1. On page 1, line 4, strike "add a member to" and insert "change provisions relating to the membership of".

2. On page 2, lines 6 and 22, strike "to", show as stricken, and insert "through".

LEGISLATIVE BILL 61. Placed on Select File.

LEGISLATIVE BILL 62. Placed on Select File as amended.
E & R amendment to LB 62:
AM5004

1. On page 2, line 16, strike "are", show as stricken, and insert "is"; and in line 23 strike "reside", show as stricken, and insert "resides".

(Signed) Eric Will, Chairperson

STANDING COMMITTEE REPORT
Government, Military and Veterans Affairs

LEGISLATIVE BILL 122. Placed on General File.

(Signed) Gerald Conway, Chairperson

UNANIMOUS CONSENT - Add Co-Introducer

Mr. Schellpeper asked unanimous consent to have his name added as co-introducer to LB 838. No objections. So ordered.

VISITORS

Visitors to the Chamber were Bob Chaloupka from Scottsbluff and Michael Javoronok from Gering; and Rev. Bill Shaner from Lincoln.

The Doctor of the Day was Dr. Don Larson from Lincoln.

ADJOURNMENT

At 11:52 a.m., on a motion by Mrs. Robak, the Legislature adjourned until 9:00 a.m., Tuesday, January 29, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

FOURTEENTH DAY - JANUARY 29, 1991

LEGISLATIVE JOURNAL

FOURTEENTH DAY - JANUARY 29, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

FOURTEENTH DAY

Legislative Chamber, Lincoln, Nebraska
Tuesday, January 29, 1991

Pursuant to adjournment, the Legislature met at 9:00 a.m., Speaker Baack presiding.

PRAYER

The prayer was offered by Pastor Joe Marek, American Lutheran Church, Lincoln, Nebraska.

ROLL CALL

The roll was called and all members were present except Mr. Chizek who was excused; and Messrs. Abboud, Ashford, Chambers, Hall, Hartnett, L. Johnson, R. Johnson, Lynch, Morrissey, and Schmit who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Thirteenth Day was approved.

UNANIMOUS CONSENT - Member Excused

Mrs. Robak asked unanimous consent to be excused until she returns. No objections. So ordered.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following resolution: LR 21.

SELECT COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 59. Placed on Select File as amended.
E & R amendment to LB 59:
AM5005
1. On page 2, line 10, after "years" insert an underscored comma.

LEGISLATIVE BILL 63. Placed on Select File.
LEGISLATIVE BILL 94. Placed on Select File.

Correctly Engrossed

The following bills were correctly engrossed: 10, 11, 12, 13, and 14.

(Signed) Eric Will, Chairperson

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the attached report on the rereferral of legislative bill 531, the referral of legislative bills 837, 838, 839, and Governor appointments.

LB	Committee
531	Transportation
837	Natural Resources
838	Natural Resources
839	Natural Resources

Government, Military and Veterans Affairs
Colonel Harold LeGrande - Crime Victims Reparations Board
Phyllis Lainson - Crime Victims Reparations Board

Education
Peter Claussen - State College Board of Trustees

General Affairs
Helen Hayes - Nebraska Arts Council
Helen Cherniak - Nebraska Arts Council
Jacquelyn Rosenlof - Nebraska Arts Council
Thomas Milliken - Nebraska Arts Council
Dr. Lee Smith - Nebraska Arts Council

Health and Human Services
Dr. Samuel Perry - Child Abuse Prevention Fund Board

(Signed) Jerome Warner, Chairperson
Legislative Council
Executive Board

ATTORNEY GENERAL'S OPINION

Opinion No. 91005

DATE: January 28, 1991

SUBJECT: Governor's Withdrawal of Pending Gubernatorial Appointments

REQUESTED BY: Senator Elroy Hefner
Nebraska State Legislature

WRITTEN BY: Don Stenberg, Attorney General
Dale A. Comer, Assistant Attorney General

On January 11, 1991, the Third Day of the First Session of the 92nd Nebraska Legislature, Governor Nelson submitted a letter to the Legislature in which he stated that he was "recalling for further review" a number of appointments to various boards, commissions, and committees submitted earlier by Governor Orr, but not yet confirmed by the Legislature. Governor Nelson then went on to list some seventy-one appointments ranging from individuals named to the Environmental Control Council to individuals named to the State Electrical Board as appointments which were recalled. The appointments had been submitted to the Legislature over a period of time from May 8, 1990, through January 2, 1991. However, the Legislature had not acted to confirm any of them. You now raise several questions concerning the Governor's authority to recall appointments in this fashion. As discussed in detail below, we believe that the Governor may recall or withdraw gubernatorial appointments which have not yet been confirmed by the Legislature.

Two provisions of our Nebraska Constitution deal with gubernatorial appointments which must be confirmed or approved by the Legislature. Article IV Section 10 establishes the general appointment authority held by the Governor, and provides that various gubernatorial appointments shall be "with the approval of a majority of the Legislature." Article IV Section 12 deals with

gubernatorial appointments to fill vacancies in particular non-elective offices, and those appointments again are either "subject to the approval" of the Legislature or the Legislature has the right "to approve or disapprove" them. The gubernatorial appointments in the present instance all required legislative approval. For purposes of this opinion, we also assume that they were appointments for a term of office, and not appointments at the pleasure of the Governor.

Our research has disclosed no Nebraska cases which deal directly with the issue of withdrawal of gubernatorial appointments. However, the general rule from other jurisdictions appears to be that, while appointments once made and complete are irrevocable, appointments which are not final and complete may be revoked or withdrawn. 67 C.J.S. Officers §43; 89 ALR 132.

We have also reviewed a number of cases from other jurisdictions which deal more directly with the issue of the executive's authority to recall appointments requiring legislative approval. Burke v. Schmidt, 86 S.D. 71, 191 N.W.2d 281 (1971); McBride v. Osborn, 59 Ariz. 312, 127 P.2d 134 (1942); McChesney v. Sampson, 232 Ky. 395, 25 S.W. 584 (1930); Barrett v. Duff, 114 Kan. 220, 217 P. 918 (1923). While those cases arrive at varying conclusions, we believe that the holding in Burke v. Schmidt, supra, comports with the general rule above and is most appropriate. In the Burke case, the Supreme Court of South Dakota indicated that the Governor could not withdraw an appointment when that appointment placed the appointee in office without further action. On the other hand, if the Governor's appointment required additional action such as legislative approval, it was not final and complete and could be withdrawn.

Where an appointment is made as a result of a nomination by one authority and confirmation by another, the appointment is not valid and complete until the actions of all bodies involved have been taken. State ex rel. Johnson v. Hagemeister, 161 Neb. 475, 73 N.W.2d 625 (1955); 67 C.J.S. Officers §42; 63A Am. Jur. 2d Public Officers and Employees §117; 1931-1932 Report of the Attorney General, Opinion dated February 5, 1931 at 120. In light of this rule and the authorities cited above, we believe that the appointments pending before the Legislature which were recalled by Governor Nelson were not complete and final at the time he withdrew them. Since they were not complete and final, and since those appointees in question were not actually placed in office, we believe those appointments could be recalled and withdrawn by the Governor. We would note that this conclusion is consistent with an earlier opinion of this office. 1967-1968 Report of the Attorney General, No. 12 at 19.

You also ask whether the Legislature can confirm the recalled appointments before the Governor names replacements so as to

confirm the initial appointees in office. In view of our determination that the Governor can withdraw the appointments in question, it would seem that they are no longer before the Legislature for action. Therefore, the Legislature has no appointments to confirm until the Governor resubmits names.

Finally, you point out certain misstatements concerning the dates of the appointments withdrawn in the Governor's letter of January 11th, and you ask whether those misstatements have any legal effect on the Governor's letter. We believe that the intent of that letter is clear on its face. Since it specifically lists the appointments which the Governor has withdrawn, it is our view that the inconsistencies which you have noted would have no effect on the Governor's action.

Sincerely yours,
DON STENBERG
Attorney General
(Signed) Dale A. Comer
Assistant Attorney General

5-143-13

STANDING COMMITTEE REPORTS
Government, Military and Veterans Affairs

LEGISLATIVE BILL 25. Placed on General File.
LEGISLATIVE BILL 81. Placed on General File.
LEGISLATIVE BILL 153. Placed on General File.
LEGISLATIVE BILL 189. Placed on General File.
LEGISLATIVE BILL 259. Placed on General File.

LEGISLATIVE BILL 117. Placed on General File as amended.
Standing Committee amendment to LB 117:
AM0053

1. Insert the following new section:

"Sec. 3. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.".

LEGISLATIVE BILL 157. Indefinitely postponed.

(Signed) Gerald Conway, Chairperson

NOTICE OF COMMITTEE HEARING
Nebraska Retirement Systems

LB 254	Tuesday, February 5, 1991	12:00 noon
LB 474	Thursday, February 7, 1991	12:00 noon
LB 475	Thursday, February 7, 1991	12:00 noon

(Signed) Arlene Nelson, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 22. Read. Considered.

LR 22 was adopted with 28 ayes, 0 nays, and 21 not voting.

MOTION - Withdraw LB 657

Mr. Moore renewed his pending motion, found in the Journal on page 413, to withdraw LB 657.

The motion prevailed with 27 ayes, 0 nays, 11 present and not voting, and 11 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 43. E & R amendment, AM5003, found in the Journal on page 428, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 61. Advanced to E & R for engrossment.

GENERAL FILE

LEGISLATIVE BILL 125. Title read. Considered.

Mr. Ashford offered the following amendment:
FA1
Pg 2 line 4 add the word "felony" before the word "criminal"

Mr. Ashford withdrew his pending amendment.

Mr. Ashford offered the following amendment:
FA2
On Pg 2 line 3 & 4 strike "rule or regulation"
On Pg 2 line 13 strike "rule or regulation"

On Pg 2 line 15 strike "rule or regulation"
On Pg 2 line 16 strike "rule or regulation"
On Pg 2 line 22 strike "rule or regulation"
On Pg 2 line 25 strike "rule or regulation"

The Ashford amendment was adopted with 27 ayes, 0 nays, 19 present and not voting, and 3 excused and not voting.

Mr. Beutler offered the following amendment:
FA3
On Page 2
1. In lines 3 & 4, delete the words "ordinance, rule or regulation"
2. In line 13 delete the words "or state rule or regulation"
3. In line 14 delete all words beginning with "or" and delete lines 15, 16 and the word "unconstitutional" on line 17
4. Delete the words "or governing body" on lines 18 & 19
5. Delete subsection (2)
6. Delete the words "ordinance, rule or regulation" on line 25
7. Strike the Ashford amendment

Mrs. Pirsch requested a record vote on the Beutler amendment.

Voting in the affirmative, 17:

Beutler	Hefner	Lamb	Schellpeper	Warner
Crosby	Horgan	Nelson	Schimek	Wickersham
Dierks	Johnson, L.	Pirsch	Smith	Withem
Haberman	Johnson, R.			

Voting in the negative, 19:

Baack	Conway	Hillman	Moore	Schrock
Bernard-Stevens	Coordsen	Kristensen	Morrissey	Wehrbein
Chambers	Elmer	Landis	Rasmussen	Wesely
	Hall	Lindsay	Robak	Will

Present and not voting, 10:

Ashford	Byars	Hartnett	Lynch	Robinson
Beyer	Cudaback	Labedz	Peterson	Rogers

Excused and not voting, 3:

Abboud	Chizek	Schmit

The Beutler amendment lost with 17 ayes, 19 nays, 10 present and not voting, and 3 excused and not voting.

Mr. R. Johnson asked unanimous consent to be excused until he returns. No objections. So ordered.

Advanced to E & R for review with 26 ayes, 8 nays, 11 present and not voting, and 4 excused and not voting.

UNANIMOUS CONSENT - Print in Journal

Mr. Kristensen asked unanimous consent to print the following amendment to LB 88 in the Journal. No objections. So ordered.

(Amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM0065.)

RESOLUTION

LEGISLATIVE RESOLUTION 23. Introduced by Baack, 47; Warner, 25; Crosby, 29.

WHEREAS, the Nebraska Association of Former State Legislators is a private, nonprofit organization designed to promote camaraderie among members for the purpose of maintaining, promoting, and enhancing:

(1) A history of the institution of the Legislature;

(2) An improved public understanding of the lawmaking process; and

(3) Development of scholarships for students pursuing appropriate study and research into the fields of politics and the operation of government in the legislative branch; and

WHEREAS, THE Nebraska Association of Former State Legislators is in need of an official State Capitol location for the purpose of maintaining a list of actual and potential members and as a depository for records and memorabilia relevant to the history of the Legislature.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. The office of the Lieutenant Governor of the State of Nebraska is hereby designated as the official location of Nebraska Association

of Former State Legislators for the purposes mentioned in this resolution.

2. The Lieutenant Governor is hereby requested to cooperate with the governing body of the Nebraska Association of Former State Legislators for the general purposes of the association.

Laid over.

SPEAKER'S ANNOUNCEMENT

Pursuant to Rule 4, Sec. 8, LR 23 was referred to the Reference Committee.

STANDING COMMITTEE REPORTS

Transportation

LEGISLATIVE BILL 113. Placed on General File.

LEGISLATIVE BILL 296. Placed on General File as amended.
Standing Committee amendment to LB 296:
AM0016

1. Insert the following new section:

"Sec. 3. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.".

(Signed) Doug Kristensen, Chairperson

Revenue

LEGISLATIVE BILL 300. Placed on General File as amended.
Standing Committee amendment to LB 300:
AM0044

1. On page 46, line 13, strike "of the previous year" and insert "for 1989".

2. On page 47, line 9, strike "September" and insert "October".

(Signed) Tim Hall, Chairperson

Judiciary

LEGISLATIVE BILL 36. Placed on General File as amended.
Standing Committee amendment to LB 36:

AM0034

1. On page 4, after line 23 insert the following new subdivision:

"(d) The notice required by subsection (1) of this section shall be given within six months of the date of expiration of the lease of the property or the date of discovery of the abandonment, whichever is later.".

(Signed) Jerry Chizek, Chairperson

General Affairs

LEGISLATIVE BILL 124. Placed on General File.
LEGISLATIVE BILL 202. Placed on General File.

(Signed) Jacklyn Smith, Chairperson

MOTION - Withdraw LB 362

Mrs. Robak moved to withdraw LB 362.

Laid over.

NOTICE OF COMMITTEE HEARINGS
Urban Affairs

LB 307	Tuesday, February 5, 1991	1:30 p.m.
LB 376	Tuesday, February 5, 1991	1:30 p.m.
LB 381	Tuesday, February 5, 1991	1:30 p.m.
LB 480	Tuesday, February 5, 1991	1:30 p.m.
LB 746	Tuesday, February 5, 1991	1:30 p.m.

(Signed) D. Paul Hartnett, Chairperson

Education

LB 52	Tuesday, February 5, 1991	1:30 p.m.
LB 214	Tuesday, February 5, 1991	1:30 p.m.
LB 293	Tuesday, February 5, 1991	1:30 p.m.

(Signed) Ron Withem, Chairperson

Natural Resources

Governor Appointment Gloria J. Erickson - Game and Parks Commission	Wednesday, February 6, 1991	1:30 p.m.
LB 339	Wednesday, February 6, 1991	1:30 p.m.
LB 340	Wednesday, February 6, 1991	1:30 p.m.
LB 341	Wednesday, February 6, 1991	1:30 p.m.
LB 342	Wednesday, February 6, 1991	1:30 p.m.
LB 402	Wednesday, February 6, 1991	1:30 p.m.
LB 483	Wednesday, February 6, 1991	1:30 p.m.
LB 497	Thursday, February 7, 1991	1:30 p.m.
LB 500	Thursday, February 7, 1991	1:30 p.m.
LB 669	Thursday, February 7, 1991	1:30 p.m.
LB 697	Thursday, February 7, 1991	1:30 p.m.
LB 409	Friday, February 8, 1991	1:30 p.m.
LB 781	Friday, February 8, 1991	1:30 p.m.
LB 631	Friday, February 8, 1991	1:30 p.m.
LB 660	Friday, February 8, 1991	1:30 p.m.

(Signed) Rod Johnson, Chairperson

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 840. Introduced by Baack, 47, Hartnett, 45, at the request of the Governor.

A BILL FOR AN ACT relating to cities and villages; to amend section 13-315, Reissue Revised Statutes of Nebraska, 1943; to adopt the Local Option Municipal Economic Development Act; to harmonize a provision; and to repeal the original section.

UNANIMOUS CONSENT - Add Co-Introducers

Mr. Lynch asked unanimous consent to have his name added as co-introducer to LB 75. No objections. So ordered.

Mrs. Pirsch asked unanimous consent to have her name added as co-introducer to LB 197. No objections. So ordered.

VISITORS

Visitors to the Chamber were Glen Kroese from Firth; Ron Cacek from Scottsbluff, Jim Olson from Oshkosh, Allen Peterson from Lewellen, and Bud Morse from Mitchell; Wilbur and Charlotte Nelson from Minden; Larry and Joan Burk from Elwood and Scott Davis from Bertrand; Ray Winz from Holdrege; and Ted Hoffman from Chadron and Jackie Herren from Harrison.

The Doctor of the Day was Dr. Edward Holyoke, Jr. from Omaha.

ADJOURNMENT

At 11:16 a.m., on a motion by Mrs. Pirsch, the Legislature adjourned until 9:00 a.m., Wednesday, January 30, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

FIFTEENTH DAY - JANUARY 30, 1991

LEGISLATIVE JOURNAL

FIFTEENTH DAY - JANUARY 30, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

FIFTEENTH DAY

Legislative Chamber, Lincoln, Nebraska
Wednesday, January 30, 1991

Pursuant to adjournment, the Legislature met at 9:02 a.m., President Moul presiding.

PRAYER

The prayer was offered by Rev. Harland Johnson, Chaplain Coordinator.

ROLL CALL

The roll was called and all members were present except Messrs. Abboud, Ashford, Bernard-Stevens, Beutler, Conway, Hartnett, R. Johnson, Landis, Lynch, Rogers, Schmit, Warner, Wesely, Will, Mmes. Pirsch, Smith, and Ms. Schimek who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Fourteenth Day was approved.

SELECT COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 82. Placed on Select File as amended.
E & R amendment to LB 82:
AM5006
1. On page 1, line 8, after the second semicolon insert "to provide an operative date;".

LEGISLATIVE BILL 240. Placed on Select File as amended.
E & R amendment to LB 240:
AM5007

1. On page 4, line 23; and page 6, line 21, strike "thereto" and insert "to".

LEGISLATIVE BILL 255. Placed on Select File.
LEGISLATIVE BILL 57. Placed on Select File.

LEGISLATIVE BILL 58. Placed on Select File as amended.
E & R amendment to LB 58:
AM5008

1. On page 12, line 14, strike "agency's", show as stricken, and insert "agency on aging's".
2. On page 14, line 3, after the last comma insert "any individual".
3. On page 16, line 16, after "agencies" insert "on aging".
4. On page 17, line 18, after "agency" insert "on aging".
5. On page 20, line 23, strike the comma and show as stricken.
6. On page 23, line 11, strike "officers" and insert "officer".

LEGISLATIVE BILL 23. Placed on Select File.
LEGISLATIVE BILL 95. Placed on Select File.

Correctly Engrossed

The following bills were correctly engrossed: 15, 43, 61, 77, 97, and 98.

(Signed) Eric Will, Chairperson

STANDING COMMITTEE REPORT
Education

LEGISLATIVE BILL 209. Placed on General File.

(Signed) Ron Withem, Chairperson

NOTICE OF COMMITTEE HEARING
Revenue

LB 404	Wednesday, February 6, 1991	1:30 p.m.
LB 320	Wednesday, February 6, 1991	1:30 p.m.
LB 168	Wednesday, February 6, 1991	1:30 p.m.
LB 524	Wednesday, February 6, 1991	1:30 p.m.

(Signed) Tim Hall, Chairperson

UNANIMOUS CONSENT - Print in Journal

Mr. Withem asked unanimous consent to print the following amendment to LB 25 in the Journal. No objections. So ordered.

AM0052

1. Insert the following new section:

"Section 1. That section 25-12,112, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

25-12,112. If any business, institution, member of a profession or calling, or any department or agency of government, in the regular course of business or activity has kept or recorded any memorandum, writing, entry, print, representation, or combination thereof, of any act, transaction, occurrence, or event, and in the regular course of business has caused any or all of the same to be recorded, copied, or reproduced by any photographic, photostatic, optical imagery, microfilm, microcard, miniature photographic, or other process which accurately reproduces or forms a durable medium for so reproducing the original, the original may be destroyed in the regular course of business unless held in a custodial or fiduciary capacity or unless its preservation is required by law~~; PROVIDED, that~~ and, with respect to agencies or departments of government, if the State Records Administrator ~~must approve~~ approves such destruction. ~~by any agency or department of government.~~ Such reproduction, when satisfactorily identified, is as admissible in evidence as the original itself in any judicial or administrative proceeding whether the original is in existence or not and an enlargement or facsimile of such reproduction is likewise admissible in evidence if the original reproduction is in existence and available for inspection under direction of the court. The

introduction of a reproduced record, enlargement, or facsimile, does not preclude admission of the original.".

2. On page 6, line 1, strike "84-1202" and insert "25-12,112, 84-1202,".

3. Renumber the remaining sections accordingly.

ATTORNEY GENERAL'S OPINIONS

Opinion No. 91006

DATE: January 28, 1991

SUBJECT: Sales and Use Tax - Amendment of Neb.Rev.Stat. §77-2702(15)(b) (Reissue 1990) to Exclude Amounts of Manufacturer's Rebates and Incentives from the Definition of "Sales Price".

REQUESTED BY: Senator Chris Beutler
Nebraska State Legislature

WRITTEN BY: Don Stenberg, Attorney General
L. Jay Bartel, Assistant Attorney General

You have requested our opinion on the need for legislation to permit deduction of the amount of manufacturer's rebates or incentives from the basis upon which sales and use tax is computed. Specifically, your request refers to a situation in which an individual purchased a new car with a list price of $21,000. The purchaser received $4000 credit for trading in another vehicle, thus reducing the price of the vehicle to $17,000. In addition, the transaction involved a manufacturer's rebate of $1000 and a manufacturer's special incentive of $400, which effectively reduced the buyer's actual cost of purchase to $15,600. The amount of sales tax due on the transaction, however, was computed on the basis of the list price minus trade-in value {$17,000}, without any reduction based on the amounts of the manufacturer's rebate and special incentive. Your question concerns whether this is the proper interpretation of the basis for calculating the amount of sales tax due for a transaction of this nature under current Nebraska law, and, if so, whether the draft legislation you have provided for our review would effectively change this result to permit a deduction from the basis for computing sales

tax on such purchases by excluding the amount of manufacturer's rebates and incentives.

A sales tax is imposed "upon the gross receipts from all sales of tangible personal property sold at retail in this state. . . ." Neb.Rev.Stat. §77-2703(1) (Reissue 1990). A corresponding use tax is imposed "for storage, use, or other consumption in this state of tangible personal property . . . on the sales price of the property. . . ." Neb.Rev.Stat. §77-2703(2) (Reissue 1990).

"Gross receipts" is defined as "the total amount of the sale or lease or rental price . . . of the retail sales of retailers valued in money whether received in money or otherwise, without any deduction . . ." for the following: (1) "The cost of tangible personal property sold"; (2) "The cost of the materials used, labor or service costs, interest paid, losses, or any other expense"; (3) "The cost of transportation of the tangible personal property prior to its sale to the purchaser"; (4) "The amount of any excise or property tax levied against the tangible personal property. . ."; or (5) "The amount charged for warranties, guarantees, or maintenance agreements". Neb.Rev.Stat. §77-2702(4)(a) (Reissue 1990). The following are specifically excluded from the definition of gross receipts: (1) "Cash discounts allowed and taken on sales"; (2) "Sales price of tangible personal property returned by customers when the full sales price is refunded either in cash or credit"; (3) "{T}he amount charged for labor or services rendered in installing or applying the tangible personal property sold if such amount is separately stated. . ."; (4) "The amount charged for finance, carrying charges, service charges, or interest from credit extended on sales of tangible personal property. . ."; (5) "The value of tangible personal property taken by a seller in trade as all or part of the consideration for a sale of tangible personal property of any kind or nature"; (6) "The value of a motor vehicle taken by any person in trade as all or a part of the consideration for a sale of another motor vehicle"; or (7) "Receipts from conditional sale contracts, installment sale contracts, rentals, and leases executed in writing prior to June 1, 1967, ..." Neb.Rev.Stat. §77-2702(4)(d)(i)-(viii) (Reissue 1990).

"Sales price" is defined as "the total amount for which tangible personal property is sold valued in money whether paid in money or otherwise, without any deduction. . ." for the following: (1) "The cost of the tangible personal property sold"; (2) "The cost of material used, labor or service costs, interest paid, losses, or any other expenses"; (3) The cost of certain transportation of the property; (4) "The cost of computer software contained on the tangible personal property"; or (5) "The cost of any license, franchise, or lease for the use of computer software or entertainment property such as

videotapes or movie films. . . ." Neb.Rev.Stat. §77-2702(15)(a) (Reissue 1990). The following are specifically excluded from the definition of "sales price": (1) "Cash discounts allowed and taken on sales"; (2) "The amount refunded for tangible personal property returned by customers when all or part of the amount charged therefore is refunded either in cash or credit"; (3) "The amount charged for labor or services rendered in installing and applying the property sold if such amount is separately stated. . . "; (4) "The amount charged for finance charges, carrying charges, service charges, or interest from credit extended on sales of tangible personal property. . ."; (5) "The value of tangible personal property taken by a seller in trade as all or a part of the consideration for a sale of tangible personal property of any kind or nature"; (6) "The value of a motor vehicle taken by any person in trade as all or part of the consideration for a sale of another motor vehicle"; or (7) "The amount charged for labor or services rendered in incorporating tangible personal property into real estate". Neb.Rev.Stat. §77-2702(15)(b)(i)-(vii) (Reissue 1990). With respect to sales of motor vehicles, the tax imposed "shall be computed on the difference between the total sales price and the allowance for any trade-in. . . ." Neb.Rev.Stat. §77-2703(1)(j) (Reissue 1990).

In 1975, the Nebraska Department of Revenue issued a ruling relating to the effect of manufacturer's rebates associated with purchases of tangible personal property on sales and use tax liability. The ruling addressed the question of "whether consumers who have paid sales or use tax upon the total retail price and who later receive a cash rebate directly from a manufacturer would be entitled to a sales or use tax refund based on the amount of the manufacturer's rebate." Nebraska Department of Revenue Ruling 1-75-9, May 30, 1975. The Department concluded no refund was allowable under these circumstances, stating "the retail price remains at the amount agreed upon at the time of the sale, and this is the amount upon which the sales or use tax must be computed." Id. In addition, the Department has promulgated a regulation which addresses the effect of manufacturer's rebates on the basis for computing sales and use tax on retail transactions involving motor vehicles. Reg. 1-020.08 provides:

> A rebate received from a manufacturer does not reduce the sales and use tax base. Rebates are received after the sales transaction is finalized between the dealer and the consumer and does not affect the amount received by the dealer from the sale. The retail price remains at the amount agreed upon at the time of the sale which is the amount upon which the tax must be collected.

It is well established that "the interpretation of a statute given by an administrative agency to which the statute is directed is entitled to weight." Vulcraft v. Karnes, 229 Neb. 676, 678, 428 N.W.2d 505, 507 (1988); ATS Mobile Tel., Inc. v. Curtin Call Communications, Inc., 194 Neb. 404, 232 N.W.2d 248 (1975). While construction of a statute by an administrative agency charged with enforcing it is not controlling, considerable weight will be given to such construction, particularly when the Legislature has not acted to change the agency's interpretation. McCaul v. American Savings Co., 213 Neb. 841, 331 N.W.2d 795 (1983).

Even if the Department had not, by administrative construction, set forth its position that manufacturer's rebates are not excludible from the basis upon which sales or use tax liability is determined, we would concur with this interpretation based on the plain language of the pertinent statutes. The sales tax imposed pursuant to §77-2703(1) is, as previously noted, based on the "gross receipts" from sales at retail of tangible personal property. The definition of "gross receipts" excludes consideration of amounts attributable to various factors, including, inter alia, cash discounts and the value of trade-ins, including value attributable to motor vehicles traded in upon the sale of motor vehicles. Neb.Rev.Stat. §77-2702(4)(d)(i), (v), and (vi). The use tax imposed pursuant to §77-2703(2) is based on the "sales price" of purchases of tangible personal property stored, used, or consumed in the state. The definition of "sales price" mirrors, in large part, the definition of "gross receipts," and excludes, inter alia, cash discounts and the value of trade-ins, including value based upon trade-ins when motor vehicles are purchased. Neb.Rev.Stat. §77-2702(15)(b)(i), (v) and (vi). The basis for computation of sales tax liability on purchases of motor vehicles is, as noted previously, the "sales price" of the vehicle, less "allowance for any trade-in. . . ." Neb.Rev.Stat. §77-2703(1)(j).

In view of the language contained in these statutory provisions, we believe that amounts attributable to manufacturer's rebates may not be deducted from the amount of "gross receipts" or the "sales price" of tangible personal property for purposes of computing the basis for sales or use tax liability. The definitions of "gross receipts" or "sales price," while delineating numerous specific exclusions, do not provide for any deduction or exclusion for amounts related to manufacturer's rebates in connection with retail sales or purchases of tangible personal property. Absent any specific declaration of legislative intent to eliminate such amounts from the statutory definitions establishing the basis upon which sales or use tax is imposed, we cannot conclude that, under existing law, such rebates

can be utilized to reduce the amount by which sales or use tax liability must be calculated.[1]

While the Nebraska courts have not addressed an issue of this nature, the Supreme Court of Illinois dealt with a similar question in Keystone Chevrolet Co. v. Kirk, 69 Ill. 2d 483, 372 N.E.2d 651 (1978) {"Keystone"}. Keystone involved application of the Illinois Retailers' Occupation Tax to transactions involving sales of motor vehicles where purchasers were eligible to receive manufacturer's rebates. The Illinois tax was imposed upon the gross receipts from sales of tangible personal property at retail, which was defined as "the total selling price." Id. at 487, 372 N.E.2d at 653. "Selling price." in turn, was defined as "the consideration for a sale valued in money whether received in money or otherwise. . . ." Id. The court, rejecting the contention that the amount of rebates paid by the manufacturer to automobile purchasers should be deducted from the sales price in determining the amount of tax due, stated:

> We find nothing in the Act or regulations . . . permitting a seller to deduct from his gross receipts an amount paid by a third party directly to the purchaser even though the purpose of the payment is to reimburse the purchaser for a part of the purchase price. The gross receipts of the seller remain the same whether or not a rebate is paid by someone not directly involved in the retail sale.

Id.

The court also dismissed the plaintiff's argument that the tax due should be based upon the sales price less the value of the manufacturer's rebate, as, from the purchaser's standpoint, the cost of the motor vehicle did not include the amount of the rebate. In this regard, the court stated:

> This argument . . . ignores the taxation scheme provided in the Act. It is the retailer who is taxed, not the purchaser, and the retailer has the legal obligation to pay the tax whether or not he collects it from the purchaser. While the manufacturer's rebate is unquestionably offered as an inducement to a purchaser to buy a car, it neither changes the character of the transaction between seller and purchaser nor affects the liability of the retailer to pay a tax computed on the basis of the amount received by him.

Id. at 488, 372 N.E.2d at 653.

We find the rationale of the Illinois Supreme Court compelling, and, in view of the similarities between the Nebraska sales and use tax provisions and the Illinois tax statutes construed in Keystone, we believe this decision provides further support for the conclusion that manufacturer's rebates may not be excluded from the basis for determining Nebraska sales or use tax. In Illinois, the tax was

imposed on the "gross receipts" from retail sales of tangible personal property, based upon the "selling price" of the property. Id. at 487, 372 N.E.2d at 653. The court, as noted, concluded the rebate amounts were not excludible from the basis upon which the tax was to be computed, as such amounts did not affect the "gross receipts" of the seller. Similarly, under Nebraska law, the definition of "gross receipts" (utilized in computing sales tax due on retail sales of tangible personal property), and the definition of "sales price" (utilized in computing use tax due on the storage, use, or other consumption of tangible personal property purchased at retail, or the amount of sales tax due on retail purchases of motor vehicles), provide no exception which would allow exclusion of amounts received by purchasers or sellers in the nature of manufacturer's rebates, as the amount of "gross receipts" or the "sales price" is not affected by rebates paid by a third party not directly involved in the retail sale. Accordingly, it is our opinion that manufacturer's rebates are not presently excludible from the basis established for the imposition of Nebraska sales and use tax.

Having concluded that legislation is necessary to permit the taxable basis for transactions subject to sales or use tax to be reduced by the amount of manufacturer's rebates or incentives, we wish to address a few comments with respect to the specific legislative proposal you have provided to accomplish this result. First, we note that, while your proposed amendment to the definition of "sales price" to include a reduction for rebates or incentives would alter the basis upon which sales tax is computed on purchases of motor vehicles, it would also alter the basis for calculating use tax liability on all purchases of tangible personal property subject to use tax where rebates or incentives are involved. Thus, if it is your intent to limit the allowance of a reduction in taxable basis to transactions involving the sale of motor vehicles, the bill provided for our review would not accomplish this result. In fact, a bill recently introduced this session addresses this concern by limiting the amendment of the definition of "sales price" to allow an exclusion for rebates "granted by a motor vehicle manufacturer or dealer at the time of sale of the motor vehicle. . . ." LB 300, §1.

Second, absent a corresponding amendment to the definition of "gross receipts," we point out that the amendment you propose would create a situation in which an exclusion from taxable basis would be provided for sales of motor vehicles and purchases of tangible personal property subject to use tax, without providing a corresponding exclusion from the taxable basis of retail sales of tangible personal property subject to sales tax. The use tax is a correlative of, and is complementary to, the sales tax, although there

is no requirement that the taxation of transactions for use tax purposes be identical to the taxation of transactions subject to sales tax. Nevertheless, we believe it is appropriate to note this fact to advise you of the difference in treatment of transactions for sales and use tax purposes under your proposed legislation. If the Legislature were to enact legislation limiting the exclusion to rebates granted on sales of motor vehicles, such as provided under LB 300, this discrepancy would be eliminated.

[1] In addition to rebates, your proposed legislation also includes reference to "dealer incentives". Due to the varying types of dealer incentive programs offered, we cannot reach a general conclusion as to the effect of such incentives on the determination of taxable basis for sales or use tax under current law. Our opinion is therefore limited to the subject of manufacturer's rebates.

Very truly yours,
DON STENBERG
Attorney General
(Signed) L. Jay Bartel
Assistant Attorney General

7-500-2
cc: Patrick J. O'Donnell
Clerk of the Legislature

Opinion No. 91007

DATE: January 28, 1991

SUBJECT: County Agricultural Societies and the Public Meetings and Public Records Statutes

REQUESTED BY: Senator Douglas Kristensen
Nebraska State Legislature

WRITTEN BY: Don Stenberg, Attorney General
Dale Comer, Assistant Attorney General

You have requested our opinion on a number of questions concerning county agricultural societies. Specifically, you wish to know if those organizations are subject to the public meetings and public records statutes. You also have additional questions regarding audits of agricultural societies, their tax levying procedures, and their

governance. Our responses to your various questions are set out below.

This office has specific enforcement responsibilities with respect to both our public records statutes, Neb.Rev.Stat. §84-712 et seq. (Reissue 1987), and our public meetings statutes, Neb.Rev.Stat. §84-1401 et seq. (Reissue 1987). Consequently, we can respond to your inquiries regarding those statutes as we would to the inquiries of any citizen. We believe that county agricultural societies are subject to both the public records and the public meetings statutes.

In Nixon v. Madison County Agricultural Society, 217 Neb. 37, 39, 348 N.W.2d 119, 120 (1984), our supreme court specifically held that ". . . a county agricultural society is a public body subject to the provisions of the public meetings law." The court appeared to base this holding on the fact that agricultural societies are organized pursuant to statute, and the fact that they have the authority to obtain the proceeds of a tax levied by the county board. The court stated:

> Although a county agricultural society resembles a private corporation in some respects, the statutory provisions which grant such a society the right to receive support from the public revenue give it a public character.

217 Neb. at 39, 348 N.W.2d at 119. As a result, county agricultural societies are clearly subject to the public meetings statutes.

While there is no case directly on point, we also believe that county agricultural societies are subject to the public records statutes. Neb.Rev.Stat. §84-712.01 makes records public which belong to ". . . this state, any county, city, village, political subdivision, or tax-supported district in this state, or any agency, branch, department, board, bureau, commission, council, subunit, or committee of any of the foregoing." Moreover, under §84-712.01(2), the public records statutes must be liberally construed when fiscal records are involved so that ". . . the citizens of this state shall have full rights to know of, and have full access to information on the public finances of the government and the public bodies and entities created to serve them." Given the fact that county agricultural societies have taxing authority, and given the public character of those societies as noted by our supreme court, we believe that county agricultural societies are also subject to our public records statutes.

Your remaining questions involve audits of agricultural societies, their taxing authority and their governance. In our Opinion No. 157 to Senator Beutler, dated December 20, 1985, we pointed out that it has been our policy to respond to opinion requests from state legislators only with respect to pending or proposed legislation. We have not responded generally to individual legislators concerning

constituent requests for legal interpretations or requests involving existing statutes. This policy is based, in part, on the role of the Legislature, and, in part, upon practical concerns such as the fact that we might be called upon to defend the constitutionality of an existing statute. In any event, you have not presented us with any proposed legislation concerning your remaining opinion requests, and you have asked us to interpret particular existing statutes. Therefore, we must respectfully decline to respond to those questions. We will, of course, be happy to respond to questions involving proposed legislation in this area. You might also wish to review our existing opinions concerning agricultural societies which may deal with some of the questions you have raised. E.g., Opinion of the Attorney General No. 219, July 23, 1984; 1979-1980 Report of the Attorney General, No. 98 at 140 and No. 201 at 288; 1977-1978 Report of the Attorney General, No. 86 at 131.

Sincerely yours,
DON STENBERG
Attorney General
(Signed) Dale A. Comer
Assistant Attorney General

5-207-2
cc: Patrick J. O'Donnell
Clerk of the Legislature

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the attached report on the rereferral of legislative bills 407, 540, 590, 666, legislative resolution 10, and the referral of legislative bill 840 and legislative resolution 23.

LB	Committee
407	Judiciary
540	Health and Human Services
590	Transportation
666	Health and Human Services
840	Urban Affairs

LR	Committee
10	Government, Military and Veterans Affairs
23	Government, Military and Veterans Affairs

(Signed) Jerome Warner, Chairperson

Legislative Council
Executive Board

MOTION - Withdraw LB 362

Mrs. Robak renewed her pending motion, found in the Journal on page 439, to withdraw LB 362.

The motion prevailed with 26 ayes, 0 nays, 5 present and not voting, and 18 excused and not voting.

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following resolution: LR 22.

SELECT FILE

LEGISLATIVE BILL 59. E & R amendment, AM5005, found in the Journal on page 431, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 63. Advanced to E & R for engrossment.
LEGISLATIVE BILL 94. Advanced to E & R for engrossment.

GENERAL FILE

LEGISLATIVE BILL 135. Title read. Considered.

Mr. Chambers offered the following amendment:
FA4
P. 6 line 12 Strike "or attempts to penetrate"

The Chambers amendment was adopted with 27 ayes, 0 nays, 10 present and not voting, and 12 excused and not voting.

Advanced to E & R for review with 32 ayes, 0 nays, 8 present and not voting, and 9 excused and not voting.

LEGISLATIVE BILL 147. Title read. Considered.

Mrs. Nelson offered the following amendment:
FA5

Sec. 1. Place period after line 7, her duties. eliminate new language (prior to Jan. 1 '94, and forty dollars for each such day after such date.)

The Nelson amendment lost with 13 ayes, 14 nays, 15 present and not voting, and 7 excused and not voting.

Mr. Cudaback offered the following amendment:
FA6
to strike forty dollars and insert "thirty five" dollars on page 2 line 8 of LB 147

Mr. Cudaback moved for a call of the house. The motion prevailed with 22 ayes, 0 nays, and 27 not voting.

Mr. Cudaback requested a roll call vote on his amendment.

Voting in the affirmative, 25:

Ashford	Haberman	Johnson, R.	Nelson	Schrock
Beutler	Hefner	Landis	Peterson	Smith
Byars	Hillman	Lindsay	Rasmussen	Wickersham
Cudaback	Horgan	Lynch	Robinson	Will
Dierks	Johnson, L.	Moore	Schellpeper	Withem

Voting in the negative, 18:

Baack	Chambers	Crosby	Lamb	Schmit
Bernard-Stevens	Chizek	Elmer	Morrissey	Warner
	Conway	Hall	Robak	Wehrbein
Beyer	Coordsen	Kristensen	Schimek	

Present and not voting, 1:

Labedz

Excused and not voting, 5:

Abboud	Hartnett	Pirsch	Rogers	Wesely

The Cudaback amendment was adopted with 25 ayes, 18 nays, 1 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Advanced to E & R for review with 31 ayes, 8 nays, 5 present and not voting, and 5 excused and not voting.

Mr. Schmit asked unanimous consent to be excused until he returns. No objections. So ordered.

SELECT COMMITTEE REPORT
Enrollment and Review

LEGISLATIVE BILL 125. Placed on Select File as amended.
E & R amendment to LB 125:
AM5009

1. Strike original section 1 and all amendments thereto and insert the following new section:

"Section 1. (1) Except as provided in subsection (2) of this section, any person who is prosecuted under any statute or ordinance which has a criminal penalty and which is found to be unconstitutional as applied to the person by a final order may apply to the Supreme Court for all reasonable and actual costs of defending himself or herself, including attorney's fees, in any court and before any administrative body in proceedings related to such prosecution. The Supreme Court shall determine an amount, if any, to be awarded under this section and shall enter an order for the amount, if any, against the state if a statute was found unconstitutional or against the governing body which enacted the ordinance if an ordinance was found unconstitutional. The costs awarded shall be collected in the same manner as a judgment against the state or governing body.

(2) Subsection (1) of this section shall not apply in cases when the governing body enacting the ordinance has been required to do so in compliance with state or federal law.

(3) This section shall only apply to cases in which the statute or ordinance is found unconstitutional after the effective date of this act.".

2. On page 1, line 3, strike the comma and insert "or"; and in line 4 strike beginning with the first comma through "regulation".

(Signed) Eric Will, Chairperson

NOTICE OF COMMITTEE HEARINGS
Judiciary

LB 185	Wednesday, February 6, 1991	1:30 p.m.
LB 191	Wednesday, February 6, 1991	1:30 p.m.
LB 213	Wednesday, February 6, 1991	1:30 p.m.
LB 251	Wednesday, February 6, 1991	1:30 p.m.
LB 324	Wednesday, February 6, 1991	1:30 p.m.
LB 477	Wednesday, February 6, 1991	1:30 p.m.

(Signed) Jerry Chizek, Chairperson

Government, Military and Veterans Affairs

LB 575	Wednesday, February 6, 1991	1:30 p.m.
LB 115	Wednesday, February 6, 1991	1:30 p.m.
LB 192	Wednesday, February 6, 1991	1:30 p.m.
LB 182	Wednesday, February 6, 1991	1:30 p.m.
LB 424	Wednesday, February 6, 1991	1:30 p.m.
LB 466	Wednesday, February 6, 1991	1:30 p.m.
LB 648	Wednesday, February 6, 1991	1:30 p.m.

(Signed) Gerald Conway, Chairperson

MOTION - Withdraw LB 304

Mr. Schellpeper moved to withdraw LB 304.

Laid over.

STANDING COMMITTEE REPORTS
Transportation

LEGISLATIVE BILL 258. Placed on General File.

LEGISLATIVE BILL 47. Placed on General File as amended. (Standing Committee amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM0066.)

(Signed) Doug Kristensen, Chairperson

Education

LEGISLATIVE BILL 119. Placed on General File.

(Signed) Ron Withem, Chairperson

GENERAL FILE

LEGISLATIVE BILL 37. Title read. Considered.

Standing Committee amendment, AM0020, found in the Journal on page 412, was adopted with 32 ayes, 0 nays, 12 present and not voting, and 5 excused and not voting.

Mrs. Crosby, Messrs. Peterson, Hefner, Horgan, and Morrissey asked unanimous consent to be excused until they return. No objections. So ordered.

SPEAKER BAACK PRESIDING

Advanced to E & R for review with 25 ayes, 0 nays, 15 present and not voting, and 9 excused and not voting.

Mr. Haberman asked unanimous consent to be excused. No objections. So ordered.

LEGISLATIVE BILL 17. Title read. Considered.

Standing Committee amendment, AM0030, found in the Journal on page 421, was adopted with 25 ayes, 0 nays, 14 present and not voting, and 10 excused and not voting.

PRESIDENT MOUL PRESIDING

Mr. Dierks asked unanimous consent to be excused until he returns. No objections. So ordered.

SPEAKER BAACK PRESIDING

Messrs. Moore, Cudaback, and Ashford asked unanimous consent to be excused until they return. No objections. So ordered.

Pending.

STANDING COMMITTEE REPORTS
Natural Resources

LEGISLATIVE BILL 174. Placed on General File as amended.
Standing Committee amendment to LB 174:
AM0047

1. On page 2, strike beginning with "(1)" in line 4 through line 12 and insert "is disabled as a result of service in the armed forces of the United States as determined by the United States Department of Veterans Affairs.".

(Signed) Rod Johnson, Chairperson

Transportation

LEGISLATIVE BILL 171. Placed on General File as amended.
Standing Committee amendment to LB 171:
AM0086

1. On page 4, strike beginning with "designates" in line 9 through "covered" in line 10 and insert "covers the fleet of motor vehicles owned by the applicant or licensee in the ordinary course of business"; in line 12 after "the" insert "insurance requirements of the"; strike beginning with "or" in line 13 through "act" in line 14; and in line 20 after "if" insert ", after December 31, 1991,".

(Signed) Doug Kristensen, Chairperson

ANNOUNCEMENT

Mrs. Smith announced the General Affairs Committee will meet in Executive Session Thursday morning, January 31, 1991, at 9:15 a.m. under the north balcony in the Chamber.

NOTICE OF COMMITTEE HEARINGS
Health and Human Services

LB 433	Wednesday, February 6, 1991	1:30 p.m.
LB 431	Wednesday, February 6, 1991	1:30 p.m.
LB 445	Wednesday, February 6, 1991	1:30 p.m.
LB 675	Wednesday, February 6, 1991	1:30 p.m.
LB 724	Wednesday, February 6, 1991	1:30 p.m.

LB 677	Thursday, February 7, 1991	1:30 p.m.
LB 265	Thursday, February 7, 1991	1:30 p.m.
LB 696	Thursday, February 7, 1991	1:30 p.m.
LB 287	Thursday, February 7, 1991	1:30 p.m.
LB 702	Thursday, February 7, 1991	1:30 p.m.
LB 703	Thursday, February 7, 1991	1:30 p.m.

(Signed) Don Wesely, Chairperson

Government, Military and Veterans Affairs

Governor Appointment Thursday, February 7, 1991 1:30 p.m.
Colonel Harold LeGrande - Crime Victims Reparation Committee

LB 597	Thursday, February 7, 1991	1:30 p.m.
LB 632	Thursday, February 7, 1991	1:30 p.m.
LB 511	Thursday, February 7, 1991	1:30 p.m.
LB 601	Thursday, February 7, 1991	1:30 p.m.
LB 731	Thursday, February 7, 1991	1:30 p.m.
LB 542	Thursday, February 7, 1991	1:30 p.m.

Governor Appointment Friday, February 8, 1991 1:30 p.m.
Phyllis H. Lainson - Crime Victims Reparation Committee

LB 720	Friday, February 8, 1991	1:30 p.m.
LB 741	Friday, February 8, 1991	1:30 p.m.
LB 635	Friday, February 8, 1991	1:30 p.m.
LB 27	Friday, February 8, 1991	1:30 p.m.
LB 508	Friday, February 8, 1991	1:30 p.m.
LB 458	Friday, February 8, 1991	1:30 p.m.

(Signed) Gerald Conway, Chairperson

MOTION - Election Contest

Mr. Warner moved that the Executive Board, which was appointed by the Legislature to consider the election contest of the 30th Legislative District, having heard the contest on January 26, 1991, pursuant to the provisions of 32-1001.21, be permitted additional time to allow the committee to fully and thoroughly consider the issues submitted to it by the contestants.

Laid over.

COMMUNICATIONS

January 30, 1991

Mr. J. L. Spray
Attorney at Law
Mattson, Ricketts, Davies,
Stewart & Calkins
1401 FirsTier Bank Bldg.
Lincoln, NE 68508

Dear Mr. Spray:

Pursuant to Executive Board action, we would request that you provide legal briefs to the committee regarding the following five issues.

1. Does absentee voting constitute a "right" or a "privilege", and what are the legal implications of that determination in the case now before the Legislature?
2. If the Legislature were to determine that the use of initials alone does not meet the requirements of Section 32-835(2), would that determination amount to a "hinderance or impediment" as that phrase is used in Article I, Section 22 of the Nebraska Constitution?
3. Define the terms "name in full" and "signature" as embodied in Section 32-835(2), R.R.S. Neb. 1943, applying, first, a strict construction and, second, a liberal construction to each term.
4. Does an absentee voter have a duty to know the provisions of election laws as they relate to the requirements for absentee ballots even if the voting instructions included with the absentee ballots and submitted to the voter by the Gage County election officials are deficient or incomplete?
5. From a public policy standpoint:
   A. Mr. Spray, does the Legislature have an obligation to follow a strict construction of the election statutes as well as the weight of authority under Nebraska Supreme Court cases, and, if not, why not?
   B. Mr. Thompson, tell us why, in this instance, readily apparent and agreed to voter intent should not prevail?

Please note that opposing counsel has been asked a different question #5. We do not intend for you to brief the issue presented to Mr. Thompson. We only wanted to inform you of the question posed to opposing counsel.

These briefs should not exceed 50 pages in length, double-spaced, except for lengthy quotes indented. I believe that this is consistent with Nebraska Supreme Court guidelines as relates to the preparation of briefs.

Given the interest in resolving this matter as soon as possible, we would ask that briefs be submitted to the Clerk of the Legislature's Office no later than 5:00 p.m. on Thursday, February 7, 1991. There will be no opportunity for reply briefs as time is very important.

Please contact me should you have any questions.

Sincerely,
(Signed) Senator Jerome Warner
Chairperson
Executive Board

January 30, 1991

Mr. Gary Thompson
Attorney at Law
118 So. 5th Street
P. O. Box 21
Beatrice, NE 68310

Dear Mr. Thompson:

Pursuant to Executive Board action, we would request that you provide legal briefs to the committee regarding the following five issues.

1. Does absentee voting constitute a "right" or a "privilege", and what are the legal implications of that determination in the case now before the Legislature?
2. If the Legislature were to determine that the use of initials alone does not meet the requirements of Section 32-835(2), would that determination amount to a "hinderance or impediment" as that phrase is used in Article I, Section 22 of the Nebraska Constitution?
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4. Does an absentee voter have a duty to know the provisions of election laws as they relate to the requirements for absentee ballots even if the voting instructions included with the absentee ballots and submitted to the voter by the Gage County election officials are deficient or incomplete?

5. From a public policy standpoint:
   A. Mr. Spray, does the Legislature have an obligation to follow a strict construction of the election statutes as well as the weight of authority under Nebraska Supreme Court cases, and, if not, why not?
   B. Mr. Thompson, tell us why, in this instance, readily apparent and agreed to voter intent should not prevail?

Please note that opposing counsel has been asked a different question #5. We do not intend for you to brief the issue presented to Mr. Spray. We only wanted to inform you of the question posed to opposing counsel.

These briefs should not exceed 50 pages in length, double-spaced, except for lengthy quotes indented. I believe that this is consistent with Nebraska Supreme Court guidelines as relates to the preparation of briefs.

Given the interest in resolving this matter as soon as possible, we would ask that briefs be submitted to the Clerk of the Legislature's Office no later than 5:00 p.m. on Thursday, February 7, 1991. There will be no opportunity for reply briefs as time is very important.

Please contact me should you have any questions.

Sincerely,
(Signed) Senator Jerome Warner
Chairperson
Executive Board

UNANIMOUS CONSENT - Add Co-Introducers

Mr. Schellpeper asked unanimous consent to have his name added as co-introducer to LB 113. No objections. So ordered.

Mr. Lynch asked unanimous consent to have his name added as co-introducer to LB 332. No objections. So ordered.

Mr. Wehrbein asked unanimous consent to have his name added as co-introducer to LB 91. No objections. So ordered.

VISITORS

Visitor to the Chamber was Gail Handleman from Omaha.

The Doctor of the Day was Dr. H. R. Walker from Kearney.

ADJOURNMENT

At 11:59 a.m., on a motion by Mr. Withem, the Legislature adjourned until 9:00 a.m., Thursday, January 31, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

SIXTEENTH DAY - JANUARY 31, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

SIXTEENTH DAY

Legislative Chamber, Lincoln, Nebraska
Thursday, January 31, 1991

Pursuant to adjournment, the Legislature met at 9:03 a.m., President Moul presiding.

PRAYER

The prayer was offered by Pastor Mel Luetchens, Executive Director, Nebraska Interchurch Ministries, Lincoln, Nebraska.

ROLL CALL

The roll was called and all members were present except Mmes. Pirsch and Robak who were excused; and Messrs. Abboud, Ashford, Bernard-Stevens, Beutler, Chambers, Chizek, Conway, Dierks, Haberman, Hall, Hartnett, R. Johnson, Lamb, Landis, Lindsay, Schmit, Schrock, Withem, Mrs. Nelson, and Ms. Schimek who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Fifteenth Day was approved.

STANDING COMMITTEE REPORT
Agriculture

LEGISLATIVE BILL 142. Placed on General File.

(Signed) Carson Rogers, Chairperson

SELECT COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 135. Placed on Select File as amended.
E & R amendment to LB 135:
AM5010

1. On page 1, line 9, after the first semicolon insert "to provide and change penalties;".

2. On page 2, line 5, strike the last comma.

3. On page 5, line 1, after "that" insert "(a)" and strike "or" and insert an underscored comma; in line 2 after "equipment" insert an underscored comma; in line 3 after the comma insert "(b)" and strike "or" and insert an underscored comma; and in line 4 after "equipment" insert an underscored comma and after the second "or" insert "(c)".

4. On page 10, line 2, strike "such sections", show as stricken, and insert "the Computer Crimes Act".

LEGISLATIVE BILL 147. Placed on Select File.
LEGISLATIVE BILL 37. Placed on Select File.

Correctly Engrossed

The following bills were correctly engrossed: 59, 63, and 94.

(Signed) Eric Will, Chairperson

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the attached report on the rereferral of legislative bills 238, 248, 283, 502, 570, 641, 693, 714, 723, and 750.

LB	Committee
238	Health and Human Services
248	Health and Human Services
283	Health and Human Services
502	Government, Military and Veterans Affairs
570	Natural Resources
641	Banking, Commerce and Insurance
693	Education
714	Natural Resources

723 Government, Military and Veterans Affairs
750 Natural Resources

(Signed) Jerome Warner, Chairperson
Legislative Council
Executive Board

NOTICE OF COMMITTEE HEARING
Appropriations

Chadron State College - Student Union Facility - Phase II
Monday, February 11, 1991 1:00 p.m.

(Signed) Scott Moore, Chairperson

REPORTS

Received report from the Nebraska Investment Council of South Africa related investments as of December 31, 1990, as required by 72-1273 (3) and 72-1274 (2) of the Nebraska Statutes.

Received sixth biennial report from the Nebraska Power Review Board for the fiscal years July 1, 1988, through June 30, 1990.

MOTION - Withdraw LB 304

Mr. Schellpeper renewed his pending motion, found in the Journal on page 457, to withdraw LB 304.

The motion prevailed with 26 ayes, 0 nays, 3 present and not voting, and 20 excused and not voting.

MOTION - Election Contest

Mr. Warner renewed his pending motion, found in the Journal on page 460, that the Executive Board, which was appointed by the Legislature to consider the election contest of the 30th Legislative District, having heard the contest on January 26, 1991, pursuant to the provisions of 32-1001.21, be permitted additional time to allow the committee to fully and thoroughly consider the issues submitted to it by the contestants.

The Warner motion prevailed with 28 ayes, 0 nays, 5 present and not voting, and 16 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 82. E & R amendment, AM5006, found in the Journal on page 442, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 240. E & R amendment, AM5007, found in the Journal on page 443, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 255. Mr. Warner offered the following amendment:
FA7
1. On page 5, line 23, strike "two" and insert "four".
2. On page 6, line 4, strike "two" and insert "four".

Mr. Lindsay asked unanimous consent to be excused until he returns. No objections. So ordered.

The Warner amendment was adopted with 26 ayes, 0 nays, 12 present and not voting, and 11 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 57. Advanced to E & R for engrossment.

LEGISLATIVE BILL 58. E & R amendment, AM5008, found in the Journal on page 443, was adopted.

Mr. Beutler offered the following amendment:
FA8
on line 17 page 20 strike the period and add the language "and the legislature"
Add to end of Section 9 as follows:
"The department of aging shall submit to the legislature by October 1, 1991, a report outlining the current status of priority and funding within the area agencies with regard to older individuals with the greatest economic needs and the greatest social need."

The Beutler amendment was adopted with 30 ayes, 0 nays, 9 present and not voting, and 10 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 23. Advanced to E & R for engrossment.
LEGISLATIVE BILL 95. Advanced to E & R for engrossment.

UNANIMOUS CONSENT - Print in Journal

Mr. Kristensen asked unanimous consent to print the following amendment to LB 88 in the Journal. No objections. So ordered.

(Amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM0102.)

STANDING COMMITTEE REPORTS
Banking, Commerce and Insurance

LEGISLATIVE BILL 75. Placed on General File.
LEGISLATIVE BILL 118. Placed on General File.
LEGISLATIVE BILL 204. Placed on General File.
LEGISLATIVE BILL 233. Placed on General File.
LEGISLATIVE BILL 235. Placed on General File.

LEGISLATIVE BILL 96. Placed on General File as amended.
Standing Committee amendment to LB 96:
AM0101

1. On page 10, line 17, after the period insert the following new subsection:

"(3) If a customer establishes a claim and secures judgment on such claim under subsection (2) of this section, an amount up to two times the judgment may be recovered from the invention developer, if ordered by the court. Any amount recovered pursuant to this subsection shall be placed in a fund to be distributed to the common schools of this state."; and in line 18 strike "(3)" and insert "(4)".

LEGISLATIVE BILL 234. Placed on General File as amended.
Standing Committee amendment to LB 234:
AM0078

1. On page 4, lines 22 and 23, after "policy" insert "or certificate".

2. On page 5, line 14, after "Policy" insert "or certificate"; and in line 15 strike "or certificate".

3. On page 6, line 3, after "44-1525" insert

"if the act or practice (1) is committed flagrantly and in conscious disregard of the Unfair Insurance Claims Settlement Practices Act or any rule or regulation or (2) has been committed with such frequency to indicate a general business practice to engage in that type of conduct"; and in line 8 after "practices" insert ", if committed in violation of section 44-1524,".

4. On page 11, line 5, after "individual" insert "solely"; and in line 14 after "impaired" insert "unless:

(i) The termination, modification, or refusal is for a business purpose which is not a pretext for unfair discrimination; or

(ii) The termination, modification, or refusal is required by law, rule, or regulation" and before "This" insert paragraphing.

5. On page 13, strike lines 22 through 25 and show the old matter as stricken.

6. On page 14, lines 1 and 2, strike the new matter.

7. On page 16, line 7, strike "(10)", show as stricken, and insert "(9)"; in line 17 strike "(11)", show as stricken, and insert "(10)"; in line 22 strike "(12)" and insert "(11)"; in line 24 after "inquiry" insert "or request additional reasonable time to respond"; and in line 25 strike the new matter and reinstate the stricken matter.

8. On page 22, lines 14 and 15, strike "and investigation".

9. On page 26, line 3, strike "one hundred" and insert "thirty"; in line 8 strike "twenty-five" and insert "fifteen"; and in line 10 strike "two" and insert "one".

10. On page 29, line 12, strike "twenty-five" and insert "thirty"; and in line 14 strike "two" and insert "one".

11. On page 30, line 8, reinstate the stricken matter and after the reinstated "by" insert "the Unfair Insurance Trade Practices Act"; reinstate the stricken matter beginning with "shall" in line 9 through line 11; in line 11 after the reinstated "the" insert "acts and practices defined and determined by such act to be unfair."; and in lines 13 through 17 strike the new matter.

12. On page 32, line 8, strike "26" and insert "25"; and in lines 21 and 22 after "policy" insert "or certificate".

13. On page 33, line 13, after "Policy" insert "or certificate" and strike "or"; in line 14 strike "certificate"; and in line 16 after "Policy" insert "or certificate" and after "of" insert "workers' compensation,".

14. On page 34, line 9, after "insurer" insert ", if committed in violation of section 20 of this act,".

15. On page 36, line 5, after "fifteen" insert "working"; in line 7 strike "or" and insert "of" and after "owned" insert "by"; in line 8 strike "required to be used by" and insert "affiliated with"; and in line 9 after the period insert "For purposes of this subdivision, a repairer is affiliated with the insurer if there is a preexisting arrangement, understanding, agreement, or contract between the insurer and repairer for services in connection with claims on policies issued by the insurer.".

16. On page 37, line 4, strike "one hundred" and insert "thirty"; in line 8 strike "twenty-five" and insert "fifteen"; in lines 10 and 21 strike "two" and insert "one"; and in line 20 strike "twenty-five" and insert "thirty".

17. Strike original sections 25 and 39 and renumber the remaining sections accordingly.

18. On page 53, line 3, strike "26" and insert "25"; in line 13 before "44-4407" insert "and"; and in line 14 strike "and 48-146.02,".

LEGISLATIVE BILL 236. Placed on General File as amended.
Standing Committee amendment to LB 236:
AM0067

1. On page 142, line 10, strike "or transactions occurring".

LEGISLATIVE BILL 237. Placed on General File as amended.
Standing Committee amendment to LB 237:
AM0079

1. Strike original section 24 and insert the following new section:

"Sec. 21. An insurer's investments shall be

subject to the Insurers Investment Act notwithstanding anything in 15 U.S.C. 77r-1 to the contrary.".

2. On page 15, line 20; page 28, line 16; page 29, line 16; page 31, line 9; and page 43, line 12, strike "22" and insert "23".

3. On page 16, lines 6 and 16; and page 31, line 10, strike "23" and insert "24".

4. On page 50, line 5, strike "ten" and insert "fifteen".

5. Renumber the remaining sections accordingly.

(Signed) David Landis, Chairperson

NOTICE OF COMMITTEE HEARINGS
Transportation

Governor Appointment Monday, February 11, 1991 1:30 p.m.
Denny Miller - Motor Vehicle Industry Licensing Board

LB 379	Monday, February 11, 1991	1:30 p.m.
LB 44	Monday, February 11, 1991	1:30 p.m.
LB 482	Monday, February 11, 1991	1:30 p.m.
LB 314	Monday, February 11, 1991	1:30 p.m.
LB 333	Monday, February 11, 1991	1:30 p.m.
LB 335	Monday, February 11, 1991	1:30 p.m.
LB 93	Tuesday, February 12, 1991	1:30 p.m.
LB 491	Tuesday, February 12, 1991	1:30 p.m.
LB 291	Tuesday, February 12, 1991	1:30 p.m.
LB 531	Tuesday, February 12, 1991	1:30 p.m.
LB 628	Tuesday, February 19, 1991	1:30 p.m.
LB 319	Tuesday, February 19, 1991	1:30 p.m.
LB 607	Tuesday, February 19, 1991	1:30 p.m.
LB 252	Tuesday, February 19, 1991	1:30 p.m.

(Signed) Doug Kristensen, Chairperson

MOTION - Escort Governor

Mr. Baack moved that a committee of five be appointed to escort the Governor to the Legislative Chamber to deliver his State Budget Message.

The motion prevailed.

The Chair appointed Messrs. Lamb, Morrissey, Wickersham, Mmes. Hillman, and Smith to serve on said committee.

The committee returned and escorted Governor Ben Nelson to the rostrum where he delivered the following State Budget Address.

STATE BUDGET MESSAGE

Madam President, Mr. Speaker, Members of the Legislature, distinguished guests, citizens of Nebraska:

When I delivered my Inaugural Address to you three weeks ago, the United States and its allies stood at the brink of war in the Persian Gulf. The battle was engaged one week later. As we begin the arduous task of constructing a budget for Nebraska state government, our thoughts and prayers go out to the men and women serving their country in combat, their families and friends, President Bush, Members of Congress, and the military leaders of the United States and its allies. We all pray that this conflict will come to a rapid and decisive conclusion.

I appear before you today to fulfill my duty as Governor of the State of Nebraska to present my budget recommendations for the next biennium. This budget has been developed through countless hours of discussion with budget and policy staff, and a thorough analysis of our state's needs and available resources. It reflects my assessment of the state of the state as presented to you in my Inaugural Address, and my priorities of economic development, environment, and education.

Let me briefly review the assumptions that provide the foundation for my budget recommendations:

First, the Persian Gulf war and recessionary trends across the country make it necessary for Nebraska to brace itself for the possibility of an economic downturn. General Fund receipts continue to fall below projections, indicating that a slowdown may have already begun. The budget for state government must therefore be

tightly constructed to prepare for the possibility of an even further erosion of revenues.

Second, decisions made in Washington will continue to have an impact on state governments across the country, both in terms of available funds and mandated spending. While actual outcomes may be difficult to predict, it is reasonable to assume that efforts will continue to reduce the federal deficit, exerting even more pressure on state budgets. In addition, the President indicated in his State of the Union message that he intends to seek further program shifts from the federal government to the states.

Third, prison overcrowding and entitlement programs such as Medicaid and Special Education are cutting substantially into our resource base. Long-term solutions must be found to reduce the growth in expenditures for these programs. I pledge to work with the members of this Legislature, our Congressional delegation, and where appropriate, other Governors, to develop these solutions as quickly as possible. In the meantime, we must be prepared to allocate significant state resources to these areas.

Fourth, policy choices made by this Legislature in recent years, such as LB 1059, have established financial commitments well into the future. These commitments, coupled with the requirements of entitlement programs, leave very little room for new spending within current tax rates. As a result, the budget I present to you today includes fund reallocations in order to meet high-priority obligations.

There are countless ideas and spending proposals in front of you worthy of state support. But we simply cannot fund them all. It is essential that we set priorities for state tax dollars and redirect a portion of existing resources toward those priorities.

The defeat of the 2 percent lid last November provides more flexibility than we would have otherwise had with its passage, but the fact that it was on the ballot sends a clear signal to those of us in government: Nebraskans are frustrated with government spending. The citizens of this state have recognized that the lid would have had a devastating impact on schools, senior centers, and other public services. But they also do not expect the message to be forgotten.

The budget I present to you today for the FY 1991-93 biennium has been developed with three basic criteria:

1. Stability of Tax Rates. Economic uncertainty and the public's attitude toward government spending demand that we fund the next biennial budget within current tax rates.

2. Affordability. We cannot simply ask if the budget is affordable this year. The long-range impact of our fiscal decisions on the state budget must be considered. If we plan ahead, we can avoid the financial distress we now see in other states.

3. Equity and Balance to the Needs for All Nebraskans. Allocation of state resources should not favor one area of the state over another.

For the next biennium, four major programs will require more revenue alone than the entire projected increase in revenues. State Aid to Education, Special Education, Medicaid and Public Assistance will cost the state an additional $164.3 million through FY 1991-93, compared with expected revenue growth of $131 million. Increased spending for these programs will exceed revenue growth by $33.3 million.

If we are to meet these needs even partially, it will be necessary to redirect financial resources from other areas of the budget. Accordingly, I am recommending that all current programs of state government be reduced across the board by two percent, and that all state aid programs other than entitlements be reduced across the board by one percent. In addition, a number of specific reductions are being recommended for certain agencies and programs.

This action is necessary and achievable. Agency directors, governing boards, commissions, and University and college administrators will be called upon to prioritize, reallocate resources, reorganize delivery systems, and reduce administrative costs to more efficiently serve Nebraska citizens.

The across-the-board reductions will not affect the voluntary agreement reached with state employee bargaining units. The salary increase policy recommended for most agencies includes a three percent increase on July 1 for all employees with satisfactory service, along with another 1.5 percent increase on each employee's anniversary date. Employees with satisfactory performance, ten or more years of service, and whose compensation is at or below the midpoint of their pay range will be eligible for an additional one percent increase.

Health insurance is budgeted at an increase of 16.2 percent for FY 1991-92 and 16.9 percent for FY 1992-93. For agencies other than higher education, this increase will not allow continuation of the current first-dollar coverage plan. However, it does include stop-loss, co-insurance, and reduced-cost prescription arrangements, and the current level of premium payment by the state will continue.

The reallocations accomplished through the across-the-board reductions will help offset the cost of the bargaining agreement, entitlement programs, and other prior commitments. In addition, some of these resources are redirected toward my priorities: developing our economy, particularly in rural Nebraska; protecting our environment; and strengthening education.

Economic Development

Continuing the development of Nebraska's economy is one of three areas receiving particular emphasis in my budget recommendation and legislative package. The prospect of a recession and the need to stabilize our population base in most Nebraska counties requires continued attention to economic development. I have stated my view that state government should be a player, although not the dominant player, in economic development activities. My budget and legislative proposals follow through on that principle.

The best economic decisions are those made at the community level. With the assistance of Senator Paul Hartnett and the Legislature, I will seek adoption of enabling legislation to implement the provisions of Amendment 3, adopted by Nebraska voters last November. The option of directing local tax revenues toward economic development adds another tool for communities to develop local and regional economic activity.

The Rural Development Commission, led by Lieutenant Governor Maxine Moul, will assess the vast array of development activities underway and make recommendations concerning the most appropriate role for state government to play in supporting Nebraska's small communities and rural areas. To support the Commission's work, I have included a recommendation for $250,000 in General Funds for the coming biennium.

The substantial impact of federal decisions on Nebraska's economy leads me to recommend the establishment of a Washington, D.C. office to ensure that our Washington delegation receives timely and adequate information on the impact of proposed federal decisions. Thirty-seven states currently have an office in Washington. Establishing such a link will enhance the ability of Nebraska state government to support our Congressional representatives in carrying out the increasingly difficult task of protecting a small rural state's interests in the highly-competitive national arena.

The Washington office will also be used to help Nebraska citizens access programs such as trade export assistance from the Department of Commerce, and to assist Nebraska businesses and individuals work through the maze of regulatory snags that stem from federal agency decisions.

Accordingly, my recommendation includes $250,000 in the Governor's budget to establish the Washington office. Given the impact of pending changes in federal highway funding alone, this investment may pay for itself in its first year.

I have also recommended that the budgets of the Governor's Office and the Policy Research/Energy Office be consolidated. I consider the staff in the Policy Research Office to be a vital part of

the Governor's Office, and this recommendation recognizes and emphasizes that close working relationship.

In the near term, I intend to continue the consolidation of the Policy Research Office and the Nebraska Energy Office that took place four years ago. With the great uncertainty in the Middle East, the Governor needs immediate access to information and policy options in the energy area. Once the situation in the Persian Gulf is resolved, I will review the consolidation and determine whether the best interests of Nebraska citizens will be served by maintaining this relationship, or by re-establishing NEO as a separate agency.

The budget includes increases in staffing for the Governor's Office. I have thoroughly reviewed the level of resources available, and the expectations I have for my staff. Based on this analysis, I have determined that additional dollars will be required. My recommendations for staffing and other budget items I consider necessary for the efficient operation of state government will be above-board, in the open. I firmly believe that sound management for state government starts in the Governor's Office, and I ask for your assistance in giving me the tools necessary to get the job done.

I am recommending $60,000 in General Funds for support of the Office on Children and Family Policy in each year of the biennium, and the same amount for support of the Office of Urban Economic Development that I have recently created. I am also requesting funds to upgrade the computer system for the Governor's Office to bring our capacity closer to that of the Legislature; $30,000 to continue operation of the Governor's Office in Western Nebraska; and $30,000 to re-establish Nebraska's relationship with the Western Governors' Association.

Nebraska's interests have much in common with the states of the WGA. In particular, we share concerns about waste and water issues, as well as concerns about the overall impact of federal decisions on the rural West. Aligning ourselves with the other western states adds a valuable tool in our quest to solve the economic and environmental problems confronting us.

My budget recommendation also includes $16.9 million for Fiscal Year 1991-92 to fulfill the commitment to repay depositors in three failed financial institutions. The expenditure of these funds awaits a decision by the Nebraska Supreme Court. I do, however, wish to signal my intent to honor this commitment should it be upheld by the Court.

Environment

The second area of policy emphasis is protecting our environment and natural resources. Senator Chris Beutler and Senator Rod

Johnson are taking the lead on my initiatives in the areas of low-level and solid waste, and will be working with others to fashion a comprehensive approach to these issues. These include Senator Spencer Morrissey, who has provided invaluable assistance in fashioning an agreement for completion of the Comprehensive State Solid Waste Management Plan; and Senator Cap Dierks and Senator Stan Schellpeper who both have a great interest in the low-level waste issue.

I have met with Boyd County representatives on both sides of the low-level issue. I have assured them that I will work tirelessly with this Legislature to see that work does not proceed on the low-level site until we have explored all available options. My initiatives will seek to ensure that all compact states share in any liability that may be associated with the site, and that deliberations of the Central States Compact Commission are held in open meetings, all records of the Commission are open to the public, and the host state is granted additional voting and non-voting Commission members.

We will cooperate fully with SCS Engineering to see that a comprehensive plan for solid waste disposal in Nebraska is developed during 1991. A more immediate concern is the importation of waste from outside the state, underscored by recent news that additional waste from New York is headed for a landfill near David City. With the help of Senator Rod Johnson, I will seek to restrict the movement of solid waste into Nebraska from other areas of the country.

Recent actions in other states point out the difficulty of accomplishing this goal in view of Interstate Commerce Clause considerations. Nevertheless, it is critical that Nebraska and other states continue to pursue solutions that are environmentally and constitutionally sound.

Two years ago, the Legislature authorized the Department of Environmental Control to provide grants to villages of 800 people or less for construction of waste water treatment facilities. By statute, the Department can obligate no more than $300,000 of state funds per year to towns experiencing serious financial difficulty.

The budget recommendation provides General Fund support at the maximum amount, $300,000 for each year of the biennium. This program, in combination with other state and federal funding assistance, promises to play a crucial role in allowing the state's smallest and most financially stressed towns to meet waste water standards without imposing an impossible financial burden on their citizens.

One foundation of any rural development effort is ensuring a sound infrastructure, a basic need for economic growth. This

program is an excellent example of investing state resources toward that end.

Federal law governing clean-up activities at Superfund sites requires a non-federal match of 10 percent of implementation costs for the first year, and responsibility for operating costs in subsequent years. The federal Environmental Protection Agency expects to begin remediation at the Well Number 3 Superfund site in Hastings within the next year.

Pursuant to a contract between the state and federal governments, the state's cost will be approximately $100,000 annually beginning in FY 1992-93, and lasting over several years. The budget recommendation includes $102,880 in General Funds for this purpose.

Since its inception the Department of Environmental Control has relied heavily on federal grants to pay the operating costs of its basic programs. This has resulted in a situation in which some important functions are inadequately funded as the federal government shifts priorities. One example is the state's solid waste program, which was cut back drastically some years ago as EPA shifted focus to hazardous waste management.

Over-reliance on federal funds also limits the Department's ability to develop and respond to Nebraska's environmental priorities. To address these concerns, the budget recommendation provides a General Fund increase of fourteen percent for basic operations through the biennium. This will allow the Department to move more effectively in many areas, including Special Protection Areas, solid waste management, and water quality.

Education

Last year, the Legislature adopted, and the voters approved, the most significant changes to the State Aid to Education formula since its inception. LB 1059 included a wide range of changes, including a limit on school budgets and increases in state tax rates to provide more state funding in an effort to reduce property taxes. The state aid formula will now be based on actual cost data and will recognize differences in school size.

The enrollment option, or "choice," program and supplementary funding for teacher salaries have also had a substantial impact on state funding for education. Unanticipated numbers of student transfers have increased expectations for General Fund support, since the state is now responsible for funding the cost of these transfers on the basis of actual, per-student costs.

My recommendation for State Aid to Education, the Enrollment Option Programs, and the salary package for teachers is based on the

increased revenue from LB 1059. I support the continuation of the Help Education Lead to Prosperity Act at its current funding level, and I have included an additional $1 million so that salary limitations included in the original program can be eliminated as proposed by Senator Lynch in LB 91.

Funding for each of these programs, however, is intended to apply toward the goal of 45 percent state funding for education in Nebraska.

The Legislature, through LB 960 passed last year, has endorsed the idea that Nebraska schools should restructure the delivery of educational services. My proposal for a State Lottery is designed to put financial resources behind school restructuring, technology enhancements, and other approaches to improving the quality of elementary and secondary education.

These funds will be directed toward pilot projects in school restructuring, including the implementation of research in improving the classroom environment, technology enhancements, and devising better methods of meeting the needs of at-risk students. I will involve teachers in decisions about the allocation of these funds, since these professionals are most closely involved with Nebraska's children and youth in the classroom. I will also ask Nebraska's business community for their input, recognizing the importance of their voice in defining the needs of a 21st century labor force.

Senator Jacklyn Smith is taking a leadership role in formulating an amendment to the Nebraska Constitution to establish a state lottery. Senator Baack, along with Senator Withem and Senator Will, have introduced enabling legislation on my behalf. Estimates indicate that we can expect in the neighborhood of $20 million annually in proceeds from this lottery proposal.

I am also recommending a $75,000 General Fund match for the Nebraska Mathematics Coalition. This public/private partnership is one of 26 such organizations in the country, dedicated to revitalizing mathematics education at all levels, kindergarten through college. The proposed state match will strengthen Nebraska's case for a $4.5 million, five-year grant from the National Science Foundation which would allow development of a comprehensive distance learning program and interactive videodisc technology for mathematics instruction.

Also included are matching funds as part of the NEB*SAT initiative, which will allow 48 additional elementary/secondary schools across the state to become active participants in the Star Schools and NEB*SAT networks. This access opens the door for students and educators in non-urban areas to advanced-level

secondary and continuing education courses, along with an expanding array of other educational resources.

The budget recommendation for Postsecondary Education provides an increase of 2.1 percent for the first year of the biennium and 8 percent for the second year. While this amounts to $33.1 million of additional state General Funds for the University of Nebraska, State Colleges, Technical Community Colleges, and the Postsecondary Coordinating Commission, it will in reality require a significant reassessment of priorities and programs. I am confident that through the coordination that will be achieved both voluntarily and through the new commission approved by the voters last November, our institutions of higher education can meet the challenges of the 90's and beyond.

Over $2.2 million of operations funding is provided for NEB*SAT and the Rural Health Education Network (RHEN) initiative. The NEB*SAT allocation also includes additional funding for the cooperative, two-tiered MBA program at Scottsbluff. The Rural Health Education Network (RHEN) initiative is designed to improve access to education programs for health professions by using the NEB*SAT system to deliver courses via satellite to selected locations. Initial sites for the RHEN program will be North Platte, Kearney, and the Grand Island/Hastings area. The goal of RHEN is to provide increased interdisciplinary education to teams of Nebraskans who are potential health professionals, and who currently reside outside Nebraska's urban centers.

The University of Nebraska at Kearney will operate as one hub institution, along with the University of Nebraska Medical Center in Omaha. Local community involvement and support, along with reallocated resources at UNMC and non-state funds will enhance financing of the project.

At this time, University Research Initiative funding is being maintained at its current level. Proposals for expanding the initiative will be examined next year, and will be contingent upon available revenues, experience and outputs, and the success of the University in meeting its commitment to provide more and better laboratory research space from non-state funds to effectively utilize any additional state research funds.

An additional $436,700 for FY 1991-92 and $438,580 for FY 1992-93 is provided to the Nebraska Educational Telecommunications Commission, along with $111,235 in deficit funding for the current year. These funds will enable the Commission to negotiate for purchase of space on the Spacenet III satellite, to provide uninterrupted satellite access for the state through the end

of the decade. This will maintain the high-quality educational television Nebraskans currently enjoy.

Funding is recommended for the Nebraska Public Radio Network to provide in-depth coverage of statewide issues affecting Nebraska citizens through development of a monthly live "Town Meeting of the Air" series. Using NEB*SAT up-links in strategic locations throughout the state, the Network will select one pertinent issue each month, convene a panel of experts, and invite a live studio audience at a different location each month to discuss the topic. Listeners throughout Nebraska will have the opportunity to call in during this two-hour broadcast. This is a low-cost way to inform and involve citizens in the policy-making process.

With plans for the organization of the new Coordinating Commission for Postsecondary Education pending before the Legislature, continuation funding for the current Commission is recommended. $1 million is allocated to the Commission for FY 1992-93 which, with the approval of the Commission, may be transferred to the University Board of Regents or the State College Board of Trustees for distribution to any four-year campus, or to governing boards of the Technical Community College areas. Distribution of the funds will be based on the Commission's selection of areas most in need of additional General Fund support for improved instruction.

Capital Construction

Perhaps the most visible issue in the area of capital construction this year will be the distribution of the proceeds from the cigarette tax that will become available with the completion of bond repayment for completed projects. As you know, several groups have already lined up to stake their claim to these dollars.

In my view, we must proceed with caution in making commitments for these funds, particularly in view of the possible need for more prison space in the coming years. This Legislature has already approved funding for more correctional facilities, but projections indicate that Nebraska's prisons will operate at roughly 150% of capacity even with the additional space. I am recommending that the commitment of these cigarette tax dollars be reserved until we have a more complete picture of prison space requirements. Toward that end, I am recommending a $75,000 appropriation to the Department of Corrections for development of a Master Plan.

Nebraska is among the top ten states in the country with respect to prison overcrowding, and several states are under court order to deal with the problem. The next-to-last thing I want to do is build more prisons; the last thing I want is to be forced into more prison

construction by the courts. I ask you, the members of the Legislature, to assist in the development of legislation that will help us reduce the growth in prison population. Like you, I would prefer any number of other uses for our state funds. But unless we find workable alternatives, investments in education, research, or other areas will be precluded by the need to build more prisons. I commend the initiative you have already taken in this area. We must continue this task together.

My recommendation for capital construction includes funding for the reaffirmation and continuation of all projects currently in progress, totalling $19.4 million in General Funds and $14.2 million in cigarette tax funds for the biennium. These projects include the College of Business Administration project at UNL; the Fine Arts Facility at UNO; the Library Automation project at the University and State Colleges; the Electrical Distribution System at UNK; the Eppley Science Hall addition at UNMC; and the two housing facilities and the Minimum Security Facility at the Department of Corrections.

In addition, the long-term payment contracts entered into by the Board of Regents and the Board of Trustees under LB 410, LB 842, and LB 218 are reaffirmed and funded, along with the Law Enforcement Training Center contract.

Funding for new construction includes over $9.8 million for the biennium, including over $2.5 million for the University and State Colleges for fire and life safety improvements; over $2.1 million for the Nebraska Educational Telecommunications Commission for the satellite transponder lease purchase agreement, $4 million for deferred repairs, and a variety of smaller fire and life safety project in several agencies.

Conclusion

This budget reflects an assessment of decisions that cannot be changed immediately, of economic conditions that are in flux. It is not enough to simply regret these conditions; what is required is that we accept the challenge to redirect our course. The world we live in will not permit business as usual.

Implementing this budget will require the best managerial skills of agency directors, education administrators, and others in management positions. They will have my full support in making the difficult decisions that lie ahead. We must ask new questions. Imagine new approaches. Seek new partners. Develop new relationships.

The businesses and industries of Nebraska live, grow and prosper in an environment such as the one we in the public sector now face.

We must be committed to demonstrating that Nebraska's government can meet that same challenge.

I ask for the help of every elected official, every government employee, and every Nebraska citizen in achieving what is, without question, a difficult task. We have the capability to meet this challenge; our efforts and desire will ensure our success. We can do what must be done.

I want to close by thanking the members of this Legislature for your help. Senator Baack, you and your colleagues have already shown the will and the skill to work together with me in achieving our common goals. As we send this budget to Senator Moore and the Appropriations Committee, I ask for your best efforts to make the sacrifices proposed in this budget in fairness, with compassion, and for the common good.

If we respond to the challenges before us, what we have accomplished will be enhanced, what we have built will be strengthened, and what we want for our future will be achieved.

Thank you very much.

The committee escorted Governor Nelson from the Chamber.

UNANIMOUS CONSENT - Members Excused

Messrs. Haberman, Dierks, and Withem asked unanimous consent to be excused until they return. No objections. So ordered.

EASE

The Legislature was at ease from 10:45 a.m. until 11:05 a.m.

BILLS ON FIRST READING

The following bills were read for the first time by title:

LEGISLATIVE BILL 841. Introduced by Speaker Baack, 47, at the request of the Governor.

A BILL FOR AN ACT relating to appropriations; to appropriate funds for the payment of salaries of members of the Nebraska Legislature and payments to be made as provided by Chapter 68, article 6, for the fiscal years ending June 30, 1992, and June 30, 1993; and to declare an emergency.

LEGISLATIVE BILL 842. Introduced by Speaker Baack, 47, at the request of the Governor.

A BILL FOR AN ACT relating to appropriations; to appropriate funds for the payment of the salaries and benefits of certain state officers for the fiscal years ending June 30, 1992, and June 30, 1993; to define terms; and to declare an emergency.

LEGISLATIVE BILL 843. Introduced by Speaker Baack, 47, at the request of the Governor.

A BILL FOR AN ACT relating to appropriations; to state intent; to define terms; to make appropriations for the expenses of Nebraska State Government for the biennium ending June 30, 1993; to provide an operative date; and to declare an emergency.

LEGISLATIVE BILL 844. Introduced by Speaker Baack, 47, at the request of the Governor.

A BILL FOR AN ACT relating to appropriations; to amend section 90-502, Revised Statutes Supplement, 1990, Laws 1989, LB 651A, section 3, Laws 1989, LB 813, sections 7, 9, 10, 14, 23, 26, 46, 50, 64, and 77, Laws 1989, LB 814, section 57, Laws 1990, LB 240A, section 1, and Laws 1990, LB 1031, sections 6, 12, 13, 14, 42, 51, 56, and 71; to define terms; to change certain appropriations as prescribed; to provide for deficit appropriations; to appropriate funds for the expenses of state government, a comprehensive facility master plan, and certain lease-purchase agreements; to transfer funds; to harmonize a program number; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 845. Introduced by Speaker Baack, 47, at the request of the Governor.

A BILL FOR AN ACT relating to state employees; to provide for salary increases as prescribed; to define terms; to appropriate funds; to provide duties; to state intent; to provide an operative date; and to declare an emergency.

LEGISLATIVE BILL 846. Introduced by Speaker Baack, 47, at the request of the Governor.

A BILL FOR AN ACT relating to state employees; to amend section 84-1611, Revised Statutes Supplement, 1990; to change the state

contribution for state employee health insurance; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 846A. Introduced by Speaker Baack, 47, at the request of the Governor.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 846, Ninety-second Legislature, First Session, 1991; to require and authorize the transfer of funds; to state intent; to provide an operative date; and to declare an emergency.

LEGISLATIVE BILL 847. Introduced by Speaker Baack, 47, at the request of the Governor.

A BILL FOR AN ACT relating to appropriations; to appropriate funds for capital construction as prescribed; to state intent; to require a program statement; to repeal capital construction provisions; to provide an operative date; and to declare an emergency.

LEGISLATIVE BILL 848. Introduced by Speaker Baack, 47, at the request of the Governor.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2602, Reissue Revised Statutes of Nebraska, 1943; to adopt the Correctional Facilities Construction Fund Act; to change distribution of the cigarette tax; to provide severability; and to repeal the original section.

NOTICE OF COMMITTEE HEARINGS

Judiciary

LB 136	Thursday, February 7, 1991	1:30 p.m.
LB 457	Thursday, February 7, 1991	1:30 p.m.
LB 527	Thursday, February 7, 1991	1:30 p.m.
LB 709	Thursday, February 7, 1991	1:30 p.m.
LB 715	Thursday, February 7, 1991	1:30 p.m.
LB 688	Thursday, February 7, 1991	1:30 p.m.

(Signed) Jerry Chizek, Chairperson

Revenue

LB 662	Thursday, February 7, 1991	1:30 p.m.
LB 773	Thursday, February 7, 1991	1:30 p.m.
LB 509	Thursday, February 7, 1991	1:30 p.m.
LB 284	Friday, February 8, 1991	1:30 p.m.
LB 462	Friday, February 8, 1991	1:30 p.m.
LB 569	Friday, February 8, 1991	1:30 p.m.
LB 803	Friday, February 8, 1991	1:30 p.m.
LB 611	Wednesday, February 13, 1991	1:30 p.m.
LB 332	Wednesday, February 13, 1991	1:30 p.m.
LB 246	Wednesday, February 13, 1991	1:30 p.m.
LB 550	Wednesday, February 13, 1991	1:30 p.m.
LB 721	Wednesday, February 13, 1991	1:30 p.m.
LB 529	Wednesday, February 13, 1991	1:30 p.m.
LB 525	Thursday, February 14, 1991	1:30 p.m.
LB 681	Thursday, February 14, 1991	1:30 p.m.
LB 749	Thursday, February 14, 1991	1:30 p.m.
LB 520	Wednesday, February 20, 1991	1:30 p.m.
LB 665	Wednesday, February 20, 1991	1:30 p.m.
LB 712	Wednesday, February 20, 1991	1:30 p.m.
LB 727	Wednesday, February 20, 1991	1:30 p.m.
LB 683	Wednesday, February 20, 1991	1:30 p.m.
LB 83	Wednesday, February 20, 1991	1:30 p.m.
LB 734	Thursday, February 21, 1991	1:30 p.m.
LB 796	Thursday, February 21, 1991	1:30 p.m.
LR 19CA	Thursday, February 21, 1991	1:30 p.m.
LB 603	Friday, February 22, 1991	1:30 p.m.
LB 604	Friday, February 22, 1991	1:30 p.m.
LB 686	Friday, February 22, 1991	1:30 p.m.
LB 140	Friday, February 22, 1991	1:30 p.m.
LB 120	Friday, February 22, 1991	1:30 p.m.

(Signed) Tim Hall, Chairperson

STANDING COMMITTEE REPORTS
Urban Affairs

LEGISLATIVE BILL 247. Placed on General File.

LEGISLATIVE BILL 330. Placed on General File.

LEGISLATIVE BILL 76. Placed on General File as amended.
Standing Committee amendment to LB 76:
AM0084

1. On page 2, line 16, after "(1)" insert "it is located in a county with a population in excess of one hundred thousand persons and".

LEGISLATIVE BILL 128. Placed on General File as amended.
Standing Committee amendment to LB 128:
AM0085

1. On page 2, lines 16 through 18, strike the new matter and insert "For any late filing of the statement, the sanitary and improvement district shall be assessed a late fee of ten dollars per day, not to exceed a total of three hundred dollars for each late filing.".

(Signed) D. Paul Hartnett, Chairperson

GENERAL FILE

LEGISLATIVE BILL 20. Title read. Considered.

Standing Committee amendment, AM0029, found in the Journal on page 421, was considered.

Mr. Kristensen asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Coordsen moved for a call of the house. The motion prevailed with 18 ayes, 0 nays, and 31 not voting.

The Standing Committee amendment was adopted with 26 ayes, 0 nays, 14 present and not voting, and 9 excused and not voting.

The Chair declared the call raised.

Advanced to E & R for review with 29 ayes, 0 nays, 13 present and not voting, and 7 excused and not voting.

Mrs. Nelson asked unanimous consent to be excused until she returns. No objections. So ordered.

LEGISLATIVE BILL 32. Title read. Considered.

Standing Committee amendment, AM0028, found in the Journal on page 422, was considered.

Mrs. Smith and Mr. Peterson asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Bernard-Stevens moved for a call of the house. The motion prevailed with 16 ayes, 0 nays, and 33 not voting.

The Standing Committee amendment was adopted with 25 ayes, 1 nay, 14 present and not voting, and 9 excused and not voting.

The Chair declared the call raised.

Messrs. Rogers and Horgan asked unanimous consent to be excused until they return. No objections. So ordered.

Advanced to E & R for review with 25 ayes, 2 nays, 10 present and not voting, and 12 excused and not voting.

LEGISLATIVE BILL 88. Title read. Considered.

Mr. R. Johnson asked unanimous consent to be excused until he returns. No objections. So ordered.

Pending.

STANDING COMMITTEE REPORTS
Government, Military and Veterans Affairs

LEGISLATIVE BILL 68. Placed on General File as amended.
Standing Committee amendment to LB 68:
AM0114

1. On page 5, line 11, strike "in" and insert "by states in which are located at least" and strike "additional states" and insert "schools".

(Signed) Gerald Conway, Chairperson

General Affairs

LEGISLATIVE BILL 354. Placed on General File as amended.
Standing Committee amendment to LB 354:
AM0083

1. Strike original section 1 and insert the following new section:

"Section 1. That section 53-179, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

53-179. (1) No alcoholic ~~liquors~~ liquor, including beer, shall be sold at retail or dispensed on any day between the hours of 1 a.m. and 6 a.m. The local governing body of any city or village, with respect to area within the corporate limits of such city or village, or the county board, with respect to area outside the corporate limits of any city or village, may, by ordinance or resolution, require closing prior to 1 a.m. on any day.

(2) Except as provided for and allowed by ordinance of a local governing body applicable to area within the corporate limits of a city or village, or by resolution of a county board applicable to area within such county and outside the corporate limits of any city or village, no alcoholic ~~liquors~~ liquor, including beer, shall be sold at retail or dispensed between the hours of 6 a.m. Sunday and 1 a.m. Monday. No ordinance or resolution allowed by this subsection shall permit alcoholic ~~liquors~~ liquor, other than beer and wine, to be sold at retail or dispensed ~~for consumption off the premises~~ between the hours of 6 a.m. Sunday and ~~1 a.m. Monday, or for consumption on the premises between the hours of 6 a.m. Sunday and 6 p.m.~~ 12 noon Sunday. This subsection shall not apply after 12 noon on Sunday to a licensee which is a nonprofit corporation and the holder of a license issued pursuant to either subdivision (5)C. or (5)H. of section 53-124.

(3) It shall be unlawful on property licensed to sell alcoholic liquor at retail to allow alcoholic liquor in open containers to remain or be in possession or control of any person for purposes of consumption between the hours of 1:15 a.m. and 6 a.m. on any day. ~~Where~~ When any city or village provides by ordinance, or any county provides by resolution, for an earlier closing hour, the provisions of this subsection shall become effective fifteen minutes after such closing hour

instead of 1:15 a.m.

(4) Nothing in this section shall be construed to prohibit licensed premises from being open for other business on days and hours during which the sale or dispensing of alcoholic liquor is prohibited by this section.".

(Signed) Jacklyn Smith, Chairperson

Natural Resources

LEGISLATIVE BILL 264. Placed on General File.

LEGISLATIVE BILL 21. Placed on General File as amended.
Standing Committee amendment to LB 21:
AM0074

1. Strike the original sections and insert the following new sections:

"Section 1. That section 46-674.19, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

46-674.19. A district may annually levy a tax of not to exceed ~~two cents~~ one-half cent on each one hundred dollars on all of the taxable property within the ~~boundaries of the special ground water quality protection area~~ district. Such levy, which shall be in addition to that authorized by sections 2-3225 and 46-673, shall be utilized only for the costs of carrying out sections 46-674.02 to 46-674.20 within ~~such~~ the special ground water quality protection area. Certification and collection of such levy shall be administered by the district and by the county or counties involved in the same manner as the levy authorized by section 2-3225.

Sec. 2. That original section 46-674.19, Reissue Revised Statutes of Nebraska, 1943, is repealed.".

LEGISLATIVE BILL 45. Placed on General File as amended.
Standing Committee amendment to LB 45:
AM0115

1. Strike original sections 2 to 4.

2. On page 10, strike beginning with the comma in line 10 through the third comma in line 11.

3. Renumber the remaining sections accordingly.

LEGISLATIVE BILL 183. Indefinitely postponed.

(Signed) Rod Johnson, Chairperson

UNANIMOUS CONSENT - Print in Journal

Mr. Schmit asked unanimous consent to print the following amendment to LB 17 in the Journal. No objections. So ordered.

(Amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM0116.)

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the attached report on the referral of legislative bills 841 through 848, and 846A.

LB	Committee
841	Appropriations
842	Appropriations
843	Appropriations
844	Appropriations
845	Appropriations
846	Appropriations
847	Appropriations
848	Appropriations
846A	Appropriations

(Signed) Jerome Warner, Chairperson
Legislative Council
Executive Board

VISITORS

Visitors to the Chamber were Oki DeRossitt from Beatrice; and 20 eighth grade students and teacher from Helen Hyatt School, Lincoln.

The Doctor of the Day was Dr. Paul Paulman from Omaha.

ADJOURNMENT

At 11:52 a.m., on a motion by Ms. Schimek, the Legislature adjourned until 9:00 a.m., Friday, February 1, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

SEVENTEENTH DAY - FEBRUARY 1, 1991

LEGISLATIVE JOURNAL

SEVENTEENTH DAY - FEBRUARY 1, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

SEVENTEENTH DAY

Legislative Chamber, Lincoln, Nebraska
Friday, February 1, 1991

Pursuant to adjournment, the Legislature met at 9:00 a.m., Speaker Baack presiding.

PRAYER

The prayer was offered by Pastor William Axline, Holmes Park Bible Church, Lincoln, Nebraska.

ROLL CALL

The roll was called and all members were present except Mrs. Pirsch who was excused; and Messrs. Abboud, Beutler, Hall, Hartnett, Wesely, and Mrs. Smith who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Sixteenth Day was approved.

ANNOUNCEMENT

The Chair announced today is Senator Rogers' birthday.

UNANIMOUS CONSENT - Member Excused

Mr. Haberman asked unanimous consent to be excused until he returns. No objections. So ordered.

SELECT COMMITTEE REPORTS
Enrollment and Review

Correctly Engrossed

The following bills were correctly engrossed: 57, 82, 240, and 255.

(Signed) Eric Will, Chairperson

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 849. Introduced by Baack, 47, Will, 8, Withem, 14, at the request of the Governor.

A BILL FOR AN ACT relating to lotteries; to amend sections 9-204, 9-312, 9-315, 9-402, 9-411, 9-415, 9-422, 9-502, 9-507, 9-509, 14-102, 15-258, 16-226, 17-120, 17-207, 28-1101, 28-1105, 28-1113, and 77-2704, Reissue Revised Statutes of Nebraska, 1943, and sections 9-1,104, 9-226, 9-322, 9-607, 9-620, and 9-629, Revised Statutes Supplement, 1990; to adopt the State Lottery Act; to harmonize provisions; and to repeal the original sections.

UNANIMOUS CONSENT - Print in Journal

Mr. Wesely asked unanimous consent to print the following amendment to LB 32 in the Journal. No objections. So ordered.

AM0120

1. Strike the original sections and all amendments thereto and insert the following new sections:

"Section 1. In each county having a population of seven thousand inhabitants or more the presiding judge of the district court shall appoint the clerk of the district court. In other counties the county clerk shall be ex officio clerk of the district court and shall perform the duties of the office unless the county board and judge of the district court for the county determine that a clerk of the district court should be appointed.

Any clerk of the district court serving on the effective date of this act shall serve for the unexpired term for which he or she was elected, and his or her successor shall be appointed as provided in this

section.

Sec. 2. That section 23-2504, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

23-2504. (1) The commission shall consist of five members who shall be in sympathy with the application of merit principles to public employment. No member of the commission shall be a member of any local, state, or national committee of a political party or an officer or member of a committee in any partisan political club or organization.

(2) The members of the commission shall be as follows: (a) Two elected officers selected from the offices of and elected by the county commissioners, clerk, assessor, treasurer, public defender, register of deeds, ~~clerk of the district court,~~ surveyor, and sheriff, being of opposite political parties if possible, and each party shall separately select its own member, (b) two full-time permanent county employees, and (c) one public member holding no public or political office. The initial two such employees shall be selected by the two elected officers referred to in subdivision (a) of this ~~subdivision~~ subsection as follows: Any such employee who is at least twenty-one years of age may submit his or her name as a candidate to the elected officer of his or her own party who shall then select one commission member from such list of names. The four members of the commission shall then select the public member. The commission shall establish employee election procedures which shall provide that all county employees subject to sections 23-2501 to 23-2516 may vote and, if not less than twenty-one years of age, be candidates for a member of the commission. One employee member of the commission shall be a Democrat elected by the Democrat-registered employees subject to sections 23-2501 to 23-2516 and one employee member of the commission shall be a Republican elected by the Republican-registered employees subject to such sections. ~~23-2501 to 23-2516.~~ An employee otherwise eligible to vote and be a candidate for the office of employee member of the commission, but who is not registered as either a Democrat or a Republican, may become eligible to vote, and become a candidate for the office of employee member of the commission by making a

declaration that he or she desires to vote for such a member of the commission, or be a candidate for such office, and, in the same declaration, designating the party, Democrat or Republican, with which he or she desires to be affiliated for this purpose. After making such declaration, ~~that~~ the employee shall have the same right to vote for a candidate, and be a candidate for the office of employee member of the commission as he or she would have had if he or she were a registered member of the party so designated in the declaration. The manner, form, and contents of such declaration shall be initially established by the two elected officials referred to in subdivision ~~(2)~~ (a) of this ~~section~~ subsection, subject to modification by the commission after it has been fully formed.

(3) ~~The initial term of office of (a) the two elected officers shall be three years from May 21, 1971; (b) the initial term of office of the county employees shall be two years from May 21, 1971; and (c) the initial term of the public member shall be three years from May 21, 1971.~~

~~At the expiration of the initial term of office, a successor member~~ Members shall be elected or appointed as provided in sections 23-2501 to 23-2516 for a term of three years. Membership on the commission of any member shall terminate upon the resignation of any member or at such time as the member no longer complies with the qualifications for election or appointment to the commission. In the event a member's term terminates prior to the expiration of the term for which he or she was elected or appointed, the commission shall appoint a successor complying with the same qualifications for the unexpired term.

Sec. 3. That section 23-2518, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

23-2518. ~~As used in~~ For purposes of sections 23-2517 to 23-2533, unless the context otherwise requires:

(1) Appointing authority shall mean elected officials and appointed department directors authorized to make appointments in the county service;

(2) Board of county commissioners shall mean the board of commissioners of any county with a

population of one hundred fifty thousand to three hundred thousand inhabitants;

(3) Classified service shall mean the positions in the county service to which such sections ~~23-2517 to 23-2533~~ apply;

(4) County personnel officer shall mean the employee designated by the board of county commissioners to administer such sections; ~~23-2517 to 23-2533;~~

(5) Department shall mean a major functional unit of the county government headed by an elected official or established by the board of county commissioners;

(6) Deputy shall mean an individual who serves as the first assistant to and at the pleasure of an elected official; and

(7) Elected official shall mean an officer elected by the popular vote of the people and known as the superintendent of schools, county attorney, public defender, sheriff, treasurer, ~~clerk of the district court,~~ register of deeds, county clerk, assessor, and ~~the~~ surveyor.

Sec. 4. That section 23-2519, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

23-2519. The county service shall be divided into the classified service and the unclassified service. All officers and positions of the county shall be in the classified service unless specifically designated as being in the unclassified service established by sections 23-2517 to 23-2533. All county employees who have permanent status under any other act prior to the passage of such sections ~~23-2517 to 23-2533~~ shall have status under ~~the provisions of~~ such sections ~~23-2517 to 23-2533~~ without further qualification. Positions in the unclassified service shall not be governed by ~~the provisions of~~ such sections ~~23-2517 to 23-2533~~ and shall include the following:

(1) County officers elected by popular vote and persons appointed to fill vacancies in such elective offices;

(2) The county personnel officer and the administrative assistant to the board of county commissioners;

(3) Bailiffs;

(4) Department heads and one principal assistant or deputy for each county department;

(5) Members of boards and commissions appointed by the board of county commissioners;

(6) Persons employed in a professional or scientific capacity to make or conduct a temporary and special investigation or examination on behalf of the board of county commissioners;

(7) Attorneys;

(8) Employees of the division of public health and welfare and civil defense who are covered by the State Merit System; ~~and~~

(9) Deputy sheriffs; and

(10) The clerk of the district court.

Nothing in sections 23-2517 to 23-2533 shall be construed as precluding the appointing authority from filling any positions in the unclassified service in the manner in which positions in the classified service are filled.

Sec. 5. That section 32-1044, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

32-1044. When a vacancy occurs in any of the public offices herein named, possession shall be taken of all things pertaining to the office, and the functions thereof exercised to the extent and in the manner, until the election or appointment and qualification of a successor, as follows: (1) Of any of the offices of county clerk, county treasurer, register of deeds, ~~clerk of the district court,~~ county sheriff, county attorney, and county public defender, by his or her deputy, if there ~~be~~ is one, and if not, the county board shall appoint a replacement who shall perform the functions of the office until a permanent successor is duly appointed or elected; and (2) of any of the state offices, by the Governor, or in his or her absence or inability at the time of the occurrence, as follows: (a) of the Secretary of State by the State Treasurer; (b) of the Auditor of Public Accounts by the Secretary of State; and (c) of the State Treasurer, by the Secretary of State or Auditor of Public Accounts, who shall make and sign an inventory of the money and warrants therein and transmit it to the Governor if he ~~be~~ or she is in the state. The ~~; and the~~ Secretary of State shall take

the keys of the safes and desks, after depositing the books, papers, money, and warrants therein, and the auditor shall take the key of the office room.

Sec. 6. That original sections 23-2504, 23-2518, 23-2519, and 32-1044, Reissue Revised Statutes of Nebraska, 1943, and also section 32-307, Reissue Revised Statutes of Nebraska, 1943, are repealed.".

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 57A. Introduced by Smith, 33; Wesely, 26.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 57, Ninety-second Legislature, First Session, 1991.

REPORT OF REGISTERED LOBBYISTS

In accordance with LB 987, passed in the 1976 session of the Legislature and amended by LB 4 and LB 41 in the 1977 session of the Legislature, the attached is a list of all Lobbyists who have registered as of January 31, 1991. Further lists listing additional lobbyists who have registered will be filed weekly.

(Signed) Patrick J. O'Donnell
Clerk of the Legislature

Anderson, Shannon M. - Omaha	Physicians Mutual Insurance Company
Batenhorst, Gary R. - Omaha	Omaha Coalition for the Homeless
Bones, Amy S. - Omaha	Omaha Zoological Society
	Uta Halee Girls Village
Boyer, John K. - Omaha	Omaha Zoological Society
Conradt, Mary M. - Lincoln	Nebraska Congress of Parents and Teachers
Crosby, Guenzel, Davis, Kessner & Kuester	
Wade, Rick G. - Lincoln	Nebraska Cooperative Council
Cutshall, Bruce A. - Lincoln	American Diaper Service
D'Angelo, Gregory R. - New York, N.Y.	Forest Laboratories, Inc.
Duxbury, Peggy - Denver, CO	MCI Telecommunications Corporation
Elofson, Paul R. - Omaha	Phil Wade
Erickson & Sederstrom, P.C.	
Thone, Charles - Lincoln	Kirkpatrick, Pettis, Smith & Polian

13p	Nebraska Society of Architects
	Saint Joseph Center for Mental Health
Fischer, David - Omaha	Union Pacific Railroad
Harding, Mary A. - Lincoln	Citizen Action
Jonske, Nancy E. - Lincoln	Nebraska Congress of Parents and Teachers
Kendrick, Leslie - Omaha	Omaha Zoological Society
Kimberly, Kelly L. - Omaha	Leslie Associates, Inc.
Lambert, Mark - Des Moines, IA	Iowa/Nebraska Primary Care Association
Maresh, Richard - Geneva	Nebraska State Grange
McCullough, Mardy - Lincoln	Nebraska Land Title Association
	Nebraska Operators Association
Mueller, William J./Knudsen, Berkheimer, et al.	
Mueller, William J. - Lincoln	Folsom Children's Zoo and Botanical Gardens
O'Hara & Associates	
O'Hara, Paul V. - Lincoln	GTECH Corporation
Pappas, James E. - Lincoln	Friends of Sac Museum
Rasmussen, Dennis - Lincoln	Concerned Livestock Feeders & Producers Against Brand Inclusion for Howard County
Robotham, Eugene L. - Lincoln	ABATE of Nebraska, Inc.
Ruth, Larry L./Knudsen, Berkheimer, et al.	
Ruth, Larry L. - Lincoln	Folsom Children's Zoo and Botanical Gardens
Williamson, Lyle - Chicago, IL	MCI Telecommunications Corporation

REPORT

Received quarterly report from Nebraska Energy Office on the Natural Gas Revolving Loan Fund as required by Section 010 of the regulations for the Municipal Natural Gas Regulation Act (Sec. 19-4617, R.R.S. 1943).

SELECT FILE

LEGISLATIVE BILL 135. E & R amendment, AM5010, found in the Journal on page 466, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 147. Advanced to E & R for engrossment.

LEGISLATIVE BILL 37. Mr. Kristensen offered the following amendment:

FA9
add the emergency clause to LB 37

The Kristensen amendment was adopted with 29 ayes, 0 nays, 13 present and not voting, and 7 excused and not voting.

Advanced to E & R for engrossment.

UNANIMOUS CONSENT - Member Excused

Mrs. Hillman asked unanimous consent to be excused until she returns. No objections. So ordered.

GENERAL FILE

LEGISLATIVE BILL 17. Mr. Withem asked unanimous consent to bracket. No objections. So ordered.

LEGISLATIVE BILL 88. Mr. Kristensen withdrew his pending amendment, AM0065, printed separately from the Journal and referred to on page 437.

Mr. Kristensen renewed his pending amendment, AM0102, printed separately from the Journal and referred to on page 469.

Mr. Ashford requested a division of the question on the Kristensen amendment.

Mr. Ashford withdrew his request for the division of the question.

Mr. Abboud offered the following amendment to the pending Kristensen amendment:
FA10
To amend the Kristensen amendment (AM0102) by striking all language following the word "sections" on page 1, line one, through the word "damages" on page 2, line 10, and from page 2, line 20, through pg 10, line 23.

Mr. Withem asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Landis moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 0 nays, and 23 not voting.

The Abboud amendment lost with 16 ayes, 18 nays, 12 present and not voting, and 3 excused and not voting.

Mr. Dierks asked unanimous consent to be excused until he returns. No objections. So ordered.

Pending.

STANDING COMMITTEE REPORTS
Government, Military and Veterans Affairs

LEGISLATIVE BILL 178. Placed on General File.

LEGISLATIVE BILL 114. Placed on General File as amended.
Standing Committee amendment to LB 114:
AM0008

1. On page 2, line 10, strike "American Indians", show as stricken, and insert "enrolled tribal members of a federally recognized Indian tribe"; and in line 15 strike "Northern Ponca Tribe" and insert "Ponca Tribe of Nebraska".

2. On page 4, strike beginning with "Northern" in line 9 through line 14 and insert "Ponca Tribe of Nebraska shall be made by the Tribal Council of the tribe.".

LEGISLATIVE BILL 313. Placed on General File as amended.
Standing Committee amendment to LB 313:
AM0113

1. On page 3, line 3, after "displayed" insert "in accordance with accepted flag protocol."; and strike beginning with "under" in line 3 through the underscored period in line 4.

LEGISLATIVE BILL 219. Indefinitely postponed.

(Signed) Gerald Conway, Chairperson

Revenue

LEGISLATIVE BILL 100. Placed on General File.

LEGISLATIVE BILL 468. Indefinitely postponed.

(Signed) Tim Hall, Chairperson

General Affairs

LEGISLATIVE BILL 344. Placed on General File as amended.
Standing Committee amendment to LB 344:
AM0082

1. On page 35, line 6, strike "(f)" and insert "(g)".

2. On page 44, line 14, strike the semicolon; and reinstate the stricken matter beginning with "in" in line 14 through the semicolon in line 22.

3. On page 45, line 15, insert "(e) Class E:" before the stricken "E"; reinstate the stricken matter beginning with "Alcoholic" in line 15 through the semicolon in line 22; and in line 23 strike "(e)" and insert "(f)".

4. On page 47, line 2, strike "(f)" and insert "(g)".

5. On page 49, line 2, strike "(g)" and insert "(h)"; in line 7 strike "(h)" and insert "(i)"; in line 21 strike "(i)" and insert "(j)" and strike "inside the"; and in line 22 strike beginning with "corporate" through the comma.

6. On page 77, lines 14 and 15, strike ", as the case may be," and show as stricken.

7. On page 86, line 5, after "that" insert "a".

(Signed) Jacklyn Smith, Chairperson

Natural Resources

LEGISLATIVE BILL 67. Placed on General File as amended.
Standing Committee amendment to LB 67:
AM0107

1. Insert the following new sections:

"Section 1. Rules and regulations adopted by the Environmental Control Council pursuant to subdivision (7) of section 81-1528 shall apply to disposal sites permitted pursuant to sections 19-4101 to 19-4121 and regulated pursuant to subdivision (13)(d) of section 81-1505.

Sec. 3. The Revisor of Statutes shall assign section 1 of this act within sections 19-4101 to 19-4121 and any reference to sections 19-4101 to 19-4121 shall be construed to include section 1 of this act.".

2. On page 4, line 17, strike beginning with "Until" through "1993" and insert "(a) Subject to subdivision (b) of this subsection".

3. On page 5, lines 3 and 4, strike "Recovery and Conservation", show as stricken, and insert "Conservation and Recovery"; and after line 6, insert the following:

"(b) Cities of the second class and villages shall prepare a plan by December 15, 1993, that will bring landfills previously exempted under this section into compliance with licensure requirements or provide for closure of such landfills. The plan shall be approved by the department and shall address the threat of air, water, and land pollution.

(7) The council shall, by July 1, 1992, adopt and promulgate rules and regulations which provide standards for the closure and postclosure care of all landfills, including landfills previously exempted under this section.".

4. Renumber the remaining sections accordingly.

(Signed) Rod Johnson, Chairperson

UNANIMOUS CONSENT - Print in Journal

Mr. Elmer asked unanimous consent to print the following amendment to LB 125 in the Journal. No objections. So ordered.

AM0108

(Amendments to AM5009)

1. On page 2, line 2, after "law" insert "or enacted the ordinance pursuant to an express grant of authority in state law".

Mr. Withem asked unanimous consent to print the following amendment to LB 209 in the Journal. No objections. So ordered.

AM0117

1. On page 8, line 4, after "The" insert

2 "contracting".

RESOLUTION

LEGISLATIVE RESOLUTION 24CA. Introduced by Baack, 47, Smith, 33, at the request of the Governor.

A Resolution to propose an amendment to the Constitution of Nebraska by amending Article III, section 24.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

Section 1. That at the general election in November 1992 there shall be submitted to the electors of the State of Nebraska for approval the following amendment to the Constitution of Nebraska by amending Article III, section 24, which is hereby proposed by the Legislature:

CIII-24 "~~The~~ (1) Except as provided in this section, the Legislature shall not authorize any game of chance~~, nor~~ or any lottery~~,~~ or gift enterprise when the consideration for a chance to participate involves the payment of money for the purchase of property, services, or a chance or admission ticket or requires an expenditure of substantial effort or time.

(2) The Legislature ~~, except that it~~ may authorize and regulate a state lottery pursuant to subsection (3) of this section and other lotteries, raffles, and gift enterprises which are intended solely as business promotions or the proceeds of which are to be used solely for charitable or community betterment purposes without profit to the promoter of such lotteries, raffles, or gift enterprises.

(3) The Legislature may establish a lottery to be operated and regulated by the State of Nebraska. The proceeds of the lottery shall be appropriated by the Legislature for the costs of establishing and maintaining the lottery and for other purposes as directed by the Legislature. No lottery game shall be conducted as part of the lottery unless the game has been approved by a majority of the members of the Legislature.

(4) Nothing in this section shall be construed to prohibit (a) the enactment of laws providing for the licensing and regulation of wagering on the results of horseraces, wherever run, either within or outside of the state, by the parimutuel method, when such wagering is conducted by licensees within a licensed racetrack enclosure~~,~~ or ~~to prohibit~~ (b) the enactment of laws providing for the licensing and regulation of bingo games conducted by nonprofit associations which have been in existence for a period of five years immediately

preceding the application for license, except that bingo games cannot be conducted by agents or lessees of such associations on a percentage basis.".

Sec. 2. That the proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1. The proposition for the submission of the proposed amendment shall be placed upon the ballot in the following form:

"A constitutional amendment to authorize the Legislature to establish a lottery which is operated and regulated by the state.

For

Against".

Sec. 3. That the proposed amendment, if adopted, shall be in force and take effect immediately upon the completion of the canvass of the votes, at which time it shall be the duty of the Governor to proclaim it as a part of the Constitution of Nebraska.

Referred to the Reference Committee.

NOTICE OF COMMITTEE HEARINGS

Agriculture

Governor Appointments	Tuesday, February 12, 1991	1:30 p.m.
Terrance Terrell - Nebraska Dry Bean Commission		
Robert L. Kelley - Nebraska Dry Bean Commission		
LB 366	Tuesday, February 12, 1991	1:30 p.m.
LB 274	Tuesday, February 12, 1991	1:30 p.m.
LB 275	Tuesday, February 12, 1991	1:30 p.m.
LB 398	Tuesday, February 12, 1991	1:30 p.m.
LB 282	Tuesday, February 19, 1991	1:30 p.m.
LB 312	Tuesday, February 19, 1991	1:30 p.m.
LB 583	Tuesday, February 19, 1991	1:30 p.m.

(Signed) Carson Rogers, Chairperson

Business and Labor

Governor Appointment	Monday, February 11, 1991	1:30 p.m.
Verne Moore - Commission on Industrial Relations		
LB 39	Monday, February 11, 1991	1:30 p.m.
LB 411	Monday, February 11, 1991	1:30 p.m.

LB 498	Monday, February 11, 1991	1:30 p.m.
LB 562	Monday, February 11, 1991	1:30 p.m.
LB 690	Monday, February 11, 1991	1:30 p.m.
LB 148	Monday, February 11, 1991	1:30 p.m.

(Signed) George Coordsen, Chairperson

Judiciary

LB 315	Friday, February 8, 1991	1:30 p.m.
LB 343	Friday, February 8, 1991	1:30 p.m.
LB 392	Friday, February 8, 1991	1:30 p.m.
LB 422	Friday, February 8, 1991	1:30 p.m.
LB 561	Friday, February 8, 1991	1:30 p.m.

(Signed) Jerry Chizek, Chairperson

Education

Governor Appointments Monday, February 11, 1991 1:30 p.m.
Safety Council
James Pearson
Harold Sobotka
Gene Siefford
Ken Sieckmeyer
Gary Hirsh
Ben Novicoff
Tobin Anderson
Kim Whitehouse

LB 245	Monday, February 11, 1991	1:30 p.m.
LB 699	Monday, February 11, 1991	1:30 p.m.
LB 707	Monday, February 11, 1991	1:30 p.m.
LB 676	Monday, February 11, 1991	1:30 p.m.

Governor Appointment Tuesday, February 12, 1991 1:30 p.m.
Peter Claussen - State College Board of Trustees

LB 663	Tuesday, February 12, 1991	1:30 p.m.
LB 784	Tuesday, February 12, 1991	1:30 p.m.
LB 179	Tuesday, February 12, 1991	1:30 p.m.

LR 6CA	Tuesday, February 12, 1991	1:30 p.m.

LB 698	Tuesday, February 19, 1991	1:30 p.m.
LB 481	Tuesday, February 19, 1991	1:30 p.m.
LB 554	Tuesday, February 19, 1991	1:30 p.m.
LB 574	Tuesday, February 19, 1991	1:30 p.m.
LB 633	Tuesday, February 19, 1991	1:30 p.m.
LB 786	Tuesday, February 19, 1991	1:30 p.m.
LB 166	Monday, March 4, 1991	1:30 p.m.
LB 225	Monday, March 4, 1991	1:30 p.m.
LB 479	Monday, March 4, 1991	1:30 p.m.
LB 522	Monday, March 4, 1991	1:30 p.m.
LB 464	Monday, March 11, 1991	1:30 p.m.
LB 512	Monday, March 11, 1991	1:30 p.m.
LB 719	Monday, March 11, 1991	1:30 p.m.
LB 785	Monday, March 11, 1991	1:30 p.m.
LB 684	Tuesday, March 12, 1991	1:30 p.m.
LB 223	Tuesday, March 12, 1991	1:30 p.m.
LB 389	Tuesday, March 12, 1991	1:30 p.m.
LB 622	Tuesday, March 12, 1991	1:30 p.m.
LR 8CA	Tuesday, March 12, 1991	1:30 p.m.

(Signed) Ron Withem, Chairperson

UNANIMOUS CONSENT - Member Excused

Mr. Schmit asked unanimous consent to be excused until he returns. No objections. So ordered.

GENERAL FILE

LEGISLATIVE BILL 88. Mr. Coordsen offered the following amendment to the pending Kristensen amendment:
AM0124

(Amendments to AM0102)

1. Insert the following new sections:

"Sec. 5. The court shall allow the admission into evidence of proof of collateral-source payments which have already been made or which are substantially certain to be made to the claimant as compensation for the damages sought in the action. Proof of such payments shall be considered by the trier of fact in

arriving at the amount of any award and shall be considered by the court in reviewing awards for excessiveness.

Sec. 6. The trier of fact shall be informed of the tax implications of all damage awards. The trier of fact may hear evidence of the premiums personally paid by the claimant to obtain any collateral-source payment.".

2. On page 1, lines 3 and 10, strike "5" and insert "7"; in line 19 after "(2)" insert "Collateral source shall mean a nonsubrogated benefit paid or payable to the claimant or on his or her behalf under, from, or pursuant to:

(a) The federal Social Security Act;

(b) Any state or federal income replacement, disability, workers' compensation, or other statute designed to provide partial or full wage or income replacement;

(c) Any sickness or accident insurance, income or wage replacement insurance, disability income insurance, casualty or property insurance, including automobile accident and homeowners insurance benefits, or other insurance benefits except life insurance benefits;

(d) Any contract or agreement of any group, organization, partnership, or corporation to provide, pay for, or reimburse the cost of medical, hospital, dental, or other health care services or provide similar benefits; or

(e) Any contractual or voluntary wage continuation plan or payments made pursuant to such a plan provided by an employer or otherwise or any other plan or system intended to provide wages during a period of disability;

(3)".

3. On page 2, line 5, strike "(3)" and insert "(4)".

4. On page 7, line 22, strike "5" and insert "7".

5. Renumber the remaining sections accordingly.

Messrs. R. Johnson and Hefner asked unanimous consent to be excused until they return. No objections. So ordered.

The Coordsen amendment lost with 10 ayes, 15 nays, 19 present and not voting, and 5 excused and not voting.

Mr. Ashford requested a division of the question on the pending Kristensen amendment.

The Chair sustained the division of the question.

The first Kristensen amendment is as follows:

FA11

1. Strike the original sections and insert the following new sections:

"Section 1. Sections 1 to 5 of this act shall apply to all civil actions that accrue on or after the operative date of this act for damages arising out of injury to or death of a person or harm to property regardless of the theory of liability. Actions accruing prior to such date shall be governed by the laws in effect immediately prior to such date.

Sec. 2. For purposes of sections 1 to 5 of this act:

(1) Claimant shall mean any person who brings or maintains an action described in section 1 of this act. If an action is brought through or on behalf of an estate, claimant shall include the claimant's decedent. If an action is brought through or on behalf of a minor, claimant shall include the claimant's parent or guardian;

(2) Economic damages shall mean objectively verifiable monetary losses, including medical expenses, loss of earnings, funeral costs, loss of use of property, costs of repair or replacement, costs of obtaining substitute domestic services, loss of employment, and loss of business or employment opportunities; and

(3) Noneconomic damages shall mean subjective, nonmonetary losses, including, but not limited to, pain, suffering, inconvenience, mental suffering, emotional distress, loss of society and companionship, loss of consortium, injury to reputation, and humiliation, but shall not include economic damages.

Sec. 3. Any contributory negligence chargeable to the claimant shall diminish

proportionately the amount awarded as damages for an injury attributable to the claimant's contributory negligence but shall not bar recovery, except that if the contributory negligence of the claimant is equal to or greater than the total negligence of all persons against whom recovery is sought, the claimant shall be totally barred from recovery.

Sec. 4. In an action involving more than one defendant when two or more defendants as part of a common enterprise or plan act in concert to cause harm, the liability of each such defendant for economic and noneconomic damages shall be joint and several.

In any other action involving more than one defendant, the liability of each defendant for economic damages shall be joint and several and the liability of each defendant for noneconomic damages shall be several only and shall not be joint. Each defendant shall be liable only for the amount of noneconomic damages allocated to that defendant in direct proportion to that defendant's percentage of fault, and a separate judgment shall be rendered against that defendant for that amount.

Sec. 5. A release, covenant not to sue, or similar agreement entered into by a claimant and a person liable shall discharge that person from all liability to the claimant but shall not discharge any other persons liable upon the same claim unless it so provides. The claim of the claimant against other persons shall be reduced by the amount of the released person's share of the obligation as determined by the trier of fact.

Mrs. Robak asked unanimous consent to be excused. No objections. So ordered.

Mr. Ashford moved the previous question. The question is, "Shall the debate now close?" The motion lost with 15 ayes, 6 nays, 23 present and not voting, and 5 excused and not voting.

Mr. Ashford moved the previous question. The question is, "Shall the debate now close?"

Mr. Abboud moved for a call of the house. The motion prevailed with 19 ayes, 1 nay, and 29 not voting.

The motion to cease debate prevailed with 25 ayes, 5 nays, 14 present and not voting, and 5 excused and not voting.

Mr. Kristensen requested a roll call vote on his amendment.

Voting in the affirmative, 25:

Byars	Elmer	Johnson, R.	Peterson	Schrock
Coordsen	Hartnett	Kristensen	Robak	Smith
Crosby	Hillman	Labedz	Robinson	Warner
Cudaback	Horgan	Lamb	Schellpeper	Wehrbein
Dierks	Johnson, L.	Moore	Schmit	Wickersham

Voting in the negative, 15:

Abboud	Bernard-	Chizek	Landis	Nelson
Ashford	Stevens	Conway	Lindsay	Schimek
Baack	Beyer	Hall	Morrissey	Wesely
				Will

Present and not voting, 5:

Beutler	Lynch	Rasmussen	Rogers	Withem

Absent and not voting, 1:

Chambers

Excused and not voting, 3:

Haberman	Hefner	Pirsch

The first Kristensen amendment was adopted with 25 ayes, 15 nays, 5 present and not voting, 1 absent and not voting, and 3 excused and not voting.

Pending.

SELECT COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 20. Placed on Select File as amended.
E & R amendment to LB 20:

AM5011

1. On page 1, line 6, strike "and"; and in line 7 after "sections" insert "; and to declare an emergency".

Correctly Engrossed

The following bills were correctly engrossed: 23, 58, and 95.

(Signed) Eric Will, Chairperson

Enrollment and Review Change to LB 58

The following changes, required to be reported for publication in the Journal, have been made:

ER7001

1. In lieu of the Beutler amendment, FA8:

a. On page 19, line 3, ". By October 1, 1991, the department shall submit to the Legislature a report outlining the current status of priority and funding within the area agencies on aging with regard to older individuals with the greatest economic need and the greatest social need" has been inserted after "report"; and

b. On page 20, line 17, "and the Legislature" has been inserted after "department".

2. On page 14, lines 10 and 12; and page 16, line 9, "Department on Aging" has been struck, shown as stricken, and "department" inserted.

3. On page 20, line 8, "Department on Aging" has been struck and "department" inserted.

(Signed) Mary E. Sommermeyer
E & R Attorney

NOTICE OF COMMITTEE HEARINGS
Education

LB 426	Monday, February 25, 1991	1:30 p.m.
LB 132	Monday, February 25, 1991	1:30 p.m.
LB 364	Monday, February 25, 1991	1:30 p.m.
LB 625	Monday, February 25, 1991	1:30 p.m.
LB 693	Monday, February 25, 1991	1:30 p.m.
LB 131	Tuesday, February 26, 1991	1:30 p.m.
LB 149	Tuesday, February 26, 1991	1:30 p.m.

LB 700	Tuesday, February 26, 1991	1:30 p.m.
LB 323	Tuesday, February 26, 1991	1:30 p.m.
LB 638	Tuesday, February 26, 1991	1:30 p.m.
LB 701	Tuesday, February 26, 1991	1:30 p.m.
LB 91	Tuesday, March 5, 1991	1:30 p.m.
LB 173	Tuesday, March 5, 1991	1:30 p.m.
LB 587	Tuesday, March 5, 1991	1:30 p.m.
LB 751	Tuesday, March 5, 1991	1:30 p.m.

(Signed) Ron Withem, Chairperson

Health and Human Services

LB 830	Wednesday, February 20, 1991	1:30 p.m.
LB 832	Wednesday, February 20, 1991	1:30 p.m.
LB 833	Wednesday, February 20, 1991	1:30 p.m.
LB 834	Wednesday, February 20, 1991	1:30 p.m.
LB 831	Wednesday, February 20, 1991	1:30 p.m.
LB 410	Friday, February 8, 1991	1:30 p.m.
LB 169	Friday, February 8, 1991	1:30 p.m.
LB 606	Friday, February 8, 1991	1:30 p.m.
LB 823	Friday, February 8, 1991	1:30 p.m.
LB 822	Friday, February 8, 1991	1:30 p.m.
LB 400	Wednesday, February 13, 1991	1:30 p.m.
LB 388	Wednesday, February 13, 1991	1:30 p.m.
LB 680	Wednesday, February 13, 1991	1:30 p.m.
LB 283	Wednesday, February 13, 1991	1:30 p.m.
LB 836	Thursday, February 14, 1991	1:30 p.m.
LB 248	Thursday, February 14, 1991	1:30 p.m.
LB 679	Thursday, February 14, 1991	1:30 p.m.
LB 545	Thursday, February 14, 1991	1:30 p.m.

(Signed) Don Wesely, Chairperson

MOTION - Rerefer LB 577

Mr. Wesely moved to rerefer LB 577 from the Judiciary Committee to the Health and Human Services Committee.

Laid over.

STANDING COMMITTEE REPORT
Government, Military and Veterans Affairs

The Government, Military and Veterans Affairs Committee desires to report favorably upon the appointment listed below. The Committee suggests the appointment be confirmed by the Legislature and suggest a record vote.

Charlene Hirsch, Accountability and Disclosure Commission

VOTE: Aye: Senators Conway, Coordsen, Lindsay, Robak, Schimek, Schrock, Smith, and Withem

(Signed) Gerald Conway, Chairperson

UNANIMOUS CONSENT - Add Co-Introducer

Mrs. Robak asked unanimous consent to have her name added as co-introducer to LB 573. No objections. So ordered.

UNANIMOUS CONSENT - Print in Journal

Mr. Chizek asked unanimous consent to print the following amendment to LB 88 in the Journal. No objections. So ordered.

AM0131

1. On page 17, line 11, after the last comma insert "and also sections 39-6,191 and 39-6,191.01, Reissue Revised Statutes of Nebraska, 1943,".

VISITORS

Visitor to the Chamber was Congressman Doug Bereuter.

The Doctor of the Day was Dr. Gary Rademacher from Nebraska City.

ADJOURNMENT

At 12:02 p.m., on a motion by Mr. Byars, the Legislature adjourned until 9:00 a.m., Monday, February 4, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

EIGHTEENTH DAY - FEBRUARY 4, 1991

LEGISLATIVE JOURNAL

EIGHTEENTH DAY - FEBRUARY 4, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

EIGHTEENTH DAY

Legislative Chamber, Lincoln, Nebraska
Monday, February 4, 1991

Pursuant to adjournment, the Legislature met at 9:00 a.m., Speaker Baack presiding.

PRAYER

The prayer was offered by Pastor Charles Borcherding, Redeemer Lutheran Church, Lincoln, Nebraska.

ROLL CALL

The roll was called and all members were present except Mmes. Labedz, Pirsch, and Mr. Withem who were excused; and Messrs. Byars, Chambers, Hall, Hartnett, Lindsay, and Lynch who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Seventeenth Day was approved.

SELECT COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 32. Placed on Select File as amended.
E & R amendment to LB 32:
AM5012

1. Strike original section 1 and all amendments thereto and insert the following new section:

"Section 1. That section 32-307, Reissue Revised Statutes of Nebraska, 1943, be amended to read

as follows:

32-307. (1)(a) In each county having a population of seven thousand inhabitants or more, there shall be elected one clerk of the district court at the general election in 1962 and every four years thereafter.

(b) In ~~; in~~ counties having a population of less than seven thousand inhabitants, ~~and more than six thousand inhabitants,~~ there shall be elected a clerk of the district court at the first general election following a determination by the county board and the district judge for the county that such officer should be elected and each four years thereafter. When such a determination is not made in such a county, ~~; and in all other counties~~ the county clerk shall be ex officio clerk of the district court and perform the duties by law devolving upon that officer.

(2) Any county ~~(a)~~ having a population of ~~six~~ five thousand and less than ten thousand inhabitants, ~~(b)~~ upon presentation of a petition to the county board, ~~(c)~~ (a) not less than sixty days before the general election in 1976 or every four years thereafter, ~~(d)~~ (b) signed by ~~electors~~ registered voters of the county equal in numbers to at least fifteen percent of the total vote cast for Governor at the most recent gubernatorial election in the county, ~~(e)~~ secured in not less than two-fifths of the townships or precincts of the county, and ~~(f)~~ (c) praying that the question of not electing a clerk of the district court in the county be submitted to the ~~electors~~ registered voters therein, the county board, at the next general election, shall order the submission of the question to the ~~qualified~~ registered voters of the county. The form of submission upon the ballot shall be as follows: For election of a clerk of the district court; ; Against election of a clerk of the district court.

~~(2)~~ (3) If a majority of the votes cast on the question, at the election provided for in subsection ~~(1)~~ (2) of this section, ~~shall be~~ are against the election of a clerk of the district court in such county, the office shall either (a) cease therein with the expiration of the term of the incumbent or (b) ~~shall~~ continue to be abolished, if there is no such office at such time, and the duties of the clerk of the district

court shall be performed by the county clerk.

~~(3)~~ (4) If a majority of the votes cast on the question~~,~~ at the election~~,~~ provided for in subsection ~~(1)~~ (2) of this section~~, shall be~~ are for the election of a clerk of the district court, (a) the office shall ~~(a)~~ continue or (b) a clerk of the district court shall be elected at the next general election as provided in subsection (1) of this section.".

Correctly Engrossed

The following bills were correctly engrossed: 37, 135, and 147.

(Signed) Eric Will, Chairperson

Enrollment and Review Change to LB 147

The following changes, required to be reported for publication in the Journal, have been made:
ER7002

1. On page 2, line 8, "on or" has been inserted after "day".

(Signed) Mary E. Sommermeyer
E & R Attorney

NOTICE OF COMMITTEE HEARINGS
Banking, Commerce and Insurance

LB 123	Monday, February 11, 1991	1:30 p.m.
LB 260	Monday, February 11, 1991	1:30 p.m.
LB 285	Monday, February 11, 1991	1:30 p.m.
LB 346	Monday, February 11, 1991	1:30 p.m.
LB 365	Monday, February 11, 1991	1:30 p.m.
LB 172	Tuesday, February 12, 1991	1:30 p.m.
LB 205	Tuesday, February 12, 1991	1:30 p.m.
LB 221	Tuesday, February 12, 1991	1:30 p.m.
LB 664	Tuesday, February 12, 1991	1:30 p.m.
LB 544	Tuesday, February 12, 1991	1:30 p.m.
LB 159	Tuesday, February 19, 1991	1:30 p.m.
LB 160	Tuesday, February 19, 1991	1:30 p.m.
LB 161	Tuesday, February 19, 1991	1:30 p.m.

LB 162	Tuesday, February 19, 1991	1:30 p.m.
LB 269	Tuesday, February 19, 1991	1:30 p.m.
LB 190	Monday, February 25, 1991	1:30 p.m.
LB 469	Monday, February 25, 1991	1:30 p.m.
LB 470	Monday, February 25, 1991	1:30 p.m.
LB 471	Monday, February 25, 1991	1:30 p.m.
LB 782	Monday, February 25, 1991	1:30 p.m.
LB 71	Tuesday, February 26, 1991	1:30 p.m.
LB 486	Tuesday, February 26, 1991	1:30 p.m.
LB 368	Tuesday, February 26, 1991	1:30 p.m.
LB 395	Tuesday, February 26, 1991	1:30 p.m.
LB 626	Tuesday, February 26, 1991	1:30 p.m.
LB 449	Monday, March 4, 1991	1:30 p.m.
LB 450	Monday, March 4, 1991	1:30 p.m.
LB 641	Monday, March 4, 1991	1:30 p.m.
LB 642	Monday, March 4, 1991	1:30 p.m.
LB 757	Monday, March 4, 1991	1:30 p.m.
LB 758	Monday, March 4, 1991	1:30 p.m.
LB 759	Monday, March 4, 1991	1:30 p.m.
LB 536	Tuesday, March 5, 1991	1:30 p.m.
LB 537	Tuesday, March 5, 1991	1:30 p.m.
LB 538	Tuesday, March 5, 1991	1:30 p.m.
LB 390	Tuesday, March 5, 1991	1:30 p.m.
LB 655	Tuesday, March 5, 1991	1:30 p.m.
LB 667	Tuesday, March 5, 1991	1:30 p.m.
LB 272	Monday, March 11, 1991	1:30 p.m.
LB 496	Monday, March 11, 1991	1:30 p.m.
LB 552	Monday, March 11, 1991	1:30 p.m.
LB 650	Monday, March 11, 1991	1:30 p.m.
LB 710	Monday, March 11, 1991	1:30 p.m.
LB 787	Monday, March 11, 1991	1:30 p.m.
LB 826	Monday, March 11, 1991	1:30 p.m.
LB 394	Tuesday, March 12, 1991	1:30 p.m.
LB 790	Tuesday, March 12, 1991	1:30 p.m.
LB 835	Tuesday, March 12, 1991	1:30 p.m.
LB 674	Tuesday, March 12, 1991	1:30 p.m.
LB 739	Tuesday, March 12, 1991	1:30 p.m.
LB 740	Tuesday, March 12, 1991	1:30 p.m.

(Signed) David Landis, Chairperson

UNANIMOUS CONSENT - Print in Journal

Mr. Coordsen asked unanimous consent to print the following amendment to LB 22 in the Journal. No objections. So ordered.

AM0087

1. On page 2, after line 25 insert:

"No person may challenge the validity of any rule or regulation, the adoption, amendment, or repeal of any rule or regulation, or any determination of the applicability of any rule or regulation on the basis of the information provided pursuant to this section.".

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the attached report on the referral of legislative bill 849 and legislative resolution 24CA.

LB	Committee
849	General Affairs

LR	Committee
24CA	General Affairs

(Signed) Jerome Warner, Chairperson
Legislative Council
Executive Board

MOTION - Rerefer LB 577

Mr. Wesely renewed his pending motion, found in the Journal on page 515, to rerefer LB 577 from the Judiciary Committee to the Health and Human Services Committee.

Mr. Chizek moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 0 nays, and 23 not voting.

Mr. Wesely moved for a call of the house. The motion prevailed with 26 ayes, 0 nays, and 23 not voting.

Mr. Baack requested a roll call vote on the Wesely motion to rerefer LB 577.

Voting in the affirmative, 21:

Beutler	Hefner	Lamb	Rasmussen	Schrock
Beyer	Horgan	Landis	Rogers	Smith
Crosby	Johnson, L.	Nelson	Schellpeper	Wehrbein
Cudaback	Johnson, R.	Peterson	Schmit	Wesely
Dierks				

Voting in the negative, 19:

Abboud	Chizek	Haberman	Moore	Schimek
Baack	Conway	Hillman	Morrissey	Warner
Bernard-Stevens	Coordsen	Kristensen	Robak	Wickersham
	Elmer	Lindsay	Robinson	Will

Present and not voting, 2:

Ashford Hartnett

Excused and not voting, 7:

Byars	Hall	Lynch	Pirsch	Withem
Chambers	Labedz			

The Wesely motion to rerefer lost with 21 ayes, 19 nays, 2 present and not voting, and 7 excused and not voting.

The Chair declared the call raised.

SPEAKER BAACK PRESIDING

GENERAL FILE

LEGISLATIVE BILL 88. The second Kristensen amendment is as follows:

FA12

Sec. 6. That section 13-902, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

13-902. The Legislature hereby declares that no political subdivision of the State of Nebraska shall

be liable for the torts of its officers, agents, or employees, and that no suit shall be maintained against such political subdivision or its officers, agents, or employees on any tort claim except to the extent, and only to the extent, provided by ~~this act~~ the Political Subdivisions Tort Claims Act. The Legislature further declares that it is its intent and purpose through this enactment to provide uniform procedures for the bringing of tort claims against all political subdivisions, whether engaging in governmental or proprietary functions, and that the procedures provided by this act shall be used to the exclusion of all others.

Sec. 7. That section 13-910, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

13-910. ~~Sections 13-901 to 13-926,~~ The Political Subdivisions Tort Claims Act and sections 16-727, 16-728, 23-175, 39-809, and 79-489 shall not apply to:

(1) Any claim based upon an act or omission of an employee of a political subdivision, exercising due care, in the execution of a statute, ordinance, or officially adopted resolution, rule, or regulation, whether or not such statute, ordinance, resolution, rule, or regulation ~~be~~ is valid;

(2) Any claim based upon the exercise or performance of or the failure to exercise or perform a discretionary function or duty on the part of the political subdivision or an employee of the political subdivision, whether or not the discretion ~~be~~ is abused;

(3) Any claim based upon the making or failure to make an inspection of any property other than the property of the political subdivision to determine whether the property complies with or violates any statute, ordinance, rule, or regulation or contains a hazard to public health or safety;

(4) Any claim based upon the issuance, denial, suspension, or revocation of or failure or refusal to issue, deny, suspend, or revoke any permit, license, certificate, approval, order, or similar authority;

(5) Any claim arising in respect to the assessment or collection of any tax or fee, or the detention of any goods or merchandise by any law enforcement officer;

~~(4)~~ (6) Any claim caused by the imposition or establishment of a quarantine by the state or a political subdivision, whether such quarantine relates to persons or property;

~~(5)~~ (7) Any claim arising out of assault, battery, false arrest, false imprisonment, malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, or interference with contract rights; or

~~(6)~~ (8) Any claim by an employee of the political subdivision which is covered by the Nebraska Workers' Compensation Act.

Sec. 8. That section 25-21,185, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

25-21,185. In all actions accruing before the operative date of this act brought to recover damages for injuries to a person or to ~~his~~ property caused by the negligence or act or omission giving rise to strict liability in tort of another, the fact that the plaintiff may have been guilty of contributory negligence shall not bar a recovery when the contributory negligence of the plaintiff was slight and the negligence or act or omission giving rise to strict liability in tort of the defendant was gross in comparison, but the contributory negligence of the plaintiff shall be considered by the jury in the mitigation of damages in proportion to the amount of contributory negligence attributable to the plaintiff; and all questions of negligence or act or omission giving rise to strict liability in tort and contributory negligence shall be for the jury.

Sec. 9. That section 39-619, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

39-619. (1) No person shall, without lawful authority, attempt to or in fact alter, deface, injure, knock down, or remove any traffic-control device or any railroad sign or signal or any part thereof.

(2) Any person who moves, alters, damages, or destroys warning devices placed upon roads which the Department of Roads or any local authority or its representative has closed in whole or in part for the protection of the public or for the protection of the

highway from damage during construction, improvement, or maintenance operation; and thereby causes injury or death to any person or damage to any property, equipment, or material thereon shall be liable, subject to ~~the provisions of~~ section 25-21,185 and sections 1 to 5 of this act, for the full amount of such death, injury, or damage, and such amount may be recovered by the injured or damaged party or his or her legal representative in a civil action brought in any court of competent jurisdiction.

Sec. 10. That section 81-8,219, Revised Statutes Supplement, 1990, be amended to read as follows:

81-8,219. (1) The State Tort Claims Act shall not apply to:

(a) Any claim based upon an act or omission of an employee of the state, exercising due care, in the execution of a statute, rule, or regulation, whether or not such statute, rule, or regulation is valid, or based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of a state agency or an employee of the state, whether or not the discretion is abused;

(b) Any claim arising in respect to the assessment or collection of any tax or fee, or the detention of any goods or merchandise by any law enforcement officer;

(c) Any claim for damages caused by the imposition or establishment of a quarantine by the state whether such quarantine relates to persons or property;

(d) Any claim arising out of assault, battery, false imprisonment, false arrest, malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, or interference with contract rights;

(e) Any claim by an employee of the state which is covered by the Nebraska Workers' Compensation Act; ~~or~~

(f) Any claim based on activities of the Nebraska National Guard when such claim is cognizable under the National Guard Tort Claims Act of the United States, 32 U.S.C.A. 715, or when such claim accrues as a result of active federal service or state service at the call of the Governor for quelling riots and civil disturbances;

(g) Any claim based upon the making or failure to make an inspection of any property other than state property to determine whether the property complies with or violates any statute, ordinance, rule, or regulation or contains a hazard to public health or safety. Such claim shall also not be filed against a state employee acting within the scope of his or her office; or

(h) Any claim based upon the issuance, denial, suspension, or revocation of or failure or refusal to issue, deny, suspend, or revoke any permit, license, certificate, approval, order, or similar authority. Such claim shall also not be filed against a state employee acting within the scope of his or her office.

(2) With respect to any tort claim based on the alleged insufficiency or want of repair of any highway or bridge on the state highway system, it is the intent of the Legislature to waive the state's immunity from suit and liability to the same extent that liability has been imposed upon counties pursuant to section 13-912 and only to that extent. The Legislature further declares that judicial interpretations of section 13-912 governing the liability of counties on December 25, 1969, also shall be controlling on the liability of the state for the alleged insufficiency or want of repair of any highway or bridge. It is the further intent of the Legislature that the words insufficiency or want of repair shall refer to a spot or localized highway defect and shall not be construed to refer to the general or overall condition of a highway.

Sec. 11. This act shall become operative on January 1, 1992.

Sec. 12. That original sections 13-902, 13-910, 25-21,185, and 39-619, Reissue Revised Statutes of Nebraska, 1943, and section 81-8,219, Revised Statutes Supplement, 1990, are repealed.".

Mr. Ashford requested a ruling of the Chair on whether the Kristensen amendment is germane to the bill.

The Chair ruled the second Kristensen amendment is not germane to the bill.

Mr. Chizek withdrew his pending amendment, AM0131, found in the Journal on page 516.

Mr. Warner moved to bracket LB 88 until LB 262 is on General File and considered.

Mr. Beutler moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

The Warner motion to bracket lost with 16 ayes, 17 nays, 11 present and not voting, and 5 excused and not voting.

Mr. Ashford moved for a call of the house. The motion prevailed with 23 ayes, 0 nays, and 26 not voting.

Mr. Ashford requested a roll call vote on the advancement of the bill.

Voting in the affirmative, 30:

Abboud	Chizek	Horgan	Moore	Schimek
Ashford	Conway	Johnson, R.	Morrissey	Schrock
Baack	Crosby	Kristensen	Nelson	Wehrbein
Bernard-Stevens	Cudaback	Landis	Rasmussen	Wesely
Beutler	Hartnett	Lindsay	Robak	Wickersham
Beyer	Hillman	Lynch	Robinson	Will

Voting in the negative, 10:

Coordsen	Haberman	Johnson, L.	Peterson	Schmit
Elmer	Hefner	Lamb	Schellpeper	Warner

Present and not voting, 4:

Byars	Dierks	Rogers	Smith

Excused and not voting, 5:

Chambers	Hall	Labedz	Pirsch	Withem

Advanced to E & R for review with 30 ayes, 10 nays, 4 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

LEGISLATIVE BILL 137. Title read. Considered.

Standing Committee amendment, AM0039, found in the Journal on page 426, was considered.

Mr. Morrissey moved for a call of the house. The motion prevailed with 26 ayes, 0 nays, and 23 not voting.

Mr. Moore requested a roll call vote on the Standing Committee amendment.

Voting in the affirmative, 30:

Abboud	Cudaback	Johnson, L.	Rasmussen	Schrock
Ashford	Dierks	Lamb	Robak	Smith
Beutler	Hartnett	Landis	Robinson	Wehrbein
Beyer	Hefner	Lindsay	Rogers	Wesely
Chambers	Hillman	Lynch	Schellpeper	Wickersham
Crosby	Horgan	Morrissey	Schimek	Will

Voting in the negative, 11:

Baack	Byars	Johnson, R.	Moore	Schmit
Bernard-Stevens	Conway	Kristensen	Nelson	Warner
	Coordsen			

Present and not voting, 4:

Chizek	Elmer	Haberman	Peterson

Excused and not voting, 4:

Hall	Labedz	Pirsch	Withem

The Standing Committee amendment was adopted with 30 ayes, 11 nays, 4 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

Messrs. Haberman and Chizek asked unanimous consent to be excused until they return. No objections. So ordered.

MR. CONWAY PRESIDING

Advanced to E & R for review with 27 ayes, 5 nays, 11 present and not voting, and 6 excused and not voting.

SPEAKER BAACK PRESIDING

LEGISLATIVE BILL 69. Title read. Considered.

Standing Committee amendment, AM0033, found in the Journal on page 426, was adopted with 27 ayes, 0 nays, 16 present and not voting, and 6 excused and not voting.

Messrs. Kristensen, Rogers, Peterson, Coordsen, and Abboud asked unanimous consent to be excused until they return. No objections. So ordered.

Pending.

PROPOSED RULE CHANGE

Mr. Wesely asked unanimous consent to print the following proposed rule change in the Journal. No objections. So ordered.

Section 1. Meeting Time, Restrictions. (a) The Legislature shall meet annually at 10:00 a.m. on the first Wednesday after the first Monday in January of each year and thereafter on each legislative day at 9:00 a.m., and adjourn not later than 1:00 p.m., unless otherwise ordered by a majority vote of its members present and voting thereon. The Legislature shall, after the period allowed for the introduction of bills, recess until the following Monday. No public hearings shall be held during the bill introduction period nor during the recess period as provided for in this section. The Legislature shall remain in session until it shall adjourn sine die, but in no event shall it remain in session for longer than ninety (90) legislative days in odd-numbered years or sixty (60) legislative days in even-numbered years. This limitation may be suspended by a four-fifths vote of the elected senators. Each day the Legislature convenes shall be considered a legislative day.

Referred to the Rules Committee.

STANDING COMMITTEE REPORTS
Natural Resources

LEGISLATIVE BILL 276. Placed on General File.
LEGISLATIVE BILL 277. Placed on General File.

LEGISLATIVE BILL 278. Placed on General File.

LEGISLATIVE BILL 325. Placed on General File as amended.
Standing Committee amendment to LB 325:
AM0133

1. Insert the following new section:

"Section 1. That section 81-15,161, Revised Statutes Supplement, 1990, be amended to read as follows:

81-15,161. (1) Allocations from the Waste Reduction and Recycling Incentive Fund may be made as grants to a political subdivision when it is found that the reduction or recycling program or project proposed by the political subdivision appears to benefit the general public, to further the goals of waste reduction and recycling, and to be consistent with proper waste management practices. A political subdivision may file an application with the Department of Environmental Control for a grant from the fund. Each application shall be filed in a manner and form prescribed by the department.

(2) An application for a grant from the fund shall: (a) Describe the nature and purpose of the proposed program or project; (b) set forth or be accompanied by a plan for development of the proposed program or project, together with engineering, economic, and financial feasibility data and information, and such estimated costs of construction or implementation as may be required by the department; (c) state whether money other than that for which the application is made will be used to help in meeting program or project costs and whether such money is available or has been sought for this purpose; (d) when appropriate, state that the applicant holds or can acquire title to all lands or has the necessary easements and rights-of-way for the project and related lands; (e) show that the applicant possesses all necessary authority to undertake or participate in the proposed program or project; and (f) demonstrate the probable environmental and ecological consequences that may result from such proposed program or project. Upon receipt of an application the Director of Environmental Control shall evaluate and investigate all aspects of the proposed program or project and the proposed schedule for the development and completion of

such program or project, determine the eligibility of the program or project for funding, and make appropriate recommendations to the Environmental Control Council. As a part of his or her investigation, the director shall consider whether the plan for development of the program or project is satisfactory. If the director determines that the plan is unsatisfactory or that the application does not contain adequate information upon which to make determinations, the director shall return the application to the applicant and may make recommendations to the applicant which the director considers necessary to make the plan or the application satisfactory.

(3) The director shall within a reasonable time, not to exceed six months, after receipt of such application report to the council the results of his or her evaluation and investigation and shall recommend approval or rejection of funding for the program or project. The director shall indicate what form of allocation he or she deems appropriate. The council shall act in accordance with the director's recommendations unless action to the contrary is approved by each council member eligible to vote on the specific recommendation under consideration. No council member shall be eligible to participate in the action of the council concerning an application for funding to any entity in which such council member has any interest. If the council approves the recommendation of the director, the director shall allocate the funds. The grant shall be for a specific dollar amount of funds, and the funds shall be used only for the purpose specified in the grant. The director may set any terms for the administration of the funds as he or she deems necessary and any penalties to be imposed upon the recipient if it fails to comply with any requirements of the grant.

(4) It is the intent of the Legislature that allocations from the fund shall be made in an equitable manner which maximizes the benefits of the fund. When awarding grants, the council shall balance the needs of: (a) All geographic areas of the state; (b) all sizes and classes of communities; and (c) all manner and scale of programs and projects. The council shall also give consideration to eligible programs and projects which

would specifically employ disabled or handicapped persons.

(5) ~~If after review of the recommendation by the director the council determines that an application for a grant is satisfactory and qualified to be approved, before the final approval of such application may be given and the funds allocated the council shall enter into an agreement in the name of the state with the applicant and any other entity it deems to be involved in the program or project to which funds shall be applied. All agreements entered into pursuant to this section shall include, but not be limited to, a specification of the amount of funds involved, the specific purpose for which the allocation is made, the terms of administration of the allocated funds, and any penalties to be imposed upon the applicant if it fails to apply the funds in accordance with the agreement~~ The council shall adopt and promulgate rules and regulations to carry out this section and section 81-15,160.".

2. On page 3, line 8, strike "section" and insert "sections 81-15,161 and "; and in line 9 strike "is" and insert "are".

3. Renumber the remaining sections accordingly.

(Signed) Rod Johnson, Chairperson

Health and Human Services

LEGISLATIVE BILL 385. Placed on General File.
LEGISLATIVE BILL 455. Placed on General File.

LEGISLATIVE BILL 363. Placed on General File as amended.
Standing Committee amendment to LB 363:
AM0072

1. On page 5, line 3, after "bioequivalent" insert "and therapeutically equivalent".

LEGISLATIVE BILL 419. Placed on General File as amended.
Standing Committee amendment to LB 419:
AM0118

1. On page 4, line 20, strike "(2)" and insert "(3)"; and in line 21 strike "certified" and insert "qualified".

(Signed) Don Wesely, Chairperson

NOTICE OF COMMITTEE HEARINGS
Health and Human Services

LB 144	Thursday, February 21, 1991	1:30 p.m.
LB 503	Thursday, February 21, 1991	1:30 p.m.
LB 539	Thursday, February 21, 1991	1:30 p.m.
LB 238	Thursday, February 21, 1991	1:30 p.m.
LB 558	Friday, February 22, 1991	1:30 p.m.
LB 559	Friday, February 22, 1991	1:30 p.m.
LB 401	Friday, February 22, 1991	1:30 p.m.
LB 289	Friday, February 22, 1991	1:30 p.m.
LB 138	Friday, February 22, 1991	1:30 p.m.
LB 654	Friday, February 22, 1991	1:30 p.m.
LB 414	Wednesday, February 27, 1991	1:30 p.m.
LB 416	Wednesday, February 27, 1991	1:30 p.m.
LB 678	Wednesday, February 27, 1991	1:30 p.m.
LB 692	Wednesday, February 27, 1991	1:30 p.m.
LB 666	Wednesday, February 27, 1991	1:30 p.m.
LB 423	Thursday, February 28, 1991	1:30 p.m.
LB 540	Thursday, February 28, 1991	1:30 p.m.
LB 704	Thursday, February 28, 1991	1:30 p.m.
LB 605	Friday, March 1, 1991	1:30 p.m.
LB 791	Friday, March 1, 1991	1:30 p.m.
LB 514	Friday, March 1, 1991	1:30 p.m.
LB 646	Friday, March 1, 1991	1:30 p.m.
LB 256	Wednesday, March 6, 1991	1:30 p.m.
LB 792	Wednesday, March 6, 1991	1:30 p.m.
LB 412	Wednesday, March 6, 1991	1:30 p.m.
LB 184	Wednesday, March 6, 1991	1:30 p.m.
LB 770	Wednesday, March 6, 1991	1:30 p.m.
LB 428	Thursday, March 7, 1991	1:30 p.m.
LB 602	Thursday, March 7, 1991	1:30 p.m.
LB 725	Thursday, March 7, 1991	1:30 p.m.

LB 227	Wednesday, March 13, 1991	1:30 p.m.
LB 584	Wednesday, March 13, 1991	1:30 p.m.

(Signed) Don Wesely, Chairperson

General Affairs

LB 795	Monday, February 11, 1991	1:30 p.m.

(Signed) Jacklyn Smith, Chairperson

Urban Affairs

LB 415	Tuesday, February 12, 1991	1:30 p.m.
LB 492	Tuesday, February 12, 1991	1:30 p.m.
LB 745	Tuesday, February 12, 1991	1:30 p.m.
LB 810	Tuesday, February 12, 1991	1:30 p.m.

(Signed) D. Paul Hartnett, Chairperson

Natural Resources

LB 70	Wednesday, February 13, 1991	1:30 p.m.
LB 72	Wednesday, February 13, 1991	1:30 p.m.
LB 73	Wednesday, February 13, 1991	1:30 p.m.
LB 399	Wednesday, February 13, 1991	1:30 p.m.
LB 838	Wednesday, February 13, 1991	1:30 p.m.
LB 716	Thursday, February 14, 1991	1:30 p.m.
LB 748	Thursday, February 14, 1991	1:30 p.m.
LB 827	Thursday, February 14, 1991	1:30 p.m.

(Signed) Rod Johnson, Chairperson

Nebraska Retirement Systems

LB 350	Tuesday, February 12, 1991	12:00 noon
LB 549	Tuesday, February 12, 1991	12:00 noon
LB 543	Tuesday, February 19, 1991	12:00 noon
LB 517	Thursday, February 21, 1991	12:00 noon
LB 672	Thursday, February 21, 1991	12:00 noon

LB 705	Tuesday, February 26, 1991	12:00 noon
LB 769	Tuesday, February 26, 1991	12:00 noon
LB 682	Thursday, February 28, 1991	12:00 noon
LB 771	Thursday, February 28, 1991	12:00 noon
LB 756	Tuesday, March 5, 1991	12:00 noon
LB 802	Thursday, March 7, 1991	12:00 noon

(Signed) Arlene Nelson, Chairperson

General Affairs

LB 200	Monday, February 11, 1991	1:30 p.m.
LB 334	Monday, February 11, 1991	1:30 p.m.
LB 352	Monday, February 11, 1991	1:30 p.m.
LB 581	Monday, February 11, 1991	1:30 p.m.
LB 717	Monday, February 11, 1991	1:30 p.m.
LB 718	Monday, February 11, 1991	1:30 p.m.

(Signed) Jacklyn Smith, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 25. Introduced by Abboud, 12.

WHEREAS, the hobby of collecting, preserving, restoring, and maintaining motor vehicles of historical and special interest is a constructive leisure pursuit; and

WHEREAS, there are a large number of Nebraska citizens who engage in this hobby which contributes to the enjoyment and the preservation of the State's vehicle memorabilia; and

WHEREAS, there are many vehicle-related activities such as car shows, swap meets, interclub meets, concours, and tours which feature historical and special interest vehicles, and such activities are often the focal point of healthful, outdoor, family-type recreation and are often used for nonprofit charitable causes; and

WHEREAS, there are many Nebraska citizens who could gain pleasure and knowledge from a greater involvement in vehicle memorabilia and vehicle-related activities.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That June 16-22, 1991, be designated as Nebraska Old Vehicle Hobby Interest Recognition Week.
2. That a copy of this resolution be delivered to the author for appropriate distribution.

Laid over.

VISITORS

Visitors to the Chamber were 30 Nebraska Lead Fellows from across the state; and five students and sponsors from Chadron State College.

ADJOURNMENT

At 12:05 p.m., on a motion by Mr. Will, the Legislature adjourned until 9:00 a.m., Tuesday, February 5, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

NINETEENTH DAY - FEBRUARY 5, 1991

LEGISLATIVE JOURNAL

NINETEENTH DAY - FEBRUARY 5, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

NINETEENTH DAY

Legislative Chamber, Lincoln, Nebraska
Tuesday, February 5, 1991

Pursuant to adjournment, the Legislature met at 9:00 a.m., Speaker Baack presiding.

PRAYER

The prayer was offered by Pastor Nancy McMurtry, Director of Ministries, United Methodist, Nebraska Conference.

ROLL CALL

The roll was called and all members were present except Mr. Withem who was excused; and Messrs. Ashford, Chizek, Hall, Hartnett, R. Johnson, Lindsay, Rogers, Schmit, Schrock, Mrs. Labedz, and Ms. Schimek who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Eighteenth Day was approved.

SELECT COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 88. Placed on Select File as amended.
E & R amendment to LB 88:
AM5013

1. Strike beginning with "amend" on page 1, line 1, through page 2, line 3, and insert "provide for the treatment of contributory negligence in certain actions; to define terms; and to provide for joint and

several liability and the discharge of liability as prescribed.".

LEGISLATIVE BILL 137. Placed on Select File.

(Signed) Eric Will, Chairperson

NOTICE OF COMMITTEE HEARINGS
Government, Military and Veterans Affairs

LB 579	Wednesday, February 13, 1991	1:30 p.m.
LB 580	Wednesday, February 13, 1991	1:30 p.m.
LB 87	Wednesday, February 13, 1991	1:30 p.m.
LB 18	Wednesday, February 13, 1991	1:30 p.m.
LR 20CA	Wednesday, February 13, 1991	1:30 p.m.
LB 713	Thursday, February 14, 1991	1:30 p.m.
LB 556	Thursday, February 14, 1991	1:30 p.m.
LB 534	Thursday, February 14, 1991	1:30 p.m.
LB 722	Thursday, February 14, 1991	1:30 p.m.

(Signed) Gerald Conway, Chairperson

MESSAGES FROM THE GOVERNOR

January 31, 1991

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Military Department, requiring legislative confirmation.

Appointee: Stanley Heng, 4631 South 50th Street, Lincoln, NE 68516, (402) 489-4096.

This appointment is respectfully submitted for your consideration.

Sincerely,

(Signed) E. Benjamin Nelson
Governor

EBN:bh

January 31, 1991

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Department of Water Resources, requiring legislative confirmation.

Appointee: J. Michael Jess, 1803 Saybrook Lane, Lincoln, NE 68512, (402) 423-6502.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:bh

January 31, 1991

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Department of Insurance, requiring legislative confirmation.

Appointee: William H. McCartney, 2500 South Street, Lincoln, NE 68502, (402) 471-0590.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:bh

January 31, 1991

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Nebraska Department of Revenue, requiring legislative confirmation.

Appointee: M. Berri Balka, Town House, 18th & M, Lincoln, NE 68508, (402) 475-3000.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:bh

January 31, 1991

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Department of Banking and Finance, requiring legislative confirmation.

Appointee: James Hanson, 1519 North 129th Avenue Circle, Omaha, NE 68154, 496-9157.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:bh

January 31, 1991

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Department of Correctional Services, requiring legislative confirmation.

Appointee: Harold Clarke, 2835 Ponca, Lincoln, NE, 68506, (402) 483-4065.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:bh

January 31, 1991

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Department of Economic Development, requiring legislative confirmation.

Appointee: Steve Buttress, 1111 West 35th Street, Kearney, NE 68847, (308) 234-9960.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:bh

January 31, 1991

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Department of Social Services, requiring legislative confirmation.

Appointee: Mary Dean Harvey, 1718 North 126th Street, Omaha, NE 68154, (402) 493-2047.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:bh

January 31, 1991

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Policy Research and Energy Office, requiring legislative confirmation.

Appointee: Rod Armstrong, 3821 B Street, Lincoln, NE 68510, 488-5719.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:bh

January 31, 1991

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Department of Administrative Services, requiring legislative confirmation.

Appointee: Larry Primeau, 9228 Timberline, Omaha, NE 68152, (402) 572-1592.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:bh

January 31, 1991

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Department of Agriculture, requiring legislative confirmation.

Appointee: Larry Sitzman, R.R. 1, Box 12A, Culbertson, NE 69024, (308) 278-2203.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:bh

January 31, 1991

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Natural Resources Commission, requiring legislative confirmation.

Appointee: Dayle Williamson, 2620 South 70th, Apt. 109, Lincoln, NE 68506, (402) 488-5590.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:bh

January 31, 1991

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building

Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Department of Labor, requiring legislative confirmation.

Appointee: Dan Dolan, 1920 South 44th Street, Omaha, NE 68105, (402) 346-5339.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:bh

January 31, 1991

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Department of Public Institutions, requiring legislative confirmation.

Appointee: Dale Johnson, 7411 Cooper, Lincoln, NE 68506, (402) 488-4869.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:bh

REPORTS

Received annual report from the Nebraska Intergovernmental Data Communications Advisory Council.

Received annual report of the Job Support Program from the Department of Social Services in compliance with Nebraska Revised Statutes 43-512.11.

Received first annual Charitable Gaming Division report submitted by the Department of Revenue in compliance with Chapter 9, section 9-1,101, R.S.Supp., 1989.

RESOLUTION

LEGISLATIVE RESOLUTION 25. Read. Considered.

LR 25 was adopted with 29 ayes, 0 nays, and 20 not voting.

MR. WARNER PRESIDING

Mr. Haberman asked unanimous consent to be excused until he returns. No objections. So ordered.

MOTION - Approve Appointments

Mr. Conway moved the adoption of the report of the Government, Military and Veterans Affairs Committee for the following Governor appointment found in the Journal on page 516: Charlene Hirsch - Accountability and Disclosure Commission.

Voting in the affirmative, 27:

Abboud	Byars	Hefner	Landis	Warner
Ashford	Conway	Hillman	Peterson	Wehrbein
Baack	Coordsen	Horgan	Rasmussen	Wesely
Bernard-Stevens	Crosby	Johnson, L.	Schellpeper	Wickersham
	Cudaback	Kristensen	Smith	Will
Beyer	Dierks	Lamb		

Voting in the negative, 0.

Present and not voting, 10:

Beutler	Elmer	Moore	Nelson	Robak
Chambers	Lynch	Morrissey	Pirsch	Robinson

Excused and not voting, 12:

Chizek	Hartnett	Lindsay	Schimek	Schrock
Haberman	Johnson, R.	Rogers	Schmit	Withem
Hall	Labedz			

The appointment was confirmed with 27 ayes, 0 nays, 10 present and not voting, and 12 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 40. E & R amendment, AM5002, found in the Journal on page 401, was adopted.

Mr. Baack renewed his pending amendment, AM0040, found in the Journal on page 419.

The Baack amendment was adopted with 26 ayes, 0 nays, 12 present and not voting, and 11 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 20. E & R amendment, AM5011, found in the Journal on page 513, was adopted.

Advanced to E & R for engrossment.

Mrs. Smith asked unanimous consent to be excused until she returns. No objections. So ordered.

LEGISLATIVE BILL 32. E & R amendment, AM5012, found in the Journal on page 518, was adopted.

Mr. Wesely withdrew his pending amendment, AM0120, found in the Journal on page 495.

Mr. Bernard-Stevens offered the following amendment:
AM0149

(Amendments to AM5012

1. On page 2, line 1, strike "Any", show as stricken, and insert "In any"; and in line 2 strike "five thousand and" and show the old matter as stricken and strike "ten", show as stricken, and insert "seven".

The Bernard-Stevens amendment was adopted with 28 ayes, 0 nays, 9 present and not voting, and 12 excused and not voting.

Advanced to E & R for engrossment.

SPEAKER BAACK PRESIDING

GENERAL FILE

LEGISLATIVE BILL 69. Mr. Hefner offered the following amendment:
AM0155

1. Insert the following new section:

"Sec. 14. This act shall become operative whenever laws containing substantially the same prohibitions, penalties, provisions for civil actions, duties, and provisions for applicability as in this act are enacted in four additional states which are members of the Big Eight Conference.".

2. In the Standing Committee amendments, AM0033, strike amendment 2.

Mr. Hefner moved for a call of the house. The motion prevailed with 15 ayes, 0 nays, and 34 not voting.

Mr. Hefner requested a roll call vote on his amendment.

Voting in the affirmative, 10:

Beutler	Hefner	Lamb	Peterson	Schellpeper
Crosby	Johnson, L.	Lynch	Pirsch	Warner

Voting in the negative, 22:

Ashford	Byars	Hartnett	Morrissey	Schimek
Baack	Chambers	Hillman	Nelson	Wesely
Bernard-Stevens	Chizek	Horgan	Rasmussen	Wickersham
	Conway	Kristensen	Robak	Will
Beyer	Hall	Landis		

Present and not voting, 10:

Abboud	Coordsen	Cudaback	Dierks	Elmer

Moore	Robinson	Rogers	Schrock	Wehrbein

Excused and not voting, 7:

Haberman	Labedz	Schmit	Smith	Withem
Johnson, R.	Lindsay			

The Hefner amendment lost with 10 ayes, 22 nays, 10 present and not voting, and 7 excused and not voting.

The Chair declared the call raised.

Mr. Beutler offered the following amendment:
FA13
1. Delete sections 5 through 10 inclusive
2. Delete the words "intercollegiate athletic association" in lines 3 & 4, page 6; delete the word "penalty" in line 5, page 6 and add in place thereof the words "rule or regulation enacted or enforced"
3. After the word "of" in line 6, page 6 add the words "section 2"

Mr. Kristensen asked unanimous consent to be excused until he returns. No objections. So ordered.

The Beutler amendment was adopted with 27 ayes, 0 nays, 14 present and not voting, and 8 excused and not voting.

Mr. Beutler offered the following amendment:
FA14
amend the committee amendment to LB 69 (AM0033) as follows:
On line 5 change the word "February 1", to "June 1"

The Beutler amendment was adopted with 29 ayes, 0 nays, 14 present and not voting, and 6 excused and not voting.

Mr. Hefner requested a record vote on the advancement of the bill.

Voting in the affirmative, 28:

Ashford	Chizek	Hartnett	Pirsch	Warner
Baack	Conway	Hillman	Rasmussen	Wehrbein
Bernard-Stevens	Crosby	Horgan	Robak	Wesely
	Cudaback	Landis	Robinson	Wickersham
Beutler	Dierks	Lindsay	Rogers	Will
Chambers	Hall	Morrissey	Schimek	

Voting in the negative, 1:

Hefner

Present and not voting, 14:

Abboud	Coordsen	Johnson, R.	Moore	Schellpeper
Beyer	Elmer	Lamb	Nelson	Schrock
Byars	Johnson, L.	Lynch	Peterson	

Excused and not voting, 6:

Haberman	Labedz	Schmit	Smith	Withem
Kristensen				

Advanced to E & R for review with 28 ayes, 1 nay, 14 present and not voting, and 6 excused and not voting.

MR. MORRISSEY PRESIDING

LEGISLATIVE BILL 220. Title read. Considered.

Mr. Warner offered the following amendment:
FA15
adding the "E" clause.

The Warner amendment was adopted with 28 ayes, 0 nays, 15 present and not voting, and 6 excused and not voting.

Advanced to E & R for review with 29 ayes, 0 nays, 14 present and not voting, and 6 excused and not voting.

LEGISLATIVE BILL 22. Title read. Considered.

Standing Committee amendment, AM0031, found in the Journal on page 426, was adopted with 30 ayes, 0 nays, 13 present and not voting, and 6 excused and not voting.

Mr. Coordsen renewed his pending amendment, AM0087, found in the Journal on page 522.

The Coordsen amendment was adopted with 25 ayes, 11 nays, 7 present and not voting, and 6 excused and not voting.

Mr. Wesely offered the following amendment:
FA16
p3 line 10 strike "shall" & insert "may"

SPEAKER BAACK PRESIDING

The Wesely amendment was adopted with 25 ayes, 0 nays, 19 present and not voting, and 5 excused and not voting.

Messrs. R. Johnson and Hefner asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Beutler offered the following amendment:
FA17
after the word 'committee' on line 16, page 3 insert the words "upon majority vote"

Mr. Landis moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

Mr. Peterson asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Beutler moved for a call of the house. The motion prevailed with 20 ayes, 1 nay, and 28 not voting.

The Beutler amendment was adopted with 25 ayes, 5 nays, 12 present and not voting, and 7 excused and not voting.

The Chair declared the call raised.

Mr. Landis moved to indefinitely postpone LB 22.

Laid over.

Mr. Haberman asked unanimous consent to be excused. No objections. So ordered.

LEGISLATIVE BILL 239. Title read. Considered.

Advanced to E & R for review with 26 ayes, 0 nays, 16 present and not voting, and 7 excused and not voting.

LEGISLATIVE BILL 122. Title read. Considered.

Advanced to E & R for review with 30 ayes, 0 nays, 12 present and not voting, and 7 excused and not voting.

STANDING COMMITTEE REPORTS
Transportation

LEGISLATIVE BILL 133. Placed on General File.
LEGISLATIVE BILL 420. Placed on General File.

LEGISLATIVE BILL 286. Placed on General File as amended.
Standing Committee amendment to LB 286:
AM0160

1. Insert the following new section:

"Sec. 4. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.".

LEGISLATIVE BILL 336. Placed on General File as amended.
Standing Committee amendment to LB 336:
AM0104

1. Insert the following new section:

"Sec. 9. (1) A driver safety course offered to carry out the purposes of section 8 of this act shall be approved by the Department of Motor Vehicles. An approved course may be offered by any school district, technical community college area, or educational service unit, the Nebraska Safety Center, or any other public or private entity approved by the department. Such courses shall be taught by certified teachers endorsed to teach driver education. The Nebraska Safety Center shall offer an approved course at least once each year in any county where no approved course is otherwise offered.

(2) The director shall appoint an advisory committee which shall meet at least once each year to review the rules and regulations promulgated by the department regarding approval of driver safety courses. The advisory committee shall consist of a representative of the property and casualty insurance industry, a law enforcement agency, the Nebraska Safety Center, and an educational service unit and a member at large. The members of the advisory committee shall be reimbursed

for their actual and necessary expenses as provided in sections 81-1174 to 81-1177.".

2. On page 6, line 14, strike "section 8" and insert "sections 8 and 9".

3. Renumber the remaining sections accordingly.

The Committee on Transportation desires to report favorably upon the appointment listed below. The Committee suggests the appointment be confirmed by the Legislature and suggests a record vote.

Mr. Mel Auch - Motor Vehicle Industry Licensing Board

VOTE: Aye: Senators Beyer, Byars, Horgan, Kristensen, Peterson, Robak, and Wickersham. Absent: Senator Pirsch.

(Signed) Doug Kristensen, Chairperson

NOTICE OF COMMITTEE HEARING
Agriculture

LB 685	Tuesday, February 26, 1991	1:30 p.m.
LB 349	Tuesday, February 26, 1991	1:30 p.m.
LB 367	Tuesday, February 26, 1991	1:30 p.m.

(Signed) Carson Rogers, Chairperson

VISITORS

Visitors to the Chamber were Ernest J. Kubr from Omaha; Senator Lynch's sister, Betty Camenzind, and a group from St. Bernards, Omaha; Ruth Donohoe from York, Senator Moore's grandmother, Ruth Moore, and Melba Liedke from Stromsburg.

The Doctor of the Day was Dr. Lynne Holz from Aurora.

ADJOURNMENT

At 11:54 a.m., on a motion by Mr. Cudaback, the Legislature adjourned until 9:00 a.m., Wednesday, February 6, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

TWENTIETH DAY - FEBRUARY 6, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

TWENTIETH DAY

Legislative Chamber, Lincoln, Nebraska
Wednesday, February 6, 1991

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Moul presiding.

PRAYER

The prayer was offered by Rev. Harland Johnson, Chaplain Coordinator.

ROLL CALL

The roll was called and all members were present except Messrs. Ashford, Withem, and Mrs. Labedz who were excused; and Messrs. Abboud, Chambers, Chizek, Dierks, Hall, Hartnett, R. Johnson, Lindsay, Lynch, Moore, Morrissey, Robinson, Schellpeper, Schmit, Mmes. Pirsch, and Rasmussen who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Nineteenth Day was approved.

SELECT COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 69. Placed on Select File as amended.
E & R amendment to LB 69:
AM5015

1. Strike original section 11 and all amendments thereto and insert the following new section:

"Sec. 5. A college or university which

subjects or causes to be subjected any student to a rule or regulation adopted, promulgated, or enforced in violation of section 2 of this act shall be liable to the aggrieved party in an action at law, a suit in equity, or any other proper proceeding for redress. In addition to any other relief granted, an aggrieved party shall be awarded costs and reasonable attorney's fees.".

2. On page 1, strike lines 3 through 8 and insert "colleges and universities relating to certain financial aid; to provide duties for the Attorney General; to provide for remedies and applicability; and to provide an operative date.".

LEGISLATIVE BILL 220. Placed on Select File as amended.
E & R amendment to LB 220:
AM5014

1. On page 1, line 6, strike "and"; and in line 7 after "section" insert "; and to declare an emergency".

LEGISLATIVE BILL 239. Placed on Select File.
LEGISLATIVE BILL 122. Placed on Select File.

Correctly Engrossed

The following bills were correctly engrossed: 20, 32, and 40.

(Signed) Eric Will, Chairperson

STANDING COMMITTEE REPORTS
Business and Labor

LEGISLATIVE BILL 297. Placed on General File.

LEGISLATIVE BILL 311. Placed on General File as amended.
Standing Committee amendment to LB 311:
AM0165

1. On page 3, line 11, after the last comma insert "health and accident benefit plans,".

LEGISLATIVE BILL 19. Indefinitely postponed.
LEGISLATIVE BILL 31. Indefinitely postponed.

(Signed) George Coordsen, Chairperson

Education

LEGISLATIVE BILL 488. Placed on General File.

(Signed) Merton Dierks, Vice Chairperson

MESSAGE FROM THE GOVERNOR

February 4, 1991

The Speaker and Senators
Nebraska Legislature
State Capitol
Lincoln, NE 68509

Dear Senators:

Today I am forwarding to you for your consideration several additional names of individuals whose appointments to boards and commissions, made by my predecessor, I had withdrawn for review.

Those appointments are:

Nancy O'Brien, Child Abuse Prevention Fund Board

Bruce Gilmore, Department of Health

Gerald Bucher, Public Employees Retirement Board

Senator LaVon Crosby, NE School Restructuring Commission
Dr. James Merritt, NE School Restructuring Commission
Michael McCarthy, NE School Restructuring Commission
Dr. Ruth Randall, NE School Restructuring Commission
Russell Worthman, NE School Restructuring Commission
Dr. William Kelley, NE School Restructuring Commission

I continue to recognize the need to move with dispatch in reviewing appointments, and will forward additional names as soon as possible. Thank you for your cooperation.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following resolution: LR 25.

MOTION - Approve Appointment

Mr. Kristensen moved the adoption of the report of the Transportation Committee for the following Governor appointment found in the Journal on page 554: Mr. Mel Auch - Motor Vehicle Industry Licensing Board.

Voting in the affirmative, 25:

Baack	Cudaback	Johnson, L.	Robak	Warner
Beyer	Elmer	Kristensen	Rogers	Wehrbein
Conway	Hefner	Lamb	Schimek	Wesely
Coordsen	Hillman	Landis	Schrock	Wickersham
Crosby	Horgan	Peterson	Smith	Will

Voting in the negative, 0.

Present and not voting, 5:

Bernard-Stevens	Beutler	Byars	Haberman	Nelson

Excused and not voting, 19:

Abboud	Dierks	Labedz	Morrissey	Schellpeper
Ashford	Hall	Lindsay	Pirsch	Schmit
Chambers	Hartnett	Lynch	Rasmussen	Withem
Chizek	Johnson, R.	Moore	Robinson	

The appointment was confirmed with 25 ayes, 0 nays, 5 present and not voting, and 19 excused and not voting.

UNANIMOUS CONSENT - Member Excused

Mr. Haberman asked unanimous consent to be excused until he returns. No objections. So ordered.

GENERAL FILE

LEGISLATIVE BILL 81. Title read. Considered.

Advanced to E & R for review with 25 ayes, 0 nays, 5 present and not voting, and 19 excused and not voting.

LEGISLATIVE BILL 153. Title read. Considered.

Advanced to E & R for review with 30 ayes, 0 nays, 3 present and not voting, and 16 excused and not voting.

LEGISLATIVE BILL 189. Title read. Considered.

Advanced to E & R for review with 25 ayes, 1 nay, 11 present and not voting, and 12 excused and not voting.

Mr. Chizek asked unanimous consent to be excused until he returns. No objections. So ordered.

LEGISLATIVE BILL 259. Title read. Considered.

Mrs. Hillman asked unanimous consent to be excused until she returns. No objections. So ordered.

Advanced to E & R for review with 25 ayes, 0 nays, 10 present and not voting, and 14 excused and not voting.

LEGISLATIVE BILL 117. Title read. Considered.

Standing Committee amendment, AM0053, found in the Journal on page 434, was adopted with 27 ayes, 0 nays, 9 present and not voting, and 13 excused and not voting.

Advanced to E & R for review with 26 ayes, 0 nays, 11 present and not voting, and 12 excused and not voting.

LEGISLATIVE BILL 113. Title read. Considered.

Advanced to E & R for review with 26 ayes, 1 nay, 11 present and not voting, and 11 excused and not voting.

LEGISLATIVE BILL 296. Title read. Considered.

Standing Committee amendment, AM0016, found in the Journal on page 438, was adopted with 25 ayes, 0 nays, 16 present and not voting, and 8 excused and not voting.

Advanced to E & R for review with 30 ayes, 0 nays, 11 present and not voting, and 8 excused and not voting.

LEGISLATIVE BILL 300. Title read. Considered.

Standing Committee amendment, AM0044, found in the Journal on page 438, was adopted with 25 ayes, 0 nays, 17 present and not voting, and 7 excused and not voting.

Mr. Schmit asked unanimous consent to be excused until he returns. No objections. So ordered.

Advanced to E & R for review with 31 ayes, 0 nays, 11 present and not voting, and 7 excused and not voting.

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 202A. Introduced by Smith, 33.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 202, Ninety-second Legislature, First Session, 1991.

NOTICE OF COMMITTEE HEARINGS

Revenue

LB 193	Wednesday, February 27, 1991	1:30 p.m.
LB 397	Wednesday, February 27, 1991	1:30 p.m.
LB 273	Wednesday, February 27, 1991	1:30 p.m.
LB 591	Wednesday, February 27, 1991	1:30 p.m.
LB 460	Thursday, February 28, 1991	1:30 p.m.
LB 504	Thursday, February 28, 1991	1:30 p.m.
LB 501	Thursday, February 28, 1991	1:30 p.m.
LB 754	Friday, March 1, 1991	1:30 p.m.
LB 755	Friday, March 1, 1991	1:30 p.m.
LB 535	Friday, March 1, 1991	1:30 p.m.

LB 737	Friday, March 1, 1991	1:30 p.m.
LB 627	Friday, March 1, 1991	1:30 p.m.
LR 4CA	Friday, March 1, 1991	1:30 p.m.

(Signed) Tim Hall, Chairperson

Judiciary

LB 92	Wednesday, February 13, 1991	1:30 p.m.
LB 257	Wednesday, February 13, 1991	1:30 p.m.
LB 302	Wednesday, February 13, 1991	1:30 p.m.
LB 303	Wednesday, February 13, 1991	1:30 p.m.
LB 318	Wednesday, February 13, 1991	1:30 p.m.
LB 670	Wednesday, February 13, 1991	1:30 p.m.
LB 825	Wednesday, February 13, 1991	1:30 p.m.

(Signed) Jerry Chizek, Chairperson

STANDING COMMITTEE REPORTS
Judiciary

LEGISLATIVE BILL 355. Placed on General File.

LEGISLATIVE BILL 262. Placed on General File as amended.
Standing Committee amendment to LB 262:
AM0145

1. Strike the original sections and insert the following new sections:

"Section 1. That section 13-902, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

13-902. The Legislature hereby declares that no political subdivision of the State of Nebraska shall be liable for the torts of its officers, agents, or employees, and that no suit shall be maintained against such political subdivision or its officers, agents, or employees on any tort claim except to the extent, and only to the extent, provided by ~~this act~~ the Political Subdivisions Tort Claims Act. The Legislature further declares that it is its intent and purpose through this enactment to provide uniform procedures for the bringing of tort claims against all political subdivisions, whether engaging in governmental or proprietary functions, and that the procedures provided by this act

shall be used to the exclusion of all others.

Sec. 2. That section 13-910, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

13-910. ~~Sections 13-901 to 13-926,~~ The Political Subdivisions Tort Claims Act and sections 16-727, 16-728, 23-175, 39-809, and 79-489 shall not apply to:

(1) Any claim based upon an act or omission of an employee of a political subdivision, exercising due care, in the execution of a statute, ordinance, or officially adopted resolution, rule, or regulation, whether or not such statute, ordinance, resolution, rule, or regulation ~~be~~ is valid;

(2) Any claim based upon the exercise or performance of or the failure to exercise or perform a discretionary function or duty on the part of the political subdivision or an employee of the political subdivision, whether or not the discretion ~~be~~ is abused;

(3) Any claim based upon the making or failure to make an inspection of any property other than the property of the political subdivision to determine whether the property complies with or violates any statute, ordinance, rule, or regulation or contains a hazard to public health or safety;

(4) Any claim based upon the issuance, denial, suspension, or revocation of or failure or refusal to issue, deny, suspend, or revoke any permit, license, certificate, approval, order, or similar authority;

(5) Any claim arising in respect to the assessment or collection of any tax or fee~~,~~ or the detention of any goods or merchandise by any law enforcement officer;

~~(4)~~ (6) Any claim caused by the imposition or establishment of a quarantine by the state or a political subdivision, whether such quarantine relates to persons or property;

~~(5)~~ (7) Any claim arising out of assault, battery, false arrest, false imprisonment, malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, or interference with contract rights; or

~~(6)~~ (8) Any claim by an employee of the political subdivision which is covered by the Nebraska

Workers' Compensation Act.

Sec. 3. That section 81-8,219, Revised Statutes Supplement, 1990, be amended to read as follows:

81-8,219. (1) The State Tort Claims Act shall not apply to:

(a) Any claim based upon an act or omission of an employee of the state, exercising due care, in the execution of a statute, rule, or regulation, whether or not such statute, rule, or regulation is valid, or based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of a state agency or an employee of the state, whether or not the discretion is abused;

(b) Any claim arising in respect to the assessment or collection of any tax or fee, or the detention of any goods or merchandise by any law enforcement officer;

(c) Any claim for damages caused by the imposition or establishment of a quarantine by the state whether such quarantine relates to persons or property;

(d) Any claim arising out of assault, battery, false imprisonment, false arrest, malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, or interference with contract rights;

(e) Any claim by an employee of the state which is covered by the Nebraska Workers' Compensation Act; ~~or~~

(f) Any claim based on activities of the Nebraska National Guard when such claim is cognizable under the National Guard Tort Claims Act of the United States, 32 U.S.C.A. 715, or when such claim accrues as a result of active federal service or state service at the call of the Governor for quelling riots and civil disturbances;

(g) Any claim based upon the making or failure to make an inspection of any property other than state property to determine whether the property complies with or violates any statute, ordinance, rule, or regulation or contains a hazard to public health or safety. Such claim shall also not be filed against a state employee acting within the scope of his or her office; or

(h) Any claim based upon the issuance, denial, suspension, or revocation of or failure or refusal to

issue, deny, suspend, or revoke any permit, license, certificate, approval, order, or similar authority. Such claim shall also not be filed against a state employee acting within the scope of his or her office.

(2) With respect to any tort claim based on the alleged insufficiency or want of repair of any highway or bridge on the state highway system, it is the intent of the Legislature to waive the state's immunity from suit and liability to the same extent that liability has been imposed upon counties pursuant to section 13-912 and only to that extent. The Legislature further declares that judicial interpretations of section 13-912 governing the liability of counties on December 25, 1969, also shall be controlling on the liability of the state for the alleged insufficiency or want of repair of any highway or bridge. It is the further intent of the Legislature that the words insufficiency or want of repair shall refer to a spot or localized highway defect and shall not be construed to refer to the general or overall condition of a highway.

Sec. 4. That original sections 13-902 and 13-910, Reissue Revised Statutes of Nebraska, 1943, and section 81-8,219, Revised Statutes Supplement, 1990, are repealed.".

(Signed) Jerry Chizek, Chairperson

Transportation

LEGISLATIVE BILL 393. Placed on General File.

LEGISLATIVE BILL 461. Placed on General File as amended.
Standing Committee amendment to LB 461:
AM0180

1. On page 3, line 18, strike "1990", show as stricken, and insert "1991".

2. On page 4, line 20, after "entity" insert ", operating solely in intrastate commerce,".

3. On page 6, line 8, strike "upon" and insert "by"; and in line 9 strike "section 60-330" and insert "Chapter 60, article 3".

LEGISLATIVE BILL 35. Indefinitely postponed.
LEGISLATIVE BILL 74. Indefinitely postponed.

LEGISLATIVE BILL 243. Indefinitely postponed.

(Signed) Doug Kristensen, Chairperson

GENERAL FILE

LEGISLATIVE BILL 36. Title read. Considered.

Standing Committee amendment, AM0034, found in the Journal on page 438, was adopted with 27 ayes, 0 nays, 15 present and not voting, and 7 excused and not voting.

Mr. Lamb asked unanimous consent to be excused until he returns. No objections. So ordered.

SPEAKER BAACK PRESIDING

Messrs. Horgan and Moore asked unanimous consent to be excused until they return. No objections. So ordered.

Advanced to E & R for review with 25 ayes, 0 nays, 15 present and not voting, and 9 excused and not voting.

LEGISLATIVE BILL 124. Title read. Considered.

Advanced to E & R for review with 25 ayes, 0 nays, 15 present and not voting, and 9 excused and not voting.

Mrs. Rasmussen asked unanimous consent to be excused until she returns. No objections. So ordered.

LEGISLATIVE BILL 202. Title read. Considered.

Advanced to E & R for review with 25 ayes, 0 nays, 14 present and not voting, and 10 excused and not voting.

LEGISLATIVE BILL 258. Title read. Considered.

Failed to advance to E & R for review with 10 ayes, 12 nays, 17 present and not voting, and 10 excused and not voting.

LEGISLATIVE BILL 47. Title read. Considered.

Standing Committee amendment, AM0066, printed separately from the Journal and referred to on page 457, was adopted with 25 ayes, 0 nays, 14 present and not voting, and 10 excused and not voting.

Advanced to E & R for review with 25 ayes, 0 nays, 14 present and not voting, and 10 excused and not voting.

Mr. Peterson and Mrs. Robak asked unanimous consent to be excused until they return. No objections. So ordered.

LEGISLATIVE BILL 119. Title read. Considered.

Advanced to E & R for review with 25 ayes, 0 nays, 12 present and not voting, and 12 excused and not voting.

Mrs. Smith asked unanimous consent to be excused. No objections. So ordered.

LEGISLATIVE BILL 171. Title read. Considered.

Standing Committee amendment, AM0086, found in the Journal on page 459, was adopted with 25 ayes, 0 nays, 12 present and not voting, and 12 excused and not voting.

Advanced to E & R for review with 27 ayes, 0 nays, 11 present and not voting, and 11 excused and not voting.

NOTICE OF COMMITTEE HEARINGS
Natural Resources

LB 212	Wednesday, February 20, 1991	1:30 p.m.
LB 306	Wednesday, February 20, 1991	1:30 p.m.
LB 752	Wednesday, February 20, 1991	1:30 p.m.
LB 772	Wednesday, February 20, 1991	1:30 p.m.
LB 837	Thursday, February 21, 1991	1:30 p.m.
LB 593	Thursday, February 21, 1991	1:30 p.m.
LB 403	Friday, February 22, 1991	1:30 p.m.
LB 658	Friday, February 22, 1991	1:30 p.m.
LB 661	Friday, February 22, 1991	1:30 p.m.
LB 528	Friday, February 22, 1991	1:30 p.m.

LB 270	Wednesday, February 27, 1991	1:30 p.m.
LB 571	Wednesday, February 27, 1991	1:30 p.m.
LB 613	Wednesday, February 27, 1991	1:30 p.m.
LB 570	Wednesday, February 27, 1991	1:30 p.m.
LB 526	Thursday, February 28, 1991	1:30 p.m.
LB 518	Thursday, February 28, 1991	1:30 p.m.
LB 592	Thursday, February 28, 1991	1:30 p.m.
LB 446	Thursday, February 28, 1991	1:30 p.m.
LB 839	Friday, March 1, 1991	1:30 p.m.
LB 406	Friday, March 1, 1991	1:30 p.m.
LB 768	Friday, March 1, 1991	1:30 p.m.
LB 505	Friday, March 1, 1991	1:30 p.m.

(Signed) Rod Johnson, Chairperson

Government, Military and Veterans Affairs

LB 329	Wednesday, February 20, 1991	1:30 p.m.
LB 793	Wednesday, February 20, 1991	1:30 p.m.
LR 14CA	Wednesday, February 20, 1991	1:30 p.m.
LR 13CA	Wednesday, February 20, 1991	1:30 p.m.
LB 465	Thursday, February 21, 1991	1:30 p.m.
LB 493	Thursday, February 21, 1991	1:30 p.m.
LB 432	Thursday, February 21, 1991	1:30 p.m.
LB 447	Thursday, February 21, 1991	1:30 p.m.
LB 706	Thursday, February 21, 1991	1:30 p.m.
LB 89	Friday, February 22, 1991	1:30 p.m.
LB 636	Friday, February 22, 1991	1:30 p.m.
LB 629	Friday, February 22, 1991	1:30 p.m.
LB 736	Friday, February 22, 1991	1:30 p.m.
LB 639	Friday, February 22, 1991	1:30 p.m.

(Signed) Gerald Conway, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 26. Introduced by Pirsch, 10; Crosby, 29; Byars, 30; Landis, 46; Hillman, 48; Schrock, 39; Nelson, 35; Robak, 22; Lindsay, 9; Lynch, 13; Warner, 25; Ashford, 6; Lamb, 43; Labedz, 5; Smith, 33; Schimek, 27; Horgan, 4; Beutler, 28; Will,

8; Cudaback, 36; Dierks, 40; Rasmussen, 20; Wehrbein, 2; Baack, 47; R. Johnson, 34; L. Johnson, 15; Hartnett, 45; Robinson, 16; Beyer, 3; Schellpeper, 18; Coordsen, 32; Moore, 24.

WHEREAS, athletics is one of the most effective avenues available through which women in the United States may develop leadership skills, self-discipline, initiative, and confidence; and

WHEREAS, sport and fitness activities contribute to emotional and physical well-being, and women need both strong minds and strong bodies; and

WHEREAS, the communication and cooperation skills learned through athletic experience play a key role in the contributions of athletes to the home, to the workplace, and to society; and

WHEREAS, early motor-skill training and enjoyable experiences of physical activity strongly influence lifelong habits of physical fitness; and

WHEREAS, the bonds built among women through athletics help to break down the social barriers of racism and prejudice; and

WHEREAS, the history of women in sports is rich and long, but there has been little national recognition of the significance of the athletic achievements of women; and

WHEREAS, women's athletics has produced winners such as Flo Hyman, whose spirit, talent, and accomplishments distinguished her from others and exhibited for the people of the United States the true meaning of fairness, determination, and team play; and

WHEREAS, the number of women in the leadership positions of coaches, officials, and administrators has declined drastically over the past decade, and there is a need to restore women to such positions to ensure a fair representation of the abilities of women and to provide role models for young female athletes; and

WHEREAS, the athletic opportunities for male students at the collegiate and high school levels remain significantly greater than the athletic opportunities for female students; and

WHEREAS, the number of funded research projects focusing on the specific needs of women athletes is limited, and the information provided by the projects is imperative to the health and performance of future women athletes.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature commends and applauds the efforts of all female athletes.

2. That the Legislature commends and applauds the many coaches, officials, and administrators who have given their valuable time to coach these athletes.

3. That the Legislature wishes success to all women athletes, coaches, officials, and administrators.

4. That the Legislature recognizes February 7, 1991, as National Women in Sports Day.

Laid over.

UNANIMOUS CONSENT - Print in Journal

Mr. Warner asked unanimous consent to print the following amendment to LB 88 in the Journal. No objections. So ordered.

AM0150

1. In the Kristensen amendment, FA11, on page 1, line 4, after "actions" insert ", except actions against the State of Nebraska or its political subdivisions subject to the State Tort Claims Act or the Political Subdivisions Tort Claims Act,".

RESOLUTION

LEGISLATIVE RESOLUTION 27. Introduced by Elmer, 38; Haberman, 44; Schrock, 39; Robinson, 16; Kristensen, 37; Crosby, 29; Lamb, 43; Beyer, 3; Schmit, 23; Rogers, 41; R. Johnson, 34; Peterson, 21; Hefner, 19; Dierks, 40; Cudaback, 36; Hillman, 48; Bernard-Stevens, 42; Warner, 25; Lynch, 13; Nelson, 35; Coordsen, 32; Smith, 33.

WHEREAS, a comprehensive study of beneficial uses of Nebraska's waterways and water resources was undertaken by the Nebraska Constitutional Convention in 1919-20 and as a result in November 1920 the convention adopted a comprehensive plan which appears as Article XV, sections 4 to 7, of the Constitution of Nebraska; and

WHEREAS, on January 18, 1967, the Legislature adopted a resolution directing the Nebraska Soil and Water Conservation Commission to submit to the Governor and the Legislature a State Water Plan, and as directed, the commission, on May 26, 1971, submitted to the Governor and the Legislature its Report on the Framework Study of Nebraska's State Water Plan; and

WHEREAS, on February 17, 1972, the Legislature's Interim Study Committee on State Water Planning introduced Legislative Resolution 42 to adopt the Framework Study of Nebraska's State Water Plan as shown on pages 766 and 767 of the Legislative Journal, and on February 22, 1972, the resolution was adopted; and

WHEREAS, in 1975 the Legislature carried out the State Water Plan by enacting the Nongame and Endangered Species Conservation Act, section 37-430 et seq.; and

WHEREAS, in 1984 the Legislature further carried out the comprehensive plan for waterways and water resources in Nebraska by enacting section 46-2,107 et seq., which authorize instream appropriations for both natural flow and reservoir releases for fish, recreation, and wildlife purposes; and

WHEREAS, the comprehensive plan for waterways and water resources in Nebraska has been further implemented by enactments by the Legislature as follows:

(1) In Chapter 2: Establishing the Small Watersheds Flood Control Fund, section 2-1502 et seq.; granting authority to the Nebraska Natural Resources Commission to assist the Water Management Board and subdivisions of government with responsibilities for natural resources conservation, section 2-1507 et seq.; establishing the Nebraska Resources Development Fund to assist the development, preservation, and maintenance of Nebraska's water and related land resources, section 2-1586 et seq.; authorizing the Nebraska Natural Resources Commission to coordinate state water planning and review process, section 2-1599 et seq.; establishing the Water Management Board to resolve conflicts regarding and expedite water development projects, section 2-15,107 et seq.; creating natural resources districts with broad authorities to develop and manage ground water, surface water, and fish and wildlife habitat, section 2-3201 et seq.; and authorizing the Water Management Board to issue bonds for construction of water retention and impoundment structures, section 2-4501 et seq.;

(2) In Chapter 31: Establishing provisions for flood plain management, section 31-1001 et seq.;

(3) In Chapter 37: Regarding the Game and Parks Commission and fish and wildlife;

(4) In Chapter 46: Regarding the irrigation districts, section 46-101 et seq.; appropriation of water from waterways, section 46-201 et seq.; creation of the Department of Water Resources, section 46-208 et seq.; adjudication of water rights by the Department of Water Resources, section 46-226, et seq.; interbasin transfers from waterways, sections 46-288 and 46-289; and recognition of incidental

and intentional underground water storage, sections 46-295 et seq.; and

(5) In Chapter 70: Article 6 on public power and irrigation districts, including provisions on irrigation works, section 70-627 and provisions regarding water rights in streams, sections 70-668 to 70-672.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature recognizes the comprehensive plan for improving and developing all waterways and water resources in Nebraska for the use and benefit of the citizens of Nebraska and the citizens of other states, including the adequate protection, mitigation of impacts on, and enhancement of fish, wildlife, and related spawning grounds and habitat, and for other beneficial uses, including irrigation, flood control, water supply, recreation, and improvement and utilization of water power development, in order to provide clear direction to state and federal agencies which may take actions affecting such waterways.

2. That the Legislature affirms and readopts the comprehensive plan for waterways and water resources in Nebraska as described in this resolution.

Laid over.

SPEAKER'S ANNOUNCEMENT

Pursuant to Rule 4, Sec. 8, LR 27 was referred to the Reference Committee.

UNANIMOUS CONSENT - Withdraw Co-Introducer

Mr. Hartnett asked unanimous consent to have his name withdrawn as co-introducer to LB 327. No objections. So ordered.

UNANIMOUS CONSENT - Add Co-Introducer

Mr. Wehrbein asked unanimous consent to have his name added as co-introducer to LB 573. No objections. So ordered.

VISITORS

Visitors to the Chamber were members of Western Nebraska United Chamber of Commerce; Future Business Leaders of America from

Fairbury; Jeffrey Jorgensen from Scottsbluff; Phil Fredrickson from North Bend; Lloyd Erickson from Holdrege; Mickey Vork from Nelson and Alice Bartlett from Ord; and DeEtta Hortman from Cozad.

The Doctor of the Day was Dr. Veskrna of Lincoln Medical Education Foundation and Wahoo.

ADJOURNMENT

At 12:00 noon, on a motion by Mr. L. Johnson, the Legislature adjourned until 9:00 a.m., Thursday, February 7, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

TWENTY-FIRST DAY - FEBRUARY 7, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

TWENTY-FIRST DAY

Legislative Chamber, Lincoln, Nebraska
Thursday, February 7, 1991

Pursuant to adjournment, the Legislature met at 9:00 a.m., Speaker Baack presiding.

PRAYER

The prayer was offered by Pastor Terry Cain, Newman Methodist Church, Lincoln, Nebraska.

ROLL CALL

The roll was called and all members were present except Mrs. Labedz, Messrs. Wickersham, and Withem who were excused; and Messrs. Beyer, Chambers, Chizek, Haberman, Hall, Hartnett, R. Johnson, Lindsay, Rogers, Warner, Mmes. Rasmussen, and Smith who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Twentieth Day was approved.

STANDING COMMITTEE REPORTS
Agriculture

LEGISLATIVE BILL 356. Placed on General File.
LEGISLATIVE BILL 357. Placed on General File.
LEGISLATIVE BILL 359. Placed on General File.

LEGISLATIVE BILL 218. Placed on General File as amended.
Standing Committee amendment to LB 218:

AM0135

1. Insert the following new sections:

"Sec. 3. That section 54-104, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

54-104. (1) Any person or persons, partnership, association, firm, or corporation desiring to adopt any brand shall forward to the ~~Nebraska Brand Committee~~ brand committee a facsimile of such desired brand, together with a written application and a recording fee of twenty-five dollars for the first location on a side~~,~~ and fifteen dollars for each additional location requested on that side in the same ownership. Upon receipt of such facsimile, application, and fee, the ~~Nebraska Brand Committee~~ brand committee shall then make examination thereof to determine compliance with the following requirements:

(a) No brand shall be recorded which is found to be of record as that of some other person, partnership, association, firm, or corporation;

(b) No brand shall be recorded which is found to conflict with or closely resemble that of any person, partnership, association, firm, or corporation;

(c) No brand shall be recorded for which the application does not specify the side of the animal and the location on the side of the animal where the brand is to be placed, and no brand described as being placed on either side of the animal shall be recorded;

(d) No brand shall be recorded in any trade name~~,~~ nor in the name of any profit or nonprofit corporation, unless such trade name or corporation is of record, in current good standing, with the Secretary of State; and

(e) No brand shall be recorded whenever in the judgment of the ~~Nebraska Brand Committee~~ brand committee such brand is illegible, inadequate, or of such a nature that the brand when applied cannot be properly read or identified by employees of the ~~Nebraska Brand Committee~~ brand committee.

If the facsimile or the application is found not to comply with any of such requirements, the ~~Nebraska Brand Committee~~ brand committee shall not record such brand as requested~~,~~ but shall return the recording fee to the forwarding person. The power of

examination and rejection shall be vested in the ~~Nebraska Brand Committee~~ brand committee, and if the brand committee determines that the application for brand falls within the category set out in subdivision (1)(e) of this section, it shall decide whether or not the brand shall be issued. The ~~Nebraska Brand Committee~~ brand committee shall make such examination as promptly as possible. If the brand is accepted, the ownership thereof shall vest from the date of filing.

(2) Whenever the holders of brands which conflict with or closely resemble each other maintain their herds in close proximity to each other, the ~~Nebraska Brand Committee~~ brand committee shall have authority to decide, after hearing as to which at least ten days' written notice has been given, any dispute arising therefrom and to direct such change or changes in the position or positions where such brand or brands are to be placed as will remove any confusion that might result from such conflict or close resemblance.

(3) The recording, provided for in subsection (1) of this section, shall secure to the person so applying the brand until its expiration date. Until January 1, 1994, the expiration date of a brand recording shall be December 31 of the renewal year as designated by the brand index kept by the brand committee. On and after January 1, 1994, the expiration date of a brand recording shall be the last day of the calendar quarter designated by the brand committee of the renewal year as designated by the brand index.

(4) The brand committee ~~December 31 of the renewal year. At least sixty days prior to the effective date of expiration of the brand which shall be December 31 of the renewal year, the Nebraska Brand Committee~~ shall notify every owner of a brand of record ~~whose recording expires at that time~~ of the expiration of the recording of at least sixty days prior to the expiration date of the recording, and ~~such~~ the owner shall pay to the ~~Nebraska Brand Committee~~ brand committee a renewal fee of twenty-five dollars and furnish such other information as may be required by the ~~Nebraska Brand Committee~~ brand committee. The renewal fee shall be due and payable on or before ~~December 31 of the renewal year~~ the expiration date and shall renew a brand for a period of four years regardless of the

number of locations on one side of an animal on which the brand is recorded. If any owner ~~shall fail, refuse or neglect~~ fails, refuses, or neglects to pay ~~such~~ the renewal fee by ~~December 31 of the renewal year, such~~ the expiration date, the brand shall ~~become~~ be forfeited. ~~and shall be available to be issued to another applicant.~~

Sec. 5. That section 54-137, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

54-137. (1) The brand committee shall employ a director who shall keep a record of all proceedings, transactions, communications, and official acts of the brand committee, shall be custodian of all records of the brand committee, and shall perform such other duties as the brand committee may require. The director shall call a meeting at the direction of the Secretary of State or upon the written request of two or more members of the brand committee. The brand committee shall employ such other employees as may be necessary to properly carry out ~~the provisions of~~ sections 54-101 to 54-156, 54-159 to 54-169, and 54-415 and ~~shall also be authorized to~~ may fix the salaries of such employees ~~as may be employed by it~~ and ~~to~~ make such expenditures as are necessary to properly carry out ~~the provisions of~~ such sections. ~~Mileage shall be~~ Employees of the brand committee shall receive mileage computed at the rate provided in section 81-1176, except that for employees who drive a personal automobile at the convenience of the brand committee, the reimbursement rate shall be twenty-four cents per mile. ~~for state employees.~~ The brand committee shall select and designate a location or locations where the brand committee shall keep and maintain an office and where records of the brand inspection and investigation proceedings, transactions, communications, brand registrations, and official acts shall be kept.

~~(1) As used in~~ (2) For purposes of this section, ~~unless the context otherwise requires,~~ director shall mean the executive officer employed by the ~~Nebraska Brand Committee,~~ brand committee who shall also be the chief brand inspector, the chief brand investigator, and for administrative purposes, the brand committee head.

(3) ~~(2)~~ The director shall have supervisory authority to direct and control all full-time and part-time ~~Nebraska Brand Committee~~ employees of the brand committee. This authority shall allow the director to hire such employees as are needed on an interim basis subject to approval or confirmation by the ~~Nebraska Brand Committee~~ brand committee for regular employment. The director ~~shall have the authority to~~ may place employees on probation. The director may discharge an employee. The brand recorder may recommend the hiring or termination of brand recording personnel subject to ratification of the brand committee.

(4) ~~(3)~~ If any employee of the ~~Nebraska Brand Committee~~ brand committee after having been disciplined, placed on probation, or having had his or her services terminated desires to have a hearing before the entire ~~Nebraska Brand Committee~~ brand committee, such a hearing shall be granted as soon as is practicable and convenient for all persons concerned. The request for such a hearing shall be made in writing by the employee alleging the grievance~~,~~ and shall be directed to the director. After hearing all testimony surrounding the grievance of such employee, the ~~Nebraska Brand Committee~~ brand committee, at its discretion, may approve, rescind, nullify, or amend all actions as previously taken by the director.

(5) ~~(4)~~ In the absence of the director, either by reason of illness, vacation, or official business away from the department's headquarters, the assistant director shall have similar authority as ~~above~~ outlined in this section for the director.".

2. On page 13, line 12, strike "and" and show as stricken; and in line 22 after "conformation" insert "; and

(40) Brand transfer shall mean a brand ownership change including the addition or deletion of an owner".

3. On page 14, line 21, strike "and" and insert "54-104," and after the last comma insert "and 54-137,".

4. Renumber the remaining sections accordingly.

(Signed) Carson Rogers, Chairperson

Education

LEGISLATIVE BILL 382. Placed on General File as amended.
Standing Committee amendment to LB 382:
AM0182

1. On page 3, after line 19, insert the following new subsection:

"(3) In addition to subsections (1) and (2) of this section, any class of school district may enter into loan agreements for the purpose of borrowing money from financial institutions, including banks, in amounts not in excess of seventy percent of the unexpended balance of their current existing levy. As evidence of such borrowing, a school district may execute and deliver one or more written loan agreements but shall not be required to execute and deliver separate promissory notes for each borrowing under such agreements. Money borrowed pursuant to such agreements shall bear interest at such rate or rates and shall become due and be repaid as provided in such agreements. Any such agreement shall provide for repayment in full at least once each fiscal year and shall be for a term not exceeding one year. Any such agreement shall be registered upon books kept by the treasurer of the school district, and money borrowed pursuant to such agreement shall be paid out of funds collected upon the current existing levy prior to the payment of any warrant or note registered subsequent to any such loan agreement. If a school district has any such loan agreement or agreements outstanding and has warrants or notes registered, as described in subsection (1) of this section, the total amount (a) of borrowings pursuant to such loan agreement or agreements and (b) of registered notes and warrants shall not exceed one hundred percent of the unexpended balance of the current existing levy.".

2. On page 4, line 6, strike "is" and insert "and also section 79-1377, Reissue Revised Statutes of Nebraska, 1943, are".

(Signed) Merton Dierks, Vice Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 26. Read. Considered.

LR 26 was adopted with 28 ayes, 0 nays, and 21 not voting.

GENERAL FILE

LEGISLATIVE BILL 118. Title read. Considered.

Advanced to E & R for review with 27 ayes, 0 nays, 7 present and not voting, and 15 excused and not voting.

Mr. Peterson asked unanimous consent to be excused until he returns. No objections. So ordered.

LEGISLATIVE BILL 204. Title read. Considered.

Advanced to E & R for review with 26 ayes, 0 nays, 10 present and not voting, and 13 excused and not voting.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following resolution: LR 26.

UNANIMOUS CONSENT - Member Excused

Mr. Schmit asked unanimous consent to be excused until he returns. No objections. So ordered.

GENERAL FILE

LEGISLATIVE BILL 233. Title read. Considered.

Mrs. Nelson asked unanimous consent to be excused until she returns. No objections. So ordered.

Advanced to E & R for review with 25 ayes, 0 nays, 12 present and not voting, and 12 excused and not voting.

Mr. Haberman asked unanimous consent to be excused until he returns. No objections. So ordered.

LEGISLATIVE BILL 235. Title read. Considered.

Advanced to E & R for review with 26 ayes, 0 nays, 11 present and not voting, and 12 excused and not voting.

LEGISLATIVE BILL 96. Title read. Considered.

Standing Committee amendment, AM0101, found in the Journal on page 469, was adopted with 25 ayes, 0 nays, 12 present and not voting, and 12 excused and not voting.

Advanced to E & R for review with 25 ayes, 0 nays, 13 present and not voting, and 11 excused and not voting.

LEGISLATIVE BILL 75. Title read. Considered.

Advanced to E & R for review with 31 ayes, 0 nays, 8 present and not voting, and 10 excused and not voting.

LEGISLATIVE BILL 234. Title read. Considered.

Standing Committee amendment, AM0078, found in the Journal on page 469, was adopted with 28 ayes, 0 nays, 13 present and not voting, and 8 excused and not voting.

Advanced to E & R for review with 26 ayes, 0 nays, 15 present and not voting, and 8 excused and not voting.

SELECT COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 153. Placed on Select File.

LEGISLATIVE BILL 189. Placed on Select File as amended.
E & R amendment to LB 189:
AM5017

1. On page 2, line 20, after "District" insert "Court"; and in line 22 after "Nebraska" insert "State".

2. On page 3, line 2, after "Nebraska" insert "State".

3. On page 7, line 3, after "to" insert "this section and" and strike "and"; in line 4 strike "this section"; in line 12 after "responsible" insert "for the facility"; and in line 14 strike beginning with

"responsible" through "facility".

4. On page 11, line 15, after "order" insert "shall be".

LEGISLATIVE BILL 81. Placed on Select File as amended.
E & R amendment to LB 81:
AM5016

1. On page 4, line 7; page 20, lines 13 and 24; and page 21, line 1, strike the comma and show as stricken.

2. On page 10, line 21; and page 16, lines 2 and 4, strike the comma.

3. On page 19, lines 14 and 20, strike "entities" and insert "agencies".

4. On page 20, line 5, after the second comma insert "or" and strike the underscored comma; and in line 19 strike "act" and insert "Records Management Act".

(Signed) Eric Will, Chairperson

ANNOUNCEMENT

Mrs. Smith announced the General Affairs Committee will meet in Executive Session Friday morning, February 8th, at 10 a.m. in the Senators' Lounge.

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the attached report on Governor appointments.

Health and Human Services
Dale Johnson - Department of Public Institutions
Mary Dean Harvey - Department of Social Services
Nancy O'Brien - Child Abuse Prevention Fund Board
Bruce Gilmore - Department of Health

Business and Labor
Dan Dolan - Department of Labor

Natural Resources
Dayle Williamson - Natural Resources Commission
J. Michael Jess - Department of Water Resources

Agriculture
Larry Sitzman - Department of Agriculture

Government, Military and Veterans Affairs
Larry Primeau - Department of Administrative Services
Rod Armstrong - Policy Research and Energy Office
Harold Clarke - Department of Correctional Services
Stanley Heng - Military Department

Banking, Commerce and Insurance
Steve Buttress - Department of Economic Development
James Hanson - Department of Banking and Finance
William H. McCartney - Department of Insurance

Revenue
M. Berri Balka - Nebraska Department of Revenue

Nebraska Retirement Systems
Gerald Bucher - Public Employees Retirement Board

Education
Nebraska School Restructuring Commission
Senator LaVon Crosby
Dr. James Merritt
Michael McCarthy
Dr. Ruth Randall
Russell Worthman
Dr. William Kelley

(Signed) Jerome Warner, Chairperson
Legislative Council
Executive Board

STANDING COMMITTEE REPORT
Revenue

LEGISLATIVE BILL 404. Placed on General File as amended.
Standing Committee amendment to LB 404:
AM0188

1. On page 3, after line 10 insert "Land values contained in such manual shall be correlated to the assessed values established by counties in tax year 1990."; and in line 21 strike "on" and insert "for all

taxable years beginning on or after".

(Signed) Tim Hall, Chairperson

NOTICE OF COMMITTEE HEARING
Judiciary

LB 90	Thursday, February 14, 1991	1:30 p.m.
LB 181	Thursday, February 14, 1991	1:30 p.m.
LB 249	Thursday, February 14, 1991	1:30 p.m.
LB 729	Thursday, February 14, 1991	1:30 p.m.
LB 732	Thursday, February 14, 1991	1:30 p.m.

(Signed) Jerry Chizek, Chairperson

GENERAL FILE

LEGISLATIVE BILL 236. Title read. Considered.

Standing Committee amendment, AM0067, found in the Journal on page 471, was adopted with 27 ayes, 0 nays, 15 present and not voting, and 7 excused and not voting.

Mrs. Crosby asked unanimous consent to be excused until she returns. No objections. So ordered.

Advanced to E & R for review with 25 ayes, 0 nays, 17 present and not voting, and 7 excused and not voting.

LEGISLATIVE BILL 142. Title read. Considered.

Mr. R. Johnson moved for a call of the house. The motion prevailed with 19 ayes, 0 nays, and 30 not voting.

Mr. R. Johnson requested a roll call vote on the advancement of the bill.

Voting in the affirmative, 26:

Abboud	Byars	Dierks	Johnson, R.	Morrissey
Ashford	Chizek	Elmer	Kristensen	Rogers
Baack	Conway	Haberman	Lamb	Schellpeper
Bernard-Stevens	Coordsen	Hall	Lindsay	Schmit
	Cudaback	Hefner	Lynch	Schrock

Wehrbein Wesely

Voting in the negative, 13:

Chambers	Landis	Rasmussen	Schimek	Warner
Hillman	Moore	Robak	Smith	Will
Johnson, L.	Pirsch	Robinson		

Present and not voting, 5:

Beutler	Hartnett	Horgan	Nelson	Peterson

Excused and not voting, 5:

Beyer	Crosby	Labedz	Wickersham	Withem

Advanced to E & R for review with 26 ayes, 13 nays, 5 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

LEGISLATIVE BILL 247. Title read. Considered.

Mr. Haberman asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Ashford offered the following amendment:
FA18
Add the following new section:

Section 14-2003. (1) Each city of the metropolitan class may only exercise its power of eminent domain to maintain or preserve buildings, lands, ares, or districts which have been determined by the commission to be of historical, architectural, cultural, or educational value.

(2) Whenever it shall become necessary to take control of property pursuant to and for the purposes stated in this section, the purpose and necessity for such control shall be declared by ordinance. The procedure to condemn property shall be exercised in the manner set forth in sections 76-704 to 76-724.

The Ashford amendment was adopted with 26 ayes, 0 nays, 16 present and not voting, and 7 excused and not voting.

Advanced to E & R for review with 30 ayes, 0 nays, 13 present and not voting, and 6 excused and not voting.

Mr. Lynch asked unanimous consent to be excused. No objections. So ordered.

LEGISLATIVE BILL 330. Title read. Considered.

Advanced to E & R for review with 26 ayes, 2 nays, 14 present and not voting, and 7 excused and not voting.

STANDING COMMITTEE REPORTS

Judiciary

LEGISLATIVE BILL 477. Placed on General File.

(Signed) Jerry Chizek, Chairperson

Government, Military and Veterans Affairs

LEGISLATIVE BILL 115. Placed on General File.
LEGISLATIVE BILL 192. Placed on General File.

(Signed) Gerald Conway, Chairperson

Revenue

LEGISLATIVE BILL 316. Placed on General File.

LEGISLATIVE BILL 85. Placed on General File as amended.
Standing Committee amendment to LB 85:
AM0181

1. On page 2, strike beginning with "The" in line 12 through line 15 and insert "The department shall forward to the Secretary of State any voter registration cards returned to the department, and the Secretary of State shall forward such voter registration cards to the appropriate election commissioner or county clerk.".

LEGISLATIVE BILL 444. Placed on General File as amended.
Standing Committee amendment to LB 444:
AM0192

1. On page 3, lines 23 and 24, strike the new

matter.

2. On page 4, strike beginning with "prosthetic" in line 1 through the underscored period in line 4, show the old matter as stricken, and insert "durable medical equipment and home medical supplies, prosthetic and orthotic devices, and oxygen and any oxygen equipment for a patient's use sold under a doctor's prescription.".

3. On page 15, after line 4, insert the following new subdivision:

"(2) Home medical supplies shall mean supplies primarily and customarily used to serve a medical purpose which are appropriate for use in the home and are generally not useful to a person in the absence of illness or injury;"; in line 5 strike "(2)" and insert "(3)"; and strike beginning with "(3)" in line 13 through the semicolon in line 22; and in line 23 after "Prosthetic" insert "and orthotic".

4. On page 16, line 1, strike "physically connected to" and insert "used with".

(Signed) Tim Hall, Chairperson

Health and Human Services

LEGISLATIVE BILL 244. Placed on General File as amended.
Standing Committee amendment to LB 244:
AM0092

1. Insert the following new sections:

"Section 1. That section 71-507, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-507. For purposes of sections 71-507 to 71-513:

(1) Department shall mean the Department of Health;

(2) Designated physician shall mean the physician representing the emergency medical services provider as identified by name, address, and telephone number on the significant exposure report form;

(3) Emergency medical services provider shall mean a person certified to provide emergency medical services pursuant to sections 71-5101 to 71-5123, a person certified to provide emergency medical care

pursuant to the Emergency Medical Technician-Paramedic Act, a sheriff, a deputy sheriff, a police officer, a state highway patrol officer, and a firefighter;

(4) Health care facility shall have the meaning found in subdivisions (2), (10), ~~and~~ (11), and (22) of section 71-2017.01;

(5) Infectious disease or condition shall mean hepatitis B, meningococcal meningitis, active pulmonary tuberculosis, human immunodeficiency virus, and such other diseases as the department may from time to time specify;

(6) Patient shall mean an individual who is sick, injured, wounded, or otherwise helpless or incapacitated;

(7) Patient's attending physician shall mean the physician having the primary responsibility for the patient as indicated on the records of the health care facility;

(8) Provider agency shall mean any law enforcement agency, fire department, ambulance service, or other entity which is in the business of providing emergency response services;

(9) Significant exposure shall mean a situation in which the body fluids, such as blood, saliva, urine, or feces, of a patient have entered the body of an emergency medical services provider through a body opening such as the mouth or nose, a mucous membrane, or a break in skin from cuts or abrasions, from a contaminated needlestick or scalpel, from intimate respiratory contact, or through any other situation when the patient's body fluids may have entered the emergency medical services provider's body; and

(10) Significant exposure report form shall mean the form used by the emergency medical services provider to document information necessary for notification of significant exposure to an infectious disease or condition.

Sec. 3. That section 71-2017.06, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-2017.06. (1) ~~On and after October 1, 1990, the~~ The Department of Health may waive the evening and night staffing requirements of subdivision (10) of

section 71-2017.01 for skilled nursing facilities or for long-term care hospitals certified under Title XVIII of the Social Security Act, as amended, except the requirement that the Director of Nursing Services be a licensed registered nurse, if:

(a) The facility or hospital demonstrates to the satisfaction of the department that it has been unable, despite diligent efforts, to hire enough licensed registered nurses and licensed practical nurses to fulfill such requirements. For purposes of this subdivision, diligent efforts shall include, but not be limited to, offering wages equal to or greater than the community prevailing wage rate being paid such nurses at nursing facilities;

(b) The department determines that a waiver of the requirement will not endanger the health or safety of residents of the facility or hospital; and

(c) The department finds that, for any period in which staffing requirements cannot be met, a licensed registered nurse or a physician is obligated to respond immediately to telephone calls from the facility or hospital.

A waiver granted under this subsection shall be subject to annual review by the department. As a condition of granting or renewing a waiver, a facility or hospital may be required to employ other qualified licensed personnel.

(2) ~~On and after October 1, 1990, the~~ The department may waive the requirement of subdivision (10) of section 71-2017.01 that a skilled nursing facility or long-term care hospital certified under Title XVIII of the Social Security Act, as amended provide a licensed registered nurse on duty at the facility for more than forty hours per week if:

(a) The facility or hospital is located in a nonurban area where the supply of skilled nursing facility services is not sufficient to meet the needs of individuals residing in the area;

(b) The facility or hospital has one full-time licensed registered nurse who is regularly on duty at the facility or hospital forty hours per week; and

(c) The facility or hospital (i) has only patients whose physicians have indicated through orders or admission or progress notes that the patients do not

require the services of a licensed registered nurse or a physician for more than forty hours per week or (ii) has made arrangements for a licensed registered nurse or a physician to spend time at the facility or hospital, as determined necessary by the physician, to provide the necessary services on days when the regular, full-time licensed registered nurse is not on duty.

A waiver may be granted under this subsection for a period of up to one year by the department.

Sec. 5. That section 71-2020, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-2020. Applicants for a license shall file applications under oath with the Department of Health upon forms prescribed and shall pay a license fee of fifty dollars as a base fee, except that hospitals, skilled nursing facilities, intermediate care facilities, nursing facilities, and intermediate care facilities for the mentally retarded shall pay a license fee of one hundred twenty-five dollars as a base fee. In addition to such base fee, hospitals, skilled nursing facilities, intermediate care facilities, nursing facilities, and intermediate care facilities for the mentally retarded shall pay a fee of five dollars for each bed available for patients of the facility, and all other types of facilities shall pay a fee of one dollar for each bed available for patients thereof. Such fees shall be paid into the state treasury and by the State Treasurer credited to the General Fund, or if the license is denied, that part of the fees paid for beds available shall be returned to the applicant. A facility licensed as hospital, skilled nursing facility, or intermediate care facility on January 1, 1991, may apply for a license as a nursing facility without payment of the initial license fee if the application is made to the department by October 1, 1991.

Applications shall be signed (1) by the owner, if an individual or partnership, (2) by two of its officers, if a corporation, or (3) by the head of the governmental department having jurisdiction over it, if a governmental unit. Applications shall set forth the full name and address of the institution for which license is sought, and of the owner in case of different address, the names of the persons in control thereof,

and such additional information as the Department of Health may require, including affirmative evidence of ability to comply with such reasonable standards, rules, and regulations as may be lawfully prescribed hereunder.".

2. On page 2, line 5, strike "2" and insert "4".

3. On page 5, line 2, strike "and", show as stricken, and insert an underscored comma and after "(11)" insert ", and (22)".

4. On page 6, lines 20 through 22, strike the new matter and reinstate the stricken matter.

5. On page 7, line 2, strike the new matter and reinstate the stricken matter; in line 12 strike "2 of this act" and insert "71-2017.06"; and in lines 21 through 23 strike the new matter and reinstate the stricken matter.

6. On page 16, line 5, strike "and" and show as stricken.

7. On page 17, line 7, after "retardation" insert "; and

(22) Nursing facility shall mean any institution or facility or a distinct part of any institution or facility which is primarily devoted to providing to inpatients nursing care and related services for patients who require medical or nursing care or rehabilitation of injured, disabled, or sick persons. Unless a waiver is granted pursuant to section 4 of this act, a nursing facility shall use the services of (a) a licensed registered nurse for at least eight consecutive hours a day seven days a week and (b) a licensed registered nurse or licensed practical nurse on a twenty-four-hour basis seven days a week. Except when waived under section 4 of this act, a nursing facility shall designate a licensed registered nurse or licensed practical nurse to serve as a charge nurse on each tour of duty. The Director of Nursing Services shall be a licensed registered nurse, and this requirement shall not be waived. The Director of Nursing may serve as a charge nurse only when the nursing facility has an average daily occupancy of sixty or fewer residents"; in lines 9 and 13 strike "(10)" and insert "(22)"; in lines 10 and 14 strike "skilled" and after "facility" insert "or long-term care hospital certified under Title XIX of

the Social Security Act, as amended,"; in line 19 strike "skilled nursing"; and in line 22 strike "nursing" and insert "the".

8. On page 18, line 5, strike "skilled"; in line 6 strike "nursing"; in line 8 after the period insert "The department shall provide notice of the granting of a waiver to the long-term care ombudsman of the Department on Aging and to the Nebraska Advocacy Service or any successor designated for the protection of and advocacy for persons with mental illness or mental retardation. A nursing facility granted a waiver shall provide written notification to each resident of the facility or, if appropriate, to the guardian, legal representative, or immediate family of the resident."; in line 9 strike "skilled"; in line 10 strike "nursing"; in line 15 strike "medicare or"; and strike beginning with "section" in line 18 through "section" in line 20 and insert "sections 71-507, 71-2017.01,"; in line 20 after the comma insert "and 71-2020,".

9. Renumber the remaining sections accordingly.

(Signed) Don Wesely, Chairperson

Government, Military and Veterans Affairs

LEGISLATIVE BILL 648. Placed on General File.

(Signed) Gerald Conway, Chairperson

UNANIMOUS CONSENT - Add Co-Introducers

Mr. Schmit asked unanimous consent to have his name added as co-introducer to LB 246. No objections. So ordered.

Messrs. Hefner and Abboud asked unanimous consent to have their names added as co-introducers to LB 96. No objections. So ordered.

Mr. Ashford asked unanimous consent to have his name added as co-introducer to LB 699. No objections. So ordered.

ANNOUNCEMENT

Mr. Warner announced the Executive Board will meet in executive session at 1:00 p.m., Friday, February 8, 1991 in Room 2102.

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the attached report on the referral of legislative resolution 27.

LR	**Committee**
27	Natural Resources

(Signed) Jerome Warner, Chairperson
Legislative Council
Executive Board

VISITORS

Visitors to the Chamber were Barbara Hibner, Sally Connell, and Karen Hand from Lincoln; Mary Elizabeth Mitchell from North Platte; J. Owen-Nauslar; 50 eighth grade students and teacher from Cathedral of the Risen Christ, Lincoln; Louis Fiene and Millie Sparling from Grand Island; George and Marylin Huebner from Hershey; and eight seventh grade students and teachers from Boys Town.

ADJOURNMENT

At 11:57 a.m., on a motion by Mr. Hefner, the Legislature adjourned until 9:00 a.m., Friday, February 8, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

TWENTY-SECOND DAY - FEBRUARY 8, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

TWENTY-SECOND DAY

Legislative Chamber, Lincoln, Nebraska
Friday, February 8, 1991

Pursuant to adjournment, the Legislature met at 9:02 a.m., President Moul presiding.

PRAYER

The prayer was offered by Pastor John Dale from Lincoln.

ROLL CALL

The roll was called and all members were present except Mr. Withem who was excused; and Messrs. Abboud, Bernard-Stevens, Chizek, Dierks, Hall, Hartnett, Horgan, Lindsay, Moore, Morrissey, Schellpeper, Schmit, Warner, and Mrs. Labedz who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Twentieth Day was approved.

UNANIMOUS CONSENT - Member Excused

Mr. Hefner asked unanimous consent to be excused until he returns. No objections. So ordered.

SELECT COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 259. Placed on Select File as amended.
E & R amendment to LB 259:

AM5021

1. On page 1, line 3, after "provide" insert "for".

2. On page 4, line 6, after "and" insert "a" and reinstate the stricken matter; and in line 7 strike "resolutions".

LEGISLATIVE BILL 117. Placed on Select File as amended.
E & R amendment to LB 117:
AM5019

1. On page 1, line 5, strike "and"; and in line 6 after "section" insert "; and to declare an emergency".

2. On page 2, line 15, before "sections" insert "such" and strike "23-2517 to" and show as stricken; and in line 16 strike "23-2533" and show as stricken.

3. On page 3, line 16, after "in" insert "such" and strike "23-2517 to 23-2533" and show as stricken.

LEGISLATIVE BILL 113. Placed on Select File as amended.
E & R amendment to LB 113:
AM5018

1. On page 4, line 14, strike the comma.

LEGISLATIVE BILL 296. Placed on Select File as amended.
E & R amendment to LB 296:
AM5022

1. On page 1, line 5, strike "and"; and in line 6 after "section" insert "; and to declare an emergency".

2. On page 2, line 22, strike "the nonresident" and insert "nonresidents".

LEGISLATIVE BILL 300. Placed on Select File as amended.
E & R amendment to LB 300:
AM5020

1. In the Standing Committee amendments, AM0044, on page 1, line 2, after "for" insert "tax year".

2. On page 6, line 18; page 8, line 10; and page 9, line 8, strike the semicolon, show as stricken, and insert an underscored period.

3. On page 9, line 9, strike "and" and show as stricken.

4. On page 10, line 16, before "For" insert "(e)"; and in line 24 before "Receipts" insert "(f)".

5. On page 16, line 3, strike the comma and show as stricken.

6. On page 19, line 15, strike the second "by" and show as stricken.

7. On page 20, lines 15 and 19, before the first parenthesis insert paragraphing; in line 16 strike "containers", show as stricken, and insert "Containers"; in line 19 strike "returnable", show as stricken, and insert "Returnable"; and in line 21 after the period insert paragraphing.

8. On page 28, line 2, strike "; and", show as stricken, and insert an underscored period.

(Signed) Eric Will, Chairperson

STANDING COMMITTEE REPORTS
Banking, Commerce and Insurance

LEGISLATIVE BILL 224. Placed on General File.
LEGISLATIVE BILL 250. Placed on General File.

(Signed) David Landis, Chairperson

ATTORNEY GENERAL'S OPINION

Opinion No. 91009

DATE: February 6, 1991

SUBJECT: LB 17, Payment of Petition Circulators

REQUESTED BY: Senator Loran Schmit

WRITTEN BY: Don Stenberg, Attorney General
Linda L. Willard, Assistant Attorney General

You have inquired of this office whether LB 17 is constitutional. LB 17 makes it illegal to pay petition circulators based upon the number of signatures obtained or contingent upon the outcome of the petition effort. It also sets a minimum rate for circulator wages and

makes any person who pays circulators an employer for purposes of the Nebraska Workers' Compensation Act and Employment Security Law.

It is our determination that the constitutionality of the proposed legislation is highly suspect based on the United States Supreme Court decision in Meyer v. Grant, 486 U.S. 414 (1988), and the Nebraska Supreme Court's adoption of Meyer in State v. Radcliffe, 228 Neb. 868, 424 N.W.2d 608 (1988). In Radcliffe, the Nebraska Supreme Court upheld a district court decision that the statute then in force prohibiting the payment of petition circulators was an unconstitutional infringement of free speech.

> Neb. Const. art. III, § 1, provides in part:
>
> The people reserve for themselves, however, the power to propose laws, and amendments to the constitution, and to enact or reject the same at the polls, independent of the Legislature, and also reserve power at their own option to approve or reject at the polls any act, item, section, or part of any act passed by the Legislature.
>
> Further, Neb. Const. art. III, § 2, provides in part:
>
> "The first power reserved by the people is the initiative whereby laws may be enacted and constitutional amendments adopted by the people independently of the Legislature."
>
> By the foregoing constitutional provisions the people of the State of Nebraska have reserved the power to propose and enact laws independent of the Legislature. Consequently, the Legislature and the electorate are concurrently equal in rank as sources of legislation. Provisions authorizing the initiative should be construed in such a manner that the legislative power reserved in the people is effectual. (Citations omitted.) Such right reserved in the people of Nebraska is so precious and jealously guarded that the Governor cannot veto measures initiated by the people. See Neb. Const. art. III, § 4.
>
> "The right of initiative is precious to the people and is one which the courts are zealous to preserve to the fullest tenable measure of spirit as well as letter." (Citations omitted.)

State ex rel. Brant v. Beerman, 217 Neb. 632, 635-636, 350 N.W.2d 18, 20-21 (1984).

In Meyer, supra, the United States Supreme Court was faced with the question of whether a Colorado law prohibiting payment of petition circulators was constitutional under the First Amendment of the United States Constitution. The United States Supreme Court determined that the Colorado statute was unconstitutional.

The First Amendment of the Constitution of the United States provides that Congress "shall make no law . . . abridging freedom of

speech, or of the press; or of the right of people peaceably to assemble, and to petition the Government for a redress of grievances." The Fourteenth Amendment makes this prohibition applicable to the states. In Meyer, the Supreme Court determined that once the state decided to confer the right of initiative and referendum on the people, it is obligated to do so in a manner consistent with the United States Constitution, specifically the First Amendment, since it involves core political speech. 486 U.S. at 420. The Court determined that:

> The refusal to permit appellees to pay petition circulators restricts political expression in two ways: First, it limits the number of voices who will convey appellees' message and the hours they can speak and, therefore, limits the size of the audience they can reach. Second, it makes it less likely that appellees will garner the number of signatures necessary to place the matter on the ballot, thus limiting their ability to make the matter the focus of statewide discussion. . . .

486 U.S. 423.

In Meyer, the appellants argued that even if the statute imposed some limitation on First Amendment expression, the burden was permissible because other avenues of expression remained open to appellees and because the state had the authority to impose limitations on the scope of the state-created right to legislate by initiative. In response, the Unites States Supreme Court stated:

> That appellees remain free to employ other means to disseminate their ideas does not take their speech through petition circulators outside the bounds of First Amendment protection. Colorado's prohibition of paid petition circulators restricts access to the most effective, fundamental, and perhaps economical avenue of political discourse, direct one-on-one communication. That it leaves open "more burdensome" avenues of communication, does not relieve its burden on First Amendment expression. . . . The First Amendment protects appellees' right not only to advocate their cause but also to select what they believe to be the most effective means for so doing.

486 U.S. at 424.

Finally, the Supreme Court held that:

> The State's interest in protecting the integrity of the initiative process does not justify the prohibition because the State has failed to demonstrate that it is necessary to burden appellees' ability to communicate their message in order to meet its concerns. The Attorney General has argued that the petition circulator has the duty to verify the authenticity of signatures on the petition and

that compensation might provide the circulator with a temptation to disregard that duty. . . .

Other provisions of the Colorado statute deal expressly with the potential danger that circulators might be tempted to pad their petitions with false signatures. It is a crime to forge a signature on a petition, . . . to make false or misleading statements relating to a petition, . . . or to pay someone to sign a petition, . . . Further, the top of each page of the petition must bear a statement printed in red ink warning potential signatories that it is a felony to forge a signature on a petition or to sign the petition when not qualified to vote and admonishing signatories not to sign the petition unless they have read and understand the proposed initiative. These provisions seem adequate to the task of minimizing the risk of improper conduct in the circulation of a petition, especially since the risk of fraud or corruption, or the appearance thereof, is more remote at the petition stage of an initiative than at the time of balloting. . . .

486 U.S. 426-427.

Neb.Rev.Stat. §§ 32-705 and 32-705.01 currently protect the integrity of the initiative and referendum process much as the Colorado laws cited in Meyer. Neb.Rev.Stat. § 32-705 (1990 Cum.Supp.) provides for the following affidavit to be signed by each circulator and notarized:

_____ being first duly sworn,
Name of Circulator

deposes and says that he or she is the circulator of the foregoing petition containing _____ signatures; that he or she is a registered voter of the State of Nebraska; that each person whose name appears on the petition sheet personally signed the petition in the presence of affiant; that the date to the left of each signature is the correct date on which the signature was affixed to the petition and that the date was personally affixed by the person signing such petition; that affiant believes that each signer has stated his or her name, street, and street number or voting precinct and his or her city, village, or post office address correctly; that affiant believes that each petition was a registered voter of the state and county at the time of signing the petition or will be a registered voter of the state and county on or before the date on which the petition is required to be filed with the Secretary of State for signature verification and qualified to sign the petition; and that affiant stated to each petitioner before he or she affixed his or her signature the purpose of such petition.

Additionally, the following warning is to appear on each petition:

> WARNING: Any person willfully and knowingly signing any name other than his or her own to any petition, any person willfully and knowingly signing his or her name more than once for the same measure at one election, any person who willfully and knowingly circulates a petition if he or she is not, at the time of circulating the same, a registered voter and qualified to circulate the same, any person who willfully and knowingly signs a petition if he or she is not a registered voter at the time of signing the petition or will not be a registered voter on or before the date on which the petition is required to be filed with the Secretary of State for signature verification and qualified to sign the petition, any person who willfully and knowingly falsely swears to any signature upon any such petition, any person who willfully and knowingly accepts money or other things of value for signing the petition, or any circulator who willfully and knowingly offers money or other things of value in exchange for a signature upon any such petition shall be guilty of a felony. . . .

Neb.Rev.Stat. § 32-705 also provides that:

> Any person willfully and knowingly circulating a petition outside of the county in which he or she is registered to vote without registering with the Secretary of State shall be guilty of a Class I misdemeanor. All signatures secured in a manner contrary to sections 32-702 to 32- 713 shall not be counted. . . .

Neb.Rev.Stat. § 32-705.01 (Reissue 1988) also provides that any person who has been induced to sign any statewide initiative or referendum petition as a result of fraud, deceit, misrepresentation, or an inadequate or incomplete explanation of the proposal by the circulator may remove his name from such petition.

Based on the Supreme Court's analysis in Meyer, Neb.Rev.Stat. §§ 32-705 and 32-705.01 would appear to adequately protect the validity of the initiative and referendum process without infringing upon the right of individuals or groups to engage in political speech. The limitation on payment of petition circulators does not appear to provide any additional safeguards for the validity of the initiative and referendum process and arguably infringes on the ability of individuals to select the means they feel most effective to get their message to the voters. Therefore, it is our determination that the section of LB 17 which restricts payment of petition circulators based on number of signatures or the petition outcome is constitutionally suspect.

That portion of LB 17 which requires that circulators be paid a minimum rate and that any person paying a circulator be deemed an employer for purposes of the Nebraska Workers' Compensation Act and the Employment Security Law addresses a legitimate state

interest in protecting employees. It does not appear to unduly restrict the ability of individuals who have the ability to pay circulators to do so and does not require that those using unpaid circulators meet any specific requirements. It is possible that a requirement to pay minimum wage only to paid circulators and allowing volunteer circulators for the same sponsor could also prove burdensome for some small or nonprofit groups wishing to hire circulators. In such a case, the interest of the state in protecting employees would necessarily have to be weighed against the limitations placed on those wishing to circulate petitions in an initiative or referendum issue. In such an instance, the state's interests in protecting employees would probably outweigh the limited requirements which this section places on petition circulators with regard to minimum wage and worker compensation. However, as this bill is currently written, if a petition sponsor pays even one circulator, it must pay all of its circulators and must pay them a minimum wage. The chances of this requirement being unduly burdensome, as currently written, are considerably greater.

Sincerely,
DON STENBERG
Attorney General
(Signed) Linda L. Willard
Assistant Attorney General

28-01-14.91
cc: Patrick J. O'Donnell
Clerk of the Legislature

REPORT OF REGISTERED LOBBYISTS

In accordance with LB 987, passed in the 1976 session of the Legislature and amended by LB 4 and LB 41 in the 1977 session of the Legislature, the attached is a list of all Lobbyists who have registered as of February 7, 1991. Further lists listing additional lobbyists who have registered will be filed weekly.

(Signed) Patrick J. O'Donnell
Clerk of the Legislature

Cutshall, Bruce A. - Lincoln	Mainline Enertech Corporation
Erickson & Sederstrom, P.C.	
Thone, Charles - Lincoln	Committee for Responsiblility in Taxation for Public Education

	Lincoln Solid Waste Management Association
	Medco Containment Service
	Project 2000
Heineman, David - Lincoln	Nebraska Republican Party
Kelley, Michael - Omaha	The Nebraska Alliance for Fair Competition
Kinney, Pat - Greenwich, CT	U.S.T., Inc.
Lutz, Richard - Lincoln	Nebraska Restaurant Association
McFarland, James D. - Lincoln	Prison Fellowship Ministries
Orton, Lee - Lincoln	Mid-America Association of Asbestos Contractors
	Nebraska Well Drillers Association
Parker, David R. - Lincoln	Maywood Cooperative Association
Radcliffe and Associates	
Radcliffe, Walter H. - Lincoln	Lincoln Public Schools
Reents, Kathy - Council Bluffs, IA	Association for Children for Enforcement of Support (ACES)
Robinson, J. J. - Lincoln	American Consulting Engineers Council of Nebraska
	Nebraska Society of Professional Engineers
Schaaf, Terry R. - Lincoln	James E. Ryan, P.C.
Skochdopole, Robert A. - Omaha	Philip Morris Management Corporation
Wegman, Peter C. - Lincoln	Maywood Cooperative Association

GENERAL FILE

LEGISLATIVE BILL 22. Mr. Landis renewed his pending motion, found in the Journal on page 552, to indefinitely postpone.

Mrs. Hillman asked unanimous consent to be excused until she returns. No objections. So ordered.

The Landis motion to indefinitely postpone lost with 7 ayes, 14 nays, 14 present and not voting, and 14 excused and not voting.

Mr. Beutler offered the following amendment:
FA19

1. In line 2 and 3 of page 3 strike the words "or committee staff member of such board"

2. In lines 11 and 12 of page 3 strike the words "or such legislative committee may have a committee staff member review the rule or regulation"

3. In line 22, page 3, strike all words following the word "regulation."; strike lines 23, 24 and 25 of page 3; and strike on line 1, page 4 the words "to the Secretary of State"

4. Add a new Section as follows:

During the interim between sessions the referencing required under Section 2 above may be done by a committee staff person designated by the Chairperson of the Executive Board of the Legislative Council and the optional review allowed under Section 3 above may be done by a subcommittee approved by a majority of the committee members.

The Beutler amendment was adopted with 25 ayes, 0 nays, 10 present and not voting, and 14 excused and not voting.

Messrs. Wehrbein and Chizek asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Haberman moved the previous question. The question is, "Shall the debate now close?"

Mr. Haberman moved for a call of the house. The motion prevailed with 18 ayes, 0 nays, and 31 not voting.

The motion to cease debate prevailed with 25 ayes, 0 nays, and 24 not voting.

Mr. Coordsen requested a record vote on the advancement of the bill.

Voting in the affirmative, 20:

Byars	Dierks	Johnson, R.	Robak	Schrock
Conway	Elmer	Kristensen	Rogers	Smith
Coordsen	Haberman	Lamb	Schimek	Wesely
Crosby	Johnson, L.	Peterson	Schmit	Wickersham

Voting in the negative, 18:

Ashford	Beutler	Hillman	Morrissey	Robinson
Baack	Beyer	Landis	Nelson	Warner
Bernard-Stevens	Hall	Lynch	Pirsch	Will
	Hartnett	Moore	Rasmussen	

Present and not voting, 2:

Chambers Cudaback

Excused and not voting, 9:

Abboud	Hefner	Labedz	Schellpeper	Withem
Chizek	Horgan	Lindsay	Wehrbein	

Failed to advance to E & R for review with 20 ayes, 18 nays, 2 present and not voting, and 9 excused and not voting.

The Chair declared the call raised.

Mr. Haberman asked unanimous consent to be excused until he returns. No objections. So ordered.

NOTICE OF COMMITTEE HEARINGS
General Affairs

LB 139	Monday, February 25, 1991	1:30 p.m.
LB 199	Monday, February 25, 1991	1:30 p.m.
LB 321	Monday, February 25, 1991	1:30 p.m.
LB 473	Monday, February 25, 1991	1:30 p.m.
LB 533	Monday, February 25, 1991	1:30 p.m.
LB 567	Monday, February 25, 1991	1:30 p.m.
LB 454	Monday, March 4, 1991	1:30 p.m.
LB 564	Monday, March 4, 1991	1:30 p.m.
LB 582	Monday, March 4, 1991	1:30 p.m.
LB 586	Monday, March 4, 1991	1:30 p.m.
LB 733	Monday, March 4, 1991	1:30 p.m.
LR 9CA	Monday, March 4, 1991	1:30 p.m.
LB 797	Monday, March 11, 1991	1:30 p.m.
LB 805	Monday, March 11, 1991	1:30 p.m.
LB 849	Monday, March 11, 1991	1:30 p.m.
LR 18CA	Monday, March 11, 1991	1:30 p.m.
LR 24CA	Monday, March 11, 1991	1:30 p.m.

(Signed) Jacklyn Smith, Chairperson

STANDING COMMITTEE REPORT
Natural Resources

The Committee on Natural Resources desires to report favorably upon the appointment listed below. The Committee suggests the appointment be confirmed by the Legislature and suggests a record vote.

Gloria J. Erickson, Game and Parks Commission

VOTE: Aye: Senators Beutler, Elmer, Hartnett, Horgan, R. Johnson, Lamb, and Morrissey. Absent: Senator Schmit.

(Signed) Rod Johnson, Chairperson

PROPOSED RULE CHANGE

Mr. Beutler asked unanimous consent to print the following proposed rule change in the Journal. No objections. So ordered.

Amend Rule 1, Section 17 by adding a new subsection (e) which reads as follows:

The Clerk of the Legislature shall maintain an annotated rule book which shall list by rule, rulings of the Chair and other precedent setting interpretations of the rules including any related legislative action. Such annotated rules shall be available to the members of the Legislature upon request. Any member of the Legislature may request that a ruling be annotated. The Clerk may annotate additional rulings but shall have no obligation to annotate, unless a request is made. Annotating shall be completed prior to the end of the calendar year in which the ruling is made.

Referred to the Rules Committee.

SELECT COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 36. Placed on Select File as amended.
E & R amendment to LB 36:
AM5025

1. In the Standing Committee amendments, AM0034, on page 1, strike beginning with "required" in line 3 through "section" in line 4.

2. On page 2, line 19, strike "tenant" and insert "tenants".

3. On page 3, line 9, strike the second comma.

4. On page 5, line 7, strike "sent" and insert "given".

5. On page 6, line 18; and page 8, line 7, strike "cost" and insert "costs".

6. On page 9, line 8, after "loss" insert "is" and strike "is".

7. On page 11, line 25; and page 12, line 4, strike "funds" and insert "proceeds".

LEGISLATIVE BILL 124. Placed on Select File.

LEGISLATIVE BILL 202. Placed on Select File as amended.
E & R amendment to LB 202:
AM5023

1. On page 7, line 9, after the comma insert "of the".

LEGISLATIVE BILL 47. Placed on Select File as amended.
E & R amendment to LB 47:
AM5024

1. In the Standing Committee amendments, AM0066, on page 1, line 11, strike the comma and show as stricken; and in line 13 strike the second comma and show as stricken.

2. On page 1, line 1, after "sections" insert "60-130,"; in line 2 strike "and" and after the last comma insert "and 77-2703,"; and in line 8 after the semicolon insert "to harmonize provisions;".

3. On page 13, line 3, after the comma insert "which is".

4. On page 22, line 2, strike "the provisions of this act", show as stricken, and insert "Chapter 60, article 14,".

LEGISLATIVE BILL 119. Placed on Select File.
LEGISLATIVE BILL 171. Placed on Select File.

(Signed) Eric Will, Chairperson

STANDING COMMITTEE REPORTS
Natural Resources

LEGISLATIVE BILL 340. Placed on General File.
LEGISLATIVE BILL 341. Placed on General File.

LEGISLATIVE BILL 402. Indefinitely postponed.

(Signed) Rod Johnson, Chairperson

GENERAL FILE

LEGISLATIVE BILL 128. Title read. Considered.

Standing Committee amendment, AM0085, found in the Journal on page 488, was adopted with 25 ayes, 0 nays, 14 present and not voting, and 10 excused and not voting.

Advanced to E & R for review with 26 ayes, 0 nays, 14 present and not voting, and 9 excused and not voting.

Mrs. Crosby asked unanimous consent to be excused until she returns. No objections. So ordered.

LEGISLATIVE BILL 354. Title read. Considered.

Standing Committee amendment, AM0083, found in the Journal on page 490, was adopted with 26 ayes, 0 nays, 13 present and not voting, and 10 excused and not voting.

Messrs. Peterson and Byars asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Hall moved for a call of the house. The motion prevailed with 18 ayes, 0 nays, and 31 not voting.

Advanced to E & R for review with 29 ayes, 10 nays, 2 present and not voting, and 8 excused and not voting.

The Chair declared the call raised.

Mr. Chizek asked unanimous consent to be excused until he returns. No objections. So ordered.

ANNOUNCEMENT

The Chair announced tomorrow is Senator Morrissey's birthday.

NOTICE OF COMMITTEE HEARING

Natural Resources

Governor Appointments Wednesday, February 20, 1991 1:30 p.m.
J. Michael Jess - Department of Water Resources
Dayle Williamson - Natural Resources Commission

(Signed) Rod Johnson, Chairperson

STANDING COMMITTEE REPORTS
Health and Human Services

LEGISLATIVE BILL 433. Placed on General File.
LEGISLATIVE BILL 724. Placed on General File.

(Signed) Don Wesely, Chairperson

Government, Military and Veterans Affairs

LEGISLATIVE BILL 232. Placed on General File as amended.
Standing Committee amendment to LB 232:
AM0137

1. Insert the following new section:

"Sec. 3. That section 49-1434, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

49-1434. (1) Principal shall mean a person who authorizes a lobbyist to lobby in behalf of that principal.

(2) Lobbyist shall mean a person who is authorized to lobby on behalf of a principal; and shall include an officer, agent, attorney, or employee of the principal whose regular duties include lobbying.

(3) Principal or lobbyist shall not include:

(a) A public official or employee of a branch of state government, except the University of Nebraska, or an elected official of a political subdivision who is acting in the course or scope of his or her office or employment;

(b) Any publisher, owner, or working member of the press, radio, or television while disseminating news or editorial comment to the general public in the ordinary course of business;

(c) An employee of a principal or lobbyist whose duties are confined to typing, filing, and other

types of clerical office work;

(d) Any person who limits his or her activities (i) to appearances before legislative committees and who so advises the committee at the time of his or her appearance whom he or she represents or that he or she appears at the invitation of a named member of the Legislature or at the direction of the Governor~~,~~ or (ii) to writing letters or furnishing written material to individual members of the Legislature or to the committees thereof who furnishes to the Clerk of the Legislature a copy of such letter or written material for public inspection; ~~or~~

(e) Any individual who does not engage in lobbying for another person~~,~~ as defined in section 49-1438; or

(f) An employee of a political subdivision whose regular employment duties do not ordinarily include lobbying activities as long as such employee is not additionally compensated for such lobbying activities, other than his or her regular salary, and is not reimbursed for any lobbying expenditures except his or her travel, lodging, and meal expenses and the meal expenses for members of the Legislature.".

2. On page 3, lines 5 and 18, strike "6 and 7" and insert "7 and 8".

3. On page 10, line 23, after the comma insert "49-1434,".

4. Renumber the remaining sections accordingly.

(Signed) Gerald Conway, Chairperson

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 297A. Introduced by Hall, 7.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 297, Ninety-second Legislature, First Session, 1991; and to declare an emergency.

GENERAL FILE

LEGISLATIVE BILL 404. Title read. Considered.

Standing Committee amendment, AM0188, found in the Journal on page 582, was adopted with 25 ayes, 0 nays, 17 present and not voting, and 7 excused and not voting.

Mr. Haberman asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Will requested a record vote on the advancement of the bill.

Voting in the affirmative, 32:

Baack	Cudaback	Kristensen	Peterson	Schmit
Bernard-Stevens	Elmer	Lamb	Rasmussen	Schrock
Beutler	Hall	Landis	Robak	Smith
Beyer	Hillman	Lynch	Robinson	Warner
Byars	Horgan	Moore	Rogers	Wehrbein
Coordsen	Johnson, L.	Morrissey	Schellpeper	Wickersham
	Johnson, R.	Nelson		

Voting in the negative, 2:

Pirsch	Will

Present and not voting, 7:

Ashford	Conway	Hartnett	Schimek	Wesely
Chambers	Dierks			

Excused and not voting, 8:

Abboud	Crosby	Hefner	Lindsay	Withem
Chizek	Haberman	Labedz		

Advanced to E & R for review with 32 ayes, 2 nays, 7 present and not voting, and 8 excused and not voting.

Mr. Peterson asked unanimous consent to be excused. No objections. So ordered.

LEGISLATIVE BILL 264. Title read. Considered.

Advanced to E & R for review with 25 ayes, 0 nays, 15 present and not voting, and 9 excused and not voting.

LEGISLATIVE BILL 21. Title read. Considered.

Standing Committee amendment, AM0074, found in the Journal on page 491, was considered.

Mr. Beutler offered the following amendment to the Standing Committee amendment:
FA20

to amend AM0074 to LB 21 as follows:

On line 7 strike the stricken language and strike the new language and substitute therefore the following "three cents"

On lines 9 & 10 restore the stricken language and strike the new language

Pending.

STANDING COMMITTEE REPORTS

Revenue

LEGISLATIVE BILL 50. Indefinitely postponed.
LEGISLATIVE BILL 79. Indefinitely postponed.
LEGISLATIVE BILL 105. Indefinitely postponed.
LEGISLATIVE BILL 188. Indefinitely postponed.
LEGISLATIVE BILL 196. Indefinitely postponed.
LEGISLATIVE BILL 374. Indefinitely postponed.
LEGISLATIVE BILL 472. Indefinitely postponed.
LEGISLATIVE BILL 623. Indefinitely postponed.

(Signed) Tim Hall, Chairperson

Government, Military and Veterans Affairs

LEGISLATIVE BILL 53. Indefinitely postponed.
LEGISLATIVE BILL 165. Indefinitely postponed.
LEGISLATIVE BILL 182. Indefinitely postponed.
LEGISLATIVE BILL 280. Indefinitely postponed.
LEGISLATIVE BILL 331. Indefinitely postponed.
LEGISLATIVE BILL 361. Indefinitely postponed.

(Signed) Gerald Conway, Chairperson

UNANIMOUS CONSENT - Room Change

Mr. Landis asked unanimous consent to change the locations of the hearings set for February 25, 1991. Banking, Commerce and Insurance Committee hearing would be held in Room 1517 and Education Committee hearing would be held in Room 1507. No objections. So ordered.

UNANIMOUS CONSENT - Expedite LB 404

Mr. Hall asked unanimous consent to expedite LB 404. No objections. So ordered.

UNANIMOUS CONSENT - Add Co-Introducer

Mrs. Pirsch asked unanimous consent to have her name added as co-introducer to LB 393. No objections. So ordered.

VISITORS

Visitors to the Chamber were Chuck and Lee Lowry from Columbus; Ila Davenport from Cozad; Larry Hermasmeyer, Jerry Lehman, and Reed McClymont from Farnam; Kirk Yoachum from Bellvedere, and Dave Bruntz from Friend.

The Doctor of the Day was Dr. James Blomgren from Lincoln.

ADJOURNMENT

At 11:56 a.m., on a motion by Mr. Coordsen, the Legislature adjourned until 9:00 a.m., Monday, February 11, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

TWENTY-THIRD DAY - FEBRUARY 11, 1991

LEGISLATIVE JOURNAL

TWENTY-THIRD DAY - FEBRUARY 11, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

TWENTY-THIRD DAY

Legislative Chamber, Lincoln, Nebraska
Monday, February 11, 1991

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Moul presiding.

PRAYER

The prayer was offered by Pastor Jean Samuelson, Calvary Methodist Church, Lincoln, Nebraska.

ROLL CALL

The roll was called and all members were present except Mrs. Labedz who was excused; and Messrs. Abboud, Ashford, Beutler, Chizek, Haberman, Hall, Hartnett, Kristensen, Landis, Lindsay, Moore, Morrissey, Robinson, Schmit, Warner, Wesely, Mmes. Pirsch, and Smith who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Twenty-Second Day was approved.

SELECT COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 118. Placed on Select File.
LEGISLATIVE BILL 204. Placed on Select File.
LEGISLATIVE BILL 404. Placed on Select File.

(Signed) Eric Will, Chairperson

MOTION - Approve Appointment

Mr. R. Johnson moved the adoption of the report of the Natural Resources Committee for the following Governor appointment found in the Journal on page 604: Gloria J. Erickson - Game and Parks Commission.

Voting in the affirmative, 25:

Baack	Crosby	Horgan	Nelson	Schimek
Beyer	Cudaback	Johnson, L.	Peterson	Schrock
Byars	Dierks	Johnson, R.	Rasmussen	Wehrbein
Conway	Hefner	Lamb	Rogers	Will
Coordsen	Hillman	Lynch	Schellpeper	Withem

Voting in the negative, 0.

Present and not voting, 5:

Bernard-Stevens	Chambers	Elmer	Robak	Wickersham

Excused and not voting, 19:

Abboud	Haberman	Labedz	Morrissey	Smith
Ashford	Hall	Landis	Pirsch	Warner
Beutler	Hartnett	Lindsay	Robinson	Wesely
Chizek	Kristensen	Moore	Schmit	

The appointment was confirmed with 25 ayes, 0 nays, 5 present and not voting, and 19 excused and not voting.

GENERAL FILE

LEGISLATIVE BILL 25. Title read. Considered.

Mr. Withem renewed his pending amendment, AM0052, found in the Journal on page 444.

The Withem amendment was adopted with 25 ayes, 0 nays, 8 present and not voting, and 16 excused and not voting.

Advanced to E & R for review with 28 ayes, 0 nays, 7 present and not voting, and 14 excused and not voting.

LEGISLATIVE BILL 209. Title read. Considered.

Mr. Withem renewed his pending amendment, AM0117, found in the Journal on page 505.

The Withem amendment was adopted with 26 ayes, 0 nays, 10 present and not voting, and 13 excused and not voting.

Advanced to E & R for review with 26 ayes, 0 nays, 11 present and not voting, and 12 excused and not voting.

LEGISLATIVE BILL 76. Title read. Considered.

Standing Committee amendment, AM0084, found in the Journal on page 488, was adopted with 29 ayes, 0 nays, 10 present and not voting, and 10 excused and not voting.

Mr. Lamb requested a record vote on the advancement of the bill.

Voting in the affirmative, 26:

Baack	Haberman	Landis	Nelson	Warner
Beutler	Hillman	Lindsay	Rasmussen	Wehrbein
Beyer	Horgan	Lynch	Robak	Wesely
Chambers	Johnson, L.	Moore	Rogers	Will
Conway	Johnson, R.	Morrissey	Schrock	Withem
Elmer				

Voting in the negative, 3:

Hefner	Lamb	Pirsch

Present and not voting, 12:

Bernard-Stevens	Coordsen	Dierks	Schellpeper	Schmit
Byars	Crosby	Kristensen	Schimek	Wickersham
	Cudaback	Peterson		

Excused and not voting, 8:

Abboud	Chizek	Hartnett	Robinson	Smith
Ashford	Hall	Labedz		

Advanced to E & R for review with 26 ayes, 3 nays, 12 present and not voting, and 8 excused and not voting.

LEGISLATIVE BILL 68. Title read. Considered.

Standing Committee amendment, AM0114, found in the Journal on page 489, was adopted with 27 ayes, 0 nays, 15 present and not voting, and 7 excused and not voting.

Messrs. Beutler and Chambers offered the following amendment:
AM0221

1. Insert the following new section:

"Sec. 6. It is the sense of the Legislature that the University of Nebraska-Lincoln, acting in conjunction with the National Collegiate Athletic Association and other schools, should immediately begin the process of seriously reducing the time spent by University of Nebraska-Lincoln football players on football program activities.".

2. On page 5, line 9, strike "This" and insert "Sections 1 to 5 of this".

Messrs. Rogers and Kristensen asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Haberman offered the following amendment to the pending Beutler-Chambers amendment:
FA21

to amend the Beutler-Chambers amendment,

on pg 1, line 7, add after players "all basketball, swimming, volleyball, gymnastics,"

Mr. Haberman withdrew his pending amendment.

Mr. Will offered the following amendment to the pending Beutler-Chambers amendment:
FA22

To amend the Beutler-Chambers amendment (AM221) as follows:

1. Strike lines 7 and 8 and insert "college scholarship athletes on athletic activities"

Mr. Peterson asked unanimous consent to be excused until he returns. No objections. So ordered.

The Will amendment was adopted with 17 ayes, 0 nays, 23 present and not voting, and 9 excused and not voting.

The Beutler-Chambers amendment, as amended, was adopted with 25 ayes, 1 nay, 16 present and not voting, and 7 excused and not voting.

Mr. Dierks asked unanimous consent to be excused until he returns. No objections. So ordered.

SPEAKER BAACK PRESIDING

Mr. Chambers moved for a call of the house. The motion prevailed with 12 ayes, 0 nays, and 37 not voting.

Mr. Chambers requested a roll call vote on the advancement of the bill.

Voting in the affirmative, 19:

Ashford	Beutler	Cudaback	Morrissey	Schrock
Baack	Chambers	Hillman	Rasmussen	Wehrbein
Bernard-Stevens	Conway	Landis	Schimek	Will
	Crosby	Lindsay	Schmit	Withem

Voting in the negative, 16:

Beyer	Hefner	Kristensen	Nelson	Smith
Coordsen	Johnson, L.	Lamb	Pirsch	Warner
Elmer	Johnson, R.	Moore	Schellpeper	Wickersham
Haberman				

Present and not voting, 6:

Byars	Lynch	Robak	Robinson	Wesely
Horgan				

Excused and not voting, 8:

Abboud	Dierks	Hartnett	Peterson	Rogers
Chizek	Hall	Labedz		

Failed to advance to E & R for review with 19 ayes, 16 nays, 6 present and not voting, and 8 excused and not voting.

The Chair declared the call raised.

Mr. Haberman asked unanimous consent to be excused. No objections. So ordered.

LEGISLATIVE BILL 21. Title read. Considered.

Standing Committee amendment, AM0074, found in the Journal on page 491, was considered.

Mr. Beutler renewed his pending amendment, FA20, found in the Journal on page 610, to the pending Standing Committee amendment.

Messrs. Schmit, Beyer, and Moore asked unanimous consent to be excused. No objections. So ordered.

Pending.

NOTICE OF COMMITTEE HEARING
Agriculture

Governor appointment Tuesday, February 26, 1991 1:30 p.m.
Larry Sitzman - Department of Agriculture

(Signed) Carson Rogers, Chairperson

STANDING COMMITTEE REPORT
Banking, Commerce and Insurance

LEGISLATIVE BILL 292. Placed on General File as amended.
Standing Committee amendment to LB 292:
AM0189

1. On page 4, line 8, strike "and"; in line 10 after "property" insert "; and

(j) A person, firm, corporation, or association licensed as a collection agency in this state or a person holding a solicitor's certificate in this state acting within the course and scope of that license or certificate"; and in line 21 after the first "services" insert ", other than those described in subdivision (2) of this section,".

2. On page 5, line 1, after "(2)" insert

"Charge a buyer or receive from a buyer money or other valuable consideration for obtaining or attempting to obtain an extension of credit that the credit services organization has agreed to obtain for the buyer before the extension of credit is obtained;

(3)"; in line 7 strike "(3)" and insert "(4)"; in line 18 strike "(4)" and insert "(5)"; and in line 22 strike "(5)" and insert "(6)".

3. On page 6, line 5, strike "(6)" and insert "(7)".

(Signed) David Landis, Chairperson

UNANIMOUS CONSENT - Print in Journal

Mr. Elmer asked unanimous consent to print the following amendment to LB 125 in the Journal. No objections. So ordered.

AM0219

1. Strike the original section and all amendments thereto and insert the following new section:

"Section 1. (1) Except as provided in subsections (2) and (3) of this section, any person who is prosecuted under any statute or ordinance other than an ordinance enacted under the health, zoning, or subdivision powers of a municipality which has a criminal penalty and which is found to be unconstitutional as applied to the person by a final order entered by a court of competent jurisdiction may apply to the Supreme Court for all reasonable and actual costs of defending himself or herself, including attorney's fees, in any court and before any administrative body in proceedings related to such prosecution. The Supreme Court shall determine an amount, if any, to be awarded under this section and shall enter an order for the amount, if any, against the state if a statute was found unconstitutional or against the political subdivision which enacted the ordinance if an ordinance was found unconstitutional. The costs awarded shall be collected in the same manner as a judgment against the state or political subdivision.

(2) Subsection (1) of this section shall not apply in cases when the political subdivision enacting the ordinance has been required to do so in compliance

with state or federal law.

(3) An award shall not be made under this section unless the Supreme Court finds that at the time the statute or ordinance was enacted, it violated clearly established constitutional rights of which the state or political subdivision was or should have been aware at the time the statute or ordinance was enacted.

(4) This section shall only apply to cases in which the statute or ordinance is found unconstitutional after the effective date of this act.".

Mr. Landis asked unanimous consent to print the following amendment to LB 234 in the Journal. No objections. So ordered.

AM0235

1. On page 19, strike lines 9 through 21; and in line 22 strike "(3)" and insert "(2)".

2. On page 20, line 3, strike "(4)" and insert "(3)"; and in line 9 strike "(5)" and insert "(4)".

STANDING COMMITTEE REPORTS
Government, Military and Veterans Affairs

The Committee on Government, Military and Veterans Affairs desires to report favorably upon the appointment listed below. The Committee suggests the appointment be confirmed by the Legislature and suggests a record vote.

Phyllis H. Lainson - Crime Victim's Reparation Committee

VOTE: Aye: Senators Conway, Coordsen, Lindsay, Robak, Schimek, Schrock, and Smith. Absent: Withem.

LEGISLATIVE BILL 466. Placed on General File.

LEGISLATIVE BILL 458. Indefinitely postponed.

(Signed) Gerald Conway, Chairperson

VISITORS

Visitors to the Chamber were Linda Burd from Hebron; juniors, seniors, and sponsors from O'Neill Public High School; and 45 state officers of Future Farmers of America Association.

The Doctor of the Day was Dr. Bruce Gfeller from Lincoln.

ADJOURNMENT

At 11:56 a.m., on a motion by Mr. Byars, the Legislature adjourned until 9:00 a.m., Tuesday, February 12, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

TWENTY-FOURTH DAY - FEBRUARY 12, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

TWENTY-FOURTH DAY

Legislative Chamber, Lincoln, Nebraska
Tuesday, February 12, 1991

Pursuant to adjournment, the Legislature met at 9:00 a.m., Speaker Baack presiding.

PRAYER

The prayer was offered by Pastor John "Mike" Loudon, Eastridge Presbyterian Church, Lincoln, Nebraska.

ROLL CALL

The roll was called and all members were present except Messrs. Chizek and Hartnett who were excused; and Messrs. Chambers, Coordsen, Hall, Lindsay, Moore, Morrissey, Schmit, Will, Mmes. Labedz, and Rasmussen who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Twenty-Third Day was approved.

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 209A. Introduced by Withem, 14.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 209, Ninety-second Legislature, First Session, 1991.

ATTORNEY GENERAL'S OPINION

Opinion No. 91010

DATE: February 7, 1991

SUBJECT: Community Services Block Grant Funding; Propriety of Legislation Specifying Formula

REQUESTED BY: Carson H. Rogers, State Senator

WRITTEN BY: Don Stenberg, Attorney General
Royce N. Harper, Senior Assistant Attorney General

QUESTION: Can the Nebraska Unicameral pass legislation and specify in statute a formula by which the Department of Social Services shall allocate Community Service Block Grant funds to the nine Community Action Agencies in Nebraska?

CONCLUSION: Yes, on the condition that the legislation is in compliance with federal guidelines.

The Supreme Court has long recognized that Congress may fix the terms on which it will dispense federal money to the states. Oklahoma v. CSC, 330 U.S. 127 (1947); King v. Smith, 392 U.S. 309 (1968); Rosado v. Wyman, 397 U.S. 397 (1970). Legislation enacted pursuant to the spending power of Congress is much in the nature of a contract; in return for federal funds, the states agree to comply with federally imposed conditions. "The legitimacy of Congress' power to legislate under the spending power thus rests on whether the state voluntarily and knowingly accepts the terms of the contract. Accordingly, if Congress intends to impose a condition on the grant of federal monies, it must do so unambiguously." Pennhurst State School v. Haldeman, 451 U.S. 17 (1980). Thus, it is a legitimate Congressional prerogative to provide for conditionally funded grants as long as the guidelines states must adhere to in order to qualify for those grants are unambiguously delineated.

The Community Services Block Grant program was created by Congress in 1981 to provide federal funds to states to administer as long as that administration took place within the general and well specified guidelines as set forth by Congress in Subtitle B, the Community Services Block Grant Program. The Block Grant

program has thus been established through a legitimate use of Congress' spending power.

Section 675 of the Community Service Block Grant Program governs the requirements each state must meet in order to receive federal funding. As related to the question presented, Section 675 sets out the following guidelines:

(a) Each state desiring to receive an allotment for a fiscal year under this subtitle shall submit an application to the Secretary....Each such application shall contain assurances by the chief executive officer of the state that the state will comply with subsection (b) and will meet the conditions enumerated in subsection (c).

(b) ...no funds shall be allotted to such state for any fiscal year under this subtitle, unless the legislature of the state conducts public hearings on the proposed use and distribution of funds to be provided under this subtitle for each fiscal year.

Part C of Section 675 contains a list of guidelines Congress set forth establishing the criteria each state's program must meet.

The pertinent portion of this section as concerns the question presented establishes that the governor of each state receiving funds must certify that the state's program meets the Section 675(c) guidelines. Indeed, the courts that have interpreted the provisions of Section 675 focus on the need for the governors to certify that any changes in the state's program are in compliance with Congressional guidelines.

For instance, Rural Alaska Community Action Program v. Smith, 847 F.2d 535 (9th Cir. 1988) involved a case where a state agency brought a suit challenging an amendment to a plan for proposed use of federal Community Services Block Grant funds. The court held that as long as the governor of the state certified that the state administered the Block Grant program in compliance with Congressional standards, no additional procedural requirements had to be met.

As confirmed by Section 675 and case law, the essential procedural requirement of states that apply for Block Grant funds is that the governor must certify that the state's program conforms with the program's guidelines as mandated by Congress.

Section 675 also requires public hearings be held concerning any proposals that would change the state's Community Block Services program. South Eastern Human Development Corporation v. Schweiker, 687 F.2d (8th Cir. 1982) concerned a state's attempt to change guidelines formerly utilized to administer the Community Block Grant program. The court interpreted Section 675(b) as requiring the Legislature to hold public hearings if it chooses to

utilize new guidelines when administering the federal funds in question. Id. at 1156.

Therefore, as interpreted by the courts, Congress has apparently allowed for the involvement of state legislatures in the administration of Community block Grant funds as long as that involvement is in compliance with federal guidelines. The two essential components of those guidelines are that:

(1) The Unicameral must have the Governor certify that the changes implemented by the legislative body do not violate the Congressional guidelines for the administration of the program as contained in Section 675(c).

(2) The Unicameral is required by Section 675(b), to hold public hearings on the "proposed use and distribution of funds." Some courts such as the court in Schweiker, supra, have recognized that the State's executive branch may also conduct the requisite public hearings.

In conclusion, the Community Services Block Grant Act and the majority of courts seem to recognize that if the requirements listed in (1) and (2) above are met, the Unicameral can pass legislation affecting the Community Services Block Grant program.

Sincerely,
DON STENBERG
Attorney General
(Signed) Royce N. Harper
Senior Assistant Attorney General

15-01-14.91
cc: Patrick J. O'Donnell
Clerk of the Legislature

NATURAL RESOURCE DISTRICT REPORT

In compliance with Section 2-3262 (R.R.S. 1943) a summary of all fees paid to date during calendar year 1990 to attorneys, lobbyists, and public relations representatives is indicated below by individual and by amount paid thereto.

DISTRICT	FEE
Nemaha Natural Resources District	
Steve Seglin, Attorney	1,140.00
Morrissey, Morrissey, Dalluge, Attorneys	80.00

MOTION - Approve Appointment

Mr. Conway moved the adoption of the report of the Government, Military and Veterans Affairs Committee for the following Governor appointment found in the Journal on page 619: Phyllis H. Lainson - Crime Victim's Reparation Committee.

Voting in the affirmative, 29:

Abboud	Cudaback	Horgan	Pirsch	Warner
Baack	Dierks	Johnson, R.	Robak	Wehrbein
Beyer	Elmer	Kristensen	Robinson	Wesely
Byars	Haberman	Lamb	Rogers	Wickersham
Conway	Hefner	Lynch	Schimek	Withem
Crosby	Hillman	Nelson	Smith	

Voting in the negative, 0.

Present and not voting, 8:

Ashford	Bernard-Stevens	Beutler	Landis	Schellpeper
		Johnson, L.	Peterson	Schrock

Excused and not voting, 12:

Chambers	Hall	Lindsay	Morrissey	Schmit
Chizek	Hartnett	Moore	Rasmussen	Will
Coordsen	Labedz			

The appointment was confirmed with 29 ayes, 0 nays, 8 present and not voting, and 12 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 125. E & R amendment, AM5009, found in the Journal on page 456, was adopted.

Mr. Elmer withdrew his pending amendment, AM0108, found in the Journal on page 505.

Mr. Elmer renewed his pending amendment, AM0219, found in the Journal on page 618.

Mr. Chambers offered the following amendment to the pending Elmer amendment:
FA23

Amend Elmer amendment (AM219) to LB 125
Strike subsection (3)

PRESIDENT MOUL PRESIDING

Mr. Chambers moved for a call of the house. The motion prevailed with 22 ayes, 0 nays, and 27 not voting.

Mr. Chambers requested a roll call vote on his amendment.

Voting in the affirmative, 25:

Abboud	Chambers	Elmer	Pirsch	Schimek
Ashford	Conway	Horgan	Rasmussen	Schrock
Baack	Crosby	Landis	Robak	Smith
Bernard-Stevens	Cudaback	Morrissey	Robinson	Wehrbein
Beyer	Dierks	Peterson	Rogers	Will

Voting in the negative, 12:

Beutler	Haberman	Nelson	Warner	Wickersham
Byars	Hefner	Schellpeper	Wesely	Withem
Coordsen	Johnson, L.			

Present and not voting, 5:

Hillman	Johnson, R.	Kristensen	Lamb	Lynch

Excused and not voting, 7:

Chizek	Hartnett	Lindsay	Moore	Schmit
Hall	Labedz			

The Chambers amendment was adopted with 25 ayes, 12 nays, 5 present and not voting, and 7 excused and not voting.

The Chair declared the call raised.

Mr. Elmer asked unanimous consent to pass over LB 125. No objections. So ordered.

STANDING COMMITTEE REPORTS

Business and Labor

The Committee on Business and Labor desires to report favorably upon the appointment listed below. The Committee suggests the appointment be confirmed by the Legislature and suggests a record vote.

Verne Moore - Commission for Industrial Relations

VOTE: Aye: Senators Coordsen, Elmer, Hefner, Schellpeper, and Schimek. Absent: Senator Chambers. Passed: Senator Morrissey.

(Signed) George Coordsen, Chairperson

Transportation

The Committee on Transportation desires to report favorably upon the appointment listed below. The Committee suggests the appointment be confirmed by the Legislature and suggests a record vote.

Mr. Denny Miller - Motor Vehicle Industry Licensing Board

VOTE: Aye: Senators Beyer, Horgan, Kristensen, Peterson, and Robak. Nay: None. Absent: Senators Byars, Pirsch, and Wickersham.

(Signed) Doug Kristensen, Chairperson

NOTICE OF COMMITTEE HEARING
Rules

Wesely's Proposed Rule Change, found in the Journal on page 530.
Tuesday, February 26, 1991 8:30 a.m.

Beutler's Proposed Rule Change, found in the Journal on page 604.
Tuesday, February 26, 1991 8:30 a.m.

(Signed) Dan Lynch, Chairperson

STANDING COMMITTEE REPORTS
Judiciary

LEGISLATIVE BILL 251. Placed on General File.
LEGISLATIVE BILL 324. Placed on General File.

LEGISLATIVE BILL 191. Placed on General File as amended.
Standing Committee amendment to LB 191:
AM0171

1. On page 2, strike beginning with the first comma in line 6 through "Law" in line 9 and insert "and upland game birds pursuant to the Game Law, to lawfully hunt predatory or other animals, or to engage lawfully in fishing, fur harvesting, trapping, or the practice of falconry".

2. On page 2, line 21; page 3, lines 5, 11, and 14; and page 4, line 6, strike "designated" and insert "accessible".

3. On page 3, line 4, strike "game" and insert "lawfully hunted game, upland game bird, raptor, or predatory or other animal"; in line 15 strike "Disturbs, harasses," and insert "Physically impedes"; and in line 16 strike "disturbs, harasses," and insert "physically impedes".

LEGISLATIVE BILL 213. Indefinitely postponed.

(Signed) Jerry Chizek, Chairperson

Government, Military and Veterans Affairs

LEGISLATIVE BILL 731. Placed on General File.

LEGISLATIVE BILL 27. Placed on General File as amended.
Standing Committee amendment to LB 27:
AM0246

1. On page 2, line 10, after "shall" insert "knowingly".

LEGISLATIVE BILL 542. Placed on General File as amended.
Standing Committee amendment to LB 542:
AM0248

1. Insert the following new section:

"Sec. 5. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.".

LEGISLATIVE BILL 597. Placed on General File as amended.
Standing Committee amendment to LB 597:

AM0255
1. On page 2, line 5, strike "two", show as stricken, and insert "three".

LEGISLATIVE BILL 575. Indefinitely postponed.
LEGISLATIVE BILL 601. Indefinitely postponed.

(Signed) Gerald Conway, Chairperson

UNANIMOUS CONSENT - Member Excused

Mr. R. Johnson asked unanimous consent to be excused until he returns. No objections. So ordered.

SELECT FILE

LEGISLATIVE BILL 88. E & R amendment, AM5013, found in the Journal on page 538, was adopted.

Mr. Warner renewed his pending amendment, AM0150, found in the Journal on page 569.

Mr. Ashford requested a ruling of the Chair on whether the Warner amendment is germane to the bill.

The Chair ruled the Warner amendment is not germane to the bill.

Mr. Warner challenged the ruling of the Chair. The question is, "Shall the Chair be overruled?"

Mr. Rogers asked unanimous consent to be excused until he returns. No objections. So ordered.

SPEAKER BAACK PRESIDING

The Warner motion to overrule the Chair prevailed with 26 ayes, 1 nay, 18 present and not voting, and 4 excused and not voting.

The Chair was overruled.

Mr. Wehrbein asked unanimous consent to be excused. No objections. So ordered.

Mr. Abboud moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

Mr. Ashford requested a roll call vote on the Warner amendment.

Voting in the affirmative, 17:

Coordsen	Haberman	Lamb	Robinson	Schrock
Crosby	Hefner	Moore	Schellpeper	Smith
Cudaback	Johnson, L.	Pirsch	Schmit	Warner
Elmer	Kristensen			

Voting in the negative, 20:

Abboud	Beutler	Hall	Lindsay	Wesely
Ashford	Beyer	Hillman	Morrissey	Wickersham
Baack	Byars	Horgan	Rasmussen	Will
Bernard-Stevens	Chambers	Labedz	Schimek	Withem

Present and not voting, 7:

Conway	Landis	Nelson	Peterson	Robak
Dierks	Lynch			

Excused and not voting, 5:

Chizek	Hartnett	Johnson, R.	Rogers	Wehrbein

The Warner amendment lost with 17 ayes, 20 nays, 7 present and not voting, and 5 excused and not voting.

Pending.

LEGISLATIVE BILL 404. Advanced to E & R for engrossment.

LEGISLATIVE BILL 88. Mr. Hefner moved to bracket until LB 262 is advanced to Select File.

Mr. Lindsay requested a ruling of the Chair on whether the Hefner motion is a priority motion and is properly before us.

The Chair ruled the Hefner motion is not a priority motion thus is out of order at this time.

Mr. Hefner moved to bracket LB 88 until February 27, 1991.

Mr. Beyer asked unanimous consent to be excused until he returns. No objections. So ordered.

Mrs. Nelson moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

Mr. Hefner moved for a call of the house. The motion prevailed with 29 ayes, 0 nays, and 20 not voting.

Mr. Abboud requested a roll call vote on the Hefner motion to bracket.

Voting in the affirmative, 20:

Byars	Haberman	Lamb	Robak	Schmit
Coordsen	Hefner	Moore	Robinson	Schrock
Dierks	Horgan	Peterson	Rogers	Smith
Elmer	Johnson, L.	Pirsch	Schellpeper	Warner

Voting in the negative, 22:

Abboud	Beutler	Johnson, R.	Morrissey	Wesely
Ashford	Chambers	Kristensen	Nelson	Wickersham
Baack	Conway	Labedz	Rasmussen	Will
Bernard-Stevens	Hall	Landis	Schimek	Withem
	Hillman	Lindsay		

Present and not voting, 3:

Crosby	Cudaback	Lynch

Excused and not voting, 4:

Beyer	Chizek	Hartnett	Wehrbein

The Hefner motion lost with 20 ayes, 22 nays, 3 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

Messrs. Kristensen, Abboud, and Ashford offered the following amendment:
AM0240

(Amendments to FA11)

1. On page 1, line 4, after "actions" insert "to which contributory negligence is a defense"; in line 15 strike "include" and insert "mean"; strike beginning with "include" in line 17 through "guardian" in line 18 and insert "mean the minor"; in lines 19 and 20 strike "objectively verifiable"; in line 20 after "including" insert ", but not limited to,"; and in line 21 after "earnings" insert "and earning capacity".

2. On page 2, line 19, after the period insert "The jury shall be instructed on the effects of the allocation of negligence.".

3. On page 3, line 11, before "A" insert "(1)"; and after line 19 insert the following new subsection:

"(2) A release, covenant not to sue, or similar agreement entered into by a claimant and a person liable shall preclude that person from being made a party or, if an action is pending, shall be a basis for that person's dismissal, but the person's fault, if any, shall be considered in accordance with section 4 of this act.".

Mr. Lynch asked unanimous consent to be excused. No objections. So ordered.

Mr. Ashford moved the previous question. The question is, "Shall the debate now close?"

Mr. Ashford moved for a call of the house. The motion prevailed with 14 ayes, 1 nay, and 34 not voting.

The motion to cease debate prevailed with 25 ayes, 0 nays, and 24 not voting.

Pending.

MOTION - Adjournment

Mr. Hefner moved to adjourn. The motion lost with 6 ayes, 22 nays, 17 present and not voting, and 4 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 88. The pending Kristensen-Abboud-Ashford amendment was adopted with 36 ayes, 0 nays, 9 present and not voting, and 4 excused and not voting.

Pending.

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 85A. Introduced by Schimek, 27.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 85, Ninety-second Legislature, First Session, 1991.

NOTICE OF COMMITTEE HEARINGS
Urban Affairs

LB 840	Tuesday, February 19, 1991	1:30 p.m.
LB 765	Tuesday, February 19, 1991	1:30 p.m.
LB 26	Tuesday, February 19, 1991	1:30 p.m.
LB 764	Tuesday, February 19, 1991	1:30 p.m.
LB 507	Tuesday, February 26, 1991	1:30 p.m.
LB 546	Tuesday, February 26, 1991	1:30 p.m.
LB 547	Tuesday, February 26, 1991	1:30 p.m.
LB 548	Tuesday, February 26, 1991	1:30 p.m.
LB 513	Tuesday, February 26, 1991	1:30 p.m.
LB 589	Tuesday, February 26, 1991	1:30 p.m.
LB 369	Tuesday, March 5, 1991	1:30 p.m.
LB 506	Tuesday, March 5, 1991	1:30 p.m.
LB 608	Tuesday, March 5, 1991	1:30 p.m.
LB 609	Tuesday, March 5, 1991	1:30 p.m.
LB 610	Tuesday, March 5, 1991	1:30 p.m.

LB 489	Tuesday, March 12, 1991	1:30 p.m.
LB 104	Tuesday, March 12, 1991	1:30 p.m.
LB 767	Tuesday, March 12, 1991	1:30 p.m.

(Signed) D. Paul Hartnett, Chairperson

UNANIMOUS CONSENT - Print in Journal

Mr. Withem asked unanimous consent to print the following amendment to LB 209 in the Journal. No objections. So ordered.

AM0260

1. on page 12, strike beginning with "Nebraska" in line 16 through "Education" in line 17 and insert "statewide coordinating commission for postsecondary education"; and strike beginning with "the" in line 18 through "successor" in line 19 and insert "such coordinating".

Mr. Lynch asked unanimous consent to print the following amendment to LB 113 in the Journal. No objections. So ordered.

AM0250

1. Insert the following new section:

"Section 1. That section 18-1737, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

18-1737. (1) Any city or village and any person in lawful possession of any offstreet parking facility may designate stalls or spaces in such facility owned or operated by the city or village or person for the exclusive use of handicapped or disabled persons whose vehicles display the distinguishing license plates issued to such individuals pursuant to section 60-311.14, such other handicapped or disabled persons or temporarily handicapped or disabled persons, as certified by the city or village, whose vehicles display the identification specified in section 18-1739, and such other motor vehicles, as certified by the city or village, which display such identification. Such designation shall be made by posting immediately adjacent to and visible from each stall or space a sign

which is in conformance with the nineteenth edition of the Manual on Uniform Traffic Control Devices for Streets and Highways issued by the Federal Highway Administration.

(2) The owner or person in lawful possession of an offstreet parking facility, after notifying the police or sheriff's department, as the case may be, and any city or village providing onstreet parking or owning, operating, or providing an offstreet parking facility, may cause the removal, from a stall or space designated exclusively for handicapped or disabled persons or temporarily handicapped or disabled persons or motor vehicles for the transportation of handicapped or disabled persons or temporarily handicapped or disabled persons, of any vehicle not displaying proper identification or the distinguishing license plates specified in this section if there is posted immediately adjacent to and visible from such stall or space a sign which clearly and conspicuously states the area so designated as a tow-in zone. Anyone parking in any onstreet parking space which has been designated exclusively for handicapped or disabled persons or temporarily handicapped or disabled persons or motor vehicles for the transportation of handicapped or disabled persons or temporarily handicapped or disabled persons, or in any so exclusively designated parking space in any offstreet parking facility, without properly displaying the proper identification or when the handicapped or disabled person to whom or for whom, as the case may be, the license plate or permit is issued is not in the car shall be guilty of a traffic infraction as defined in section 39-602 and shall be subject to the penalties and procedures set forth in section 39-6,112. In the case of a privately owned offstreet parking facility, a city or village may require the owner or person in lawful possession of such facility to inform the city or village of a violation of this section prior to taking any action pursuant to this section.".

2. On page 12, line 16, after "sections" insert "18-1737," and before "and" insert a comma.

3. Renumber remaining sections accordingly.

SELECT COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 233. Placed on Select File as amended.
E & R amendment to LB 233:
AM5027

1. On page 3, line 2, after "known" insert "and may be cited".

2. On page 5, lines 2 and 4, after "mean" insert "the"; and renumber sections 11 and 12 as sections 12 and 11, respectively, and reorder accordingly.

3. On page 7, line 20, strike the comma.

4. On page 10, line 11, after the second comma insert "be".

5. On page 11, line 11, after "information" insert an underscored comma.

6. On page 13, line 6, after "character" insert "and".

7. On page 15, line 15, strike "insurers" and insert "an insurer".

8. On page 16, line 6, strike "37" and insert "36"; and in lines 12 and 21 strike "such" and after "section" insert "37 of this act".

9. On page 18, line 3, strike the second comma.

10. On page 19, line 4, after "of" insert "incorporation,", after the second comma insert "or", and strike "or"; and in line 5 strike "incorporation,".

11. On page 20, line 23, after "except" insert "(i)"; and in line 24 after the comma insert "(ii)".

12. On page 21, line 1, after "or" insert "(iii)".

13. On page 25, line 23, after the first comma insert "organization,".

14. On page 26, line 8, after "If" insert an underscored comma.

15. On page 29, line 18, strike "act" and insert "Property and Casualty Insurance Rate and Form Act".

16. On page 31, lines 20 and 22, reinstate the stricken comma.

17. On page 48, line 6, strike the comma and show as stricken.

LEGISLATIVE BILL 235. Placed on Select File as amended.
E & R amendment to LB 235:
AM5029

1. On page 29, line 15, after "apply" insert "for title insurance".

2. On page 34, line 13, after "doing" insert "of".

3. On page 35, line 10, strike "the" and show as stricken; and in line 16 after "underwrite" insert an underscored comma.

4. On page 38, line 7, strike "is" and insert "are"; and in line 10 after "and" insert "if".

5. On page 41, line 22, strike "and", show as stricken, and insert an underscored comma; and in line 24 after the first "owner" insert an underscored comma and strike "further advising the owner" and show as stricken.

6. On page 42, line 24, strike the last comma and show as stricken.

7. On page 46, line 12, strike the comma and show as stricken.

8. On page 61, line 20, strike "for subscribers", show as stricken, and insert "as a subscriber".

9. On page 66, line 9, after "act" insert an underscored comma.

10. On page 67, line 21, strike "44-1497." and show as stricken.

LEGISLATIVE BILL 96. Placed on Select File as amended.
E & R amendment to LB 96:
AM5026

1. On page 9, line 6, strike "contracted for" and strike the comma.

2. On page 10, line 16, strike "attorneys'" and insert "attorney's".

3. On page 12, line 4, strike "damaged" and insert "injured".

LEGISLATIVE BILL 75. Placed on Select File as amended.
E & R amendment to LB 75:
AM5028

1. Insert the following new section:

"Sec. 12. That section 1-127, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

1-127. In the event an applicant for a certificate as a certified public accountant meets all of the requirements for such a certificate, other than the requirements of subdivision (1)(a) or (2)(a) of section 1-114, the board may, in its discretion, issue ~~to him~~ a temporary certificate as a certified public accountant to the applicant. Such certificate shall be effective only until the board ~~shall notify him~~ notifies the applicant that ~~his~~ the application has been either granted or rejected. In no event shall such temporary certificate be in effect for more than six months after the date of its issuance. No fee shall be charged for such permit.".

2. On page 1, line 2, after the third comma insert "1-127,".

3. On page 9, line 6, after "may" insert "be"; and in line 14 after the second comma insert "1-127,".

4. Renumber the remaining sections accordingly.

(Signed) Eric Will, Chairperson

STANDING COMMITTEE REPORTS
Urban Affairs

LEGISLATIVE BILL 307. Placed on General File.

LEGISLATIVE BILL 746. Placed on General File as amended.
Standing Committee amendment to LB 746:
AM0239

1. Insert the following new section:

"Sec. 75. The Revisor of Statutes shall assign sections 1 to 56 of this act within Chapter 14.".

2. On page 3, lines 12, 17, and 24; page 5, line 24; page 7, lines 1 and 9; page 18, line 10; page 29, line 22; page 30, lines 16 and 17; page 33, line 25; page 34, line 11; page 36, lines 7 and 8, 10 and 11, 15, and 23; page 38, line 4; page 49, line 19; page 58, line 20; page 59, lines 9 and 10; page 60, line 11; and page 67, line 4, strike "metropolitan city", show as

stricken, and insert "city of the metropolitan class".

3. On page 6, line 14; page 31, line 4; page 32, line 10; page 33, line 23; and page 34, line 22, strike "metropolitan cities", show as stricken, and insert "cities of the metropolitan class".

4. On page 25, line 11, strike "utility" and insert "and water utilities"; in line 12 strike "in", show as stricken, and insert "and for the purpose of supplying water for domestic, mechanical, public, and fire purposes"; and in line 13 strike "its territorial boundaries".

5. On page 41, line 9, before "In" insert "(2)".

6. On page 43, line 21, strike "precinct", show as stricken, and insert "sanitary and improvement district or unincorporated area".

7. On page 44, line 1, after"county" insert "or a sanitary and improvement district".

8. On page 49, strike beginning with "misdemeanor" in line 5 through the period in line 8, show as stricken, and insert "Class III misdemeanor.".

9. On page 68, line 23; and page 69, line 2, strike "precincts", show as stricken, and insert "sanitary and improvement districts, unincorporated areas".

10. On page 75, line 23, after "sections" insert "14-901 to 14-918,".

11. Renumber remaining section accordingly.

LEGISLATIVE BILL 376. Indefinitely postponed.
LEGISLATIVE BILL 381. Indefinitely postponed.
LEGISLATIVE BILL 480. Indefinitely postponed.

(Signed) D. Paul Hartnett, Chairperson

VISITORS

Visitors to the Chamber were 65 students and teacher from Belmont School, Lincoln.

MOTION - Adjournment

Mr. Lamb moved to adjourn. The motion prevailed with 26 ayes, 17 nays, 2 present and not voting, and 4 excused and not voting, and at 12:07 p.m., the Legislature adjourned until 9:00 a.m., Wednesday, February 13, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

TWENTY-FIFTH DAY - FEBRUARY 13, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

TWENTY-FIFTH DAY

Legislative Chamber, Lincoln, Nebraska
Wednesday, February 13, 1991

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Moul presiding.

PRAYER

The prayer was offered by Rev. Harland Johnson, Chaplain Coordinator.

ROLL CALL

The roll was called and all members were present except Mr. Rogers who was excused; and Messrs. Byars, Chambers, Hall, Hartnett, Horgan, R. Johnson, Lamb, Lynch, Moore, Morrissey, Robinson, Schmit, Withem, Mmes. Pirsch, and Rasmussen who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Twenty-Fourth Day was approved.

SELECT COMMITTEE REPORTS
Enrollment and Review

Correctly Engrossed

The following bill was correctly engrossed: 404.

(Signed) Eric Will, Chairperson

MOTION - Approve Appointments

Mr. Kristensen moved the adoption of the report of the Transportation Committee for the following Governor appointment found in the Journal on page 627: Mr. Denny Miller - Motor Vehicle Industry Licensing Board.

Voting in the affirmative, 26:

Ashford	Chizek	Elmer	Lindsay	Smith
Baack	Conway	Haberman	Peterson	Warner
Bernard-Stevens	Coordsen	Kristensen	Robak	Wesely
	Crosby	Labedz	Schellpeper	Wickersham
Beutler	Cudaback	Landis	Schimek	Will
Beyer	Dierks			

Voting in the negative, 0.

Present and not voting, 7:

Abboud	Hillman	Nelson	Schrock	Wehrbein
Hefner	Johnson, L.			

Excused and not voting, 16:

Byars	Horgan	Lynch	Pirsch	Rogers
Chambers	Johnson, R.	Moore	Rasmussen	Schmit
Hall	Lamb	Morrissey	Robinson	Withem
Hartnett				

The appointment was confirmed with 26 ayes, 0 nays, 7 present and not voting, and 16 excused and not voting.

Mr. Coordsen moved the adoption of the report of the Business and Labor Committee for the following Governor appointment found in the Journal on page 627: Verne Moore - Commission for Industrial Relations.

Voting in the affirmative, 26:

Abboud	Beutler	Coordsen	Elmer	Labedz
Baack	Beyer	Crosby	Haberman	Landis
Bernard-Stevens	Chizek	Cudaback	Hefner	Lindsay
	Conway	Dierks	Johnson, L.	Peterson

Schellpeper	Schrock	Wehrbein	Wickersham	Will
Schimek	Warner			

Voting in the negative, 0.

Present and not voting, 7:

Ashford	Kristensen	Robak	Smith	Wesely
Hillman	Nelson			

Excused and not voting, 16:

Byars	Horgan	Lynch	Pirsch	Rogers
Chambers	Johnson, R.	Moore	Rasmussen	Schmit
Hall	Lamb	Morrissey	Robinson	Withem
Hartnett				

The appointment was confirmed with 26 ayes, 0 nays, 7 present and not voting, and 16 excused and not voting.

BILLS ON FINAL READING

The following bills were read and put upon final passage:

LEGISLATIVE BILL 1.

A BILL FOR AN ACT relating to justice of the peace courts; to amend sections 16-729, 23-137, 25-2210, 33-145, 46-562, 76-230, and 77-1607, Reissue Revised Statutes of Nebraska, 1943; to eliminate and replace references to such courts; to change certain appeal provisions; to change provisions relating to court costs and fees; to harmonize provisions; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 35:

Abboud	Beutler	Crosby	Hefner	Lamb
Ashford	Beyer	Cudaback	Hillman	Landis
Baack	Chizek	Dierks	Johnson, L.	Lindsay
Bernard-Stevens	Conway	Elmer	Kristensen	Nelson
	Coordsen	Haberman	Labedz	Peterson

Robak	Schrock	Warner	Wesely	Will
Schellpeper	Smith	Wehrbein	Wickersham	Withem
Schimek				

Voting in the negative, 0.

Excused and not voting, 14:

Byars	Hartnett	Lynch	Pirsch	Rogers
Chambers	Horgan	Moore	Rasmussen	Schmit
Hall	Johnson, R.	Morrissey	Robinson	

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 2.

A BILL FOR AN ACT relating to federal agencies; to amend sections 8-319, 16-1016, 16-1036, 23-2529, 37-214.03, 48-225, 48-229, 48-1202, 58-213, 71-183.01, 71-1,103, 71-1,107.13, 71-2622, 71-6104, 72-1246.04, 77-202.24, 77-3508, 77-3514, 77-3526, 77-3527, 79-1051.05, 79-1455, 80-301, 80-401.03, 80-601, 80-602, 80-604, 80-605, 80-701, and 84-712.02, Reissue Revised Statutes of Nebraska, 1943; to change references to the Veterans' Administration, the Department of Health, Education, and Welfare, and other federal entities which have been renamed or reorganized; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 42:

Abboud	Conway	Johnson, L.	Peterson	Schrock
Ashford	Coordsen	Kristensen	Pirsch	Smith
Baack	Crosby	Labedz	Rasmussen	Warner
Bernard-Stevens	Cudaback	Lamb	Robak	Wehrbein
Beutler	Dierks	Landis	Robinson	Wesely
Beyer	Elmer	Lindsay	Schellpeper	Wickersham
Chambers	Haberman	Lynch	Schimek	Will
Chizek	Hefner	Moore	Schmit	Withem
	Hillman	Nelson		

Voting in the negative, 0.

Excused and not voting, 7:

Byars	Hartnett	Johnson, R.	Morrissey	Rogers
Hall	Horgan			

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 3.

A BILL FOR AN ACT relating to public power; to amend sections 70-619 and 70-623.02, Reissue Revised Statutes of Nebraska, 1943; to change references to certain board and district officers to harmonize with changes made by Laws 1984, LB 49; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 42:

Abboud	Conway	Johnson, L.	Peterson	Schrock
Ashford	Coordsen	Kristensen	Pirsch	Smith
Baack	Crosby	Labedz	Rasmussen	Warner
Bernard-Stevens	Cudaback	Lamb	Robak	Wehrbein
Beutler	Dierks	Landis	Robinson	Wesely
Beyer	Elmer	Lindsay	Schellpeper	Wickersham
Chambers	Haberman	Lynch	Schimek	Will
Chizek	Hefner	Moore	Schmit	Withem
	Hillman	Nelson		

Voting in the negative, 0.

Excused and not voting, 7:

Byars	Hartnett	Johnson, R.	Morrissey	Rogers
Hall	Horgan			

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 4.

A BILL FOR AN ACT relating to the Director of Medical Services; to amend section 83-1,148, Reissue Revised Statutes of Nebraska, 1943; to eliminate a reference to a repealed section; to harmonize provisions with former acts of the Legislature; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 42:

Abboud	Conway	Johnson, L.	Peterson	Schrock
Ashford	Coordsen	Kristensen	Pirsch	Smith
Baack	Crosby	Labedz	Rasmussen	Warner
Bernard-Stevens	Cudaback	Lamb	Robak	Wehrbein
Beutler	Dierks	Landis	Robinson	Wesely
Beyer	Elmer	Lindsay	Schellpeper	Wickersham
Chambers	Haberman	Lynch	Schimek	Will
Chizek	Hefner	Moore	Schmit	Withem
	Hillman	Nelson		

Voting in the negative, 0.

Excused and not voting, 7:

Byars	Hartnett	Johnson, R.	Morrissey	Rogers
Hall	Horgan			

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 5.

A BILL FOR AN ACT relating to the State Highway Commission; to amend section 39-1102, Reissue Revised Statutes of Nebraska, 1943; to harmonize provisions governing the designation of certain districts; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 41:

Abboud	Conway	Johnson, L.	Nelson	Schrock
Ashford	Coordsen	Kristensen	Peterson	Smith
Baack	Crosby	Labedz	Pirsch	Warner
Bernard-Stevens	Cudaback	Lamb	Rasmussen	Wehrbein
Beutler	Dierks	Landis	Robak	Wesely
Beyer	Elmer	Lindsay	Schellpeper	Wickersham
Chambers	Haberman	Lynch	Schimek	Will
Chizek	Hefner	Moore	Schmit	Withem
	Hillman			

Voting in the negative, 0.

Present and not voting, 1:

Robinson

Excused and not voting, 7:

Byars	Hartnett	Johnson, R.	Morrissey	Rogers
Hall	Horgan			

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 6.

A BILL FOR AN ACT relating to state colleges; to amend sections 48-193, 81-1331, and 85-941, Reissue Revised Statutes of Nebraska, 1943; to change references to the four state colleges; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 43:

Abboud	Bernard-Stevens	Byars	Coordsen	Elmer
Ashford	Beutler	Chambers	Crosby	Haberman
Baack	Beyer	Chizek	Cudaback	Hefner
		Conway	Dierks	Hillman

Johnson, L.	Lindsay	Pirsch	Schimek	Wehrbein
Kristensen	Lynch	Rasmussen	Schmit	Wesely
Labedz	Moore	Robak	Schrock	Wickersham
Lamb	Nelson	Robinson	Smith	Will
Landis	Peterson	Schellpeper	Warner	Withem

Voting in the negative, 0.

Excused and not voting, 6:

Hall	Horgan	Johnson, R.	Morrissey	Rogers
Hartnett				

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 7.

A BILL FOR AN ACT relating to mental health commitment; to amend sections 83-1012 and 83-1040, Reissue Revised Statutes of Nebraska, 1943; to change references from court to board for consistency with other statutes; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 42:

Abboud	Chizek	Hillman	Peterson	Schrock
Ashford	Conway	Johnson, L.	Pirsch	Smith
Baack	Coordsen	Kristensen	Rasmussen	Warner
Bernard-Stevens	Crosby	Labedz	Robak	Wehrbein
Beutler	Cudaback	Lamb	Robinson	Wesely
Beyer	Dierks	Landis	Schellpeper	Wickersham
Byars	Elmer	Lindsay	Schimek	Will
Chambers	Haberman	Lynch	Schmit	Withem
	Hefner	Nelson		

Voting in the negative, 0.

Present and not voting, 1:

Moore

Excused and not voting, 6:

Hall	Horgan	Johnson, R.	Morrissey	Rogers
Hartnett				

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 8.

A BILL FOR AN ACT relating to prior legislation; to amend Laws 1990, LB 1153, section 67; to change an incorrect citation of a statute which was being repealed; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 44:

Abboud	Chizek	Hillman	Moore	Schmit
Ashford	Conway	Johnson, L.	Nelson	Schrock
Baack	Coordsen	Johnson, R.	Peterson	Smith
Bernard-Stevens	Crosby	Kristensen	Pirsch	Warner
	Cudaback	Labedz	Rasmussen	Wehrbein
Beutler	Dierks	Lamb	Robak	Wesely
Beyer	Elmer	Landis	Robinson	Wickersham
Byars	Haberman	Lindsay	Schellpeper	Will
Chambers	Hefner	Lynch	Schimek	Withem

Voting in the negative, 0.

Excused and not voting, 5:

Hall	Hartnett	Horgan	Morrissey	Rogers

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 9.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-2106.01, 77-3437, 77-3509.03, 77-3510, 77-3512, 77-3516,

and 77-3517, Reissue Revised Statutes of Nebraska, 1943; to correct internal references; to eliminate the Property Tax Relief Act; to eliminate the 1989 homestead exemption for certain homesteads; to eliminate a section relating to refunds of certain estate tax; to harmonize provisions; and to repeal the original sections, and also sections 77-2106.03, 77-3509.04, and 77-4201 to 77-4207, Reissue Revised Statutes of Nebraska, 1943.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 44:

Abboud	Chizek	Hillman	Moore	Schmit
Ashford	Conway	Johnson, L.	Nelson	Schrock
Baack	Coordsen	Johnson, R.	Peterson	Smith
Bernard-Stevens	Crosby	Kristensen	Pirsch	Warner
	Cudaback	Labedz	Rasmussen	Wehrbein
Beutler	Dierks	Lamb	Robak	Wesely
Beyer	Elmer	Landis	Robinson	Wickersham
Byars	Haberman	Lindsay	Schellpeper	Will
Chambers	Hefner	Lynch	Schimek	Withem

Voting in the negative, 0.

Excused and not voting, 5:

Hall	Hartnett	Horgan	Morrissey	Rogers

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 10.

A BILL FOR AN ACT relating to public health and welfare; to amend sections 71-121.01, 71-1,278, 71-1325, 71-1326, 71-1331, and 83-1010, Reissue Revised Statutes of Nebraska, 1943; to correct internal references; to eliminate certain obsolete sections relating to massage therapists, the Alzheimer's Disease Task Force, and funeral directors; to harmonize provisions; and to repeal the original sections, and also sections 71-1,284, 71-516 to 71-518, 71-1337, and 71-1338, Reissue Revised Statutes of Nebraska, 1943.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 44:

Abboud	Chizek	Hillman	Moore	Schmit
Ashford	Conway	Johnson, L.	Nelson	Schrock
Baack	Coordsen	Johnson, R.	Peterson	Smith
Bernard-Stevens	Crosby	Kristensen	Pirsch	Warner
	Cudaback	Labedz	Rasmussen	Wehrbein
Beutler	Dierks	Lamb	Robak	Wesely
Beyer	Elmer	Landis	Robinson	Wickersham
Byars	Haberman	Lindsay	Schellpeper	Will
Chambers	Hefner	Lynch	Schimek	Withem

Voting in the negative, 0.

Excused and not voting, 5:

Hall	Hartnett	Horgan	Morrissey	Rogers

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

SELECT FILE

LEGISLATIVE BILL 88. Considered.

Mr. Schmit asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Wehrbein moved to reconsider the Warner amendment to LB 88, AM0150, found on page 569 of the Journal.

Mr. Beutler moved the previous question. The question is, "Shall the debate now close?" The motion lost with 9 ayes, 13 nays, and 27 not voting.

Pending.

STANDING COMMITTEE REPORTS
Health and Human Services

LEGISLATIVE BILL 410. Placed on General File.
LEGISLATIVE BILL 703. Placed on General File.

LEGISLATIVE BILL 169. Placed on General File as amended.
Standing Committee amendment to LB 169:
AM0244

1. On page 4, strike beginning with the comma in line 23 through "claim" in line 25.

LEGISLATIVE BILL 287. Placed on General File as amended.
Standing Committee amendment to LB 287:
AM0179

1. Insert the following new section:

"Sec. 2. That section 71-1,132.11, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,132.11. The board may adopt, promulgate, and revise, with the approval of the department, such rules and regulations consistent with ~~the provisions of~~ sections 71-1,132.04 to ~~71-1,132.09 and 71-1,132.11 to~~ 71-1,132.41 as may be necessary to carry into effect the provisions ~~thereof~~ of such sections. All such rules and regulations shall be published and distributed. The board shall:

(1) Establish minimum standards to be met by educational programs conducted pursuant to sections 71-1,132.24 to 71-1,132.28;

(2) Develop standards in cooperation with schools of nursing to be used in the evaluation and approval of such schools;

(3) Review the standards at least every four years or more frequently as deemed necessary;

(4) Establish rules, regulations, and procedures for approving and classifying schools of practical and professional nursing, taking into consideration the administrative and organizational pattern of the school, the philosophy, the curriculum and program of studies, the number and selection of students, the student personnel services including housing, the guidance and health services, the number and preparation of faculty in relation to the curriculum and enrollments, the instructional materials and equipment, the instructional facilities including clinical resources and library facilities and materials,

and the health and safety factors in residence halls, education buildings, and clinical facilities;

(5) Provide surveys for each program at least every four years or more frequently as deemed necessary;

(6) Approve such programs as meet the requirements of ~~the provisions of~~ sections 71-1,132.04 to ~~71-1,132.09 and 71-1,132.11 to~~ 71-1,132.41;

(7) Evaluate and approve courses offered by cooperating agencies;

(8) Examine, license, and renew the license of duly qualified applicants;

(9) Keep a record of all its proceedings and make an annual report to the Governor;

(10) Approve the clinical facilities used by each school;

(11) Develop rules, regulations, and mandatory educational review courses governing the return to practice of any nurse who has not engaged in the practice of nursing, as defined in section 71-1,132.52, for five years or longer; ~~and~~

(12) Adopt rules and regulations establishing standards for delegation of nursing activities, including training or experience requirements, competency determination, and nursing supervision; and

(13) Administer the provisions of sections 71-1704 to 71-1737.

The department shall appoint an executive secretary who shall be a registered nurse currently licensed in this state and who has graduated with a master's degree in nursing or a related field of study. The executive secretary shall have a minimum of five years' experience within the last ten years in the areas of administration, teaching, or consultation in the field of nurse education. The salary of the executive secretary shall be fixed by the department and be competitive with salaries of nursing education positions which require similar education and experience. The executive secretary shall not be a member of the board. The executive secretary shall be bonded under the blanket surety bond required by section 11-201.".

2. On page 3, strike beginning with "of" in line 7 through "disabled" in line 8 and show the old matter as stricken.

3. On page 5, strike beginning with

"Programs" in line 16 through "(a)" in line 21 and show the old matter as stricken; and in line 22 after "with" insert ". and with the approval of,".

4. On page 6, line 6, strike "(b)" and insert "(2)"; in line 9 strike "(c)" and insert "(3)"; and in line 23 strike "may" and insert "shall".

5. On page 7, line 2, strike "6" and insert "7"; and in line 10 after "71-1,132.06" insert ", 71-132.11,".

6. Renumber the remaining sections accordingly.

LEGISLATIVE BILL 702. Placed on General File as amended.
Standing Committee amendment to LB 702:
AM0216

1. Strike original sections 7 to 20 and insert the following new section:

"Sec. 8. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.".

2. On page 47, line 3, after "71-1,147.08," insert "and"; strike beginning with "71-605.02," in line 4 through "81-638," in line 6; and strike beginning with the second comma in line 7 through the second comma in line 8.

3. Renumber the remaining section accordingly.

LEGISLATIVE BILL 822. Placed on General File as amended.
Standing Committee amendment to LB 822:
AM0243

1. Strike original sections 12 to 16.

2. On page 7, line 11, strike the second "and" and after "(10)" insert "family advocate projects; and (11)".

3. On page 18, line 20, strike "November 15, 1991" and insert "January 1, 1992".

4. Renumber remaining sections accordingly.

(Signed) Don Wesely, Chairperson

MOTION - Withdraw LB 202A

Mrs. Smith moved to withdraw LB 202A.

Laid over.

NOTICE OF COMMITTEE HEARINGS
Judiciary

LB 78	Wednesday, February 20, 1991	1:30 p.m.
LB 84	Wednesday, February 20, 1991	1:30 p.m.
LB 425	Wednesday, February 20, 1991	1:30 p.m.
LB 478	Wednesday, February 20, 1991	1:30 p.m.
LR 15CA	Thursday, February 21, 1991	1:30 p.m.
LB 818	Thursday, February 21, 1991	1:30 p.m.
LB 640	Thursday, February 21, 1991	1:30 p.m.
LB 180	Thursday, February 21, 1991	1:30 p.m.

(Signed) Jerry Chizek, Chairperson

STANDING COMMITTEE REPORTS
Business and Labor

LEGISLATIVE BILL 498. Placed on General File.

LEGISLATIVE BILL 411. Placed on General File as amended.
Standing Committee amendment to LB 411:
AM0272

1. On page 3, line 23, strike "six and four-tenths" and insert "five and nine-tenths"; and in line 25 strike "seven" and insert "six".

LEGISLATIVE BILL 148. Indefinitely postponed.
LEGISLATIVE BILL 230. Indefinitely postponed.

(Signed) George Coordsen, Chairperson

SELECT FILE

LEGISLATIVE BILL 88. The pending Wehrbein motion to reconsider the Warner amendment, AM0150, was renewed.

Mr. Wesely asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Coordsen moved the previous question. The question is, "Shall the debate now close?"

Mr. Ashford moved for a call of the house. The motion prevailed with 20 ayes, 0 nays, and 29 not voting.

The motion to cease debate prevailed with 25 ayes, 3 nays, 14 present and not voting, and 7 excused and not voting.

Mr. Wehrbein requested a roll call vote on his motion to reconsider.

Voting in the affirmative, 24:

Baack	Crosby	Hefner	Lynch	Schellpeper
Bernard-Stevens	Cudaback	Johnson, L.	Moore	Schrock
Byars	Dierks	Johnson, R.	Peterson	Smith
Coordsen	Elmer	Kristensen	Pirsch	Warner
	Haberman	Lamb	Robinson	Wehrbein

Voting in the negative, 18:

Abboud	Chambers	Hillman	Nelson	Wickersham
Ashford	Chizek	Labedz	Rasmussen	Will
Beutler	Conway	Landis	Schimek	Withem
Beyer	Hall	Lindsay		

Present and not voting, 1:

Robak

Excused and not voting, 6:

Hartnett	Morrissey	Rogers	Schmit	Wesely
Horgan				

The Wehrbein motion to reconsider lost with 24 ayes, 18 nays, 1 present and not voting, and 6 excused and not voting.

The Chair declared the call raised.

Mr. Schellpeper offered the following amendment:
AM0259

(Amendments to FA11)

1. Insert the following new section:

"Sec. 6. A defendant shall not be liable if the person who incurred injury or harm to property or who died assumed the risk of injury, harm, or death. Assumption of risk shall mean that (1) the person knew of and understood the danger, (2) the person voluntarily exposed himself or herself to the danger, and (3) the person's injury or death or the harm to property occurred as a result of his or her exposure to the danger.".

2. On page 1, lines 3 and 10, strike "5" and insert "6".

Mr. Will offered the following amendment to the pending Schellpeper amendment:

FA24

To amend the Schellpeper amendment (AM0259) as follows:

1. Strike beginning with "A" in line 2 through the period in line 4, and insert "Assumption of risk is an affirmative defense."

2. In line 6, after the first "the", insert "specific", and after person insert "unreasonably and"

Mr. Wehrbein asked unanimous consent to be excused. No objections. So ordered.

Mr. R. Johnson asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Dierks asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Will withdrew his pending amendment, FA24.

Mr. Will offered the following amendment to the pending Schellpeper amendment:

FA25

To amend the Schellpeper amendment (AM0259) as follows:

1. Strike beginning with "A" in line 2 through the period in line 4, and insert "Assumption of risk is an affirmative defense."

2. In line 6, after the first "the", insert "specific".

The Will amendment was adopted with 28 ayes, 0 nays, 14 present and not voting, and 7 excused and not voting.

Mr. Haberman asked unanimous consent to be excused. No objections. So ordered.

The Schellpeper amendment, as amended, was adopted with 29 ayes, 0 nays, 13 present and not voting, and 7 excused and not voting.

Mr. Warner offered the following amendment:
FA26
1. Add a new section as follows:
"This act shall become operative on January 1, 1992."

Mr. Conway moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

The Warner amendment was adopted with 28 ayes, 0 nays, 14 present and not voting, and 7 excused and not voting.

Mr. Ashford offered the following amendment:
FA27
An amendment to FA11
Page 2, after subsection (3) add a new subsection (4) as follows:
"Nothing in this act shall be construed to limit damages as set forth in sections 30-809 and 30-810

Mr. Abboud moved the previous question. The question is, "Shall the debate now close?"

Mr. Abboud moved for a call of the house. The motion prevailed with 19 ayes, 2 nays, and 28 not voting.

The motion to cease debate prevailed with 25 ayes, 3 nays, 14 present and not voting, and 7 excused and not voting.

The Ashford amendment was adopted with 27 ayes, 0 nays, 15 present and not voting, and 7 excused and not voting.

The Chair declared the call raised.

Pending.

UNANIMOUS CONSENT - Member Excused

Mr. Elmer asked unanimous consent to be excused. No objections. So ordered.

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following bills: 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10.

SELECT FILE

LEGISLATIVE BILL 88. Considered.

Mr. Beutler moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 1 nay, and 23 not voting.

Mr. Ashford requested a roll call vote on the advancement of the bill.

Voting in the affirmative, 30:

Abboud	Byars	Hillman	Lynch	Schimek
Ashford	Chambers	Horgan	Moore	Schmit
Baack	Chizek	Kristensen	Morrissey	Wesely
Bernard-Stevens	Conway	Labedz	Nelson	Wickersham
Beutler	Cudaback	Landis	Rasmussen	Will
Beyer	Hall	Lindsay	Robak	Withem

Voting in the negative, 10:

Coordsen	Johnson, L.	Peterson	Robinson	Smith
Hefner	Lamb	Pirsch	Schrock	Warner

Present and not voting, 2:

Crosby	Schellpeper

Excused and not voting, 7:

Dierks	Haberman	Johnson, R.	Rogers	Wehrbein
Elmer	Hartnett			

Advanced to E & R for engrossment with 30 ayes, 10 nays, 2 present not voting, and 7 excused and not voting.

STANDING COMMITTEE REPORTS
General Affairs

LEGISLATIVE BILL 99. Placed on General File as amended.
Standing Committee amendment to LB 99:
AM0177

1. Insert the following new sections:

"Sec. 5. That section 9-236, Revised Statutes Supplement, 1990, be amended to read as follows:

9-236. Upon payment of an annual permit fee of ten dollars, a licensed organization shall obtain a permit from the city or village clerk or finance department when bingo is to be conducted within the limits of any incorporated city or village and from the county clerk when bingo is to be conducted <u>on an excursion or dinner train or</u> outside the limits of any incorporated city or village. Such annual permit fee of ten dollars shall be paid before bingo is played and shall be paid to the city or village clerk or finance director or county clerk at the time of obtaining the annual permit. When bingo is to be conducted jointly by two or more licensed organizations, such licensed organizations shall obtain a permit therefor by paying a fee of ten dollars. All permits shall expire on September 30 of each year or such other date as the department may prescribe by rule and regulation. Such permit shall be displayed conspicuously at the place where bingo is conducted at all times during the conduct thereof.

Sec. 6. That section 9-239, Revised Statutes Supplement, 1990, be amended to read as follows:

9-239. (1) The department shall collect a state tax of six percent on the gross receipts received from the conducting of bingo within the state. Such tax shall be remitted to the department and credited to the Charitable Gaming Operations Fund. The tax shall be remitted quarterly, not later than thirty days from the close of the preceding quarter, together with any other reports as may be required by the department. The proceeds from the tax shall be used to pay for the costs of regulation and enforcement of the Nebraska Bingo Act.

(2) Any city or village is hereby directed to impose a tax of two percent on the gross receipts received from the conducting of bingo within such city or village. Where bingo is conducted on an excursion or dinner train or outside the limits of any incorporated city or village, the county in which such bingo is conducted shall impose a tax of two percent on the gross receipts from the conducting of bingo on such excursion or dinner train or outside the corporate limits of such city or village. Such tax shall be credited to the general fund of the county, city, or village which issued a permit for the conducting of bingo pursuant to section 9-236. Such tax shall be remitted to the clerk of the political subdivision imposing the tax, and the clerk shall remit the tax to the treasurer of such subdivision. The tax shall be remitted quarterly, not later than thirty days from the close of the preceding quarter, together with such reports as may be required by the political subdivision imposing the tax. The proceeds from the tax shall be used to pay for the costs of regulation and enforcement of the Nebraska Bingo Act.".

2. On page 3, line 5, strike "and" and after the first comma insert "9-236, and 9-239,".

3. Renumber remaining section accordingly.

LEGISLATIVE BILL 201. Placed on General File as amended.
Standing Committee amendment to LB 201:
AM0198

1. On page 2, after line 10 insert the following new subdivision:

"(1) Promote tribal economic development, tribal self-sufficiency, and strong tribal government;" in line 11 strike "(1)" and insert "(2)"; in line 13 strike "(2)" and insert "(3)"; in line 16 strike "(3)" and insert "(4)"; in line 20 strike "(4)" and insert "(5)"; and in line 24 strike "(5)" and insert "(6)".

2. On page 3, line 6, strike "(6)" and insert "(7)"; in line 8 strike "by" and insert "in"; and in line 9 strike "law".

LEGISLATIVE BILL 345. Placed on General File as amended.
Standing Committee amendment to LB 345:
AM0227

1. Strike original sections 6, 17, 25, 34, and 53 and all amendments thereto and insert the following new section:

"Sec. 6. That section 9-214.01, Revised Statutes Supplement, 1990, be amended to read as follows:

9-214.01. Manufacturer shall mean any person (1) who manufactures, converts, modifies, adds to, or removes parts or a portion from any bingo supplies and equipment, item, device, or assembly to further its promotion or sale for use in a bingo activity regulated by the Nebraska Bingo Act or (2) who assembles from raw materials or subparts a completed item or items defined as bingo supplies and equipment which are used in connection with any bingo activity regulated by the act, except that a person who places, finishes, or configures bingo paper which has been produced by a manufacturer into a looseleaf or book form or some other format for distribution to an organization licensed to conduct bingo shall not be considered a manufacturer but shall be considered a distributor.".

2. On page 5, lines 3 through 13, strike the new matter; in line 14 strike "(5)" and reinstate the stricken matter; and in line 21 strike "(6)" and insert "(5)".

3. On page 43, line 25, after "prizes" insert "and the payment of attorney's fees".

4. On page 65, lines 22 through 24, reinstate the stricken matter.

5. On page 67, lines 21 and 22, reinstate the stricken matter; and in line 22 after "Fund" insert an underscored period.

6. On page 108, line 8, strike the new matter.

7. On page 115, lines 1 through 3, reinstate the stricken matter.

8. On page 119, line 3, strike "(1)"; in line 6 strike "(a)" and insert "(1)"; in line 11 strike "(b)" and insert "(2)"; and in lines 22 through 25 strike the new matter.

9. On page 120, lines 1 through 9, strike the new matter.

10. On page 123, line 4, after "to" insert "a separate account of"; and strike beginning with "within"

in line 4 through "generated" in line 6.

11. On page 127, strike beginning with "any" in line 18 through "9-315," in line 19.

12. On page 130, line 11, strike "9-339,"; in line 14 strike "9-211" and insert "9-214.01"; in line 16 strike "9-244,"; in line 17 strike "9-309,"; and in line 19 strike "9-606.01,".

13. Renumber the remaining sections and correct internal references accordingly.

LEGISLATIVE BILL 427. Placed on General File as amended.
Standing Committee amendment to LB 427:
AM0197

1. On page 2, line 5, after "shall" insert "be present at," and after "play" insert an underscored comma; in line 7 after "prize" insert "or prizes" and strike "does" and insert "do"; in line 8 strike "in" and insert "other" and after "value" insert "per game and at which no alcoholic beverages are sold or served"; strike beginning with "No" in line 9 through "value" in line 17, show the old matter as stricken, and insert "A licensed organization may prohibit the presence of any person under eighteen years of age at its bingo occasion, except that (a) a person under eighteen years of age may be present at a bingo occasion if such person's parent or legal guardian is present and approves of the presence of such person during the bingo occasion and (b) any person may be present at a limited period bingo occasion when the prize or prizes to be awarded do not exceed twenty-five dollars in cash or other value per game and at which no alcoholic beverages are sold or served".

(Signed) Jacklyn Smith, Chairperson

MESSAGES FROM THE GOVERNOR

February 12, 1991

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Department of Motor Vehicles, requiring legislative confirmation.

Appointee: Jack C. Conrad, Route 1, Box 160, Newcastle, NE 68757, (402) 355-2521.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:bh

February 11, 1991

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Nebraska State Patrol, requiring legislative confirmation.

Appointee: Ron Tussing, 3353 M Street, Lincoln, NE 68510, (402) 477-5596.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:bh

NOTICE OF COMMITTEE HEARINGS
Appropriations

LB 766	Thursday, February 21, 1991	1:30 p.m.

Thursday, February 21, 1991, Room 1003 1:30 p.m.
Agency 32 - Educational Lands and Funds
Agency 45 - Board of Barber Examiners
Agency 63 - Board of Public Accountancy
Agency 62 - Board of Examiners Land Surveyors
Agency 58 - Board of Engineers and Architects
Agency 66 - Board of Examiners Abstracters
Agency 73 - Board of Landscape Architects
Agency 22 - Department of Insurance

Friday, February 22, 1991, Room 1003 1:30 p.m.
Agency 60 - Nebraska Gasohol Committee
Agency 18 - Department of Agriculture (Potato Board)
Agency 18 - Department of Agriculture (Poultry/Egg)
Agency 18 - Department of Agriculture (Soybean Board)
Agency 18 - Department of Agriculture (Grain Sorghum)
Agency 42 - Nebraska Beef Board
Agency 56 - Nebraska Wheat Board
Agency 86 - Nebraska Dry Bean Board
Agency 88 - Nebraska Corn Board

LB 46 Monday, February 25, 1991 1:30 p.m.

Monday, February 25, 1991, Room 1520 1:30 p.m.
Agency 74 - Power Review Board
Agency 43 - State Athletic Commissioner
Agency 30 - State Electrical Board
Agency 21 - State Fire Marshal
Agency 20 - Department of Health

Block Grants:
Health Prevention Services Block Grant (Dept. of Health)
Maternal and Child Health Block Grant (Dept. of Health)
Primary Care Block Grant (Dept. of Health)

LB 195 Tuesday, February 26, 1991 1:30 p.m.

Tuesday, February 26, 1991, Room 1520 1:30 p.m.
Agency 47 - Educational Telecommunications Commission
Agency 83 - Technical Community Colleges

Wednesday, February 27, 1991, Room 1003 1:30 p.m.
Agency 19 - Department of Banking

Agency 35 - Liquor Control Commission
Agency 41 - Real Estate Commission

LB 844	Wednesday, February 27, 1991	1:30 p.m.

Thursday, February 28, 1991, Room 1003	1:30 p.m.
Agency 38 - Commission on Status of Women	
Agency 67 - Equal Opportunity Commission	
Agency 68 - Mexican-American Commission	
Agency 72 - Nebraska Indian Commission	
Agency 71 - Department on Aging	

Friday, March 1, 1991, Room 1003	1:30 p.m.
Agency 36 - Nebraska Racing Commission	
Agency 52 - State Board of Agriculture	
Agency 39 - Nebraska Brand Committee	
Agency 57 - Nebraska Oil and Gas Commission	
Agency 18 - Department of Agriculture	
Agency 55 - Natural Resources Commission	

LB 129	Monday, March 4, 1991	1:30 p.m.
LB 494	Monday, March 4, 1991	1:30 p.m.
LB 599	Monday, March 4, 1991	1:30 p.m.
LB 726	Monday, March 4, 1991	1:30 p.m.
LB 788	Monday, March 4, 1991	1:30 p.m.
LB 828	Monday, March 4, 1991	1:30 p.m.
LB 659	Monday, March 4, 1991	1:30 p.m.

Monday, March 4, 1991, Room 1520	1:30 p.m.
Agency 51 - University of Nebraska	

Tuesday, March 5, 1991, Room 1520	1:30 p.m.
Agency 49 - Board of Trustees - State Colleges	
Agency 50 - Nebraska State Colleges	

Wednesday, March 6, 1991, Room 1003	1:30 p.m.
Agency 37 - Worker's Compensation Commission	
Agency 77 - Commission on Industrial Relations	
Agency 80 - Department of Personnel	
Agency 23 - Department of Labor	
Agency 75 - Nebraska Investment Council	
Agency 85 - Employees Retirement Board	

LB 485	Thursday, March 7, 1991	1:30 p.m.

Thursday, March 7, 1991, Room 1003 1:30 p.m.
Agency 09 - Secretary of State
Agency 14 - Public Service Commission
Agency 48 - Postsecondary Education Coordinating Commission
Agency 84 - Department of Environmental Control

(Signed) Scott Moore, Chairperson

Transportation

LB 408	Monday, February 25, 1991	1:30 p.m.
LB 656	Monday, February 25, 1991	1:30 p.m.
LB 261	Monday, February 25, 1991	1:30 p.m.
LB 779	Monday, February 25, 1991	1:30 p.m.
LB 780	Monday, February 25, 1991	1:30 p.m.
LB 590	Monday, February 25, 1991	1:30 p.m.
LB 519	Tuesday, February 26, 1991	1:30 p.m.
LB 383	Tuesday, February 26, 1991	1:30 p.m.
LB 783	Tuesday, February 26, 1991	1:30 p.m.
LB 695	Tuesday, February 26, 1991	1:30 p.m.
LB 807	Tuesday, February 26, 1991	1:30 p.m.
LB 151	Monday, March 4, 1991	1:30 p.m.
LB 175	Monday, March 4, 1991	1:30 p.m.
LB 762	Monday, March 4, 1991	1:30 p.m.
LB 317	Monday, March 4, 1991	1:30 p.m.
LB 158	Monday, March 4, 1991	1:30 p.m.
LB 294	Tuesday, March 5, 1991	1:30 p.m.
LB 532	Tuesday, March 5, 1991	1:30 p.m.
LB 776	Tuesday, March 5, 1991	1:30 p.m.
LB 777	Tuesday, March 5, 1991	1:30 p.m.
LB 808	Tuesday, March 5, 1991	1:30 p.m.
LB 30	Tuesday, March 5, 1991	1:30 p.m.

(Signed) Doug Kristensen, Chairperson

Revenue

Governor Appointment Thursday, February 21, 1991 1:30 p.m.
M. Berri Balka - Nebraska Department of Revenue

LB 804	Thursday, February 28, 1991	1:30 p.m.
LB 322	Wednesday, March 6, 1991	1:30 p.m.
LB 738	Wednesday, March 6, 1991	1:30 p.m.
LB 829	Wednesday, March 6, 1991	1:30 p.m.
LB 299	Wednesday, March 6, 1991	1:30 p.m.

(Signed) Tim Hall, Chairperson

UNANIMOUS CONSENT - Add Co-Introducer

Mrs. Hillman asked unanimous consent to have her name added as co-introducer to LB 640. No objections. So ordered.

ANNOUNCEMENT

Mrs. Smith announced the General Affairs Committee is scheduled to meet in Executive Session Thursday morning at approximately 10:30 a.m. (or immediately following Final Reading) in the Senators' Lounge.

VISITORS

Visitors to the Chamber were members of the Mongolian Parliament; and Dr. John Butler from Hebron.

The Doctor of the Day was Dr. Paul Paulson from Omaha.

ADJOURNMENT

At 11:55 a.m., on a motion by Mr. Baack, the Legislature adjourned until 9:00 a.m., Thursday, February 14, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

TWENTY-SIXTH DAY - FEBRUARY 14, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

TWENTY-SIXTH DAY

Legislative Chamber, Lincoln, Nebraska
Thursday, February 14, 1991

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Moul presiding.

PRAYER

The prayer was offered by Pastor Gordon Jorgenson, Trinity Lutheran Church, Papillion, Nebraska.

ROLL CALL

The roll was called and all members were present except Messrs. Ashford and Horgan who were excused; and Messrs. Baack, Chambers, Haberman, Hall, Hartnett, Hefner, R. Johnson, Lindsay, Morrissey, Rogers, Schmit, Warner, Wehrbein, Mrs. Pirsch, and Ms. Schimek who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Twenty-Fifth Day was approved.

PRESENTED TO THE GOVERNOR

Presented to the Governor on February 13, 1991, at 3:45 p.m., were the following bills: 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10.

(Signed) Pam Moravec, Enrolling Clerk

REPORT OF REGISTERED LOBBYISTS

In accordance with LB 987, passed in the 1976 session of the Legislature and amended by LB 4 and LB 41 in the 1977 session of the Legislature, the attached is a list of all Lobbyists who have registered as of February 13, 1991. Further lists listing additional lobbyists who have registered will be filed weekly.

(Signed) Patrick J. O'Donnell
Clerk of the Legislature

Bataillon, Peter C. - Omaha	Nebraska Coalition for Life
Cutshall, Bruce A. - Lincoln	Metropolitan Utilities District
Dugan, Mike - Lincoln	Nebraska Democratic Party
Fulton, Jack A. - Denver, CO	The Western Sugar Company
Kelley, Michael - Omaha	Metropolitan Utilities District
Pappas, James E. - Lincoln	Nebraska Soft Drink Association
Rasmussen, Dennis - Lincoln	National Rifle Association
Ryan, James E./James E. Ryan, P.C. - Lincoln	Lincoln Public Schools

STANDING COMMITTEE REPORTS

Banking, Commerce and Insurance

LEGISLATIVE BILL 205. Placed on General File.
LEGISLATIVE BILL 221. Placed on General File.
LEGISLATIVE BILL 253. Placed on General File.
LEGISLATIVE BILL 305. Placed on General File.

LEGISLATIVE BILL 86. Indefinitely postponed.
LEGISLATIVE BILL 260. Indefinitely postponed.

(Signed) David Landis, Chairperson

Transportation

LEGISLATIVE BILL 44. Placed on General File.
LEGISLATIVE BILL 314. Placed on General File.
LEGISLATIVE BILL 333. Placed on General File.
LEGISLATIVE BILL 335. Placed on General File.

LEGISLATIVE BILL 337. Placed on General File as amended.
Standing Committee amendment to LB 337:
AM0258

1. Strike original section 9 and insert the following new section:

"Sec. 9. For the purpose of sustaining the

administration and enforcement of the Interstate Operating Authority Agreement Act, there is hereby imposed upon a registrant (1) an initial application fee payable to its own base jurisdiction at the time of filing an original registration and (2) an annual identifier fee for each vehicle operated in Nebraska payable in the amount established by each participating jurisdiction. The amount of the application fee assessed by Nebraska shall be the application fee specified in section 75-354. The annual identifier fee assessed by Nebraska pursuant to the act shall be the total of the motor vehicle identifier fee specified in section 75-354 and the agent's fee specified in subdivision (4) of section 75-352.".

2. On page 5, line 8, strike beginning with "until" through "dollars" and insert "until the 1992 registration period begins and three dollars".

3. On page 6, line 1, strike "operated" and insert "operating"; in line 12 strike "operation" and insert "operations"; and insert underscoring beginning with the first comma in line 12 through the period in line 17.

4. On page 7, line 6, strike "for compensation"; strike beginning with "at" in lien 22 through the comma in line 23; and in line 24 strike "and" and insert an underscored comma and before "through" insert "and licensure".

5. On page 8, strike beginning with "Notwithstanding" in line 2 through "in" in line 3 and insert "In"; strike beginning with "to" in line 9 through the first comma in line 11; after line 21 insert the following new subdivision:

"(b) Require to be filed with the commission, in a manner prescribed by the commission, evidence of compliance by such carriers with the requirements of section 75-307;"; and in line 22 strike "(b)" and insert "(c)".

6. On page 9, line 7, strike "(c)" and insert "(d)"; in line 10 strike "(d)" and insert "(e)"; and in line 23 strike "may" and insert "shall".

7. On page 10, strike beginning with "If" in line 1 through the second "the" in line 2 and insert "The"; and in line 6 strike "the base" and insert "a participating".

LEGISLATIVE BILL 482. Indefinitely postponed.

(Signed) Doug Kristensen, Chairperson

NOTICE OF COMMITTEE HEARINGS
Business and Labor

LB 298	Monday, February 25, 1991	1:30 p.m.
LB 328	Monday, February 25, 1991	1:30 p.m.
LB 360	Monday, February 25, 1991	1:30 p.m.
LB 467	Monday, February 25, 1991	1:30 p.m.
LB 499	Monday, February 25, 1991	1:30 p.m.
LB 735	Monday, February 25, 1991	1:30 p.m.
LB 229	Monday, March 4, 1991	1:30 p.m.
LB 370	Monday, March 4, 1991	1:30 p.m.
LB 378	Monday, March 4, 1991	1:30 p.m.
LB 380	Monday, March 4, 1991	1:30 p.m.
LB 452	Monday, March 4, 1991	1:30 p.m.
LB 551	Monday, March 4, 1991	1:30 p.m.
LB 820	Monday, March 4, 1991	1:30 p.m.

(Signed) George Coordsen, Chairperson

MOTION - Withdraw LB 202A

Mrs. Smith renewed her pending motion, found in the Journal on page 654, to withdraw LB 202A.

The motion prevailed with 27 ayes, 0 nays, 5 present and not voting, and 17 excused and not voting.

BILLS ON FINAL READING

The following bills were read and put upon final passage:

LEGISLATIVE BILL 11.

A BILL FOR AN ACT relating to oil, fuel, and energy; to amend section 66-503, Reissue Revised Statutes of Nebraska, 1943; to eliminate a reference to oil inspection laws which have been repealed; to eliminate a section providing an operative date; to eliminate provisions providing tax exemptions for certain energy conservation

measures and provisions authorizing grants for geothermal energy utilization; and to repeal the original section, and also sections 66-465.01, 66-1019 to 66-1028, and 66-1056 to 66-1059, Reissue Revised Statutes of Nebraska, 1943.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 33:

Abboud	Conway	Johnson, L.	Nelson	Schrock
Bernard-Stevens	Coordsen	Kristensen	Peterson	Smith
Beutler	Crosby	Labedz	Pirsch	Wesely
Beyer	Cudaback	Lamb	Rasmussen	Wickersham
Byars	Dierks	Landis	Robak	Will
Chizek	Elmer	Lynch	Robinson	Withem
	Hillman	Moore	Schellpeper	

Voting in the negative, 0.

Excused and not voting, 16:

Ashford	Hall	Horgan	Morrissey	Schmit
Baack	Hartnett	Johnson, R.	Rogers	Warner
Chambers	Hefner	Lindsay	Schimek	Wehrbein
Haberman				

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 12.

A BILL FOR AN ACT relating to officeholders; to amend section 70-624.04, Reissue Revised Statutes of Nebraska, 1943, and sections 16-305, 17-108.02, 19-613, 32-563, and 32-1037, Revised Statutes Supplement, 1990; to transfer provisions relating to holding multiple offices; to harmonize provisions; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 35:

Abboud	Coordsen	Johnson, L.	Moore	Schellpeper
Baack	Crosby	Kristensen	Nelson	Schrock
Bernard-Stevens	Cudaback	Labedz	Peterson	Smith
Beyer	Dierks	Lamb	Pirsch	Wesely
Byars	Elmer	Landis	Rasmussen	Wickersham
Chizek	Hall	Lindsay	Robak	Will
Conway	Hillman	Lynch	Robinson	Withem

Voting in the negative, 0.

Present and not voting, 1:

Beutler

Excused and not voting, 13:

Ashford	Hartnett	Johnson, R.	Schimek	Warner
Chambers	Hefner	Morrissey	Schmit	Wehrbein
Haberman	Horgan	Rogers		

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 13.

A BILL FOR AN ACT relating to public lands and funds; to eliminate provisions requiring payment of certain tolls, relating to the transfer of funds, and relating to the Lydick Fund; and to repeal sections 72-232.05, 72-270, 72-421, and 72-422, Reissue Revised Statutes of Nebraska, 1943.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 36:

Abboud	Beyer	Cudaback	Johnson, L.	Lindsay
Baack	Chizek	Dierks	Kristensen	Lynch
Bernard-Stevens	Conway	Elmer	Labedz	Moore
Beutler	Coordsen	Hall	Lamb	Nelson
	Crosby	Hillman	Landis	Peterson

Pirsch	Robinson	Schrock	Wesely	Will
Rasmussen	Schellpeper	Smith	Wickersham	Withem
Robak	Schimek			

Voting in the negative, 0.

Present and not voting, 1:

Byars

Excused and not voting, 12:

Ashford	Hartnett	Johnson, R.	Rogers	Warner
Chambers	Hefner	Morrissey	Schmit	Wehrbein
Haberman	Horgan			

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 14.

A BILL FOR AN ACT relating to civil procedure; to amend section 75-802, Reissue Revised Statutes of Nebraska, 1943; to transfer a provision providing a statute of limitations for certain actions against a common carrier; to provide a duty for the Revisor of Statutes; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 36:

Abboud	Conway	Johnson, L.	Moore	Schimek
Baack	Coordsen	Kristensen	Nelson	Schrock
Bernard-Stevens	Crosby	Labedz	Peterson	Smith
	Cudaback	Lamb	Pirsch	Wesely
Beutler	Dierks	Landis	Rasmussen	Wickersham
Beyer	Elmer	Lindsay	Robinson	Will
Byars	Hall	Lynch	Schellpeper	Withem
Chizek	Hillman			

Voting in the negative, 0.

Present and not voting, 1:

Robak

Excused and not voting, 12:

Ashford	Hartnett	Johnson, R.	Rogers	Warner
Chambers	Hefner	Morrissey	Schmit	Wehrbein
Haberman	Horgan			

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 15.

A BILL FOR AN ACT relating to political subdivisions; to amend sections 2-3201, 2-3228, 2-3235, 3-507, 13-502, 13-908, 13-916, 13-919, 18-2153, and 23-114.05, Reissue Revised Statutes of Nebraska, 1943; to change internal references in provisions relating to natural resources districts, airport authorities, the Nebraska Budget Act, the Political Subdivisions Tort Claims Act, the Community Development Law, and county zoning; to harmonize provisions; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 42:

Abboud	Conway	Johnson, L.	Nelson	Schrock
Baack	Coordsen	Kristensen	Peterson	Smith
Bernard-Stevens	Crosby	Labedz	Pirsch	Warner
	Cudaback	Lamb	Rasmussen	Wehrbein
Beutler	Dierks	Landis	Robak	Wesely
Beyer	Elmer	Lindsay	Robinson	Wickersham
Byars	Hall	Lynch	Schellpeper	Will
Chambers	Hefner	Moore	Schimek	Withem
Chizek	Hillman	Morrissey		

Voting in the negative, 0.

Excused and not voting, 7:

Ashford	Hartnett	Johnson, R.	Rogers	Schmit
Haberman	Horgan			

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 43.

A BILL FOR AN ACT relating to the Nebraska Educational Telecommunications Commission; to amend section 79-2102, Revised Statutes Supplement, 1990; to change provisions relating to the membership of the commission; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 44:

Abboud	Conway	Hillman	Morrissey	Schmit
Baack	Coordsen	Johnson, L.	Nelson	Schrock
Bernard-Stevens	Crosby	Kristensen	Peterson	Smith
	Cudaback	Labedz	Pirsch	Warner
Beutler	Dierks	Lamb	Rasmussen	Wehrbein
Beyer	Elmer	Landis	Robak	Wesely
Byars	Haberman	Lindsay	Robinson	Wickersham
Chambers	Hall	Lynch	Schellpeper	Will
Chizek	Hefner	Moore	Schimek	Withem

Voting in the negative, 0.

Excused and not voting, 5:

Ashford	Hartnett	Horgan	Johnson, R.	Rogers

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 61.

A BILL FOR AN ACT relating to motor vehicles; to amend sections 60-2303 and 60-2304, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to odometers and odometer statements as prescribed; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 40:

Abboud	Coordsen	Hillman	Moore	Schellpeper
Baack	Crosby	Johnson, L.	Morrissey	Schmit
Bernard-Stevens	Cudaback	Kristensen	Nelson	Schrock
	Dierks	Labedz	Peterson	Smith
Beutler	Elmer	Lamb	Pirsch	Wehrbein
Beyer	Haberman	Landis	Rasmussen	Wickersham
Byars	Hall	Lindsay	Robak	Will
Chizek	Hefner	Lynch	Robinson	Withem
Conway				

Voting in the negative, 2:

Chambers Wesely

Present and not voting, 2:

Schimek Warner

Excused and not voting, 5:

Ashford Hartnett Horgan Johnson, R. Rogers

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 77. With Emergency.

A BILL FOR AN ACT relating to the Federal Home Loan Bank Act; to amend sections 8-714 to 8-716, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to membership in a Federal Home Loan Bank; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 44:

Abboud	Conway	Hillman	Morrissey	Schmit
Baack	Coordsen	Johnson, L.	Nelson	Schrock
Bernard-Stevens	Crosby	Kristensen	Peterson	Smith
Beutler	Cudaback	Labedz	Pirsch	Warner
Beyer	Dierks	Lamb	Rasmussen	Wehrbein
Byars	Elmer	Landis	Robak	Wesely
Chambers	Haberman	Lindsay	Robinson	Wickersham
Chizek	Hall	Lynch	Schellpeper	Will
	Hefner	Moore	Schimek	Withem

Voting in the negative, 0.

Excused and not voting, 5:

Ashford	Hartnett	Horgan	Johnson, R.	Rogers

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

LEGISLATIVE BILL 97. With Emergency.

A BILL FOR AN ACT relating to credit unions; to amend section 21-17,120.01, Revised Statutes Supplement, 1990; to change provisions relating to powers of credit unions; to repeal the original section; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 42:

Abboud	Coordsen	Johnson, L.	Peterson	Schrock
Baack	Crosby	Labedz	Pirsch	Smith
Bernard-Stevens	Cudaback	Lamb	Rasmussen	Warner
Beyer	Dierks	Landis	Robak	Wehrbein
Byars	Elmer	Lindsay	Robinson	Wesely
Chambers	Haberman	Lynch	Schellpeper	Wickersham
Chizek	Hall	Moore	Schimek	Will
Conway	Hefner	Morrissey	Schmit	Withem
	Hillman	Nelson		

Voting in the negative, 0.

Present and not voting, 2:

Beutler Kristensen

Excused and not voting, 5:

Ashford Hartnett Horgan Johnson, R. Rogers

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

LEGISLATIVE BILL 98. With Emergency.

A BILL FOR AN ACT relating to savings and loan associations; to amend section 8-355, Revised Statutes Supplement, 1990; to change provisions relating to powers of savings and loan associations; to repeal the original section; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 44:

Abboud	Conway	Hillman	Morrissey	Schmit
Baack	Coordsen	Johnson, L.	Nelson	Schrock
Bernard-Stevens	Crosby	Kristensen	Peterson	Smith
	Cudaback	Labedz	Pirsch	Warner
Beutler	Dierks	Lamb	Rasmussen	Wehrbein
Beyer	Elmer	Landis	Robak	Wesely
Byars	Haberman	Lindsay	Robinson	Wickersham
Chambers	Hall	Lynch	Schellpeper	Will
Chizek	Hefner	Moore	Schimek	Withem

Voting in the negative, 0.

Excused and not voting, 5:

Ashford Hartnett Horgan Johnson, R. Rogers

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

LEGISLATIVE BILL 59.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-1719, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to return of distress warrants for collection of taxes as prescribed; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 44:

Abboud	Conway	Hillman	Nelson	Schmit
Baack	Coordsen	Johnson, L.	Peterson	Schrock
Bernard-Stevens	Crosby	Kristensen	Pirsch	Smith
	Cudaback	Labedz	Rasmussen	Warner
Beutler	Dierks	Lamb	Robak	Wehrbein
Beyer	Elmer	Landis	Robinson	Wesely
Byars	Haberman	Lindsay	Rogers	Wickersham
Chambers	Hall	Lynch	Schellpeper	Will
Chizek	Hefner	Morrissey	Schimek	Withem

Voting in the negative, 0.

Present and not voting, 1:

Moore

Excused and not voting, 4:

Ashford	Hartnett	Horgan	Johnson, R.

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 63. With Emergency.

A BILL FOR AN ACT relating to county roads; to amend section 39-1647, Reissue Revised Statutes of Nebraska, 1943; to change the

rate of interest authorized for special assessments for road improvements; to repeal the original section; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 44:

Abboud	Conway	Hillman	Nelson	Schmit
Baack	Coordsen	Johnson, L.	Peterson	Schrock
Bernard-Stevens	Crosby	Kristensen	Pirsch	Smith
	Cudaback	Labedz	Rasmussen	Warner
Beutler	Dierks	Lamb	Robak	Wehrbein
Beyer	Elmer	Landis	Robinson	Wesely
Byars	Haberman	Lindsay	Rogers	Wickersham
Chambers	Hall	Lynch	Schellpeper	Will
Chizek	Hefner	Morrissey	Schimek	Withem

Voting in the negative, 0.

Present and not voting, 1:

Moore

Excused and not voting, 4:

Ashford	Hartnett	Horgan	Johnson, R.

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

LEGISLATIVE BILL 94.

A BILL FOR AN ACT relating to libraries; to amend section 51-201, Reissue Revised Statutes of Nebraska, 1943; to permit levying a tax for contracting for library services without an election; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 42:

Abboud	Coordsen	Johnson, L.	Peterson	Schrock
Baack	Crosby	Kristensen	Pirsch	Smith
Bernard-Stevens	Cudaback	Labedz	Rasmussen	Warner
	Dierks	Lamb	Robak	Wehrbein
Beyer	Elmer	Landis	Rogers	Wesely
Byars	Haberman	Lindsay	Schellpeper	Wickersham
Chambers	Hall	Lynch	Schimek	Will
Chizek	Hefner	Morrissey	Schmit	Withem
Conway	Hillman	Nelson		

Voting in the negative, 0.

Present and not voting, 3:

Beutler	Moore	Robinson

Excused and not voting, 4:

Ashford	Hartnett	Horgan	Johnson, R.

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

Mr. Bernard-Stevens asked unanimous consent to be excused until he returns. No objections. So ordered.

SELECT FILE

LEGISLATIVE BILL 137. Advanced to E & R for engrossment.

LEGISLATIVE BILL 69. E & R amendment, AM5015, found in the Journal on page 555, was adopted.

Mr. Hefner requested a machine vote on the advancement of the bill.

Advanced to E & R for engrossment with 26 ayes, 5 nays, 13 present and not voting, and 5 excused and not voting.

LEGISLATIVE BILL 220. E & R amendment, AM5014, found in the Journal on page 556, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 239. Advanced to E & R for engrossment.
LEGISLATIVE BILL 122. Advanced to E & R for engrossment.
LEGISLATIVE BILL 153. Advanced to E & R for engrossment.

LEGISLATIVE BILL 81. E & R amendment, AM5016, found in the Journal on page 581, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 259. E & R amendment, AM5021, found in the Journal on page 593, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 117. E & R amendment, AM5019, found in the Journal on page 594, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 113. E & R amendment, AM5018, found in the Journal on page 594, was adopted.

Mr. Lynch withdrew his pending amendment, AM0250, found in the Journal on page 634.

Mr. Lynch offered the following amendment:
AM0286

1. Insert the following new section:

"Section 1. That section 18-1737, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

18-1737. (1) Any city or village and any person in lawful possession of any offstreet parking facility may designate stalls or spaces in such facility owned or operated by the city or village or person for the exclusive use of handicapped or disabled persons whose vehicles display the distinguishing license plates issued to such individuals pursuant to section 60-311.14, such other handicapped or disabled persons or temporarily handicapped or disabled persons, as certified by the city or village, whose vehicles display the identification specified in section 18-1739, and

such other motor vehicles, as certified by the city or village, which display such identification. Such designation shall be made by posting immediately adjacent to and visible from each stall or space a sign which is in conformance with the nineteenth edition of the Manual on Uniform Traffic Control Devices for Streets and Highways issued by the Federal Highway Administration.

(2) The owner or person in lawful possession of an offstreet parking facility, after notifying the police or sheriff's department, as the case may be, and any city or village providing onstreet parking or owning, operating, or providing an offstreet parking facility, may cause the removal, from a stall or space designated exclusively for handicapped or disabled persons or temporarily handicapped or disabled persons or motor vehicles for the transportation of handicapped or disabled persons or temporarily handicapped or disabled persons, of any vehicle not displaying proper identification or the distinguishing license plates specified in this section if there is posted immediately adjacent to and visible from such stall or space a sign which clearly and conspicuously states the area so designated as a tow-in zone. Anyone parking in any onstreet parking space which has been designated exclusively for handicapped or disabled persons or temporarily handicapped or disabled persons or motor vehicles for the transportation of handicapped or disabled persons or temporarily handicapped or disabled persons, or in any so exclusively designated parking space in any offstreet parking facility, without properly displaying the proper identification or when the handicapped or disabled person to whom or for whom, as the case may be, the license plate or permit is issued is not being transported shall be guilty of a traffic infraction as defined in section 39-602 and shall be subject to the penalties and procedures set forth in section 39-6,112. In the case of a privately owned offstreet parking facility, a city or village may require the owner or person in lawful possession of such facility to inform the city or village of a violation of this section prior to taking any action pursuant to this section.".

2. On page 12, line 16, after "sections"

insert "18-1737," and before "and" insert a comma.
3. Renumber remaining sections accordingly.

The Lynch amendment was adopted with 26 ayes, 0 nays, 19 present and not voting, and 4 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 296. E & R amendment, AM5022, found in the Journal on page 594, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 300. E & R amendment, AM5020, found in the Journal on page 594, was adopted.

Advanced to E & R for engrossment.

Mr. Haberman asked unanimous consent to be excused until he returns. No objections. So ordered.

LEGISLATIVE BILL 36. E & R amendment, AM5025, found in the Journal on page 604, was adopted.

Mrs. Schimek offered the following amendment:
FA28
On page 4, line 22, delete the word "ten" after the words "not less than" and insert the word "fourteen" in its place.
On page 9, Sec. 7, line 10, delete "may" and insert "shall."
On page 2, line 20, strike the word "actual."

The Schimek amendment was adopted with 26 ayes, 0 nays, 18 present and not voting, and 5 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 124. Advanced to E & R for engrossment.

LEGISLATIVE BILL 202. E & R amendment, AM5023, found in the Journal on page 605, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 47. E & R amendment, AM5024, found in the Journal on page 605, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 171. Advanced to E & R for engrossment.

GENERAL FILE

LEGISLATIVE BILL 21. Mr. Coordsen asked unanimous consent to bracket until January 1, 1992. No objections. So ordered.

LEGISLATIVE BILL 45. Title read. Considered.

Standing Committee amendment, AM0115, found in the Journal on page 491, was considered.

Mr. Beutler offered the following amendment to the Standing Committee amendment:
AM0154
(Amendments to Standing Committee Amendments, AM0115)

1. On page 1, line 1, strike "sections 2 to" and insert "section" and after "4" insert "and insert the following new section:
'Sec. 6. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.' ".
2. Strike amendment 2 and insert the following new amendments:
"2. On page 3, line 17, after 'director' insert an underscored period; and strike beginning with 'and' in line 17 through the period in line 22 and show as stricken.
3. On page 10, line 11, strike '70-624,'.".
3. Renumber remaining amendment accordingly.

MR. CONWAY PRESIDING

Mr. Beutler withdrew his pending amendment.

PRESIDENT MOUL PRESIDING

Mr. Dierks asked unanimous consent to be excused until he returns. No objections. So ordered.

The Standing Committee amendment was adopted with 25 ayes, 0 nays, 19 present and not voting, and 5 excused and not voting.

Mr. Schellpeper moved for a call of the house. The motion prevailed with 23 ayes, 0 nays, and 26 not voting.

Mr. Schellpeper requested a roll call vote on the advancement of the bill.

Voting in the affirmative, 20:

Byars	Hefner	Lamb	Robak	Schrock
Coordsen	Johnson, L.	Landis	Rogers	Wehrbein
Crosby	Johnson, R.	Morrissey	Schellpeper	Wickersham
Elmer	Kristensen	Peterson	Schmit	Will

Voting in the negative, 13:

Abboud	Lynch	Pirsch	Schimek	Wesely
Chambers	Moore	Rasmussen	Smith	Withem
Chizek	Nelson	Robinson		

Present and not voting, 10:

Baack	Beutler	Conway	Hall	Labedz
Bernard-Stevens	Beyer	Cudaback	Hillman	Warner

Absent and not voting, 1:

Lindsay

Excused and not voting, 5:

Ashford	Dierks	Haberman	Hartnett	Horgan

Failed to advance to E & R for review with 20 ayes, 13 nays, 10 present and not voting, 1 absent and not voting, and 5 excused and not voting.

Mrs. Hillman asked unanimous consent to be excused until she returns. No objections. So ordered.

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following bills: 11, 12, 13, 14, 15, 43, 61, 77, 97, 98, 59, 63, and 94.

UNANIMOUS CONSENT - Print in Journal

Mr. Kristensen asked unanimous consent to print the following amendment to LB 336 in the Journal. No objections. So ordered.

AM0292

1. On page 4, line 12, after the comma insert ", or"; and strike beginning with "or" in line 13 through the first comma in line 15.

NOTICE OF COMMITTEE HEARING
Judiciary

LB 103	Friday, February 22, 1991	1:30 p.m.
LB 112	Friday, February 22, 1991	1:30 p.m.
LB 217	Friday, February 22, 1991	1:30 p.m.
LB 451	Friday, February 22, 1991	1:30 p.m.
LB 577	Friday, February 22, 1991	1:30 p.m.
LB 742	Friday, February 22, 1991	1:30 p.m.

(Signed) Jerry Chizek, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 28. Introduced by Lamb, 43.

WHEREAS, Cooperative Extension continues to meet the changing educational needs of Nebraskans of all ages in all walks of life with programs serving every county; and

WHEREAS, Extension represents the results of people working together at the local, state, and national levels through the county governments, the State of Nebraska through the University of Nebraska-Lincoln, and the federal government through the United States Department of Agriculture; and

WHEREAS, new methods of delivering educational programs, including satellite videoconferencing, have been adopted by Extension to reach audiences throughout the state effectively and efficiently; and

WHEREAS, citizens throughout the state have helped Extension focus the efforts of volunteers and professionals in eight high priority areas: Increasing agricultural profitability; revitalizing rural communities; enhancing water quality; improving nutrition and health; strengthening individuals and families; conserving and managing natural resources; youth at risk; and waste management.

WHEREAS, Cooperative Extension has made and continues to make significant contributions to the development of Nebraska and its people.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature recognizes and commends all volunteers, professionals, local Cooperative Extension Boards, 4-H and Home Extension Club Leaders, Master Gardeners, and other volunteer leaders for the quality of their efforts to help Nebraskans reach their full potential and extends best wishes for continuing success.
2. That a copy of this resolution be sent to the Director of Cooperative Extension at the University of Nebraska for distribution.

Laid over.

GENERAL FILE

LEGISLATIVE BILL 178. Title read. Considered.

Mr. Moore and Mrs. Labedz asked unanimous consent to be excused until they return. No objections. So ordered.

Advanced to E & R for review with 26 ayes, 0 nays, 17 present and not voting, and 6 excused and not voting.

LEGISLATIVE BILL 114. Title read. Considered.

Standing Committee amendment, AM0008, found in the Journal on page 503, was adopted with 25 ayes, 0 nays, 18 present and not voting, and 6 excused and not voting.

Mr. Peterson asked unanimous consent to be excused until he returns. No objections. So ordered.

Advanced to E & R for review with 30 ayes, 0 nays, 12 present and not voting, and 7 excused and not voting.

LEGISLATIVE BILL 313. Title read. Considered.

Standing Committee amendment, AM0113, found in the Journal on page 503, was considered.

Mrs. Hillman asked unanimous consent to be excused. No objections. So ordered.

Mr. Landis offered the following amendment to the Standing Committee amendment:
FA29
Strike sections 3 and 4 from the bill

SPEAKER BAACK PRESIDING

Messrs. R. Johnson, Abboud, Withem, and Lamb asked unanimous consent to be excused. No objections. So ordered.

Pending.

NOTICE OF COMMITTEE HEARING
Revenue

LB 754	Friday, March 1, 1991 (Cancelled)	1:30 p.m.
LB 754	Thursday, February 21, 1991 (Reset)	1:30 p.m.

(Signed) Tim Hall, Chairperson

STANDING COMMITTEE REPORTS
Agriculture

The Committee on Agriculture desires to report favorably upon the appointments listed below. The Committee suggests the appointments be confirmed by the Legislature and suggests a record vote.

Terrance L. Terrell - Nebraska Dry Bean Commission
Robert L. Kelley - Nebraska Dry Bean Commission

VOTE: Aye: Senators Rogers, Chambers, Coordsen, Cudaback, Elmer, Hefner, Morrissey, Schellpeper. Nay: none.

(Signed) Carson Rogers, Chairperson

Banking, Commerce and Insurance

LEGISLATIVE BILL 285. Placed on General File as amended.
Standing Committee amendment to LB 285:
AM0290

1. on page 5, strike beginning with "Approval" in line 18 through the period in line 21 and insert "The application shall be a public record open to public inspection from the date of filing. If the transaction is not approved or disapproved by the director with thirty days from the date of filing the transaction shall be deemed disapproved."; and in line 22 after "to" insert "approve or".

2. On page 6, line 18, strike "any" and insert "a"; and in line 20 after "section" insert "unless the transaction was approved pursuant to such subsection".

LEGISLATIVE BILL 365. Placed on General File as amended.
Standing Committee amendment to LB 365:
AM0291

1. On page 2, line 11, strike "fifteen" and insert "thirty"; and in lines 13 and 15 after "of" insert "receipt of proof of".

(Signed) David Landis, Chairperson

Agriculture

LEGISLATIVE BILL 358. Placed on General File.

LEGISLATIVE BILL 275. Placed on General File as amended.
Standing Committee amendment to LB 275:
AM0254

1. On page 5, line 1, strike "effective" and insert "operative" and strike "act" and insert "section".

2. On page 15, line 14, strike "6, 7," and insert "1 to 7".

(Signed) Carson Rogers, Chairperson

Banking, Commerce and Insurance

LEGISLATIVE BILL 346. Placed on General File as amended.
Standing Committee amendment to LB 346:
AM0275

1. Strike original section 1 and insert the following new section:

"Section 1. The director shall keep a record on each insurance company, broker, and agent which contains at least the following information:

(1) The name and address of the employing insurance agency and any license number, if applicable;

(2) The number of formal, written complaints to the department within the preceding five years involving the insurance company, broker, or agent; and

(3) Any disposition or other resolution of such formal, written complaints, including any fine or other disciplinary action taken by the department in response to a complaint, or a notation that disposition is pending.

A copy of the record on an insurance company, broker, or agent shall be available to any insurance company which is considering employing or otherwise contracting with the subject insurance company, broker, or agent upon request. Information contained in a record shall not be used by another insurance company, broker, or agent or an insurance agency for purposes of obtaining a competitive advantage. Any insurance company requesting a record shall provide an employment application or other evidence that the subject insurance company, broker, or agent is seeking employment or to contract with the requesting insurance company and a written authorization signed by the subject broker or agent and shall pay the department a fee sufficient to cover the cost of providing the report. The department and the director shall not be liable to an insurance company, broker, or agent for releasing any information required by this section.".

(Signed) David Landis, Chairperson

General Affairs

LEGISLATIVE BILL 200. Placed on General File.
LEGISLATIVE BILL 334. Placed on General File.

(Signed) Jacklyn Smith, Chairperson

BILLS ON FIRST READING

The following bills were read for the first time by title:

LEGISLATIVE BILL 336A. Introduced by Kristensen, 37.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 336, Ninety-second Legislature, First Session, 1991.

LEGISLATIVE BILL 420A. Introduced by Kristensen, 37.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 420, Ninety-second Legislature, First Session, 1991.

SELECT COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 234. Placed on Select File as amended.
E & R amendment to LB 234:
AM5031

1. In the Standing Committee amendments, AM0078, on page 1, line 8, strike "Claims" and insert "Trade"; in line 9 strike "Settlement" and after "regulation" insert "adopted pursuant to the act"; and in line 10 after "frequency" insert "as".

2. On page 1, line 4, after the third comma insert "and" and strike "and"; in line 5 strike "48-146.02,"; and in line 13 after the semicolon insert "to change penalty provisions;".

3. On page 11, line 14, after "subdivision" insert "(f)".

4. On page 12, line 9, after "annuity" insert an underscored comma.

5. On page 17, line 11, reinstate the stricken comma; and in line 13 strike the comma and show as stricken.

6. On page 19, strike beginning with "(c)" in

line 17 through "(1)" in line 18 and insert "(1)(c)".

7. On page 22, line 12, strike "prohibited by", show as stricken, and insert "defined in".

8. On page 24, line 25, after "his" insert ", her,".

9. On page 25, line 1, strike the new matter and reinstate the stricken matter.

10. On page 26, line 15, reinstate the stricken "he" and after the reinstated "he" insert ", she, or".

11. On page 29, line 2, strike the comma; and in line 13 after "violation" insert an underscored comma.

12. On page 31, line 2, after the stricken "be" insert "the person"; and in line 8 strike "thereto" and show as stricken.

13. On page 33, line 20, after "regulations" insert "adopted pursuant to the act".

14. On page 34, line 4, after "regulation" insert "adopted pursuant to the act"; and in line 5 after "frequency" insert "as".

15. On page 37, line 20, after "violation" insert an underscored comma.

16. On page 40, lines 7, 8, and 10, strike the first comma, show as stricken, and insert an underscored semicolon.

17. On page 43, line 23, strike beginning with "After" through "impose", show the old matter as stricken, and insert "Impose".

18. On page 49, line 15, strike beginning with "deceptive" through the second "or", show as stricken, and insert "unfair trade".

19. On page 50, line 1, reinstate the stricken matter.

LEGISLATIVE BILL 236. Placed on Select File as amended.
E & R amendment to LB 236:
AM5030

1. On page 2, line 2, after the semicolon insert "to change provisions relating to credits for reinsurance; to define and redefine terms;"; strike beginning with "to" in line 4 through the semicolon in line 5; in line 6 after "powers" insert "and duties"; in line 8 after "rehabilitators" insert ", receivers,"; in

line 16 strike "to redefine terms;"; and strike beginning with "to" in line 20 through the semicolon in line 21.

2. On page 4, line 7, strike the second comma.

3. On page 6, line 16, after "persons" insert an underscored comma.

4. On page 8, line 6, strike "unreasonably" and insert "reasonably"; and in line 19 after "if" insert an underscored comma.

5. On page 11, line 11, after "securities" insert "for".

6. On page 13, line 3, strike "shall"; and in line 15 after "transaction" insert "in".

7. On page 15, line 4, strike "or".

8. On page 22, line 16, after "insurer" insert "which is"; in line 17 after "state" insert an underscored comma; and in line 18 after "system" insert an underscored comma.

9. On page 23, line 16, strike "exchange" and insert "exchanges"; and in line 25 strike "all".

10. On page 26, line 5, strike "shall exempt" and insert "exempts".

11. On page 29, line 18, strike "all".

12. On page 30, line 13, after "section" insert an underscored comma.

13. On page 31, line 3, after "and" insert "the director"; and in line 8 strike the comma.

14. On page 33, line 1, strike "that" and insert "than".

15. On page 34, line 10, strike "Chapter 44" and insert "the Insurance Holding Company System Act".

16. On page 38, line 10, strike the semicolon and insert an underscored comma; and in lines 14 and 18 strike the comma.

17. On page 39, line 20, strike the comma.

18. On page 42, line 6, strike the comma.

19. On page 43, line 25, strike "severely" and insert "severally".

20. On page 44, line 23, strike "act" and insert "Insurance Holding Company System Act".

21. On page 45, line 5, strike "cover" and insert "covered".

22. On page 52, line 1, strike the last

comma.

23. On page 54, line 18, strike "and" and insert an underscored comma; in line 19 strike the second "and" and insert an underscored comma; and in line 20 strike "and which" and insert ", and".

24. On page 71, line 2, strike "is" and insert "shall be".

25. On page 77, line 7, strike the comma.

26. On page 79, line 17, after "or" insert "from"; and in line 19 strike "such" and insert "the purchasing".

27. On page 80, line 2, after "whole" insert an underscored comma; in line 12 strike "groups" and insert "group"; in line 19 strike ", and" and insert "and,"; and line 20 after "lines" insert "licensee acting as".

28. On page 108, line 5, strike "act", show as stricken, and insert "Nebraska Insurers Supervision, Rehabilitation, and Liquidation Act".

29. On page 120, line 5, after "director" insert an underscored comma.

30. On page 121, line 4, strike "shall be" and insert "are".

31. On page 140, line 25, strike "obligations" and insert "obligation".

32. On page 141, line 1, strike "arise" and insert "arises".

(Signed) Eric Will, Chairperson

ELECTION CONTEST REPORTS

Pursuant to Legislative action on the 15th day of January, 1991, the Executive Board of the Legislative Council was appointed to hear and review the Election Contest of Mr. Paul Korslund for the 30th Legislative District. The Executive Board conducted a hearing on January 26, 1991, at which time both parties through legal counsel presented their arguments. Subsequent to that hearing, the Executive Board asked counsel for both parties to prepare legal briefs.

Based on the briefs, hearing held on January 26, 1991, depositions submitted and other public records available to the committee, the Executive Board finds:

1. That over 500 absentee ballots cast in Gage County which are the subject of the Korslund petition found on page 11 of the

1991 Legislative Journal, should not be counted in the general election returns for the 30th Legislative District in that they do not comply with 32-835 (2) R.R.S. of Nebraska, 1943, which reads:

"Before any absent voter is issued a ballot, the county clerk, election commissioner, or any employee working in his or her office shall first write his or her name in full on the back of such ballot. No ballot shall be counted by the absent voters' counting board or canvassing board unless the ballot is identified by a signature as set out in this section."

2. That as a result of the Gage County absentee ballots not being counted, the following represents the vote totals for each of the candidates for the 30th Legislative District:

Paul Korslund 5599
Dennis Byars 5585

3. That the Committee recommends that Paul Korslund be declared the winner in the 30th Legislative District and, as such, be seated as a member of the 92nd Legislature.

These findings were adopted by the Committee on a 6-3 vote with Senators Warner, Baack, Chambers, Hall, Lindsay, and Schimek voting "Aye" and Senators Haberman, Hefner, and Wehrbein voting "No".

(Signed) Jerome Warner
(Signed) Dennis Baack
(Signed) Ernie Chambers
(Signed) Tim Hall
(Signed) John Lindsay
(Signed) DiAnna R. Schimek

MINORITY REPORT

Pursuant to legislative action on the 15th day of January, 1991, the Executive Board of the Legislative Council was appointed to hear and review the Election Contest of Mr. Paul Korslund for the 30th Legislative District. The Executive Board conducted a hearing on January 26, 1991, at which time both parties through legal counsel presented their arguments. Subsequent to that hearing, the Executive Board asked counsel for both parties to prepare legal briefs.

Based on the briefs, the hearing held on January 26, 1991, depositions submitted and other public records available to the committee, the following members of the Executive Board (signed below) respectfully dissent from the majority decision and state:

1. That the absentee ballots cast in Gage County which are the subject of the Korslund petition found on page 11 of the Legislative Journal should be counted in the general election returns for the 30th Legislative District for the following reasons.

a. The members concur that the ballots in question do not fully comply with section 32-835 (2) R.R.S. of Nebraska, 1943, but that the Constitution of the State of Nebraska requires that the ballots be counted notwithstanding that section.

Article I, section 22 states: "All elections shall be free and there shall be no hindrance or impediment to the right of a qualified voter to exercise the elective franchise."

Article VI, Section 6 states: "All votes shall be by ballot or other means authorized by the Legislature whereby the vote and the secrecy of the elector's vote will be preserved."

The members of the Legislature have sworn an oath to uphold the Constitution of the United States and the Constitution of the State of Nebraska. When a conflict arises between state statutes and the State Constitution, the members are bound to follow the dictates of the Constitution. Therefore, the members state that the ballots in question should be counted notwithstanding section 32-835 (2) because Article I, section 22 and Article VI, section 6 supersede that section and require that the ballots be counted in order that the right of the voters be preserved and to prevent any hindrance or impediment for qualified voters who exercised their elective franchise in this contested election.

b. The Nebraska Supreme Court has held on numerous occasions that a substantial compliance standard be used to determine whether votes should be counted. When the election laws are considered in whole along with their intent, purpose, and spirit, the members state that in order to comply with the law the ballots should be counted to avoid disenfranchising any voters, and uphold the State Constitution.

c. The members state that absentee voting is a right which cannot be abandoned and that a majority of courts have abandoned the position that absentee voting is a mere privilege, and have consistently determined that absentee voting is as much a right as voting in person.

2. That as a result the vote totals for each of the candidates for the 30th Legislative District shall remain as reported and approved by the State Board of Canvassers.

3. That Dennis Byars be declared the duly elected Senator for the 30th Legislative District and as such that he be seated as a member of the 92nd Legislature.

The following members respectfully dissent from the majority's findings and urge the Legislature to reject the majority report and adopt the minority report.

(Signed) Elroy M. Hefner
(Signed) Rex Haberman
(Signed) Roger R. Wehrbein

VISITORS

Visitors to the Chamber were Margaret Wicht from Grand Island and Jill Rainforth from Doniphan; Paul Kinney from Kearney and Stan Mitchell from Gothenburg; Maria Janda, the 1991 Easter Seal Ambassador Child, Elaine Janda, and Carolyn Hargiss from Omaha, and Carol Lee Brink and Mary Burbach from Lincoln; and Virginia Thrall from Chicago, Illinois.

ADJOURNMENT

At 12:12 p.m., on a motion by Mr. Landis, the Legislature adjourned until 9:00 a.m., Tuesday, February 19, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

TWENTY-SEVENTH DAY - FEBRUARY 19, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

TWENTY-SEVENTH DAY

Legislative Chamber, Lincoln, Nebraska
Tuesday, February 19, 1991

Pursuant to adjournment, the Legislature met at 9:00 a.m., Speaker Baack presiding.

PRAYER

The prayer was offered by Pastor Don Riordan, East Lincoln Christian Church, Lincoln, Nebraska.

ROLL CALL

The roll was called and all members were present except Messrs. Chambers, Hall, Rogers, Wickersham, Mmes. Labedz, and Smith who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Twenty-Sixth Day was approved.

1990 INTERIM REPORT ON THE DISPOSITION OF INTERIM STUDY RESOLUTIONS

Agriculture

LR	Subject	Completed: Report Issued	Completed: No Report Issued	Deferred
311	Herbicide drift		X	
382	Checkoff Boards		X	
292	Alternative funding methods			

	for Department of Agriculture		X
392	Discounting for percentage of dockage by grain producers		X
387	FIFRA		X

Appropriations

LR	Subject	Completed: Report Issued	Completed: No Report Issued	Deferred
390	Federal Funding of Environmental Protection Programs	X		

Banking, Commerce and Insurance

LR	Subject	Completed: Report Issued	Completed: No Report Issued	Deferred
351	Insurers' Investments		X	
352	Property and Casualty Insurance Rates and Forms		X	
353	Unfair Insurance Trade Practices and Claims Settlement Practices		X	
427	Nebraska Investment Finance Authority		X	
354	Title Insurance		X	
355	Securities Fees		X	
339	Economic Development			X
306	Department of Personnel and State Group Health			X

Business and Labor

LR	Subject	Completed: Report Issued	Completed: No Report Issued	Deferred
406	Study of Unemployment Insurance	X		
295	Workers' Compensation: Corporate Officer Waiver Provision	X		
331	Human Resource Development in Private and Public Sectors	X		
363	Rural Economic Development and Job Creation	X		

Education

LR	Subject	Completed: Report Issued	Completed: No Report Issued	Deferred

260	Education Centers		X	
300	Truancy			X
332	Higher Education Compact		X	
325	Private Higher Education/ Health Profession		X	
250	Teachers Salaries LB 89		X	
303	Schools for the Visually Impaired and Deaf		X	
334	State Arts High School			X
388	Indian Community College		X	
347	Financing Services to Pre-school Handicapped	X		
378	History Instruction			X

General Affairs

LR	Subject	Completed: Report Issued	Completed: No Report Issued	Deferred
301	Study of legalized gambling	X		
312	Study of keno technological options	X		

Government, Military and Veterans Affairs

LR	Subject	Completed: Report Issued	Completed: No Report Issued	Deferred
280	Veterans' Affairs		X	
341	Campaign Finance		X	
290	Functions and responsibilities of State Treasurer's Office	X		
296	Certification requirement of Sheriffs			X
313	State Crime Stoppers Commission			X
327	Value engineering in Nebraska			X
294	Regulation of Auctioneers in Nebraska			X

Health and Human Services

LR	Subject	Completed: Report Issued	Completed: No Report Issued	Deferred
368	Mental Retardation and Developmental Disabilities	X		
376	Long Term Care		X	
369	Omnibus Health and Human Services		X	
373	Foster Care	X		
299	Health Insurance Benefits		X	
282	Medical Waste		X	
370	Discipline of Health Professionals	X		
365	Drug and Alcohol Programs		X	
371	Domestic Violence	X		
377	Public Health Services			X

314	Community Action Agencies			X
307	Mammograms			X
338	Omaha Regional Center			X
350	Department of Social Services' Office Closing			X
374	Respite Care in Nebraska			X
309	407 Process			X
286	Department of Social Services - Southwest District			X
359	Pooled Labor			X
364	Smokeless Tobacco			X
372	Biological Parents - Foster Care			X
305	Smoke Detectors			X

Intergovernmental Cooperation

LR	Subject	Completed: Report Issued	Completed: No Report Issued	Deferred
360	To study the feasibility of establishing a liaison to represent Nebraska on federal issues and policies			X
361	A study on development of economic, cultural, and educational ties with Eastern Europe			X

Natural Resources

LR	Subject	Completed: Report Issued	Completed: No Report Issued	Deferred
385	Underground Storage Tanks		X	
393	Water Quality		X	
391	Water Transfers		X	
389	Solid Waste		X	
394	Hazardous Waste		X	
344	Landfills		X	
390	Department of Environmental Control			X
358	Environmental Control Council			X
342	Trapping Laws			X
381	Rate-setting/Business practices of Public Power Districts			X
362	Degradability and Solid Waste		X	
386	Degradable products		X	
384	Waste-to-incineration		X	
380	Niobrara River			X

Nebraska Retirement Systems

LR	Subject	Completed: Report Issued	Completed: No Report Issued	Deferred

287	Retirement			X

Revenue

LR	Subject	Completed: Report Issued	Completed: No Report Issued	Deferred
91	Central Assessment	X		
177	Nebraska Tax System	X		
324	Lid on Property Taxes	X		
329	Sales Tax - Leased Vehicles	X		
335	Federal Pension and Capital Gains	X		
336	Repeal - Personal Property Tax			X
337	Inheritance Tax, State Estate Tax			X
340	Limitations on Budgets	X		
375	Taxpayers Bill of Rights	X		

Rules

LR	Subject	Completed: Report Issued	Completed: No Report Issued	Deferred
343	Appropriations Process, Priority Bill System and Miscellaneous Other Rule Changes		X	

Select Committee on LR 356

LR	Subject	Completed: Report Issued	Completed: No Report Issued	Deferred
356	Study of Title XX funding for the aged and disabled		X	

Select Committee on LR 367

LR	Subject	Completed: Report Issued	Completed: No Report Issued	Deferred
367	Child Abuse and Neglect	X		

Transportation

LR	Subject	Completed: Report Issued	Completed: No Report Issued	Deferred
322	Study requirements of Truth in Mileage Act		X	
323	Study Issuance of Firearms to Officers of the Carrier Enforcement Division of the State Patrol		X	
326	Issuance of Collegiate			

	License Plates		X	
328	Study extension of AMTRAK rail passenger service			X
349	Study Motorcycle Safety Education Program	X		
383	Transportation services and benefits			X

Urban Affairs

LR	Subject	Completed: Report Issued	Completed: No Report Issued	Deferred
302	Study economic and environmental effects of synchronization of traffic lights in communities with a population of 7,500 or more		X	
316	Review existing statutory language on Nebraska Housing Authorities and review problems related to their activities in the provision of low income housing		X	
317	Review and recodify current statutes relating to Metropolitan Utilities District (MUD)	X		
318	Study need for lower-cost housing and legislation to make manufactured housing more readily available		X	
319	Draft uniform zoning notice statutes which will provide for public's right to notice of proposed zoning changes		X	
320	Review the last three years of natural gas price regulation under the Municipal Natural Gas Regulation Act		X	
321	Review experience under last year's LR 95 process to give preliminary consideration to upcoming legislation and to review legislation on general urban issues	X		

STANDING COMMITTEE REPORTS
Banking, Commerce and Insurance

LEGISLATIVE BILL 123. Placed on General File as amended.
Standing Committee amendment to LB 123:
AM0300

1. On page 2, line 5, strike ", utility," and insert "and"; and in line 6 strike ", and certain other".

2. On page 3, line 16, after the third comma insert "or" and strike ", construction,"; and in line 17 strike "or utility".

3. On page 4, line 6, after the second comma insert "amendatory or"; in line 7 after "such" insert "amendatory or"; and strike lines 10 through 13 and insert:

"(4) To take action terminating, canceling, failing to renew, or substantially changing the competitive circumstances intended by the dealership agreement due to the results of conditions beyond the dealer's control, including drought, flood, labor disputes, or economic recession. This subdivision shall not apply if the dealer is in default of a security agreement in effect with the supplier; and"; in line 15 after "on" insert "(a)"; in line 18 strike "(a)"; and strike beginning with "and" in line 23 through line 25 and insert "or (b) capital construction exceeding the terms of the dealer agreement in force and effect on the effective date of this act.".

4. On page 5, strike lines 1 through 23.

5. On page 6, strike beginning with "or" in line 1 through "circumstances" in line 2; and strike beginning with "in" in line 5 through "agreement" in line 6 and insert "to the supplier".

6. On page 7, strike lines 14 through 19 and insert:

"(k) Has consistently failed to substantially comply with essential and reasonable requirements imposed by the dealer agreement, but only if that requirement is also generally imposed upon similarly situated dealers in Nebraska."; and strike beginning with "or" in line 24 through "circumstances" in line 25.

7. On page 8, strike beginning with "If" in line 7 through line 8.

8. On page 10, strike lines 21 through 25.

9. On page 11, strike line 1; in line 2 strike "(j)" and insert "(i)"; in line 6 strike "(k)" and insert "(j)"; in line 9 strike "(l)" and insert "(k)"; after line 11 insert:

"(3) The annual parts return provided for in subsection (2) of this section may be waived by a dealer. If a majority of dealers from a single supplier choose to waive the provisions of such subsection, the supplier shall be exempt from such subsection."; and in line 23 strike "ninety" and insert "eighty-five".

10. On page 12, line 8, after the semicolon

insert "and"; strike lines 9 through 15; strike beginning with "(c)" in line 16 through "price" in line 17 and insert "(b) Repurchase at fair market value"; and in line 20 strike "ten" and insert "three".

11. On page 13, line 8, strike beginning with "or" through "responsibilities"; in lines 9 and 10, 14, and 16 and 17 strike ", hardware,".

12. On page 14, strike beginning with "or" in line 19 through the first comma in line 20; in line 20 strike ", data processing hardware,"; and in line 24 strike the comma and insert "and".

13. On page 15, strike beginning with "and" in line 1 through the comma in line 2; in line 6 strike "or lease assumption"; in line 11 strike ", hardware,"; strike beginning with "or" in line 19 through the second comma in line 20; in lines 20 and 21 strike ", data processing hardware,"; and in line 24 strike "six" and insert "twelve".

14. On page 16, lines 2 and 3, strike "or lease assumption"; in line 8 after the period insert "Nothing in this section shall entitle an heir, devisee, or personal representative of a deceased dealer or majority stockholder to continue to operate the dealership without the consent of the supplier."; in line 11 strike ", data processing hardware,"; and in lines 17 and 19 and 20 strike ", hardware,".

LEGISLATIVE BILL 226. Placed on General File as amended.
Standing Committee amendment to LB 226:
AM0276

1. On page 9, line 12, strike "twelve" and insert "thirty-six".

(Signed) David Landis, Chairperson

SELECT COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 142. Placed on Select File as amended.
E & R amendment to LB 142:
AM5032

1. On page 2, line 21, strike the first "the" and show as stricken.

2. On page 3, line 6, after "that" insert an

underscored comma.

LEGISLATIVE BILL 247. Placed on Select File as amended.
E & R amendment to LB 247:
AM5033

1. In lieu of the Ashford amendment, FA18, insert the following new section:

"Section 1. That section 14-2003, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

14-2003. (1) Each city of the metropolitan class may only exercise its power of eminent domain to maintain or preserve buildings, lands, areas, or districts which have been determined by the landmark heritage preservation commission to be of historical, architectural, cultural, or educational value.

(2) Whenever it ~~shall become~~ becomes necessary to take control of property pursuant to and for the purposes stated in this section, the purpose and necessity for such control shall be declared by ordinance. The procedure to condemn property shall be exercised in the manner set forth in sections 76-704 to 76-724.".

2. On page 1, line 2, strike "section" and insert "sections 14-2003 and"; in line 3 after the semicolon insert "to change provisions relating to exercise of the power of eminent domain by cities of the metropolitan class;" and in line 7 strike "section" and insert "sections".

3. On page 2, line 17, after "heritage" insert "preservation".

4. On page 3, line 11, strike "section" and insert "sections 14-2003 and"; and in line 12 strike "is" and insert "are".

5. Renumber the remaining sections accordingly.

LEGISLATIVE BILL 330. Placed on Select File as amended.
E & R amendment to LB 330:
AM5035

1. On page 1, line 7, strike "class" and insert "classes".

2. On page 4, line 6; and page 7, line 5, strike "such" and insert "a".

3. On page 5, line 1, strike "second-class" and show as stricken and after "city" insert "of the second class".

4. On page 6, line 2, strike "second-class" and after "city" insert "of the second class".

LEGISLATIVE BILL 128. Placed on Select File.

LEGISLATIVE BILL 354. Placed on Select File as amended.
E & R amendment to LB 354:
AM5034

1. In the Standing Committee amendment, AM0083, on page 1, line 13, strike the second comma and show as stricken.

LEGISLATIVE BILL 264. Placed on Select File.

LEGISLATIVE BILL 25. Placed on Select File as amended.
E & R amendment to LB 25:
AM5036

1. In the Withem amendment, AM0052, on page 1, line 6, strike "any" and show as stricken; in line 7 strike the comma and show as stricken; and in line 10 strike the first and last commas and show as stricken.

2. On page 1, line 1, strike "Records Management Act" and insert "duplication of records"; in line 2 strike "84-1202" and insert "25-12,112, 84-1202,"; and in line 3 after "to" insert "provide for admissibility in evidence of duplicates made by optical imagery; to".

3. On page 2, line 22, strike "A local", show the old matter as stricken, and insert "Local".

4. On page 3, line 2, strike the underscored comma and insert an underscored period; in line 3 strike "except that local", show the old matter as stricken, and insert "Local".

LEGISLATIVE BILL 209. Placed on Select File as amended.
E & R amendment to LB 209:
AM5038

1. On page 12, line 20, strike "Midwest" and insert "Midwestern".

LEGISLATIVE BILL 76. Placed on Select File as amended.

E & R amendment to LB 76:
AM5037

1. On page 2, line 14, strike "first-class or second-class" and show the old matter as stricken and after "city" insert "of the first or second class".

Correctly Engrossed

The following bills were correctly engrossed: 69, 81, 88, 122, 137, 153, 220, 239, and 259.

(Signed) Eric Will, Chairperson

Enrollment and Review Change to LB 81

The following changes, required to be reported for publication in the Journal, have been made:
ER7005

1. On page 19, line 21, "A" has been struck and "Local political subdivision shall not include a city of the metropolitan class" inserted; in line 22 "metropolitan-class city" has been struck and shown as stricken; in line 23 "the" has been struck and shown as stricken; in line 24 an underscored semicolon has been inserted after "government"; and the matter beginning with "shall" in line 24 through line 25 has been struck and the old matter shown as stricken.

Enrollment and Review Change to LB 88

The following changes, required to be reported for publication in the Journal, have been made:
ER7003

1. In lieu of the Ashford amendment, FA27, in the Kristensen amendment, FA11, on page 1, after line 9, the following paragraph has been inserted:

"Nothing in sections 1 to 6 of this act shall be construed to limit damages as set forth in sections 30-809 and 30-810.".

2. In the E & R amendment, AM5013, on page 1, line 4, "to state intent;" has been inserted after the first semicolon and the first "and" has been struck; in line 5 "and" has been struck and a comma inserted and ", and assumption of risk" has been inserted after the second "liability"; and in line 6 "; and to provide an operative date" has been inserted after "prescribed".

(Signed) Mary E. Sommermeyer

E & R Attorney

MESSAGE FROM THE GOVERNOR

February 15, 1991

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol
Lincoln, Nebraska 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10 were received in my office on February 13, 1991.

These bills were signed by me on February 15, 1991, and delivered to the Secretary of State.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

PRESENTED TO THE GOVERNOR

Presented to the Governor on February 14, 1991, at 1:49 p.m., were the following bills: 11, 12, 13, 14, 15, 43, 61, 77, 97, 98, 63, 59, and 94.

(Signed) Jan Loder, Enrolling Clerk

REPORTS

The following reports were received by the Legislature:

Thirty-ninth Actuarial Valuation Report, Nebraska School Retirement System for the year ended June 30, 1990.

Thirty-fifth Actuarial Valuation Report, Nebraska State Patrolmen's Retirement System for the year ended June 30, 1990.

Twenty-fifth Actuarial Valuation Report, Nebraska Judges' Retirement System for the year ended June 30, 1990.

Minutes of the Board of Public Roads Classifications and Standards for the month of December 1990.

Statement of deposit to the Highway Cash Fund and Roads Operation Cash Fund for January 1991 from the Nebraska Department of Roads in compliance with section 66-476, R.S. Supp. 1988.

RESOLUTION

LEGISLATIVE RESOLUTION 28. Read. Considered.

LR 28 was adopted with 36 ayes, 0 nays, and 13 not voting.

MOTION - Approve Appointments

Mr. Schellpeper moved the adoption of the report of the Agriculture Committee for the following Governor appointments found in the Journal on page 691: Terrance L. Terrell and Robert L. Kelley - Nebraska Dry Bean Commission.

Voting in the affirmative, 37:

Abboud	Crosby	Horgan	Morrissey	Schmit
Baack	Cudaback	Johnson, L.	Peterson	Schrock
Bernard-Stevens	Dierks	Johnson, R.	Pirsch	Warner
	Elmer	Kristensen	Rasmussen	Wehrbein
Beyer	Haberman	Lamb	Robinson	Wesely
Byars	Hartnett	Landis	Schellpeper	Will
Conway	Hefner	Lindsay	Schimek	Withem
Coordsen	Hillman	Lynch		

Voting in the negative, 0.

Present and not voting, 6:

Ashford	Chizek	Moore	Nelson	Robak
Beutler				

Excused and not voting, 6:

Chambers	Labedz	Rogers	Smith	Wickersham
Hall				

These appointments were confirmed with 37 ayes, 0 nays, 6 present and not voting, and 6 excused and not voting.

CONTEST OF ELECTION - 30th District

Mr. Warner moved to approve the Executive Board report, found in the Journal on page 697.

MR. MORRISSEY PRESIDING

SPEAKER BAACK PRESIDING

MR. WARNER PRESIDING

Mrs. Nelson moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 38 ayes, 0 nays, and 11 not voting.

Mr. Hall requested a record vote on the pending Executive Board report, found in the Journal on page 697.

Voting in the affirmative, 24:

Baack	Chizek	Labedz	Morrissey	Warner
Bernard-Stevens	Hall	Landis	Nelson	Wesely
Beutler	Hartnett	Lindsay	Rasmussen	Wickersham
Chambers	Hillman	Lynch	Robak	Will
	Horgan	Moore	Schimek	Withem

Voting in the negative, 25:

Abboud	Coordsen	Haberman	Lamb	Schellpeper
Ashford	Crosby	Hefner	Peterson	Schmit
Beyer	Cudaback	Johnson, L.	Pirsch	Schrock
Byars	Dierks	Johnson, R.	Robinson	Smith
Conway	Elmer	Kristensen	Rogers	Wehrbein

Not voting, 0.

The Executive Board report lost with 24 ayes, 25 nays, and 0 not voting.

SPEAKER BAACK PRESIDING

Mr. Hefner moved to approve the Minority Report of the election contest for the 30th Legislative District found on Journal page 698-699-700.

Mr. Landis moved to amend the Hefner motion to approve the Minority Report, as follows:

That the Clerk of the Legislature be directed to obtain all absentee and dismissed ballots for a legislative determination of voter intent in the 30th District; and that Senator Byars remain conditionally seated during that review.

Mr. Hefner requested a ruling of the Chair on whether the Hefner motion to approve the Minority Report can be amended.

The Chair ruled the Landis motion is out of order and that the Minority Report cannot be amended.

Mr. Landis challenged the ruling of the Chair. The question is, "Shall the Chair be overruled?"

Mr. Chizek moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 31 ayes, 5 nays, and 13 not voting.

Mr. Hefner requested a roll call vote on the Landis motion to overrule the Chair.

Voting in the affirmative, 26:

Ashford	Cudaback	Labedz	Nelson	Schimek
Bernard-Stevens	Hall	Landis	Rasmussen	Wesely
Beutler	Hartnett	Lindsay	Robak	Wickersham
Chambers	Hillman	Lynch	Robinson	Will
Chizek	Horgan	Morrissey	Schellpeper	Withem
	Johnson, R.			

Voting in the negative, 21:

Abboud	Dierks	Johnson, L.	Peterson	Schrock
Beyer	Elmer	Kristensen	Pirsch	Smith
Byars	Haberman	Lamb	Rogers	Warner
Coordsen	Hefner	Moore	Schmit	Wehrbein
Crosby				

Present and not voting, 2:

Baack	Conway

The Landis motion to overrule the Chair prevailed with 26 ayes, 21 nays, and 2 present and not voting.

The Chair was overruled.

Pending.

NOTICE OF COMMITTEE HEARINGS
Government, Military and Veterans Affairs

Governor Appointment Rod Armstrong - Policy Research and Energy Office	Wednesday, February 27, 1991	1:30 p.m.
LR 11CA	Wednesday, February 27, 1991	1:30 p.m.
LR 1CA	Wednesday, February 27, 1991	1:30 p.m.
LB 54	Wednesday, February 27, 1991	1:30 p.m.
LR 16CA	Wednesday, February 27, 1991	1:30 p.m.
LB 372	Thursday, February 28, 1991	1:30 p.m.
LB 463	Thursday, February 28, 1991	1:30 p.m.
LB 573	Thursday, February 28, 1991	1:30 p.m.
LB 612	Thursday, February 28, 1991	1:30 p.m.
Governor Appointment Harold Clarke - Department of Correctional Services	Friday, March 1, 1991	1:30 p.m.
LB 723	Friday, March 1, 1991	1:30 p.m.
LB 502	Friday, March 1, 1991	1:30 p.m.
LB 353	Friday, March 1, 1991	1:30 p.m.
LB 645	Friday, March 1, 1991	1:30 p.m.
LB 811	Friday, March 1, 1991	1:30 p.m.
LR 23	Wednesday, March 6, 1991	1:30 p.m.
LB 585	Wednesday, March 6, 1991	1:30 p.m.
LB 595	Wednesday, March 6, 1991	1:30 p.m.
LB 572	Wednesday, March 6, 1991	1:30 p.m.
LR 2	Thursday, March 7, 1991	1:30 p.m.
LB 763	Thursday, March 7, 1991	1:30 p.m.
LB 789	Thursday, March 7, 1991	1:30 p.m.
LB 798	Thursday, March 7, 1991	1:30 p.m.
LB 453	Thursday, March 7, 1991	1:30 p.m.

LB 64	Wednesday, March 13, 1991	1:30 p.m.
LB 109	Wednesday, March 13, 1991	1:30 p.m.
LR 10	Wednesday, March 13, 1991	1:30 p.m.
LR 3	Wednesday, March 13, 1991	1:30 p.m.
LB 817	Thursday, March 14, 1991	1:30 p.m.
LB 384	Thursday, March 14, 1991	1:30 p.m.
LB 824	Thursday, March 14, 1991	1:30 p.m.
LB 668	Thursday, March 14, 1991	1:30 p.m.

(Signed) Gerald Conway, Chairperson

MESSAGE FROM THE GOVERNOR

February 15, 1991

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol
Lincoln, Nebraska 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 11, 12, 13, 14, 15, 43, 61, 77, 97, 98, 59, 63, and 94 were received in my office on February 14, 1991.

These bills were signed by me on February 15, 1991, and delivered to the Secretary of State.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

UNANIMOUS CONSENT - Print in Journal

Mr. Morrissey asked unanimous consent to print the following amendment to LB 330 in the Journal. No objections. So ordered.

AM0305

1. On page 4, line 1, after the last comma insert "and"; and in line 2 strike ", grain, and cobs".

2. On page 5, line 1, strike "second-class city", show as stricken, and insert "city of the second class".

3. On page 6, line 2, strike "second-class

city" and insert "city of the second class"; and in line 25 after the last comma insert "and".

4. On page 7, line 1, strike ", grain, and cobs".

Mrs. Smith asked unanimous consent to print the following amendment to LB 344 in the Journal. No objections. So ordered.

AM0289

1. Insert the following new section:

"Sec. 71. That section 53-1,116, Revised Statutes Supplement, 1990, be amended to read as follows:

53-1,116. (1) Review of any final decision or order under the Nebraska Liquor Control Act shall be according to sections 25-1901 to 25-1908. The Administrative Procedure Act and sections 14-813 and 15-1201 to 15-1205 shall not apply to review under this section. For purposes of review, a final decision or order shall include any final action rendered after a hearing required by the Nebraska Liquor Control Act.

(2) The executive director of the commission or the clerk of the local governing body shall prepare and deliver a transcript of the proceedings and a transcript of the testimony and evidence before the commission or local governing body upon request of the party seeking review. The party seeking review shall pay the costs of producing the transcript. The transcript of the proceedings shall contain a copy of the final decision sought to be reviewed and, if applicable, a copy of the application submitted.

(3) The venue appropriate for review of a final decision or order shall be as follows:

(a) For review of a final decision of a local governing body, the district court in the county in which the local governing body is located; and

(b) For review of a final order of the commission, the district court of Lancaster County.

The venue provided in this section shall be jurisdictional, and no court shall review any action unless the action is brought in the appropriate venue.".

2. On page 77, line 10, strike "by affidavit", show as stricken, and insert "in writing".

3. On page 126, line 14, strike "and" and

after the last comma insert "and 53-1,116,".

Mr. Withem asked unanimous consent to print the following amendment to LB 209 in the Journal. No objections. So ordered.

AM0329

1. Insert the following new section:

"Sec. 3. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.".

2. On page 3, line 19, after the period insert "The commission shall select annually, from among its members, a chairperson, a vice-chairperson, and a treasurer.

D."; and in line 25 strike "D" and insert "E".

3. On page 4, line 7, strike "E" and insert "F".

4. On page 8, line 10, after the period insert "The commission shall serve as a clearinghouse on information regarding higher education activities among institutions and agencies.

E.".

5. On page 10, line 20, after "withdrawal" insert a comma.

6. On page 12, line 20, strike "Midwest" and insert "Midwestern".

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the attached report on Governor appointments.

Transportation
Jack C. Conrad - Department of Motor Vehicles

Government, Military and Veterans Affairs
Ron Tussing - Nebraska State Patrol

(Signed) Jerome Warner, Chairperson
Legislative Council
Executive Board

STANDING COMMITTEE REPORTS
Agriculture

LEGISLATIVE BILL 398. Placed on General File as amended.
Standing Committee amendment to LB 398:
AM0283

1. Insert the following new section:

"Sec. 4. That section 2-229, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-229. During the month of November each year, the county fair board shall prepare and submit to the county board an estimate, itemized as far as possible, of the amount of money which shall be necessary to be collected by taxation for the support and management of the fair for the ensuing year. The county board shall levy such amount of taxes as may be necessary but not to exceed the amount actually required for county fair purposes, including capital construction on and renovation, repair, improvement, and maintenance of county fairgrounds. Such ~~and such~~ tax shall be levied and collected in like manner as general taxes for the county.".

2. On page 2, line 1, after "societies" insert "and county fair boards"; in line 2 after "with" insert "the Records Management Act and"; in line 5 after "society" insert "and each county fair board"; in line 7 after "society" insert "or fair board".

3. On page 3, line 5, after "section" insert "2-229, Reissue Revised Statutes of Nebraska, 1943, and section"; and in line 6 strike "is" and insert "are".

4. Renumber the remaining section accordingly.

(Signed) Carson Rogers, Chairperson

Nebraska Retirement Systems

LEGISLATIVE BILL 254. Placed on General File.

(Signed) Arlene Nelson, Chairperson

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 356A. Introduced by Rogers, 41.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 356, Ninety-second Legislature, First Session, 1991.

SELECT COMMITTEE REPORTS
Enrollment and Review

Correctly Engrossed

The following bills were correctly engrossed: 113, 117, and 296.

(Signed) Eric Will, Chairperson

Enrollment and Review Change to LB 113

The following changes, required to be reported for publication in the Journal, have been made:
ER7004
1. On page 1, line 2, "60-311.14" has been struck and "18-1737, 60-311.14," inserted; and in line 5 "to provide a penalty for certain parking violations;" has been inserted after the semicolon.

(Signed) Mary E. Sommermeyer
E & R Attorney

UNANIMOUS CONSENT - Print in Journal

Mr. Hall asked unanimous consent to print the following in the Journal. No objections. So ordered.

Amend the Minority Report found beginning on page 698 of the Journal:

In paragraph 1 a strike the language which reads "but that the Constitution of the State of Nebraska requires that the ballots be counted notwithstanding that section." and also strike the entire paragraph that reads:

"The members of the Legislature have sworn an oath to uphold the Constitution of the United States and the Constitution of the State of Nebraska. When a conflict arises between state statutes and the State Constitution, the members are bound to follow the dictates of the Constitution. Therefore, the members state that the ballots in question should be counted notwithstanding section 32-835 (2) because Article I, section 22 and Article VI, section 6 supersede that

section and require that the ballots be counted in order that the right of the voters be preserved and to prevent any hindrance or impediment for qualified voters who exercised their elective franchise in this contested election."

Strike all of paragraph 1 b and 1 c that reads:

"b. The Nebraska Supreme Court has held on numerous occasions that a substantial compliance standard be used to determine whether votes should be counted. When the election laws are considered in whole along with their intent, purpose, and spirit, the members state that in order to comply with the law the ballots should be counted to avoid disenfranchising any voters, and uphold the State Constitution.

c. The members state that absentee voting is a right which cannot be abandoned and that a majority of courts have abandoned the position that absentee voting is a mere privilege, and have consistently determined that absentee voting is as much a right as voting in person."

VISITORS

Visitor to the Chamber was Dr. Lynn H. Lutgen from Lincoln.

The Doctor of the Day was Dr. Robert Houston from Franklin.

ADJOURNMENT

At 1:09 p.m., on a motion by Mr. Conway, the Legislature adjourned until 9:00 a.m., Wednesday, February 20, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

TWENTY-EIGHTH DAY - FEBRUARY 20, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

TWENTY-EIGHTH DAY

Legislative Chamber, Lincoln, Nebraska
Wednesday, February 20, 1991

Pursuant to adjournment, the Legislature met at 9:00 a.m., Speaker Baack presiding.

PRAYER

The prayer was offered by Father Ivan Vap, Cathedral of the Risen Christ Church, Lincoln, Nebraska.

ROLL CALL

The roll was called and all members were present except Messrs. Ashford, Horgan, and Mrs. Pirsch who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Twenty-Seventh Day was approved.

UNANIMOUS CONSENT - Member Excused

Mr. Coordsen asked unanimous consent to be excused until he returns. No objections. So ordered.

SELECT COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 178. Placed on Select File.

LEGISLATIVE BILL 114. Placed on Select File as amended.

E & R amendment to LB 114:
AM5039
1. On page 1, line 4, after the semicolon
2 insert "to eliminate provisions for administrative
3 placement of the commission;".

Correctly Engrossed

The following bills were correctly engrossed: 36, 47, 124, 171, 202, and 300.

(Signed) Eric Will, Chairperson

Enrollment and Review Change to LB 36

The following changes, required to be reported for publication in the Journal, have been made:
ER7006
1. Because of the Schimek amendment, FA28, on page 6, line 22; and page 8, line 11, "ten" has been struck and "fourteen" inserted.

(Signed) Mary E. Sommermeyer
E & R Attorney

STANDING COMMITTEE REPORTS
Education

LEGISLATIVE BILL 689. Placed on General File.

(Signed) Ron Withem, Chairperson

General Affairs

LEGISLATIVE BILL 795. Placed on General File as amended.
Standing Committee amendment to LB 795:
AM0199
1. Strike the original sections and insert
2 the following new sections:
3 "Section 1. That section 9-643, Revised
4 Statutes Supplement, 1990, be amended to read as
5 follows:
6 9-643. (1) Any county, with a population of
7 less than three hundred thousand inhabitants or any
8 city, or village within such county may, by resolution

or ordinance, tax, regulate, control, or prohibit any lottery conducted pursuant to the Nebraska County and City Lottery Act within the boundaries of such county, city, or village, except that no county may impose a tax or otherwise regulate, control, or prohibit any lottery within the corporate limits of a city or village.

(2) Any county with a population of three hundred thousand or more inhabitants or any city or village within such county may, by resolution or ordinance, tax, regulate, or control its respective lottery conducted pursuant to the act within the boundaries of such county, city, or village. A county which conducts keno may conduct keno at not more than five satellite locations within a city or village within such county in addition to the main situs of the keno operation.

(3) Any tax imposed pursuant to this subsection shall be remitted to the general fund of the county, city, or village imposing such tax.

~~(2)~~ (4) Nothing in this section shall be construed to authorize any lottery or raffle not otherwise authorized under Nebraska law.

Sec. 2. That original section 9-643, Revised Statutes Supplement, 1990, is repealed.".

(Signed) Jacklyn Smith, Chairperson

NOTICE OF COMMITTEE HEARINGS
Education

Budget Review for Technical
Community Colleges - Monday, March 4, 1991 1:30 p.m.

Budget Review for
University of Nebraska - Monday, March 11, 1991 2:00 p.m.

Budget Review for
State Colleges - Tuesday, March 12, 1991 1:30 p.m.

(Signed) Ron Withem, Chairperson

Nebraska Retirement Systems

LB 543	Tuesday, February 19, 1991 (cancelled)	12:00 noon
LB 543	Wednesday, February 27, 1991 (reset)	6:30 p.m.

(Signed) Arlene Nelson, Chairperson

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following resolution: LR 28.

ELECTION CONTEST - 30th District

Mr. Withem moved to refer the Minority Report to Executive Board.

Mr. Withem withdrew his pending motion.

Mr. Landis renewed his pending amendment, found in the Journal on page 715.

Mr. Landis asked unanimous consent to replace his pending amendment, found in the Journal on page 715, with a substitute amendment. No objections. So ordered.

Mr. Landis offered the following substitute amendment:

Amend Senator Hefner's motion to approve Minority Report:

That the Speaker subpoena all "in person ballots" in Gage County and Jefferson County which show a single set of initials or no initials which were not counted in the recount of the Thirtieth Legislative District on December 5, 1990, approximately 100 in number, and that the ballots be presented to the Legislature for counting at 9:00 a.m., on February 21, 1991. That the Legislature then add the number of votes as appears on the recount abstract of Gage and Jefferson Counties, Byars 5585, Korslund 5599; plus the Gage County absentee ballot totals, Byars 269, Korslund 216; plus the totals from the in person ballots which show a single set of initials or no initials, and a final report of the vote total be given on the floor that morning.

Mr. Landis withdrew his pending substitute amendment.

Mr. Hall renewed his pending amendment, found in the Journal on page 721.

Mr. Landis asked unanimous consent to be excused. No objections. So ordered.

Mr. Hall withdrew his pending amendment.

Messrs. Warner and Hall offered the following amendment:

Strike all the contents of the Minority Report and insert:

Pursuant to legislative action on the 15th day of January, 1991, the Executive Board of the Legislative Council was appointed to hear and review the Election Contest of Mr. Paul Korslund for the 30th Legislative District. The Executive Board conducted a hearing on January 26, 1991, at which time both parties through legal counsel presented their arguments. Subsequent to that hearing, the Executive Board asked counsel for both parties to prepare legal briefs.

Based on the briefs, the hearing held on January 26, 1991, depositions submitted and other public records available to the committee, the Legislature finds

1. That the absentee ballots that were the subject of the Contest of Election found on page 11 of the Legislative Journal, although they may not fully comply in every detail with section 32-835 (2) R.R.S. of Nebraska, should be counted in the general election returns for the 30th Legislative District for the reason that the endorsement of the absentee ballots through the use of initials by the election clerk or his employees substantially complies with that section.

2. That as a result the vote totals for each of the candidates for the 30th Legislative District shall remain as reported and approved by the State Board of Canvassers.

3. That as a result the Legislature dismisses the Contest of Election and seats Dennis Byars as a member of the Ninety-Second Legislature representing the 30th Legislative District.

Mr. Chambers offered the following amendment to the pending Warner-Hall amendment:

In third line of paragraph numbered as "1.", strike "may" and insert "do".

Pending.

COMMUNICATION

Mr. Speaker:

I filed my election contest because I was concerned only that the election laws were being inconsistently enforced in Gage County. I sincerely believed that the voiding of ballots cast at the polling place because they did not comply with the requirements of law while counting absentee ballots which likewise did not comply with the

requirements of law, was not acceptable enforcement of the election laws.

I maintained this posture through the courts and the Legislature's Executive Board, and was affirmed by all those entities. However, the Legislature as a whole has considered that our position must give way to other arguments, and I am now convinced that further consideration of the issues and delay in determination of a representative for the 30th District is detrimental to the process of government.

Accordingly, I ask that I be permitted to withdraw my contest of the election previously filed with the Legislature.

(Signed) Paul Korslund
2-20-91

MOTION

Mr. Warner moved the permanent seating of Dennis Byars to the 30th Legislative District.

Mr. Hall raised a point of order on whether the contest of election can be withdrawn by the contestant at this time.

The Chair ruled the contest of election can be withdrawn without requiring any further Legislative action.

Mr. Chambers challenged the ruling of the Chair. The question is, "Shall the Chair be overruled?"

Mr. Beutler asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Dierks moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 9 nays, and 15 not voting.

Mr. Chambers moved for a call of the house. The motion prevailed with 26 ayes, 0 nays, and 23 not voting.

Mr. Chambers requested a record vote on his motion to overrule the Chair.

Voting in the affirmative, 18:

Ashford	Chambers	Johnson, R.	Pirsch	Wesely
Bernard-Stevens	Chizek	Lynch	Rasmussen	Wickersham
Beutler	Hall	Morrissey	Robak	Will
	Hartnett	Nelson	Robinson	

Voting in the negative, 29:

Abboud	Cudaback	Horgan	Moore	Schrock
Beyer	Dierks	Johnson, L.	Peterson	Smith
Byars	Elmer	Kristensen	Rogers	Warner
Conway	Haberman	Labedz	Schellpeper	Wehrbein
Coordsen	Hefner	Lamb	Schimek	Withem
Crosby	Hillman	Lindsay	Schmit	

Present and not voting, 1:

Baack

Excused and not voting, 1:

Landis

The Chambers motion to overrule the Chair lost with 18 ayes, 29 nays, 1 present and not voting, and 1 excused and not voting.

The Chair was sustained.

The Warner pending motion, found in this day's Journal, for the permanent seating of Dennis Byars to the 30th Legislative District, was renewed.

Mr. Chambers raised a point of order regarding whether the election contest could be withdrawn without the approval or authorization of the Legislature.

Mr. Lindsay raised a point of order that this issue had been decided as the result of the previous ruling on the point of order from Mr. Hall.

The Chair ruled that the result of the previous ruling was that the election contest was no longer before the Legislature because it had been withdrawn by the communication from Mr. Korslund.

The Warner pending motion, found in this day's Journal, for the permanent seating of Dennis Byars to the 30th Legislative District, was renewed.

Mr. Chambers offered the following amendment to the pending Warner motion:

Strike the contents of the Warner motion and insert:

Pursuant to legislative action on the 15th day of January, 1991, the Executive Board of the Legislative Council was appointed to hear and review the Election Contest of Mr. Paul Korslund for the 30th Legislative District. The Executive Board conducted a hearing on January 26, 1991, at which time both parties through legal counsel presented their arguments. Subsequent to that hearing, the Executive Board asked counsel for both parties to prepare legal briefs.

Based on the briefs, the hearing held on January 26, 1991, depositions submitted and other public records available to the committee, the Legislature finds

1. That the absentee ballots that were the subject of the Contest of Election found on page 11 of the Legislative Journal, although they do not fully comply in every detail with section 32-835 (2) R.R.S. of Nebraska, should be counted in the general election returns for the 30th Legislative District for the reason that the endorsement of the absentee ballots through the use of initials by the election clerk or his employees substantially complies with that section.

2. That as a result the vote totals for each of the candidates for the 30th Legislative District shall remain as reported and approved by the State Board of Canvassers.

3. That as a result the Legislature dismisses the Contest of Election and seats Dennis Byars as a member of the Ninety-Second Legislature representing the 30th Legislative District.

The Chair declared the call raised.

Mr. Lynch asked unanimous consent to be excused. No objections. So ordered.

Mr. Chambers withdrew his pending amendment.

Mr. Lindsay offered the following amendment to the pending Warner motion:

that the Warner motion be amended to insert the following section:

"The Legislature approves the withdrawal of election contests by Paul Korslund and Dennis Byars."

Messrs. Morrissey and R. Johnson asked unanimous consent to be excused. No objections. So ordered.

Mr. Lindsay withdrew his pending amendment.

Mr. Ashford offered the following amendment to the pending Warner motion:

that the Warner motion be amended to insert the following new section:

"The Legislature having received the withdrawal of election contests by Paul Korslund and Dennis Byars hereby permanently seats Dennis Byars as a member of the Ninety-Second Legislature representing the 30th Legislative District."

The Ashford amendment was adopted with 38 ayes, 0 nays, 7 present and not voting, and 4 excused and not voting.

Mr. Chambers requested a record vote on the pending Warner motion, as amended.

Voting in the affirmative, 44:

Abboud	Chizek	Hartnett	Nelson	Schmit
Ashford	Conway	Hefner	Peterson	Schrock
Baack	Coordsen	Hillman	Pirsch	Smith
Bernard-Stevens	Crosby	Horgan	Rasmussen	Warner
	Cudaback	Johnson, L.	Robak	Wehrbein
Beutler	Dierks	Kristensen	Robinson	Wesely
Beyer	Elmer	Labedz	Rogers	Wickersham
Byars	Haberman	Lindsay	Schellpeper	Will
Chambers	Hall	Moore	Schimek	Withem

Voting in the negative, 0.

Present and not voting, 1:

Lamb

Excused and not voting, 4:

Johnson, R.	Landis	Lynch	Morrissey

The pending Warner motion, as amended, was adopted with 44 ayes, 0 nays, 1 present and not voting, and 4 excused and not voting.

STANDING COMMITTEE REPORTS
Nebraska Retirement Systems

LEGISLATIVE BILL 348. Indefinitely postponed.

(Signed) Arlene Nelson, Chairperson

Agriculture

LEGISLATIVE BILL 274. Placed on General File as amended.
Standing Committee amendment to LB 274:
AM0282

1. On page 2, line 2, after the period insert "The office of the Governor shall be the lead agency and shall oversee the committee and its activities.".

2. On page 3, strike beginning with "state" in line 7 through "Commission" in line 9 and insert "office of the Governor".

(Signed) Carson Rogers, Chairperson

Education

LEGISLATIVE BILL 245. Placed on General File as amended.
Standing Committee amendment to LB 245:
AM0348

1. On page 3, line 18, after the period insert "The commission shall be an advisory and policy development body acting on behalf of the Legislature and shall have no administrative or executive functions.".

2. On page 4, lines 3 and 4 and 8 and 9, strike "all appointed by the Governor" and insert "selected by the Executive Board of the Legislative Council"; and in line 12 after "but" insert "members of the commission who are not members of the Legislature".

3. On page 6, line 10, after "appropriate" insert "to the Legislative Council"; and in line 11 after "for" insert "the research division of the Legislature for".

(Signed) Ron Withem, Chairperson

Government, Military and Veterans Affairs

LEGISLATIVE BILL 534. Placed on General File.

LEGISLATIVE RESOLUTION 20CA. Placed on General File as amended.
Standing Committee amendment to LR 20CA:
AM0304

1. Strike original sections 1 and 2 and insert the following new sections:

"Section 1. That at the general election in November 1992 there shall be submitted to the electors of the State of Nebraska for approval the following amendment to the Constitution of Nebraska by amending Article III, section 10, which is hereby proposed by the Legislature:

CIII-10 'Beginning with the year 1975, regular Regular sessions of the Legislature shall be held annually, commencing for ninety and sixty days on an alternating basis. Beginning December 1, 1992, the ninety-day session shall commence at 10 a.m. on the fifth Wednesday after the general election in each even-numbered year, and the Legislature shall meet for three consecutive days and shall recess until 10 a.m. on the first Wednesday after the first Monday in January. The sixty-day session shall commence at 10 a.m. on the first Wednesday after the first Monday in January of each even-numbered year. Commencing in 1992 the terms of members of the Legislature shall commence on the first day of the ninety-day session and the preceding terms shall terminate on such date. The duration of regular sessions held shall not exceed ninety or sixty legislative days, respectively, in odd-numbered years unless extended by a vote of four-fifths of all members elected or appointed to the Legislature. , and shall not exceed sixty legislative days in even-numbered years unless extended by a vote of four-fifths of all members elected to the Legislature. Bills and resolutions under consideration by the Legislature upon adjournment of a regular ninety-day session held in an odd-numbered year may be considered at the next regular sixty-day session, as if there had been no such adjournment. The Lieutenant Governor shall preside, but shall vote only

when the Legislature is equally divided. A majority of the members elected or appointed to the Legislature shall constitute a quorum. The ~~; the~~ Legislature shall determine the rules of its proceedings and be the judge of the election, returns, and qualifications of its members, shall choose its own officers, including a Speaker to preside when the Lieutenant Governor shall be absent, incapacitated, or shall act as Governor. No member shall be expelled except by a vote of two-thirds of all members elected or appointed to the Legislature, and no member shall be twice expelled for the same offense. The Legislature may punish by imprisonment any person not a member thereof who ~~shall be~~ is guilty of disrespect to the Legislature by disorderly or contemptuous behavior in its presence, but no such imprisonment shall extend beyond twenty-four hours at one time, unless the person ~~shall persist~~ persists in such disorderly or contemptuous behavior.'.

Sec. 2. That the proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1. The proposition for the submission of the proposed amendment shall be placed upon the ballot in the following form:

'A constitutional amendment to change the date on which the Legislature convenes and meets in ninety-day sessions and on which terms of members shall commence.

For

Against'.".

LEGISLATIVE BILL 722. Placed on General File as amended.
Standing Committee amendment to LB 722:
AM0340

1. On page 3, strike beginning with "pursuant" in line 8 through "section" in line 9.

2. On page 4, line 7, after the semicolon insert "or"; in line 11 strike "; or", show as stricken, and insert an underscored period; and strike lines 12 to 15 and show the old matter as stricken.

(Signed) Gerald Conway, Chairperson

Urban Affairs

LEGISLATIVE BILL 745. Placed on General File.
LEGISLATIVE BILL 810. Placed on General File.

(Signed) D. Paul Hartnett, Chairperson

Health and Human Services

LEGISLATIVE BILL 386. Placed on General File as amended. (Standing Committee amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM0242.)

LEGISLATIVE BILL 823. Placed on General File as amended.
Standing Committee amendment to LB 823:
AM0218

1. Strike the original sections and insert the following new sections:

"Section 1. That section 43-102, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

43-102. Except as otherwise provided in the Nebraska Indian Child Welfare Act, any person or persons desiring to adopt a minor child or an adult child of such person's spouse shall file, in the county court of the county in which the person or persons desiring to adopt such child reside, a petition for adoption, signed and sworn to by the person or persons desiring to adopt, ~~together with~~ the consent or consents required by section 43-104 or 43-104.07, ~~and~~ the certificates required by sections 43-104.02 to 43-104.06 or the documents required by section 43-104.07, and a completed preplacement home study if required by section 43-107.

Except as set out in subdivisions (1)(b)(iii) and (1)(b)(iv) of section 43-107, an adoption decree shall not be issued until at least six months after a home study has been completed.

Sec. 2. That section 43-107, Revised Statutes Supplement, 1990, be amended to read as follows:

43-107. (1)(a) For adoption placements occurring or in effect prior to January 1, 1992, upon ~~Upon~~ the filing of a petition for adoption, the county judge shall, except in the adoption of children by stepparents when the requirement of an investigation is discretionary, request the Department of Social Services

or any child placement agency licensed by the department to examine into the allegations set forth in the petition and to ascertain any other facts relating to such minor child and the person or persons petitioning to adopt such child as may be relevant to the propriety of such adoption, except that the county judge shall not be required to request such an examination if the judge determines that information compiled in a previous examination or study is sufficiently current and comprehensive. Upon the request being made, the Department of Social Services or other licensed agency shall conduct an investigation and report its findings to the county judge in writing at least one week prior to the date set for hearing.

(b) For adoption placements occurring on or after January 1, 1992, upon the filing of a petition for adoption, a preplacement home study, completed within one year before the date on which the adoptee is placed with the petitioner or petitioners, shall be filed with the county court.

(i) Such preplacement home study shall not be required when the petitioner is a stepparent of the adoptee unless required by the court.

(ii) The preplacement home study shall be performed as prescribed in rules and regulations of the department and shall include at a minimum an examination into the facts relating to the petitioner or petitioners as may be relevant to the propriety of such adoption and may include appropriate facts relating to the adoptee if such adoptee is known.

(iii) The placement of a child for foster care made by or facilitated by the Department of Social Services or a licensed child placement agency in the home of a person who later petitions the court to adopt the child shall be exempt from the requirements of a preplacement home study, except that the petitioner or petitioners who meet such criteria shall be required to have an adoptive home study completed and filed with the county court at least one week prior to the hearing for adoption.

(iv) A voluntary placement for purposes other than adoption made by a parent or guardian of a child without assistance from an attorney, physician, or other individual or agency which later results in a petition

for the adoption of the child shall be exempt from the requirements of a preplacement home study, except that the petitioner or petitioners who meet such criteria shall be required to have a home study completed and filed with the county court at least one week prior to the hearing for adoption.

(v) Any home study required by this section shall be conducted by the Department of Social Services or a licensed child placement agency at the expense of the petitioner or petitioners. The department or licensed agency shall determine the fee or rate for the preplacement home study.

(2) Upon the filing of a petition for adoption, the county judge shall require that a complete medical history be provided on the child, except that in the adoption of a child by a stepparent the provision of a medical history shall be discretionary. A medical history shall be provided, if available, on the biological mother and father and their biological families, including, but not limited to, siblings, parents, grandparents, aunts, and uncles, unless the child is foreign born or was abandoned. The medical history or histories shall be reported on a form provided by the Bureau of Vital Statistics and filed along with the report of adoption as provided by section 71-626. If the medical history or histories do not accompany the report of adoption, the Bureau of Vital Statistics shall inform the county court and the State Court Administrator. The medical history or histories shall be made part of the court record. After the entry of a decree of adoption, the court shall retain a copy and forward the original medical history or histories to the Bureau of Vital Statistics. This subsection shall only apply when the relinquishment or consent for an adoption is given on or after September 1, 1988.

Sec. 3. That original section 43-102, Reissue Revised Statutes of Nebraska, 1943, and section 43-107, Revised Statutes Supplement, 1990, are repealed.".

(Signed) Don Wesely, Chairperson

Agriculture

LEGISLATIVE BILL 366. Placed on General File as amended.

Standing Committee amendment to LB 366:
AM0058

1. Strike original section 1.

2. On page 5, strike beginning with "On" in line 9 through "year" in line 10, show the old matter as stricken, and insert "At least once each calendar year and not later than one year from the date of receipt of the previous written notice".

3. On page 6, line 15, strike "88-535,"; and in line 16 strike the first comma.

4. Renumber the remaining sections accordingly.

(Signed) Carson Rogers, Chairperson

Education

The Committee on Education desires to report favorably upon the appointments listed below. The Committee suggests the appointments be confirmed by the Legislature and suggests a record vote.

Nebraska Safety Council
Tobin Anderson
Dr. Pearl Hansen
Kim Whitehouse
James Pearson
Ken Sieckmeyer
Gary Hirsh
Gene Siefford
Ben Novicoff
Harold Sobotka

Nebraska State Colleges Board of Trustees - Peter Claussen

VOTE: Aye: Senators Withem, Dierks, Lamb, Beutler, Warner, Nelson, Schrock, Chizek. Nay: none. Absent: none.

(Signed) Ron Withem, Chairperson

NOTICE OF COMMITTEE HEARINGS
Nebraska Retirement Systems

Governor Appointment Thursday, February 28, 1991 12:00 Noon
Gerald Bucher - Nebraska Public Employees Retirement Board

(Signed) Arlene Nelson, Chairperson

Judiciary

LB 266	Wednesday, February 27, 1991	1:30 p.m.
LB 267	Wednesday, February 27, 1991	1:30 p.m.
LB 268	Wednesday, February 27, 1991	1:30 p.m.
LB 459	Wednesday, February 27, 1991	1:30 p.m.
LB 794	Wednesday, February 27, 1991	1:30 p.m.
LB 801	Wednesday, February 27, 1991	1:30 p.m.
LB 819	Wednesday, February 27, 1991	1:30 p.m.
LB 130	Thursday, February 28, 1991	1:30 p.m.
LB 373	Thursday, February 28, 1991	1:30 p.m.
LB 375	Thursday, February 28, 1991	1:30 p.m.
LB 560	Thursday, February 28, 1991	1:30 p.m.
LB 630	Thursday, February 28, 1991	1:30 p.m.
LB 687	Thursday, February 28, 1991	1:30 p.m.
LB 728	Thursday, February 28, 1991	1:30 p.m.
LB 521	Friday, March 1, 1991	1:30 p.m.
LB 598	Friday, March 1, 1991	1:30 p.m.
LB 694	Friday, March 1, 1991	1:30 p.m.
LB 711	Friday, March 1, 1991	1:30 p.m.

(Signed) Jerry Chizek, Chairperson

UNANIMOUS CONSENT - Add Co-Introducer

Mr. Cudaback asked unanimous consent to have his name added as co-introducer to LB 336. No objections. So ordered.

VISITORS

Visitors to the Chamber were 36 fifth graders, teachers, and principal from Blessed Sacrament School, Lincoln.

ADJOURNMENT

At 12:29 p.m., on a motion by Mrs. Crosby, the Legislature adjourned until 9:00 a.m., Thursday, February 21, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

TWENTY-NINTH DAY - FEBRUARY 21, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

TWENTY-NINTH DAY

Legislative Chamber, Lincoln, Nebraska
Thursday, February 21, 1991

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Moul presiding.

PRAYER

The prayer was offered by Pastor Rusty Miller, Capitol City Christian Church, Lincoln, Nebraska.

ROLL CALL

The roll was called and all members were present except Mr. Dierks who was excused; and Messrs. Bernard-Stevens, Coordsen, Hall, Hartnett, R. Johnson, Kristensen, Landis, Moore, Morrissey, Mmes. Pirsch, Rasmussen, Robak, and Smith who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Twenty-Eighth Day was approved.

STANDING COMMITTEE REPORTS
Education

LEGISLATIVE BILL 207. Placed on General File as amended.
Standing Committee amendment to LB 207:
AM0349

1. Insert the following new section:

"Sec. 3. That section 79-3405, Revised Statutes Supplement, 1990, be amended to read as

follows:

79-3405. (1) For the 1990-91 school year, participation in the enrollment option program shall be voluntary and shall be agreed upon by both the resident school district and the option school district.

(2) For the 1991-92 school year, participation in the enrollment option program shall be voluntary on the part of the option school district. The resident school district shall be required to participate in the program until more than five percent of the students, based upon resident enrollment set out in the fall school district membership report required by law, choose to attend option school districts at which time the resident school district may choose not to participate further in the program.

(3) For the 1992-93 school year, participation in the enrollment option program shall be voluntary on the part of the option school district. The resident school district shall be required to participate in the program until an additional five percent of the students, based upon resident enrollment set out in the fall school district membership report required by law, choose to attend option school districts at which time the resident school district may choose not to participate further in the program.

(4) Beginning with the 1993-94 school year, the enrollment option program shall be implemented by all public school districts.

(5) In no event shall the number of students who may participate in the enrollment option program from the resident school district be less than one student for the 1991-92 school year and for the 1992-93 school year.

(6) For purposes of subsections (2) and (3) of this section, if a resident school district has more than five percent of its students apply for participation in the enrollment option program, priority for participation shall be given to siblings of option students.".

2. On page 6, line 10, strike "or"; and in line 14 after "students" insert "; or (d) any student in the ninth, tenth, eleventh, or twelfth grade of a Class I district which has affiliated with a high school district pursuant to sections 79-402 to 79-402.04 or the

Reorganization of School Districts Act except as follows:

(i) For the second school year following the effective date of an affiliation, a maximum of five percent of the students of the Class I district shall be eligible to participate in the program as determined by the school board of the Class I district;

(ii) For the third year following the effective date of an affiliation, a maximum of ten percent of the students of the Class I district shall be eligible to participate in the program as determined by the school board of the Class I district; and

(iii) For the fourth year following the effective date of an affiliation and each year thereafter, all students of the Class I district shall be eligible to participate in the program.".

3. On page 8, line 18, after "district" insert "and to siblings of option students, except that the option school district shall not be required to accept the sibling of an option student if the district is at capacity".

4. On page 11, line 13, after the first comma insert "79-3405,".

5. Renumber the remaining sections accordingly.

LEGISLATIVE BILL 699. Indefinitely postponed.
LEGISLATIVE BILL 707. Indefinitely postponed.

(Signed) Ron Withem, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 29. Introduced by Appropriations Committee: Moore, 24, Chairperson; Ashford, 6; Bernard-Stevens, 42; Crosby, 29; Hillman, 48; L. Johnson, 15; Lynch, 13; Robinson, 16; Wehrbein, 2.

WHEREAS, in 1987, Chadron State College and the Board of Trustees of the Nebraska State Colleges determined that a student union facility was required to provide for student activity needs of the Chadron State College community; and

WHEREAS, the Ninetieth Legislature of Nebraska, Second Session, on February 22, 1988, approved the construction of Phase I

of a student union on the Chadron State College campus, to be financed by the sale of $2,400,000 in revenue bonds; and

WHEREAS, on December 8, 1990, the Board of Trustees of the Nebraska State Colleges authorized the construction of Phase II of the student union facility on that campus; and

WHEREAS, a viable financing plan for the construction of such facilities has been developed which includes the retirement of the 1988 bond anticipation notes using up to $2,400,000 from revenue bond surplus funds and the issuance of approximately $4,300,000 in new revenue bonds, the use of which will approximate $3,500,000 for construction with the balance for capitalized interest, a bond reserve fund, and issuance costs; and

WHEREAS, pursuant to a resolution authorized by the Board of Trustees of the Nebraska State Colleges on December 8, 1990, the board requests the approval of the Ninety-second Legislature, First Session, for Chadron State College to construct Phase II of a student union facility and requests approval of the financing plan to pay the costs of construction and to retire the existing bond anticipation notes.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That pursuant to section 85-404, plans submitted to the Legislature for the construction of Phase II of the student union at Chadron State College, including financing plans, are approved.

2. That pursuant to section 85-408, the component of the financing plans set out in this resolution proposing expenditure of up to $2,400,000 of revenue bond surplus funds to retire the bond anticipation notes issued in 1988 is specifically approved.

3. That the total project cost of the proposed Phase II of the student union at Chadron State College, excluding sums previously expended for planning and costs of debt issuance and financing, shall not exceed $3,500,000.

4. That the resolution of the Board of Trustees of the Nebraska State Colleges dated December 8, 1990, and referred to in this resolution is approved.

Laid over.

NOTICE OF COMMITTEE HEARING
Transportation

Governor Appointment Monday, March 11, 1991 2:00 p.m.
Jack Conrad - Director, Department of Motor Vehicles

(Signed) Doug Kristensen, Chairperson

MOTION - Approve Appointments

Mr. Withem moved the adoption of the report of the Education Committee for the following Governor appointments found in the Journal on page 738: Tobin Anderson, Dr. Pearl Hansen, Kim Whitehouse, James Pearson, Ken Sieckmeyer, Gary Hirsh, Gene Siefford, Ben Novicoff, and Harold Sobotka - Nebraska Safety Council; and Peter Claussen - Nebraska State Colleges Board of Trustees.

Voting in the affirmative, 29:

Abboud	Coordsen	Hillman	Robinson	Wehrbein
Ashford	Crosby	Johnson, L.	Rogers	Wesely
Beutler	Cudaback	Labedz	Schellpeper	Wickersham
Beyer	Elmer	Lindsay	Schimek	Will
Byars	Haberman	Lynch	Schmit	Withem
Chizek	Hefner	Peterson	Warner	

Voting in the negative, 0.

Present and not voting, 6:

Baack	Horgan	Lamb	Nelson	Schrock
Chambers				

Excused and not voting, 14:

Bernard-Stevens	Dierks	Johnson, R.	Moore	Rasmussen
	Hall	Kristensen	Morrissey	Robak
Conway	Hartnett	Landis	Pirsch	Smith

These appointments were confirmed with 29 ayes, 0 nays, 6 present and not voting, and 14 excused and not voting.

UNANIMOUS CONSENT - Member Excused

Mr. Withem asked unanimous consent to be excused until he returns. No objections. So ordered.

BILLS ON FINAL READING

The following bills were read and put upon final passage:

LEGISLATIVE BILL 23.

A BILL FOR AN ACT relating to sexual assault; to amend section 28-320.01, Reissue Revised Statutes of Nebraska, 1943; to increase the penalty for second and subsequent convictions for sexual assault of a child; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 38:

Abboud	Coordsen	Johnson, L.	Peterson	Schrock
Ashford	Crosby	Kristensen	Pirsch	Smith
Baack	Cudaback	Labedz	Robinson	Warner
Beutler	Elmer	Lamb	Rogers	Wehrbein
Beyer	Haberman	Landis	Schellpeper	Wesely
Byars	Hefner	Lindsay	Schimek	Wickersham
Chambers	Hillman	Lynch	Schmit	Will
Chizek	Horgan	Nelson		

Voting in the negative, 0.

Excused and not voting, 11:

Bernard-Stevens	Dierks	Johnson, R.	Morrissey	Robak
Conway	Hall	Moore	Rasmussen	Withem
	Hartnett			

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 58.

A BILL FOR AN ACT relating to the Department on Aging; to amend sections 71-6054, 81-101, 81-2201 to 81-2204, 81-2207 to 81-2210, 81-2212 to 81-2214, 81-2217, 81-2218 to 81-2224, 81-2227, and 81-2228, Reissue Revised Statutes of Nebraska, 1943; to define and redefine terms; to provide and change provisions relating to the

powers and duties of the Department on Aging and area agencies on aging as prescribed; to change provisions relating to qualifications of chief executive officers of area agencies on aging as prescribed; to authorize access to and provide for the confidentiality of certain records; to authorize the development of an intrastate funding formula; to harmonize references to the federal Older Americans Act; to harmonize provisions; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 40:

Abboud	Coordsen	Johnson, L.	Nelson	Schmit
Ashford	Crosby	Johnson, R.	Peterson	Schrock
Baack	Cudaback	Kristensen	Pirsch	Smith
Bernard-Stevens	Elmer	Labedz	Robak	Warner
	Haberman	Lamb	Robinson	Wehrbein
Beyer	Hefner	Landis	Rogers	Wesely
Byars	Hillman	Lindsay	Schellpeper	Wickersham
Chambers	Horgan	Lynch	Schimek	Will
Chizek				

Voting in the negative, 0.

Present and not voting, 1:

Beutler

Excused and not voting, 8:

Conway	Hall	Moore	Rasmussen	Withem
Dierks	Hartnett	Morrissey		

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 82.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-379, 77-382, 77-385, and 81-125, Reissue Revised Statutes of Nebraska, 1943; to change the name of an act; to require submission of tax expenditure reports and summaries as prescribed;

to change provisions relating to such reports; to eliminate obsolete language; to harmonize provisions; to provide an operative date; and to repeal the original sections, and also section 77-384, Reissue Revised Statutes of Nebraska, 1943.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 43:

Abboud	Chizek	Horgan	Morrissey	Schmit
Ashford	Conway	Johnson, L.	Nelson	Schrock
Baack	Coordsen	Johnson, R.	Peterson	Smith
Bernard-Stevens	Crosby	Kristensen	Pirsch	Warner
	Cudaback	Labedz	Robak	Wehrbein
Beutler	Elmer	Lamb	Robinson	Wesely
Beyer	Haberman	Landis	Rogers	Wickersham
Byars	Hall	Lindsay	Schellpeper	Will
Chambers	Hefner	Lynch	Schimek	

Voting in the negative, 0.

Present and not voting, 1:

Hillman

Excused and not voting, 5:

Dierks	Hartnett	Moore	Rasmussen	Withem

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 95.

A BILL FOR AN ACT relating to decedents' estates; to amend section 30-2485, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to claims against decedents' estates; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 44:

Abboud	Chizek	Hillman	Lynch	Schimek
Ashford	Conway	Horgan	Morrissey	Schmit
Baack	Coordsen	Johnson, L.	Nelson	Schrock
Bernard-Stevens	Crosby	Johnson, R.	Peterson	Smith
Beutler	Cudaback	Kristensen	Pirsch	Warner
Beyer	Elmer	Labedz	Robak	Wehrbein
Byars	Haberman	Lamb	Robinson	Wesely
Chambers	Hall	Landis	Rogers	Wickersham
	Hefner	Lindsay	Schellpeper	Will

Voting in the negative, 0.

Excused and not voting, 5:

Dierks	Hartnett	Moore	Rasmussen	Withem

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 37. With Emergency.

A BILL FOR AN ACT relating to bills of exceptions; to amend section 25-1140.09, Reissue Revised Statutes of Nebraska, 1943; to change the fees allowed court reporters for preparation of a transcribed copy of proceedings; to repeal the original section; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 41:

Abboud	Conway	Hillman	Lindsay	Schellpeper
Ashford	Coordsen	Horgan	Lynch	Schimek
Baack	Crosby	Johnson, L.	Morrissey	Schmit
Bernard-Stevens	Cudaback	Johnson, R.	Nelson	Schrock
	Elmer	Kristensen	Pirsch	Smith
Beyer	Haberman	Labedz	Robak	Warner
Byars	Hall	Lamb	Robinson	Wehrbein
Chizek	Hefner	Landis	Rogers	Wesely

Wickersham Will

Voting in the negative, 0.

Present and not voting, 3:

Beutler Chambers Peterson

Excused and not voting, 5:

Dierks Hartnett Moore Rasmussen Withem

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

LEGISLATIVE BILL 135.

A BILL FOR AN ACT relating to computers; to amend sections 28-1343 to 28-1348, Reissue Revised Statutes of Nebraska, 1943, and section 28-101, Revised Statutes Supplement, 1990; to create the Computer Crimes Act; to state intent; to define and redefine terms; to change provisions relating to unauthorized use of computers; to prohibit use of destructive computer programs; to provide and change penalties; to harmonize provisions; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 45:

Abboud	Conway	Hillman	Lynch	Schimek
Ashford	Coordsen	Horgan	Morrissey	Schmit
Baack	Crosby	Johnson, L.	Nelson	Schrock
Bernard-Stevens	Cudaback	Johnson, R.	Peterson	Smith
	Elmer	Kristensen	Pirsch	Warner
Beutler	Haberman	Labedz	Robak	Wehrbein
Beyer	Hall	Lamb	Robinson	Wesely
Byars	Hartnett	Landis	Rogers	Wickersham
Chambers	Hefner	Lindsay	Schellpeper	Will
Chizek				

Voting in the negative, 0.

Excused and not voting, 4:

Dierks	Moore	Rasmussen	Withem

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

MOTION - Return LB 147 to Select File

Mr. Haberman moved to return LB 147 to Select File for the following specific amendment:
FA30
Strike the enacting clause.

Mr. Haberman withdrew his pending motion to return.

BILL ON FINAL READING

The following bill was read and put upon final passage:

LEGISLATIVE BILL 147.

A BILL FOR AN ACT relating to jurors; to amend section 33-138, Reissue Revised Statutes of Nebraska, 1943; to increase juror fees as prescribed; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 28:

Abboud	Chambers	Hall	Lindsay	Warner
Ashford	Conway	Hartnett	Robak	Wehrbein
Baack	Coordsen	Kristensen	Rogers	Wesely
Bernard-Stevens	Crosby	Labedz	Schimek	Wickersham
Byars	Cudaback	Lamb	Schmit	Will
	Elmer	Landis	Schrock	

Voting in the negative, 16:

Beyer	Haberman	Hillman	Johnson, L.	Lynch
Chizek	Hefner	Horgan	Johnson, R.	Moore

Nelson Pirsch Robinson Schellpeper Smith Peterson

Present and not voting, 2:

Beutler Morrissey

Excused and not voting, 3:

Dierks Rasmussen Withem

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

MOTION - Return LB 20 to Select File

Mr. Wesely moved to return LB 20 to Select File for the following specific amendment:
FA31
Strike the enacting clause.

Pending.

Mr. Coordsen asked unanimous consent to pass over LB 20. No objections. So ordered.

BILLS ON FINAL READING

The following bills were read and put upon final passage:

LEGISLATIVE BILL 32.

A BILL FOR AN ACT relating to elections; to amend section 32-307, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to election of the clerk of the district court in certain counties; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 39:

Abboud	Coordsen	Johnson, L.	Nelson	Schimek
Baack	Crosby	Johnson, R.	Peterson	Schrock
Bernard-Stevens	Cudaback	Labedz	Pirsch	Smith
	Elmer	Lamb	Rasmussen	Warner
Beutler	Haberman	Landis	Robak	Wehrbein
Beyer	Hall	Lindsay	Robinson	Wickersham
Chizek	Hartnett	Lynch	Rogers	Will
Conway	Hefner	Moore	Schellpeper	Withem

Voting in the negative, 5:

Ashford	Chambers	Kristensen	Morrissey	Wesely

Present and not voting, 4:

Byars	Hillman	Horgan	Schmit

Excused and not voting, 1:

Dierks

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 40.

A BILL FOR AN ACT relating to motor vehicle registration; to amend section 60-320, Reissue Revised Statutes of Nebraska, 1943; to provide for certification in lieu of registration for trailers used by boat dealers as prescribed; to provide a fee; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 48:

Abboud	Beyer	Crosby	Hefner	Labedz
Ashford	Byars	Cudaback	Hillman	Lamb
Baack	Chambers	Elmer	Horgan	Landis
Bernard-Stevens	Chizek	Haberman	Johnson, L.	Lindsay
	Conway	Hall	Johnson, R.	Lynch
Beutler	Coordsen	Hartnett	Kristensen	Moore

Morrissey	Rasmussen	Schellpeper	Smith	Wickersham
Nelson	Robak	Schimek	Warner	Will
Peterson	Robinson	Schmit	Wehrbein	Withem
Pirsch	Rogers	Schrock	Wesely	

Voting in the negative, 0.

Excused and not voting, 1:

Dierks

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

MOTION - Return LB 404 to Select File

Messrs. Will, Lynch, and Abboud moved to return LB 404 to Select File for the following specific amendment:
AM0356

(Amendments to Final Reading copy)

1. On page 1, line 5, after the semicolon insert "to provide for the value of homesteads for tax year 1991;".

2. On page 2, line 23, strike "subsection (2)" and insert "subsections (2) and (3)".

3. On page 3, after line 22 insert the following new subsection:

"(3) For tax year 1991, every homestead as defined in section 77-3502 shall have a value for tax purposes identical to the value assessed for tax year 1990.".

Mr. Haberman requested a ruling of the Chair on whether the Will-Lynch-Abboud amendment is germane to the bill.

The Chair ruled the Will-Lynch-Abboud amendment is germane to the bill.

Pending.

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following bills: 23, 58, 82, 95, 37, 135, 147, 32, and 40.

UNANIMOUS CONSENT - Member Excused

Mr. Warner asked unanimous consent to be excused until he returns. No objections. So ordered.

SPEAKER BAACK PRESIDING

MOTION - Return LB 404 to Select File

The pending Will-Lynch-Abboud motion to return LB 404 to Select File for a specific amendment, AM0356, was renewed.

Mr. Lamb moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 0 nays, and 23 not voting.

Mr. Chambers asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Abboud requested a roll call vote on the motion to return.

Voting in the affirmative, 16:

Abboud	Hartnett	Labedz	Pirsch	Wesely
Chizek	Hillman	Lindsay	Rasmussen	Will
Conway	Horgan	Lynch	Schimek	Withem
Hall				

Voting in the negative, 30:

Ashford	Crosby	Johnson, R.	Nelson	Schmit
Baack	Cudaback	Kristensen	Peterson	Schrock
Bernard-Stevens	Elmer	Lamb	Robak	Smith
	Haberman	Landis	Robinson	Warner
Beyer	Hefner	Moore	Rogers	Wehrbein
Byars	Johnson, L.	Morrissey	Schellpeper	Wickersham
Coordsen				

Present and not voting, 1:

Beutler

Excused and not voting, 2:

Chambers Dierks

The Will-Lynch-Abboud motion to return lost with 16 ayes, 30 nays, 1 present and not voting, and 2 excused and not voting.

BILL ON FINAL READING

The following bill was read and put upon final passage:

LEGISLATIVE BILL 404. With Emergency.

A BILL FOR AN ACT relating to property tax; to amend sections 77-112 and 77-201, Reissue Revised Statutes of Nebraska, 1943; to provide for the valuation of agricultural land and horticultural land for tax year 1991; to define terms; to provide an operative date; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 42:

Abboud	Conway	Hillman	Morrissey	Schimek
Ashford	Coordsen	Horgan	Nelson	Schmit
Baack	Crosby	Johnson, L.	Peterson	Schrock
Bernard-Stevens	Cudaback	Johnson, R.	Pirsch	Smith
Beutler	Elmer	Kristensen	Robak	Warner
Beyer	Haberman	Labedz	Robinson	Wehrbein
Byars	Hall	Lamb	Rogers	Wesely
Chizek	Hartnett	Landis	Schellpeper	Wickersham
	Hefner	Moore		

Voting in the negative, 4:

Lindsay	Lynch	Will	Withem

Present and not voting, 1:

Rasmussen

Excused and not voting, 2:

Chambers Dierks

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following bill: 404.

STANDING COMMITTEE REPORTS
Banking, Commerce and Insurance

LEGISLATIVE BILL 159. Placed on General File.
LEGISLATIVE BILL 160. Placed on General File.
LEGISLATIVE BILL 161. Placed on General File.
LEGISLATIVE BILL 162. Placed on General File.

(Signed) David Landis, Chairperson

NOTICE OF COMMITTEE HEARINGS
Government, Military and Veterans Affairs

LB 612	Thursday, February 28, 1991 (cancelled)	1:30 p.m.
LB 612	Thursday, March 14, 1991 (reset)	1:30 p.m.

Governor Appointment Thursday, February 28, 1991 1:30 p.m.
Larry Primeau - Director, Department of Administrative Services

(Signed) Gerald Conway, Chairperson

Health and Human Services

LB 428	Thursday, March 7, 1991 (cancelled)	1:30 p.m.
LB 428	Wednesday, March 13, 1991 (reset)	1:30 p.m.

(Signed) Don Wesely, Chairperson

Banking, Commerce and Insurance

Governor Appointments Monday, March 4, 1991 1:30 p.m.
Jim Hansen - Director, Department of Banking and Finance
William McCartney - Director, Department of Insurance

Governor Appointment Monday, March 11, 1991 1:30 p.m.
Steve Buttress - Director, Department of Economic Development

(Signed) David Landis, Chairperson

UNANIMOUS CONSENT - Members Excused

Mr. Warner asked unanimous consent to be excused. No objections. So ordered.

Mr. Peterson asked unanimous consent to be excused until he returns. No objections. So ordered.

GENERAL FILE

LEGISLATIVE BILL 237. Title read. Considered.

Standing Committee amendment, AM0079, found in the Journal on page 471, was adopted with 25 ayes, 0 nays, 20 present and not voting, and 4 excused and not voting.

Messrs. Coordsen and Wehrbein asked unanimous consent to be excused until they return. No objections. So ordered.

Advanced to E & R for review with 26 ayes, 0 nays, 17 present and not voting, and 6 excused and not voting.

STANDING COMMITTEE REPORTS
Natural Resources

The Committee on Natural Resources desires to report favorably upon the appointment listed below. The Committee suggests the appointment be confirmed by the Legislature and suggests a record vote.

Dayle Williamson - Director of the Natural Resources Commission

VOTE: Aye: Senators Beutler, Elmer, Hartnett, R. Johnson, Lamb, Morrissey, and Schmit. Absent: Senator Horgan.

The Committee on Natural Resources desires to report favorably upon the appointment listed below. The Committee suggests the appointment be confirmed by the Legislature and suggests a record vote.

J. Michael Jess - Director of the Department of Water Resources

VOTE: Aye: Senators Beutler, Elmer, Hartnett, R. Johnson, Lamb, Morrissey, and Schmit. Absent: Senator Horgan.

(Signed) Rod Johnson, Chairperson

NOTICE OF COMMITTEE HEARING
Nebraska Retirement Systems

Governor Appointments Thursday, February 28, 1991 12:00 Noon
Harry Spencer - Nebraska Public Employees Retirement Board
Robert Corner - Nebraska Public Employees Retirement Board

(Signed) Arlene Nelson, Chairperson

STANDING COMMITTEE REPORTS
Natural Resources

LEGISLATIVE BILL 429. Placed on General File.
LEGISLATIVE BILL 500. Placed on General File.
LEGISLATIVE BILL 697. Placed on General File.
LEGISLATIVE BILL 716. Placed on General File.

LEGISLATIVE BILL 430. Indefinitely postponed.

(Signed) Rod Johnson, Chairperson

PRESENTED TO THE GOVERNOR

Presented to the Governor on February 21, 1991, at 11:10 a.m., were the following bills: 23, 58, 82, 95, 37, 135, 147, 32, 40, and 404.

(Signed) Pam Moravec, Enrolling Clerk

BILLS ON FIRST READING

The following bills were read for the first time by title:

LEGISLATIVE BILL 244A. Introduced by Schellpeper, 18.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 244, Ninety-second Legislature, First Session, 1991; and to declare an emergency.

LEGISLATIVE BILL 114A. Introduced by Schimek, 27.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 114, Ninety-second Legislature, First Session, 1991.

LEGISLATIVE BILL 169A. Introduced by Bernard-Stevens, 42; Crosby, 29.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 169, Ninety-second Legislature, First Session, 1991.

LEGISLATIVE BILL 363A. Introduced by Wesely, 26.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 363, Ninety-second Legislature, First Session, 1991.

LEGISLATIVE BILL 702A. Introduced by Wesely, 26.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 702, Ninety-second Legislature, First Session, 1991.

LEGISLATIVE BILL 703A. Introduced by Wesely, 26.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 703, Ninety-second Legislature, First Session, 1991.

EXPLANATION OF VOTE

Had I been present, I would have voted aye on LBs 23, 58, 37e, and 135.

(Signed) Jessie K. Rasmussen

VISITORS

Visitors to the Chamber were 39 members of Financial Women's International from across the state; 13 members from N.E. Junior's Extension Club, Syracuse; Patricia A. Toth from Alexandria, Virginia; 11 students and teacher from Exeter High School; Thelma Thomas and Miriam Kearnes from Indian Community College, Winnebago; and Mr. and Mrs. Leo Adams from Ralston.

ADJOURNMENT

At 11:52 a.m., on a motion by Mr. Moore, the Legislature adjourned until 9:00 a.m., Friday, February 22, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

THIRTIETH DAY - FEBRUARY 22, 1991

LEGISLATIVE JOURNAL

THIRTIETH DAY - FEBRUARY 22, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

THIRTIETH DAY

Legislative Chamber, Lincoln, Nebraska
Friday, February 22, 1991

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Moul presiding.

PRAYER

The prayer was offered by Pastor Tim Anderson, St. Mary's Episcopal Church, Blair, Nebraska.

ROLL CALL

The roll was called and all members were present except Mrs. Robak who was excused; and Messrs. Bernard-Stevens, Byars, Chambers, Chizek, Hall, Hartnett, Horgan, Landis, Lindsay, Morrissey, Rogers, Schellpeper, Schmit, Will, Withem, and Mrs. Rasmussen who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Twenty-Ninth Day was approved.

UNANIMOUS CONSENT - Member Excused

Mr. Kristensen asked unanimous consent to be excused until he returns. No objections. So ordered.

STANDING COMMITTEE REPORT
Banking, Commerce and Insurance

LEGISLATIVE BILL 269. Placed on General File as amended.

Standing Committee amendment to LB 269:
AM0360

1. On page 4, line 8, strike "a nonrefundable" and insert "an".

2. On page 5, line 23, strike "a nonfundable" and insert "an".

(Signed) David Landis, Chairperson

REPORT OF REGISTERED LOBBYISTS

In accordance with LB 987, passed in the 1976 session of the Legislature and amended by LB 4 and LB 41 in the 1977 session of the Legislature, the attached is a list of all Lobbyists who have registered as of February 21, 1991. Further lists listing additional lobbyists who have registered will be filed weekly.

(Signed) Patrick J. O'Donnell
Clerk of the Legislature

O'Neal, Vernon - Lincoln	Nebraska Association of Professional Investigators
Rasmussen, Dennis - Lincoln	College Park Committee
Ryan, James E./James E. Ryan, P.C. - Lincoln	Handgun Control, Inc.

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 254A. Introduced by Haberman, 44.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 254, Ninety-second Legislature, First Session, 1991.

NOTICE OF COMMITTEE HEARING
Nebraska Retirement Systems

Cancellation of hearing
Governor Appointments Thursday, February 28, 1991 12:00 noon
Harry Spencer - Nebraska Public Employees Retirement Board
Robert Corner - Nebraska Public Employees Retirement Board

(Signed) Arlene Nelson, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 29. Read. Considered.

LR 29 was adopted with 26 ayes, 0 nays, and 23 not voting.

MOTION - Approve Appointments

Mr. R. Johnson moved the adoption of the report of the Natural Resources Committee for the following Governor appointments found in the Journal on pages 758 and 759: Dayle Williamson, Director of the Natural Resources Commission and J. Michael Jess, Director of the Department of Water Resources.

Voting in the affirmative, 30:

Abboud	Coordsen	Hefner	Morrissey	Schmit
Ashford	Crosby	Hillman	Nelson	Schrock
Baack	Cudaback	Johnson, R.	Peterson	Smith
Beyer	Dierks	Labedz	Robinson	Wehrbein
Byars	Elmer	Lamb	Rogers	Wickersham
Conway	Haberman	Landis	Schellpeper	Will

Voting in the negative, 0.

Present and not voting, 8:

Beutler	Lynch	Pirsch	Warner	Wesely
Johnson, L.	Moore	Schimek		

Excused and not voting, 11:

Bernard-Stevens	Chizek	Horgan	Lindsay	Robak
Chambers	Hall	Kristensen	Rasmussen	Withem
	Hartnett			

These appointments were confirmed with 30 ayes, 0 nays, 8 present and not voting, and 11 excused and not voting.

BILLS ON FINAL READING

The following bills were read and put upon final passage:

LEGISLATIVE BILL 81. With Emergency.

A BILL FOR AN ACT relating to local government; to amend sections 13-804, 13-903, 48-193, 71-5034, 71-6220, 81-1164, 81-1331, 83-1,143.01, and 84-1202, Reissue Revised Statutes of Nebraska, 1943, and sections 81-8,210, 81-8,239.01, and 81-8,303, Revised Statutes Supplement, 1990; to provide that entities created by local public agencies are not state agencies; to change provisions relating to the plans of expenditures prepared by certain regional governing boards and mental retardation regions as prescribed; to harmonize provisions; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 38:

Abboud	Conway	Hillman	Nelson	Smith
Ashford	Coordsen	Johnson, L.	Peterson	Warner
Baack	Crosby	Johnson, R.	Pirsch	Wehrbein
Bernard-Stevens	Cudaback	Kristensen	Rasmussen	Wesely
Beutler	Dierks	Labedz	Robinson	Wickersham
Beyer	Elmer	Lamb	Rogers	Will
Byars	Haberman	Lindsay	Schellpeper	Withem
	Hefner	Morrissey	Schrock	

Voting in the negative, 1:

Schmit

Present and not voting, 4:

Landis	Lynch	Moore	Schimek

Excused and not voting, 6:

Chambers	Hall	Hartnett	Horgan	Robak
Chizek				

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

LEGISLATIVE BILL 113.

A BILL FOR AN ACT relating to motor vehicles; to amend sections 18-1737, 60-311.14, and 60-311.25, Reissue Revised Statutes of Nebraska, 1943, and sections 60-106, 60-112, and 60-114, Revised Statutes Supplement, 1990; to provide a penalty for certain parking violations; to change signature requirements for certificates of title as prescribed; to provide for the issuance of special license plates for handicapped or disabled persons; to harmonize provisions; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 41:

Abboud	Crosby	Kristensen	Peterson	Schrock
Ashford	Cudaback	Labedz	Pirsch	Smith
Baack	Dierks	Lamb	Rasmussen	Warner
Bernard-Stevens	Elmer	Landis	Robinson	Wehrbein
	Haberman	Lindsay	Rogers	Wesely
Beyer	Hefner	Moore	Schellpeper	Wickersham
Byars	Hillman	Morrissey	Schimek	Will
Conway	Johnson, L.	Nelson	Schmit	Withem
Coordsen	Johnson, R.			

Voting in the negative, 0.

Present and not voting, 2:

Beutler	Lynch

Excused and not voting, 6:

Chambers	Hall	Hartnett	Horgan	Robak
Chizek				

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 117. With Emergency.

A BILL FOR AN ACT relating to the civil service system; to amend section 23-2519, Reissue Revised Statutes of Nebraska, 1943; to include additional persons in the unclassified service as prescribed; to repeal the original section; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 44:

Abboud	Conway	Johnson, L.	Morrissey	Schmit
Ashford	Coordsen	Johnson, R.	Nelson	Schrock
Baack	Crosby	Kristensen	Peterson	Smith
Bernard-Stevens	Cudaback	Labedz	Pirsch	Warner
	Dierks	Lamb	Rasmussen	Wehrbein
Beutler	Elmer	Landis	Robinson	Wesely
Beyer	Haberman	Lindsay	Rogers	Wickersham
Byars	Hefner	Lynch	Schellpeper	Will
Chambers	Hillman	Moore	Schimek	Withem

Voting in the negative, 0.

Excused and not voting, 5:

Chizek	Hall	Hartnett	Horgan	Robak

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

LEGISLATIVE BILL 122.

A BILL FOR AN ACT relating to county medical facilities; to amend section 23-343.01, Reissue Revised Statutes of Nebraska, 1943; to change a residency restriction on the boards of trustees in certain counties; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 43:

Abboud	Conway	Johnson, L.	Nelson	Schrock
Ashford	Coordsen	Johnson, R.	Peterson	Smith
Baack	Crosby	Labedz	Pirsch	Warner
Bernard-Stevens	Cudaback	Lamb	Rasmussen	Wehrbein
Beutler	Dierks	Landis	Robinson	Wesely
Beyer	Elmer	Lindsay	Rogers	Wickersham
Byars	Haberman	Lynch	Schellpeper	Will
Chambers	Hefner	Moore	Schimek	Withem
	Hillman	Morrissey	Schmit	

Voting in the negative, 0.

Present and not voting, 1:

Kristensen

Excused and not voting, 5:

Chizek	Hall	Hartnett	Horgan	Robak

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 137.

A BILL FOR AN ACT relating to ground water conservation districts; to amend section 46-634.01, Reissue Revised Statutes of Nebraska, 1943, and Laws 1981, LB 81, section 5, as amended by Laws 1986, LB 124, section 3; to change the dissolution date of such districts; to change the date of the repeal of the Ground Water Conservation Act of Nebraska; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 35:

Abboud	Bernard-Stevens	Byars	Crosby	Elmer
Ashford	Beyer	Conway	Cudaback	Haberman
Baack		Coordsen	Dierks	Hefner

Johnson, L.	Lindsay	Pirsch	Schellpeper	Warner
Johnson, R.	Moore	Rasmussen	Schimek	Wickersham
Kristensen	Nelson	Robinson	Schmit	Will
Labedz	Peterson	Rogers	Schrock	Withem
Lamb				

Voting in the negative, 5:

Landis	Lynch	Morrissey	Smith	Wesely

Present and not voting, 4:

Beutler	Chambers	Hillman	Wehrbein

Excused and not voting, 5:

Chizek	Hall	Hartnett	Horgan	Robak

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 153.

A BILL FOR AN ACT relating to sheriffs; to eliminate a provision requiring the county clerk to serve as sheriff when there is a vacancy in the office of sheriff; and to repeal section 23-1712, Reissue Revised Statutes of Nebraska, 1943.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 44:

Abboud	Conway	Johnson, L.	Morrissey	Schmit
Ashford	Coordsen	Johnson, R.	Nelson	Schrock
Baack	Crosby	Kristensen	Peterson	Smith
Bernard-	Cudaback	Labedz	Pirsch	Warner
Stevens	Dierks	Lamb	Rasmussen	Wehrbein
Beutler	Elmer	Landis	Robinson	Wesely
Beyer	Haberman	Lindsay	Rogers	Wickersham
Byars	Hefner	Lynch	Schellpeper	Will
Chambers	Hillman	Moore	Schimek	Withem

Voting in the negative, 0.

Excused and not voting, 5:

Chizek	Hall	Hartnett	Horgan	Robak

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 220. With Emergency.

A BILL FOR AN ACT relating to the Clerk of the Legislature; to amend section 49-1485, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to the furnishing of statements filed by lobbyists and summaries of the statements; to repeal the original section; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 43:

Abboud	Conway	Johnson, R.	Nelson	Schrock
Ashford	Coordsen	Kristensen	Peterson	Smith
Baack	Crosby	Labedz	Pirsch	Warner
Bernard-Stevens	Dierks	Lamb	Rasmussen	Wehrbein
Beutler	Elmer	Landis	Robinson	Wesely
Beyer	Haberman	Lindsay	Rogers	Wickersham
Byars	Hefner	Lynch	Schellpeper	Will
Chambers	Hillman	Moore	Schimek	Withem
	Johnson, L.	Morrissey	Schmit	

Voting in the negative, 0.

Present and not voting, 1:

Cudaback

Excused and not voting, 5:

Chizek	Hall	Hartnett	Horgan	Robak

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

LEGISLATIVE BILL 239.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2703, Reissue Revised Statutes of Nebraska, 1943; to change a provision relating to the collection of sales tax by certain lessors as prescribed; to provide an operative date; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 43:

Abboud	Chizek	Hefner	Lynch	Schmit
Ashford	Conway	Hillman	Moore	Schrock
Baack	Coordsen	Johnson, L.	Morrissey	Smith
Bernard-Stevens	Crosby	Johnson, R.	Peterson	Warner
	Cudaback	Kristensen	Pirsch	Wehrbein
Beutler	Dierks	Labedz	Rasmussen	Wickersham
Beyer	Elmer	Lamb	Robinson	Will
Byars	Haberman	Landis	Rogers	Withem
Chambers	Hartnett	Lindsay	Schellpeper	

Voting in the negative, 0.

Present and not voting, 3:

Nelson	Schimek	Wesely

Excused and not voting, 3:

Hall	Horgan	Robak

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 259.

A BILL FOR AN ACT relating to county government; to amend section 23-114.01, Reissue Revised Statutes of Nebraska, 1943; to provide for compensation for members of county planning commissions; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 42:

Abboud	Chizek	Hillman	Moore	Schrock
Ashford	Conway	Johnson, L.	Morrissey	Smith
Baack	Coordsen	Johnson, R.	Nelson	Warner
Bernard-Stevens	Cudaback	Kristensen	Peterson	Wehrbein
Beutler	Dierks	Labedz	Rasmussen	Wesely
Beyer	Elmer	Lamb	Rogers	Wickersham
Byars	Haberman	Landis	Schellpeper	Will
Chambers	Hartnett	Lindsay	Schimek	Withem
	Hefner	Lynch		

Voting in the negative, 3:

Pirsch	Robinson	Schmit

Present and not voting, 1:

Crosby

Excused and not voting, 3:

Hall	Horgan	Robak

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 296. With Emergency.

A BILL FOR AN ACT relating to motor vehicles; to amend section 60-326.01, Reissue Revised Statutes of Nebraska, 1943; to change a provision relating to fees collected by the county treasurer for registration of certain motor vehicles; to repeal the original section; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 45:

Abboud	Coordsen	Johnson, L.	Morrissey	Schmit
Ashford	Crosby	Johnson, R.	Nelson	Schrock
Baack	Cudaback	Kristensen	Peterson	Smith
Bernard-Stevens	Dierks	Labedz	Pirsch	Warner
Beyer	Elmer	Lamb	Rasmussen	Wehrbein
Byars	Haberman	Landis	Robinson	Wesely
Chambers	Hartnett	Lindsay	Rogers	Wickersham
Chizek	Hefner	Lynch	Schellpeper	Will
Conway	Hillman	Moore	Schimek	Withem

Voting in the negative, 0.

Present and not voting, 1:

Beutler

Excused and not voting, 3:

Hall Horgan Robak

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

MOTION - Return LB 20 to Select File

Mr. Wesely withdrew his pending motion, found in the Journal on page 752, to return LB 20 to Select File for a specific amendment.

Mr. Coordsen moved to return LB 20 to Select File for the following specific amendment:
AM0389

(Amendments to Final Reading copy)

1. Strike section 2.

2. On page 1, line 2, strike ", 32-4,155,"; in line 4 strike "and filing"; in line 6 after the semicolon insert "to eliminate a provision relating to

certain filing restrictions;"; and in line 7 after "sections" insert ", and also section 32-4,155, Reissue Revised Statutes of Nebraska, 1943".

3. On page 2, strike lines 10 through 16 and show the old matter as stricken.

4. On page 4, line 16, strike the comma; in line 17 strike "32-4,155,"; and in line 18 after the second comma insert "and also section 32-4,155, Reissue Revised Statutes of Nebraska, 1943,".

5. Renumber the remaining sections accordingly.

Mr. Landis moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 29 ayes, 0 nays, and 20 not voting.

Mr. Coordsen requested a roll call vote on his motion to return LB 20 to Select File.

Voting in the affirmative, 26:

Abboud	Conway	Hall	Morrissey	Schellpeper
Ashford	Coordsen	Hillman	Nelson	Schimek
Baack	Dierks	Kristensen	Pirsch	Schmit
Byars	Elmer	Labedz	Rasmussen	Wickersham
Chambers	Haberman	Moore	Rogers	Will
Chizek				

Voting in the negative, 20:

Bernard-Stevens	Hartnett	Lamb	Peterson	Warner
Beutler	Hefner	Landis	Robinson	Wehrbein
Beyer	Horgan	Lindsay	Schrock	Wesely
Crosby	Johnson, L.	Lynch	Smith	Withem

Present and not voting, 2:

Cudaback Johnson, R.

Excused and not voting, 1:

Robak

The Coordsen motion to return prevailed with 26 ayes, 20 nays, 2 present and not voting, and 1 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 20. The Coordsen specific amendment, AM0389, found in this day's Journal, was considered.

SPEAKER BAACK PRESIDING

Mr. Abboud moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 28 ayes, 0 nays, and 21 not voting.

PRESIDENT MOUL PRESIDING

Mr. Coordsen requested a roll call vote on his amendment.

Voting in the affirmative, 24:

Abboud	Chizek	Hall	Moore	Schellpeper
Ashford	Conway	Hillman	Nelson	Schmit
Baack	Coordsen	Johnson, R.	Pirsch	Wickersham
Byars	Elmer	Labedz	Rasmussen	Will
Chambers	Haberman	Lynch	Rogers	

Voting in the negative, 24:

Bernard-Stevens	Cudaback	Johnson, L.	Morrissey	Smith
	Dierks	Kristensen	Peterson	Warner
Beutler	Hartnett	Lamb	Robinson	Wehrbein
Beyer	Hefner	Landis	Schimek	Wesely
Crosby	Horgan	Lindsay	Schrock	Withem

Excused and not voting, 1:

Robak

The Coordsen specific amendment lost with 24 ayes, 24 nays, and 1 excused and not voting.

Readvanced to Final Reading.

BILL ON FINAL READING

The following bill was read and put upon final passage:

LEGISLATIVE BILL 20. With Emergency.

A BILL FOR AN ACT relating to elective offices; to amend sections 32-425, 32-4,155, and 70-624.04, Reissue Revised Statutes of Nebraska, 1943; to change certain ballot and filing restrictions; to authorize holding of other elective office by certain directors; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 40:

Ashford	Dierks	Johnson, L.	Nelson	Schmit
Baack	Elmer	Johnson, R.	Peterson	Schrock
Bernard-Stevens	Haberman	Kristensen	Pirsch	Smith
Byars	Hall	Labedz	Rasmussen	Warner
Chizek	Hartnett	Lamb	Robinson	Wehrbein
Conway	Hefner	Lindsay	Rogers	Wickersham
Coordsen	Hillman	Moore	Schellpeper	Will
Cudaback	Horgan	Morrissey	Schimek	Withem

Voting in the negative, 7:

Abboud	Chambers	Landis	Lynch	Wesely
Beyer	Crosby			

Present and not voting, 1:

Beutler

Excused and not voting, 1:

Robak

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

UNANIMOUS CONSENT - Member Excused

Mr. Lynch asked unanimous consent to be excused until he returns. No objections. So ordered.

MOTION - Return LB 69 to Select File

Mr. Hefner moved to return LB 69 to Select File for the following specific amendment:
FA32
Strike the enacting clause.

Mr. Hefner withdrew his motion to return.

BILL ON FINAL READING

The following bill was read and put upon final passage:

LEGISLATIVE BILL 69.

A BILL FOR AN ACT relating to colleges and universities; to state intent; to prohibit certain acts by colleges and universities relating to certain financial aid; to provide duties for the Attorney General; to provide for remedies and applicability; and to provide an operative date.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 32:

Ashford	Conway	Kristensen	Rasmussen	Smith
Baack	Cudaback	Labedz	Robinson	Wehrbein
Bernard-Stevens	Dierks	Landis	Rogers	Wesely
	Hall	Lindsay	Schimek	Wickersham
Beutler	Hartnett	Morrissey	Schmit	Will
Chambers	Hillman	Nelson	Schrock	Withem
Chizek	Horgan	Pirsch		

Voting in the negative, 10:

Beyer	Elmer	Hefner	Lamb	Schellpeper
Coordsen	Haberman	Johnson, L.	Peterson	Warner

Present and not voting, 5:

Abboud Byars Crosby Johnson, R. Moore

Excused and not voting, 2:

Lynch Robak

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

MOTION - Bracket LB 88

Mr. Warner moved to bracket LB 88.

SPEAKER BAACK PRESIDING

Mr. Withem moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

The Warner motion to bracket lost with 14 ayes, 23 nays, 11 present and not voting, and 1 excused and not voting.

MOTION - Return LB 88 to Select File

Mrs. Pirsch moved to return LB 88 to Select File for the following specific amendment:
FA33
Strike the enacting clause.

Mrs. Pirsch withdrew her motion to return.

BILL ON FINAL READING

The following bill was read and put upon final passage:

LEGISLATIVE BILL 88.

A BILL FOR AN ACT relating to civil procedure; to provide for the treatment of contributory negligence in certain actions; to state intent; to define terms; to provide for joint and several liability, the

discharge of liability, and assumption of risk as prescribed; and to provide an operative date.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 30:

Abboud	Byars	Hartnett	Landis	Schimek
Ashford	Chambers	Hillman	Lindsay	Schmit
Baack	Chizek	Horgan	Lynch	Wesely
Bernard-Stevens	Conway	Johnson, R.	Morrissey	Wickersham
Beutler	Cudaback	Kristensen	Nelson	Will
Beyer	Hall	Labedz	Rasmussen	Withem

Voting in the negative, 16:

Coordsen	Hefner	Peterson	Rogers	Smith
Dierks	Johnson, L.	Pirsch	Schellpeper	Warner
Elmer	Moore	Robinson	Schrock	Wehrbein
Haberman				

Present and not voting, 2:

Crosby Lamb

Excused and not voting, 1:

Robak

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

UNANIMOUS CONSENT - Members Excused

Messrs. Haberman, Schmit, and Peterson asked unanimous consent to be excused. No objections. So ordered.

SELECT FILE

LEGISLATIVE BILL 233. E & R amendment, AM5027, found in the Journal on page 636, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 142. E & R amendment, AM5032, found in the Journal on page 708, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 128. Advanced to E & R for engrossment.
LEGISLATIVE BILL 264. Advanced to E & R for engrossment.

LEGISLATIVE BILL 25. E & R amendment, AM5036, found in the Journal on page 710, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 76. E & R amendment, AM5037, found in the Journal on page 710, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 178. Advanced to E & R for engrossment.

LEGISLATIVE BILL 114. E & R amendment, AM5039, found in the Journal on page 723, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 118. Advanced to E & R for engrossment.

NOTICE OF COMMITTEE HEARINGS
Judiciary

LB 108	Friday, March 1, 1991	1:30 p.m.
LB 263	Wednesday, March 6, 1991	1:30 p.m.
LB 405	Wednesday, March 6, 1991	1:30 p.m.
LB 530	Wednesday, March 6, 1991	1:30 p.m.
LB 555	Wednesday, March 6, 1991	1:30 p.m.
LB 596	Wednesday, March 6, 1991	1:30 p.m.
LB 671	Wednesday, March 6, 1991	1:30 p.m.
LB 775	Wednesday, March 6, 1991	1:30 p.m.
LB 407	Wednesday, March 6, 1991	1:30 p.m.

LB 216	Thursday, March 7, 1991	1:30 p.m.
LB 371	Thursday, March 7, 1991	1:30 p.m.
LB 413	Thursday, March 7, 1991	1:30 p.m.
LB 523	Thursday, March 7, 1991	1:30 p.m.
LB 649	Thursday, March 7, 1991	1:30 p.m.
LB 815	Thursday, March 7, 1991	1:30 p.m.
LB 816	Thursday, March 7, 1991	1:30 p.m.
LB 28	Wednesday, March 13, 1991	1:30 p.m.
LB 163	Wednesday, March 13, 1991	1:30 p.m.
LB 187	Wednesday, March 13, 1991	1:30 p.m.
LB 566	Wednesday, March 13, 1991	1:30 p.m.
LB 568	Wednesday, March 13, 1991	1:30 p.m.
LB 812	Wednesday, March 13, 1991	1:30 p.m.
LB 111	Thursday, March 14, 1991	1:30 p.m.
LB 152	Thursday, March 14, 1991	1:30 p.m.
LB 621	Thursday, March 14, 1991	1:30 p.m.
LB 691	Thursday, March 14, 1991	1:30 p.m.
LB 821	Thursday, March 14, 1991	1:30 p.m.

(Signed) Jerry Chizek, Chairperson

MESSAGES FROM THE GOVERNOR

February 20, 1991

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Madam President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Nebraska Boiler Safety Code Advisory Board, requiring legislative approval.

Appointee: Ray Otter, 11510 Ruggles Street, Omaha, NE 68124, (402) 496-2879 h, (402) 345-3223 w.

This appointment is respectfully submitted for your consideration.

Sincerely,

(Signed) E. Benjamin Nelson
Governor

EBN:fc

February 20, 1991

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Madam President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Nebraska Environmental Control Council, requiring legislative approval.

Appointee: Lou Lamberty, 320 N 68th St., Omaha, NE 68132, (402) 558-5820 h, (402) 444-5225 w.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:fc

February 20, 1991

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Madam President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Nebraska School Restructuring Commission, requiring legislative approval.

Appointee: Senator David Bernard-Stevens, State Capitol, Lincoln, NE 68509.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:fc

February 20, 1991

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Madam President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Nebraska School Restructuring Commission, requiring legislative approval.

Appointee: Marshall Faith, 10315 Rockbrook Road, Omaha, NE 68124, (402) 342-3500.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:fc

February 20, 1991

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Madam President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Nebraska State Electrical Board, requiring legislative approval.

Appointee: Ted Stutheit, 10840 Cromwell Drive, Lincoln, NE 68516, (402) 423-6325.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:fc

February 20, 1991

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Madam President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Nebraska Power Review Board, requiring legislative approval.

Appointee: Jack Crowley, 401 Lochland Rd., Hastings, NE 68901, (402) 462-8289 h, (402) 462-4000 w.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:fc

February 20, 1991

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Madam President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Nebraska State Electrical Board, requiring legislative approval.

Appointee: Sterling "Sam" Johnson, 1809 Sixth St., Columbus, NE 68601, (402) 564-8320 h, (402) 564-6725 w.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:fc

February 20, 1991

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Madam President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Nebraska Foster Care Review Board, requiring legislative approval.

Appointee: Nancy Thompson, 1000 Perry St., Papillion, NE 68128, (402) 331-7226 h, (402) 346-5151 w.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:fc

February 20, 1991

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Madam President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Nebraska Public Employees Retirement Board, requiring legislative approval.

Appointee: Judge Harry Spencer, 1500 Crestview Dr., Lincoln, NE 68506, (402) 489-4949.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:fc

February 20, 1991

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Madam President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Nebraska Public Employees Retirement Board, requiring legislative approval.

Appointee: Robert Corner, 5500 Melrose, Lincoln, NE 68506, (402) 488-8673 h, (402) 471-2516 w.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:fc

February 20, 1991

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Madam President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Nebraska Board of Educational Lands & Funds, requiring legislative approval.

Appointee: Wilbur "Doc" Kloepping, 1705 H Avenue, Cozad, NE, (308) 784-3078.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:fc

February 20, 1991

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Madam President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Nebraska School Restructuring Commission, requiring legislative approval.

Appointee: Eugene Armstrong, Principal, Grand Island Senior High School, 2124 N. Lafayette, Grand Island, NE 68803, (308) 381-5951 w, (308) 384-8595.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:fc

February 20, 1991

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol Building

Lincoln, Nebraska 68509

Dear Madam President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Nebraska School Restructuring Commission, requiring legislative approval.

Appointee: Dr. Alfred Arth, UNL Teachers College, Rm. 65 Henzlik Hall, Lincoln, NE 68588-0353, (402) 472-2013.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:fc

February 20, 1991

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Madam President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Nebraska School Restructuring Commission, requiring legislative approval.

Appointee: Jim Kubik, Norfolk Senior High School, 801 Riverside Blvd., Norfolk, NE 68701, (402) 371-0952.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:fc

RESOLUTION

LEGISLATIVE RESOLUTION 30. Introduced by Rogers, 41.

WHEREAS, the North Loup Division, Pick-Sloan Missouri Basin Program, Nebraska, also known as the Twin Loup Project, has been in existence for forty years and will provide irrigation and recreation in north-central Nebraska; and

WHEREAS, this project has had the support of four previous Nebraska Governors and is supported by Governor E. Benjamin Nelson; and

WHEREAS, the project is presently about eighty percent completed and the remaining twenty percent will be developed as soon as possible; and

WHEREAS, the remaining money is crucially needed to finish the project and to store and use precious surface water; and

WHEREAS, President Bush's budget for FY1991-92 appropriated $21,350,000 needed to continue the project; and

WHEREAS, the majority of the cost of the project has already been expended to build the Calamus Dam and irrigation project.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Nebraska Legislature supports the Twin Loup Project.

2. That the Nebraska Legislature urges the respective subcommittees on Energy and Water Development of the Appropriations Committees of the United States Senate and House of Representatives to appropriate sufficient funds in FY1991-92 to continue and complete the Calamus Dam project.

That copies of this resolution be transmitted to Representative William E. Barrett and be presented to the respective Appropriations Committees of the United States Senate and House of Representatives.

Laid over.

MOTION - Place LB 699 on General File

Mrs. Rasmussen moved that LB 699 be placed on General File notwithstanding the action of the Education Committee.

Laid over.

STANDING COMMITTEE REPORTS
Revenue

LEGISLATIVE BILL 83. Placed on General File.

LEGISLATIVE BILL 520. Placed on General File.

LEGISLATIVE BILL 569. Placed on General File as amended.
Standing Committee amendment to LB 569:
AM0372

1. Strike the original sections and insert the following new sections:

"Section 1. That sections 77-2715.08 and 77-2715.09, Reissue Revised Statutes of Nebraska, 1943, are repealed.

Sec. 2. This act shall become operative for all taxable years beginning or deemed to begin on or after January 1, 1992, under the Internal Revenue Code of 1986, as amended.".

LEGISLATIVE BILL 665. Indefinitely postponed.
LEGISLATIVE BILL 683. Indefinitely postponed.
LEGISLATIVE BILL 712. Indefinitely postponed.

(Signed) Tim Hall, Chairperson

Urban Affairs

LEGISLATIVE BILL 415. Placed on General File as amended.
Standing Committee amendment to LB 415:
AM0279

1. Strike the original section and insert the following new sections:

"Section 1. That section 16-722, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

16-722. The mayor and council shall cause to be published semiannually a statement of the receipts of the city ~~and the sources thereof~~ and an itemized account of the expenditures ~~and the financial condition~~ of the city.

Sec. 2. That section 19-1101, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

19-1101. It shall be the duty of the treasurer of each village or city having a population of not more than ~~forty~~ one hundred thousand to prepare and publish annually within sixty days following the close of its municipal fiscal year a statement of the receipts

and expenditures by funds of ~~said~~ the village or city for the preceding fiscal year. Not more than the legal rate provided for in section 33-141 shall be charged and paid for such publication.

Sec. 3. That section 19-1102, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

19-1102. It shall be the duty of ~~every~~ each village or city clerk in every village or city having a population of not more than ~~forty~~ one hundred thousand to prepare and publish the official proceedings of the village or city board, council, or commission within thirty days from any ~~meetings~~ meeting of ~~said~~ the board, council, or commission. The ~~, which~~ publication shall be in a newspaper of general circulation in the village or city and shall set forth a statement of the proceedings ~~thereof~~ and ~~shall~~ also include the amount of each claim allowed, the purpose of the claim, and the name of the claimant, except that the aggregate amount of all payroll claims may be included as one item. ~~, in a newspaper of general circulation in the city or village.~~ Between July 15 and August 15 of each year, the names of all employees and their current annual, monthly, or hourly salaries shall be published. Any ~~and any~~ changes in salaries or the hiring of new employees during the calendar quarter preceding the months of October, January, and April shall be published during the months of November, February, and May. The charge for ~~said~~ such publication shall not exceed the rates provided ~~by law for the publication of proceedings of county boards~~ for in section 23-122.

Sec. 4. That original sections 16-722, 19-1101, and 19-1102, Reissue Revised Statutes of Nebraska, 1943, are repealed.".

(Signed) D. Paul Hartnett, Chairperson

Natural Resources

LEGISLATIVE BILL 669. Placed on General File as amended.
Standing Committee amendment to LB 669:
AM0373

1. Strike the original sections and insert the following new sections:

"Section 1. That section 69-2001, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

69-2001. Sections 69-2001 to 69-2012 and sections 3 and 4 of this act shall be known and may be cited as the Degradable Products Act.

Sec. 2. That section 69-2002, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

69-2002. For purposes of the Degradable Products Act, the definitions found in sections 69-2003 to 69-2007 and sections 3 and 4 of this act shall be used.

Sec. 3. Compostable shall mean materials, products, or packaging capable of undergoing physical, chemical, or thermal or biological degradation in a solid waste composting facility such that the materials, products, or packaging will be converted to soil-like materials which may be returned to the environment without adverse impact.

Sec. 4. Composting shall mean a physical and biological process that can cause organic waste to break down into humus-like material.

Sec. 5. That section 69-2011, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

69-2011. On and after October 1, 1993, a person shall not sell or offer for sale at retail any disposable diaper which is constructed of a material which is not compostable, biodegradable, or photodegradable or any disposable diaper which cannot be composted in a solid waste composting facility if the Director of Environmental Control determines that compostable, biodegradable, or photodegradable disposable diapers or disposable diapers which can be composted in a solid waste composting facility are readily available at a comparable price and quality. The determination of quality shall include a study of the environmental impact and fate of such disposable diapers. The director shall issue his or her determination to the Legislature on or before October 1, 1992. For purposes of this section (1) readily available shall mean available for purchase in sufficient quantities to meet demand through usual

retail channels throughout the state and (2) comparable price and quality shall mean at a cost not in excess of five percent above the average price for products of comparable quality which are not compostable, biodegradable, or photodegradable or which cannot be composted in solid waste composting facilities.

Sec. 6. That original sections 69-2001, 69-2002, and 69-2011, Reissue Revised Statutes of Nebraska, 1943, are repealed.".

(Signed) Rod Johnson, Chairperson

UNANIMOUS CONSENT - Print in Journal

Mr. Hall asked unanimous consent to print the following amendment to LB 354 in the Journal. No objections. So ordered.

AM0398

1. Insert the following new section:

"Sec. 3. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.".

Messrs. Landis and Beutler asked unanimous consent to print the following amendment to LB 235 in the Journal. No objections. So ordered.

AM0400

1. On page 35, line 10, after "business" insert ", including issuing insured closing letters issued incidental to a title insurance policy. For purposes of this section, insured closing letter shall mean an instrument, approved by the director as to form and content, which provides that the title insurer assumes liability for loss due to the fraud of, dishonesty of, misappropriation of funds by, or failure to comply with written closing instructions by its agents, attorneys, or other employees in connection with a real property transaction for which a title insurance policy is to be issued by the title insurer. The issuance of an insured closing letter incidental to the issuance of a title insurance policy shall not constitute the transaction of other kinds of insurance for purposes of section 44-201".

Mr. Landis asked unanimous consent to print the following amendment to LB 236 in the Journal. No objections. So ordered.

AM0375

1. On page 33, strike beginning with "and" in line 2 through "insurer" in line 4 and insert "which is a member of an insurance holding company system"; and strike beginning with "or" in line 11 through line 25 and insert an underscored period and the following new subsection:

"(4) Subsection (3) of this section shall not apply to a domestic insurer if the person controlling such insurer has a board of directors that meets the requirements of such subsection.".

2. On page 34, strike lines 1 through 9.

Mr. Landis asked unanimous consent to print the following amendment to LB 236 in the Journal. No objections. So ordered.

AM0403

1. Insert the following new section:

"Sec. 35. That section 44-211, Revised Statutes Supplement, 1990, be amended to read as follows:

44-211. The business and affairs of an insurance corporation shall be managed by the incorporators until the first meeting of shareholders or members and then and thereafter by a board of directors elected by the shareholders or members and as otherwise provided by law. The board of directors shall consist of not less than five nor more than twenty-one persons, and one of them shall be a resident of the State of Nebraska. Not less than one-third of the directors of an insurance company which is not subject to section 15 of this act shall be persons who are not officers or employees of such company. A person convicted of a felony may not be a director, and all directors shall be of good moral character and known professional, administrative, or business ability, such business ability to include a practical knowledge of insurance, finance, or investment. No person shall hold the office of director unless he or she is a policyholder if the company is a mutual company or assessment association.

Unless otherwise provided in the articles of incorporation, the board of directors shall make all bylaws.".

2. On page 62, line 14, strike "55" and insert "56".

3. On page 154, line 10, after "sections" insert "44-211,".

4. Renumber the remaining sections accordingly.

Mr. Landis asked unanimous consent to print the following amendment to LB 237 in the Journal. No objections. So ordered.

AM0391

1. Insert the following new section:

"Sec. 59. That section 44-320, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-320. ~~No~~ (1) Except as provided in subsections (2) through (6) of this section, no director or officer of any domestic insurance company ~~doing business under this chapter~~ shall directly or indirectly receive any money or valuable consideration for negotiating any loan for ~~any such~~ the company or for selling or aiding in the sale of any property to or by the company ~~nor shall~~ and no such director or officer shall directly or indirectly borrow money from, purchase ~~or buy~~ any property from, or sell any property to ~~such corporation, except that a~~ the company.

(2)(a) Nothing in this section shall prevent any domestic insurance company ~~may make~~ from making a loan to an officer of ~~such~~ the company for the purchase of a principal residence or ~~may acquire~~ acquiring the principal residence of an officer in connection with the relocation of the officer's place of employment at the request of the company either during the course of employment or upon initial employment of such officer. Any loan permitted under this ~~section~~ subsection shall be secured by a first trust deed or first mortgage and shall not exceed seventy-five percent of the fair market value of the property. Any acquisition permitted under this ~~section~~ subsection shall not exceed the fair market value of the property.

(b) For purposes of this ~~section~~ subsection,

fair market value shall mean the market value of real estate as determined by a licensed real estate appraiser who is recognized as a Member of the Appraisal Institute, a Residential Member by the American Institute of Real Estate Appraisers, a Senior Real Estate Analyst, a Senior Real Property Appraiser, or a Senior Residential Appraiser by the Society of Real Estate Appraisers, or an American Society Appraiser by the American Society of Appraisers.

(c) Any loan or acquisition permitted under this ~~section~~ subsection shall be subject to ~~(1)~~ (i) the approval of the domestic insurance company's board of directors or a delegated committee of the company and ~~(2)~~ (ii) prior written approval of the Director of Insurance based upon written application by the company including full and fair disclosure of the terms of the transaction. Approval of such transaction by the Director of Insurance shall be presumed unless notice of disapproval is received by the applicant within thirty days of the filing of the application. Approval of such transaction may be denied if the director finds that it is not in the best interest of the company or that the terms of the transaction are not fair and reasonable to the company.

(3) Nothing in this section shall prevent any director or officer of any domestic insurance company from purchasing from his or her company an insurance policy or annuity contract if (a) the purchase is in the ordinary course of the company's business and subject to all of the requirements normally imposed by the company in the sale of such policies and contracts and (b) no discount granted to the director or officer in connection with the purchase is greater than discounts provided to other employees of the company in connection with the sale of similar policies and contracts.

(4) Nothing in this section shall prevent any director or officer of any domestic insurance company from purchasing from his or her company surplus personal property having a total purchase price not in excess of ten thousand dollars in any calendar year if the personal property is sold to the director or officer at not less than its fair market value.

(5) Nothing in this section shall prevent any director or officer of any domestic insurance company

from selling to his or her company property of any type or nature having a total purchase price not in excess of ten thousand dollars in any calendar year if the sale is in the ordinary course of business of the director's or officer's business and if the property is sold to the company at not more than its fair market value.

(6) Except as otherwise provided in this section, if any director or officer of any domestic insurance company desires to borrow money from, purchase any property from, or sell any property to the company in excess of ten thousand dollars in any calendar year, the company shall file an application with the Director of Insurance requesting written approval to engage in such transaction. The application shall set out the names of all of the parties interested in the transaction and the respective percentage of interest of each party, a brief description of the nature of the transaction, and a full disclosure of all consideration given or received by the company in connection with such transaction. The application shall be a public record open to public inspection from the date of filing. If the transaction is not approved or disapproved by the director within thirty days from the date of filing the transaction shall be deemed disapproved. In determining whether to approve or disapprove such transaction, the director shall consider the following factors:

(a)(i) The fact that the transaction has been disclosed or made known to the board of directors of the company or a delegated committee of the company which must authorize approval or ratify the transaction by a vote or consent sufficient for the purpose without counting the vote or consent of any interested director or officer; and

(ii) If applicable, the fact of such transaction has been disclosed or made known to the shareholders entitled to vote and they authorize approval or ratify such transaction by vote or written consent; or

(b)(i) The transaction is fair and reasonable to the company; and

(ii) The transaction is of a nature normally engaged in by the company and the consideration is fair and reasonable.

(7) The Director of Insurance may proceed in a

court of competent jurisdiction against a domestic insurance company to reverse or hold invalid a transaction made in violation of subsection (6) of this section unless the transaction was approved pursuant to such subsection.

(8) In addition to other remedies and penalties available under the law of this state, each violation of this section shall be an unfair or deceptive act or practice in the business of insurance subject to sections 44-1522 to 44-1535.".

2. On page 5, line 25, strike "except that" and insert "and".

3. On page 6, line 2, strike "may" and insert "shall"; and in line 3 strike "in the discretion of the director" and insert "unless the director notifies such insurer that any such investment will not be recognized by him or her as an authorized investment for purposes of the act".

4. On page 17, lines 1, 7, 13, and 19, strike "unsecured".

5. On page 74, line 20, after the second comma insert "44-320,".

6. Renumber remaining sections accordingly.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following bills: 81, 113, 117, 122, 137, 153, 220, 239, 259, 296, 20, 69, and 88.

VISITORS

Visitors to the Chamber were 22 students and teacher from West Point Central Catholic, West Point; 125 students and teacher from Burke High School, Omaha; 19 Young Democrats from Wayne State; Senator Will's nephew, brother, and sister-in-law, Andrew, Don, and Michele Hotz; Senator Schellpeper's daughter and son-in-law, Greg and Nancy Morfeld, and grandchildren, Brandon, Alicia, David, and Christina from Stanton.

The Doctor of the Day was Dr. Clarence Davis from Osceola.

ADJOURNMENT

At 11:52 a.m., on a motion by Mr. Hall, the Legislature adjourned until 9:00 a.m., Monday, February 25, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

THIRTY-FIRST DAY - FEBRUARY 25, 1991

LEGISLATIVE JOURNAL

THIRTY-FIRST DAY - FEBRUARY 25, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

THIRTY-FIRST DAY

Legislative Chamber, Lincoln, Nebraska
Monday, February 25, 1991

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Moul presiding.

PRAYER

The prayer was offered by John P. Smeltzer, Associate Minister, First-Plymouth Congregational Church, Lincoln, Nebraska.

ROLL CALL

The roll was called and all members were present except Messrs. Chizek and Schellpeper who were excused; and Messrs. Abboud, Ashford, Conway, Hall, Hartnett, Lindsay, Lynch, Morrissey, Robinson, Schmit, Mmes. Nelson, Pirsch, Rasmussen, and Ms. Schimek who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Thirtieth Day was approved.

PRESENTED TO THE GOVERNOR

Presented to the Governor on February 22, 1991, at 12:20 p.m., were the following bills: 81, 113, 117, 122, 137, 153, 220, 239, 259, 296, 20, 69, and 88.

(Signed) Pam Moravec, Enrolling Clerk

RESOLUTION

LEGISLATIVE RESOLUTION 30. Read. Considered.

LR 30 was adopted with 26 ayes, 0 nays, and 23 not voting.

GENERAL FILE

LEGISLATIVE BILL 57A. Title read. Considered.

Mrs. Smith moved for a call of the house. The motion prevailed with 26 ayes, 0 nays, and 23 not voting.

Mr. Haberman requested a roll call vote on the advancement of the bill.

Voting in the affirmative, 22:

Baack	Coordsen	Labedz	Schimek	Wesely
Beutler	Crosby	Landis	Schmit	Wickersham
Byars	Cudaback	Nelson	Smith	Will
Chambers	Dierks	Robak	Warner	Withem
Conway	Kristensen			

Voting in the negative, 11:

Bernard-Stevens	Hefner	Johnson, L.	Moore	Rogers
	Hillman	Lamb	Peterson	Wehrbein
Haberman	Horgan			

Present and not voting, 4:

Beyer	Elmer	Johnson, R.	Schrock

Excused and not voting, 12:

Abboud	Hall	Lynch	Pirsch	Robinson
Ashford	Hartnett	Morrissey	Rasmussen	Schellpeper
Chizek	Lindsay			

Failed to advance to E & R for review with 22 ayes, 11 nays, 4 present and not voting, and 12 excused and not voting.

The Chair declared the call raised.

LEGISLATIVE BILL 114A. Title read. Considered.

Advanced to E & R for review with 25 ayes, 0 nays, 12 present and not voting, and 12 excused and not voting.

LEGISLATIVE BILL 209A. Title read. Considered.

Advanced to E & R for review with 27 ayes, 0 nays, 11 present and not voting, and 11 excused and not voting.

LEGISLATIVE BILL 313. The pending Standing Committee amendment, AM0113, found in the Journal on page 503 and considered on page 691, was renewed.

Mr. Landis renewed his pending amendment, FA29, found in the Journal on page 691, to the pending Standing Committee amendment.

Mr. Conway moved for a call of the house. The motion prevailed with 24 ayes, 0 nays, and 25 not voting.

Mr. Conway requested a roll call vote on the Landis amendment.

Voting in the affirmative, 17:

Beutler	Dierks	Kristensen	Nelson	Schimek
Beyer	Hall	Landis	Pirsch	Wesely
Chambers	Hillman	Morrissey	Robak	Will
Cudaback	Horgan			

Voting in the negative, 23:

Baack	Coordsen	Johnson, R.	Peterson	Smith
Bernard-Stevens	Crosby	Labedz	Robinson	Warner
Byars	Haberman	Lamb	Rogers	Wehrbein
Conway	Hefner	Lynch	Schmit	Withem
	Johnson, L.	Moore	Schrock	

Present and not voting, 3:

Elmer	Rasmussen	Wickersham

Excused and not voting, 6:

Abboud Chizek Hartnett Lindsay Schellpeper
Ashford

The Landis amendment lost with 17 ayes, 23 nays, 3 present and not voting, and 6 excused and not voting.

The Chair declared the call raised.

Mrs. Smith offered the following amendment to the pending Standing Committee amendment:
FA34
Sec. 4 line 24
Change shall to may

The Smith amendment was adopted with 33 ayes, 0 nays, 10 present and not voting, and 6 excused and not voting.

The Standing Committee amendment, as amended, was adopted with 35 ayes, 0 nays, 8 present and not voting, and 6 excused and not voting.

Advanced to E & R for review with 28 ayes, 0 nays, 15 present and not voting, and 6 excused and not voting.

LEGISLATIVE BILL 100. Title read. Considered.

Advanced to E & R for review with 29 ayes, 0 nays, 14 present and not voting, and 6 excused and not voting.

LEGISLATIVE BILL 344. Title read. Considered.

Standing Committee amendment, AM0082, found in the Journal on page 504, was adopted with 26 ayes, 0 nays, 18 present and not voting, and 5 excused and not voting.

Mrs. Smith renewed her pending amendment, AM0289, found in the Journal on page 718.

The Smith amendment was adopted with 25 ayes, 0 nays, 19 present and not voting, and 5 excused and not voting.

Advanced to E & R for review with 27 ayes, 0 nays, 19 present and not voting, and 3 excused and not voting.

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following resolution: LR 29.

GENERAL FILE

LEGISLATIVE BILL 67. Title read. Considered.

Standing Committee amendment, AM0107, found in the Journal on page 504, was considered.

Mr. Lamb offered the following amendment to the Standing Committee amendment:
FA35
pg 1 line 21
after "landfills" insert "which have been identified by the department as constituting a threat to water supplies and"

Mr. Schmit asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Lamb moved for a call of the house. The motion prevailed with 27 ayes, 0 nays, and 22 not voting.

Mr. Lamb requested a roll call vote on his amendment.

Voting in the affirmative, 22:

Baack	Crosby	Hefner	Peterson	Schrock
Bernard-Stevens	Cudaback	Johnson, L.	Pirsch	Smith
Byars	Dierks	Labedz	Rogers	Wehrbein
Coordsen	Elmer	Lamb	Schmit	Wickersham
	Haberman	Nelson		

Voting in the negative, 21:

Ashford	Hartnett	Kristensen	Rasmussen	Warner
Beutler	Hillman	Landis	Robak	Wesely
Beyer	Horgan	Lindsay	Robinson	Will
Chambers	Johnson, R.	Morrissey	Schimek	Withem
Hall				

Present and not voting, 3:

Conway Lynch Moore

Excused and not voting, 3:

Abboud Chizek Schellpeper

The Lamb amendment was adopted with 22 ayes, 21 nays, 3 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Messrs. Hall and Haberman asked unanimous consent to be excused. No objections. So ordered.

Mr. Beutler offered the following amendment to the Standing Committee amendment:
FA36
In the Lamb amendment (FA35) to the committee amendment:
After the words "threat to" insert the words "people directly or indirectly or"

Mrs. Smith asked unanimous consent to be excused. No objections. So ordered.

SPEAKER BAACK PRESIDING

Mr. Schmit asked unanimous consent to be excused. No objections. So ordered.

The Beutler amendment was adopted with 22 ayes, 0 nays, 20 present and not voting, and 7 excused and not voting.

Pending.

STANDING COMMITTEE REPORTS
Government, Military and Veterans Affairs

LEGISLATIVE BILL 493. Placed on General File.

LEGISLATIVE BILL 465. Placed on General File as amended.
Standing Committee amendment to LB 465:
AM0374
1 1. On page 17, line 3, strike "<u>one hundred</u>"

2 and reinstate "twenty-five".

LEGISLATIVE BILL 579. Placed on General File as amended.
(Standing Committee amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM0309.)

LEGISLATIVE BILL 127. Indefinitely postponed.
LEGISLATIVE BILL 432. Indefinitely postponed.
LEGISLATIVE BILL 793. Indefinitely postponed.

LEGISLATIVE RESOLUTION 13CA. Indefinitely postponed.
LEGISLATIVE RESOLUTION 14CA. Indefinitely postponed.

(Signed) Gerald Conway, Chairperson

Banking, Commerce and Insurance

LEGISLATIVE BILL 203. Placed on General File as amended.
(Standing Committee amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM0383.)

(Signed) David Landis, Chairperson

SELECT COMMITTEE REPORT
Enrollment and Review

LEGISLATIVE BILL 237. Placed on Select File as amended.
E & R amendment to LB 237:
AM5040

1. On page 1, line 10, after the first semicolon insert "to eliminate provisions relating to investments and domestic assessment associations;" and strike the second "to"; and strike line 11.

2. On page 11, line 10, after "44-107.01" insert an underscored comma.

3. On page 12, line 7 and 15; and page 13, lines 5, 15, 17, and 25, after "Inc." insert an underscored comma.

4. On page 20, line 24, strike "on" and insert "one".

5. On page 28, line 14, strike "whose" and insert "the"; and in line 15 after "obligations" insert "of which".

6. On page 29, line 7, strike "operative" and

insert "operating"; and in line 15 strike "whose" and insert "the" and after "obligations" insert "of which".

7. On page 38, line 15, strike the comma and after "therewith" insert an underscored comma.

8. On page 39, line 6, after "assets" insert an underscored comma.

9. On page 43, line 11, strike "whose" and insert "the"; and in line 12 after "obligations" insert "of which".

10. On page 48, line 18, strike "of" and insert "in".

11. On page 51, line 5, strike "subsections" and insert "subsection"; and in line 7 strike "agents" and insert "agents' ".

12. On page 61, line 13, strike "herein" and show as stricken.

(Signed) Eric Will, Chairperson

MESSAGES FROM THE GOVERNOR

February 22, 1991

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Madam President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Nebraska State Personnel Board, requiring legislative approval.

Appointee: Tom Sams, 3606 13th Ave, Kearney, NE 68847, (308) 234-5256, (308) 234-7582.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:fc

February 22, 1991

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Madam President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Nebraska State Parole Board, requiring legislative approval.

Appointee: Marlene Cupp, 1126 F #1, Lincoln, NE 68508, (402) 477-2641.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:fc

February 22, 1991

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Madam President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Nebraska State Parole Board, requiring legislative approval.

Appointee: Michael D. McLaughlin, 1903 "W" St., Omaha, NE 68107, (402) 733-2776, (402) 471-9121.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:fc

February 22, 1991

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Madam President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Nebraska Investment Council, requiring legislative approval.

Appointee: L. H. "Rick" Kolkman, 2121 Leota, North Platte, NE 69101, (308) 534-3617, (308) 532-1000.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:fc

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 724A. Introduced by Crosby, 29; Horgan, 4.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 724, Ninety-second Legislature, First Session, 1991.

EXPLANATION OF VOTE

Had I been present, I would have voted aye on LB 88.

(Signed) Jennie Robak

UNANIMOUS CONSENT - Print in Journal

Mr. Withem asked unanimous consent to print the following amendment to LB 795 in the Journal. No objections. So ordered.

AM0378
(Amendments to Standing Committee amendments, AM0199)
1. On page 2, line 1, strike "within a city or village".

Mr. Withem asked unanimous consent to print the following amendment to LB 232 in the Journal. No objections. So ordered.

AM0315
(Amendments to Standing Committee amendments, AM0137)
1. On page 1, line 1, strike "section" and insert "sections".
2. Insert the following new section:
"Sec. 12. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.".

UNANIMOUS CONSENT - Add Co-Introducers

Mr. Lindsay asked unanimous consent to have his name added as co-introducer to LB 247 and LB 523. No objections. So ordered.

Mr. Lynch asked unanimous consent to have his name added as co-introducer to LB 100. No objections. So ordered.

VISITORS

Visitors to the Chamber were Lynn Black and Eric Jones; Senator Lucy Killea and Craig Reynolds from San Diego, California; and Dr. Harold Koch and Gary Schmucker from Gering.

The Doctor of the Day was Dr. Kristi Johnson from Lincoln.

ADJOURNMENT

At 12:03 p.m., on a motion by Mr. Kristensen, the Legislature adjourned until 9:00 a.m., Tuesday, February 26, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

THIRTY-SECOND DAY - FEBRUARY 26, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

THIRTY-SECOND DAY

Legislative Chamber, Lincoln, Nebraska
Tuesday, February 26, 1991

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Moul presiding.

PRAYER

The prayer was offered by Rev. Harland Johnson, Chaplain Coordinator.

ROLL CALL

The roll was called and all members were present except Messrs. Chambers, Coordsen, Dierks, Hall, Hartnett, Horgan, Landis, Lindsay, Moore, Morrissey, Schmit, Warner, Mmes. Labedz, and Smith who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Thirty-First Day was approved.

SELECT COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 114A. Placed on Select File.
LEGISLATIVE BILL 209A. Placed on Select File.

Correctly Engrossed

The following bills were correctly engrossed: 25, 76, 114, 118, 128, 142, 178, 233, and 264.

(Signed) Eric Will, Chairperson

Enrollment and Review Change to LB 76

The following changes, required to be reported for publication in the Journal, have been made:
ER7007

1. On page 1, line 5, "; and to repeal the original section" has been inserted after "prescribed".

Enrollment and Review Change to LB 233

The following changes, required to be reported for publication in the Journal, have been made:
ER7008

1. On page 1, line 7, "to eliminate exemptions to a filing requirement;" has been inserted after the second semicolon.
2. On page 15, line 20, "provided by section 20 of this act" has been inserted after "period".
3. On page 26, line 5, "are" has been struck and "shall be" inserted.

(Signed) Mary E. Sommermeyer
E & R Attorney

MESSAGE FROM THE GOVERNOR

February 25, 1991

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol
Lincoln, Nebraska 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 23, 58, 82, 95, 37, 135, 147, 32, 40, and 404 were received in my office on February 21, 1991.

These bills were signed by me on February 25, 1991, and delivered to the Secretary of State.

Sincerely,
(Signed) E. Benjamin Nelson

Governor

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following resolution: LR 30.

MOTION - Return LB 36 to Select File

Mr. Beutler moved to return LB 36 to Select File for the following specific amendment:
FA37

Sec. 8 (1) (add at end) At such time as the decision to sell or to retain is made, any locked trunk, valise, box or other container shall be opened, if practicable, with as little damage as possible, and its contents evaluated.

Sec. 8 (3) strike line 20 page 11 beginning with the word "except" and strike lines 21 through 24.

The Beutler motion to return prevailed with 31 ayes, 0 nays, 7 present and not voting, and 11 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 36. The Beutler specific amendment, FA37, found in this day's Journal, was adopted with 36 ayes, 0 nays, 2 present and not voting, and 11 excused and not voting.

Advanced to E & R for re-engrossment.

BILLS ON FINAL READING

The following bills were read and put upon final passage:

LEGISLATIVE BILL 47.

A BILL FOR AN ACT relating to motor vehicles; to amend sections 60-130, 60-315, 60-320, 60-320.01, 60-1411.02, and 77-2703, Reissue Revised Statutes of Nebraska, 1943, and section 60-106, Revised Statutes Supplement, 1990; to extend the time to apply for a certificate of title and during which certain vehicles may be operated without registration; to harmonize provisions; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 39:

Abboud	Chizek	Johnson, L.	Peterson	Schmit
Ashford	Conway	Johnson, R.	Pirsch	Schrock
Baack	Crosby	Kristensen	Rasmussen	Smith
Bernard-Stevens	Cudaback	Lamb	Robak	Wehrbein
Beutler	Elmer	Lynch	Robinson	Wesely
Beyer	Haberman	Moore	Rogers	Wickersham
Byars	Hefner	Morrissey	Schellpeper	Will
	Hillman	Nelson	Schimek	Withem

Voting in the negative, 0.

Excused and not voting, 10:

Chambers	Dierks	Hartnett	Labedz	Lindsay
Coordsen	Hall	Horgan	Landis	Warner

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 124.

A BILL FOR AN ACT relating to liquor; to amend section 53-184, Reissue Revised Statutes of Nebraska, 1943; to authorize the refilling of original packages for private use; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 39:

Abboud	Byars	Hefner	Lynch	Robinson
Ashford	Chizek	Hillman	Moore	Rogers
Baack	Conway	Johnson, L.	Morrissey	Schellpeper
Bernard-Stevens	Crosby	Johnson, R.	Nelson	Schimek
Beutler	Cudaback	Kristensen	Peterson	Schmit
Beyer	Elmer	Lamb	Pirsch	Schrock
	Haberman	Landis	Robak	Smith

Wehrbein	Wesely	Wickersham	Will	Withem

Voting in the negative, 0.

Present and not voting, 1:

Rasmussen

Excused and not voting, 9:

Chambers	Dierks	Hartnett	Labedz	Warner
Coordsen	Hall	Horgan	Lindsay	

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 171.

A BILL FOR AN ACT relating to the Nebraska Motor Vehicle Industry Licensing Board; to amend section 60-1407.01, Revised Statutes Supplement, 1990; to require liability insurance and workers compensation coverage by licensees as prescribed; to provide for revocation of licenses; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 38:

Abboud	Chizek	Johnson, L.	Peterson	Schrock
Ashford	Conway	Johnson, R.	Pirsch	Smith
Baack	Crosby	Kristensen	Robak	Wehrbein
Bernard-Stevens	Cudaback	Lamb	Robinson	Wesely
	Elmer	Landis	Rogers	Wickersham
Beutler	Haberman	Lynch	Schellpeper	Will
Beyer	Hefner	Moore	Schimek	Withem
Byars	Hillman	Nelson	Schmit	

Voting in the negative, 0.

Present and not voting, 2:

Morrissey Rasmussen

Excused and not voting, 9:

Chambers	Dierks	Hartnett	Labedz	Warner
Coordsen	Hall	Horgan	Lindsay	

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 202.

A BILL FOR AN ACT relating to the Nebraska Liquor Control Act; to amend sections 53-123.12, 53-130, 53-138.01, and 53-1,117, Reissue Revised Statutes of Nebraska, 1943, and sections 53-117.05 and 53-131, Revised Statutes Supplement, 1990; to provide for certain materials to be distributed without charge; to change fees; to provide for the disposition of fees; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 39:

Abboud	Chizek	Johnson, L.	Peterson	Schmit
Ashford	Conway	Johnson, R.	Pirsch	Schrock
Baack	Crosby	Kristensen	Rasmussen	Smith
Bernard-Stevens	Cudaback	Lamb	Robak	Wehrbein
	Elmer	Landis	Robinson	Wesely
Beutler	Haberman	Moore	Rogers	Wickersham
Beyer	Hefner	Morrissey	Schellpeper	Will
Byars	Hillman	Nelson	Schimek	Withem

Voting in the negative, 0.

Present and not voting, 1:

Lynch

Excused and not voting, 9:

Chambers	Dierks	Hartnett	Labedz	Warner
Coordsen	Hall	Horgan	Lindsay	

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

NOTICE OF COMMITTEE HEARINGS
Natural Resources

LB 576	Wednesday, March 6, 1991	1:30 p.m.
LB 730	Wednesday, March 6, 1991	1:30 p.m.
LB 774	Wednesday, March 6, 1991	1:30 p.m.
LR 17CA	Wednesday, March 6, 1991	1:30 p.m.
LB 747	Thursday, March 7, 1991	1:30 p.m.
LB 778	Thursday, March 7, 1991	1:30 p.m.
LB 563	Thursday, March 7, 1991	1:30 p.m.
LB 565	Wednesday, March 13, 1991	1:30 p.m.
LB 813	Wednesday, March 13, 1991	1:30 p.m.
LB 301	Wednesday, March 13, 1991	1:30 p.m.
LB 714	Thursday, March 14, 1991	1:30 p.m.
LB 761	Thursday, March 14, 1991	1:30 p.m.
LB 750	Thursday, March 14, 1991	1:30 p.m.
LR 27	Thursday, March 14, 1991	1:30 p.m.

(Signed) Rod Johnson, Chairperson

STANDING COMMITTEE REPORTS
Natural Resources

LEGISLATIVE BILL 837. Placed on General File as amended. (Standing Committee amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM0408.)

LEGISLATIVE BILL 399. Indefinitely postponed.
LEGISLATIVE BILL 838. Indefinitely postponed.

(Signed) Rod Johnson, Chairperson

GENERAL FILE

LEGISLATIVE BILL 67. The pending Standing Committee amendment, AM0107, found in the Journal on page 504 and considered on page 804, was renewed.

Mrs. Nelson offered the following amendment to the pending Standing Committee amendment, as amended:
FA38

to amend the Committee amendments by striking the Lamb amendment as amended by the Beutler amendment.

Mr. Lamb raised a point of order on whether the Nelson amendment is a reconsideration of the Lamb amendment, FA35, found in the Journal on page 804, pursuant to Rule 7, Sec. 7a.

The Chair ruled the Nelson amendment is not a reconsideration pursuant to Rule 7, Sec. 7a.

Mr. Beutler moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

The Nelson amendment was adopted with 23 ayes, 9 nays, 14 present and not voting, and 3 excused and not voting.

Mr. Morrissey offered the following amendment to the pending Standing Committee amendment, as amended:
FA39

to amend committee amendments Pg 2 line 4 after pollution strike the period and add "and include a date to bring such landfill into compliance or a date of closure."

Mr. Morrissey moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

The Morrissey amendment was adopted with 22 ayes, 14 nays, 12 present and not voting, and 1 excused and not voting.

Mr. Lamb offered the following amendment to the pending Standing Committee amendment, as amended:
FA40

1. On page 1, line 19, strike "Cities" and insert "Unless exempted under subdivision (c) of this subsection, cities".

2. On page 2, after line 4 insert the following new subdivision:

"(c) A city of the second class or village that establishes to the satisfaction of the department

that its landfill does not constitute a threat to water supplies shall be exempt from the licensure requirements.".

SPEAKER BAACK PRESIDING

Mr. Peterson asked unanimous consent to be excused until he returns. No objections. So ordered.

PRESIDENT MOUL PRESIDING

Mr. Lamb moved for a call of the house. The motion prevailed with 22 ayes, 0 nays, and 27 not voting.

Mr. Lamb requested a roll call vote on his amendment.

Voting in the affirmative, 18:

Baack	Coordsen	Haberman	Rogers	Smith
Bernard-Stevens	Cudaback	Labedz	Schellpeper	Warner
Byars	Dierks	Lamb	Schmit	Wickersham
	Elmer	Peterson	Schrock	

Voting in the negative, 27:

Abboud	Crosby	Kristensen	Nelson	Schimek
Ashford	Hall	Landis	Pirsch	Wehrbein
Beutler	Hartnett	Lindsay	Rasmussen	Wesely
Beyer	Hillman	Lynch	Robak	Will
Chambers	Horgan	Morrissey	Robinson	Withem
Chizek	Johnson, R.			

Present and not voting, 4:

Conway	Hefner	Johnson, L.	Moore

The Lamb amendment lost with 18 ayes, 27 nays, and 4 present and not voting.

The Chair declared the call raised.

Pending.

UNANIMOUS CONSENT - Member Excused

Mr. Haberman asked unanimous consent to be excused. No objections. So ordered.

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following bills: 47, 124, 171, and 202.

STANDING COMMITTEE REPORTS
Revenue

LEGISLATIVE BILL 65. Placed on General File as amended.
Standing Committee amendment to LB 65:
AM0418

1. Strike the original sections and insert the following new sections:

"Section 1. That section 23-343.11, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

23-343.11. The county board shall have power to levy a tax each year of not to exceed three and five-tenths cents on each one hundred dollars upon the actual value of all the taxable property in such county~~,~~ ~~except intangible property,~~ for the purpose of acquiring, remodeling, improving, equipping, maintaining, and operating such facility or facilities as provided by section 23-343. In counties having a population of not more than seven thousand persons, such tax shall not exceed seven cents on each one hundred dollars of the actual value. The county board shall, by resolution, determine and declare how the same shall be managed. The tax authorized by this section shall not be included within the levy limitations for general county purposes prescribed in section 23-119 or Article VIII, section 5, of the Constitution of Nebraska.

Sec. 2. That section 23-343.19, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

23-343.19. The board of trustees of any such facility or facilities organized under ~~the provisions of~~ section 23-343.15~~,~~ shall, each year, fix the amount of money for the proposed budget statement as may be deemed

sufficient and necessary for the operation of such hospital during the following calendar year. After the adoption of the budget statement~~,~~ and during the first week of June of each year, the board of trustees of such hospital shall certify to the county board of the county in which such hospital is located the amount of the tax to be levied~~,~~ which the hospital requires under the hospital's adopted budget statement to be received from taxation. Such county board shall apportion such amount among the counties concerned in proportion to the actual valuation of all taxable property~~, except intangible property,~~ and shall certify to each county its share of such amount. Each county shall levy a tax sufficient to raise the amount so certified to it, and the county treasurer shall transmit the proceeds of such tax to the treasurer of the county in which such hospital is located for credit to the hospital fund. The tax authorized by this section shall not be included within the levy limitations for general county purposes prescribed in section 23-119 or Article VIII, section 5, of the Constitution of Nebraska.

Sec. 3. That original sections 23-343.11 and 23-343.19, Reissue Revised Statutes of Nebraska, 1943, are repealed.".

LEGISLATIVE BILL 208. Placed on General File as amended.
Standing Committee amendment to LB 208:
AM0112

1. On page 3, line 1, after "determined" insert "by the county assessor"; in line 2 after "sections" insert "77-201 and"; strike beginning with "appeal" in line 6 through "land" in line 8, show the old matter as stricken, and insert "protest the valuation of such land to the county board of equalization pursuant to section 77-1502"; in line 9 strike "school" and show as stricken, after "board" insert "of education", and after "not" insert "properly"; and strike beginning with "in" in line 9 through line 14, show the old matter as stricken, and insert ". The county board of equalization shall treat such protest in the same manner as any other protest pursuant to sections 77-1502 to 77-1509. The action of the county board of equalization on such protest may be appealed by such board of education as provided in

sections 77-1510 to 77-1513.".

(Signed) Tim Hall, Chairperson

Government, Military and Veterans Affairs

LEGISLATIVE BILL 706. Placed on General File as amended.
Standing Committee amendment to LB 706:
AM0419

1. On page 2, line 25, strike "fifteen" and insert "eleven".
2. On page 3, line 1, strike "four" and insert "three"; and in line 2 strike "three" and insert "two".

(Signed) Gerald Conway, Chairperson

GENERAL FILE

LEGISLATIVE BILL 67. The pending Standing Committee amendment, as amended, was renewed.

Mr. Moore asked unanimous consent to be excused. No objections. So ordered.

Mr. Hartnett moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 2 nays, and 21 not voting.

The Standing Committee amendment, as amended, was adopted with 25 ayes, 15 nays, 7 present and not voting, and 2 excused and not voting.

Pending.

Mrs. Pirsch, Messrs. Conway, Hall, and Byars asked unanimous consent to be excused. No objections. So ordered.

SPEAKER BAACK PRESIDING

MOTION - Adjournment

Mr. Schmit moved to adjourn until 9:00 a.m.. Wednesday, February 27, 1991.

Mr. R. Johnson raised a point of order on whether Mr. Schmit's motion to adjourn is in order, because the motion was offered at the conclusion of his discussion on the pending bill.

The Chair ruled a motion to adjourn could not properly be offered at the conclusion of a member's discussion on the bill.

MESSAGE FROM THE GOVERNOR

February 20, 1991

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Madam President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Nebraska School Restructuring Commission, requiring legislative approval.

> Appointee: Sam Thomas, P.O. Box 986, North Platte, NE 69103, (308) 532-3813 w, (308) 532-1307 h.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:fc

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the attached report on Governor appointments.

Banking, Commerce and Insurance
L. H. "Rick" Kolkman - Nebraska Investment Council

Business and Labor
Ray Otter - Nebraska Boiler Safety Code Advisory Board

Education
Wilbur "Doc" Kloepping - Nebraska Board of Educational Lands and Funds
Senator David Bernard-Stevens - Nebraska School Restructuring Commission
Marshall Faith - Nebraska School Restructuring Commission
Eugene Armstrong - Nebraska School Restructuring Commission
Dr. Alfred Arth - Nebraska School Restructuring Commission
Jim Kubik - Nebraska School Restructuring Commission
Sam Thomas - Nebraska School Restructuring Commission

General Affairs
Ted Stutheit - Nebraska State Electrical Board
Sterling "Sam" Johnson - Nebraska State Electrical Board

Government, Military and Veterans Affairs
Tom Sams - Nebraska State Personnel Board

Health and Human Services
Nancy Thompson - Nebraska Foster Care Review Board

Judiciary
Marlene Cupp - Nebraska State Parole Board
Michael D. McLaughlin - Nebraska State Parole Board

Natural Resources
Lou Lamberty - Nebraska Environmental Control Council
Jack Crowley - Nebraska Power Review Board

Nebraska Retirement Systems
Judge Harry Spencer - Nebraska Public Employees Retirement Board
Robert Corner - Nebraska Public Employees Retirement Board

(Signed) Jerome Warner, Chairperson
Legislative Council
Executive Board

NOTICE OF COMMITTEE HEARINGS
Education

LB 588	Monday, March 11, 1991	1:30 p.m.
Governor Appointments Restructuring Committee	Tuesday, March 5, 1991	1:15 p.m.

Senator LaVon Crosby
Dr. James Merritt
Michael J. McCarthy
Dr. Alfred Arth
Dr. Ruth Randall
Jim Kubik
Eugene Armstrong
Russell Worthman
Dr. William Kelley
Marshall Faith
Sam Thomas

(Signed) Ron Withem, Chairperson

PRESENTED TO THE GOVERNOR

Presented to the Governor on February 26, 1991, at 11:50 a.m., were the following bills: 47, 124, 171, and 202.

(Signed) Pam Moravec, Enrolling Clerk

UNANIMOUS CONSENT - Print in Journal

Mr. Hall asked unanimous consent to print the following amendment to LB 85 in the Journal. No objections. So ordered.

AM0280
(Amendments to Standing Committee amendments, AM0181)
1. On page 1, line 1, after the first comma insert "line 2, strike 'forms available to taxpayers in' and insert 'booklets for tax year'; in line 3 after 'odd-numbered' insert 'tax'; in line 4 strike 'tax form or' and insert 'individual income tax'; in line 5 strike 'instruction'; and".
2. Insert the following new amendment and renumber the remaining amendment:
"1. Strike original section 2.".

Mr. Baack asked unanimous consent to print the following amendment to LB 207 in the Journal. No objections. So ordered.

AM0345
1. Insert the following new section:
"Sec. 2. That section 79-488.04, Reissue

Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-488.04. ~~The~~ Except as otherwise provided in this section, the school board of any district may authorize the use of buses belonging to such district for the transportation of public school children residing outside such district. A fee sufficient to pay all costs of such transportation shall be charged each person so transported. The school board shall prepare a schedule of all such fees charged and a copy of such schedule shall be filed in the office of the county superintendent of schools for the county in which such district is maintained. The individual members of the school board shall be personally liable for any expense incurred by the district if the fees so charged are insufficient to cover the additional cost incurred in furnishing such transportation, except such penalty shall not apply the first two years of operation. The cost of school bus operation shall be determined by dividing the actual cost of the total bus operation plus one-fifth of the original cost of the bus for depreciation by the total number of miles traveled by each pupil for the average of the two school years immediately preceding. This section shall not apply to an agreement regarding reimbursement payments for transportation entered into pursuant to subsection (2) of section 79-3410.".

2. On page 10, line 21, after "payment" insert "shall include reimbursement only for those miles actually traveled beyond the normal route and".

3. On page 11, line 12, after "original" insert "section 79-488.04, Reissue Revised Statutes of Nebraska, 1943, and".

4. Renumber the remaining sections accordingly.

Mr. Baack asked unanimous consent to print the following amendment to LB 207 in the Journal. No objections. So ordered.

AM0427

(Amendments to Standing Committee amendments, AM0349)

1. Insert the following new section:

"Sec. 2. That section 79-3403, Revised Statutes Supplement, 1990, be amended to read as

follows:

79-3403. (1) An enrollment option program is hereby established to enable any Nebraska student to attend a school in a Nebraska public school district in which the student does not reside subject to the limitations prescribed in section 79-3407. The option shall be available only once to each student prior to graduation unless ~~(1)~~ (a) the student relocates in a different resident school district, ~~(2)~~ (b) the option school district merges with another district, or ~~(3)~~ (c) the option school district is a Class I district. The option student shall be given the option to attend school in another district at the time of relocation or merger or upon completion of the grades offered at the Class I district.

(2) This program shall not apply to (a) any student in ninth, tenth, eleventh, or twelfth grade who resides in a Class I district that is not part of a Class VI district, (b) any ~~or to a~~ student who resides in a district which contracts or has contracted in either or both of the two prior school years with another district or districts in such student's grade level pursuant to section 79-486, (c) any student who resides in a district which has entered into an annexation agreement pursuant to section 79-801, except that such student may transfer to another district which accepts option students, or (d) any student in a Class I district which affiliates or merges with another school district or becomes part of a Class VI district pursuant to sections 79-402 to 79-402.04 or the Reorganization of School Districts Act after the effective date of this act, except as follows:

(i) For the second school year following the effective date of an affiliation or merger with another school district or becoming part of a Class VI district, a maximum of five percent of the students of the Class I district shall be eligible to participate in the program as determined by the school board of the Class I district;

(ii) For the third year following the effective date of an affiliation or merger with another school district or becoming part of a Class VI district, a maximum of ten percent of the students of the Class I district shall be eligible to participate in the program

as determined by the school board of the Class I district; and

(iii) For the fourth year following the effective date of an affiliation or merger with another school district or becoming part of a Class VI district and each year thereafter, all students of the Class I district shall be eligible to participate in the program.".

2. On page 1, line 1, strike "Insert" and insert "Strike original section 2 and insert" and strike "section" and insert "sections".

3. Strike amendment 2 and renumber the remaining amendments accordingly.

VISITORS

Visitors to the Chamber were 60 fifth grade students and teachers from McPhee School, Lincoln.

ADJOURNMENT

At 12:05 p.m., on a motion by Mr. L. Johnson, the Legislature adjourned until 9:00 a.m., Wednesday, February 27, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

THIRTY-THIRD DAY - FEBRUARY 27, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

THIRTY-THIRD DAY

Legislative Chamber, Lincoln, Nebraska
Wednesday, February 27, 1991

Pursuant to adjournment, the Legislature met at 9:03 a.m., Speaker Baack presiding.

PRAYER

The prayer was offered by Rev. Harland Johnson, Chaplain Coordinator.

ROLL CALL

The roll was called and all members were present except Messrs. Abboud, Ashford, Beutler, Chambers, Hall, Kristensen, Lindsay, Moore, Rogers, Schmit, Warner, and Withem who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Thirty-Second Day was approved.

STANDING COMMITTEE REPORTS
Banking, Commerce and Insurance

LEGISLATIVE BILL 190. Placed on General File.

LEGISLATIVE BILL 471. Indefinitely postponed.

(Signed) David Landis, Chairperson

UNANIMOUS CONSENT - Member Excused

Mrs. Hillman asked unanimous consent to be excused until she returns. No objections. So ordered.

SELECT FILE

LEGISLATIVE BILL 62. E & R amendment, AM5004, found in the Journal on page 428, was adopted.

Mr. Wehrbein moved to indefinitely postpone LB 62.

Mr. Wehrbein moved for a call of the house. The motion prevailed with 11 ayes, 0 nays, and 38 not voting.

Mr. Wehrbein requested a roll call vote on his motion to indefinitely postpone.

Voting in the affirmative, 26:

Baack	Coordsen	Johnson, R.	Nelson	Schrock
Bernard-Stevens	Crosby	Kristensen	Rasmussen	Warner
Byars	Elmer	Lamb	Robinson	Wehrbein
Chizek	Haberman	Landis	Schellpeper	Wesely
Conway	Hefner	Morrissey	Schimek	Wickersham
	Johnson, L.			

Voting in the negative, 10:

Beyer	Hartnett	Horgan	Lynch	Pirsch
Cudaback	Hillman	Labedz	Peterson	Smith

Present and not voting, 5:

Chambers	Dierks	Robak	Will	Withem

Excused and not voting, 8:

Abboud	Beutler	Lindsay	Rogers	Schmit
Ashford	Hall	Moore		

The Wehrbein motion to indefinitely postpone prevailed with 26 ayes, 10 nays, 5 present and not voting, and 8 excused and not voting.

The Chair declared the call raised.

LEGISLATIVE BILL 204. Advanced to E & R for engrossment.

LEGISLATIVE BILL 235. E & R amendment, AM5029, found in the Journal on page 637, was adopted.

Messrs. Landis and Beutler renewed their pending amendment, AM0400, found in the Journal on page 793.

The Landis-Beutler amendment was adopted with 27 ayes, 0 nays, 14 present and not voting, and 8 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 96. E & R amendment, AM5026, found in the Journal on page 637, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 75. E & R amendment, AM5028, found in the Journal on page 637, was adopted.

Mr. Hartnett offered the following amendment:
FA41
On page 5, line 5 after "credit." insert the following:
"The board shall not prescribe the specific curriculum of colleges or universities."

The Hartnett amendment was adopted with 25 ayes, 0 nays, 17 present and not voting, and 7 excused and not voting.

Advanced to E & R for engrossment.

PRESIDENT MOUL PRESIDING

LEGISLATIVE BILL 236. E & R amendment, AM5030, found in the Journal on page 695, was adopted.

Mr. Landis renewed his pending amendment, AM0375, found in the Journal on page 794.

The Landis amendment was adopted with 27 ayes, 0 nays, 17 present and not voting, and 5 excused and not voting.

Mr. Landis renewed his pending amendment, AM0403, found in the Journal on page 794.

Mr. Landis offered the following amendment to his pending amendment:
FA42
amend the Landis amendment:
This section shall become operative Jan 1, 1993

The Landis amendment was adopted with 28 ayes, 0 nays, and 21 present and not voting.

Mr. Horgan offered the following amendment to the pending Landis amendment:
FA43
To amend AM0403
In 44-211, line 13, Page 1
Strike one-third and insert one-fifth

The Horgan amendment was adopted with 29 ayes, 0 nays, and 20 present and not voting.

The Landis amendment, as amended, was adopted with 29 ayes, 1 nay, and 19 present and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 247. E & R amendment, AM5033, found in the Journal on page 709, was adopted.

Mr. Ashford offered the following amendment:
AM0394

(Amendments to E and R amendment, AM5033)

1. On page 1, line 7, strike "only"; and in line 12 after "(2)" insert "Within a landmark heritage preservation district a city of the metropolitan class shall not exercise its power of eminent domain to acquire property for the purpose of demolition and reconveyance for private use. This subsection shall not be applicable to any eminent domain action filed by such city prior to the effective date of this act.
(3)".

The Ashford amendment was adopted with 28 ayes, 0 nays, and 21 present and not voting.

Advanced to E & R for engrossment.

NOTICE OF COMMITTEE HEARINGS
Appropriations

Monday, March 11, 1991, Room 1520 1:30 p.m.
Agency 28 - Department of Veterans Affairs
Agency 25 - Department of Public Institutions

Block Grants:
Alcohol, Drug Abuse, Mental Services (Dept. of Public Institutions)

LB 417 Tuesday, March 12, 1991 1:30 p.m.
LB 600 Tuesday, March 12, 1991 1:30 p.m.

Tuesday, March 12, 1991, Room 1520 1:30 p.m.
Agency 70 - Foster Care Review Board
Agency 26 - Department of Social Services

Block Grants:
Social Services (Dept. of Social Services)
Low Income Energy Assistance (Dept. of Social Services)
Community Services (Dept. of Social Services)

LB 391 Wednesday, March 13, 1991 1:30 p.m.

Wednesday, March 13, 1991, Room 1003 1:30 p.m.
Agency 10 - State Auditor
Agency 12 - State Treasurer
Agency 87 - Political Accountability/Disclosure
Agency 16 - Department of Revenue

Thursday, March 14, 1991, Room 1003 1:30 p.m.
Agency 54 - Nebraska State Historical Society
Agency 31 - Military Department
Agency 33 - Game and Parks Commission
Agency 72 - Department of Economic Development

Block Grants:
Community Development (Dept. of Economic Development)

LB 101	Monday, March 18, 1991	1:30 p.m.
LB 134	Monday, March 18, 1991	1:30 p.m.

Monday, March 18, 1991, Room 1520 1:30 p.m.
Agency 69 - Nebraska Arts Council
Agency 34 - Nebraska Library Commission
Agency 82 - Commission on Hearing Impaired
Agency 13 - Department of Education

Block Grants:
Education (Dept. of Education)

LB 176	Tuesday, March 19, 1991	1:30 p.m.
LB 206	Tuesday, March 19, 1991	1:30 p.m.
LB 377	Tuesday, March 19, 1991	1:30 p.m.

Tuesday, March 19, 1991, Room 1520 1:30 p.m.
Agency 29 - Department of Water Resources
Agency 11 - Attorney General
Agency 05 - Supreme Court
Agency 15 - Board of Pardons and Parole
Agency 78 - Commission on Law Enforcement and Criminal Justice
Agency 64 - Nebraska State Patrol
Agency 46 - Department of Correctional Services

LB 553	Wednesday, March 20, 1991	1:30 p.m.

Wednesday, March 20, 1991, Room 1003 1:30 p.m.
Agency 24 - Department of Motor Vehicles
Agency 40 - Motor Vehicle Dealers Licensing Board
Agency 17 - Department of Aeronautics
Agency 90 - Branch Rail Revitalization Council
Agency 27 - Department of Roads

LB 80	Thursday, March 21, 1991	1:30 p.m.
LB 624	Thursday, March 21, 1991	1:30 p.m.
LB 651	Thursday, March 21, 1991	1:30 p.m.
LB 653	Thursday, March 21, 1991	1:30 p.m.
LB 652	Thursday, March 21, 1991	1:30 p.m.

Thursday, March 21, 1991, Room 1003 1:30 p.m.
Agency 07 - Governor
Agency 08 - Lt. Governor

Agency 04 - Policy Research Office
Agency 03 - Legislative Council
Agency 65 - Department of Administrative Services
Agency 89 - State Claims Board

LB 841	Thursday, March 21, 1991	3:30 p.m.
LB 842	Thursday, March 21, 1991	3:30 p.m.
LB 843	Thursday, March 21, 1991	3:30 p.m.
LB 847	Thursday, March 21, 1991	3:30 p.m.
LB 241	Friday, March 22, 1991	1:30 p.m.
LB 541	Friday, March 22, 1991	1:30 p.m.
LB 647	Friday, March 22, 1991	1:30 p.m.
LB 760	Friday, March 22, 1991	1:30 p.m.
LB 799	Friday, March 22, 1991	1:30 p.m.
LB 848	Friday, March 22, 1991	1:30 p.m.

(Signed) Scott Moore, Chairperson

STANDING COMMITTEE REPORT
General Affairs

LEGISLATIVE BILL 718. Placed on General File as amended. (Standing Committee amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM0425.)

(Signed) Jacklyn Smith, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 31. Introduced by Schrock, 39; Elmer, 38; Schellpeper, 18; Morrissey, 1; Rogers, 41; Cudaback, 36; Hefner, 19; Coordsen, 32.

WHEREAS, Nebraska Good Seed Week is an annual observance which focuses statewide attention on the important contributions and the benefits that crop seed and the crop seed industry make to the Nebraska economy; and

WHEREAS, the official observance for Nebraska Good Seed Week 1991 is March 10 to 16, 1991, a significant time of year in decisionmaking and planning for spring seeding, a time when choices of seed variety, seed source, and seed quality are being made, and a time of the reawakening of the wheat crop from winter dormancy; and

WHEREAS, the objective of the Nebraska farmer is to get the greatest possible dollar return for every dollar invested and nothing in crop production can offer a better return to the farmer than an investment in high-quality seed of adapted varieties; and

WHEREAS, the scheduling of Nebraska Good Seed Week is symbolic, as all across the nation people will celebrate agriculture during the week of March 17 to 23, 1991, and National Ag Day 1991 is March 21, 1991. Therefor, Nebraska Good Seed Week is held first because "Good agriculture begins with good seed"; and

WHEREAS, on March 15, 1902, seven men interested in maintaining Nebraska's position among the corn-growing states first met to organize the Nebraska Corn Improvers' Association. The objective of the association, as expressed by its organizers, was "...to promote the growing of corn in Nebraska by improvement of seed and in methods of tillage and such other means as the Association should adopt...". Through the years and adapting to changes and needs in agriculture, the original Nebraska Corn Improvers' Association evolved into today's Nebraska Crop Improvement Association; and

WHEREAS, the passage of House Roll 67 on March 16, 1931, provided for certification as to quality of seeds produced and sold in Nebraska. House Roll 67 was introduced and fostered by J.S. Steele, a Kimball county wheat farmer, longtime leader in the Nebraska Farm Bureau Federation, and member of the Nebraska House of Representatives from 1931 to 1935. The legislation is now part of the Nebraska Seed Law and is regulated by the Department of Agriculture and administered by the Nebraska Crop Improvement Association; and

WHEREAS, Nebraska Statehood Day is March 1, and the sower which stands atop the State Capitol in Lincoln was placed there to emphasize the importance of agriculture in the state. While the importance of agriculture has not changed over the years, farming techniques have. Today, it is vital that the farmer make careful plans for the most return from the investment made in each acre. A key decision in those plans is the selection and planting of high-quality seed.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature recognizes the importance of seed variety, seed source, and seed quality to the agricultural sector of Nebraska's economy.

2. That the Legislature recognizes and commends the work by plant breeders, seed producers, and seedsmen who, through

cooperative efforts with the Nebraska Crop Improvement Association, the Nebraska Seed Trade Association, the Department of Agriculture, and the University of Nebraska, develop and maintain high-quality seeds for the benefit of Nebraska farmers.

3. That the Legislature recognizes the week of March 10 to 16, 1991, as Nebraska Good Seed Week.

Laid over.

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 410A. Introduced by Wesely, 26.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 410, Ninety-second Legislature, First Session, 1991.

GENERAL FILE

LEGISLATIVE BILL 837. Title read. Considered.

Standing Committee amendment, AM0408, printed separately from the Journal and referred to on page 817, was considered.

Mrs. Labedz asked unanimous consent to be excused until she returns. No objections. So ordered.

Mr. Morrissey moved the previous question. The question is, "Shall the debate now close?" The motion lost with 16 ayes, 10 nays, and 23 not voting.

Mr. Haberman asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Morrissey moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 27 ayes, 0 nays, and 22 not voting.

The Standing Committee amendment was adopted with 31 ayes, 0 nays, 16 present and not voting, and 2 excused and not voting.

SPEAKER BAACK PRESIDING

PRESIDENT MOUL PRESIDING

Mrs. Pirsch asked unanimous consent to be excused. No objections. So ordered.

Advanced to E & R for review with 39 ayes, 0 nays, 7 present and not voting, and 3 excused and not voting.

Mr. Peterson asked unanimous consent to be excused. No objections. So ordered.

SELECT COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 313. Placed on Select File as amended.
E & R amendment to LB 313:
AM5041

1. Strike the original sections and all amendments thereto and insert the following new sections:

"Section 1. That section 55-101, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

55-101. Sections 55-101 to 55-180 and section 2 of this act shall be known and may be cited as the Military Code.

Sec. 2. The Adjutant General shall conduct military ceremonies and honors in accordance with laws, regulations, or customs of the appropriate branch of the service. When an American flag is not provided by other sources, the Adjutant General shall provide an American flag for presentation during the funeral service honors ceremony for an active Nebraska National Guard member or for an honorably discharged Nebraska National Guard member who completed at least twenty years of service.

Sec. 3. (1) Upon the request of any veterans organization, any other group, or any person, a POW/MIA flag may be displayed on or near the State Capitol, the Governor's Mansion, or any courthouse, city or village hall, schoolhouse, or other public administrative building in this state. Such flag shall be displayed in accordance with accepted flag protocol.

(2) The organization, group, or person making

such request shall purchase and maintain the POW/MIA flag.

(3) For purposes of this section, a POW/MIA flag shall mean a flag recognized and accepted by internationally recognized veterans organizations as memorializing prisoners of war and persons declared missing in action as a result of military service.

Sec. 4. That original section 55-101, Reissue Revised Statutes of Nebraska, 1943, is repealed.".

2. On page 1, strike beginning with "require" in line 3 through "prescribed" in line 6 and insert "provide duties related to military ceremonies and honors; to authorize the display of POW/MIA flags; to harmonize provisions".

LEGISLATIVE BILL 100. Placed on Select File.

(Signed) Eric Will, Chairperson

STANDING COMMITTEE REPORTS

Agriculture

LEGISLATIVE BILL 367. Placed on General File.
LEGISLATIVE BILL 685. Placed on General File.

(Signed) Carson Rogers, Chairperson

Banking, Commerce and Insurance

LEGISLATIVE BILL 368. Placed on General File.

LEGISLATIVE BILL 782. Placed on General File as amended.
Standing Committee amendment to LB 782:
AM0443

1. On page 2, line 19, strike "eight" and insert "six".

LEGISLATIVE BILL 626. Indefinitely postponed.

(Signed) David Landis, Chairperson

Agriculture

The Committee on Agriculture desires to report favorably upon the appointment listed below. The Committee suggests the appointment be confirmed by the Legislature and suggests a record vote.

Larry E. Sitzman - Director, Department of Agriculture

VOTE: AYE: Senators Rogers, Coordsen, Cudaback, Elmer, Hefner, and Schellpeper. NAY: None. ABSENT: Senators Chambers and Morrissey.

(Signed) Carson Rogers, Chairperson

MESSAGE FROM THE GOVERNOR

February 27, 1991

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol
Lincoln, Nebraska 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 81, 113, 117, 122, 137, 153, 220, 239, 259, 296, and 20 were received in my office on February 22, 1991.

These bills were signed by me on February 26, 1991, and delivered to the Secretary of State February 27, 1991.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

NOTICE OF COMMITTEE HEARING
Education

Governor Appointment Tuesday, March 12, 1991 1:30 p.m.
David Bernard-Stevens - Restructuring Committee

(Signed) Ron Withem, Chairperson

UNANIMOUS CONSENT - Print in Journal

Mr. Abboud asked unanimous consent to print the following amendment to LB 224 in the Journal. No objections. So ordered.

AM0341

1. Strike the original section and insert the following new section:

"Section 1. A provision in an automobile liability policy or endorsement which is effective in this state and which grants the insurer the right of subrogation for payment of benefits under the medical payments coverage portion of the policy shall be valid and enforceable, except that if the claimant receives less than actual monetary loss from a third party as the result of settlement or judgment, the subrogated insurer shall receive only its proportionate share of the actual monetary loss. For purposes of this section, it shall be conclusively presumed that any settlement or judgment which is less than the policy limits of any applicable liability insurance coverage shall constitute complete recovery of actual monetary loss.".

Mr. R. Johnson asked unanimous consent to print the following amendment to LB 67 in the Journal. No objections. So ordered.

AM0457

1. In the Standing Committee amendments, AM0107:

a. Strike the Morrissey amendment, FA39;

b. Strike amendment 2;

c. On page 1, line 20, strike "1993" and insert "1992"; and

d. Renumber the remaining amendments accordingly.

2. On page 4, line 17, strike "1993" and insert "1994".

Mr. Wickersham asked unanimous consent to print the following amendment to LB 455 in the Journal. No objections. So ordered.

AM0447

1. Insert the following new sections:

"Sec. 2. That section 71-6056, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-6056. The board may issue a license to any person who passes the state examination specified in

subdivision (1)(a)(iii) of section 71-6054 and who holds a current nursing home administrator license from another jurisdiction if the board finds that the standards for licensure in such other jurisdiction are at least the substantial equivalent of those prevailing in this state and that the applicant is a person who has been in active practice as a nursing home administrator for at least one year in some other state or territory or the District of Columbia, as established by the certificate of the proper licensing authority of the state, territory, or District of Columbia, certifying that the applicant is duly licensed, that his or her license has never been suspended or revoked, and that, so far as the records of such authority are concerned, the applicant is entitled to its endorsement. The board may waive the one-year active practice requirement. The applicant shall also present proof of the following: (1) That the state, territory, or District of Columbia from which the applicant comes has and maintains standards regulating nursing home administration substantially equivalent to those maintained by Nebraska; (2) that his or her license was based upon a national licensure examination and the grades given at such examination; (3) the date of his or her license; (4) that such licensee has been actively engaged in the practice under such license since it was issued or, if not so engaged, the time when he or she was out of practice; (5) the affidavit of at least two practitioners in that state or territory or the District of Columbia testifying to the applicant being of good moral character and standing as a nursing home administrator; (6) completion of an administrator-in-training program ~~as~~ determined by the board to be substantially equivalent to the program described in section 71-6055. Two years of experience as an administrator of a home for the aged or infirm or nursing home, immediately preceding application for Nebraska licensure, shall be considered substantially equivalent to completion of an administrator-in-training program; and (7) completion of twenty-five hours of continuing education relating to long-term care administration as defined in the nine-point core of knowledge within the twelve months prior to application for reciprocal licensure. An applicant for reciprocal

licensure coming from any state may be licensed by reciprocity if his or her individual qualifications meet such requirements.

Sec. 4. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.".

2. On page 3, line 23, strike "section 71-6055" and insert "sections 71-6055 and 71-6056"; and in line 24 strike "is" and insert "are".

3. Renumber the remaining section accordingly.

RESOLUTIONS

LEGISLATIVE RESOLUTION 32. Introduced by Crosby, 29.

WHEREAS, Senator Carl T. Curtis has a long and outstanding record of public service, including service for four years as County Attorney of Kearney County, sixteen years in the United States House of Representatives, and twenty-four years in the United States Senate, and has received many well-deserved awards; and

WHEREAS, Senator Carl T. Curtis has distinguished himself by his commitment to his family, his community, and his state; and

WHEREAS, the NEBRASKAland Foundation, Inc., recognizes outstanding Nebraskans whose public service and spirit are exemplary of the State of Nebraska; and

WHEREAS, prior recipients of such recognition are President Gerald Ford, Robert Keith Gray, and Dr. Clayton Yeutter; and

WHEREAS, Senator Carl T. Curtis will receive the Distinguished NEBRASKAlander Award on March 9, 1991.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature extends its congratulations to Senator Carl T. Curtis on his receipt of this prestigious award.

2. That a copy of this resolution be presented to Senator Carl T. Curtis.

Laid over.

LEGISLATIVE RESOLUTION 33. Introduced by Crosby, 29.

WHEREAS, Senator Roman L. Hruska has a long and outstanding record of public service, including service for eight years

as a member of the Douglas County Board of Commissioners, two years in the United States House of Representatives, and twenty-two years in the United States Senate, and has received many well-deserved awards; and

WHEREAS, Senator Roman L. Hruska has distinguished himself by his commitment to his family, his community, and his state; and

WHEREAS, the NEBRASKAland Foundation, Inc., recognizes outstanding Nebraskans whose public service and spirit are exemplary of the State of Nebraska; and

WHEREAS, prior recipients of such recognition are President Gerald Ford, Robert Keith Gray, and Dr. Clayton Yeutter; and

WHEREAS, Senator Roman L. Hruska will receive the Distinguished NEBRASKAlander Award on March 9, 1991.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature extends its congratulations to Senator Roman L. Hruska on his receipt of this prestigious award.

2. That a copy of this resolution be presented to Senator Roman L. Hruska.

Laid over.

LEGISLATIVE RESOLUTION 34. Introduced by Crosby, 29.

WHEREAS, Governor Frank B. Morrison, Sr. has a long and outstanding record of public service, including service as a teacher and lawyer and for six years as Governor of Nebraska, and has received many well-deserved awards; and

WHEREAS, Governor Frank B. Morrison, Sr. has distinguished himself by his commitment to his family, his community, and his state; and

WHEREAS, the NEBRASKAland Foundation, Inc., recognizes outstanding Nebraskans whose public service and spirit are exemplary of the State of Nebraska; and

WHEREAS, prior recipients of such recognition are President Gerald Ford, Robert Keith Gray, and Dr. Clayton Yeutter; and

WHEREAS, Governor Frank B. Morrison, Sr. will receive the Sower Award on March 9, 1991.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature extends its congratulations to Governor Frank B. Morrison, Sr. on his receipt of this prestigious award.

2. That a copy of this resolution be presented to Governor Frank B. Morrison, Sr.

Laid over.

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 245A. Introduced by Withem, 14.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 245, Ninety-second Legislature, First Session, 1991; and to declare an emergency.

SPEAKER BAACK PRESIDING

SELECT FILE

LEGISLATIVE BILL 330. E & R amendment, AM5035, found in the Journal on page 709, was adopted.

Mr. Morrissey renewed his pending amendment, AM0305, found in the Journal on page 717.

The Morrissey amendment was adopted with 26 ayes, 0 nays, 19 present and not voting, and 4 excused and not voting.

Messrs. Kristensen and Lynch asked unanimous consent to be excused. No objections. So ordered.

Mr. Will moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 0 nays, and 23 not voting.

Mr. Bernard-Stevens requested a machine vote on the advancement of the bill.

Advanced to E & R for engrossment with 25 ayes, 7 nays, 11 present and not voting, and 6 excused and not voting.

RESOLUTION

LEGISLATIVE RESOLUTION 35. Introduced by Horgan, 4; Chizek, 31.

WHEREAS, the Omaha Burke High School women's swim team won the Class A girls' state swimming championship on February 23, 1991;

WHEREAS, the Omaha Burke High School women's swim team has won the state championship for three consecutive years; and

WHEREAS, team members Katie Chapeau and Allison Sides were the first athletes in state high school swimming history to win four gold medals; and

WHEREAS, the Omaha Burke High School women's swim team has displayed exemplary athletic skill, competitive spirit, and sportsmanship; and

WHEREAS, the team members and state girls' Coach of the Year Deb Chedel are deserving of special recognition for their victory.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature commends and congratulates the Omaha Burke High School women's swim team and Coach Chedel and recognizes the team as the 1991 Class A girls' state swimming champions.

2. That a copy of this resolution be sent to Coach Deb Chedel at Omaha Burke High School.

Laid over.

UNANIMOUS CONSENT - Expedite LB 837

Mr. Beutler asked unanimous consent to expedite LB 837. No objections. So ordered.

UNANIMOUS CONSENT - Add Co-Introducers

Mr. Haberman asked unanimous consent to have his name added as co-introducer to LB 477. No objections. So ordered.

Messrs. Schellpeper and Dierks asked unanimous consent to have their names added as co-introducers to LB 837. No objections. So ordered.

VISITORS

Visitors to the Chamber were George Hammond from O'Neill; and Steve Ptacek and sons, Gregg and Matt, from Osceola.

The Doctor of the Day was Dr. John Wilcox from Aurora.

ADJOURNMENT

At 12:02 p.m., on a motion by Mr. Hall, the Legislature adjourned until 9:00 a.m., Thursday, February 28, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

THIRTY-FOURTH DAY - FEBRUARY 28, 1991

LEGISLATIVE JOURNAL

THIRTY-FOURTH DAY - FEBRUARY 28, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

THIRTY-FOURTH DAY

Legislative Chamber, Lincoln, Nebraska
Thursday, February 28, 1991

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Moul presiding.

PRAYER

The prayer was offered by Pastor Stephen Bilynskyj, First Evangelical Covenant Church, Lincoln, Nebraska.

ROLL CALL

The roll was called and all members were present except Messrs. Abboud, Ashford, Beutler, Conway, Haberman, Hall, Hartnett, Kristensen, Landis, Lindsay, Moore, Schmit, Mmes. Labedz, Nelson, Pirsch, and Ms. Schimek who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Thirty-Third Day was approved.

RESOLUTION

LEGISLATIVE RESOLUTION 35. Read. Considered.

LR 35 was adopted with 20 ayes, 0 nays, and 29 not voting.

MOTION - Approve Appointment

Mr. Rogers moved the adoption of the report of the Agriculture Committee for the following Governor appointment found in the

Journal on page 840: Larry E. Sitzman - Director, Department of Agriculture.

Voting in the affirmative, 27:

Baack	Elmer	Johnson, R.	Peterson	Warner
Bernard-Stevens	Haberman	Lamb	Robak	Wehrbein
Chizek	Hartnett	Landis	Rogers	Wickersham
Coordsen	Hillman	Moore	Schrock	Will
Crosby	Horgan	Morrissey	Smith	Withem
	Johnson, L.	Nelson		

Voting in the negative, 0.

Present and not voting, 11:

Beyer	Cudaback	Hefner	Rasmussen	Schellpeper
Byars	Dierks	Lynch	Robinson	Wesely
Chambers				

Excused and not voting, 11:

Abboud	Conway	Kristensen	Lindsay	Schimek
Ashford	Hall	Labedz	Pirsch	Schmit
Beutler				

The appointment was confirmed with 27 ayes, 0 nays, 11 present and not voting, and 11 excused and not voting.

BILL ON FINAL READING

The following bill was read and put upon final passage:

LEGISLATIVE BILL 300.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-2702, 77-2704, and 77-2716.01, Reissue Revised Statutes of Nebraska, 1943; to exempt certain rebates by motor vehicle manufacturers and dealers from taxation; to correct subdivision numbering and lettering; to change provisions relating to personal income tax exemptions as prescribed; to provide an operative date; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 44:

Baack	Crosby	Johnson, L.	Nelson	Schmit
Bernard-Stevens	Cudaback	Johnson, R.	Peterson	Schrock
Beyer	Dierks	Kristensen	Pirsch	Smith
Byars	Elmer	Labedz	Rasmussen	Warner
Chambers	Haberman	Lamb	Robak	Wehrbein
Chizek	Hartnett	Landis	Robinson	Wesely
Conway	Hefner	Lynch	Rogers	Wickersham
Coordsen	Hillman	Moore	Schellpeper	Will
	Horgan	Morrissey	Schimek	Withem

Voting in the negative, 0.

Excused and not voting, 5:

Abboud	Ashford	Beutler	Hall	Lindsay

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

STANDING COMMITTEE REPORT
Agriculture

LEGISLATIVE BILL 583. Placed on General File as amended.
Standing Committee amendment to LB 583:
AM0371

1. On page 5, line 9, after the second comma insert "and"; and in line 11 after "act" insert a comma.

2. On page 7, line 2, after "until" insert "approved by a committee as described in this subdivision and"; in line 3 strike "unanimous" and insert "two-thirds"; and in line 4 after the period insert "The committee required by this subdivision shall consist of three members of the board of directors of the corporation, appointed by the board, and representatives from eligible organizations. For purposes of this subdivision, eligible organization shall mean an organization recognized under the Beef Promotion and Research Act of 1985.".

3. On page 8, strike beginning with "Director" in line 14 through line 21 and insert "act shall be in full force and effect. The chairperson of the board of directors of the private nonprofit corporation shall immediately notify the Governor and the Secretary of State of the suspension, termination, or repeal of the Beef Promotion and Research Act of 1985 or similar successor federal act, and the Governor shall appoint an interim board as provided in subsection (5) of section 54-2105 to serve as the Nebraska Beef Industry Development Board until a board elected by the qualified voters as provided in section 54-2106 has been qualified. It is the intent of the Legislature that the members of the board of directors of the private nonprofit corporation be appointed to the interim board provided by subsection (5) of section 54-2105.".

(Signed) Carson Rogers, Chairperson

NOTICE OF COMMITTEE HEARING
Nebraska Retirement Systems

Governor Appointments Thursday, March 7, 1991 12:00 Noon
Nebraska Public Employees Retirement Board
Judge Harry Spencer
Bob Corner

(Signed) Arlene Nelson, Chairperson

BILLS ON FIRST READING

The following bills were read for the first time by title:

LEGISLATIVE BILL 142A. Introduced by R. Johnson, 34.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 142, Ninety-second Legislature, First Session, 1991.

LEGISLATIVE BILL 429A. Introduced by R. Johnson, 34.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 429, Ninety-second Legislature, First Session, 1991.

MOTION - Place LB 699 on General File

Mrs. Rasmussen renewed her pending motion, found in the Journal on page 789, to place LB 699 on General File notwithstanding the action of the Education Committee.

Mr. Lynch asked unanimous consent to be excused. No objections. So ordered.

Messrs. Elmer and Coordsen asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Dierks moved the previous question. The question is, "Shall the debate now close?"

Mr. Dierks moved for a call of the house. The motion prevailed with 23 ayes, 0 nays, and 26 not voting.

The motion to cease debate prevailed with 25 ayes, 6 nays, and 18 not voting.

Mr. Chambers requested a roll call vote on the Rasmussen motion.

Voting in the affirmative, 26:

Ashford	Conway	Labedz	Rasmussen	Schmit
Bernard-Stevens	Crosby	Landis	Robak	Wesely
Beutler	Cudaback	Lindsay	Robinson	Wickersham
Chambers	Hall	Morrissey	Rogers	Will
Chizek	Horgan	Pirsch	Schimek	Withem
	Johnson, R.			

Voting in the negative, 20:

Abboud	Dierks	Hillman	Moore	Schrock
Baack	Haberman	Johnson, L.	Nelson	Smith
Beyer	Hartnett	Kristensen	Peterson	Warner
Byars	Hefner	Lamb	Schellpeper	Wehrbein

Excused and not voting, 3:

Coordsen	Elmer	Lynch

The Rasmussen motion lost with 26 ayes, 20 nays, and 3 excused and not voting.

The Chair declared the call raised.

Messrs. Hefner and Beutler asked unanimous consent to be excused until they return. No objections. So ordered.

STANDING COMMITTEE REPORTS
Natural Resources

LEGISLATIVE BILL 51. Placed on General File.
LEGISLATIVE BILL 403. Placed on General File.
LEGISLATIVE BILL 772. Placed on General File.

LEGISLATIVE BILL 212. Placed on General File as amended.
Standing Committee amendment to LB 212:
AM0351

1. Insert the following new section:

"Sec. 2. The Chairperson of the Natural Resources Committee of the Legislature with the assistance of committee members and staff shall designate and oversee a task force broadly representing Nebraska water interests, including representatives from surface water and ground water irrigators, municipal water users, industrial water users, natural resources districts, and the Game and Parks Commission. The task force shall develop, by January 1, 1992, a legislative proposal which incorporates conjunctive use and integrated management of surface water and ground water considering all relevant factors relating to the rights and needs of landowners, irrigators, the environment, municipal water users, industrial water users, and the general public. The proposal shall identify and develop an appropriate state role in facilitating and regulating conjunctive use and integrated management of surface water and ground water in this state. The chairperson of the committee may request assistance from state departments and state agencies, the University of Nebraska, natural resources districts, and the general public as necessary to develop the proposal.".

2. Renumber the remaining sections accordingly.

LEGISLATIVE BILL 270. Placed on General File as amended.
Standing Committee amendment to LB 270:
AM0472

1. On page 3, line 5, strike "this section" and insert "the Plastic Container Coding Act".

2. On page 4, strike beginning with the comma in line 9 through "materials" in line 11; and strike beginning with "If" in line 23 through "section" in line 25 and insert "For any violation of section 3 of this act or the rules and regulations promulgated under the Plastic Container Coding Act".

3. On page 5, strike lines 3 through 8; in line 9 strike "Director of" and after "Control" insert "Council"; in line 12 strike "The" and insert "Except for plastic bottles and rigid containers used by health care facilities as defined in section 71-2017.01, the"; and strike beginning with "the" in line 14 through line 15 and insert "January 1, 1992. The act shall apply to plastic bottles and rigid plastic containers used by such health care facilities on and after January 1, 1995.".

LEGISLATIVE BILL 339. Placed on General File as amended.
Standing Committee amendment to LB 339:
AM0382

1. On page 2, strike beginning with "agreements" in line 2 through "Nebraska" in line 6 and insert "a memorandum of agreement for cooperative law enforcement with the United States Fish and Wildlife Service".

LEGISLATIVE BILL 571. Indefinitely postponed.

(Signed) Rod Johnson, Chairperson

Transportation

LEGISLATIVE BILL 126. Placed on General File.
LEGISLATIVE BILL 408. Placed on General File.

LEGISLATIVE BILL 170. Placed on General File as amended.
Standing Committee amendment to LB 170:

AM0481

1. On page 3, lines 10 through 23, strike the new matter and reinstate the stricken matter; and after line 23 insert the following new subdivision:

"(b) Any farm truck as defined in section 60-301 with not more than two axles may operate without a special permit for a distance of up to seventy miles with an excess axle load of not more than five percent in excess of the maximum load permitted for a single axle by section 39-6,180 when such truck is being used for carrying grain or other seasonally harvested products from the field where such grain or products are harvested to storage, market, or stockpile in the field.".

LEGISLATIVE BILL 319. Placed on General File as amended.
Standing Committee amendment to LB 319:
AM0480

1. On page 7, line 19, strike "September" and insert "October".

LEGISLATIVE BILL 807. Placed on General File as amended.
Standing Committee amendment to LB 807:
AM0469

1. On page 3, line 11, after the period insert "The auction dealer shall be responsible for insuring that a form containing the information required in subdivisions (1) through (5), (10), and (11) of this section and the name of the state of origin of the current title is prominently displayed on a window on the driver's side of the vehicle or on the trailer at the time a vehicle or trailer is displayed and being offered for sale at auction.".

LEGISLATIVE BILL 261. Indefinitely postponed.
LEGISLATIVE BILL 607. Indefinitely postponed.
LEGISLATIVE BILL 656. Indefinitely postponed.
LEGISLATIVE BILL 780. Indefinitely postponed.

(Signed) Doug Kristensen, Chairperson

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following bill: 300.

SELECT FILE

LEGISLATIVE BILL 354. E & R amendment, AM5034, found in the Journal on page 710, was adopted.

Mr. Hall renewed his pending amendment, AM0398, found in the Journal on page 793.

Mr. Moore asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Hall moved for a call of the house. The motion prevailed with 21 ayes, 1 nay, and 27 not voting.

The Hall amendment was adopted with 26 ayes, 2 nays, 16 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Mr. Wesely requested a machine vote on the advancement of the bill.

Advanced to E & R for engrossment with 26 ayes, 11 nays, 7 present and not voting, and 5 excused and not voting.

LEGISLATIVE BILL 209. E & R amendment, AM5038, found in the Journal on page 710, was adopted.

Mr. Withem renewed his pending amendment, AM0260, found in the Journal on page 634.

The Withem amendment was adopted with 25 ayes, 0 nays, 19 present and not voting, and 5 excused and not voting.

Mr. Haberman asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Withem renewed his pending amendment, AM0329, found in the Journal on page 719.

The Withem amendment was adopted with 27 ayes, 0 nays, 16 present and not voting, and 6 excused and not voting.

Advanced to E & R for engrossment.

Mr. Kristensen asked unanimous consent to be excused until he returns. No objections. So ordered.

LEGISLATIVE BILL 209A. Advanced to E & R for engrossment.

LEGISLATIVE BILL 237. E & R amendment, AM5040, found in the Journal on page 806, was adopted.

Mr. Landis renewed his pending amendment, AM0391, found in the Journal on page 795.

Mr. Peterson asked unanimous consent to be excused. No objections. So ordered.

SPEAKER BAACK PRESIDING

Mr. Warner requested a division of the question on the Landis amendment.

The Chair sustained the division of the question.

The first Landis amendment is as follows:
FA44

1. Insert the following new section:

"Sec. 59. That section 44-320, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-320. ~~No~~ (1) Except as provided in subsections (2) through (6) of this section, no director or officer of any domestic insurance company ~~doing business under this chapter~~ shall directly or indirectly receive any money or valuable consideration for negotiating any loan for ~~any such~~ the company or for selling or aiding in the sale of any property to or by the company ~~nor shall~~ and no such director or officer shall directly or indirectly borrow money from, purchase ~~or buy~~ any property from, or sell any property to ~~such corporation, except that a~~ the company.

(2)(a) Nothing in this section shall prevent any domestic insurance company ~~may make~~ from making a loan to an officer of ~~such~~ the company for the purchase

of a principal residence or ~~may acquire~~ acquiring the principal residence of an officer in connection with the relocation of the officer's place of employment at the request of the company either during the course of employment or upon initial employment of such officer. Any loan permitted under this ~~section~~ subsection shall be secured by a first trust deed or first mortgage and shall not exceed seventy-five percent of the fair market value of the property. Any acquisition permitted under this ~~section~~ subsection shall not exceed the fair market value of the property.

(b) For purposes of this ~~section~~ subsection, fair market value shall mean the market value of real estate as determined by a licensed real estate appraiser who is recognized as a Member of the Appraisal Institute, a Residential Member by the American Institute of Real Estate Appraisers, a Senior Real Estate Analyst, a Senior Real Property Appraiser, or a Senior Residential Appraiser by the Society of Real Estate Appraisers, or an American Society Appraiser by the American Society of Appraisers.

(c) Any loan or acquisition permitted under this ~~section~~ subsection shall be subject to ~~(1)~~ (i) the approval of the domestic insurance company's board of directors or a delegated committee of the company and ~~(2)~~ (ii) prior written approval of the Director of Insurance based upon written application by the company including full and fair disclosure of the terms of the transaction. Approval of such transaction by the Director of Insurance shall be presumed unless notice of disapproval is received by the applicant within thirty days of the filing of the application. Approval of such transaction may be denied if the director finds that it is not in the best interest of the company or that the terms of the transaction are not fair and reasonable to the company.

(3) Nothing in this section shall prevent any director or officer of any domestic insurance company from purchasing from his or her company an insurance policy or annuity contract if (a) the purchase is in the ordinary course of the company's business and subject to all of the requirements normally imposed by the company in the sale of such policies and contracts and (b) no discount granted to the director or officer in

connection with the purchase is greater than discounts provided to other employees of the company in connection with the sale of similar policies and contracts.

(4) Nothing in this section shall prevent any director or officer of any domestic insurance company from purchasing from his or her company surplus personal property having a total purchase price not in excess of ten thousand dollars in any calendar year if the personal property is sold to the director or officer at not less than its fair market value.

(5) Nothing in this section shall prevent any director or officer of any domestic insurance company from selling to his or her company property of any type or nature having a total purchase price not in excess of ten thousand dollars in any calendar year if the sale is in the ordinary course of business of the director's or officer's business and if the property is sold to the company at not more than its fair market value.

(6) Except as otherwise provided in this section, if any director or officer of any domestic insurance company desires to borrow money from, purchase any property from, or sell any property to the company in excess of ten thousand dollars in any calendar year, the company shall file an application with the Director of Insurance requesting written approval to engage in such transaction. The application shall set out the names of all of the parties interested in the transaction and the respective percentage of interest of each party, a brief description of the nature of the transaction, and a full disclosure of all consideration given or received by the company in connection with such transaction. The application shall be a public record open to public inspection from the date of filing. If the transaction is not approved or disapproved by the director within thirty days from the date of filing the transaction shall be deemed disapproved. In determining whether to approve or disapprove such transaction, the director shall consider the following factors:

(a)(i) The fact that the transaction has been disclosed or made known to the board of directors of the company or a delegated committee of the company which must authorize approval or ratify the transaction by a vote or consent sufficient for the purpose without counting the vote or consent of any interested director

or officer; and

(ii) If applicable, the fact of such transaction has been disclosed or made known to the shareholders entitled to vote and they authorize approval or ratify such transaction by vote or written consent; or

(b)(i) The transaction is fair and reasonable to the company; and

(ii) The transaction is of a nature normally engaged in by the company and the consideration is fair and reasonable.

(7) The Director of Insurance may proceed in a court of competent jurisdiction against a domestic insurance company to reverse or hold invalid a transaction made in violation of subsection (6) of this section unless the transaction was approved pursuant to such subsection.

(8) In addition to other remedies and penalties available under the law of this state, each violation of this section shall be an unfair or deceptive act or practice in the business of insurance subject to sections 44-1522 to 44-1535.".

4. On page 17, lines 1, 7, 13, and 19, strike "unsecured".

5. On page 74, line 20, after the second comma insert "44-320,".

6. Renumber remaining sections accordingly.

Mr. Landis moved for a call of the house. The motion prevailed with 15 ayes, 0 nays, and 34 not voting.

The first Landis amendment was adopted with 25 ayes, 0 nays, 17 present and not voting, and 7 excused and not voting.

The Chair declared the call raised.

The second Landis amendment is as follows:

FA45

2. On page 5, line 25, strike "except that" and insert "and".

3. On page 6, line 2, strike "may" and insert "shall"; and in line 3 strike "in the discretion of the director" and insert "unless the director notifies such insurer that any such investment will not be recognized

by him or her as an authorized investment for purposes of the act".

Messrs. Byars, Horgan, R. Johnson, and Schellpeper asked unanimous consent to be excused. No objections. So ordered.

Mr. Landis withdrew his pending amendment, FA45.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 114A. Advanced to E & R for engrossment.

LEGISLATIVE BILL 313. E & R amendment, AM5041, found in the Journal on page 838, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 100. Advanced to E & R for engrossment.

MESSAGE FROM THE GOVERNOR

February 28, 1991

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol
Lincoln, Nebraska 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 47, 124, 171, and 202 were received in my office on February 26, 1991.

These bills were signed by me on February 28, 1991, and delivered to the Secretary of State.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

PRESENTED TO THE GOVERNOR

Presented to the Governor on February 28, 1991, at 11:38 a.m., was the following bill: 300.

(Signed) Pam Moravec, Enrolling Clerk

NOTICE OF COMMITTEE HEARING
Government, Military and Veterans Affairs

Governor Appointment Wednesday, March 13, 1991 1:30 p.m.
Tom Sams - Nebraska State Personnel Board

(Signed) Gerald Conway, Chairperson

STANDING COMMITTEE REPORTS
Government, Military and Veterans Affairs

LEGISLATIVE BILL 329. Placed on General File.

LEGISLATIVE RESOLUTION 1CA. Indefinitely postponed.
LEGISLATIVE RESOLUTION 11CA. Indefinitely postponed.

LEGISLATIVE BILL 290. Indefinitely postponed.

(Signed) Gerald Conway, Chairperson

Appropriations

LEGISLATIVE BILL 766. Placed on General File.

(Signed) Scott Moore, Chairperson

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 366A. Introduced by Rogers, 41.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 366, Ninety-second Legislature, First Session, 1991; and to reduce appropriations.

VISITORS

Visitors to the Chamber were Joan Cromer from Gering; Dale Vorce from Davenport; Rich Kerr from Beatrice and Kenny Retchless from

Liberty; Al Rodriguez from Omaha; Judge John Whitehead from Columbus; and Tom Berve from Papillion.

ADJOURNMENT

At 12:02 p.m., on a motion by Mr. Baack, the Legislature adjourned until 9:00 a.m., Friday, March 1, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

THIRTY-FIFTH DAY - MARCH 1, 1991

LEGISLATIVE JOURNAL

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

THIRTY-FIFTH DAY

Legislative Chamber, Lincoln, Nebraska
Friday, March 1, 1991

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Moul presiding.

PRAYER

The prayer was offered by Pastor Jane Ellefson, First Plymouth Congregational Church, Lincoln, Nebraska.

ROLL CALL

The roll was called and all members were present except Messrs. Ashford, Bernard-Stevens, Byars, and Wesely who were excused; and Messrs. Chizek, Coordsen, Elmer, Hall, Hartnett, Lindsay, Moore, Robinson, Warner, Mmes. Labedz, Nelson, Pirsch, and Ms. Schimek who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Thirty-Fourth Day was approved.

UNANIMOUS CONSENT - Member Excused

Mr. Haberman asked unanimous consent to be excused. No objections. So ordered.

STANDING COMMITTEE REPORTS
Education

LEGISLATIVE BILL 279. Placed on General File as amended.

Standing Committee amendment to LB 279:
AM0489

1. On page 2, line 11, strike "an", show as stricken, and insert "any"; and strike beginning with "and" in line 13 through the comma in line 15, show the old matter as stricken, and insert an underscored comma.

LEGISLATIVE BILL 693. Placed on General File as amended. (Standing Committee amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM0381.)

LEGISLATIVE BILL 210. Indefinitely postponed.
LEGISLATIVE BILL 554. Indefinitely postponed.
LEGISLATIVE BILL 574. Indefinitely postponed.
LEGISLATIVE BILL 786. Indefinitely postponed.

(Signed) Ron Withem, Chairperson

Government, Military and Veterans Affairs

LEGISLATIVE BILL 511. Indefinitely postponed.

(Signed) Gerald Conway, Chairperson

MESSAGE FROM THE GOVERNOR

February 28, 1991

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol
Lincoln, Nebraska 68509

Dear Madam President and Senators:

Today I signed and delivered to the Secretary of State LB 69, the collegiate student aid and athletics bill. LB 69 provides that no institution shall adopt or enforce a regulation requiring a college student to forgo student aid on the basis of financial need due to participation in intercollegiate sports. The bill contains findings, mandates investigations, and provides for redress and penalization. The new law becomes operative on June 1, 1992.

It is clear from the debate on this measure that a substantial majority of the representatives of the people of Nebraska want to

send a strong message on behalf of students to the National Collegiate Athletic Association (NCAA) through enactment of this legislation. By signing the bill into law, I have joined them in the fervent hope that this voluntary national organization will do the right thing and allow both needy and academically talented young Americans to draw all the student aid for which they qualify. All of us are concerned about improving students' access to higher education and improving their chances of staying in school and successfully completing their courses of study.

The delayed date will permit timely action on this issue. However, should there be an impasse, I will support legislation during the 1992 legislative session to extend the deadline. This will permit reconsideration by the NCAA and thereby avoid costly legal action for the State of Nebraska.

The NCAA's desire to create as level a "playing field" as possible for athletes at a wide range of institutions across the country has some merit, and I am aware of the complexities of the organization's structure and governance process. Those circumstances, however, do not justify perpetuating the unfair effects of NCAA rules. Of particular concern is the uneven "playing field" that results for students within institutions from the imposition of restrictions that create obstacles to academic opportunity only for athletes.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

REPORT OF REGISTERED LOBBYISTS

In accordance with LB 987, passed in the 1976 session of the Legislature and amended by LB 4 and LB 41 in the 1977 session of the Legislature, the attached is a list of all Lobbyists who have registered as of February 28, 1991. Further lists listing additional lobbyists who have registered will be filed weekly.

(Signed) Patrick J. O'Donnell
Clerk of the Legislature

Adams, Donald D. - Lincoln	Nebraska Water Resources Association
Bahrke, William F. - Omaha	Brotherhood of Maintenance of Way Employees
Bones, Amy S. - Omaha	Keep Capital in Nebraska Coalition
Boyer, John K. - Omaha	Keep Capital in Nebraska Coalition

Crosby, Guenzel, Davis, Kessner & Kuester	
Seglin, Steven G. - Lincoln	MCI Telecommunications Company
Kendrick, Leslie - Omaha	Keep Capital in Nebraska Coalition
Mills, Jack D. - Lincoln	Nebraska Association of County Attorneys
Skochdopole, R. A. - Omaha	Committee of Association of Independent Colleges and Universities of Nebraska
	Health Future Foundation
	Joslyn Art Museum
	Medical Liability Mutual Insurance Company
	Preferred Physicians Insurance Company
Strauss, Peter - Schaumburg, IL	Alliance of American Insurers
Wright, Norman H. - Omaha	Keep Capital in Nebraska Coalition

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 275A. Introduced by Wehrbein, 2.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 275, Ninety-second Legislature, First Session, 1991; and to provide an operative date.

MESSAGE FROM THE GOVERNOR

February 28, 1991

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol
Lincoln, Nebraska 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bill 88 was received in my office on February 22, 1991.

This bill was signed by me on February 28, 1991, and delivered to the Secretary of State.

Sincerely,

(Signed) E. Benjamin Nelson
Governor

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following resolution: LR 35.

RESOLUTION

LEGISLATIVE RESOLUTION 32. Read. Considered.

LR 32 was adopted with 29 ayes, 0 nays, and 20 not voting.

LEGISLATIVE RESOLUTION 33. Read. Considered.

LR 33 was adopted with 25 ayes, 0 nays, and 24 not voting.

LEGISLATIVE RESOLUTION 34. Read. Considered.

LR 34 was adopted with 26 ayes, 0 nays, and 23 not voting.

ANNOUNCEMENT

The Chair announced today is Senator Horgan's birthday.

MOTION - Introduce New Bills

Mr. Coordsen moved to introduce request numbers 1201 and 1202 pursuant to Rule 5, Section 4 (c) 2.

The Coordsen motion prevailed with 30 ayes, 0 nays, 8 present and not voting, and 11 excused and not voting.

BILLS ON FIRST READING

The following bills were read for the first time by title:

LEGISLATIVE BILL 850. Introduced by Business and Labor Committee: Coordsen, 32, Chairperson; Chambers, 11; Elmer, 38; Hefner, 19; Morrissey, 1; Schellpeper, 18; Schimek, 27.

A BILL FOR AN ACT relating to claims against the state; to appropriate funds for the payment of certain claims; to provide for

payment of the claims; to authorize certain write-offs as prescribed; and to declare an emergency.

LEGISLATIVE BILL 851. Introduced by Business and Labor Committee: Coordsen, 32, Chairperson; Chambers, 11; Elmer, 38; Hefner, 19; Morrissey, 1; Schellpeper, 18; Schimek, 27.

A BILL FOR AN ACT relating to claims against the state; to disapprove certain claims.

GENERAL FILE

LEGISLATIVE BILL 276. Title read. Considered.

Advanced to E & R for review with 26 ayes, 0 nays, 12 present and not voting, and 11 excused and not voting.

LEGISLATIVE BILL 277. Title read. Considered.

Advanced to E & R for review with 25 ayes, 0 nays, 13 present and not voting, and 11 excused and not voting.

LEGISLATIVE BILL 278. Title read. Considered.

Advanced to E & R for review with 27 ayes, 0 nays, 14 present and not voting, and 8 excused and not voting.

LEGISLATIVE BILL 385. Title read. Considered.

Advanced to E & R for review with 26 ayes, 0 nays, 15 present and not voting, and 8 excused and not voting.

LEGISLATIVE BILL 455. Title read. Considered.

Mr. Wickersham renewed his pending amendment, AM0447, found in the Journal on page 841.

The Wickersham amendment was adopted with 26 ayes, 0 nays, 15 present and not voting, and 8 excused and not voting.

Advanced to E & R for review with 29 ayes, 0 nays, 12 present and not voting, and 8 excused and not voting.

LEGISLATIVE BILL 133. Title read. Considered.

Advanced to E & R for review with 26 ayes, 0 nays, 15 present and not voting, and 8 excused and not voting.

LEGISLATIVE BILL 420. Title read. Considered.

Advanced to E & R for review with 25 ayes, 0 nays, 16 present and not voting, and 8 excused and not voting.

LEGISLATIVE BILL 420A. Title read. Considered.

Advanced to E & R for review with 28 ayes, 0 nays, 13 present and not voting, and 8 excused and not voting.

LEGISLATIVE BILL 488. Title read. Considered.

Advanced to E & R for review with 28 ayes, 0 nays, 13 present and not voting, and 8 excused and not voting.

LEGISLATIVE BILL 393. Title read. Considered.

Advanced to E & R for review with 28 ayes, 0 nays, 13 present and not voting, and 8 excused and not voting.

LEGISLATIVE BILL 356. Title read. Considered.

Advanced to E & R for review with 26 ayes, 0 nays, 15 present and not voting, and 8 excused and not voting.

LEGISLATIVE BILL 356A. Title read. Considered.

Advanced to E & R for review with 25 ayes, 0 nays, 16 present and not voting, and 8 excused and not voting.

LEGISLATIVE BILL 357. Title read. Considered.

Mr. Withem asked unanimous consent to be excused until he returns. No objections. So ordered.

Advanced to E & R for review with 26 ayes, 0 nays, 15 present and not voting, and 8 excused and not voting.

LEGISLATIVE BILL 359. Title read. Considered.

Advanced to E & R for review with 25 ayes, 0 nays, 16 present and not voting, and 8 excused and not voting.

LEGISLATIVE BILL 477. Title read. Considered.

Advanced to E & R for review with 25 ayes, 0 nays, 16 present and not voting, and 8 excused and not voting.

LEGISLATIVE BILL 192. Title read. Considered.

Advanced to E & R for review with 25 ayes, 0 nays, 16 present and not voting, and 8 excused and not voting.

LEGISLATIVE BILL 316. Title read. Considered.

Mr. Kristensen asked unanimous consent to be excused until he returns. No objections. So ordered.

Advanced to E & R for review with 25 ayes, 0 nays, 15 present and not voting, and 9 excused and not voting.

LEGISLATIVE BILL 648. Title read. Considered.

Advanced to E & R for review with 27 ayes, 0 nays, 15 present and not voting, and 7 excused and not voting.

LEGISLATIVE BILL 224. Title read. Considered.

Mr. Abboud renewed his pending amendment, AM0341, found in the Journal on page 840.

Mr. Dierks asked unanimous consent to be excused until he returns. No objections. So ordered.

The Abboud amendment was adopted with 25 ayes, 0 nays, 16 present and not voting, and 8 excused and not voting.

Mr. R. Johnson asked unanimous consent to be excused. No objections. So ordered.

Advanced to E & R for review with 25 ayes, 0 nays, 15 present and not voting, and 9 excused and not voting.

LEGISLATIVE BILL 250. Title read. Considered.

Advanced to E & R for review with 25 ayes, 0 nays, 15 present and not voting, and 9 excused and not voting.

LEGISLATIVE BILL 341. Title read. Considered.

Advanced to E & R for review with 27 ayes, 0 nays, 13 present and not voting, and 9 excused and not voting.

Mr. Schmit asked unanimous consent to be excused until he returns. No objections. So ordered.

SELECT COMMITTEE REPORTS
Enrollment and Review

Correctly Re-Engrossed

The following bill was correctly re-engrossed: 36.

(Signed) Eric Will, Chairperson

Enrollment and Review Change to LB 36

The following changes, required to be reported for publication in the Journal, have been made:
ER7009

1. In the Beutler amendment, FA37, "add at end" has been struck and "Insert on page 10, line 12, after the period" inserted; and a comma has been inserted after "box".

(Signed) Mary E. Sommermeyer
E & R Attorney

STANDING COMMITTEE REPORTS
Nebraska Retirement Systems

LEGISLATIVE BILL 41. Placed on General File as amended.
Standing Committee amendment to LB 41:
AM0296

1. On page 3, lines 15 through 17, strike the new matter; and in line 20 strike "inducted" and insert "drafted under a federal mandatory draft law".

2. On page 4, line 6, strike "four" and insert "two years of"; in lines 7 through 9 strike the

new matter; and in line 12 after the period insert "Such credit shall be allowed if the person has paid into the system within one year from the effective date of this act an amount equal to the sum of the deductions which would have been made from his or her salary had he or she been an employee during the time for which credit is being sought and any contribution which the board would have been required to make for those same years and the interest which would have accrued on the amount. The payments for the credit shall be based upon the person's annual salary and the retirement system contribution rates for the person and the board in effect at the time he or she became a member.".

(Signed) Arlene Nelson, Chairperson

Natural Resources

LEGISLATIVE BILL 528. Placed on General File as amended.
Standing Committee amendment to LB 528:
AM0414

1. On page 2, line 4; and page 3, line 3, strike the second "of" and insert "provided by".

2. On page 2, line 5, after "funds" insert "received", and after "department" insert an underscored period; in line 6 strike "received from the Environmental Protection Agency."; in line 21 strike "activity statistics" and insert "summaries including statistical summaries when applicable"; and in line 25 after "agency" insert "which the department is required to implement and".

3. On page 3, line 6, strike "programs" and insert "activities"; in line 7 after "by" insert "federal"; in lines 7 and 8 strike "from the Environmental Protection Agency"; in lines 10 and 15 strike "program" and insert "agency sections"; in lines 11 and 17 strike "staffing" and insert "personal services"; in line 12 after the second comma and line 17 after the third comma insert "capital outlay,"; in line 20 after the first "the" insert "statutory requirements and public"; in line 21 after "of" insert "anticipated"; and in line 22 strike "activity statistics" and insert "summaries including statistical summaries when applicable".

4. On page 4, line 1, strike "position" and insert "job class"; in line 2 after "hire" insert "and retain"; in line 4 strike "all" and insert "each"; in line 5 strike "and" and insert "or"; and in lines 5 and 6 strike "or permittees who are subject to" and insert ", permittees, or other persons who are required by".

(Signed) Rod Johnson, Chairperson

UNANIMOUS CONSENT - Print in Journal

Mr. Schmit asked unanimous consent to print the following amendment to LB 762 in the Journal. No objections. So ordered.

AM0483

1. Insert the following new section:

"Sec. 2. That section 81-108, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-108. (1) Each head of one of the departments referred to in section 81-101 and each appointee in each department shall ~~(1)~~ devote his or her entire time to the duties of his or her office and ~~(2)~~ shall hold no other office or position of profit.

(2) A relative of the head of a department referred to in section 81-101 shall not be appointed to a position in the department while the related person is serving as the head of the department. ~~No appointee in any of the departments shall be a relative of any of the heads of departments created by section 81-101.~~

(3) Nothing in this section shall be interpreted as prohibiting the head of one of the departments referred to in section 81-101 or an appointee or designated representative from serving on any state policymaking or advisory board, commission, committee, or council.".

2. On page 4, line 13, strike "section 81-102" and insert "sections 81-102 and 81-108"; and in line 14 strike "is" and insert "are".

3. Renumber the remaining sections accordingly.

NOTICE OF COMMITTEE HEARING
Business and Labor

Governor Appointments Monday, March 11, 1991 1:30 p.m.
Dan Dolan - Department of Labor
Ray Otter - Nebraska Boiler Safety Code Advisory Board

(Signed) George Coordsen, Chairperson

MOTION - Place LB 511 on General File

Mr. Lamb moved to place LB 511 on General File notwithstanding committee action.

Laid over.

GENERAL FILE

LEGISLATIVE BILL 724. Title read. Considered.

SPEAKER BAACK PRESIDING

Advanced to E & R for review with 26 ayes, 0 nays, 13 present and not voting, and 10 excused and not voting.

LEGISLATIVE BILL 724A. Title read. Considered.

Advanced to E & R for review with 26 ayes, 0 nays, 13 present and not voting, and 10 excused and not voting.

Mr. Horgan asked unanimous consent to be excused until he returns. No objections. So ordered.

PRESIDENT MOUL PRESIDING

LEGISLATIVE BILL 251. Title read. Considered.

Advanced to E & R for review with 26 ayes, 0 nays, 12 present and not voting, and 11 excused and not voting.

LEGISLATIVE BILL 324. Title read. Considered.

Advanced to E & R for review with 25 ayes, 0 nays, 13 present and not voting, and 11 excused and not voting.

LEGISLATIVE BILL 731. Title read. Considered.

Advanced to E & R for review with 26 ayes, 0 nays, 12 present and not voting, and 11 excused and not voting.

LEGISLATIVE BILL 410. Title read. Considered.

Advanced to E & R for review with 25 ayes, 2 nays, 11 present and not voting, and 11 excused and not voting.

LEGISLATIVE BILL 410A. Title read. Considered.

Mrs. Rasmussen moved for a call of the house. The motion prevailed with 16 ayes, 0 nays, and 33 not voting.

Mr. Moore requested a roll call vote on the advancement of the bill.

Voting in the affirmative, 20:

Abboud	Conway	Hartnett	Lynch	Schellpeper
Baack	Coordsen	Kristensen	Morrissey	Schimek
Beyer	Cudaback	Labedz	Rasmussen	Wickersham
Chambers	Hall	Landis	Robak	Will

Voting in the negative, 8:

Crosby	Johnson, L.	Moore	Smith	Wehrbein
Hillman	Lamb	Schrock		

Present and not voting, 9:

Beutler	Hefner	Peterson	Robinson	Warner
Elmer	Nelson	Pirsch	Rogers	

Absent and not voting, 1:

Chizek

Excused and not voting, 11:

Ashford	Byars	Horgan	Lindsay	Wesely
Bernard-Stevens	Dierks	Johnson, R.	Schmit	Withem
	Haberman			

Failed to advance to E & R for review with 20 ayes, 8 nays, 9 present and not voting, 1 absent and not voting, and 11 excused and not voting.

The Chair declared the call raised.

Messrs. Lynch, Kristensen, and Peterson asked unanimous consent to be excused. No objections. So ordered.

LEGISLATIVE BILL 703. Title read. Considered.

Advanced to E & R for review with 25 ayes, 0 nays, 10 present and not voting, and 14 excused and not voting.

LEGISLATIVE BILL 703A. Title read. Considered.

Advanced to E & R for review with 28 ayes, 0 nays, 7 present and not voting, and 14 excused and not voting.

Mrs. Labedz asked unanimous consent to be excused. No objections. So ordered.

LEGISLATIVE BILL 498. Title read. Considered.

Advanced to E & R for review with 25 ayes, 0 nays, 9 present and not voting, and 15 excused and not voting.

LEGISLATIVE BILL 205. Title read. Considered.

Advanced to E & R for review with 25 ayes, 0 nays, 10 present and not voting, and 14 excused and not voting.

Mr. Horgan asked unanimous consent to be excused. No objections. So ordered.

SPEAKER BAACK PRESIDING

LEGISLATIVE BILL 221. Title read. Considered.

Advanced to E & R for review with 25 ayes, 0 nays, 9 present and not voting, and 15 excused and not voting.

Mr. Moore asked unanimous consent to be excused. No objections. So ordered.

LEGISLATIVE BILL 253. Title read. Considered.

Advanced to E & R for review with 26 ayes, 0 nays, 7 present and not voting, and 16 excused and not voting.

Mr. Schellpeper asked unanimous consent to be excused. No objections. So ordered.

LEGISLATIVE BILL 305. Title read. Considered.

Mr. Landis moved for a call of the house. The motion prevailed with 13 ayes, 0 nays, and 36 not voting.

Advanced to E & R for review with 25 ayes, 0 nays, 7 present and not voting, and 17 excused and not voting.

STANDING COMMITTEE REPORTS

Nebraska Retirement Systems

LEGISLATIVE BILL 769. Indefinitely postponed.

(Signed) Arlene Nelson, Chairperson

Government, Military and Veterans Affairs

LEGISLATIVE BILL 639. Placed on General File.
LEGISLATIVE BILL 736. Placed on General File.

LEGISLATIVE BILL 424. Placed on General File as amended.
Standing Committee amendment to LB 424:
AM0471

1. On page 4, line 20, after "(3)" insert "Every sheet of every petition mentioned in sections 32-702 to 32-713.01 circulated by a paid circulator shall have upon it the following language in letters not smaller than sixteen-point type in a contrasting color from other print on the petition: This petition is circulated by a paid circulator.

(4)".

2. On page 5, strike lines 9 through 14.

3. On page 9, strike beginning with "Any" in line 24 through line 25.

4. On page 10, strike lines 1 through 4.

LEGISLATIVE BILL 508. Indefinitely postponed.
LEGISLATIVE BILL 629. Indefinitely postponed.
LEGISLATIVE BILL 635. Indefinitely postponed.
LEGISLATIVE BILL 636. Indefinitely postponed.

(Signed) Gerald Conway, Chairperson

Urban Affairs

LEGISLATIVE BILL 840. Placed on General File as amended.
Standing Committee amendment to LB 840:
AM0468

1. Strike original sections 5 and 9 and insert the following new sections:

" Sec. 5. Economic development program shall mean any project or program utilizing funds derived from local sources of revenue for (1) the purpose of providing direct or indirect financial assistance to a qualifying business, without regard to whether the qualifying business is identified at the time the project or program is initiated or is to be determined by specified means at some point in the future, and (2) the payment of relate costs and expenses. An economic development program may include, but shall not be limited to, the following activities: Direct loans or grants to qualifying businesses for fixed assets or working capital or both; loan guarantees for qualifying business; grants for public works improvements which are essential to the location or expansion of a qualifying business; grants or loans for job training; the purchase of real estate, options for such purchases, and the renewal or extension of such options; and payments for salaries and support of city staff to implement the economic development program or the contracting of such to an outside entity. An economic development program may be conducted jointly by two or more cities after the approval of the program by the voters of each participating city.

Sec. 9. Qualifying business shall mean any corporation, partnership, or sole proprietorship which derives its principal source of income from any of the following: The manufacture of articles of commerce; the conduct of research and development; the processing,

storage, or sale of goods or commodities which are sold or traded in interstate commerce; sale of services in interstate commerce; headquarters facilities relating to eligible activities as listed in this section; telecommunications activities; or tourism-related activities. In cities with a population of two thousand five hundred inhabitants or less, a business shall be a qualifying business even though it derives its principal source of income from activities other than those set out in this section.

If a business which would otherwise be a qualifying business employs people and carries on activities in more than one city in Nebraska or will do so at any time during the first year following its application for participation in an economic development program, it shall be a qualifying business only if, in each such city, it maintains employment for the first two years of its participation in the economic development program at a level not less than the average employment in such city over the twelve-month period preceding participation.

Sec. 24. That section 77-3437, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-3437. For purposes of sections 77-3437 to 77-3440:

(1) Adopted budget statement shall have the definition found in section 13-503;

(2) Base year shall mean fiscal year 1989-90;

(3) Fiscal year shall have the definition found in section 13-503;

(4) Governing body shall have the definition found in section 13-503, except that governing body shall not include a school board or board of education of a school district;

(5) Growth shall mean any property tax revenue received as the result of new construction, additions to existing buildings, any improvements to real property which increase the value of such property, and any personal property not listed for taxation in the previous year but shall not include any increased property tax revenue received due to a change in valuation of a class or subclass of property or to revaluations of individual properties; and

(6) Property taxes shall mean all revenue received from the levy of taxes on real and personal property, including receipts from reimbursements under sections 77-3523 and 77-4205, but shall not include (a) property taxes collected for retirement of bonded indebtedness or for projects and practices in accordance with section 2-3229 and necessary works incident to such projects and practices, (b) ~~or,~~ for all fiscal years after fiscal year 1990-91, revenue received as a result of growth, or (c) property taxes collected for economic development programs adopted by the registered voters of a city as provided in the Local Option Municipal Economic Development Act.".

2. On page 7, lines 9 and 20; page 8, lines 1 and 6; page 19, lines 16 and 23; and page 20, line 15, strike "revolving".

3. On page 16, strike beginning with "the" in line 17 through "more" in line 20 and insert "five full budget years following initiation of the approved economic development program, less"; in line 21 strike "not"; and strike beginning with the second comma in line 23 through line 25 and insert "place the question of the continuation of the city's economic development program on the ballot at the next regular election.".

4. Strike beginning with "to" on page 17, line 1, through "(2)" on page 19, line 14 and insert "Sec. 19.".

5. On page 26, line 3, strike "section 13-315" and insert "sections 13-315 and 77-3437"; and in line 4 strike "is" and insert "are".

6. Renumber the remaining section accordingly.

(Signed) D. Paul Hartnett, Chairperson

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the attached report on the referral of legislative bills 850 and 851.

LB	Committee
850	Business and Labor
851	Business and Labor

(Signed) Jerome Warner, Chairperson
Legislative Council
Executive Board

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 203A. Introduced by Beutler, 28.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 203, Ninety-second Legislature, First Session, 1991; and to declare an emergency.

NOTICE OF COMMITTEE HEARINGS
Judiciary

LB 28	Wednesday, March 13, 1991 (cancel)	1:30 p.m.
LB 28	Wednesday, March 20, 1991 (reset)	1:30 p.m.
LB 187	Wednesday, March 13, 1991 (cancel)	1:30 p.m.
LB 187	Monday, March 25, 1991 (reset)	1:30 p.m.
LB 566	Wednesday, March 13, 1991 (cancel)	1:30 p.m
LB 566	Monday, March 25, 1991 (reset)	1:30 p.m
LB 812	Wednesday, March 13, 1991 (cancel)	1:30 p.m.
LB 812	Monday, March 25, 1991 (reset)	1:30 p.m.
LB 111	Thursday, March 14, 1991 (cancel)	1:30 p.m.
LB 111	Monday, March 25, 1991 (reset)	1:30 p.m.
LB 691	Thursday, March 14, 1991 (cancel)	1:30 p.m.
LB 691	Monday, March 25, 1991 (reset)	1:30 p.m.
LB 102	Monday, March 18, 1991	1:30 p.m.
LB 154	Monday, March 18, 1991	1:30 p.m.
LB 155	Monday, March 18, 1991	1:30 p.m.
LB 156	Monday, March 18, 1991	1:30 p.m.
LB 186	Monday, March 18, 1991	1:30 p.m.
LB 643	Monday, March 18, 1991	1:30 p.m.
LB 744	Monday, March 18, 1991	1:30 p.m.

LB 211	Tuesday, March 19, 1991	1:30 p.m.
LB 326	Wednesday, March 20, 1991	1:30 p.m.
LB 441	Wednesday, March 20, 1991	1:30 p.m.
LB 594	Wednesday, March 20, 1991	1:30 p.m.
LB 620	Wednesday, March 20, 1991	1:30 p.m.
LB 634	Wednesday, March 20, 1991	1:30 p.m.
LB 806	Wednesday, March 20, 1991	1:30 p.m.
LR 7CA	Thursday, March 21, 1991	1:30 p.m.
LB 515	Thursday, March 21, 1991	1:30 p.m.
LB 516	Thursday, March 21, 1991	1:30 p.m.
LB 637	Thursday, March 21, 1991	1:30 p.m.
LB 55	Friday, March 22, 1991	1:30 p.m.
LB 231	Friday, March 22, 1991	1:30 p.m.
LB 295	Friday, March 22, 1991	1:30 p.m.
LB 708	Friday, March 22, 1991	1:30 p.m.
LB 396	Tuesday, March 26, 1991	1:30 p.m.
LB 418	Tuesday, March 26, 1991	1:30 p.m.
LB 443	Tuesday, March 26, 1991	1:30 p.m.
LB 495	Tuesday, March 26, 1991	1:30 p.m.
LB 644	Tuesday, March 26, 1991	1:30 p.m.
LB 743	Tuesday, March 26, 1991	1:30 p.m.
LB 814	Tuesday, March 26, 1991	1:30 p.m.
LB 110	Wednesday, March 27, 1991	1:30 p.m.
LB 347	Wednesday, March 27, 1991	1:30 p.m.
LB 351	Wednesday, March 27, 1991	1:30 p.m.
LB 476	Wednesday, March 27, 1991	1:30 p.m.
LB 484	Wednesday, March 27, 1991	1:30 p.m.
LB 557	Wednesday, March 27, 1991	1:30 p.m.
LB 673	Wednesday, March 27, 1991	1:30 p.m.
LB 800	Wednesday, March 27, 1991	1:30 p.m.
LB 281	Thursday, March 28, 1991	1:30 p.m.
LB 310	Thursday, March 28, 1991	1:30 p.m.
LB 448	Thursday, March 28, 1991	1:30 p.m.
LB 753	Thursday, March 28, 1991	1:30 p.m.
LB 809	Thursday, March 28, 1991	1:30 p.m.

(Signed) Jerry Chizek, Chairperson

UNANIMOUS CONSENT - Add Co-Introducers

Mr. Kristensen asked unanimous consent to have his name added as co-introducer to LR 32. No objections. So ordered.

Mr. Chambers asked unanimous consent to have his name added as co-introducer to LB 298 and LB 735. No objections. So ordered.

VISITORS

Visitors to the Chamber were Pastor Norman Nelson from Minden; Chuck Mumby and Larry Martinson from Harrison; Bill and Brad Podraza from Lexington; Students and teacher from Perkins County High School, Grant; and 15 visitors from Callaway and Oconto.

The Doctor of the Day was Dr. David Filipi from Omaha.

ADJOURNMENT

At 12:12 p.m., on a motion by Mr. Conway, the Legislature adjourned until 9:00 a.m., Monday, March 4, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

THIRTY-SIXTH DAY - MARCH 4, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

THIRTY-SIXTH DAY

Legislative Chamber, Lincoln, Nebraska
Monday, March 4, 1991

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Moul presiding.

PRAYER

The prayer was offered by Rev. Harland Johnson, Chaplain Coordinator.

ROLL CALL

The roll was called and all members were present except Mr. Lamb who was excused; and Messrs. Abboud, Ashford, Bernard-Stevens, Chambers, Chizek, Conway, Haberman, Hall, Hartnett, R. Johnson, Lynch, Moore, Wesely, Withem, and Mrs. Smith who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Thirty-Fifth Day was approved.

ATTORNEY GENERAL'S OPINION

Opinion No. 91013

DATE: February 28, 1991

SUBJECT: Constitutional amendment to provide for recall of elected constitutional officers.

REQUESTED BY: Senator Ron Withem, 14th Legislative District

WRITTEN BY: Don Stenberg, Attorney General
Harold Mosher,
Senior Assistant Attorney General

You have asked whether an amendment to the Nebraska Constitution is needed to permit the recall of an elected State constitutional officer. Specifically, your question pertains to members of the University of Nebraska Board of Regents (hereinafter, Board of Regents).

It should be noted at the outset that Neb.Const., Art. VII, §10, states that the general government of the University of Nebraska shall, under the direction of the Legislature, be vested in a board of not less than six nor more than eight regents. It mandates that the voting members thereof shall be elected (except vacancies) from and by districts and fixes the term of the elected members at six years each. It also provides for three students of the University of Nebraska who serve as nonvoting members and fixes the terms of their office. The Board of Regents are thus constitutional officers who serve a fixed term.

Traditionally, Nebraska has afforded constitutional officers more protection than statutory officers in terms of the possible ways such officers may be removed from office. See and compare, State ex rel. Lottman v. Board of Education of School District No. 103, 201 Neb. 486, 268 N.W.2d 435 (1978) with Fitzgerald v. Kuplinger, 163 Neb. 286, 79 N.W.2d 547 (1956). Lottman dealt with and permitted the recall of the members of a board of education. Fitzgerald dealt with a suit brought by the Douglas County Attorney to enjoin the county election commissioner from placing the names of two candidates for county attorney on the general election ballot. In its opinion, the Nebraska Supreme Court addressed at length the removal or suspension of constitutional officers. It then held the provisions of Neb.Const., Art. III, §23, "as to removal and vacation, are exclusive as to constitutional offices and the Legislature has no power to add other or different grounds." It thereupon declared Neb.Rev.Stat. §32-503 (Supp. 1955), to the extent that it was attacked in that case, unconstitutional, null and void.

Based upon Fitzgerald, it would seem that the Legislature has no power to provide by statute for the removal of a member of the Board of Regents. However, Neb.Const., Art. III, §23, which sets out the exclusive provisions for removal of State constitutional officers, and upon which the holding in Fitzgerald was based, was repealed in 1972.

The legislative history of the repeal of Neb.Const., Art. III, §23, states that the content thereof was to be provided for in Neb.Const., Art. IV. Subject to certain exceptions which are not pertinent to this inquiry, Neb.Const., Art. IV, §11, provides for the appointment of elected state offices created by the Constitution which became vacated by "death, resignation, or otherwise." It does not elaborate on the word "otherwise." It seems logical that it refers to and means causes stated in the Constitution, other than death or resignation, by which elected State constitutional offices can become vacant. One such cause, for example, is by impeachment, Neb.Const., Art. III, §17 and Neb.Const., Art. IV, §5. Another is refusal to take the Oath of Office or the violation of said oath, as provided by Neb.Const., Art. XV, §1. See also, Neb.Const., Art. XV, §2.

Last, but not least important, it should be noted that Fitzgerald has not been overruled. In fact, Fitzgerald is the latest in a line of cases. See, for example, Laverty v. Cochran, 132 Neb. 118, 271 N.W. 354 (1936); and Conray v. Hallowell, 94 Neb. 794, 144 N.W. 895 (1913). We are, therefore, of the opinion that elected State constitutional officers can only be removed from office for those reasons enumerated in the Nebraska Constitution. We are of the further opinion that an appropriate constitutional amendment would be required to permit the recall of a State constitutional officer, including members of the Board of Regents.

Respectfully submitted,
DON STENBERG
Attorney General
(Signed) Harold I. Mosher
Assistant Attorney General

20-1-3

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following resolutions: LR 32, LR 33, and LR 34.

GENERAL FILE

LEGISLATIVE BILL 67. Considered.

Mr. Schmit moved to indefinitely postpone LB 67.

Mr. Kristensen asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Morrissey moved the previous question. The question is, "Shall the debate now close?"

Mr. Morrissey moved for a call of the house. The motion prevailed with 20 ayes, 0 nays, and 29 not voting.

Mr. Morrissey requested a roll call vote on the motion to cease debate.

Voting in the affirmative, 21:

Beutler	Hillman	Lindsay	Peterson	Schellpeper
Beyer	Horgan	Moore	Rasmussen	Wehrbein
Cudaback	Johnson, R.	Morrissey	Robak	Wickersham
Dierks	Landis	Nelson	Robinson	Will
Hefner				

Voting in the negative, 12:

Ashford	Coordsen	Johnson, L.	Rogers	Schrock
Bernard-Stevens	Crosby	Labedz	Schmit	Warner
	Elmer	Pirsch		

Present and not voting, 3:

Baack	Byars	Schimek

Excused and not voting, 13:

Abboud	Conway	Hartnett	Lynch	Wesely
Chambers	Haberman	Kristensen	Smith	Withem
Chizek	Hall	Lamb		

The motion to cease debate lost with 21 ayes, 12 nays, 3 present and not voting, and 13 excused and not voting.

The Chair declared the call raised.

Mr. Schmit withdrew his pending motion to indefinitely postpone.

Mr. R. Johnson withdrew his pending amendment, AM0457, found in the Journal on page 841.

Mr. R. Johnson offered the following amendment:
FA46
1. In the Standing Committee amendments,
AM0107:
a. Strike the Morrissey amendment, FA39;
b. Strike amendment 2;
c. On page 1, line 19, strike "(b)"; and
d. Renumber the remaining amendments accordingly.
2. On page 4, line 17, strike "1993" and insert "1995".

The R. Johnson amendment was adopted with 27 ayes, 0 nays, 11 present and not voting and 11 excused and not voting.

Advanced to E & R for review with 28 ayes, 0 nays, 10 present and not voting, and 11 excused and not voting.

LEGISLATIVE BILL 325. Title read. Considered.

Standing Committee amendment, AM0133, found in the Journal on page 531, was adopted with 28 ayes, 0 nays, 11 present and not voting, and 10 excused and not voting.

Advanced to E & R for review with 28 ayes, 0 nays, 11 present and not voting, and 10 excused and not voting.

LEGISLATIVE BILL 363. Title read. Considered.

Standing Committee amendment, AM0072, found in the Journal on page 533, was adopted with 25 ayes, 0 nays, 14 present and not voting, and 10 excused and not voting.

SPEAKER BAACK PRESIDING

Advanced to E & R for review with 25 ayes, 0 nays, 14 present and not voting, and 10 excused and not voting.

LEGISLATIVE BILL 363A. Title read. Considered.

Advanced to E & R for review with 25 ayes, 0 nays, 14 present and not voting, and 10 excused and not voting.

STANDING COMMITTEE REPORTS
Nebraska Retirement Systems

LEGISLATIVE BILL 350. Placed on General File.

(Signed) Arlene Nelson, Chairperson

Business and Labor

LEGISLATIVE BILL 328. Placed on General File.

LEGISLATIVE BILL 298. Placed on General File as amended.
Standing Committee amendment to LB 298:
AM0511

1. Insert the following new section:

"Section 1. That section 48-120, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-120. The employer shall be liable for all reasonable medical, surgical, and hospital services, including plastic or reconstructive but not cosmetic surgery when the injury has caused disfigurement, appliances, supplies, prosthetic devices, and medicines as and when needed, which are required by the nature of the injury and which will relieve pain or promote and hasten the employee's restoration to health and employment, and shall include damage to or destruction of artificial members, dental appliances, teeth, hearing aids, and eyeglasses, but, in the case of dental appliances, hearing aids, or eyeglasses, only if such damage or destruction resulted from an accident which also caused personal injury entitling the employee to compensation therefor for disability or treatment, subject to the approval of and regulation by the Nebraska Workers' Compensation Court, not to exceed the regular charge made for such service in similar cases. The compensation court may establish ~~and publish~~ schedules of maximum fees for such services. If the compensation court establishes such a schedule, it shall publish and furnish such schedule to the public. The compensation court shall review such schedule ~~annually~~

at least biennially and adopt appropriate changes when necessary. The compensation court ~~may~~ shall contract with any person, firm, corporation, organization, or government agency to secure adequate data to establish such fees. The provider or supplier of such services shall not collect or attempt to collect from any employer, insurer, government, or injured employee or dependent or the estate of any injured or deceased employee any amount in excess of the maximum fee established by the compensation court for any such service. The compensation court ~~may~~ shall establish and charge a fee to recover the cost of published fee schedules. The employee shall have the right to make the initial selection of his or her physician from among all licensed physicians in the state and shall have the right to make an alternative choice of physician if he or she is not satisfied with the physician first selected. If the employee shall select a physician located in a community not the home or place of work of the employee and a physician is available in the local community or in a closer community, no travel expenses shall be required to be paid by the employer or his or her insurer. In cases of injury requiring dismemberment or injuries involving major surgical operation, the employee may designate to his or her employer the physician or surgeon to perform the operation. If the injured employee unreasonably refuses or neglects to avail himself or herself of medical or surgical treatment, except as herein and otherwise provided, the employer shall not be liable for an aggravation of such injury due to such refusal and neglect and the compensation court or judge thereof may suspend, reduce, or limit the compensation otherwise payable under the Nebraska Workers' Compensation Act.

If, due to the nature of the injury or its occurrence away from the employer's place of business, the employee is unable to make such selection, the selection requirements of this section shall not apply as long as the inability to make a selection persists. The physician selected may arrange for any consultation, referral, or extraordinary or other specialized medical services as the nature of the injury shall require. The employer shall not be responsible for medical services furnished or ordered by any physician or other person

selected by the employee in disregard of this section.

No claim for such medical treatment shall be valid and enforceable unless, within fourteen days following the first treatment, the physician giving such treatment furnishes the employer and the Nebraska Workers' Compensation Court a report of such injury and treatment on a form prescribed by the compensation court. The compensation court may excuse the failure to furnish such report within fourteen days when it finds it to be in the interest of justice to do so.

All physicians attending injured employees shall comply with all the rules and regulations adopted and promulgated by the Nebraska Workers' Compensation Court and shall make such reports as may be required by it at any time and at such times as required by it upon the condition or treatment of any injured employee or upon any other matters concerning cases in which they are employed. Generally, all medical and hospital information relevant to the particular injury shall, on demand, be made available to the employer, employee, carrier, and the compensation court. The party requesting such medical and hospital information shall pay the cost thereof. No such relevant information developed in connection with treatment or examination for which compensation is sought shall be considered a privileged communication for purposes of a workers' compensation claim. When a physician willfully fails to make any report required of him or her under this section, the compensation court may order the forfeiture of his or her right to all or part of payment due for services rendered in connection with the particular case.

Whenever the Nebraska Workers' Compensation Court deems it necessary, in order to assist it in resolving any issue of medical fact or opinion, it shall cause the employee to be examined by a physician or physicians selected by the compensation court and obtain from such physician or physicians a report upon the condition or matter which is the subject of inquiry. The compensation court may charge the cost of such examination to the carrier. The cost of such examination shall include the payment to the employee of all necessary and reasonable expenses incident to such examination, such as transportation and loss of wages.

The Nebraska Workers' Compensation Court shall have the authority to determine the necessity, character, and sufficiency of any medical services furnished or to be furnished and shall have authority to order a change of doctor, physician, hospital, or rehabilitation facility when it deems such change is desirable or necessary. For the purpose of this section, physician shall mean any person licensed to practice medicine and surgery, osteopathic medicine, chiropractic, podiatry, or dentistry.

The Nebraska Workers' Compensation Court shall order the employer to make payment directly to the supplier of any services provided for in this section or reimbursement to anyone who has made any payment to the supplier for services provided in this section. No such supplier or payor may be made or become a party to any action before the compensation court.".

2. On page 3, lines 6 and 7, strike the new matter.

3. On page 4, line 15, strike "section" and insert "sections 48-120 and"; and in line 16 strike "is" and insert "are".

4. Renumber remaining sections accordingly.

LEGISLATIVE BILL 16. Indefinitely postponed.

(Signed) George Coordsen, Chairperson

NOTICE OF COMMITTEE HEARING
Business and Labor

LB 850	Monday, March 11, 1991	1:30 p.m.
LB 851	Monday, March 11, 1991	1:30 p.m.

(Signed) George Coordsen, Chairperson

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 465A. Introduced by Landis, 46.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 465, Ninety-second Legislature, First Session, 1991.

GENERAL FILE

LEGISLATIVE BILL 419. Title read. Considered.

Standing Committee amendment, AM0118, found in the Journal on page 533, was adopted with 26 ayes, 0 nays, 13 present and not voting, and 10 excused and not voting.

Mr. Schmit asked unanimous consent to be excused until he returns. No objections. So ordered.

Advanced to E & R for review with 26 ayes, 0 nays, 13 present and not voting, and 10 excused and not voting.

PRESIDENT MOUL PRESIDING

LEGISLATIVE BILL 286. Title read. Considered.

Standing Committee amendment, AM0160, found in the Journal on page 553, was adopted with 25 ayes, 0 nays, 14 present and not voting, and 10 excused and not voting.

Advanced to E & R for review with 25 ayes, 0 nays, 14 present and not voting, and 10 excused and not voting.

LEGISLATIVE BILL 336. Title read. Considered.

Standing Committee amendment, AM0104, found in the Journal on page 553, was considered.

Mr. Rogers asked unanimous consent to be excused until he returns. No objections. So ordered.

The Standing Committee amendment was adopted with 27 ayes, 0 nays, 11 present and not voting, and 11 excused and not voting.

Mr. Morrissey asked unanimous consent to be excused. No objections. So ordered.

Mr. Kristensen renewed his pending amendment, AM0292, found in the Journal on page 689.

Mr. Horgan asked unanimous consent to be excused until he returns. No objections. So ordered.

The Kristensen amendment was adopted with 26 ayes, 0 nays, 11 present and not voting, and 12 excused and not voting.

Mr. Elmer offered the following amendment:
FA47
On page 15, line 15 before the comma, insert "or school sponsored activity held on the premises where he or she attends school"

Mr. R. Johnson asked unanimous consent to be excused. No objections. So ordered.

The Elmer amendment lost with 13 ayes, 13 nays, 10 present and not voting, and 13 excused and not voting.

Messrs. Beutler and Bernard-Stevens offered the following amendment:
FA48
on line 9 page 4 strike everything after the word "person"
and on line 10 strike everything before the word "has".

The Beutler-Bernard-Stevens amendment lost with 7 ayes, 14 nays, 13 present and not voting, and 15 excused and not voting.

Pending.

SELECT COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 344. Placed on Select File as amended.
(E & R amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM5043.)

Correctly Engrossed

The following bills were correctly engrossed: 75, 96, 204, 235, 236, and 247.

(Signed) Eric Will, Chairperson

Enrollment and Review Change to LB 75

The following changes, required to be reported for publication in the Journal, have been made:
ER7010

1. In the Hartnett amendment, FA41, "curriculum" has been struck and "curricula" inserted.

Enrollment and Review Change to LB 235

The following changes, required to be reported for publication in the Journal, have been made:
ER7014

1. In the Landis-Beutler amendment, AM0400, on page 1, line 11, "property" has been struck and "estate" inserted.
2. On page 30, line 18; and page 33, line 4, "for title insurance" has been struck.
3. On page 50, line 3, "title" has been struck.

Enrollment and Review Change to LB 236

The following changes, required to be reported for publication in the Journal, have been made:
ER7011

1. In lieu of the Landis amendment, FA42, in the Landis amendment, AM0403, "Not" has been struck and "Commencing January 1, 1993, not" inserted.
2. In the E & R amendment, AM5030, on page 1, line 3, "to provide a requirement for boards of certain insurance companies;" has been inserted after the second semicolon.
3. On page 1, line 5, "44-211," has been inserted after "sections".
4. On page 22, line 22, "its" has been inserted after "of".
5. On page 29, line 1, "that" has been struck and "than" inserted.
6. On page 34, line 19, "in" has been struck and "is" inserted.
7. On page 43, line 23, "the" has been inserted after the second "or".

Enrollment and Review Change to LB 247

The following changes, required to be reported for publication in the Journal, have been made:
ER7015

1. On page 2, line 24, "successor" has been struck and "successors" inserted.

(Signed) Mary E. Sommermeyer
E & R Attorney

STANDING COMMITTEE REPORT
Education

LEGISLATIVE BILL 663. Placed on General File as amended. (Standing Committee amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM0445.)

(Signed) Ron Withem, Chairperson

ATTORNEY GENERAL'S OPINION

Opinion No. 91014

DATE: March 1, 1991

SUBJECT: LB 68; Constitutionality of a Bill That Would Require Payment of a Stipend to University Football Players in Light of Concerns Involving the Contingent Operation of the Bill and Vagueness

REQUESTED BY: Senator Elroy Hefner, Nebraska State Legislature

WRITTEN BY: Don Stenberg, Attorney General
Dale A. Comer, Assistant Attorney General

LB 68 is a bill which would require that football players at the University of Nebraska-Lincoln be paid a stipend, the amount of which would be determined by the University. The bill provides that it shall become operative "whenever laws requiring a similar stipend for football players are enacted in four additional states which are members of the Big Eight Conference." You are concerned about the bill's constitutionality for several specific reasons described in your correspondence to us. You also raise some additional questions concerning continued operation of the bill in the event of certain actions by the other states involved. Our responses to your various questions are set out below.

You first ask if LB 68 is constitutional with specific reference to the contingency provisions of the bill which make its operation contingent upon enactment of similar laws in four additional states. We do not believe that this contingency provision is unconstitutional.

There is considerable authority in Nebraska which indicates that, while the Legislature cannot delegate its authority to make a law, it can make a law which becomes operative on the happening of a certain contingency. State ex rel. Douglas v. Sporhase, 208 Neb. 703, 305 N.W.2d 614 (1981); State v. Padley, 195 Neb. 358, 237 N.W.2d 883 (1976); Lennox v. Housing Authority of the City of Omaha, 137 Neb. 582, 290 N.W. 451 (1940). In fact, we have had occasion to consider the constitutionality of a bill with contingency provisions quite similar to those set out in LB 68. In Opinion of the Attorney General No. 87066, dated May 4, 1987, we indicated that a provision making the operation of a particular bill effective upon passage of identical acts by certain contiguous states did not constitute an unconstitutional delegation of legislative authority. In a similar fashion, we believe that the contingency provision of LB 68 is constitutional.

You next ask whether the language in section 5 of LB 68 referring to "laws requiring a similar stipend" is unconstitutionally vague, and whether it is likely to result in litigation to ascertain its meaning. You are particularly concerned with the use of "similar" in "similar stipend." While our assessment of the likelihood of litigation regarding the meaning of "similar stipend" would be speculative at best, we do believe that this language in the bill is not unconstitutionally vague.

It is a general rule that a statute must be reasonably clear and definite to be constitutionally valid. Neeman v. Nebraska Natural Resources Commission, 191 Neb. 672, 217 N.W.2d 166 (1974). The void for vagueness doctrine is based on the due process requirements contained in the Fifth and Fourteenth Amendments to the Federal Constitution and contained in Article I, Section 3 of our Nebraska Constitution. U.S. v. Articles of Drug, 825 F.2d 1238 (8th Cir. 1987); State v. A. H., 198 Neb. 444, 253 N.W.2d 283 (1977). In order to pass constitutional muster, a statute must be sufficiently specific so that persons of ordinary intelligence must not have to guess at its meaning, and the statute must contain ascertainable standards by which it may be applied. State v. A. H., supra.

Many cases involving the question of unconstitutional vagueness have dealt with statutes or ordinances imposing criminal sanctions. However, the void for vagueness doctrine does apply equally to civil statutes. Id. Even though this is the case, greater vagueness is generally tolerated in civil statutes than in criminal statutes. U.S. v.

Articles of Drug, supra. A statute which is otherwise valid will not be held void for vagueness unless it is so deficient in its terms as to render it impossible to enforce. Neeman v. Nebraska Natural Resources Commission, supra. The constitutional requirement of reasonable certainty in statutory language is satisfied by the use of ordinary terms which find adequate interpretation in common usage and understanding. Fulmer v. Jensen, 221 Neb. 582, 379 N.W.2d 736 (1986). Statutes are sufficiently definite when they use language which is commonly grasped. State v. Metteer, 203 Neb. 515, 279 N.W.2d 374 (1979).

The language at issue in LB 68 involves the use of "similar" in the phrase "similar stipend." It appears to us that "similar" is in ordinary and common usage and can be commonly understood. Moreover, under the standards described above, persons of ordinary intelligence would probably not have to guess at its meaning. Therefore, we do not believe that LB 68 is unconstitutionally vague.

Your final questions concern how LB 68 would be affected if it became operative upon the action of other states in the Big Eight Conference, and then one of the statutes from those other states establishing a similar stipend was abrogated in some way. Specifically, you wish to know what would happen if, under those circumstances, a similar statute in the other states was declared unconstitutional, enjoined, or repealed. We believe that such an action in another state would have no effect on LB 68, and it would remain in force.

LB 68 provides that its provisions will become operative when four additional states which are members of the Big Eight Conference enact laws requiring a similar stipend. While the bill conditions its operation upon the actions of other states, there is no language which indicates that the bill will become inoperative or suspended if something should alter the action of the four additional states involved. In general, statutes not limited in their operation to a particular term of time are, in legal contemplation, perpetual, and continue in force until duly altered or repealed by competent authority. 73 Am.Jur.2d Statutes § 375. Since nothing in LB 68 would limit its operation if one of the four additional states requiring similar stipends changed that requirement, we believe that the bill would continue in force under those circumstances. Once the bill becomes operative, it will remain so until its altered or repealed.

Sincerely,
DON STENBERG
Attorney General
(Signed) Dale A. Comer

Assistant Attorney General

05-01-14.91
cc: Patrick J. O'Donnell
Clerk of the Legislature

UNANIMOUS CONSENT - Print in Journal

Mr. Landis asked unanimous consent to print the following amendment to LB 292 in the Journal. No objections. So ordered.

AM0301

1. On page 4, line 8, strike "and"; and in line 10 after "property" insert "; and

(j) A person licensed to engage in the business of debt management pursuant to sections 69-1201 to 69-1217".

STANDING COMMITTEE REPORTS
Government, Military and Veterans Affairs

The Committee on Government, Military and Veterans Affairs desires to report favorably upon the appointment listed below. The Committee suggests the appointment be confirmed by the Legislature and suggests a record vote.

Rod Armstrong - Director, Policy Research and Nebraska Energy Office

VOTE: Aye: Senators Conway, Coordsen, Robak, Schimek, Schrock, and Withem. Absent: Senators Lindsay and Smith.

(Signed) Gerald Conway, Chairperson

Nebraska Retirement Systems

The Committee on Nebraska Retirement Systems desires to report favorably upon the appointment listed below. The Committee suggests the appointment be confirmed by the Legislature and suggests a record vote.

Gerald Bucher - Nebraska Public Employees Retirement Board

Vote: Ayes: Senators Abboud, Elmer, Moore and Nelson. Nays: None. Absent: Senators Crosby and Schellpeper.

(Signed) Arlene Nelson, Chairperson

NOTICE OF COMMITTEE HEARING
Education

Governor Appointment Tuesday, March 12, 1991 1:25 p.m.
Wilbur "Doc" Kloepping - Nebraska Board of Educational Lands and Funds

(Signed) Ron Withem, Chairperson

VISITORS

Visitors to the Chamber were 17 juniors, seniors, and teacher from Wilcox High School.

The Doctor of the Day was Dr. Rick Gustafson from Lincoln.

ADJOURNMENT

At 12:07 p.m., on a motion by Mr. Elmer, the Legislature adjourned until 9:00 a.m., Tuesday, March 5, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

THIRTY-SEVENTH DAY - MARCH 5, 1991

LEGISLATIVE JOURNAL

THIRTY-SEVENTH DAY - MARCH 5, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

THIRTY-SEVENTH DAY

Legislative Chamber, Lincoln, Nebraska
Tuesday, March 5, 1991

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Moul presiding.

PRAYER

The prayer was offered by Pastor George Meslow, Martin Luther Home, Beatrice, Nebraska.

ROLL CALL

The roll was called and all members were present except Messrs. Kristensen, Lamb, and Wesely who were excused; and Messrs. Abboud, Ashford, Chambers, Haberman, Hall, Hartnett, Landis, Lindsay, Lynch, Moore, Peterson, Schmit, and Mrs. Rasmussen who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Thirty-Sixth Day was approved.

SELECT COMMITTEE REPORT
Enrollment and Review

LEGISLATIVE BILL 837. Placed on Select File as amended.
E & R amendment to LB 837:
AM5042
1. In the Standing Committee amendments,
AM0408:
a. On page 1, line 3, after "state" insert "as

defined in the Central Interstate Low-Level Radioactive Waste Compact"; in line 4 strike "in" and insert "by"; strike beginning with "Central" in line 5 through "Compact" in line 6 and insert "compact"; in line 7 after "state" insert "as defined in the compact"; and in line 21 strike "commission" and insert "Central Interstate Low-Level Radioactive Waste Commission"; and

b. On page 2, strike beginning with "Central" in line 1 through "Commission" in line 2, show as stricken, and insert "commission".

2. On page 1, strike beginning with "the" in line 4 through "license" in line 5 and insert "access to a facility"; and in line 8 after "regarding" insert "definitions," and after the comma insert "fees, liability,".

(Signed) Eric Will, Chairperson

STANDING COMMITTEE REPORTS
Revenue

LEGISLATIVE BILL 193. Placed on General File.
LEGISLATIVE BILL 284. Placed on General File.
LEGISLATIVE BILL 749. Placed on General File.

LEGISLATIVE BILL 140. Placed on General File as amended.
Standing Committee amendment to LB 140:
AM0519

1. On page 2, strike beginning with "if" in line 13 through "1" in line 16.

2. On page 4, strike beginning with "if" in line 6 through "1" in line 9; and strike line 25 and insert "20. An".

3. On page 5, strike lines 1 and 2.

LEGISLATIVE BILL 662. Placed on General File as amended.
Standing Committee amendment to LB 662:
AM0527

1. Insert the following new section:

"Sec. 6. That section 77-27,132, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-27,132. (1) There is hereby created a fund to be designated the Revenue Distribution Fund which

shall be set apart and maintained by the Tax Commissioner. Revenue not required to be credited to the General Fund or any other specified fund may be credited to the Revenue Distribution Fund. Credits and refunds of such revenue shall be paid from the Revenue Distribution Fund. The balance of the amount credited, after credits and refunds, shall be allocated as provided by the statutes creating such revenue.

(2) The Tax Commissioner shall pay to a depository bank designated by the State Treasurer all amounts collected under the Nebraska Revenue Act of 1967. The Tax Commissioner shall present to the State Treasurer bank receipts showing amounts so deposited in the bank, and of the amounts so deposited the State Treasurer shall credit to the Highway Trust Fund all of the proceeds of the sales and use taxes derived from motor vehicles, trailers, and semitrailers. The balance of the amounts so paid shall be credited to the General Fund or to the School Aid Fund pursuant to sections 77-2701.01 and 77-2701.02.".

2. On page 2, line 6, after "appropriations" insert "from funds, the source of which include sales or income taxes,".

3. On page 3, line 21, after "section" insert "on items other than motor vehicles, trailers, and semitrailers".

4. On page 11, strike beginning with "for" in line 8 through line 9 and insert "on"; and in line 12 before "79-447" insert "77-27,132,".

5. Renumber the remaining sections accordingly.

LEGISLATIVE BILL 773. Placed on General File as amended.
(Standing Committee amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM0518.)

LEGISLATIVE BILL 462. Indefinitely postponed.
LEGISLATIVE BILL 525. Indefinitely postponed.
LEGISLATIVE BILL 550. Indefinitely postponed.
LEGISLATIVE BILL 611. Indefinitely postponed.
LEGISLATIVE BILL 681. Indefinitely postponed.
LEGISLATIVE BILL 721. Indefinitely postponed.
LEGISLATIVE BILL 803. Indefinitely postponed.

(Signed) Tim Hall, Chairperson

RESOLUTIONS

LEGISLATIVE RESOLUTION 36. Introduced by R. Johnson, 34.

WHEREAS, the Sandy Creek High School girls' basketball team won the Class C-2 Girls' State High School Basketball Championship with a fifty-six to forty-four victory over Overton; and

WHEREAS, the team won twenty-three of twenty-five games played this season; and

WHEREAS, the Legislature should recognize the academic, athletic, and artistic achievements of the youth of our state.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Sandy Creek High School girls' basketball team be congratulated for their exemplary effort this season and in the Girls' State High School Basketball Tournament.

2. That a copy of this resolution be sent to Coach Russ Ninemire and the Sandy Creek High School.

Laid over.

LEGISLATIVE RESOLUTION 37. Introduced by R. Johnson, 34.

WHEREAS, the Sutton High School girls' basketball team won the Class C-1 Girls' State High School Basketball Championship with a forty to thirty-eight victory over Crofton; and

WHEREAS, the team won all twenty-six games played this season; and

WHEREAS, the Legislature should recognize the academic, athletic, and artistic achievements of the youth of our state.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Sutton High School girls' basketball team be congratulated for their exemplary effort this season and in the Girls' State High School Basketball Tournament.

2. That a copy of this resolution be sent to Coach John Schoneberg and the Sutton High School.

Laid over.

STANDING COMMITTEE REPORT
Revenue

The Committee on Revenue desires to report favorably upon the appointment listed below. The Committee suggests the appointment be confirmed by the Legislature and suggests a record vote.

M. Berri Balka - Nebraska Department of Revenue

VOTE: Aye: Senators Haberman, Hall, Hefner, Landis, Peterson, Rogers, Warner, and Will. Nay: None.

(Signed) Tim Hall, Chairperson

MESSAGE FROM THE GOVERNOR

March 4, 1991

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Madam President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Nebraska Commission on Law Enforcement and Criminal Justice, requiring legislative approval.

> Appointee: Ron Tussing, 3353 "M" St., Lincoln, NE 68510, (402) 477-5596 h, (402) 471-2406 w.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:fc

ANNOUNCEMENT

The Urban Affairs Committee designates LB 840 as its priority bill.

MOTION - Approve Appointment

Mrs. Nelson moved the adoption of the report of the Nebraska Retirement Systems Committee for the following Governor appointment found in the Journal on page 900: Gerald Bucher - Nebraska Public Employees Retirement Board.

Voting in the affirmative, 28:

Baack	Conway	Hefner	Morrissey	Schimek
Bernard-Stevens	Coordsen	Hillman	Nelson	Warner
Beutler	Crosby	Horgan	Robak	Wehrbein
Beyer	Cudaback	Johnson, L.	Robinson	Wickersham
Chizek	Dierks	Johnson, R.	Rogers	Withem
	Elmer	Labedz	Schellpeper	

Voting in the negative, 0.

Present and not voting, 5:

Byars	Pirsch	Schrock	Smith	Will

Excused and not voting, 16:

Abboud	Hall	Lamb	Lynch	Rasmussen
Ashford	Hartnett	Landis	Moore	Schmit
Chambers	Kristensen	Lindsay	Peterson	Wesely
Haberman				

The appointment was confirmed with 28 ayes, 0 nays, 5 present and not voting, and 16 excused and not voting.

BILLS ON FINAL READING

The following bills were read and put upon final passage:

LEGISLATIVE BILL 25.

A BILL FOR AN ACT relating to the duplication of records; to amend sections 25-12,112, 84-1202, and 84-1208, Reissue Revised Statutes of Nebraska, 1943; to provide for admissibility in evidence of duplicates made by optical imagery; to redefine terms; to provide for preservation duplicates to be made using optical imagery; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 36:

Ashford	Conway	Hillman	Peterson	Schrock
Baack	Coordsen	Horgan	Pirsch	Smith
Bernard-Stevens	Crosby	Johnson, L.	Robak	Warner
	Cudaback	Johnson, R.	Robinson	Wehrbein
Beutler	Dierks	Labedz	Rogers	Wickersham
Beyer	Elmer	Morrissey	Schellpeper	Will
Byars	Hartnett	Nelson	Schimek	Withem
Chizek	Hefner			

Voting in the negative, 0.

Excused and not voting, 13:

Abboud	Hall	Landis	Moore	Schmit
Chambers	Kristensen	Lindsay	Rasmussen	Wesely
Haberman	Lamb	Lynch		

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 118.

A BILL FOR AN ACT relating to the Nebraska Real Estate License Act; to amend sections 81-885.21 and 81-885.47, Reissue Revised Statutes of Nebraska, 1943, and sections 81-885.01 and 81-885.14, Revised Statutes Supplement, 1990; to require licensees to have errors and omissions insurance; to provide powers and duties for the commission; to provide for inactive brokers; to harmonize provisions; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 36:

Ashford	Baack

Bernard-Stevens	Coordsen	Hillman	Pirsch	Schrock
Beutler	Crosby	Horgan	Robak	Smith
Beyer	Cudaback	Johnson, L.	Robinson	Warner
Byars	Dierks	Johnson, R.	Rogers	Wehrbein
Chizek	Elmer	Labedz	Schellpeper	Wickersham
Conway	Hartnett	Nelson	Schimek	Will
	Hefner	Peterson	Schmit	Withem

Voting in the negative, 0.

Present and not voting, 1:

Morrissey

Excused and not voting, 12:

Abboud	Hall	Landis	Lynch	Rasmussen
Chambers	Kristensen	Lindsay	Moore	Wesely
Haberman	Lamb			

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 128.

A BILL FOR AN ACT relating to sanitary and improvement districts; to amend section 31-727.03, Reissue Revised Statutes of Nebraska, 1943; to provide a late filing fee for an annual statement; to change requirements for the statement; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 38:

Ashford	Chizek	Hartnett	Landis	Rogers
Baack	Conway	Hefner	Lindsay	Schellpeper
Bernard-Stevens	Coordsen	Hillman	Morrissey	Schimek
Beutler	Crosby	Horgan	Nelson	Schmit
Beyer	Cudaback	Johnson, L.	Peterson	Schrock
Byars	Dierks	Johnson, R.	Pirsch	Smith
	Elmer	Labedz	Robak	Warner

Wehrbein	Wickersham	Will	Withem

Voting in the negative, 0.

Present and not voting, 1:

Robinson

Excused and not voting, 10:

Abboud	Haberman	Kristensen	Lynch	Rasmussen
Chambers	Hall	Lamb	Moore	Wesely

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 178.

A BILL FOR AN ACT relating to county budgets; to amend section 23-906, Revised Statutes Supplement, 1990; to change a provision relating to the appointment of a budget-making authority; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 39:

Ashford	Conway	Hillman	Nelson	Schmit
Baack	Coordsen	Horgan	Peterson	Schrock
Bernard-Stevens	Crosby	Johnson, L.	Pirsch	Smith
	Cudaback	Johnson, R.	Robak	Warner
Beutler	Dierks	Labedz	Robinson	Wehrbein
Beyer	Elmer	Landis	Rogers	Wickersham
Byars	Hartnett	Lindsay	Schellpeper	Will
Chizek	Hefner	Morrissey	Schimek	Withem

Voting in the negative, 0.

Excused and not voting, 10:

Abboud	Haberman	Kristensen	Lynch	Rasmussen
Chambers	Hall	Lamb	Moore	Wesely

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

Mr. Dierks asked unanimous consent to be excused until he returns. No objections. So ordered.

LEGISLATIVE BILL 233.

A BILL FOR AN ACT relating to insurance; to amend sections 8-442 and 44-2909, Reissue Revised Statutes of Nebraska, 1943, and sections 44-108.01, 44-114, 44-116, 44-348, 44-522, and 44-1525, Revised Statutes Supplement, 1990; to adopt the Property and Casualty Insurance Rate and Form Act; to harmonize provisions; to eliminate exemptions to a filing requirement; to eliminate provisions relating to rates and rating organizations; to provide an operative date; to provide severability; and to repeal the original sections, and also sections 44-1401, 44-1403 to 44-1409, 44-1411 to 44-1434, 44-1436 to 44-1443, 44-1445 to 44-1452, 44-1454 to 44-1465, 44-1465.02 to 44-1479, and 44-1481 to 44-1486, Reissue Revised Statutes of Nebraska, 1943, and sections 44-1402, 44-1410, 44-1435, 44-1444, 44-1453, 44-1465.01, 44-1480, and 44-1499 to 44-14,102, Revised Statutes Supplement, 1990.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 41:

Ashford	Conway	Johnson, L.	Peterson	Schmit
Baack	Coordsen	Johnson, R.	Pirsch	Schrock
Bernard-Stevens	Crosby	Labedz	Rasmussen	Smith
Beutler	Cudaback	Landis	Robak	Warner
Beyer	Elmer	Lindsay	Robinson	Wehrbein
Byars	Hartnett	Moore	Rogers	Wickersham
Chambers	Hefner	Morrissey	Schellpeper	Will
Chizek	Hillman	Nelson	Schimek	Withem
	Horgan			

Voting in the negative, 0.

Excused and not voting, 8:

Abboud	Haberman	Kristensen	Lynch	Wesely
Dierks	Hall	Lamb		

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 264.

A BILL FOR AN ACT relating to natural resources districts; to amend section 2-3218, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to per diem payments for district board members; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 39:

Ashford	Chizek	Horgan	Nelson	Schmit
Baack	Conway	Johnson, L.	Peterson	Schrock
Bernard-Stevens	Coordsen	Johnson, R.	Rasmussen	Smith
	Cudaback	Labedz	Robak	Warner
Beutler	Elmer	Landis	Robinson	Wehrbein
Beyer	Hartnett	Lindsay	Rogers	Wickersham
Byars	Hefner	Moore	Schellpeper	Will
Chambers	Hillman	Morrissey	Schimek	Withem

Voting in the negative, 1:

Pirsch

Present and not voting, 1:

Crosby

Excused and not voting, 8:

Abboud	Haberman	Kristensen	Lynch	Wesely
Dierks	Hall	Lamb		

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

GENERAL FILE

LEGISLATIVE BILL 336. Mr. Bernard-Stevens moved to indefinitely postpone.

Laid over.

LEGISLATIVE BILL 311. Title read. Considered.

Standing Committee amendment, AM0165, found in the Journal on page 556, was adopted with 25 ayes, 0 nays, 16 present and not voting, and 8 excused and not voting.

Advanced to E & R for review with 25 ayes, 1 nay, 17 present and not voting, and 6 excused and not voting.

LEGISLATIVE BILL 218. Title read. Considered.

Standing Committee amendment, AM0135, found in the Journal on page 573, was adopted with 26 ayes, 0 nays, 17 present and not voting, and 6 excused and not voting.

Mr. Dierks asked unanimous consent to be excused. No objections. So ordered.

Mr. Lindsay asked unanimous consent to be excused until he returns. No objections. So ordered.

Advanced to E & R for review with 26 ayes, 0 nays, 16 present and not voting, and 7 excused and not voting.

Mr. Peterson asked unanimous consent to be excused until he returns. No objections. So ordered.

STANDING COMMITTEE REPORTS
Judiciary

LEGISLATIVE BILL 181. Placed on General File.
LEGISLATIVE BILL 242. Placed on General File.
LEGISLATIVE BILL 303. Placed on General File.
LEGISLATIVE BILL 343. Placed on General File.
LEGISLATIVE BILL 422. Placed on General File.
LEGISLATIVE BILL 561. Placed on General File.
LEGISLATIVE BILL 732. Placed on General File.
LEGISLATIVE BILL 742. Placed on General File.

LEGISLATIVE BILL 112. Indefinitely postponed.
LEGISLATIVE BILL 257. Indefinitely postponed.
LEGISLATIVE BILL 266. Indefinitely postponed.
LEGISLATIVE BILL 318. Indefinitely postponed.
LEGISLATIVE BILL 729. Indefinitely postponed.

(Signed) Jerry Chizek, Chairperson

Government, Military and Veterans Affairs

LEGISLATIVE BILL 573. Placed on General File as amended.
Standing Committee amendment to LB 573:
AM0532

1. On page 5, line 22, strike "shall" and insert "may"; and in line 23 strike "shall at a minimum" and insert "may".

2. On page 6, line 7, after "state" insert ", if available,".

(Signed) Gerald Conway, Chairperson

Nebraska Retirement Systems

LEGISLATIVE BILL 705. Indefinitely postponed.

(Signed) Arlene Nelson, Chairperson

Business and Labor

LEGISLATIVE BILL 562. Placed on General File as amended.
Standing Committee amendment to LB 562:
AM0407

1. Insert the following new section:

"Sec. 2. That section 79-2664, Revised Statutes Supplement, 1990, be amended to read as follows:

79-2664. There is hereby created the Nebraska Technical Community College Aid Cash Fund. The fund shall be under the direction of the Nebraska Technical Community College Aid, Grant, and Contract Review Committee. The Legislature may appropriate nongeneral funds and transfers pursuant to ~~subdivision (b)(3)~~ subsection (c) of section 48-621 to the fund. The fund

shall be used to provide aid, grants, or contracts to the technical community colleges for the purposes of funding grants for vocational-technical faculty training, instructional equipment upgrades, employee assessment, preemployment training, employment training, and dislocated worker programs benefiting the State of Nebraska. Any money in the fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1276.".

2. On page 5, strike beginning with "Any" in line 15 through "on" in line 19 and insert

"(c) The Legislature may transfer funds from the Employment Security Special Contingent Fund to the Nebraska Technical Community College Aid Cash Fund in such amounts to be determined by the Legislature through the appropriations process and that are reasonable and prudent.

(d) On".

3. On page 6, line 2, strike "section 48-621" and insert "sections 48-621 and 79-2664"; and strike beginning with "sections" in line 3 through "and" in line 4 and insert "section".

4. Renumber the remaining sections accordingly.

(Signed) George Coordsen, Chairperson

UNANIMOUS CONSENT - Print in Journal

Mr. Moore asked unanimous consent to print the following amendment to LB 336 in the Journal. No objections. So ordered.

AM0542

1. Strike the original sections and all amendments thereto and insert the following new sections:

"Section 1. If money is appropriated from the General Fund, the balance of the appropriation, after the administration expenses have been deducted, shall be apportioned on September 1 of each year to the public school districts of the state on the basis of the lesser of the actual cost of the driver education program or eighty dollars for each student having satisfactorily completed a course of driver education in the

immediately preceding twelve-month period as certified by the Commissioner of Education. Such apportionment shall be made on the basis of an application and certification by the local school superintendents to the Commissioner of Education. Any money available for investment shall be invested by the state investment officer pursuant to the provisions of sections 72-1237 to 72-1276.

Sec. 2. In order for a public school district to qualify for funds as provided in section 1 of this act, (1) driver education teachers shall have a valid Nebraska teaching certificate to teach in the secondary schools, three hours of driver education, three hours of general safety education, and a course in first aid, and (2) the course shall have a minimum of thirty hours of classroom instruction and an equivalent of six hours of behind-the-wheel instruction.

Sec. 3. The State Board of Education shall establish minimum requirements to be met for certification as a driver education instructor. No school district shall be eligible for the apportionment of funds unless its driver education course is taught by a certified driver education instructor. Such course may be conducted by the public school districts and enrollment may be open to any person between the ages of fourteen and eighteen years.

Sec. 4. The provisions of sections 60-4,173 to 60-4,179 shall not apply to any person giving driver education lessons in the public schools under sections 1 to 3 of this act.".

Mr. Moore asked unanimous consent to print the following amendment to LB 336 in the Journal. No objections. So ordered.

AM0559

1. Strike the original sections and all amendments thereto and insert the following new section:

"Section 1. Each school district with high school grades as defined in section 79-101 shall provide a driver education program for its students. Minimum requirements for the curriculum of the driver education program shall be established by the State Board of Education. Enrollment may be open to any student between the ages of fourteen and eighteen years.".

Mr. Schellpeper asked unanimous consent to print the following amendment to LB 398 in the Journal. No objections. So ordered.

AM0551

(Amendments to Standing Committee amendments, AM0283)

1. Insert the following new section:

"Sec. 4. That section 2-219, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-219. No person shall be permitted to sell intoxicating liquors, wine, or beer of any kind, or exhibit or conduct indecent shows or dances, or be engaged in any gambling or other games of chance or horseracing, either inside the enclosure where any state, district, or county agricultural society fair is being held or within forty rods thereof, during the time of holding such fairs. Nothing in this section shall be construed to prohibit wagering on the results of horseraces by the parimutuel or certificate method when conducted by licensees within the racetrack enclosure at licensed horserace meetings or to prohibit the operation of ~~bingo games~~ games of chance as ~~provided in the Nebraska Bingo Act~~ authorized by and conducted pursuant to Chapter 9. Nothing in this section shall be construed to prohibit the sale of intoxicating liquors, wine, or beer by a person properly licensed pursuant to Chapter 53 on premises under the control of the State Board of Agriculture or any county agricultural society. Any person who violates this section shall be guilty of a Class V misdemeanor. The trial of speed of horses under direction of the society shall not be included in the term horseracing. Upon the filing of proof with the State Treasurer of a violation of this section inside the enclosure of such fair, the amount of money appropriated shall be withheld from any money appropriated for the ensuing year.".

2. Renumber section 4 as section 5.

3. Strike amendment 3 and insert the following new amendment:

"3. On page 3, line 5, after 'original' insert 'sections 2-219 and 2-229, Reissue Revised Statutes of Nebraska, 1943, and'; and in line 6 strike 'is' and insert 'are'.".

RESOLUTION

LEGISLATIVE RESOLUTION 38. Introduced by Horgan, 4.

WHEREAS, the administrators of the Millard School District are committed to actively promoting and nurturing a full and comprehensive music program for all students; and

WHEREAS, the Millard Montclair Elementary School third and fourth grade chorus will perform on March 6, 1991, and the Millard North High School Concert Choir will perform on March 14, 1991, in the State Capitol Rotunda in celebration of "Music in Our Schools Month"; and

WHEREAS, the Nebraska Music Educators Association sponsors "Music in Our Schools Month" to draw attention to the role of music as a part of the total educational process; and

WHEREAS, talent, hard work, and hours of practice have made the Millard Montclair Elementary School third and fourth grade chorus and the Millard North High School Concert Choir the outstanding musical ensembles they are today; and

WHEREAS, Nancy Hanson, director of the Millard Montclair Elementary School chorus, and Cindy Nabity, director of the Millard North High School Concert Choir, have devoted their time and energy to developing the talents of their students.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature commends the members of the Millard Montclair Elementary School third and fourth grade chorus and its director, Nancy Hanson, and the members of the Millard North High School Concert Choir and its director, Cindy Nabity, for their hard work and skillful performances.

2. That copies of this resolution be sent to the Millard Montclair Elementary School third and fourth grade chorus and its director, Nancy Hanson, and to the Millard North High School Concert Choir and its director, Cindy Nabity.

Laid over.

STANDING COMMITTEE REPORT
Government, Military and Veterans Affairs

The Committee on Government, Military and Veterans Affairs desires to report favorably upon the appointment listed below. The

Committee suggests the appointment be confirmed by the Legislature and suggests a record vote.

Larry Primeau - Director, Department of Administrative Services

VOTE: Aye: Senators Conway, Coordsen, Schimek, Schrock, and Withem. Absent: Senators Lindsay, Robak, and Smith.

(Signed) Gerald Conway, Chairperson

EXPLANATION OF VOTE

Had I been present, I would have voted aye on LBs 25, 118, 128, and 178.

(Signed) Jessie K. Rasmussen

GENERAL FILE

LEGISLATIVE BILL 297. Title read. Considered.

SPEAKER BAACK PRESIDING

Mr. Coordsen offered the following amendment:
FA49
Pg 4, line 16 & 17: strike new material and insert: "three dollars and eighty cents per hour and beginning April 1, 1993, four dollars and twenty-five cents per hour.

Mr. Moore asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Coordsen moved for a call of the house. The motion prevailed with 27 ayes, 0 nays, and 22 not voting.

Mr. Coordsen requested a roll call vote on his amendment.

Voting in the affirmative, 16:

Beyer	Elmer	Johnson, L.	Robak	Schrock
Coordsen	Hefner	Johnson, R.	Rogers	Smith
Crosby	Horgan	Pirsch	Schellpeper	Wehrbein
Cudaback				

Voting in the negative, 24:

Ashford	Byars	Hartnett	Lynch	Schimek
Baack	Chambers	Hillman	Morrissey	Schmit
Bernard-Stevens	Chizek	Labedz	Nelson	Warner
Beutler	Conway	Landis	Rasmussen	Wickersham
	Hall	Lindsay	Robinson	Will

Present and not voting, 1:

Withem

Excused and not voting, 8:

Abboud	Haberman	Lamb	Peterson	Wesely
Dierks	Kristensen	Moore		

The Coordsen amendment lost with 16 ayes, 24 nays, 1 present and not voting, and 8 excused and not voting.

Pending.

The Chair declared the call raised.

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following bills: 25, 118, 128, 178, 233, and 264.

STANDING COMMITTEE REPORTS
Health and Human Services

LEGISLATIVE BILL 539. Placed on General File as amended.
(Standing Committee amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM0432.)

LEGISLATIVE BILL 677. Placed on General File as amended.
(Standing Committee amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM0462.)

LEGISLATIVE BILL 836. Placed on General File as amended.
Standing Committee amendment to LB 836:
AM0433

1. Insert the following new section:

"Sec. 29. That section 71-1911, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1911. No person shall furnish or offer to furnish a program for four or more children at any one time from different families without having in full force and effect a written license issued by the department upon such terms as may be prescribed by the rules and regulations adopted and promulgated by the department. A city, village, or county which has rules, regulations, or ordinances in effect on July 10, 1984, which apply to programs furnished for two or three children from different families may continue to license providers of such programs. Any provider not covered by sections 71-1908 to 71-1918 may voluntarily subject himself, herself, or itself to coverage.

All licenses issued under sections 71-1908 to 71-1918 shall expire two years from the date of issuance and shall be subject to renewal under such terms as may be prescribed by the rules and regulations of the department in effect at the time of the renewal. There shall be a twenty-five-dollar fee charged for the issuance or renewal of each license for providers with a daily average of less than thirty children and a fifty-dollar fee charged for the issuance or renewal of each license for providers with a daily average of thirty or more children.

The license fee shall be paid to the department which shall retain the fee, except that when a city, village, or county has adopted any rule, regulation, or ordinance which establishes standards for licensed providers pursuant to subsection (2) of section 71-1914 and conducts all necessary inspections of any licensed provider pursuant to such subsection, the department shall transmit the license fee paid by such provider to the city, village, or county conducting the inspections.

A license may be denied for cause, after notice and hearing, in accordance with such rules and regulations as may be adopted and promulgated by the department.

In order to assist the department in the performance of the duties prescribed in this section,

the Legislature shall appropriate such funds as are necessary to the department to enable the department to employ four additional licensing specialists.".

2. On page 32, line 6, strike "32" and insert "33"; and in line 16 after the third comma insert "71-1911,".

3. Renumber the remaining sections accordingly.

LEGISLATIVE BILL 400. Placed on General File.

(Signed) Don Wesely, Chairperson

SELECT COMMITTEE REPORTS
Enrollment and Review

Correctly Engrossed

The following bills were correctly engrossed: 100, 114A, 209, 209A, 237, 313, 330, and 354.

(Signed) Eric Will, Chairperson

Enrollment and Review Change to LB 237

The following changes, required to be reported for publication in the Journal, have been made:
ER7013

1. In the Landis amendment, FA44, on page 5, line 4, an underscored comma has been inserted after "filing".

2. On page 1, line 2, "44-320," has been inserted after the third comma; and in line 10, "to change provisions relating to transactions between domestic insurance companies and directors or officers of such companies;" has been inserted after the first semicolon.

3. On page 14, line 1, "in question" has been inserted after "investment"; in line 9 "be" has been struck; and in line 10 "required to" has been struck.

4. On page 50, line 18, "; and" has been struck and an underscored period inserted.

Enrollment and Review Change to LB 330

The following changes, required to be reported for publication in the Journal, have been made:

ER7012

1. Because of adoption of the E & R amendments, AM5035, in the Morrissey amendment, AM0305:

a. Amendments 2 and 3 have been struck and the following new amendment inserted:

"2. On page 6, line 25, after the last comma insert 'and'."; and

b. Amendment 4 has been renumbered as amendment 3.

(Signed) Mary E. Sommermeyer
E & R Attorney

GENERAL FILE

LEGISLATIVE BILL 297. Considered.

Advanced to E & R for review with 27 ayes, 3 nays, 11 present and not voting, and 8 excused and not voting.

Mr. Schmit asked unanimous consent to be excused until he returns. No objections. So ordered.

LEGISLATIVE BILL 297A. Title read. Considered.

Advanced to E & R for review with 26 ayes, 0 nays, 14 present and not voting, and 9 excused and not voting.

Mrs. Robak asked unanimous consent to be excused until she returns. No objections. So ordered.

LEGISLATIVE BILL 382. Title read. Considered.

Standing Committee amendment, AM0182, found in the Journal on page 578, was adopted with 25 ayes, 0 nays, 14 present and not voting, and 10 excused and not voting.

Mr. R. Johnson asked unanimous consent to be excused. No objections. So ordered.

Advanced to E & R for review with 27 ayes, 0 nays, 11 present and not voting, and 11 excused and not voting.

LEGISLATIVE BILL 115. Title read. Considered.

Mr. Horgan, Mmes. Hillman, and Nelson asked unanimous consent to be excused. No objections. So ordered.

SPEAKER BAACK PRESIDING

Pending.

SELECT COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 276. Placed on Select File as amended.
E & R amendment to LB 276:
AM5044

1. On page 2, line 8, strike "The" and insert "A"; and in line 12 after "such" insert "a".

LEGISLATIVE BILL 277. Placed on Select File.

LEGISLATIVE BILL 278. Placed on Select File as amended.
E & R amendment to LB 278:
AM5045

1. On page 2, line 12, strike the first comma and show as stricken.
2. On page 3, line 6, after "irrigation" insert "project" and after "or" insert "a".

LEGISLATIVE BILL 385. Placed on Select File.

LEGISLATIVE BILL 455. Placed on Select File as amended.
E & R amendment to LB 455:
AM5046

1. On page 1, line 2, strike "section 71-6055" and insert "sections 71-6055 and 71-6056"; in line 6 strike "and" and insert "to change and provide for waiver of requirements for reciprocal licensure;"; and in line 7 strike "section" and insert "sections; and to declare an emergency".

LEGISLATIVE BILL 133. Placed on Select File.
LEGISLATIVE BILL 420. Placed on Select File.
LEGISLATIVE BILL 420A. Placed on Select File.
LEGISLATIVE BILL 488. Placed on Select File.
LEGISLATIVE BILL 393. Placed on Select File.

(Signed) Eric Will, Chairperson

UNANIMOUS CONSENT - Print in Journal

Messrs. Wehrbein and Rogers asked unanimous consent to print the following amendment to LB 274 in the Journal. No objections. So ordered.

AM0556

1. On page 2, line 5, after "from" insert "livestock producers, crop producers, and"; and in line 14 after "appoint" insert "the chairperson of the Agriculture Committee and the chairperson of the Natural Resources Committee of the Legislature and".

STANDING COMMITTEE REPORTS

Education

LEGISLATIVE BILL 625. Placed on General File.
LEGISLATIVE BILL 700. Placed on General File.

(Signed) Ron Withem, Chairperson

Health and Human Services

LEGISLATIVE BILL 678. Placed on General File as amended.
Standing Committee amendment to LB 678:
AM0515

1. Strike original section 4.
2. On page 2, line 9, strike "Outpatient" and insert "Commitment to outpatient".
3. On page 9, line 20, strike "and 4 to" and insert ", 5, and".
4. Renumber remaining sections accordingly.

LEGISLATIVE BILL 289. Placed on General File.

LEGISLATIVE BILL 666. Placed on General File as amended.
Standing Committee amendment to LB 666:
AM0513

1. On page 3, strike beginning with "shall" in line 13 through "department" in line 15; in line 16 strike "the necessary"; and in line 18, strike "other".
2. On page 4, line 3, after "Fund" insert ",

which remittance shall not include any amount appropriated from the Nebraska Cancer Research Fund specifically to the University of Nebraska Eppley Institute for Research in Cancer and Allied Diseases.".

3. On page 7, strike beginning with "Not" in line 20 through the first "the" in line 21, show as stricken, and insert "The"; and in line 25 strike "and by the amount" and insert "shall be divided in the following manner: Not more than ten percent of such remainder".

4. On page 8, line 1, strike beginning with "specified" through the comma and show the old matter as stricken; and in line 2 after "expenses" insert "; and ten percent of such remainder shall be remitted to the Smoking Disease Prevention Fund".

LEGISLATIVE BILL 692. Indefinitely postponed.

(Signed) Don Wesely, Chairperson

PRESENTED TO THE GOVERNOR

Presented to the Governor on March 5, 1991, at 11:50 a.m., were the following bills: 25, 118, 128, 178, 233, and 264.

(Signed) Pam Moravec, Enrolling Clerk

VISITORS

Visitors to the Chamber were James Kirk and Charles Caldwell from Omaha, and Rich Herink from Norfolk; a group of pharmacy students, pharmacists, and sponsor from Nebraska; 12 students and teacher from David City High School; Judith Wright, Dave Newdell, and Liz Roy from Omaha; group of Girl Scouts of Nebraska and leaders; and Joe Fisher, Robin Fergus, Dennis Barr, Gretchen Wemhaff, and Sarah Crawford from Omaha.

ADJOURNMENT

At 12:01 p.m., on a motion by Mr. Wehrbein, the Legislature adjourned until 9:00 a.m., Wednesday, March 6, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

THIRTY-EIGHTH DAY - MARCH 6, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

THIRTY-EIGHTH DAY

Legislative Chamber, Lincoln, Nebraska
Wednesday, March 6, 1991

Pursuant to adjournment, the Legislature met at 9:02 a.m., President Moul presiding.

PRAYER

The prayer was offered by Pastor Thomas Stebbins, Christ Community Church, Omaha, Nebraska.

ROLL CALL

The roll was called and all members were present except Messrs. Byars and Kristensen who were excused; and Messrs. Ashford, Baack, Coordsen, Haberman, Hall, Hartnett, Lamb, Landis, Lindsay, Moore, Morrissey, Rogers, Schmit, Schrock, Wesely, Mmes. Hillman, Labedz, Pirsch, and Rasmussen who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Thirty-Seventh Day was approved.

STANDING COMMITTEE REPORTS
Education

LEGISLATIVE BILL 166. Placed on General File as amended.
Standing Committee amendment to LB 166:
AM0562

1. Insert the following new section:

"Section 1. That section 79-12,107, Reissue

Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-12,107. ~~As used in~~ For purposes of sections 79-12,107 to 79-12,121, unless the context otherwise requires:

(1) Certificated employee shall mean and include all teachers and administrators as defined in section 79-101, other than substitute teachers, who are employed ~~four-fifths~~ one-half time or more by any class of school district;

(2) School board shall mean the governing board or body of any class of school district;

(3) Probationary certificated employee shall mean a teacher or administrator who has served under a contract with the school district for less than three successive school years in any school district, unless extended one or two years by a majority vote of the board in a Class IV or V school district, except that after September 1, 1983, in Class IV and V school districts the requirement shall be three successive school years, and shall also mean superintendents, regardless of length of service;

(4) Just cause shall mean: (a) Incompetency, which shall include, but not be limited to, demonstrated deficiencies or shortcomings in knowledge of subject matter or teaching or administrative skills; (b) neglect of duty; (c) unprofessional conduct; (d) insubordination; (e) immorality; (f) physical or mental incapacity; (g) failure to give evidence of professional growth as required in section 79-12,113; or (h) other conduct which interferes substantially with the continued performance of duties;

(5) Permanent certificated employee shall mean a teacher or administrator who has served the probation period as defined in this section; and

(6) School year, for purposes of employment, shall mean three-fourths of the school year or more on duty, exclusive of summer school.

A certificated employee who has been hired to fulfill the duties of another certificated employee who is on leave of absence shall not accrue rights under sections 79-12,107 to 79-12,121 during the period that the employee is fulfilling such duties.".

2. On page 3, line 1, strike "section" and

insert "sections 79-12,107 and"; and in line 2 strike "is" and insert "are".

3. Renumber the remaining sections accordingly.

LEGISLATIVE BILL 698. Placed on General File as amended. (Standing Committee amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM0488.)

LEGISLATIVE BILL 33. Indefinitely postponed.
LEGISLATIVE BILL 225. Indefinitely postponed.
LEGISLATIVE BILL 364. Indefinitely postponed.

(Signed) Ron Withem, Chairperson

MESSAGE FROM THE GOVERNOR

March 4, 1991

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol
Lincoln, Nebraska 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bill 300 was received in my office March 1, 1991.

This bill was signed by me on March 4, 1991 and delivered to the Secretary of State.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:cc

ATTORNEY GENERAL'S OPINION

Opinion No. 91015

DATE: March 4, 1991

SUBJECT: Constitutionality of LB 783, First Session, Ninety-Second Legislature, dealing with

revitalizing, acquiring and operating light-density railroad lines by the State of Nebraska.

REQUESTED BY: Senator Howard A. Lamb
Nebraska State Legislature

WRITTEN BY: Don Stenberg, Attorney General
Warren D. Lichty, Assistant Attorney General

You have inquired as to the constitutionality of LB 783 and also whether any other problems are apparent with this proposed legislation (the "Bill"). The Bill deals with the three functions of acquiring, operating and revitalizing rail lines. Generally, we believe all three functions are possible of accomplishment under the Constitution of the State of Nebraska.

As to the first function, acquisition, there would appear to be no doubt that the State can be authorized to acquire a railroad right-of-way, its appurtenances, and even rolling stock. There are some problems in connection therewith, however.

First, Neb.Rev.Stat. §74-424 (Reissue 1990) limits the power of State agencies to acquire railroad right-of-way. The second problem has to do with acquisition of abandoned railroad right-of-way, as authorized in section 11, page 8, lines 24-26 of the bill. Once a railroad abandons the use of its right-of-way for railroad purposes, any easement it is occupying terminates and the unencumbered fee title to the property reverts to the adjoining landowner or owners. This is true whether the railroad had originally acquired its right-of-way by right of eminent domain, as held in Lillich v. Lowery, 211 Neb. 757, 320 N.W.2d 463 (1982), or whether it acquired it by right-of-way deed, as in George v. Parcheil, 92 Neb. 81, 137, N.W. 880 (1912). Also, many railroad acquisitions were similar to the one addressed in Bode v. Flobert, 197 Neb. 488, 249 N.W.2d 750 (1977), in which the railroad acquired the property by warranty deed for railroad purposes, which deed included reverter upon abandonment language. Thus, there are practical problems in connection with railroad right-of-way that has been abandoned, and it is likely, in such cases, that the railroad would have no title to give and that the State would have to acquire right-of-way from the abutting landowners.

As to the second function, operating a railroad, the Constitution of the State of Nebraska, Article X, section 4, provides that railroads are declared public highways and are open to all. It should therefore be possible to authorize the State to operate railroads for the benefit

of the public. See, Oxnard Beet Sugar Co. v. State, 73 Neb. 66, 105 N.W. 715 (1905). Again, the principal problems in connection therewith seem to be practical ones. Would the State's operation of the railroad be conducted by public employees? If not, what bidding procedures would be used in connection with acquiring a contractor to operate the railroad for the State? How often would such a contract need to be rebid?

An analysis of the third function of the Bill, which is revitalization of light-density railroad lines, involves the review of two provisions of the constitution of the State of Nebraska.

The first such provision is Article XI, section 1, which provides:

> No city, county, town, precinct, municipality, or other sub-division of the state, shall ever become a subscriber to the capital stock, or owner of such stock, or any portion or interest therein of any railroad, or private corporation, or association.

Neb.Const. art. XI, §1 (emphasis added). In Nebraska League of Savings and Loan Associations v. Mathes, 201 Neb. 122, 266 N.W.2d 720 (1978), the defendant was the state investment officer of the State of Nebraska. Pursuant to the provisions of Neb.Rev.Stat. §72-1243 (Reissue 1990), the State investment officer is to invest money in all State funds. Thus, it could be argued Mathes supports the proposition that the phrase "sub-division of the state" in Article XI, section 1, of the Constitution, applies to departments and agencies of the State, as well as cities and counties. However, it is our opinion the phrase "sub-division of the state" should be read in pari materia with the foregoing terms "city", "county", etc. Therefore, despite Mathes it would appear that the State of Nebraska, or a department thereof, does not constitute a "sub-division" for purposes of Article XI, section 1, and the prohibition against stock ownership does not affect the validity of the Bill.

The second provision which should be considered is Article XIII, section 3, of the Constitution of Nebraska, which provides: "The credit of the state shall never be given or loaned in aid of any individual, association, or corporation. . . ." This provision not only prevents making loans to private corporations and persons, but is generally interpreted to prohibit the expenditure of public funds for a private purpose.

Whether the revitalization of light-density rail lines, in accordance with the provisions of the Bill, constitutes a "public purpose" is the type of determination which is made on a case by case basis and for which no hard set rules exist. As the Nebraska Supreme Court has noted, "The notion of what is public use changes from time to time." State ex rel. Douglas v. Nebraska Mortgage Finance Fund, 204 Neb.

445, 457, 283 N.W.2d 12 (1979) (quoting Minnesota Housing Finance Agency v. Hatfield, 297 Minn. 155, 210 N.W.2d 298).

In our Opinion No. 209, dated January 23, 1980, concerning the constitutionality of LB 507 (the source of the Agriculture and Industrial Branch Rail Line Revitalization Act), we discussed the concept of "public purpose" at length.

> What is a public purpose is primarily for the Legislature to determine. A public purpose has for its objective the promotion of the public health, safety, morals, security, prosperity, contentment, and the general welfare of all the inhabitants. No hard and fast rule can be laid down for determining whether a proposed expenditure of public funds is valid as devoted to a public use or purpose. Each case must be decided with reference to the object sought to be accomplished and to the degree and manner in which that object affects the public welfare. . . It is the province of the Legislature to determine matters of policy and appropriate the public funds. If there is reason for doubt or argument as to whether the purpose for which the appropriation is made is a public or a private purpose, and reasonable men might differ in regard to it, it is essentially held that the matter is for the Legislature. . . .

1979-80 Report of the Nebraska Attorney General No. 209 (January 23, 1980) (quoting Douglas v. Nebraska Mortgage Finance Fund, 204 Neb. 445, 283 N.W.2d 12 (1979)).

> The principles which must guide {a} court in the determination of whether the act contemplates a public purpose are these: It is for the Legislature to decide in the first instance what is and what is not a public purpose, but its determination is not conclusive on the courts. However, to justify a court in declaring a tax invalid because it is not for a public purpose, the absence of public purpose must be so clear and palpable as to be immediately perceptible to the reasonable mind.

Id. (quoting State ex rel. Douglas v. Thone, 204 Neb. 836, 286 N.W.2d 249 (1979)).

> Competition with private industry does not in and of itself make the expenditure one for a private purpose. The fact that the plants and facilities may be managed by private corporations or individuals under management contracts does not make the purpose private.

Id.

Thus, while a legislative declaration of public purpose, as set forth in section 1(2) of the Bill, carries with it certain presumptions of validity, such a declaration is not conclusive on a court. State ex rel. Douglas v. Thone, 204 Neb. 836, 843, 286 N.W.2d 249 (1979).

Nonetheless, in light of the findings in State ex rel. Douglas v. Thone, it is our opinion a court would uphold the legislative determination of public purpose contained in the Bill.

We note that while the Bill is likely constitutional, the use of state funds under provisions of the Bill such as section 19(4), which authorizes the division of railroads to invest in the revitalization or acquisition of light-density rail lines, and section 19(6), which authorizes the division of railroads to grant or lend money, must be applied carefully in a manner consistent with constitutional restrictions on expenditure of public funds for private purposes.

Sincerely yours,
DON STENBERG
Attorney General
(Signed) Warren D. Lichty
Assistant Attorney General

cc: Patrick J. O'Donnell
Clerk of the Legislature
3-24-3

RESOLUTION

LEGISLATIVE RESOLUTION 39. Introduced by Withem, 14.

WHEREAS, the Omaha Gross High School girls' basketball team captured the Class A Girls State High School Basketball Championship; and

WHEREAS, the championship was the final victory of an outstanding 23-2 season; and

WHEREAS, the team and Coach Richard Carey deserve special recognition for the team work, discipline, and spirit which they displayed throughout the season.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates the Omaha Gross High School girls' basketball team and Coach Richard Carey.

2. That a copy of this resolution be sent to the Omaha Gross High School girls' basketball team and Coach Richard Carey.

Laid over.

NOTICE OF COMMITTEE HEARINGS
Natural Resources

Governor Appointment Wednesday, March 13, 1991 1:30 p.m.
Lou Lamberty - Nebraska Environmental Control Council

Governor Appointment Thursday, March 14, 1991 1:30 p.m.
Jack Crowley - Nebraska Power Review Board

LB 565	Wednesday, March 13, 1991 (Cancelled)	1:30 p.m.
LB 565	Thurdsay, March 14, 1991 (Reset)	1:30 p.m.
LB 750	Thursday, March 14, 1991 (Cancelled)	1:30 p.m.
LB 750	Wednesday, March 13, 1991 (Reset)	1:30 p.m.

(Signed) Rod Johnson, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 36. Read. Considered.

LR 36 was adopted with 20 ayes, 0 nays, and 29 not voting.

LEGISLATIVE RESOLUTION 37. Read. Considered.

LR 37 was adopted with 21 ayes, 0 nays, and 28 not voting.

LEGISLATIVE RESOLUTION 38. Read. Considered.

LR 38 was adopted with 22 ayes, 0 nays, and 27 not voting.

MOTION - Approve Appointments

Mr. Conway moved the adoption of the report of the Government, Military and Veterans Affairs Committee for the following Governor appointment found in the Journal on page 900: Rod Armstrong - Director, Policy Research and Nebraska Energy Office.

Voting in the affirmative, 27:

Abboud	Conway	Horgan	Peterson	Schrock
Bernard-Stevens	Crosby	Johnson, L.	Pirsch	Smith
Beutler	Haberman	Labedz	Robak	Wehrbein
Beyer	Hartnett	Lamb	Robinson	Will
Chizek	Hefner	Lynch	Schimek	Withem
	Hillman	Nelson		

Voting in the negative, 0.

Present and not voting, 9:

Baack	Cudaback	Elmer	Schellpeper	Wickersham
Chambers	Dierks	Johnson, R.	Warner	

Excused and not voting, 13:

Ashford	Hall	Lindsay	Rasmussen	Schmit
Byars	Kristensen	Moore	Rogers	Wesely
Coordsen	Landis	Morrissey		

The appointment was confirmed with 27 ayes, 0 nays, 9 present and not voting, and 13 excused and not voting.

Mr. Conway moved the adoption of the report of the Government, Military and Veterans Affairs Committee for the following Governor appointment found in the Journal on page 919: Larry Primeau - Director, Department of Administrative Services.

Voting in the affirmative, 28:

Abboud	Cudaback	Johnson, L.	Robak	Smith
Beutler	Dierks	Labedz	Robinson	Warner
Beyer	Haberman	Lamb	Schellpeper	Wehrbein
Conway	Hartnett	Lynch	Schimek	Will
Coordsen	Hefner	Peterson	Schrock	Withem
Crosby	Horgan	Pirsch		

Voting in the negative, 0.

Present and not voting, 9:

Baack	Chambers	Elmer	Johnson, R.	Wickersham
Bernard-Stevens	Chizek	Hillman	Nelson	

Excused and not voting, 12:

Ashford	Kristensen	Moore	Rasmussen	Schmit
Byars	Landis	Morrissey	Rogers	Wesely
Hall	Lindsay			

The appointment was confirmed with 28 ayes, 0 nays, 9 present and not voting, and 12 excused and not voting.

Mr. Hefner moved the adoption of the report of the Revenue Committee for the following Governor appointment found in the Journal on page 906: M. Berri Balka - Nebraska Department of Revenue.

Voting in the affirmative, 32:

Abboud	Coordsen	Hillman	Pirsch	Smith
Baack	Crosby	Horgan	Robak	Warner
Bernard-Stevens	Cudaback	Labedz	Robinson	Wehrbein
Beutler	Elmer	Lamb	Schellpeper	Wickersham
Beyer	Haberman	Lynch	Schimek	Will
Conway	Hartnett	Nelson	Schrock	Withem
	Hefner	Peterson		

Voting in the negative, 0.

Present and not voting, 5:

Chambers	Chizek	Dierks	Johnson, L.	Johnson, R.

Excused and not voting, 12:

Ashford	Kristensen	Moore	Rasmussen	Schmit
Byars	Landis	Morrissey	Rogers	Wesely
Hall	Lindsay			

The appointment was confirmed with 32 ayes, 0 nays, 5 present and not voting, and 12 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 837. E & R amendment, AM5042, found in the Journal on page 902, was adopted.

Mr. Beutler offered the following amendment:
AM0524

1. In the Standing Committee amendments, AM0408, on page 2, line 6, after the period insert "The Governor shall appoint the nonvoting member upon

submission of an application for a license for the operation of a facility or on the effective date of this act, whichever occurs later.".

The Beutler amendment was adopted with 31 ayes, 0 nays, 12 present and not voting, and 6 excused and not voting.

SPEAKER BAACK PRESIDING

Mr. Dierks moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 27 ayes, 5 nays, and 17 not voting.

PRESIDENT MOUL PRESIDING

Advanced to E & R for engrossment.

Mr. Schmit asked unanimous consent to be excused until he returns. No objections. So ordered.

LEGISLATIVE BILL 234. E & R amendment, AM5031, found in the Journal on page 694, was adopted.

Mr. Landis renewed his pending amendment, AM0235, found in the Journal on page 619.

The Landis amendment was adopted with 26 ayes, 0 nays, 18 present and not voting, and 5 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 344. E & R amendment, AM5043, printed separately from the Journal and referred to on page 895, was adopted.

Advanced to E & R for engrossment.

STANDING COMMITTEE REPORTS
Nebraska Retirement Systems

LEGISLATIVE BILL 682. Placed on General File as amended.
Standing Committee amendment to LB 682:
AM0500

1. On page 7, strike beginning with the

period in line 5 through the semicolon in line 9, show as stricken, and insert an underscored semicolon.

(Signed) Arlene Nelson, Chairperson

General Affairs

LEGISLATIVE BILL 139. Placed on General File.
LEGISLATIVE BILL 199. Placed on General File.
LEGISLATIVE BILL 454. Placed on General File.
LEGISLATIVE BILL 582. Placed on General File.
LEGISLATIVE BILL 586. Placed on General File.

(Signed) Jacklyn Smith, Chairperson

UNANIMOUS CONSENT - Print in Journal

Mrs. Smith asked unanimous consent to print the following amendment to LB 345 in the Journal. No objections. So ordered.

AM0557

1. On page 130, strike beginning with "and" in line 21 through the second comma in line 22.

Mrs. Smith asked unanimous consent to print the following amendment to LB 427 in the Journal. No objections. So ordered.

AM0526

(Amendments to Standing Committee amendments, AM0197)

1. On page 1, strike beginning with "line" in line 1 through "in" in line 3; in line 3 after "7" insert a comma; and in line 4 after the second "strike" insert "the second".

GENERAL FILE

LEGISLATIVE BILL 115. Considered.

Ms. Schimek moved for a call of the house. The motion prevailed with 21 ayes, 0 nays, and 28 not voting.

Ms. Schimek requested a roll call vote on the advancement of the bill.

Voting in the affirmative, 25:

Baack	Conway	Horgan	Morrissey	Schimek
Bernard-Stevens	Dierks	Labedz	Nelson	Wesely
Beutler	Hall	Landis	Rasmussen	Wickersham
Chambers	Hartnett	Lindsay	Robak	Will
Chizek	Hillman	Lynch	Schellpeper	Withem

Voting in the negative, 18:

Beyer	Haberman	Lamb	Robinson	Smith
Crosby	Hefner	Moore	Rogers	Warner
Cudaback	Johnson, L.	Peterson	Schrock	Wehrbein
Elmer	Johnson, R.	Pirsch		

Present and not voting, 2:

Abboud Coordsen

Excused and not voting, 4:

Ashford Byars Kristensen Schmit

Advanced to E & R for review with 25 ayes, 18 nays, 2 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

Mr. Haberman asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Horgan asked unanimous consent to be excused until he returns. No objections. So ordered.

LEGISLATIVE BILL 85. Title read. Considered.

Standing Committee amendment, AM0181, found in the Journal on page 585, was adopted with 25 ayes, 0 nays, 18 present and not voting, and 6 excused and not voting.

Mr. Hall renewed his pending amendment, AM0280, found in the Journal on page 825.

The Hall amendment was adopted with 25 ayes, 0 nays, 18 present and not voting, and 6 excused and not voting.

Mr. Hefner asked unanimous consent to be excused. No objections. So ordered.

Mr. Chambers asked unanimous consent to be excused until he returns. No objections. So ordered.

Ms. Schimek moved for a call of the house. The motion prevailed with 17 ayes, 0 nays, and 32 not voting.

Advanced to E & R for review with 27 ayes, 6 nays, 9 present and not voting, and 7 excused and not voting.

The Chair declared the call raised.

LEGISLATIVE BILL 85A. Title read. Considered.

Advanced to E & R for review with 26 ayes, 0 nays, 16 present and not voting, and 7 excused and not voting.

LEGISLATIVE BILL 444. Title read. Considered.

Standing Committee amendment, AM0192, found in the Journal on page 585, was adopted with 25 ayes, 0 nays, 17 present and not voting, and 7 excused and not voting.

Mr. R. Johnson, Mmes. Nelson, and Robak asked unanimous consent to be excused. No objections. So ordered.

Advanced to E & R for review with 25 ayes, 0 nays, 14 present and not voting, and 10 excused and not voting.

LEGISLATIVE BILL 244. Title read. Considered.

Mr. Peterson asked unanimous consent to be excused. No objections. So ordered.

Standing Committee amendment, AM0092, found in the Journal on page 586, was adopted with 25 ayes, 0 nays, 13 present and not voting, and 11 excused and not voting.

Advanced to E & R for review with 26 ayes, 0 nays, 12 present and not voting, and 11 excused and not voting.

Mrs. Hillman asked unanimous consent to be excused. No objections. So ordered.

LEGISLATIVE BILL 244A. Title read. Considered.

Advanced to E & R for review with 25 ayes, 0 nays, 12 present and not voting, and 12 excused and not voting.

STANDING COMMITTEE REPORT
Health and Human Services

LEGISLATIVE BILL 696. Placed on General File as amended. (Standing Committee amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM0464.)

(Signed) Don Wesely, Chairperson

SPEAKER'S ANNOUNCEMENT

I want to alert each of you to important information about priority bills.

Rule 5, section 5 of our rules provides that each senator may designate one bill as a priority bill, and each chairperson of those committees which are authorized to hold public hearings on bills may designate two of the bills referenced to its committee and on which the committee has held a public hearing.

Our rules further provide that the designation deadline for the 90-day session must be set by the Speaker as a time prior to the 45th legislative day.

Accordingly, I am setting Noon, Monday, March 18 (the 44th day), as the deadline for designation of individual and committee priority bills. (This deadline will also apply to requests for Speaker priority bills).

Members and chairpersons must submit their designations in writing to the Speaker's office by this deadline in order to obtain priority status. Designating priority legislation may be done at any time so

we can begin work on the bills as soon as they are advanced from committee.

Thank you for your cooperation.

(Signed) Speaker Dennis Baack

RESOLUTION

LEGISLATIVE RESOLUTION 40. Introduced by Crosby, 29.

WHEREAS, the year 1991 is the bicentennial of the ratification of the first ten amendments to the United States Constitution, known as the Bill of Rights; and

WHEREAS, the Great Plains, through its diverse cultures and legal personalities has played a significant role in the development of law in American history; and

WHEREAS, the United States Constitution, particularly the Bill of Rights, has played a significant role in the life of each American; and

WHEREAS, the Center for Great Plains Studies of the University of Nebraska-Lincoln is sponsoring a symposium March 6-9, 1991, titled Law, The Bill of Rights, and the Great Plains.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature recognizes the significance of the Great Plains in American History and the effect the United States Constitution has on every American.

2. That the Legislature welcomes the symposium participants, sponsors, and lecturers.

3. That a copy of this resolution be presented to the University of Nebraska-Lincoln, Center for Great Plains Studies.

Laid over.

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 433A. Introduced by Wesely, 26.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 433, Ninety-second Legislature, First Session, 1991.

UNANIMOUS CONSENT - Print in Journal

Mr. Withem asked unanimous consent to print the following amendment to LB 719 in the Journal. No objections. So ordered.

(Amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM0574.)

Mr. Withem asked unanimous consent to print the following amendment to LB 719 in the Journal. No objections. So ordered.

(Amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM0575.)

VISITORS

Visitors to the Chamber were 30 fourth grade students and teacher from Mockingbird Elementary School, Ralston; Senator Schrock's son, Tom, brother, Robin, sister-in-law, Donna, and niece, Ceclia; 59 fourth grade students and teachers from Clarmar and Davenport Schools in Fremont; 22 students from Wayne State College; and 42 fourth grade students and teachers from Lyons-Decatur.

The Doctor of the Day was Dr. Ron Klutman from Columbus.

ADJOURNMENT

At 12:04 p.m., on a motion by Mr. Baack, the Legislature adjourned until 9:00 a.m., Thursday, March 7, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

THIRTY-NINTH DAY - MARCH 7, 1991

LEGISLATIVE JOURNAL

THIRTY-NINTH DAY - MARCH 7, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

THIRTY-NINTH DAY

Legislative Chamber, Lincoln, Nebraska
Thursday, March 7, 1991

Pursuant to adjournment, the Legislature met at 9:00 a.m., Speaker Baack presiding.

PRAYER

The prayer was offered by Pastor Don Canady, United Presbyterian Church, North Bend, Nebraska.

ROLL CALL

The roll was called and all members were present except Mr. Kristensen who was excused; and Messrs. Hall, Hartnett, Horgan, R. Johnson, Moore, Morrissey, Schmit, and Mrs. Nelson who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Thirty-Eighth Day was approved.

REPORT OF REGISTERED LOBBYISTS

In accordance with LB 987, passed in the 1976 session of the Legislature and amended by LB 4 and LB 41 in the 1977 session of the Legislature, the attached is a list of all Lobbyists who have registered as of March 6, 1991. Further lists listing additional lobbyists who have registered will be filed weekly.

(Signed) Patrick J. O'Donnell
Clerk of the Legislature

Beattie, George - Lincoln	Nebraska Bankers Association
Miller, George P. - Plattsmouth	Nebraska Press Association
Rex, Gary L. - Lincoln	Lincoln Telephone Company
Trimpey, Joan L. - Omaha	Nebraska Dental Assistants Association
Vuchetich, Patrick J. - Lincoln	Nebraska Association of County Officials

RESOLUTIONS

LEGISLATIVE RESOLUTION 41. Introduced by Robak, 22.

WHEREAS, Dwayne Drummond earned the gold medal in the 125 pound division of the 1991 Class B State Wrestling Tournament; and

WHEREAS, Dwayne Drummond is the first wrestler in the history of Columbus Lakeview High School to earn such an honor; and

WHEREAS, the Legislature should recognize the academic, athletic, and artistic achievements of the youth of our state.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That Dwayne Drummond be congratulated for his effort this season and in the 1991 Class B State Wrestling Tournament.
2. That a copy of this resolution be sent to Dwayne Drummond.

Laid over.

LEGISLATIVE RESOLUTION 42. Introduced by Robak, 22.

WHEREAS, the Lindsay Holy Family High School girls' basketball team won the Class D-1 Girls' State High School Basketball Championship with a fifty-one to forty-three victory over Callaway; and

WHEREAS, the team won twenty-five of its twenty-seven games played this season; and

WHEREAS, the championship represents the first time that Lindsay Holy Family High School has won a state title in any sport; and

WHEREAS, the Legislature should recognize the academic, athletic, and artistic achievements of the youth of our state.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Lindsay Holy Family High School girls' basketball team be congratulated for their exemplary effort this season and in the Girls' State High School Basketball Tournament.

2. That a copy of this resolution be sent to Lindsay Holy Family High School.

Laid over.

LEGISLATIVE RESOLUTION 43. Introduced by Dierks, 40.

WHEREAS, the Lynch Lady Eagles basketball team has displayed remarkable ability and teamwork; and

WHEREAS, the Lady Eagles achieved a record of 22 wins and 1 loss despite fielding a team of only eight players; and

WHEREAS, the Lady Eagles defeated Shickley High School for the 1991 Class D-2 state championship.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Lynch Lady Eagles basketball team be congratulated for it success.

2. That a copy of this resolution be sent to Lynch High School and presented to the team.

Laid over.

STANDING COMMITTEE REPORT
Education

LEGISLATIVE BILL 479. Placed on General File as amended.
Standing Committee amendment to LB 479:
AM0581

1. Strike original sections 1 and 4 and insert the following new sections:

"Sec. 3. Any school board or certificated employee may require that hearings held pursuant to sections 79-12,107 to 79-12,121 and such other hearings as designated by the board be conducted by a hearing officer as specified in sections 4 to 6 of this act. If a hearing is held before such hearing officer, the requirements of section 79-12,114 that final action must

be taken by the school board on or before May 15 of each year and that a hearing must be held within thirty days of the date of the request for a hearing, shall not apply.

Sec. 7. In error proceedings to reverse, vacate, or modify a final order by a school board made pursuant to sections 79-12,107 to 79-12,121, the school district, school board, or both may be named as defendants in error in such proceedings. Such proceedings shall not be defeated nor shall the court be deprived of subject matter jurisdiction because the petitioner named the school board rather than the school district or the school district rather than the school board as the defendant in error.

This section shall apply to all error proceedings currently pending in the district court or the Supreme Court on the effective date of this act and to error proceedings commenced after such date.".

2. On page 5, line 7, strike "6" and insert "5".

3. On page 6, line 2, strike "5" and insert "4".

4. On page 7, line 3, strike "79-12,114,"; and in line 4 strike the second comma.

5. Renumber the remaining sections accordingly.

(Signed) Ron Withem, Chairperson

Banking, Commerce and Insurance

The Committee on Banking, Commerce and Insurance desires to report favorably upon the appointments listed below. The Committee suggests the appointments be confirmed by the Legislature and suggests a record vote.

William McCartney - Department of Insurance
James Hansen - Department of Banking and Finance

Vote: Aye: Senators Landis, Schmit, Abboud, Hall, Lindsay. Absent: Senators Conway, Haberman, Wesely.

LEGISLATIVE BILL 757. Placed on General File.

LEGISLATIVE BILL 641. Placed on General File as amended.
Standing Committee amendment to LB 641:
AM0561

1. Insert the following new sections:

"Sec. 2. That section 21-1790, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

21-1790. A credit union may make loans to its members for provident and productive purposes and upon such security and terms as the bylaws ~~shall~~ provide and the credit committee ~~shall approve~~ approves. ~~Security shall be taken for any loan in excess of four thousand five hundred dollars.~~ The adequacy of all security shall be within the determination of the credit committee. A member may receive a loan in installments or in one sum and may repay the whole or any part of a loan on any day on which the office of the credit union is open for transaction of business.

Sec. 4. That section 76-1003, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

76-1003. (1) The trustee of a trust deed shall be:

(a) A member of the Nebraska State Bar Association or a licensed real estate broker of Nebraska;

(b) Any bank, building and loan association, ~~or~~ savings and loan association, or credit union authorized to do business in Nebraska under the laws of Nebraska or the United States;

(c) Any corporation authorized to conduct a trust business in Nebraska under the laws of Nebraska or the United States; or

(d) Any title insurance company authorized to do business in Nebraska under the laws of Nebraska.

(2) The trustee of a trust deed shall not be the beneficiary named therein, unless ~~the~~ such beneficiary is qualified to be a trustee under subdivision (b) or (c) of subsection (1) of this section.".

2. On page 2, line 19, strike "section 21-17,118" and insert "sections 21-1790, 21-17,118, and 76-1003"; and in line 20 strike "is" and insert "are".

3. Renumber the remaining sections

21 accordingly.

LEGISLATIVE BILL 758. Placed on General File.

LEGISLATIVE BILL 759. Placed on General File as amended.
Standing Committee amendment to LB 759:
AM0159

1. On page 2, line 14, strike "documents filed" and insert "document prepared in compliance"; and in line 15 after "Commission" insert "rule".

LEGISLATIVE BILL 449. Indefinitely postponed.
LEGISLATIVE BILL 450. Indefinitely postponed.
LEGISLATIVE BILL 642. Indefinitely postponed.

(Signed) David Landis, Chairperson

Health and Human Services

LEGISLATIVE BILL 387. Placed on General File as amended.
Standing Committee amendment to LB 387:
AM0406

1. Insert the following new sections:

"Sec. 21. That section 71-1,200, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,200. Any insurer~~,~~ having reasonable grounds to believe that any violation of ~~any of the provisions of~~ the Uniform Licensing Law has occurred~~,~~ shall report the facts of such violation as known to such insurer to the department, and the insurer may, in such report, identify the practitioner and the patient involved. ~~without revealing the identity of any person involved in such violation.~~

Sec. 22. That section 71-1,202, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,202. To the extent that such reports contain or relate to privileged communications between patient and practitioner, such reports ~~are~~ shall be treated by the department as privileged communications ~~which~~ and shall be considered to be part of the investigational records of the department. Such reports may not be obtained by legal discovery proceedings or

otherwise disclosed unless the privilege is waived by the patient involved.".

2. On page 3, line 6, strike beginning with "or" through the period, show as stricken, and insert an underscored period.

3. On page 10, line 8, strike "on" and insert "to grant or deny".

4. On page 12, line 13, after "file" insert "of the department"; in line 14 after "information" insert "in the files of the department"; and in line 16 after "investigation" insert ", except that reports or other documents of any law enforcement agency provided to the department shall not be available for board review except to the extent such law enforcement agency gives permission for release to the board, and reports provided by any other agency or public or private entity, which reports are confidential in that agency's or entity's possession and are provided with the express expectation that the report will not be disclosed, may be withheld from board review".

5. On page 13, line 11, strike "a"; and strike beginning with "record" in line 11 through line 15 and insert "records unless records made part of the record of a contested case. No person, including, but not limited to, department employees and members of a board, having access to investigational reports or files shall disclose such records or information in violation of this section. Violation of this subsection shall be a Class I misdemeanor.".

6. On page 41, line 13, before "71-3,171" insert "71-1,200, 71-1,202,".

7. Renumber the remaining sections accordingly.

LEGISLATIVE BILL 456. Placed on General File as amended.
Standing Committee amendment to LB 456:
AM0514

1. On page 4, line 17; and page 18, line 6, before "addicted" insert "actively".

2. On page 7, line 19, strike "Bureau of Examining Boards Cash Fund" and insert "Licensee Assistance Cash Fund".

3. On page 14, line 5; and page 19, line 3, strike "7" and insert "6".

4. On page 17, lines 12 and 19; page 18, line 13; page 19, line 24; page 20, line 15; page 21, line 5; page 22, line 5; and page 23, line 6, before "addiction" insert "active".

5. On page 18, after line 20 insert:

"(4) Any person who contacts the department for information on or assistance in obtaining referral or treatment of himself or herself or any other person licensed, certified, or registered by the department for chemical or alcohol impairment or dependency or habitual intoxication shall be referred to the Licensee Assistance Program. Such inquiries shall not be used by the department as the basis for investigation for disciplinary action, except that such limitation shall not apply to complaints or any other reports or inquiries made to the department concerning persons who may be suffering from chemical or alcohol impairment or dependency or when a complaint has been filed or an investigation or disciplinary or other administrative proceeding is in process.".

6. On page 19, line 1, strike "Bureau of Examining Boards Cash Fund" and insert "Licensee Assistance Cash Fund".

(Signed) Don Wesely, Chairperson

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following resolutions: LR 36, LR 37, and LR 38.

RESOLUTIONS

LEGISLATIVE RESOLUTION 39. Read. Considered.

LR 39 was adopted with 30 ayes, 0 nays, and 19 not voting.

Mr. Coordsen asked unanimous consent to be excused until he returns. No objections. So ordered.

LEGISLATIVE RESOLUTION 40. Read. Considered.

LR 40 was adopted with 27 ayes, 0 nays, and 22 not voting.

BILLS ON FINAL READING

The following bills were read and put upon final passage:

LEGISLATIVE BILL 75.

A BILL FOR AN ACT relating to accountants; to amend sections 1-106, 1-114 to 1-121, 1-124, 1-127, 1-136.04, and 1-169, Reissue Revised Statutes of Nebraska, 1943; to create an advisory committee; to provide powers and duties; to change requirements for the certificate of certified public accountant; to harmonize provisions; to provide duties for the Revisor of Statutes; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 37:

Abboud	Conway	Johnson, L.	Rasmussen	Smith
Ashford	Crosby	Labedz	Robak	Warner
Baack	Cudaback	Lamb	Robinson	Wehrbein
Bernard-Stevens	Dierks	Landis	Rogers	Wesely
	Elmer	Lindsay	Schellpeper	Wickersham
Beutler	Haberman	Lynch	Schimek	Will
Beyer	Hefner	Peterson	Schrock	Withem
Chizek	Hillman	Pirsch		

Voting in the negative, 1:

Chambers

Present and not voting, 1:

Byars

Excused and not voting, 10:

Coordsen	Hartnett	Johnson, R.	Moore	Nelson
Hall	Horgan	Kristensen	Morrissey	Schmit

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 96.

A BILL FOR AN ACT relating to consumer protection; to adopt the Invention Development Services Disclosure Act.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 36:

Abboud	Conway	Johnson, L.	Pirsch	Schrock
Ashford	Crosby	Labedz	Rasmussen	Smith
Baack	Cudaback	Lamb	Robak	Warner
Bernard-Stevens	Dierks	Landis	Robinson	Wehrbein
	Elmer	Lindsay	Rogers	Wesely
Beyer	Haberman	Lynch	Schellpeper	Will
Chambers	Hefner	Peterson	Schimek	Withem
Chizek	Hillman			

Voting in the negative, 0.

Present and not voting, 3:

Beutler	Byars	Wickersham

Excused and not voting, 10:

Coordsen	Hartnett	Johnson, R.	Moore	Nelson
Hall	Horgan	Kristensen	Morrissey	Schmit

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

Messrs. Haberman and Chizek asked unanimous consent to be excused until they return. No objections. So ordered.

LEGISLATIVE BILL 235.

A BILL FOR AN ACT relating to title insurance; to amend sections 25-1292, 44-309.02, 44-413.01, 44-1487 to 44-1490, 44-1492, 44-1494

to 44-1497, 44-1901, 44-1902, 44-1905 to 44-1907, 44-1909, 44-1910, 44-1912, 44-1913, 44-1917, 44-1919, 44-1922 to 44-1926, and 76-1003, Reissue Revised Statutes of Nebraska, 1943, and sections 44-201, 44-203, 44-1491, 44-1493, 44-1498, 44-1525, 44-1908, 44-1911, 44-1914 to 44-1916, and 44-4802, Revised Statutes Supplement, 1990; to rename and include provisions in the Nebraska Title Insurance Act; to define and redefine terms; to provide limitations on title insurers and the issuance of title insurance; to describe an unfair or deceptive act or practice; to transfer sections; to eliminate definitions and provisions on prohibited business and kinds of insurance; to harmonize provisions; and to repeal the original sections, and also sections 44-1903, 44-1904, 44-1918, and 44-1921, Reissue Revised Statutes of Nebraska, 1943.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 38:

Abboud	Conway	Labedz	Pirsch	Smith
Ashford	Crosby	Lamb	Rasmussen	Warner
Baack	Cudaback	Landis	Robak	Wehrbein
Bernard-Stevens	Dierks	Lindsay	Robinson	Wesely
Beutler	Elmer	Lynch	Rogers	Wickersham
Beyer	Hefner	Morrissey	Schellpeper	Will
Chambers	Hillman	Nelson	Schimek	Withem
	Johnson, L.	Peterson	Schrock	

Voting in the negative, 0.

Present and not voting, 1:

Byars

Excused and not voting, 10:

Chizek	Haberman	Hartnett	Johnson, R.	Moore
Coordsen	Hall	Horgan	Kristensen	Schmit

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 236. With Emergency.

A BILL FOR AN ACT relating to insurance; to amend sections 44-224.11, 44-417, 44-4401, 44-4403 to 44-4405, 44-4407 to 44-4409, 44-4413, 44-4414, 44-4417, and 44-4418, Reissue Revised Statutes of Nebraska, 1943, and sections 44-211, 44-221, 44-251, 44-416, 44-416.01, 44-416.03, 44-416.04, 44-32,177, 44-4421, 44-4711, 44-4801, 44-4803, 44-4804, 44-4805, 44-4808 to 44-4819, 44-4821, 44-4822, 44-4824, 44-4826, 44-4827, 44-4830, 44-4842, 44-4851, 44-4853, 44-4861, 44-4902, and 44-4906, Revised Statutes Supplement, 1990; to adopt the Insurance Holding Company System Act; to eliminate provisions relating to insurance holding companies; to change provisions relating to credits for reinsurance; to define and redefine terms; to provide a requirement for boards of certain insurance companies; to change provisions relating to the supervision, rehabilitation, and liquidation of insurers; to change provisions relating to personal jurisdiction; to change the powers and duties of the Director of Insurance and of rehabilitators, receivers, and liquidators as prescribed; to change confidentiality requirements; to authorize advisory committees; to require appeal-pendency plans; to change and provide notice requirements; to provide liability for fraudulent transfers; to change setoff provisions; to change distribution priorities as prescribed; to provide for rules and regulations; to change application procedures for chartering and licensing risk retention groups; to provide for applicability of unfair claims settlement provisions; to change provisions relating to the applicability of insolvency guaranty laws; to change requirements for and other provisions relating to purchasing groups; to harmonize provisions; to provide severability; to repeal the original sections, and also sections 44-416.02, 44-2101 to 44-2105, 44-2107 to 44-2111, 44-2113 to 44-2116, 44-2118, and 44-2119, Reissue Revised Statutes of Nebraska, 1943, and sections 44-2106, 44-2112, and 44-2117, Revised Statutes Supplement, 1990; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 38:

Abboud	Beyer	Elmer	Johnson, L.	Morrissey
Ashford	Chambers	Haberman	Labedz	Nelson
Baack	Conway	Hefner	Lamb	Peterson
Bernard-Stevens	Cudaback	Hillman	Landis	Pirsch
	Dierks	Horgan	Lynch	Rasmussen

Robak	Schellpeper	Schrock	Wehrbein	Will
Robinson	Schimek	Smith	Wesely	Withem
Rogers	Schmit	Warner	Wickersham	

Voting in the negative, 1:

Crosby

Present and not voting, 3:

Beutler	Byars	Lindsay

Excused and not voting, 7:

Chizek	Hall	Johnson, R.	Kristensen	Moore
Coordsen	Hartnett			

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

Mr. Schmit asked unanimous consent to be excused until he returns. No objections. So ordered.

LEGISLATIVE BILL 247.

A BILL FOR AN ACT relating to landmark heritage preservation districts; to amend sections 14-2003 and 14-2004, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to exercise of the power of eminent domain by cities of the metropolitan class; to change provisions relating to membership on a landmark heritage preservation commission as prescribed; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 39:

Abboud	Bernard-Stevens	Chambers	Dierks	Hillman
Ashford	Beutler	Conway	Elmer	Horgan
Baack	Beyer	Crosby	Haberman	Johnson, L.
		Cudaback	Hefner	Labedz

Lamb	Peterson	Robinson	Schrock	Wesely
Landis	Pirsch	Rogers	Smith	Wickersham
Lynch	Rasmussen	Schellpeper	Warner	Will
Morrissey	Robak	Schimek	Wehrbein	Withem
Nelson				

Voting in the negative, 0.

Present and not voting, 2:

Byars	Lindsay

Excused and not voting, 8:

Chizek	Hall	Johnson, R.	Moore	Schmit
Coordsen	Hartnett	Kristensen		

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

BILLS ON FIRST READING

The following bills were read for the first time by title:

LEGISLATIVE BILL 51A. Introduced by Schmit, 23.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 51, Ninety-second Legislature, First Session, 1991.

LEGISLATIVE BILL 67A. Introduced by Schmit, 23.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 67, Ninety-second Legislature, First Session, 1991.

LEGISLATIVE BILL 212A. Introduced by Schmit, 23.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 212, Ninety-second Legislature, First Session, 1991.

UNANIMOUS CONSENT - Print in Journal

Mr. Schmit asked unanimous consent to print the following amendment to LB 755 in the Journal. No objections. So ordered.

AM0540

1. On page 2, line 6, strike "or", and after "wheat" insert ", or any agriculturally derived feedstock".

Mr. Wesely asked unanimous consent to print the following amendment to LB 703 in the Journal. No objections. So ordered.

AM0461

1. Insert the following new sections:

"Sec. 7. The Legislature hereby finds that, for the purposes of assisting laboratories in tracking and obtaining results of followup tests and biopsies so that clinical information may be compared with laboratory reports, laboratories are required, under the federal Clinical Laboratory Improvement Act of 1967 and the federal Clinical Laboratory Improvement Amendments of 1988, to report to the Department of Health certain cervical cancer test results. The department may receive such reports and disclose the information received to laboratories operating under the federal laws. The department may include the information received from laboratories in the cancer registry established under sections 81-642 to 81-650.

Sec. 10. Any hospital which fails to make reports as provided in sections 81-642 to 81-650 shall be guilty of a Class V misdemeanor for each offense.".

2. On page 16, line 18, strike "8" and insert "9".

3. Renumber the remaining sections accordingly.

SELECT COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 356. Placed on Select File as amended.
E & R amendment to LB 356:
AM5050

1. On page 1, line 8, strike "correct the name of" and insert "change a reference to".

2. On page 2, line 8, strike "a permit and"

and insert "permits"; and in line 9 after "measuring" insert "establishments and".

3. On page 4, line 17; page 6, line 1; page 10, line 15; page 11, line 14; page 12, lines 13, 14, and 25; page 14, lines 6 and 8; page 15, line 5; page 18, lines 10 and 13; page 19, line 5; page 54, line 9; page 56, line 3; and page 57, line 17, strike the comma and show as stricken.

4. On page 5, line 11, strike the first comma, show as stricken, and insert "and"; and in line 25 strike "of" and show as stricken.

5. On page 6, line 17, before "guard" insert "to".

6. On page 7, line 9, reinstate the stricken comma.

7. On page 8, line 6, strike the semicolon, show as stricken, and insert an underscored comma.

8. On page 9, line 1, strike the first comma and show as stricken; in line 14 reinstate the stricken "to frighten"; and in line 15 strike the new matter.

9. On page 10, line 1, strike "and" and show as stricken; and in line 13 strike "by" and show as stricken.

10. On page 13, line 13, strike "shall be", show as stricken, and insert "is".

11. On page 16, line 6, strike the last comma, show as stricken, and insert "and"; and in line 25 strike "where", show as stricken, and insert "when".

12. On page 17, line 15, strike "wherein", show as stricken, and insert "in which"; in line 19 strike the second comma and show as stricken; and in line 21 strike the first comma and show as stricken.

13. On page 19, line 4, strike "and", show as stricken, and insert an underscored comma; in line 11 after "Constitution" insert "of Nebraska"; and in lines 17 and 20 strike the first comma and show as stricken.

14. On page 23, line 3, strike the first comma and show as stricken.

15. On page 24, line 4, strike "which is a document"; in line 8 after "device" and after "testing" insert an underscored comma; in line 9 strike "the"; and in line 19 strike "also includes" and insert "shall also include".

16. On page 25, strike beginning with

"Commodity" in line 3 through "(6)" in line 9; in line 12 strike "(7)" and insert "(6)"; in line 14 strike "(8)" and insert "(7)"; in line 17 strike "(9)" and insert "(8)"; and in line 20 strike "(10)" and insert "(9)".

17. On page 26, line 3, strike "(11)" and insert "(10)"; in line 11 strike "(12)" and insert "(11)"; in line 14 strike "(13)" and insert "(12)"; strike lines 17 through 19; in line 20 strike "(15)" and insert "(13)"; in line 23 strike "supplying" and insert "supply"; and in line 24 strike "(16)" and insert "(14)".

18. On page 27, line 2, strike "(17)" and insert "(15)"; in line 9 strike "(18)" and insert "(16)"; and strike beginning with line 15 through "(20)" in line 20 and insert "(17)".

19. On page 28, line 2, after the semicolon insert the following new subdivision:

"(18) Weighing and measuring establishment shall mean a location with one or more commercial weighing and measuring devices or any operation which employs commercial weighing and measuring devices which are mobile;"; and in line 3 strike "(21)" and insert "(19)".

20. On page 31, line 5, strike "the".

21. On page 32, line 13, strike the first comma and insert "and".

22. On page 33, line 1, strike "subsections" and insert "subsection".

23. On page 35, line 7, strike the semicolon and insert an underscored colon; strike beginning with "Requirements" in line 11 through "qualifications" in line 12 and insert "(A) Qualifications"; and in lines 22 and 23 strike "as are" and show as stricken.

24. On page 37, line 11, after "meters" insert "used by a public utility system"; and strike beginning with "when" in line 13 through the comma in line 14.

25. On page 40, lines 21 and 23, strike "inspector" and insert "inspection".

26. On page 42, line 4, reinstate the stricken "(a)" and strike "(i)"; in line 6 reinstate the stricken "(b)" and strike "(ii)"; and in line 8 reinstate the stricken "(c)" and strike "(iii)".

27. On page 43, line 13, reinstate the stricken "(d)" and strike "(iv)".

28. On page 44, line 5, after "permit" insert "to operate a weighing and measuring establishment"; and in line 24 after "permit" insert "to operate a weighing and measuring establishment,".

29. On page 45, line 2, strike "the" and insert "each weighing and measuring"; in line 4 strike the comma; in line 9 after "its" insert "weighing and measuring" and strike "or" and insert an underscored comma; in line 10 after "department" insert an underscored comma; and in line 15 after "denial" insert an underscored comma.

30. On page 47, line 11, strike the comma; and in line 13 after "act" insert an underscored comma.

31. On page 49, line 5, strike "time".

32. On page 50, line 12, strike "seeking" and insert "pursuing"; strike beginning with "is" in line 15 through "is" in line 16 and insert "shall be"; in line 18 strike "when it is"; and in lines 24 and 25 strike the comma.

33. On page 51, line 14, after "or" insert "that the permit"; in line 15 after "and" insert "the permitholder"; and in line 19 strike the comma.

34. On page 52, line 8, strike "waives" and insert "shall be deemed to waive"; in line 12 after "director" insert "at least"; and in line 15 after "final" insert an underscored comma.

35. On page 53, line 15, after "act" insert an underscored comma; and in line 25 strike "or" and insert "and".

36. On page 54, line 1, strike the first comma and show as stricken.

37. On page 55, line 2, after "Arrest" insert an underscored comma.

38. On page 56, line 15, strike "there shall be" and show the old matter as stricken; and in line 16 after "invoice" insert "shall be".

39. On page 57, line 11, strike "by".

40. On page 58, line 10, strike the new matter; and in line 11 after "package" insert "sold at retail".

41. On page 61, line 23, strike the comma; and strike beginning with "falsify" in line 24 through

"representative" in line 25.

42. On page 62, strike beginning with "in" in line 11 through "makes" in line 12; and in line 12 after "device" insert "in any way which makes the device".

43. On page 63, line 5, strike "Not use" and insert "Use"; and in line 6 after "devices" insert "not".

44. On page 67, line 3, after "commodity" insert "which is".

45. On page 68, line 17, strike "sections" and insert "provisions"; and in line 20 strike "Department of Agriculture" and insert "department".

LEGISLATIVE BILL 356A. Placed on Select File.
LEGISLATIVE BILL 357. Placed on Select File.

LEGISLATIVE BILL 359. Placed on Select File as amended.
E & R amendment to LB 359:
AM5049

1. On page 1, line 1, after "to" insert "the"; and in line 11 strike "and 54-2232 to" and insert "54-2233, and".

2. On page 2, line 2, strike the comma; and in line 17 strike the second "and".

3. On page 4, line 11, reinstate the stricken comma.

4. On page 5, line 2, strike "which contains" and insert "on which is located"; in line 15 after the comma insert "Reissue"; and in line 16 strike "Supplement, 1990" and insert "of Nebraska, 1943".

5. On page 7, line 7, after "or" insert "a".

6. On page 10, line 7, after the first "or" insert "a"; and in line 22 strike "with pseudorabies".

7. On page 12, line 8, strike "classify" and insert "be classified"; in line 20 strike "and" and insert ", (2)" and strike "shall be" and insert "is"; in line 22 after "and" insert "the development of which"; in line 23 strike "(2)" and insert "(3)"; and in line 24 strike "(a)" and insert "(1)".

8. On page 13, line 1, strike "(b)" and insert "(2)"; in line 3 after "of" insert "the United States Department of Agriculture,"; strike beginning with "United" in line 4 through "Agriculture" in line 5; and in line 7 strike "(c)" and insert "(3)".

9. On page 14, line 8, after the first "swine" insert "in swine herds" and strike "in swine"; in line 9 strike "herds"; in line 10 strike "will"; and in line 13 strike "shall".

10. On page 19, line 16, before "concentration" insert "at".

11. On page 20, line 6 strike the colon and strike "The" and insert "the"; in line 7, strike the semicolon and insert an underscored comma and before "procedure" insert "the".

12. On page 21, line 9, strike "has", show as stricken, and insert "have".

13. On page 22, line 2, strike "present" and show as stricken.

14. On page 24, line 9, after "plans" insert an underscored comma; in line 15 after "assignment" insert "of"; in line 16 strike "of" and insert "for"; and in line 23 strike "are" and after the second "testing" insert "are".

15. On page 25, line 4, strike "shall" and insert "are to"; in line 9 strike "shall" and insert "will"; and in line 13 strike "pseudorabies" and show as stricken.

16. On page 26, line 21, strike "(i) to (iii) in" and insert "(a)(i) through (iii) of".

17. On page 27, lines 15 and 16 and 18, strike "without status" and insert "which is not a status swine herd"; in line 22 after "of" insert "the"; and in line 25 after "Services" insert an underscored comma.

18. On page 30, line 6, after the stricken "fees" insert "costs", reinstate the stricken "for", and strike "costs of".

19. On page 31, line 15, after the comma insert "and"; and in line 16 strike the comma, after "and" insert "keep and file", and after "or" insert "make any other".

20. On page 32, line 13, strike "subdivision" and insert "subsection"; in line 20 strike the second comma; in line 17 strike the colon; in line 18 strike "Testing" and insert "testing"; in lines 19, 22, and 24 strike each semicolon and insert an underscored comma; and in lines 22 and 24 before each occurrence of "cost" insert "the".

21. On page 34, line 2, after "Services" insert an underscored comma; and in line 21 strike "and 54-2232 to" and insert "54-2233, and".

LEGISLATIVE BILL 477. Placed on Select File as amended.
E & R amendment to LB 477:
AM5047

1. On page 1, line 6, after the second semicolon insert "to harmonize provisions;".

LEGISLATIVE BILL 192. Placed on Select File as amended.
E & R amendment to LB 192:
AM5048

1. On page 1, line 3, strike "voting" and insert "ballot titles"; and in line 4 strike "referendum" and insert "referred".

2. On page 2, line 24, after "or" insert "for".

3. On page 3, line 7, strike "to be" and insert "which is".

LEGISLATIVE BILL 316. Placed on Select File.

LEGISLATIVE BILL 648. Placed on Select File as amended.
E & R amendment to LB 648:
AM5051

1. On page 1, line 1, after the first "the" insert "Nebraska".

2. On page 2, line 4, strike "purpose", show as stricken, and insert "purposes" and strike "commission", show as stricken, and insert "Nebraska Commission on the Status of Women".

3. On page 3, line 2, strike "which", show as stricken, and insert "when"; and in line 3 strike "to", show as stricken, and insert "through".

LEGISLATIVE BILL 224. Placed on Select File as amended.
E & R amendment to LB 224:
AM5052

1. On page 1, strike beginning with "prohibit" in line 1 through "contracts" in line 4 and insert "provide for the enforceability of certain provisions in automobile liability policies and endorsements".

LEGISLATIVE BILL 250. Placed on Select File as amended.
E & R amendment to LB 250:
AM5053
1. On page 1, line 4, strike "board of director".

LEGISLATIVE BILL 341. Placed on Select File.
LEGISLATIVE BILL 724. Placed on Select File.
LEGISLATIVE BILL 724A. Placed on Select File.

(Signed) Eric Will, Chairperson

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following bills: 75, 96, 235, 236, and 247.

MOTION - Place LB 511 on General File

Mr. Lamb renewed his pending motion, found in the Journal on page 875, to place LB 511 on General File notwithstanding committee action.

Mr. Schellpeper asked unanimous consent to be excused until he returns. No objections. So ordered.

MR. CONWAY PRESIDING

Mr. Wesely moved the previous question. The question is, "Shall the debate now close?" The motion lost with 16 ayes, 13 nays, and 20 not voting.

SPEAKER BAACK PRESIDING

Mr. Elmer moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

Mr. Lamb moved for a call of the house. The motion prevailed with 33 ayes, 0 nays, and 16 not voting.

Mr. Conway requested a roll call vote on the Lamb motion to place LB 511 on General File.

Voting in the affirmative, 32:

Abboud	Coordsen	Hefner	Moore	Schmit
Baack	Crosby	Hillman	Peterson	Schrock
Bernard-Stevens	Cudaback	Johnson, L.	Pirsch	Smith
	Dierks	Johnson, R.	Robinson	Warner
Beyer	Elmer	Labedz	Rogers	Wehrbein
Byars	Haberman	Lamb	Schellpeper	Wickersham
Chizek	Hall	Lynch		

Voting in the negative, 15:

Ashford	Conway	Lindsay	Rasmussen	Wesely
Beutler	Horgan	Morrissey	Robak	Will
Chambers	Landis	Nelson	Schimek	Withem

Excused and not voting, 2:

Hartnett Kristensen

The Lamb motion prevailed with 32 ayes, 15 nays, and 2 excused and not voting.

The Chair declared the call raised.

SELECT COMMITTEE REPORT
Enrollment and Review

Correctly Engrossed

The following bill was correctly engrossed: 837.

(Signed) Eric Will, Chairperson

RESOLUTIONS

LEGISLATIVE RESOLUTION 44. Introduced by Crosby, 29.

WHEREAS, Sidney Johnsen Wayland, daughter of the late businessman and humanitarian Johnny E. Johnsen, has bestowed as a gift upon the University of Nebraska-Lincoln an invaluable copy of the First Folio of William Shakespeare's plays; and

WHEREAS, this copy of the First Folio was published in 1623, no two of which are exactly alike, and is one of approximately two hundred copies still in existence in the world today.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature, as well as all citizens of Nebraska, express their appreciation to Sidney Johnsen Wayland for her generous gift to the University of Nebraska-Lincoln and the State.

2. That a copy of this resolution be sent to Sidney Johnsen Wayland.

Laid over.

LEGISLATIVE RESOLUTION 45. Introduced by Crosby, 29.

WHEREAS, acidic paper, which is present in most writing and printing papers produced since the mid-nineteenth century, has drastically reduced the life of books, documents, and other publications; and

WHEREAS, the deterioration of collections in Nebraska's libraries, archives, and other record-holding agencies is well documented; and

WHEREAS, large expenditures of funds are necessary to prevent further deterioration of collections through microfilming or other means of reproduction; and

WHEREAS, the potential loss of Nebraska's written heritage poses a threat to the rights of citizens to access information and to the history of this great state; and

WHEREAS, alkaline paper production is more environmentally sound than acidic paper production since alkaline processes reduce water consumption and facilitate waste management; and

WHEREAS, the United States Congress has urged states to adopt the use of alkaline permanent paper for the printing of documents and other records of enduring value; and

WHEREAS, the National Information Standards Organization and the American Library Association have urged publishers to use paper meeting the American National Standards Institute's Standard for Permanent Paper for Printed Materials, ANSI Z39.48-1984; and

WHEREAS, alkaline permanent paper is as accessible as acidic paper and costs no more.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature urges state and local governmental agencies to publish documents, letters, and other papers of enduring value on alkaline permanent paper.

2. That the State Energy Office and the State Records Administrator study the use of alkaline permanent paper, including recycled alkaline paper, in state and local government and submit a record to the Committee on Government, Military and Veterans Affairs within twelve months from the date of this resolution.

Laid over.

LEGISLATIVE RESOLUTION 46. Introduced by Crosby, 29.

WHEREAS, the month of March will be observed as YOUTH ART MONTH to give recognition to the importance of music, dance, dramatics, creative writing, and visual arts in our schools and communities; and

WHEREAS, childhood is the time to develop interest and skills that will last a lifetime; and

WHEREAS, through meaningful arts activities children develop initiative, self-expression, creative ability, discipline, and an awareness and appreciation of beauty; and

WHEREAS, the importance of the arts in education, daily life, and recreation is properly widely recognized; and

WHEREAS, a YOUTH ART EXHIBIT will be displayed, beginning March 2nd, in the Rotunda of the State Capitol Building and other public areas throughout the State of Nebraska for the entire month of March.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature hereby proclaims the month of March, 1991, as YOUTH ART MONTH in Nebraska and urges all citizens to take interest in, support, and encourage the art programs presented in schools and youth organizations.

Laid over.

STANDING COMMITTEE REPORTS

Revenue

LEGISLATIVE BILL 529. Placed on General File as amended.
Standing Committee amendment to LB 529:
AM0545

1. Insert the following new section:

"Sec. 8. At the time a campaign statement is filed pursuant to section 49-1459 or 49-1462, a candidate committee shall also file a campaign committee income tax return with the Department of Revenue. The return shall include a true and accurate copy of the campaign statement filed and a total of all income received by the candidate committee to date. The candidate committee shall also make a payment at the time the return is filed in an amount equal to fifty percent of all income received to date in excess of the applicable exemption provided in section 7 of this act. Any amount due but not paid at the time the return is filed shall accumulate interest at the rate specified in section 45-104.01, as such rate may from time to time be adjusted by the Legislature. The Tax Commissioner shall develop a form for the campaign committee income tax return.".

2. On page 2, line 22, strike "eighty" and insert "fifty".

3. On page 3, line 10, after the semicolon insert "and"; strike beginning with "the" in line 12 through "for" in line 14; in line 16 strike "twenty-five" and insert "fifty"; and in line 22 after "Act" insert "less the amount paid pursuant to section 8 of this act".

4. Renumber the remaining sections accordingly.

(Signed) Tim Hall, Chairperson

Education

LEGISLATIVE BILL 522. Placed on General File as amended.
Standing Committee amendment to LB 522:
AM0560

1. Strike original section 6.

2. On page 2, line 3, strike "state or local" and insert "or any"; in line 4 after "agency" strike the comma; in line 8 after "require" insert "a"; strike beginning with "employees" in line 9 through "a" in line 12 and insert "employee, contractor, employee of a contractor, licensee, or certificate holder to obtain a"; strike beginning with "seeking" in line 15 through

"and" in line 17 and insert "for whom a criminal history record information check has been required"; in line 19 after "Education" insert ", school district, other requesting agency," and strike the second "the"; in line 20 strike "as a part of such application"; and in line 22 after the comma insert "school district, or other requesting agency,".

3. On page 3, line 4, after "Education" insert ", school district, or other requesting agency"; in lines 11 and 12 strike "clearance verification" and insert "history record information check"; strike beginning with "A" in line 14 through "shall" in line 15 and insert "Employment, licensure, or certification may"; in line 18 after "Education" insert ", school district, or other requesting agency"; and in line 24 strike "a verification shall" and insert "employment, licensure, or certification may".

4. On page 4, line 18, strike "In the case of a" and insert "A"; in line 20 after "for" insert "employment," and after "licensure" insert an underscored comma; and strike beginning with the comma in line 22 through "anyone" in line 25 and insert "may be denied employment, licensure, or certification if he or she has been".

5. On page 5, line 3, after "including" insert "those offenses listed in section 3 of this act,"; in line 9 strike "clearance verification" and insert "history record information check"; in line 10 strike "9" and insert "8"; in lines 12 and 16 strike "clearance verification" and insert "history record information check pursuant to sections 1 to 8 of this act"; in line 20 strike "may require criminal clearance verifications" and insert "shall require criminal history record information checks"; and in line 23 strike "first" and insert "first-time".

6. On page 6, line 6, strike "9" and insert "8"; in lines 11 and 12 strike "criminal clearance verification" and insert "certificate by the Commissioner of Education"; in line 12 strike "or 4"; strike beginning with the period in line 14 through "applicant" in line 15 and insert "and"; in line 18 strike "verification" and insert "certificate"; and in lines 21 and 22 strike "criminal clearance verification" and insert "certificate".

7. On page 7, line 2, strike "9" and insert "8".

8. Renumber the remaining sections accordingly.

(Signed) Ron Withem, Chairperson

SELECT COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 251. Placed on Select File as amended.
E & R amendment to LB 251:
AM5055

1. On page 1, lines 7, 9, and 11, strike "as prescribed"; in line 7 strike "a provision" and insert "provisions"; and in line 11 after the semicolon insert "to change certain time limitations;".

2. On page 3, line 24, after the second "a" insert "judicial".

3. On page 6, line 11, after "district" insert "or area"; in line 15 strike "such", show as stricken, and insert "the"; and in line 16 reinstate the stricken "or area".

4. On page 7, lines 19 and 25, strike "vote", show as stricken, and insert "number of votes"; and in line 23 strike the second comma and show as stricken.

5. On page 12, line 15, reinstate the last stricken comma; and in line 16 strike "and 48-152.01," and show as stricken.

LEGISLATIVE BILL 324. Placed on Select File as amended.
E & R amendment to LB 324:
AM5054

1. On page 2, line 4, strike "25-21,219 and" and show as stricken.

2. On page 3, line 1, reinstate the second stricken comma; in lines 3 and 5 after "Sundays" insert an underscored comma; and in line 16 after "cases" insert an underscored comma.

(Signed) Eric Will, Chairperson

UNANIMOUS CONSENT - Print in Journal

Messrs. Ashford, Hall, Will, Horgan, Lynch, Lindsay, Beyer, Abboud, Chambers, Mmes. Pirsch, and Rasmussen asked unanimous consent to print the following amendment to LB 795 in the Journal. No objections. So ordered.

AM0586

(Amendments to Standing Committee amendments, AM0199)

1. Insert the following new sections:

"Section 1. That section 9-601, Revised Statutes Supplement, 1990, be amended to read as follows:

9-601. Sections 9-601 to 9-653 and section 2 of this act shall be known and may be cited as the Nebraska County and City Lottery Act.

Sec. 2. (1) A county, city, or village which conducts a lottery pursuant to the Nebraska County and City Lottery Act shall not use the gross proceeds from such lottery for a project with a projected total cost of more than five million dollars unless the project has been approved by a majority vote of the registered voters of the county, city, or village.

(2) A special election shall be held in each county, city, or village for the purpose of determining whether the gross proceeds from a lottery conducted by such county, city, or village should be used for a project with a projected total cost of more than five million dollars. The special election shall be called by the governing body of the county, city, or village and shall be conducted in accordance with Chapter 32. If the date chosen for the special election is less than ninety days before a general or primary election, the special election shall be held on the same date as the general or primary election. A majority of registered voters voting on the issue shall determine the issue, and the vote shall be binding.".

2. On page 2, line 10, strike "section" and insert "sections 9-601 and"; and in line 11 strike "is" and insert "are".

3. Renumber the remaining sections accordingly.

Mr. Coordsen asked unanimous consent to print the following amendment to LB 298 in the Journal. No objections. So ordered.

AM0585
(Amendments to Standing Committee amendments, AM0511)
1. On page 2, line 8, strike the new matter and reinstate the stricken matter.
2. On page 4, line 13, after "physicians" insert "and other providers of medical services".
3. On page 5, line 5, after "physician" insert "or other provider of medical services".
4. On page 6, line 4, after "facility" insert "or other medical services".

Mr. Landis asked unanimous consent to print the following amendment to LB 221 in the Journal. No objections. So ordered.

FA50
1. Insert a new section as follows:
Sec. 3. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 287A. Introduced by Lindsay, 9.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 287, Ninety-second Legislature, First Session, 1991; and to declare an emergency.

PRESENTED TO THE GOVERNOR

Presented to the Governor on March 7, 1991, at 11:05 a.m., were the following bills: 75, 96, 235, 236, and 247.

(Signed) Pam Moravec, Enrolling Clerk

UNANIMOUS CONSENT - Add Co-Introducers

Messrs. Lynch and Ashford asked unanimous consent to have their names added as co-introducers to LB 789. No objections. So ordered.

VISITORS

Visitors to the Chamber were 22 fourth grade students and teacher from Believue Christian Academy, Bellevue; seven students and teacher from Nemaha Valley High School, Cook; a group from Palmyra; a group from Omaha; George Cunningham and son, Micheal, from David City; and a group from Center for Great Plains Studies Law Symposium.

ADJOURNMENT

At 11:50 a.m., on a motion by Mr. Hefner, the Legislature adjourned until 9:00 a.m., Monday, March 11, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

FORTIETH DAY - MARCH 11, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

FORTIETH DAY

Legislative Chamber, Lincoln, Nebraska
Monday, March 11, 1991

Pursuant to adjournment, the Legislature met at 9:00 a.m., Speaker Baack presiding.

PRAYER

The prayer was offered by Pastor Duane Simonson, Trinity Lutheran Church, Deshler, Nebraska.

ROLL CALL

The roll was called and all members were present except Mrs. Pirsch who was excused; and Messrs. Abboud, Ashford, Beutler, Haberman, Hall, Lindsay, Schmit, Warner, Wickersham, Mmes. Hillman, Smith, and Ms. Schimek who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Thirty-Ninth Day was approved.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following resolutions: LR 39 and LR 40.

SELECT COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 731. Placed on Select File as amended.

E & R amendment to LB 731:
AM5059

1. For purposes of correlation with section 1, LB 81:

a. Strike original section 4 and insert the following new section:

"Sec. 4. That section 13-804, Reissue Revised Statutes of Nebraska, 1943, as amended by section 1, Legislative Bill 81, Ninety-second Legislature, First Session, 1991, be amended to read as follows:

13-804. (1) Any power or powers, privileges, or authority exercised or capable of exercise by a public agency of this state may be exercised and enjoyed jointly with any other public agency of this state having such power or powers, privileges, or authority, and jointly with any public agency of any other state or of the United States to the extent that laws of such other state or of the United States permit such joint exercise or enjoyment. Any agency of state government when acting jointly with any public agency may exercise and enjoy all of the powers, privileges, and authority conferred by the Interlocal Cooperation Act upon a public agency.

(2) Any two or more public agencies may enter into agreements with one another for joint or cooperative action pursuant to the ~~act~~ Interlocal Cooperation Act. Appropriate action by ordinance, resolution, or otherwise pursuant to law of the governing bodies of the participating public agencies shall be necessary before any such agreement may enter into force.

(3) Any such agreement shall specify the following:

(a) Its duration;

(b) The ~~precise~~ general organization, composition, and nature of any separate legal or administrative entity created thereby together with the powers delegated thereto; ~~if such entity may be legally created;~~

(c) Its purpose or purposes;

(d) The manner of financing the joint or cooperative undertaking and of establishing and maintaining a budget therefor;

(e) The permissible method or methods to be

employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon such partial or complete termination; and

(f) Any other necessary and proper matters.

(4) In the event that the agreement does not establish a separate legal entity to conduct the joint or cooperative undertaking, the agreement shall, in addition to items enumerated in subsection (3) of this section, contain the following:

(a) Provision for an administrator or a joint board responsible for administering the joint or cooperative undertaking. In the case of a joint board, the public agencies party to the agreement shall be represented; and

(b) The manner of acquiring, holding, and disposing of real and personal property used in the joint or cooperative undertaking.

(5) No agreement made pursuant to the ~~act~~ Interlocal Cooperation Act shall relieve any public agency of any obligation or responsibility imposed upon it by law except that to the extent of actual and timely performance thereof by a joint board or other legal or administrative entity created by an agreement made ~~hereunder~~ pursuant to the act, which performance may be offered in satisfaction of the obligation or responsibility.

(6) In the event that an agreement made pursuant to this section creates a joint entity, such joint entity shall be subject to control by its members in accordance with the terms of the agreement; shall constitute a separate public body corporate and politic of this state, exercising public powers and acting on behalf of the public agencies which are parties to such agreement; and shall have power (a) to sue and be sued, (b) to have a seal and alter the same at pleasure or to dispense with the necessity thereof, (c) to make and execute contracts and other instruments necessary or convenient to the exercise of its powers, and (d) from time to time, to make, amend, and repeal bylaws, rules, and regulations, not inconsistent with the Interlocal Cooperation Act and the agreement providing for its creation, to carry out and effectuate its powers and purposes.

(7) No entity created by local public agencies

pursuant to the ~~act~~ Interlocal Cooperation Act shall be considered a state agency, and no employee of such an entity shall be considered a state employee.";

b. On page 1, line 2; and page 23, line 4, before "13-807" insert "13-803 and 13-805 to"; and

c. On page 1, line 3; and page 23, line 4, after "1943" insert ", and section 13-804, Reissue Revised Statutes of Nebraska, 1943, as amended by section 1, Legislative Bill 81, Ninety-second Legislature, First Session, 1991".

2. On page 1, line 3, after the semicolon insert "to define a term; to provide for joint entities;"; and in line 5 strike "sections" and insert "act".

3. On page 3, line 1, before "Public" insert "Joint entity shall mean an entity created by agreement pursuant to section 13-804;

(2)"; in line 7 after the semicolon insert "and"; in line 8 strike "(2)", show as stricken, and insert "(3)"; and strike the new matter in lines 9 through 11.

4. On page 8, line 10; page 9, lines 17 and 21; and page 10, line 1, strike "board" and insert "governing body".

5. On page 9, line 4, strike "are" and insert "shall be"; in line 5 strike the comma and insert an underscored period; in line 6 strike "such" and insert "Such" and after "include" insert an underscored comma; in line 7 strike ": Solid" and insert ", solid"; and in line 20 after the comma insert "the payment of".

6. On page 11, line 15, strike "shall".

7. On page 16, line 6, strike "public".

8. On page 18, line 21, strike ", or" and insert "or,".

9. On page 19, line 20, strike the comma.

10. On page 20, line 13, strike the second "all".

LEGISLATIVE BILL 410. Placed on Select File as amended.
E & R amendment to LB 410:
AM5056

1. On page 2, lines 16, 20, and 25, after the period insert paragraphing.

2. On page 3, line 3, strike the underscored

comma.

LEGISLATIVE BILL 703. Placed on Select File as amended.
E & R amendment to LB 703:
AM5057

1. On page 1, line 1, strike "the Uniform Licensing Law" and insert "public health and welfare"; and in line 7 strike "provide" and insert "change provisions".

2. On page 3, line 12, strike "candidates", show as stricken, and insert "candidate".

3. On page 4, line 6, after "may" insert an underscored comma; in line 7 after "examiners" insert an underscored comma; and in line 16 strike "the" and insert "a".

4. On page 15, line 13, after "report" insert "or notification".

LEGISLATIVE BILL 703A. Placed on Select File as amended.
E & R amendment to LB 703A:
AM5058

1. On page 2, line 4, after "Fund" insert "for FY1992-93".

LEGISLATIVE BILL 498. Placed on Select File.
LEGISLATIVE BILL 205. Placed on Select File.

LEGISLATIVE BILL 221. Placed on Select File as amended.
E & R amendment to LB 221:
AM5060

1. On page 6, line 8, strike beginning with "subsections" through "of".

LEGISLATIVE BILL 253. Placed on Select File as amended.
E & R amendment to LB 253:
AM5067

1. On page 1, line 12, after the semicolon insert "to restate findings and intent;".

2. On page 2, line 2, strike "and" and insert "to agricultural enterprises, first-time homebuyers, and nonprofit entities; to change provisions relating to"; in line 6 after "for" insert "and eliminate provisions relating to"; and in line 7 after the semicolon insert "to provide for funds for loans to low-income persons as

prescribed;".

3. On page 4, line 24, after "prices" insert "at".

4. On page 5, line 2; and page 27, line 18, strike the last comma and show as stricken.

5. On page 7, lines 8 and 18, strike the comma and show as stricken.

6. On page 8, line 12, after "the" insert "public" and strike "public" and show as stricken.

7. On page 49, line 18, strike "bond" and insert "bonds".

8. On page 54, lines 12 and 15, after "a" insert "farm"; and in lines 13 and 16 after "another" insert "farm".

9. On page 62, line 2, strike the commas and show as stricken and before "necessary" insert "and"; and in line 12 strike the comma, show as stricken, and insert "and".

10. On page 72, lines 12 and 15, strike "this", show as stricken, and insert "the"; and in line 23 strike "projects", show as stricken, and insert "project".

11. On page 73, line 1, strike "projects are", show as stricken, and insert "project is".

12. On page 75, line 13, strike "notifications" and insert "notification".

13. On page 76, line 10, strike "and".

LEGISLATIVE BILL 305. Placed on Select File as amended.
E & R amendment to LB 305:
AM5061

1. On page 1, line 4, after the semicolon insert "to eliminate certain exceptions to applicability of the act; to redefine terms;"; and in line 5 strike "fees" and insert "and to provide fees; to change provisions relating to registration of an indefinite amount of securities".

2. On page 2, line 10, strike "to this section and" and show as stricken.

3. On page 7, line 8, strike the last comma and show as stricken.

4. On page 19, line 10, strike "that" and show as stricken; and in lines 10, 12, and 19 after the right-hand parenthesis insert "that".

LEGISLATIVE BILL 67. Placed on Select File as amended.
E & R amendment to LB 67:
AM5062

1. Strike the original sections and all amendments thereto and insert the following new sections:

"Section 1. Rules and regulations adopted by the Environmental Control Council pursuant to subdivision (7) of section 81-1528 shall apply to disposal sites permitted pursuant to sections 19-4101 to 19-4121 and regulated pursuant to subdivision (13)(d) of section 81-1505.

Sec. 2. That section 81-1528, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-1528. (1) The Environmental Protection Act shall not apply in any political subdivision which provides for the control of air, water, or land pollution by resolution, ordinance, or regulation not inconsistent with the substantive provisions of the Environmental Protection Act or any rule or regulation adopted pursuant to such act, except that no such resolution, ordinance, or regulation shall become effective until a certificate of exemption has been issued by the director. Such certificate of exemption shall be available for inspection in the office of the county, city, or village clerk as the case may be.

(2) If the director ~~shall determine~~ determines at any time after the issuance of such a certificate that a resolution, ordinance, or regulation is being enforced in a manner inconsistent with the Environmental Protection Act or any rule or regulation adopted pursuant to such act in any political subdivision holding a certificate of exemption, the director may suspend the certificate of exemption and the Environmental Protection Act shall apply in such political subdivision until such standards are met and a new certificate is issued.

(3) Any political subdivision desiring a certificate of exemption shall make application for such certificate by filing a petition for certificate of exemption with the director. The director or his or her designated representative shall promptly investigate

such petition. If the recommendation of the director or his or her designated representative is against the granting of a certificate of exemption and he or she, in his or her discretion, concludes that a hearing would be advisable, a hearing shall be held as provided in section 81-1507 on the questions of whether the resolution, ordinance, or regulation is consistent with the substantive provisions of the Environmental Protection Act or any rule or regulation adopted pursuant to such act, and whether adequate provisions have been made for enforcement. The burden of proof shall be upon the political subdivision. A like hearing shall be held upon any proposed suspension of a certificate of exemption.

(4) If the director finds that the location, character, or extent of particular concentrations of population, air, water, or land contaminant sources, the geographic, topographic, or meteorological considerations, or any combination thereof, are such as to make impracticable the maintenance of appropriate levels of air, water, or land quality without an areawide air, water, or land pollution control program, the director may determine the boundaries within which such program is necessary and require it as the only acceptable alternative to direct state administration.

(5) Nothing in the Environmental Protection Act shall be construed to supersede or oust the jurisdiction of any local air, water, or land pollution control program in operation on May 26, 1971. ~~Within one year from such date any such~~ Such program shall meet all requirements of the Environmental Protection Act for a local air, water, or land pollution control program. Any approval required from the department shall be deemed granted unless the department takes specific action to the contrary.

(6) Until March 1, 1995, cities ~~Cities~~ of the second class and villages shall be exempt from the provisions of sections 19-4101 to 19-4121 and the Environmental Protection Act pertaining to licensing and control of nonhazardous solid waste disposal systems if such cities and villages provide solid waste disposal systems which do not result in the pollution of waters of the state. The department shall act in an advisory capacity to such cities and villages and shall have the

right to inspect solid waste disposal sites and evaluate them according to the site evaluation criteria promulgated pursuant to the Resource ~~Recovery and Conservation~~ Conservation and Recovery Act, as amended, 42 U.S.C. 6901 et seq. The department shall notify the community of the results of its evaluation. Cities of the second class and villages shall prepare a plan by December 15, 1993, that will bring landfills previously exempted under this section into compliance with licensure requirements or provide for closure of such landfills. The plan shall be approved by the department and shall address the threat of air, water, and land pollution.

(7) The council shall, by July 1, 1992, adopt and promulgate rules and regulations which provide standards for the closure and postclosure care of all landfills, including landfills previously exempted under this section.

Sec. 3. The Revisor of Statutes shall assign section 1 of this act within sections 19-4101 to 19-4121 and any reference to sections 19-4101 to 19-4121 shall be construed to include section 1 of this act.

Sec. 4. That original section 81-1528, Reissue Revised Statutes of Nebraska, 1943, is repealed.".

2. On page 1, line 3, after the semicolon insert "to provide for applicability and require the adoption of rules and regulations;"; and in line 6 after the semicolon insert "to require certain plans; to provide a duty for the Revisor of Statutes;".

LEGISLATIVE BILL 325. Placed on Select File as amended.
E & R amendment to LB 325:
AM5063

1. On page 1, line 2, strike "section" and insert "sections 81-15,161 and"; in line 3 after the semicolon insert "to change powers and duties of the Director of Environmental Control and the Environmental Control Council regarding certain grants;"; and in line 6 strike "section" and insert "sections".

2. On page 2, line 22, strike "state", show as stricken, and insert "comprehensive solid waste management".

LEGISLATIVE BILL 363. Placed on Select File.
LEGISLATIVE BILL 363A. Placed on Select File.

LEGISLATIVE BILL 419. Placed on Select File as amended.
E & R amendment to LB 419:
AM5064

1. On page 1, line 4, strike "qualifications for certified" and insert "for the use of the title qualified".

2. On page 3, line 16, reinstate the stricken comma.

3. On page 4, line 20, strike "subsection" and insert "subdivision".

LEGISLATIVE BILL 286. Placed on Select File as amended.
E & R amendment to LB 286:
AM5065

1. On page 1, line 8, strike "and"; and in line 9 after "sections" insert "; and to declare an emergency".

2. On page 5, line 19, after "purposes" insert an underscored comma.

LEGISLATIVE BILL 311. Placed on Select File.

LEGISLATIVE BILL 218. Placed on Select File as amended.
E & R amendment to LB 218:
AM5066

1. In the Standing Committee amendments, AM0135:

a. On page 1, line 5, strike "or persons,", show as stricken, and insert an underscored comma; and

b. On page 4, line 10, strike the second "of".

2. On page 1, line 2, strike "and" and insert "54-104," and after the last comma insert "and 54-137,"; in line 4 strike "redefine" and insert "define, redefine, and eliminate"; in line 5 strike "eliminate a term" and insert "change provisions relating to renewal of brand recordings"; and in line 7 after the semicolon insert "to change mileage reimbursement provisions for employees of the Nebraska Brand Committee;".

3. On page 2, line 9, strike the comma and show as stricken; and in line 25 strike "Theft" and insert "Notwithstanding subsections (1) through (4) of

this section, theft".

4. On page 9, line 18, strike "a" and show as stricken.

5. On page 10, line 2, strike "and", show as stricken, and insert "who".

(Signed) Eric Will, Chairperson

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 270A. Introduced by Elmer, 38.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 270, Ninety-second Legislature, First Session, 1991.

RESOLUTIONS

LEGISLATIVE RESOLUTION 47. Introduced by Withem, 14.

WHEREAS, the administrators of the Papillion-LaVista School District, including Dr. Fred Tafoya, President of the Board of Education, and Mr. Roger Miller, Superintendent of Schools, are committed to actively promoting and nurturing a full and comprehensive music program for all students; and

WHEREAS, Doris O'Connor, Principal of LaVista West Elementary School, has been supportive of her school's music education program by encouraging her staff, particularly Wanda Faubion, to devote her time and energy to developing the talents of her students; and

WHEREAS, the Honor Choir of LaVista West Elementary School, comprised of students of the highest musical and academic caliber, will be performing on March 27, 1991, at the State Capitol in Lincoln, in celebration of "Music in Our Schools Month"; and

WHEREAS, the Nebraska Music Educators Association, Dr. James Saker, President, sponsors "Music in Our Schools Month" to draw attention to the role of music as a part of the total education process; and

WHEREAS, the Honor Choir members work hard with rehearsals, classwork assignments, and nightly practices, realizing that the amount of time and energy they are willing to expend directly affects the quality of their music; and

WHEREAS, the Honor Choir members and their parents can be extremely proud of their musical achievements and their participation in "Music in Our Schools Month".

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature pause in its deliberations to commend the Honor Choir of LaVista West Elementary School and the staff members of the music education program for their dedication to musical excellence and their participation in "Music in Our Schools Month".

2. That the Legislature extend a warm welcome to the teachers and students of LaVista West Elementary School as they visit Lincoln for their performance at the State Capitol Rotunda.

3. That a copy of this resolution be sent to Doris O'Connor, Principal, LaVista West Elementary School.

Laid over.

LEGISLATIVE RESOLUTION 48. Introduced by Rogers, 41.

WHEREAS, agriculture is recognized as Nebraska's most important single industry and is the backbone of the state's economy; and

WHEREAS, Nebraska's cultural heritage is founded on a strong rural background, the values of which continue to be the basis of our society today; and

WHEREAS, the economic growth of manufacturing, retail sales, and service industries in the state are dependent upon a healthy agricultural community; and

WHEREAS, Nebraska farmers and ranchers are exhibiting the strength, durability, and innovation shared by their pioneer forefathers in meeting the challenges and opportunities of today's agricultural economy; and

WHEREAS, it is appropriate for all Nebraska citizens to recognize the significance and appreciate the importance of agriculture's relationship to our state economy and general well-being; and

WHEREAS, National Agriculture Week and National Agriculture Day have been established to focus national attention and appreciation on America's farmers and ranchers; and

WHEREAS, E. Benjamin Nelson, Governor of the State of Nebraska, has proclaimed the week of March 17 through March 23, 1991, as State Agriculture Week throughout the state.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature declares March 17 through March 23, 1991, as State Agriculture Week in Nebraska and March 20, 1991, as State Agriculture Day in Nebraska in conjunction with National Agriculture Week and National Agriculture Day.

2. That the Legislature urges Nebraskans to honor and thank Nebraska's farmers and ranchers by supporting and participating in State Agriculture Week in Nebraska and State Agriculture Day in Nebraska.

Laid over.

ANNOUNCEMENTS

Mr. Chambers designates LB 789 as his priority bill.

Mr. Schellpeper designates LB 400 as his priority bill.

Mrs. Crosby designates LB 782 as her priority bill.

Mrs. Hillman designates LB 727 as her priority bill.

RESOLUTIONS

LEGISLATIVE RESOLUTION 41. Read. Considered.

LR 41 was adopted with 26 ayes, 0 nays, and 23 not voting.

LEGISLATIVE RESOLUTION 42. Read. Considered.

LR 42 was adopted with 26 ayes, 0 nays, and 23 not voting.

LEGISLATIVE RESOLUTION 43. Read. Considered.

LR 43 was adopted with 25 ayes, 0 nays, and 24 not voting.

LEGISLATIVE RESOLUTION 44. Read. Considered.

LR 44 was adopted with 30 ayes, 0 nays, and 19 not voting.

LEGISLATIVE RESOLUTION 45. Read. Considered.

LR 45 was adopted with 26 ayes, 0 nays, and 23 not voting.

LEGISLATIVE RESOLUTION 46. Read. Considered.

LR 46 was adopted with 26 ayes, 0 nays, and 23 not voting.

MOTION - Approve Appointments

Mr. Landis moved the adoption of the report of the Banking, Commerce and Insurance Committee for the following Governor appointments found in the Journal on page 947: William McCartney - Department of Insurance and James Hansen - Department of Banking and Finance.

Voting in the affirmative, 27:

Baack	Cudaback	Johnson, L.	Peterson	Schimek
Beyer	Dierks	Kristensen	Rasmussen	Wehrbein
Byars	Elmer	Landis	Robak	Wesely
Chizek	Hartnett	Lynch	Rogers	Will
Conway	Hefner	Moore	Schellpeper	Withem
Crosby	Horgan			

Voting in the negative, 0.

Present and not voting, 12:

Bernard-Stevens	Chambers	Johnson, R.	Morrissey	Robinson
	Coordsen	Labedz	Nelson	Schrock
Beutler	Haberman	Lamb		

Excused and not voting, 10:

Abboud	Hall	Lindsay	Schmit	Warner
Ashford	Hillman	Pirsch	Smith	Wickersham

These appointments were confirmed with 27 ayes, 0 nays, 12 present and not voting, and 10 excused and not voting.

GENERAL FILE

LEGISLATIVE BILL 340. Title read. Considered.

Advanced to E & R for review with 33 ayes, 0 nays, 11 present and not voting, and 5 excused and not voting.

LEGISLATIVE BILL 433. Title read. Considered.

Mr. Wesely moved for a call of the house. The motion prevailed with 15 ayes, 0 nays, and 34 not voting.

Advanced to E & R for review with 25 ayes, 0 nays, 19 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Mr. Kristensen asked unanimous consent to be excused until he returns. No objections. So ordered.

LEGISLATIVE BILL 433A. Title read. Considered.

Mr. Wesely offered the following amendment:
AM0622
1. On page 2, line 10, strike "$172,714" and insert "$199,407"; and in line 11 strike "$197,609" and insert "$225,637".

The Wesely amendment was adopted with 26 ayes, 0 nays, 18 present and not voting, and 5 excused and not voting.

Advanced to E & R for review with 25 ayes, 0 nays, 19 present and not voting, and 5 excused and not voting.

Mr. Peterson asked unanimous consent to be excused until he returns. No objections. So ordered.

LEGISLATIVE BILL 232. Title read. Considered.

Standing Committee amendment, AM0137, found in the Journal on page 607, was considered.

Mr. Withem renewed his pending amendment, AM0315, found in the Journal on page 810, to the Standing Committee amendment.

The Withem amendment was adopted with 25 ayes, 0 nays, 19 present and not voting, and 5 excused and not voting.

The Standing Committee amendment, as amended, was adopted with 29 ayes, 0 nays, 15 present and not voting, and 5 excused and not voting.

MR. WARNER PRESIDING

Mr. Elmer asked unanimous consent to be excused until he returns. No objections. So ordered.

SPEAKER BAACK PRESIDING

Advanced to E & R for review with 28 ayes, 0 nays, 16 present and not voting, and 5 excused and not voting.

Mr. Withem asked unanimous consent to be excused until he returns. No objections. So ordered.

STANDING COMMITTEE REPORTS
Government, Military and Veterans Affairs

LEGISLATIVE RESOLUTION 23. Reported to the Legislature for further consideration.

LEGISLATIVE BILL 502. Placed on General File as amended.
Standing Committee amendment to LB 502:
AM0594

1. On page 2, line 11, after "employment" insert "for FY1991-92 and FY1992-93".
2. On page 3, line 4, after "adjusted" insert "FY1991-92 and FY1992-93".

LEGISLATIVE BILL 585. Placed on General File as amended.
Standing Committee amendment to LB 585:
AM0596

1. On page 2, line 21, strike "at least" and after "one" insert "official".

LEGISLATIVE BILL 723. Placed on General File as amended.
Standing Committee amendment to LB 723:
AM0595

1. Insert the following new sections:

"Sec. 7. That section 77-4303, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-4303. (1) A tax is hereby imposed on marijuana and controlled substances at the following rates:

(a) On each ounce of marijuana or each portion of an ounce, one hundred dollars;

(b) On each gram or portion of a gram of a controlled substance that is customarily sold by weight or volume, one hundred fifty dollars; or

(c) On each fifty dosage units or portion thereof of a controlled substance that is not customarily sold by weight, five hundred dollars.

(2) For purposes of calculating the tax under this section, marijuana or any controlled substance that is customarily sold by weight or volume shall be measured by the weight of the substance in the dealer's possession. The weight shall be the actual weight, if known, or the estimated weight as determined by the Nebraska State Patrol or other law enforcement agency. Such determination shall be presumed to be the weight of such marijuana or controlled substances for purposes of sections 77-4301 to 77-4316 and sections 11, 12, and 18 of this act.

(3) The tax shall not be imposed upon a person registered or otherwise lawfully in possession of marijuana or a controlled substance pursuant to Chapter 28, article 4.

Sec. 14. That section 77-4312, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-4312. (1) Any person who receives a notice of jeopardy determination of the tax imposed by section 77-4303 may petition the Tax Commissioner for a redetermination of the amount of the assessed deficiency.

(2) The petition for redetermination shall be filed within ten days of the receipt of the notice of jeopardy determination whenever service is in person or within ten days of the mailing of such notice by certified or registered mail to the last-known address of the person.

(3) The petition for redetermination shall be in writing and shall state the specific grounds upon which the claim is founded.

(4) The petition for redetermination shall be

accompanied by the payment of the tax or suitable security for the payment of the tax.

(5) The consideration of the petition for redetermination shall be made pursuant to the Administrative Procedure Act to the extent the act is not in conflict with sections 77-4301 to 77-4316 and sections 11, 12, and 18 of this act.

(6) The determination of the amount of the deficiency shall become final, and the amount shall be deemed to be assessed on the date provided in subsection (2) of this section if the person fails to file the petition for the redetermination and the appropriate security within the ten-day time period.

(7) When a petition for redetermination and the appropriate security is filed within the ten-day period, the amount of the deficiency shall be deemed to be assessed upon the date the determination of the Tax Commissioner becomes final.

(8) If the amount of the deficiency determined under such sections is not paid upon the receipt of the notice, the deficiency shall accrue interest at the rate specified in section 45-104.01, as such rate may from time to time be adjusted by the Legislature, for the period from the date the tax was due until the date such deficiency is paid. ~~The person against whom a jeopardy determination is made may petition for a hearing pursuant to the Administrative Procedure Act.~~

~~(2)(a)~~ (9)(a) When a jeopardy determination or any other final determination has been made by the Tax Commissioner, the property seized for collection of the taxes and any penalty shall not be sold until the time has expired for filing an appeal. If an appeal has been filed, no sale shall be made unless the taxes and any penalty remain unpaid for a period of more than thirty days after final determination of the appeal by the district court.

(b) Notwithstanding subdivision (a) of this subsection, seized property may be sold if the taxpayer consents in writing to the sale or the Tax Commissioner determines that the property is perishable or may become greatly reduced in price or value by keeping or that such property cannot be kept without great expense.

(c) The property seized shall be returned by the Tax Commissioner if the owner gives a surety bond

equal to the appraised value of the owner's interest in the property, as determined by the Tax Commissioner, or deposits with the Tax Commissioner security in such form and amount as the Tax Commissioner deems necessary to insure payment of the liability but not more than twice the liability.

(d) Notwithstanding any other provision to the contrary, if a levy or sale pursuant to this section would irreparably injure rights in property which the court determines to be superior to rights of the state in such property, the district court may grant an injunction to prohibit the enforcement of such levy or to prohibit such sale.

(e) Any action taken by the Tax Commissioner pursuant to this section shall not constitute an election by the state to pursue a remedy to the exclusion of any other remedy.

(f) After the Tax Commissioner has seized the property of any person, that person may, upon giving forty-eight hours notice to the Tax Commissioner and to the court, bring a claim for equitable relief before the district court for the release of the property to the taxpayer upon such terms and conditions as the court deems equitable.

~~(3)~~ (10) If the taxpayer is not within this state or has departed from the state and ignores all demands for payment, the Tax Commissioner may employ the services of any qualified collection agency or attorney and pay fees for such services out of any money recovered.

Sec. 18. (1) If the Tax Commissioner determines that any tax imposed by sections 77-4301 to 77-4316 and sections 11, 12, and 18 of this act has been paid more than once or has been erroneously or illegally collected or computed, the Tax Commissioner shall set forth that fact in his or her records and the amount collected may be refunded to the person by whom it was paid or his or her successors, administrators, or executors.

(2) No stamps that have been issued under such sections by the department can be returned.

(3) The Tax Commissioner may waive all or part of any penalties provided by such sections but may not waive interest on delinquent amounts.".

2. On page 3, line 14, strike "division" and insert "Nebraska State Patrol".

3. On page 7, line 16, strike "10" and insert "11".

4. On page 10, line 15; page 11, lines 14 and 20; page 12, line 2; page 14, lines 13 and 23; and page 15, lines 4 and 5 and 22, strike "10 and 11" and insert "11, 12, and 18".

5. On page 16, line 20, after "77-4301," insert "77-4303,"; and in line 21 strike the first comma and insert "to".

6. Renumber the remaining sections accordingly.

LEGISLATIVE BILL 789. Placed on General File as amended.
Standing Committee amendment to LB 789:
AM0614

1. On page 14, line 4, strike "nine" and insert "seven"; and in line 5 strike the new matter and insert ", six, and seven".

LEGISLATIVE BILL 798. Placed on General File as amended.
Standing Committee amendment to LB 798:
AM0576

1. Insert the following new section:

"Sec. 3. That section 23-343.48, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

23-343.48. Nothing contained in sections 23-343 to 23-343.47 shall be construed to prohibit the board of trustees of any indigent hospital, home for aged or infirm persons, community hospital, local hospital district, mental health clinic, clinic or facility to combat mental retardation, public health center, or similar facilities required to protect the health and welfare of the people from establishing depreciation funds from patient or other revenue income for the purpose of replacing equipment or providing for future improvements or additions or from using such patient or other revenue income for purchasing equipment or for retiring indebtedness incurred for improvements or additions not financed by bonds of the county or direct tax levies. The limitations upon expenditures provided for in sections 23-343.03 and 23-343.07 shall

not apply to expenditures made from patient or other revenue income or for the retiring of indebtedness or payment of other obligations from such patient or revenue income. Any amounts expended by the board of trustees of any facility or facilities~~,~~ or a local hospital district for the purposes provided in this section on or before July 6, 1965, without a bond issue or tax levy shall not be considered to have been expended without statutory authority but shall be considered proper expenditures if made for the purposes ~~herein~~ stated in this section. ".

2. On page 2, line 21, strike "appraised value", show the old matter as stricken, and insert "replacement cost" and before "facility" insert "existing".

3. On page 5, line 3, strike "appraised value" and insert "replacement cost" and after "such" insert "existing".

4. On page 6, line 8, strike "and" and insert a comma; and in line 9 after the first comma insert "and 23-343.48,".

5. Renumber the remaining section accordingly.

(Signed) Gerald Conway, Chairperson

NOTICE OF COMMITTEE HEARINGS
Government, Military and Veterans Affairs

Governor Appointment Wednesday, March 20, 1991 1:30 p.m.
Ron Tussing - Superintendent of the State Patrol

(Signed) Gerald Conway, Chairperson

Judiciary

Governor Appointments Tuesday, March 19, 1991 1:30 p.m.
Marlene Cupp - State Parole Board
Michael D. McLaughlin - State Parole Board

(Signed) Jerry Chizek, Chairperson

RESOLUTIONS

LEGISLATIVE RESOLUTION 49. Introduced by Beutler, 28; Landis, 46; Wesely, 26; Crosby, 29; Schimek, 27; Warner, 25.

WHEREAS, Pius X High School, through hard work, teamwork, and outstanding athletic ability, won the Class B Girls' State Basketball Championship this season with a record of 23-1; and

WHEREAS, team members Stephanie Ayres, Marian Bednar, Cathy Blankenau, Maura Dawson, Carmon Easley, Jenny Gutschenritter, Michelle Metzger, Michelle Rowe, Dana Seiler, Stephanie Schug, Laura Schultz, and Lindi Thelen found that the aforementioned qualities led to Pius X High School's first Girls' State Basketball Championship; and

WHEREAS, Coach Don Kelley and Assistant Coaches Jeff Devries, Kelley Grote, and Joan Kelley, as well as trainer Chuck Scholtes, have found that dedication and ability to work with this team have resulted in a successful program and season; and

WHEREAS, Pius X High School fans and students were excellent representatives of the school, city, and state and have displayed the ability to make their school better through working together; and

WHEREAS, the collective athletic abilities, accomplishments, and dedication of the coaches and players should be commended and are deserving of special recognition.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature commends and applauds the Pius X High School girls' basketball team for its effort and its recognition of winning the Girls' State Basketball Championship.

2. That a copy of this resolution be sent to Coach Don Kelley and the Pius X High School girls' basketball team in recognition of their accomplishments.

3. That a copy of this resolution be sent to Pius X High School, in care of Principal Greg Logston, in recognition of this achievement.

Laid over.

LEGISLATIVE RESOLUTION 50. Introduced by Withem, 14.

WHEREAS, the successful teaching and learning of mathematics and science for all students is crucial to the economic growth of the state and the livelihood of its citizenry; and

WHEREAS, while Nebraska students rank high on a number of standardized indicators of mathematical achievement, a substantial number of students in Nebraska and throughout the United States

are not prepared for college mathematics as compared with students of other industrialized nations; and

WHEREAS, every citizen can and should have access to quality mathematics instruction regardless of wealth, gender, race, or geographic location; and

WHEREAS, there is a need for graduates trained in mathematics to fill positions in Nebraska businesses and industries; and

WHEREAS, the Nebraska Mathematics Project, which includes proposals for a Systemic Initiative to improve mathematics education at the elementary, secondary, and postsecondary education levels, is an answer by Nebraska to the national need for a comprehensive reform of mathematics education programs; and

WHEREAS, the Nebraska Mathematics Coalition has applied for a National Science Foundation grant of approximately five million dollars to support a broad range of activities to improve mathematics and science education in Nebraska, including an Elementary School Project, a Secondary School Project, a local teacher support strategy, new standards and strategies in the collegiate mathematics experience, strategies to upgrade the performance of females and minorities in mathematics, provisions for improved assessment of performance in mathematics, and an evaluation of the overall mathematics program in the state; and

WHEREAS, the Legislature has supported initiatives to improve mathematics and science programs in the past, including the strengthening of accreditation, graduation, and course offering requirements in 1984, the creation of the Math and Science Loan Program in 1986, the creation of the Nebraska Telecommunications Consortium, lending support to distance learning projects in public schools, colleges, and the university, and the establishment of the Junior Mathematics Prognosis Examination test program; and

WHEREAS, the Legislature has supported bottom-up systemic school reform in the enactment of the School Restructuring Commission and the enrollment option program and has indicated support for the development of learning goals and outcomes assessment.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature strongly supports the efforts of the Nebraska Mathematics Coalition and the Systemic Initiative.

2. That the Legislature supports the efforts to upgrade the mathematics and science curriculum, graduation requirements, and teacher training.

3. That the Legislature supports efforts to use technology to offer enhanced and supplemental mathematics instruction through distance learning.

4. That the Legislature will give careful and serious consideration to a proposed funding strategy to support ongoing costs of the Systemic Initiative in partnership with local, business, and federal support.

Laid over.

BILLS ON FIRST READING

The following bills were read for the first time by title:

LEGISLATIVE BILL 279A. Introduced by Lynch, 13.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 279, Ninety-second Legislature, First Session, 1991.

LEGISLATIVE BILL 823A. Introduced by Lynch, 13.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 823, Ninety-second Legislature, First Session, 1991.

UNANIMOUS CONSENT - Print in Journal

Mr. Hall asked unanimous consent to print the following amendment to LB 297 in the Journal. No objections. So ordered.

AM0620

1. Insert the following new section:

"Sec. 5. This act shall become operative on July 1, 1991.".

2. On page 4, line 13, strike "beginning July 1, 1991,"; and in line 18 strike the new matter and reinstate the stricken matter.

3. On page 5, line 18, after "which" insert "(1)"; and in line 20 after "and" insert "(2)".

4. Renumber remaining sections accordingly.

GENERAL FILE

LEGISLATIVE BILL 292. Title read. Considered.

Standing Committee amendment, AM0189, found in the Journal on page 617, was considered.

Messrs. Haberman and Dierks asked unanimous consent to be excused until they return. No objections. So ordered.

The Standing Committee amendment was adopted with 26 ayes, 0 nays, 15 present and not voting, and 8 excused and not voting.

Mr. Schmit asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Landis renewed his pending amendment, AM0301, found in the Journal on page 900.

The Landis amendment was adopted with 26 ayes, 0 nays, 14 present and not voting, and 9 excused and not voting.

Mr. Moore asked unanimous consent to be excused until he returns. No objections. So ordered.

Advanced to E & R for review with 25 ayes, 0 nays, 14 present and not voting, and 10 excused and not voting.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following resolutions: LRs 41, 42, 43, 44, 45, and 46.

GENERAL FILE

LEGISLATIVE BILL 466. Title read. Considered.

Mr. Lynch asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Warner moved to indefinitely postpone LB 466.

Mmes. Nelson and Robak asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Warner moved for a call of the house. The motion prevailed with 14 ayes, 0 nays, and 35 not voting.

Mr. Warner requested a roll call vote on his motion to indefinitely postpone.

Voting in the affirmative, 18:

Beyer	Cudaback	Johnson, R.	Peterson	Smith
Byars	Elmer	Labedz	Robinson	Warner
Coordsen	Hefner	Lamb	Rogers	Wehrbein
Crosby	Johnson, L.	Lynch		

Voting in the negative, 21:

Abboud	Chambers	Hillman	Morrissey	Wesely
Ashford	Chizek	Horgan	Rasmussen	Wickersham
Baack	Conway	Landis	Schimek	Will
Bernard-Stevens	Hall	Lindsay	Schrock	Withem
	Hartnett			

Present and not voting, 3:

Beutler	Dierks	Schellpeper

Absent and not voting, 1:

Kristensen

Excused and not voting, 6:

Haberman	Nelson	Pirsch	Robak	Schmit
Moore				

The Warner motion to indefinitely postpone lost with 18 ayes, 21 nays, 3 present and not voting, 1 absent and not voting, and 6 excused and not voting.

Pending.

STANDING COMMITTEE REPORTS
Health and Human Services

LEGISLATIVE BILL 412. Placed on General File.

LEGISLATIVE BILL 704. Placed on General File.

(Signed) Don Wesely, Chairperson

NOTICE OF COMMITTEE HEARINGS
General Affairs

Governor Appointments Monday, March 18, 1991 1:00 p.m.
Helen W. Cherniak - Nebraska Arts Council
Thomas J. Milliken - Nebraska Arts Council
Jacquelyn H. Rosenlof - Nebraska Arts Council

Governor Appointment Monday, March 18, 1991 1:00 p.m.
Ted Stutheit - Nebraska State Electrical Board

(Signed) Jacklyn Smith, Chairperson

COMMUNICATION

March 11, 1991

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Madam President and Senators,

This is to inform the honorable members of the Legislature that Dr. Lee Smith of Kearney, Nebraska, has found it necessary to resign from the Nebraska Arts Council prior to his legislative approval hearing, due to an illness in the family.

Governor Nelson has appointed Jean Sidwell to replace Dr. Smith. The appointment of Mrs. Sidwell will be submitted for your approval.

Sincerely,
(Signed) Fayette Carpenter
Assistant to the Governor
for Executive Appointments

MESSAGE FROM THE GOVERNOR

March 11, 1991

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Madam President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Nebraska Arts Council, requiring legislative approval.

Appointee: Jean Sidwell, 6 Red Fox Lane, Kearney, NE 68847, (308) 234-4194 h, (308) 236-1257 w.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:fc

STANDING COMMITTEE REPORT
Nebraska Retirement Systems

The Committee on Nebraska Retirement Systems desires to report favorably upon the appointments listed below. The Committee suggests the appointments be confirmed by the Legislature and suggests a record vote.

Robert Corner - Nebraska Public Employees Retirement Board
Judge Harry Spencer - Nebraska Public Employees Retirement Board

Vote: Aye: Senators Abboud, Crosby, Elmer, Nelson, and Schellpeper. Nay: none. Absent: Senator Moore.

(Signed) Arlene Nelson, Chairperson

UNANIMOUS CONSENT - Add Co-Introducer

Mrs. Labedz asked unanimous consent to have her name added as co-introducer to LB 433. No objections. So ordered.

UNANIMOUS CONSENT - Print in Journal

Mr. Hefner and Ms. Schimek asked unanimous consent to print the following amendment to LB 542 in the Journal. No objections. So ordered.

AM0612

1. Strike the original sections and all amendments thereto and insert the following new sections:

"Section 1. That section 50-1003, Revised Statutes Supplement, 1990, be amended to read as follows:

50-1003. There is hereby created the Legislative Academy for Youth Leadership. The academy shall be conducted under the direction of the ~~Legislature~~ Executive Board of the Legislative Council and shall be administered and coordinated by the Director of Research of the Legislature. The Executive Board of the Legislative Council may appoint a committee of up to three legislators to work with the director in overseeing the general administration and expenses of the academy.

Sec. 2. That Laws 1989, LB 408A, section 1, be amended to read as follows:

Section 1. There is hereby appropriated (1) $132,000 from the General Fund for the period July 1, 1989, to June 30, 1990, and (2) ~~$132,000~~ $16,000 from the General Fund for the period July 1, 1990, to June 30, 1991, to the Legislative Council, for Program 126, to aid in carrying out the provisions of Legislative Bill 408, Ninety-first Legislature, First Session, 1989.

Total expenditures for permanent and temporary salaries and per diems from funds appropriated in this section shall not exceed $27,000 for the period July 1, 1989, to June 30, 1990. ~~, or $27,000 for the period July 1, 1990, to June 30, 1991.~~

Sec. 3. That original section 50-1003, Revised Statutes Supplement, 1990, and Laws 1989, LB 408A, section 1, are repealed.

Sec. 4. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.".

VISITORS

Visitors to the Chamber were 16 students and sponsors from Clinton Elementary School, Lincoln; Senator Baack's parents, Herb and Marcella Baack; third and fourth grade students and teachers from Hawthorne Elementary School, Lincoln; Senator Hillman's daughter, Jeannie Hergenreder, son-in-law, Bob, and grandchildren, Ryan and Trevor; Ong Leng Tian from Singapore and Ryan Nelson and Mike Bird from Blair; and a group from Deshler.

The Doctor of the Day was Dr. Kathy Bliese from Waterloo.

ADJOURNMENT

At 11:57 a.m., on a motion by Mr. Wesely, the Legislature adjourned until 9:00 a.m., Tuesday, March 12, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

FORTY-FIRST DAY - MARCH 12, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

FORTY-FIRST DAY

Legislative Chamber, Lincoln, Nebraska
Tuesday, March 12, 1991

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Moul presiding.

PRAYER

The prayer was offered by Pastor Robert Paulson, St. Peter's Lutheran Church, North Bend, Nebraska.

ROLL CALL

The roll was called and all members were present except Messrs. Ashford, Chambers, Conway, Hall, Horgan, Lindsay, Morrissey, Robinson, Schmit, Warner, Withem, and Mrs. Labedz who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Fortieth Day was approved.

MESSAGES FROM THE GOVERNOR

March 11, 1991

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol
Lincoln, Nebraska 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 75, 96, 235, 236, and 247 were received in my office on March 7, 1991.

These bills were signed by me on March 11, 1991, and delivered to the Secretary of State.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

March 11, 1991

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol
Lincoln, Nebraska 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 25, 118, 128, 178, 233, and 264 were received in my office on March 5, 1991.

These bills were signed by me on March 8, 1991, and delivered to the Secretary of State.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:cc

SELECT COMMITTEE REPORTS
Enrollment and Review

Correctly Engrossed

The following bill was correctly engrossed: 234.

(Signed) Eric Will, Chairperson

Enrollment and Review Change to LB 234

The following changes, required to be reported for publication in the Journal, have been made:
ER7016

1. On page 9, line 21, "hazard" has been struck, shown as stricken, and "hazards" inserted.

2. On page 49, line 16, "in the business of insurance" has been inserted after "practices".

(Signed) Mary E. Sommermeyer
E & R Attorney

RESOLUTIONS

LEGISLATIVE RESOLUTION 31. Read. Considered.

LR 31 was adopted with 29 ayes, 0 nays, and 20 not voting.

LEGISLATIVE RESOLUTION 49. Read. Considered.

LR 49 was adopted with 28 ayes, 0 nays, and 21 not voting.

MOTION - Approve Appointments

Mrs. Nelson moved the adoption of the report of the Nebraska Retirement Systems Committee for the following Governor appointments found in the Journal on page 1002: Robert Corner and Judge Harry Spencer - Nebraska Public Employees Retirement Board.

Voting in the affirmative, 27:

Abboud	Crosby	Hillman	Nelson	Smith
Baack	Dierks	Johnson, L.	Pirsch	Wehrbein
Bernard-Stevens	Elmer	Johnson, R.	Schellpeper	Wesely
Beyer	Haberman	Kristensen	Schimek	Wickersham
Chizek	Hartnett	Lamb	Schrock	Will
	Hefner	Landis		

Voting in the negative, 0.

Present and not voting, 10:

Beutler	Coordsen	Lynch	Peterson	Robak
Byars	Cudaback	Moore	Rasmussen	Rogers

Excused and not voting, 12:

Ashford	Hall	Lindsay	Robinson	Warner
Chambers	Horgan	Morrissey	Schmit	Withem
Conway	Labedz			

These appointments were confirmed with 27 ayes, 0 nays, 10 present and not voting, and 12 excused and not voting.

GENERAL FILE

LEGISLATIVE BILL 44. Title read. Considered.

Mr. Chizek asked unanimous consent to be excused until he returns. No objections. So ordered.

Advanced to E & R for review with 28 ayes, 0 nays, 10 present and not voting, and 11 excused and not voting.

LEGISLATIVE BILL 333. Title read. Considered.

Advanced to E & R for review with 28 ayes, 0 nays, 11 present and not voting, and 10 excused and not voting.

LEGISLATIVE BILL 335. Title read. Considered.

Advanced to E & R for review with 27 ayes, 0 nays, 12 present and not voting, and 10 excused and not voting.

LEGISLATIVE BILL 358. Title read. Considered.

Advanced to E & R for review with 28 ayes, 0 nays, 12 present and not voting, and 9 excused and not voting.

LEGISLATIVE BILL 200. Title read. Considered.

Advanced to E & R for review with 26 ayes, 0 nays, 15 present and not voting, and 8 excused and not voting.

LEGISLATIVE BILL 334. Title read. Considered.

Advanced to E & R for review with 27 ayes, 0 nays, 14 present and not voting, and 8 excused and not voting.

STANDING COMMITTEE REPORT
Transportation

The Committee on Transportation desires to report favorably upon the appointment listed below. The Committee suggests the appointment be confirmed by the Legislature and suggests a record vote.

Mr. Jack Conrad - Director, Department of Motor Vehicles

VOTE: Aye: Senators Beyer, Byars, Horgan, Kristensen, Robak, and Wickersham. Nay: none. Absent: Senators Peterson and Pirsch.

(Signed) Doug Kristensen, Chairperson

Natural Resources

LEGISLATIVE BILL 409. Placed on General File as amended. (Standing Committee amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM0625.)

LEGISLATIVE BILL 778. Indefinitely postponed.

(Signed) Rod Johnson, Chairperson

GENERAL FILE

LEGISLATIVE BILL 254. Title read. Considered.

Mr. Haberman moved for a call of the house. The motion prevailed with 20 ayes, 0 nays, and 29 not voting.

Advanced to E & R for review with 25 ayes, 2 nays, 15 present and not voting, and 7 excused and not voting.

The Chair declared the call raised.

LEGISLATIVE BILL 254A. Title read. Considered.

Mr. Haberman moved for a call of the house. The motion prevailed with 21 ayes, 0 nays, and 28 not voting.

Advanced to E & R for review with 25 ayes, 8 nays, 9 present and not voting, and 7 excused and not voting.

The Chair declared the call raised.

LEGISLATIVE BILL 689. Title read. Considered.

Advanced to E & R for review with with 33 ayes, 0 nays, 9 present and not voting, and 7 excused and not voting.

LEGISLATIVE BILL 534. Title read. Considered.

Advanced to E & R for review with 29 ayes, 0 nays, 14 present and not voting, and 6 excused and not voting.

LEGISLATIVE BILL 745. Title read. Considered.

Advanced to E & R for review with 27 ayes, 0 nays, 16 present and not voting, and 6 excused and not voting.

Mr. Haberman asked unanimous consent to be excused until he returns. No objections. So ordered.

LEGISLATIVE BILL 810. Title read. Considered.

Advanced to E & R for review with 25 ayes, 0 nays, 18 present and not voting, and 6 excused and not voting.

LEGISLATIVE BILL 159. Title read. Considered.

SPEAKER BAACK PRESIDING

Advanced to E & R for review with 26 ayes, 0 nays, 17 present and not voting, and 6 excused and not voting.

Mr. Will asked unanimous consent to be excused until he returns. No objections. So ordered.

LEGISLATIVE BILL 160. Title read. Considered.

Advanced to E & R for review with 25 ayes, 0 nays, 17 present and not voting, and 7 excused and not voting.

LEGISLATIVE BILL 161. Title read. Considered.

Advanced to E & R for review with 25 ayes, 0 nays, 17 present and not voting, and 7 excused and not voting.

LEGISLATIVE BILL 162. Title read. Considered.

Advanced to E & R for review with 25 ayes, 0 nays, 17 present and not voting, and 7 excused and not voting.

LEGISLATIVE BILL 429. Title read. Considered.

Advanced to E & R for review with 26 ayes, 5 nays, 13 present and not voting, and 5 excused and not voting.

LEGISLATIVE BILL 429A. Title read. Considered.

Advanced to E & R for review with 26 ayes, 3 nays, 16 present and not voting, and 4 excused and not voting.

RESOLUTION

LEGISLATIVE RESOLUTION 51. Introduced by Abboud, 12; Horgan, 4; Beyer, 3; Chizek, 31.

WHEREAS, the Millard South High School boys' basketball team won the Class A Boys' State High School Basketball Championship with a sixty-six to forty-seven victory over Bellevue West; and

WHEREAS, the team won twenty-two of twenty-five games played this season; and

WHEREAS, the Legislature should recognize the academic, athletic, and artistic achievements of the youth of our state.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Millard South High School boys' basketball team be congratulated for their exemplary effort this season and in the Boys' State High School Basketball Tournament.

2. That a copy of this resolution be sent to Coach Larry Ribble and the Millard South High School boys' basketball team.

Laid over.

UNANIMOUS CONSENT - Print in Journal

Mr. Warner asked unanimous consent to print the following amendment to LB 262 in the Journal. No objections. So ordered.

AM0191

(Amendments to Standing Committee amendments, AM0145)

1. On page 3, line 15, strike "or" and show as stricken; in line 18 after "Act" insert ";

(9) Any claim arising out of the malfunction, destruction, or unauthorized removal of any traffic or road sign, signal, or warning device unless it is not corrected by the political subdivision responsible within a reasonable time after actual or constructive notice of such malfunction, destruction, or removal. Nothing in this subdivision shall give rise to liability arising from the act or omission of any political subdivision in placing or removing any traffic or road signs, signals, or warning devices when such placement or removal is the result of a discretionary act of the political subdivision;

(10) Any claim arising out of snow or ice conditions or other temporary or natural conditions on any highway as defined in section 39-602, bridge, public thoroughfare, or other public place due to weather conditions;

(11) Any claim arising out of the plan or design for the construction of or an improvement to any highway as defined in section 39-602 or bridge, either in original construction or any improvement thereto, if the plan or design is approved in advance of the construction or improvement by the governing body of the political subdivision or some other body or employee exercising discretionary authority to give such approval; or

(12) Any claim arising out of the alleged insufficiency or want of repair within a reasonable time after actual or constructive notice of such insufficiency or want of repair of any highway as defined in section 39-602, bridge, or other public thoroughfare. Insufficiency or want of repair shall be construed to refer to the general or overall condition of a highway and shall not refer to a spot or localized highway defect"; in line 22 strike "(1)" and show as stricken; and in line 24 strike "(a)", show as stricken, and insert "(1)".

2. On page 4, line 8, strike "(b)", show as stricken, and insert "(2)"; in line 12 strike "(c)", show as stricken, and insert "(3)"; in line 15 strike "(d)", show as stricken, and insert "(4)"; in line 19

strike "(e)", show as stricken, and insert "(5)"; and in line 22 strike "(f)", show as stricken, and insert "(6)".

3. On page 5, line 5, strike "(g)" and insert "(7)"; in line 11 strike the second "or"; in line 12 strike "(h)" and insert "(8)"; in line 17 after "office" insert ";

(9) Any claim arising out of the malfunction, destruction, or unauthorized removal of any traffic or road sign, signal, or warning device unless it is not corrected by the governmental entity responsible within a reasonable time after actual or constructive notice of such malfunction, destruction, or removal. Nothing in this subdivision shall give rise to liability arising from the act or omission of any governmental entity in placing or removing any traffic or road signs, signals, or warning devices when such placement or removal is the result of a discretionary act of the governmental entity;

(10) Any claim arising out of snow or ice conditions or other temporary or natural conditions on any highway as defined in section 39-602, bridge, public thoroughfare, or other public place due to weather conditions;

(11) Any claim arising out of the plan or design for the construction of or an improvement to any highway as defined in section 39-602 or bridge, either in original construction or any improvement thereto, if the plan or design is approved in advance of the construction or improvement by the governing body of the governmental entity or some other body or employee exercising discretionary authority to give such approval; or

(12) Any claim arising out of the alleged insufficiency or want of repair within a reasonable time after actual or constructive notice of such insufficiency or want of repair of any highway as defined in section 39-602, bridge, or other public thoroughfare. Insufficiency or want of repair shall be construed to refer to the general or overall condition of a highway and shall not refer to a spot or localized highway defect"; and strike lines 18 through 24 and show as stricken.

4. On page 6, strike lines 1 through 9 and

show as stricken.

Mr. Baack asked unanimous consent to print the following amendment to LB 133 in the Journal. No objections. So ordered.

AM0652

1. Insert the following new section:

"Section 1. That section 86-1002, Revised Statutes Supplement, 1990, be amended to read as follows:

86-1002. For purposes of sections 86-1001 to 86-1009:

(1) Governing body shall mean the board of county commissioners or supervisors of a county, the city council of a city, the board of trustees of a village, or the board of directors of any rural or suburban fire protection district;

(2) Local exchange access line shall mean any telephone line that has the ability to access local dial tone and reach ~~local public safety agencies~~ a public safety answering point by dialing 911;

(3) 911 service shall mean a telephone service which provides a service user with the ability to reach a public safety answering point by dialing the digits 911 for the purpose of reporting emergencies. The level of technology to be used for the provision of 911 service in a particular 911 service area shall be determined by the governing bodies having jurisdiction over such area;

(4) 911 service area shall mean (a) the portion of a governing body's jurisdiction in which 911 service is provided and (b) an area being provided 911 service by contract with a service supplier on or before January 1, 1990, notwithstanding the crossing of jurisdictional lines, until such time as the noncontracting governing body notifies the contracting governing body in writing of its intention to opt out of the 911 service area;

(5) Public safety agency shall mean an agency which actually provides firefighting, law enforcement, ambulance, emergency medical, or other emergency services;

(6) Public safety answering point shall mean a twenty-four-hour, local-jurisdiction communications

facility which receives 911 service calls and either directly dispatches emergency services or relays calls to the appropriate public safety agency;

(7) Service supplier shall mean any person providing 911 service in this state;

(8) Service surcharge shall mean a charge set by a governing body and assessed on each local exchange access line which physically terminates within the governing body's designated 911 service area; and

(9) Service user shall mean any person who is provided local exchange access line service in this state.".

2. On page 3, line 17, strike "section" and insert "sections 86-1002 and"; and in line 18 strike "is" and insert "are".

3. Renumber the remaining sections accordingly.

Mrs. Smith asked unanimous consent to print the following amendment to LB 204 in the Journal. No objections. So ordered.

AM0600

(Amendments to Final Reading copy)

1. On page 1, strike beginning with "to" in line 6 through the semicolon in line 7.

2. On page 8, line 23, strike "fifty"; and in line 24 strike the new matter and reinstate the stricken matter.

3. On page 9 strike the new matter and reinstate the stricken matter.

4. On page 10, lines 1 through 6, strike the new matter and reinstate the stricken matter.

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 678A. Introduced by Wesely, 26.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 678, Ninety-second Legislature, First Session, 1991.

SELECT COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 297. Placed on Select File as amended.
E & R amendment to LB 297:
AM5069

1. On page 2, line 16, reinstate the stricken comma; and in line 25 strike the last comma and show as stricken and after the second "or" insert "as a superintendent or supervisor;".

2. On page 3, strike line 1 and show as stricken; and in line 3 strike the first comma and show as stricken, reinstate the stricken matter, and strike the new matter.

3. On page 4, line 2, strike the comma and show as stricken.

4. On page 6, line 12, after "known" insert "and may be cited".

LEGISLATIVE BILL 297A. Placed on Select File.

LEGISLATIVE BILL 382. Placed on Select File as amended.
E & R amendment to LB 382:
AM5068

1. In the Standing Committee amendments, AM0182, on page 1, line 3, after "to" insert "the authority granted by".

2. On page 1, strike beginning with "permit" in line 3 through "prescribed" in line 5 and insert "change, transfer, and eliminate provisions relating to borrowing money by school districts"; and in line 6 after "section" insert ", and also section 79-1377, Reissue Revised Statutes of Nebraska, 1943".

LEGISLATIVE BILL 115. Placed on Select File as amended.
E & R amendment to LB 115:
AM5071

1. On page 2, line 16, strike "commissioner", show as stricken, and insert "commissioners".

2. On page 3, line 25; and page 4, line 3, strike "largest" and insert "highest".

3. On page 4, line 16, strike the first comma and show as stricken; and in line 18 strike the comma and show as stricken.

LEGISLATIVE BILL 85. Placed on Select File as amended.
E & R amendment to LB 85:
AM5070

1. Strike the original sections and all amendments thereto and insert the following new section:

"Section 1. The Department of Revenue shall securely insert two voter registration cards in each state individual income tax booklet for tax year 1991 and every odd-numbered tax year thereafter. The voter registration cards shall be in the form prescribed in section 32-221, and the provisions of such section applicable to voter registration by mail shall apply.

The department shall be responsible for printing the voter registration cards and shall be reimbursed the cost of printing such cards from the General Fund. The department shall forward to the Secretary of State any voter registration cards returned to the department, and the Secretary of State shall forward such voter registration cards to the appropriate election commissioner or county clerk.

The department shall adopt and promulgate rules and regulations to carry out this section.".

2. On page 1, strike beginning with "forms" in line 3 through "emergency" in line 5 and insert "booklets as prescribed; and to provide duties for the Department of Revenue and the Secretary of State".

LEGISLATIVE BILL 85A. Placed on Select File.

LEGISLATIVE BILL 444. Placed on Select File as amended.
E & R amendment to LB 444:
AM5072

1. In the Standing Committee amendments, AM0192, on page 1, line 6, strike "and" and insert an underscored comma.

2. On page 2, lines 22 and 23, strike "this state", show as stricken, and insert "Nebraska".

LEGISLATIVE BILL 244. Placed on Select File as amended.
E & R amendment to LB 244:
AM5073

1. In the Standing Committee amendments, AM0092:

a. Strike amendment 4 and insert the following

new amendment:

"4. On page 6, line 2, strike 'or' and show as stricken and after 'building' insert ', or agency'; in line 20 strike the first 'or', show as stricken, and insert an underscored comma and strike 'a long-term care hospital.' and insert 'place, or building'; and in lines 21 and 22 strike 'or long-term care hospital,' and insert 'place, or building'.";

b. On page 1, line 15, strike "71-5123", show as stricken, and insert "71-5140";

c. On page 4, line 23, after "amended" insert an underscored comma;

d. On page 6, line 19, after "as" insert "a" and after the first comma insert "a"; and in line 20 after "or" insert "an";

e. On page 8, lines 6 and 7, strike "or facility" and insert ", facility, place, or building"; in line 14 strike the first two occurrences of "a" and insert "per"; in line 16 strike the second "a" and insert "per"; and in line 22 after "Nursing" insert "Services"; and

f. On page 9, line 12, strike "Service" and insert "Services".

2. On page 1, strike beginning with "section" in line 2 through line 10 and insert "sections 71-507, 71-2017.01, 71-2017.06, and 71-2020, Reissue Revised Statutes of Nebraska, 1943; to define and redefine terms; to change staffing requirements for certain facilities; to provide for and change provisions relating to waiver of staffing requirements; to provide for nursing facilities; to provide fees; to eliminate provisions relating to a Health Service Supervisor; to repeal the original sections;".

3. On page 3, line 2, strike "a", show as stricken, and insert "any institution, facility," and after "place" insert ", or building".

4. On page 4, lines 18 and 19, strike "an impatient facility", show as stricken, and insert "a hospital".

5. On page 7, lines 8 and 11, strike "a" and insert "per"; in line 9 strike the first "a" and insert "per"; and in line 17 after "Nursing" insert "Services".

6. On page 11, lines 11 and 21; page 12, line 4; and page 13, line 21, after "the" insert

"institution," and after "facility" insert ", place, or building".

7. On page 11, line 24, after "residential" insert "institution,".

8. On page 12, line 20; and page 13, line 19, after "include" insert "institutions," and after "facilities" insert ", places, or buildings".

9. On page 12, line 22, after "the" insert "institution,"; and in line 23 after "facility" insert ", place, or building".

10. On page 17, line 12, strike both occurrences of "a" and insert "per"; in line 16 strike the second "a" and insert "per"; and in line 18 after "duty" insert an underscored comma.

LEGISLATIVE BILL 244A. Placed on Select File.

Correctly Engrossed

The following bill was correctly engrossed: 344.

(Signed) Eric Will, Chairperson

Enrollment and Review Change to LB 344

The following changes, required to be reported for publication in the Journal, have been made:
ER7017

1. On page 7, line 4, ", as the case may be," has been struck and shown as stricken.
2. On page 28, line 1, "(1)" has been struck.

(Signed) Mary E. Sommermeyer
E & R Attorney

STANDING COMMITTEE REPORTS
Transportation

LEGISLATIVE BILL 30. Indefinitely postponed.
LEGISLATIVE BILL 151. Indefinitely postponed.
LEGISLATIVE BILL 294. Indefinitely postponed.
LEGISLATIVE BILL 317. Indefinitely postponed.
LEGISLATIVE BILL 628. Indefinitely postponed.
LEGISLATIVE BILL 695. Indefinitely postponed.

LEGISLATIVE BILL 762. Indefinitely postponed.
LEGISLATIVE BILL 776. Indefinitely postponed.
LEGISLATIVE BILL 777. Indefinitely postponed.
LEGISLATIVE BILL 779. Indefinitely postponed.
LEGISLATIVE BILL 808. Indefinitely postponed.

(Signed) Doug Kristensen, Chairperson

ANNOUNCEMENT

Mrs. Labedz designates LB 425 as her priority bill.

GENERAL FILE

LEGISLATIVE BILL 500. Title read. Considered.

Advanced to E & R for review with 27 ayes, 0 nays, 18 present and not voting, and 4 excused and not voting.

LEGISLATIVE BILL 716. Title read. Considered.

Mr. R. Johnson offered the following amendment:
AM0639

1. Insert the following new sections:

"Section 1. That section 81-1578, Revised Statutes Supplement, 1990, be amended to read as follows:

81-1578. Sections 81-1578 to 81-15,116 and section 2 of this act shall be known and may be cited as the Low-Level Radioactive Waste Disposal Act.

Sec. 2. That Laws 1983, LB 200, section 3, be amended to read as follows:

~~Sec. 3.~~ For purposes of section (c) of Article III of the ~~compact, the Environmental Control Council~~ Central Interstate Low-Level Radioactive Waste Compact, the council is hereby designated as the rate-review agency for this state.

Sec. 5. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.".

2. On page 7, line 13, strike "section" and insert "sections 81-1578 and"; and in line 14 strike "is" and insert "and Laws 1983, LB 200, section 3, are".

3. Renumber the remaining sections

1 accordingly.

The R. Johnson amendment was adopted with 26 ayes, 0 nays, 20 present and not voting, and 3 excused and not voting.

Advanced to E & R for review with 25 ayes, 0 nays, 21 present and not voting, and 3 excused and not voting.

LEGISLATIVE BILL 190. Title read. Considered.

Advanced to E & R for review with 28 ayes, 1 nay, 18 present and not voting, and 2 excused and not voting.

LEGISLATIVE BILL 367. Title read. Considered.

Mr. Peterson asked unanimous consent to be excused until he returns. No objections. So ordered.

Advanced to E & R for review with 28 ayes, 2 nays, 16 present and not voting, and 3 excused and not voting.

LEGISLATIVE BILL 685. Title read. Considered.

Advanced to E & R for review with 26 ayes, 0 nays, 20 present and not voting, and 3 excused and not voting.

LEGISLATIVE BILL 368. Title read. Considered.

Messrs. Cudaback, Abboud, Lindsay, and Mrs. Labedz asked unanimous consent to be excused until they return. No objections. So ordered.

Ms. Schimek moved for a call of the house. The motion prevailed with 20 ayes, 0 nays, and 29 not voting.

Advanced to E & R for review with 25 ayes, 3 nays, 14 present and not voting, and 7 excused and not voting.

The Chair declared the call raised.

Messrs. Robinson and Elmer asked unanimous consent to be excused until they return. No objections. So ordered.

LEGISLATIVE BILL 51. Title read. Considered.

Advanced to E & R for review with 27 ayes, 0 nays, 13 present and not voting, and 9 excused and not voting.

Mr. Landis asked unanimous consent to be excused. No objections. So ordered.

LEGISLATIVE BILL 51A. Title read. Considered.

Advanced to E & R for review with 25 ayes, 0 nays, 14 present and not voting, and 10 excused and not voting.

LEGISLATIVE BILL 403. Title read. Considered.

Advanced to E & R for review with 26 ayes, 0 nays, 13 present and not voting, and 10 excused and not voting.

Messrs. Coordsen, Rogers, Schrock, and Mrs. Smith asked unanimous consent to be excused. No objections. So ordered.

LEGISLATIVE BILL 772. Title read. Considered.

Advanced to E & R for review with 26 ayes, 0 nays, 9 present and not voting, and 14 excused and not voting.

Mrs. Hillman asked unanimous consent to be excused. No objections. So ordered.

LEGISLATIVE BILL 408. Title read. Considered.

Advanced to E & R for review with 27 ayes, 0 nays, 8 present and not voting, and 14 excused and not voting.

Mr. Wesely asked unanimous consent to be excused. No objections. So ordered.

LEGISLATIVE BILL 766. Title read. Considered.

Advanced to E & R for review with 26 ayes, 0 nays, 9 present and not voting, and 14 excused and not voting.

Messrs. Schmit and Withem asked unanimous consent to be excused. No objections. So ordered.

LEGISLATIVE BILL 639. Title read. Considered.

Advanced to E & R for review with 25 ayes, 0 nays, 8 present and not voting, and 16 excused and not voting.

LEGISLATIVE BILL 350. Title read. Considered.

Advanced to E & R for review with 25 ayes, 0 nays, 8 present and not voting, and 16 excused and not voting.

LEGISLATIVE BILL 193. Title read. Considered.

Advanced to E & R for review with 25 ayes, 0 nays, 8 present and not voting, and 16 excused and not voting.

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 852. Introduced by Speaker Baack, at the request of the Governor.

A BILL FOR AN ACT relating to state government; to amend section 81-108, Reissue Revised Statutes of Nebraska, 1943; to change restrictions on department heads regarding other employment and employment of relatives; to eliminate restrictions on appointees in departments; to repeal the original section; and to declare an emergency.

UNANIMOUS CONSENT - Print in Journal

Mr. Abboud asked unanimous consent to print the following amendment to LB 205 in the Journal. No objections. So ordered.

AM0641

1. Insert the following new section:
"Sec. 3. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.".

Mr. Abboud asked unanimous consent to print the following amendment to LB 224 in the Journal. No objections. So ordered.

AM0466

1. Strike the original section and insert the following new section:

"Section 1. A provision in an automobile liability policy or endorsement which is effective in this state and which grants the insurer the right of subrogation for payment of benefits to an injured person for bodily injuries under the medical payments coverage portion of the policy shall be valid and enforceable, except that if the injured person receives compensation for less than actual monetary loss from all parties liable for the bodily injuries, the subrogated insurer shall receive only an amount which exceeds the total amount of the actual monetary loss incurred by the injured person for such bodily injuries. For purposes of this section, it shall be conclusively presumed that any settlement or judgment which is less than the policy limits of any applicable liability insurance coverage shall constitute complete recovery of actual monetary loss.".

SELECT COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 340. Placed on Select File.
LEGISLATIVE BILL 433. Placed on Select File.
LEGISLATIVE BILL 433A. Placed on Select File.

LEGISLATIVE BILL 232. Placed on Select File as amended.
E & R amendment to LB 232:
AM5075

1. On page 1, line 3, after the first comma insert "49-1434,"; in line 9 strike "a term" and insert "terms"; in line 11 strike "provide a duty for" and insert "authorize fee reductions and filing exemptions; to change restrictions on eligibility for reappointment to"; and in line 14 strike beginning with the first "to" through the second "to".

2. On page 2, strike beginning with "terms" in line 1 through the semicolon in line 2; in line 3 strike "and"; and in line 4 after "sections" insert "; and to declare an emergency".

3. On page 3, line 18, strike beginning with the first "and" through "act" and all amendments thereto.

4. On page 6, line 10, strike "(a)" and insert "(1)"; in line 11 strike "(b)" and insert "(2)"; and in line 13 after "starting" insert "with".

5. On page 7, line 1, after "starting" insert "with"; in line 22 after the last comma insert "or"; and in line 23 strike the first comma and show as stricken.

6. On page 10, line 1, strike "purpose" and insert "purposes".

LEGISLATIVE BILL 292. Placed on Select File as amended.
E & R amendment to LB 292:
AM5074

1. In the Landis amendment, AM0301, on page 1, strike beginning with "On" in line 1 through "(j)" in line 3 and insert "In the Standing Committee amendment, AM0189, on page 1, line 2, strike 'and'; and in line 7 after 'certificate' insert '; and

(k)'.".

2. On page 4, line 21, before "the" insert "which".

3. On page 6, line 8, after "State" insert "under section 6 of this act"; and in line 17 strike "it" and insert "the bond".

4. On page 6, line 24; and page 7, lines 2, 5, 13, and 25, strike "surety".

5. On page 8, line 20, strike "states that".

6. On page 9, line 18, strike "a buyer"; and in line 19 after "consideration" insert "from a buyer".

7. On page 13, line 4, strike "10" and insert "ten"; and in line 24 after "A" insert "purported".

(Signed) Eric Will, Chairperson

STANDING COMMITTEE REPORTS
Health and Human Services

LEGISLATIVE BILL 283. Placed on General File as amended.
Standing Committee amendment to LB 283:
AM0516

1. Strike original section 4 and insert the following new section:

"Sec. 4. The Legislature may provide funding to the Office of Rural Health for the purpose of funding the cost of resident stipends and benefits, which may

include health insurance, professional liability insurance, disability insurance, medical education expenses, continuing medical education expenses, pension benefits, moving expenses, and meal expenses in family practice residency programs based in Nebraska and approved by the Accreditation Council for Graduate Medical Education but which are not under a contract pursuant to section 71-5206. When appropriating such funding, the Legislature shall designate a specific amount allowed per family practice resident which shall apply to all participating programs.

Upon receiving an itemized statement of the cost of stipends and benefits of a family practice residency program from a sponsoring institution, the office shall reimburse such institution sixty-two and one-half percent of the amount designated by the Legislature for each family practice resident in the program. The office shall further reimburse such institution twelve and one-half percent of such amount per family practice resident for each year that one of the program's graduates practices in Nebraska, up to a maximum of three years for each graduate, and an additional twenty-five percent of such amount per family practice resident for each year one of the program's graduates practices in an area of Nebraska classified as of January 1, 1991, by the United States Secretary of Health and Human Services as Medicare Locale 16, up to a maximum of three years for each graduate.

At the end of the fourth year of the funding under this section, the sponsoring institutions and the office shall report to the Legislature regarding the performance of the residency programs and the placement of residents and physicians for training and practice.".

2. On page 3, line 25, strike the new matter and reinstate the stricken matter.

3. On page 4, lines 1, 4, and 8, strike the new matter and reinstate the stricken matter.

(Signed) Don Wesely, Chairperson

Business and Labor

LEGISLATIVE BILL 850. Placed on General File.

LEGISLATIVE BILL 851. Indefinitely postponed.

The Committee on Business and Labor desires to report favorably upon the appointment listed below. The Committee suggests the appointment be confirmed by the Legislature and suggests a record vote.

Dan Dolan - Labor Commissioner

Vote: Aye: Senators Coordsen, Elmer, Hefner, Morrissey, Schellpeper, and Schimek. Nay: none. Absent: Senator Chambers.

The Committee on Business and Labor desires to report favorably upon the appointment listed below. The Committee suggests the appointment be confirmed by the Legislature and suggests a record vote.

Ray Otter - Nebraska Boiler Safety Code Advisory Board

Vote: Aye: Senators Coordsen, Elmer, Hefner, Morrissey, Schellpeper, and Schimek. Nay: none. Absent: Senator Chambers.

(Signed) George Coordsen, Chairperson

Education

The Committee on Education desires to report favorably upon the appointments listed below. The Committee suggests the appointments be confirmed by the Legislature and suggests a record vote.

School Restructuring Commission:
Senator LaVon Crosby
Dr. James Merritt
Michael J. McCarthy
Dr. Alfred Arth
Dr. Ruth Randall
Jim Kubik
Eugene Armstrong
Russell Worthman
Dr. William Kelley
Sam Thomas

VOTE: Aye: Senators Withem, Dierks, Warner, Nelson, Schrock, and Chizek. Nay: none. Absent: Senators Beutler and Warner.

(Signed) Ron Withem, Chairperson

VISITORS

Visitors to the Chamber were a group from the Nebraska Crop Improvement Association; Ivana Bozdechova from Prague, Czechoslovakia; 63 fourth grade students and teachers from Valley Elementary School, Valley; and 24 representatives from the Social Ministry Commission of the Archdiocese of Omaha.

The Doctor of the Day was Dr. Tom Baer from Lincoln.

ADJOURNMENT

At 12:57 p.m., on a motion by Mr. Hall, the Legislature adjourned until 9:00 a.m., Wednesday, March 13, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

FORTY-SECOND DAY - MARCH 13, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

FORTY-SECOND DAY

Legislative Chamber, Lincoln, Nebraska
Wednesday, March 13, 1991

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Moul presiding.

PRAYER

The prayer was offered by Pastor Ray Bailey, First Evangelical Free Church, Lincoln, Nebraska.

ROLL CALL

The roll was called and all members were present except Messrs. Baack, Warner, and Mrs. Crosby who were excused; and Messrs. Byars, Chambers, Chizek, Conway, Dierks, Haberman, Hall, Hartnett, R. Johnson, Lindsay, Morrissey, Schrock, Will, Mmes. Labedz, Nelson, and Pirsch who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Forty-First Day was approved.

ANNOUNCEMENTS

Mr. Withem designates LB 663 as his priority bill.

Mr. Wickersham designates LB 783 as his priority bill.

Mr. Kristensen designates LB 732 as his priority bill.

Mrs. Robak designates LB 409 as her priority bill.

UNANIMOUS CONSENT - Print in Journal

Mr. Landis asked unanimous consent to print the following amendment to LB 237 in the Journal. No objections. So ordered.

AM0638

(Amendments to Final Reading copy)

1. On page 13, line 6, after "Corporation" insert ", or the corresponding rating of any successor organization approved by the director. If Moody's Investors Service, Inc., and Standard and Poor's Corporation do not rate the investment in question and either service rates an obligation of the obligor having a priority equal to or lower than the investment in question, the insurer may apply such rating to the investment"; and in line 16 after "Corporation" insert ", or the corresponding rating of any successor organization approved by the director".

2. On page 19, strike lines 2 through 14 and insert:

"(2) If any insurer desires to exceed any investment limitation contained in the Insurers Investment Act, the insurer shall file an application with the director requesting written approval to exceed the investment limitation. The application shall set out all pertinent information regarding the proposed investment, including a full description of the investment, its actual cost, its market value, any appraisals, any encumbrances, the interest rate, the maturity dates, as appropriate, and any other relevant information requested by the director. The application shall be a public record open to public inspection from the date of filing. If the application is not approved or disapproved by the director within thirty days from the date of filing, the application shall be deemed disapproved. The disapproval in whole or in part shall be in the sole discretion of the director and shall not be subject to judicial review.

In determining whether to approve or disapprove the application, the director shall consider the following factors:

(a) The credit risk quality of the proposed investment;

(b) The liquidity of the proposed investment and of the insurer's entire investment portfolio;

(c) The extent of the diversification of the insurer's investment portfolio;

(d) The yield of the proposed investment;

(e) The reasonableness of the insurer's policyholders surplus in relation to the insurer's outstanding liabilities and financial needs as evaluated in accordance with the factors set forth in section 16, Legislative Bill 236, Ninety-second Legislature, Second Session, 1991; and

(f) Any other relevant considerations.

If the director approves the application in whole or in part, the proposed investment shall be deemed to be an authorized investment to the extent of the director's approval. Whenever an insurer makes application pursuant to this subsection, the director may retain, at the insurer's expense, such attorneys, actuaries, accountants, and other experts not otherwise a part of the director's staff as are reasonably necessary to assist the director in determining whether such application should be approved. Any individual or organization so retained shall be under the direction and control of the director and shall serve in a purely advisory capacity.".

3. On page 40, line 25, strike "fifteen" and insert "ten".

4. On page 41, line 19, strike "fifteen" and insert "ten"; and in line 25 strike "twenty" and insert "fifteen".

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following resolutions: LR 31 and LR 49.

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the attached report on the referral of legislative bill 852.

LB	Committee
852	Government, Military and Veterans Affairs

(Signed) Jerome Warner, Chairperson
Legislative Council
Executive Board

RESOLUTIONS

LEGISLATIVE RESOLUTION 50. Read. Considered.

LR 50 was adopted with 24 ayes, 0 nays, and 25 not voting.

LEGISLATIVE RESOLUTION 51. Read. Considered.

LR 51 was adopted with 21 ayes, 0 nays, and 28 not voting.

MOTION - Approve Appointments

Mr. Kristensen moved the adoption of the report of the Transportation Committee for the following Governor appointment found in the Journal on page 1009: Mr. Jack Conrad - Director, Department of Motor Vehicles.

Voting in the affirmative, 25:

Abboud	Coordsen	Johnson, L.	Peterson	Smith
Bernard-Stevens	Cudaback	Kristensen	Robak	Wehrbein
Beutler	Elmer	Lamb	Robinson	Wesely
Beyer	Hefner	Landis	Rogers	Wickersham
Conway	Horgan	Moore	Schimek	Withem

Voting in the negative, 0.

Present and not voting, 6:

Ashford	Lynch	Rasmussen	Schellpeper	Schmit
Hillman				

Excused and not voting, 18:

Baack	Crosby	Hartnett	Morrissey	Schrock
Byars	Dierks	Johnson, R.	Nelson	Warner
Chambers	Haberman	Labedz	Pirsch	Will
Chizek	Hall	Lindsay		

The appointment was confirmed with 25 ayes, 0 nays, 6 present and not voting, and 18 excused and not voting.

Mr. Withem moved the adoption of the report of the Education Committee for the following Governor appointments found in the Journal on page 1027: Senator LaVon Crosby, Dr. James Merritt, Michael J. McCarthy, Dr. Alfred Arth, Dr. Ruth Randall, Jim Kubik, Eugene Armstrong, Russell Worthman, Dr. William Kelley, and Sam Thomas - School Restructuring Commission.

Voting in the affirmative, 26:

Abboud	Coordsen	Landis	Robak	Wehrbein
Bernard-Stevens	Cudaback	Lynch	Robinson	Wesely
Beyer	Hefner	Moore	Rogers	Wickersham
Byars	Horgan	Peterson	Schimek	Will
Conway	Johnson, L.	Rasmussen	Schrock	Withem
	Kristensen			

Voting in the negative, 0.

Present and not voting, 8:

Ashford	Elmer	Lamb	Schmit	Smith
Beutler	Hillman	Schellpeper		

Excused and not voting, 15:

Baack	Crosby	Hall	Labedz	Nelson
Chambers	Dierks	Hartnett	Lindsay	Pirsch
Chizek	Haberman	Johnson, R.	Morrissey	Warner

These appointments were confirmed with 26 ayes, 0 nays, 8 present and not voting, and 15 excused and not voting.

Mr. Coordsen moved the adoption of the report of the Business and Labor Committee for the following Governor appointment found in the Journal on page 1027: Dan Dolan - Labor Commissioner.

Voting in the affirmative, 25:

Abboud	Bernard-Stevens	Beutler	Byars	Coordsen
		Beyer	Conway	Cudaback

Elmer	Lamb	Robak	Schimek	Wesely
Hefner	Landis	Rogers	Schrock	Will
Horgan	Moore	Schellpeper	Wehrbein	Withem
Johnson, L.	Rasmussen			

Voting in the negative, 0.

Present and not voting, 9:

Ashford	Kristensen	Peterson	Schmit	Wickersham
Hillman	Lynch	Robinson	Smith	

Excused and not voting, 15:

Baack	Crosby	Hall	Labedz	Nelson
Chambers	Dierks	Hartnett	Lindsay	Pirsch
Chizek	Haberman	Johnson, R.	Morrissey	Warner

The appointment was confirmed with 25 ayes, 0 nays, 9 present and not voting, and 15 excused and not voting.

Mr. Coordsen moved the adoption of the report of the Business and Labor Committee for the following Governor appointment found in the Journal on page 1027: Ray Otter - Nebraska Boiler Safety Code Advisory Board.

Voting in the affirmative, 26:

Abboud	Coordsen	Lindsay	Rogers	Wehrbein
Bernard-Stevens	Cudaback	Lynch	Schimek	Wesely
	Elmer	Moore	Schmit	Wickersham
Beyer	Hefner	Rasmussen	Schrock	Will
Byars	Johnson, L.	Robak	Smith	Withem
Conway	Landis			

Voting in the negative, 0.

Present and not voting, 9:

Ashford	Hillman	Kristensen	Peterson	Schellpeper
Beutler	Horgan	Lamb	Robinson	

Excused and not voting, 14:

Baack	Crosby	Hall	Labedz	Pirsch
Chambers	Dierks	Hartnett	Morrissey	Warner
Chizek	Haberman	Johnson, R.	Nelson	

The appointment was confirmed with 26 ayes, 0 nays, 9 present and not voting, and 14 excused and not voting.

MOTION - Introduce New Bill

Mr. Moore moved for the introduction of the deficiency appropriation bill, Req. 1204, and to suspend Rule 3, Section 4(e), and Rule 6, Section 1, to place LB 853 on General File.

Mr. Moore moved for a call of the house. The motion prevailed with 19 ayes, 0 nays, and 30 not voting.

The Moore motion prevailed with 30 ayes, 0 nays, 8 present and not voting, and 11 excused and not voting.

The Chair declared the call raised.

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 853. Introduced by Appropriations Committee: Moore, 24, Chairperson; Ashford, 6; Bernard-Stevens, 42; Crosby, 29; Hillman, 48; L. Johnson, 15; Lynch, 13; Robinson, 16; Wehrbein, 2.

A BILL FOR AN ACT relating to appropriations; to amend Laws 1989, LB 813, sections 26, 46, 64, and 77; to define terms; to change certain appropriations as prescribed; to provide for deficit appropriations; to appropriate funds for capital construction; to repeal the original sections; and to declare an emergency.

UNANIMOUS CONSENT - Members Excused

Messrs. L. Johnson, Hefner, and Abboud asked unanimous consent to be excused until they return. No objections. So ordered.

STANDING COMMITTEE REPORTS
Transportation

LEGISLATIVE BILL 175. Placed on General File as amended.
Standing Committee amendment to LB 175:
AM0649

1. On page 2, line 6, strike the new matter and reinstate the stricken matter; in line 7 reinstate the stricken matter; and strike beginning with the comma in line 8 through "viewpoints" in line 13.

2. On page 3, strike beginning with "One" in line 17 through the period in line 19.

LEGISLATIVE BILL 532. Placed on General File as amended.
Standing Committee amendment to LB 532:
AM0568

1. Insert the following new section:

"Section 1. That section 44-515, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-515. (1) A notice of cancellation of a policy shall be effective only if it is based on one or more of the following reasons: (a) Nonpayment of premium; (b) fraud or material misrepresentation affecting the policy or in the presentation of a claim thereunder~~,~~ or violation of any of the terms or conditions of the policy; or (c) the named insured or any operator, either resident in the same household or who customarily operates an automobile insured under the policy, (i) has had his or her driver's license suspended or revoked pursuant to law; (ii) has been convicted of larceny of an automobile~~,~~ or theft of an automobile in violation of section 28-516; (iii) has been convicted of an offense for which such suspension or revocation is mandatory; or (iv) whose driver's license is subject to revocation or suspension pursuant to the provisions of sections 39-669.26 to 39-669.30~~,~~ by reason of his or her driving record as disclosed by the files of the Director of Motor Vehicles during the policy period or, if the policy is a renewal, during its policy period or the one hundred eighty days immediately preceding its effective date, except that suspension pursuant to section 3 of this act of a driver's license as defined in section 60-474 for a violation which did not occur while the offender was operating an automobile shall not be a valid reason for cancellation of a policy under this subsection.

(2) This section shall not apply to any policy or coverage which has been in effect less than sixty days at the time notice of cancellation is mailed or delivered by the insurer unless it is a renewal policy.

(3) This section shall not apply to nonrenewal.".

2. On page 2, line 5, strike "2" and insert "3"; and strike beginning with "If" in line 17 through line 25.

3. On page 3, strike lines 1 through the period in line 2; in line 8 after "section" insert "44-515, Reissue Revised Statutes of Nebraska, 1943, and section"; and in line 9 strike "is" and insert "are".

4. Renumber remaining sections accordingly.

LEGISLATIVE BILL 590. Placed on General File as amended.
Standing Committee amendment to LB 590:
AM0379

1. On page 2, line 1, strike "If" and insert "In addition to any criminal or other penalties, if" and strike "this act" and insert "subdivision (a)(14) of section 87-302"; in line 2 after the second comma insert "or"; and in line 3 strike "or Chapter 87, article 3,".

(Signed) Doug Kristensen, Chairperson

SELECT FILE

LEGISLATIVE BILL 276. E & R amendment, AM5044, found in the Journal on page 924, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 277. Advanced to E & R for engrossment.

LEGISLATIVE BILL 278. E & R amendment, AM5045, found in the Journal on page 924, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 385. Advanced to E & R for engrossment.

LEGISLATIVE BILL 455. E & R amendment, AM5046, found in the Journal on page 924, was adopted.

Mr. Wickersham offered the following amendment:
AM0680

(Amendments to AM0447)

1. On page 1, line 14, strike "for at least one year" and show as stricken; and in line 21 strike "The board".

2. On page 2, line 1, strike the new matter.

The Wickersham amendment was adopted with 26 ayes, 0 nays, 11 present and not voting, and 12 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 133. Mr. Beutler renewed the pending Baack amendment, AM0652, found in the Journal on page 1014.

The Baack amendment was adopted with 25 ayes, 0 nays, 13 present and not voting, and 11 excused and not voting.

Mr. Beutler offered the following amendment:
AM0553

1. On page 2, strike beginning with "in" in line 10 through "month" in line 11 and show as stricken.

2. On page 3, strike beginning with "within" in line 12 through "month" in line 14; and after line 16 insert the following new subsection:

"(4) A uniform service surcharge imposed pursuant to this section shall not exceed fifty cents per month on each local exchange access line physically terminating in the governing body's 911 service area or a greater amount established by rule and regulation adopted and promulgated by the Public Service Commission.".

Mr. Beutler withdrew his pending amendment.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 420. Advanced to E & R for engrossment.
LEGISLATIVE BILL 420A. Advanced to E & R for engrossment.
LEGISLATIVE BILL 488. Advanced to E & R for engrossment.
LEGISLATIVE BILL 393. Advanced to E & R for engrossment.

Mr. Coordsen asked unanimous consent to be excused until he returns. No objections. So ordered.

LEGISLATIVE BILL 356. E & R amendment, AM5050, found in the Journal on page 958, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 356A. Advanced to E & R for engrossment.
LEGISLATIVE BILL 357. Advanced to E & R for engrossment.

LEGISLATIVE BILL 359. E & R amendment, AM5049, found in the Journal on page 962, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 477. E & R amendment, AM5047, found in the Journal on page 964, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 192. E & R amendment, AM5048, found in the Journal on page 964, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 316. Advanced to E & R for engrossment.

LEGISLATIVE BILL 648. E & R amendment, AM5051, found in the Journal on page 964, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 224. E & R amendment, AM5052, found in the Journal on page 964, was adopted.

Mr. Abboud withdrew his pending amendment, AM0466, found in the Journal on page 1023.

Mr. Abboud offered the following amendment:
AM0546
1. Strike the original section and insert the following new section:
"Section 1. A provision in an automobile

liability policy or endorsement which is effective in this state and which grants the insurer the right of subrogation for payment of benefits under the medical payments coverage portion of the policy shall be valid and enforceable, except that if the claimant receives less than actual economic loss from all parties liable for the bodily injuries, subrogation of medical payments shall be allowed in the same proportion that the medical expenses bear to the total economic loss. For purposes of this section, it shall be conclusively presumed that any settlement or judgment which is less than the policy limits of any applicable liability insurance coverage shall constitute complete recovery of actual economic loss.".

The Abboud amendment was adopted with 28 ayes, 0 nays, 13 present and not voting, and 8 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 250. E & R amendment, AM5053, found in the Journal on page 965, was adopted.

Advanced to E & R for engrossment.

Mrs. Hillman asked unanimous consent to be excused until she returns. No objections. So ordered.

LEGISLATIVE BILL 341. Advanced to E & R for engrossment.

LEGISLATIVE BILL 724. Mrs. Smith requested a machine vote on the advancement of the bill.

Mr. Haberman moved for a call of the house. The motion prevailed with 21 ayes, 0 nays, and 28 not voting.

Mr. Haberman requested a roll call vote on the advancement of the bill.

Voting in the affirmative, 23:

Abboud	Bernard-Stevens	Byars	Haberman	Kristensen
Ashford	Beutler	Cudaback	Hartnett	Labedz
		Dierks	Horgan	Landis

Lynch	Rasmussen	Rogers	Schmit	Will
Morrissey	Robinson	Schimek	Wesely	Withem

Voting in the negative, 12:

Beyer	Johnson, L.	Moore	Peterson	Smith
Hall	Johnson, R.	Nelson	Robak	Wickersham
Hefner	Lamb			

Present and not voting, 7:

Chizek	Elmer	Schellpeper	Schrock	Wehrbein
Conway	Lindsay			

Excused and not voting, 7:

Baack	Coordsen	Hillman	Pirsch	Warner
Chambers	Crosby			

Failed to advance to E & R for engrossment with 23 ayes, 12 nays, 7 present and not voting, and 7 excused and not voting.

The Chair declared the call raised.

Mr. Schmit asked unanimous consent to be excused until he returns. No objections. So ordered.

LEGISLATIVE BILL 251. E & R amendment, AM5055, found in the Journal on page 971, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 324. E & R amendment, AM5054, found in the Journal on page 971, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 731. E & R amendment, AM5059, found in the Journal on page 975, was adopted.

Advanced to E & R for engrossment.

Mr. Peterson asked unanimous consent to be excused until he returns. No objections. So ordered.

LEGISLATIVE BILL 410. E & R amendment, AM5056, found in the Journal on page 978, was adopted.

Mr. Moore requested a machine vote on the advancement of the bill.

Mr. Wesely moved for a call of the house. The motion prevailed with 22 ayes, 0 nays, and 27 not voting.

Mr. Wesely requested a roll call vote on the advancement of the bill.

Voting in the affirmative, 26:

Abboud	Cudaback	Horgan	Nelson	Smith
Bernard-Stevens	Dierks	Labedz	Rasmussen	Wesely
Byars	Haberman	Landis	Robak	Wickersham
Chizek	Hall	Lindsay	Schellpeper	Will
Conway	Hartnett	Morrissey	Schimek	Withem
	Hillman			

Voting in the negative, 13:

Ashford	Coordsen	Johnson, L.	Lamb	Robinson
Beutler	Elmer	Johnson, R.	Moore	Wehrbein
Beyer	Hefner	Kristensen		

Present and not voting, 3:

Lynch	Rogers	Schrock

Excused and not voting, 7:

Baack	Crosby	Pirsch	Schmit	Warner
Chambers	Peterson			

Advanced to E & R for engrossment with 26 ayes, 13 nays, 3 present and not voting, and 7 excused and not voting.

The Chair declared the call raised.

Mr. R. Johnson asked unanimous consent to be excused until he returns. No objections. So ordered.

LEGISLATIVE BILL 498. Advanced to E & R for engrossment.

LEGISLATIVE BILL 205. Mr. Abboud renewed his pending amendment, AM0641, found in the Journal on page 1023.

The Abboud amendment was adopted with 25 ayes, 0 nays, 16 present and not voting, and 8 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 221. E & R amendment, AM5060, found in the Journal on page 979, was adopted.

Mr. Landis renewed his pending amendment, FA50, found in the Journal on page 973.

The Landis amendment was adopted with 25 ayes, 0 nays, 16 present and not voting, and 8 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 253. E & R amendment, AM5067, found in the Journal on page 979, was adopted.

Messrs. Hall and Landis offered the following amendment: AM0682:

1. Insert the following new sections:

"Sec. 68. That Laws 1990, LB 272A, section 4, be amended to read as follows:

Sec. 4. The ~~department~~ Department of Banking and Finance shall, from money appropriated to it from time to time, distribute to depositors sums of money to be applied to the payment of deposits up to thirty thousand dollars. To be qualified for such a distribution, a depositor shall be the owner of a deposit. The department may use successor companies or receivers of companies in receivership to facilitate payments to depositors. The department shall adopt and promulgate rules and regulations to assist depositors to establish that they are qualified and for effecting an efficient distribution of funds to honor the guaranty of deposits by the Nebraska Depository Institution Guaranty Corporation. To ensure fair and equitable distribution of the money appropriated and that all depositors will recover the ~~guaranteed portions~~ unrecovered loss of

their guaranteed deposits at approximately the same time, the distributions shall be allocated so that, at any one point in time, all depositors shall be reasonably assured of recovering the same percentage of the ~~guaranteed portions of their~~ unrecovered loss of guaranteed deposits. ~~, taking into consideration all sources of recovery, including prior distributions of the assets of the guaranty corporation and the funds appropriated by the state, as well as both prior and anticipated future distributions of funds obtained from the liquidation of assets by successor companies and receivers.~~ The presumed size of future distributions resulting from such asset liquidations shall be based upon estimates made by qualified professional appraisers as to the amounts that can be realized from the liquidation of the salable assets held by the successor companies and receivers. Successor companies and receivers shall be subject to the supervision of the department in order to ensure that the appropriations to the department are distributed fairly and in equal proportions among all depositors. If the appropriation received by the department for fiscal year 1989-90 is insufficient to satisfy the thirty-thousand-dollar guaranty of each and every deposit, although the Ninety-first Legislature cannot bind future legislatures, it is the intent of the Legislature that future legislatures shall make additional appropriations from time to time until the thirty-thousand-dollar guaranty has been discharged with regard to each and every deposit.

Sec. 70. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.".

2. On page 77, line 14, strike "and"; and in line 16 after the third comma insert "and Laws 1990, LB 272A, section 4,".

3. Renumber the remaining section accordingly.

The Hall-Landis amendment was adopted with 26 ayes, 0 nays, 15 present and not voting, and 8 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 305. E & R amendment, AM5061, found in the Journal on page 980, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 67. E & R amendment, AM5062, found in the Journal on page 981, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 325. E & R amendment, AM5063, found in the Journal on page 983, was adopted.

Advanced to E & R for engrossment.

Mr. Haberman asked unanimous consent to be excused until he returns. No objections. So ordered.

LEGISLATIVE BILL 363. Advanced to E & R for engrossment.
LEGISLATIVE BILL 363A. Advanced to E & R for engrossment.

LEGISLATIVE BILL 286. E & R amendment, AM5065, found in the Journal on page 984, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 311. Advanced to E & R for engrossment.

LEGISLATIVE BILL 218. E & R amendment, AM5066, found in the Journal on page 984, was adopted.

Messrs. Schellpeper and Wehrbein offered the following amendment:
AM0579

1. On page 3, line 13, after "except" insert "(a) after the effective date of this act the provisions of subdivision (1)(f) of section 54-104 with respect to brands on ribs shall apply, and (b)".

2. In the Standing Committee amendments, AM0135, on page 2, line 11, strike "and" and show as stricken; and in line 17 after "committee" insert "; and

(f) No new brand shall be recorded for the ribs on either side after the effective date of this act. All brands recorded for the ribs on such date shall remain valid and renewable and shall be

transferable as provided in section 54-108 until such brand expires as provided in section 54-104.01.".

The Schellpeper-Wehrbein amendment was adopted with 25 ayes, 0 nays, 15 present and not voting, and 9 excused and not voting.

MR. MORRISSEY PRESIDING

Mr. Moore offered the following amendment:
AM0687
(Amendments to Standing Committee amendments, AM0135)
1. On page 5, strike beginning with the comma in line 22 through line 24 and insert an underscored period.
2. On page 6, line 1, strike the new matter.

The Moore amendment was adopted with 26 ayes, 1 nay, 14 present and not voting, and 8 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 297. E & R amendment, AM5069, found in the Journal on page 1016, was adopted.

Mr. Hall renewed his pending amendment, AM0620, found in the Journal on page 998.

The Hall amendment was adopted with 25 ayes, 0 nays, 16 present and not voting, and 8 excused and not voting.

Mr. Robinson moved to indefinitely postpone LB 297.

Mr. Abboud asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Robinson moved for a call of the house. The motion prevailed with 21 ayes, 0 nays, and 28 not voting.

Mr. Robinson requested a roll call vote on his motion to indefinitely postpone.

Voting in the affirmative, 13:

Beyer Coordsen Cudaback Elmer Haberman

Hefner	Kristensen	Peterson	Smith	Wehrbein
Johnson, L.	Lamb	Robinson		

Voting in the negative, 26:

Ashford	Conway	Labedz	Morrissey	Schimek
Bernard-Stevens	Dierks	Landis	Nelson	Wesely
Beutler	Hall	Lindsay	Rasmussen	Wickersham
Byars	Hartnett	Lynch	Robak	Will
Chizek	Hillman	Moore	Schellpeper	Withem
	Horgan			

Present and not voting, 2:

Abboud Schrock

Absent and not voting, 1:

Rogers

Excused and not voting, 7:

Baack	Crosby	Pirsch	Schmit	Warner
Chambers	Johnson, R.			

The Robinson motion lost with 13 ayes, 26 nays, 2 present and not voting, 1 absent and not voting, and 7 excused and not voting.

Mr. Hefner requested a machine vote on the advancement of the bill.

Advanced to E & R for engrossment with 25 ayes, 10 nays, 7 present and not voting, and 7 excused and not voting.

LEGISLATIVE BILL 297A. Advanced to E & R for engrossment.

The Chair declared the call raised.

Messrs. Coordsen, Haberman, and Peterson asked unanimous consent to be excused. No objections. So ordered.

LEGISLATIVE BILL 382. E & R amendment, AM5068, found in the Journal on page 1016, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 115. E & R amendment, AM5071, found in the Journal on page 1016, was adopted.

Mr. Wehrbein requested a machine vote on the advancement of the bill.

Advanced to E & R for engrossment with 25 ayes, 10 nays, 4 present and not voting, and 10 excused and not voting.

LEGISLATIVE BILL 85. E & R amendment, AM5070, found in the Journal on page 1017, was adopted.

Mr. Lamb requested a machine vote on the advancement of the bill.

Advanced to E & R for engrossment with 26 ayes, 7 nays, 6 present and not voting, and 10 excused and not voting.

LEGISLATIVE BILL 85A. Advanced to E & R for engrossment.

LEGISLATIVE BILL 444. E & R amendment, AM5072, found in the Journal on page 1017, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 340. Advanced to E & R for engrossment.
LEGISLATIVE BILL 433. Advanced to E & R for engrossment.
LEGISLATIVE BILL 433A. Advanced to E & R for engrossment.

ANNOUNCEMENTS

Mr. Rogers announced the Agriculture Committee will hold an Executive Session Thursday, March 14, 1991 in the Senators Lounge at 11:00 A.M.

Mrs. Smith announced the General Affairs Committee will meet in Executive Session at 10 a.m. under the north balcony Thursday morning, March 14th.

NOTICE OF COMMITTEE HEARING
Revenue

LB 299	Wednesday, March 20, 1991 (Rehearing)	1:30 p.m.
LB 829	Wednesday, March 20, 1991 (Rehearing)	1:30 p.m.

(Signed) Tim Hall, Chairperson

ANNOUNCEMENTS

Mr. Bernard-Stevens designates LB 207 as his priority bill.

Mr. Robinson designates LB 638 as his priority bill.

Mr. Byars designates LB 391 as his priority bill.

Mr. Rogers designates LB 123 as his priority bill.

Mr. Lamb designates LB 511 as his priority bill.

BILLS ON FIRST READING

The following bills were read for the first time by title:

LEGISLATIVE BILL 226A. Introduced by Nelson, 35.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 226, Ninety-second Legislature, First Session, 1991.

LEGISLATIVE BILL 346A. Introduced by Hall, 7.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 346, Ninety-second Legislature, First Session, 1991.

LEGISLATIVE BILL 706A. Introduced by Ashford, 6.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 706, Ninety-second Legislature, First Session, 1991.

UNANIMOUS CONSENT - Print in Journal

Mr. Lindsay asked unanimous consent to print the following amendment to LB 237 in the Journal. No objections. So ordered.

AM0610

(Amendments to Final Reading copy)

1. Insert the following new section:

"Sec. 73. That section 44-4830, Revised Statutes Supplement, 1990, as amended by section 80, Legislative Bill 236, Ninety-second Legislature, First Session, 1991, be amended to read as follows:

44-4830. (1) Mutual debts or mutual credits whether arising out of one or more contracts between the insurer and another person in connection with any action or proceeding under the Nebraska Insurers Supervision, Rehabilitation, and Liquidation Act shall be set off and the balance only shall be allowed or paid except as provided in subsections (2) through (4) of this section and in section 44-4833.

(2) No setoff shall be allowed in favor of any person when:

(a) The obligation of the insurer to the person would not at the date of the filing of a petition for liquidation entitle the person to share as a claimant in the assets of the insurer;

(b) The obligation of the insurer to the person was purchased by or transferred to the person with a view to its being used as a setoff;

(c) The obligation of the insurer is owed to an affiliate of such person or any other entity or association other than the person;

(d) The obligation of the person is owed to an affiliate of the insurer or any other entity or association other than the insurer;

(e) The obligation of the person is to pay an assessment levied against the members or subscribers of the insurer, is to pay a balance upon a subscription to the capital stock of the insurer, or is in any other way in the nature of a capital contribution; or

(f) The obligation between the person and the insurer arises from business which is both ceded to and assumed from the insurer, except that the rehabilitator may, with regard to such business, allow certain setoffs in rehabilitation if he or she finds the allowance of the setoffs appropriate.

(3) The liquidator shall provide persons that assumed business from the insurer with accounting statements identifying debts which are currently due and payable. Such persons may set off against such debts

only mutual credits which are currently due and payable by the insurer to such persons for the period covered by the accounting statement.

(4) A person that ceded business to the insurer may set off debts due the insurer against only those mutual credits which the person has paid or which have been allowed in the insurer's delinquency proceeding.

(5) Notwithstanding the provisions of subsections (2) through (4) of this section, a setoff of sums due on obligations in the nature of those set forth in subdivision (2)(f) of this section shall be allowed for those sums accruing from business written if the contracts were entered into, renewed, or extended with the express written approval of the director, commissioner, or equivalent official of the state of domicile of the now-insolvent insurer, when in his or her judgment it was necessary to provide reinsurance in order to prevent or mitigate a threatened impairment or insolvency of a domiciliary insurer in connection with the exercise of his or her regulatory responsibilities.

(6) The provisions of subsections (2) through (5) of this section shall apply to all contracts entered into, renewed, extended, or amended on or after January 1, ~~1992~~ 1993, and to debts or credits arising from any business written after such date pursuant to any contract, including contracts in existence prior to such date, and shall supersede any agreements or contractual provisions which might be construed to enlarge the setoff rights of any person under any contract with the insurer. For purposes of this subsection, any change in the terms of or consideration for any such contract shall be deemed an amendment of the contract.".

2. On page 1, line 6, strike the first "and"; in line 7 after "1990" insert ", and section 44-4830, Revised Statutes Supplement, 1990, as amended by section 80, Legislative Bill 236, Ninety-second Legislature, First Session, 1991".

3. On page 2, line 4, after the first semicolon insert "to change the applicability date of certain setoff provisions;".

4. On page 79, line 10, strike the first "and"; and in line 11 after the last comma insert "and section 44-4830, Revised Statutes Supplement, 1990, as

amended by section 80, Legislative Bill 236, Ninety-second Legislature, First Session, 1991,".

5. Renumber the remaining section accordingly.

UNANIMOUS CONSENT - Add Co-Introducer

Mrs. Smith asked unanimous consent to have her name added as co-introducer to LR 10. No objections. So ordered.

VISITORS

Visitors to the Chamber were 31 students and teacher from Northeast Community College, Norfolk; four students and teacher from Odell; and Steve Stapaulis, Leroy Bast, and Alvin Bast from Fairbury.

ADJOURNMENT

At 12:19 p.m., on a motion by Mr. Will, the Legislature adjourned until 9:00 a.m., Thursday, March 14, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

FORTY-THIRD DAY - MARCH 14, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

FORTY-THIRD DAY

Legislative Chamber, Lincoln, Nebraska
Thursday, March 14, 1991

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Moul presiding.

PRAYER

The prayer was offered by Alica Anderson Reitz, Lutheran Campus Center, Lincoln, Nebraska.

ROLL CALL

The roll was called and all members were present except Messrs. Ashford, Baack, Landis, Lindsay, and Warner who were excused; and Messrs. Abboud, Beutler, Chambers, Conway, Hartnett, R. Johnson, Morrissey, Schmit, Schrock, Mmes. Labedz, Nelson, and Pirsch who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Forty-Second Day was approved.

UNANIMOUS CONSENT - Member Excused

Mr. Haberman asked unanimous consent to be excused until he returns. No objections. So ordered.

SELECT COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 44. Placed on Select File.

LEGISLATIVE BILL 333. Placed on Select File as amended.
E & R amendment to LB 333:
AM5076

1. On page 2, line 16, after the underscored comma insert "the"; and in line 21 after "or" insert an underscored comma.

2. On page 3, line 17, strike "is" and insert "shall be"; and in line 23 eliminate the paragraphing.

3. On page 4, line 7, strike the first "and", show as stricken, and insert ", the" and after "plates" insert an underscored comma.

LEGISLATIVE BILL 335. Placed on Select File.

LEGISLATIVE BILL 358. Placed on Select File as amended.
E & R amendment to LB 358:
AM5081

1. On page 1, line 9, strike "title" and insert "titles"; and in line 12 strike "procedures" and insert "provisions".

2. On page 2, line 1, after "permits" insert ", for fees,"; in line 3 strike "provide" and insert "change provisions"; in line 5 strike "exceptions to"; in line 8 strike "create and"; in line 12 strike "and" and insert a comma; and in line 13 after "department" insert ", and county attorneys".

3. On page 3, line 21, strike the comma and show as stricken.

4. On page 4, line 5, strike beginning with "Nebraska" through "Committee", show as stricken, and insert "committee".

5. On page 5, line 3, strike "advisory" and show as stricken.

6. On page 5, line 19; and page 6, lines 6 and 7 and 15, strike beginning with "Nebraska" through "Act", show as stricken, and insert "act".

7. On page 6, line 4, strike "division", show as stricken, and insert "Division of Poultry and Egg Development, Utilization, and Marketing".

8. On page 7, line 6, strike the first comma.

9. On page 9, line 1, strike the comma and show as stricken; in line 14 strike the first comma and show as stricken; and in line 17 strike the comma and

show as stricken and strike "if" and show as stricken.

10. On page 12, line 1, after the stricken comma insert "which are"; and in line 10 strike beginning with "these" through "laws", show as stricken, and insert "the Federal Meat Inspection Act and the Federal Poultry Products Inspection Act".

11. On page 14, line 18, reinstate the stricken comma; and in line 20 after "director" insert an underscored comma.

12. On page 16, line 9, strike the first "any" and after "subdivision" insert "of the state".

13. On page 17, line 18, after "collected" insert "for such services"; in line 19 after "private" insert "sources"; and in line 20 after "Legislature" insert "for such purpose".

14. On page 20, lines 6, 7 and 8, and 9 and 10; page 30, line 9; page 31, line 23; and page 47, line 9, strike "adopted by reference".

15. On page 20, line 24; and page 23, line 1, strike "U.S., show as stricken, and insert "United States".

16. On page 25, line 7; and page 26, line 3, strike "Food establishments" and insert "A food establishment".

17. On page 26, line 4, strike "as is"; and in line 21, strike "are" and insert "shall be".

18. On page 27, line 24, after "establishment" insert "shall".

19. On page 28, line 3, strike the first "and".

20. On page 29, line 1, strike "These" and insert "Poisonous or toxic".

21. On page 30, line 10, strike "Retail food stores" and insert "A retail food store".

22. On page 32, line 3, strike "applications" and insert "application".

23. On page 35, line 22, strike "to", show as stricken, and insert "through".

24. On page 36, line 1, after "permit" insert "required by section 39 of this act"; in line 3 after "Salvage" insert "processing" and after "and" insert "salvage"; and in line 5 strike "A" and insert "The".

25. On page 37, line 1, after "permit" insert "pursuant to section 39 of this act".

26. On page 39, line 8, strike "time".

27. On page 40, line 4, after the second "or" insert "to"; in line 14 strike "seeking" and insert "pursuing"; strike beginning with "is" in line 17 through "is" in line 18 and insert "shall be"; and in line 20 strike "when it is" and insert "shall be" and after "sent" insert "by".

28. On page 41, line 15, after "or" insert "that".

29. On page 42, line 8, strike "waives" and insert "shall be deemed to waive"; and in line 12 after "director" insert "at least".

30. On page 46, strike beginning with "Nebraska" in line 12 through the comma in line 13, show the old matter as stricken, and insert "act".

31. On page 47, line 3, after "establishment" insert "or store"; and in line 7 after "days" insert "each plant, operation, or establishment is in operation".

32. On page 51, line 11, strike the third comma and show as stricken; and in line 24 after "of" insert "the".

33. On page 53, line 18, strike the comma and show as stricken.

34. On page 54, line 5, reinstate the stricken "or"; in line 7 strike the comma; in line 18 strike "Reissue"; and in line 19 strike "of Nebraska, 1943" and insert "Supplement, 1990".

35. On page 55, line 1, strike the comma; and in line 14 strike "Nebraska Pure Food Act" and insert "act".

36. On page 57, line 8; and page 58, line 5, strike "or", show as stricken, and insert an underscored comma.

37. On page 57, line 9; and page 58, line 7, after "act" insert an underscored comma.

38. On page 57, line 21, reinstate the stricken matter.

39. On page 58, line 13, after "department" insert an underscored comma.

40. Renumber sections 26, 27, 28, and 30, respectively, as sections 28, 30, 27, and 26, respectively.

LEGISLATIVE BILL 200. Placed on Select File as amended.
E & R amendment to LB 200:
AM5077

1. On page 2, before line 1 insert "Section 1. That section 2-1203, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:"; in line 1 strike "commission", show as stricken, and insert "State Racing Commission"; and in line 4 after "2-1229" insert "and section 2 of this act".

LEGISLATIVE BILL 334. Placed on Select File as amended.
E & R amendment to LB 334:
AM5078

1. On page 2, line 13; page 3, line 4; and page 5, lines 13 and 18, strike "State Racing Commission", show as stricken, and insert "commission".

LEGISLATIVE BILL 254. Placed on Select File.
LEGISLATIVE BILL 254A. Placed on Select File.

LEGISLATIVE BILL 689. Placed on Select File as amended.
E & R amendment to LB 689:
AM5079

1. On page 1, strike beginning with "change" in line 3 through "for" in line 4 and insert "provide for the applicability of certain provisions to".

LEGISLATIVE BILL 534. Placed on Select File.

LEGISLATIVE BILL 745. Placed on Select File as amended.
E & R amendment to LB 745:
AM5080

1. On page 2, line 9, reinstate the stricken "may".
2. On page 4, line 11, after "alterations" insert an underscored comma; in line 17 strike "such" and show as stricken; and in line 18, after "grading" insert "of a street, avenue, alley, or thoroughfare".
3. On page 5, line 22, strike the colon, show as stricken, and insert an underscored period.
4. On page 6, lines 15 and 16, strike "shall" and show as stricken; and in line 16 strike both occurrences of "become", show as stricken, and insert

12 "becomes".

LEGISLATIVE BILL 810. Placed on Select File.

(Signed) Eric Will, Chairperson

ANNOUNCEMENTS

Mr. Hall designates LB 795 as his priority bill.

Mr. Peterson designates LB 167 as his priority bill.

MESSAGE FROM THE GOVERNOR

March 13, 1991

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Madam President and Senators:

This is to inform the honorable members of the Legislature that I have made the following reappointment to the Nebraska Board of Parole, requiring legislative approval.

> Appointee: Ronald L. Bartee, Correctional Services Bldg., Folsom & West Van Dorn Sts., Lincoln, NE 68522, 402-471-2156.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:fc

REPORT OF REGISTERED LOBBYISTS

In accordance with LB 987, passed in the 1976 session of the Legislature and amended by LB 4 and LB 41 in the 1977 session of the Legislature, the attached is a list of all Lobbyists who have

registered as of March 13, 1991. Further lists listing additional lobbyists who have registered will be filed weekly.

(Signed) Patrick J. O'Donnell
Clerk of the Legislature

Crosby, Guenzel, Davis, Kessner & Kuester	
Norby, Scott J. - Lincoln	Nebraska State Education Association
DeCamp Legal Services, P.C.	
DeCamp, John - Lincoln	Blue Earth Corporation
Kelley, Michael - Omaha	Nebraska Petroleum Marketers
Kronberg, Wendell - Bellevue	Ralston Area Chamber of Commerce
Krumland, Gary G. - Lincoln	League of Nebraska Municipalities
Myers, Myrle A. - Englewood, CO	American Cyanamid - Lederle Labs Divison
O'Hara & Associates	
O'Hara, Paul V. - Lincoln	Hall County Livestock Improvement Association
Radcliffe, Walter H. - Lincoln	John Fullenkamp

ATTORNEY GENERAL'S OPINION

Opinion No. 91016

DATE: March 7, 1991

SUBJECT: Constitutionality of Service by Members of the Legislature on Commissions and Boards Which are Part of the Executive Branch of State Government

REQUESTED BY: Senator LaVon Crosby, Nebraska State Legislature

WRITTEN BY: Don Stenberg, Attorney General
Dale A. Comer, Assistant Attorney General

You have requested our opinion on the following question:

When the Legislature creates commissions, boards, and other similar committees to be housed in the Executive branch of state government, is it a violation of the State Constitution for a member of the legislature to serve on that commission or board?

You then specifically reference Article II, Section 1 of the Nebraska Constitution dealing with the distribution of governmental powers.

For the reasons discussed below, we believe that such service by a member of the Legislature does violate our State Constitution.

Before we discuss the question posed in your Opinion request, we must point out that your request letter does not reference any specific bill or legislation which is the subject of your concern. Therefore, our response to your question must necessarily be general rather than directed at any particular proposed legislation. We must also point out that, for reasons stated in our Opinion No. 157 to Senator Beutler dated December 20, 1985, we cannot provide Opinions to the Legislature on existing statutes. Consequently, this Opinion cannot be considered as directed at any statute currently in force.

We have issued previous Opinions on the question presented in your letter. For example, in our Opinion of the Attorney General No. 69, dated April 23, 1985, we considered the propriety of service by the Chair of the Legislature's Revenue Committee on a proposed Agricultural Land Valuation Advisory Board, a Board otherwise to be made up of appointees designated by the Governor. The duties of the Board included review of an agricultural land valuation manual developed by the Department of Revenue and formulation of recommendations to the Tax Commissioner for changes in the manual. We concluded that such service by the Chair of the Revenue Committee was unconstitutional as a violation of Article II, Section 1 of the Nebraska Constitution which deals with separation of powers. We also pointed out that such service on the Board by a member of the Legislature raised constitutional questions under Article IV, Section 10 of the Nebraska Constitution which deals with the Governor's appointment power, and Article III, Section 9 of the Nebraska Constitution which forbids persons elected or appointed to the Legislature from receiving civil appointments to a state office while holding membership in that body. See also, Opinion of the Attorney General No. 37, April 4, 1983 (members of the Legislature could not serve along with the Governor and the Tax Commissioner on a State Tax Board which would take the place of the State Board of Equalization); Report of the Attorney General, 1967-1968, No. 86 at 120 (State Senators could not serve as members of the Nebraska Coordinating Council for Higher Education). We have reviewed these earlier Opinions and the authorities cited therein, and we agree with their conclusions.

In addition, while there are no Nebraska cases directly on point, courts from other jurisdictions have examined situations where a legislative body attempted to place its members on various boards or commissions which were essentially administrative or executive in character. A majority of those cases have held that such attempts violate the separation of powers doctrine. Alexander v. State, 441

So.2d 1329 (Miss. 1983) State ex rel. Wallace v. Bone, 286 S.E.2d 79 (N.C. 1982) Greer v. State, 233 Ga. 667, 212 S.E.2d 836 (1975); State ex rel. State Building Commission of West Virginia v. Bailey, 151 W.Va. 79, 150 S.E.2d 449 (1966); 16 C.J.S. Constitutional Law § 134.

As a result, we believe that members of the Legislature cannot serve on boards or commissions of state government which exercise primarily an executive or administrative function. Such dual service would violate the separation of powers doctrine and also would be suspect under Article III, Section 9 and Article IV, Section 10 of the Nebraska Constitution.

Sincerely,
DON STENBERG
Attorney General
(Signed) Dale A. Comer
Assistant Attorney General

05-02-14.91
cc: Patrick J. O'Donnell
Clerk of the Legislature

ANNOUNCEMENT

Mr. Hall announced the Revenue Committee would like to have an Executive Session on Monday, March 18th at 10:30 A.M. in the Senator's Lounge and also at 1:30 P.M. in Room 1517.

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following resolutions: LR 50 and LR 51.

GENERAL FILE

LEGISLATIVE BILL 284. Title read. Considered.

Advanced to E & R for review with 27 ayes, 0 nays, 5 present and not voting, and 17 excused and not voting.

LEGISLATIVE BILL 303. Title read. Considered.

Advanced to E & R for review with 25 ayes, 0 nays, 7 present and not voting, and 17 excused and not voting.

LEGISLATIVE BILL 343. Title read. Considered.

Advanced to E & R for review with 25 ayes, 0 nays, 8 present and not voting, and 16 excused and not voting.

LEGISLATIVE BILL 422. Title read. Considered.

Advanced to E & R for review with 25 ayes, 0 nays, 10 present and not voting, and 14 excused and not voting.

LEGISLATIVE BILL 561. Title read. Considered.

Advanced to E & R for review with 25 ayes, 0 nays, 11 present and not voting, and 13 excused and not voting.

LEGISLATIVE BILL 625. Title read. Considered.

Advanced to E & R for review with 25 ayes, 0 nays, 11 present and not voting, and 13 excused and not voting.

LEGISLATIVE BILL 700. Title read. Considered.

Advanced to E & R for review with 25 ayes, 0 nays, 12 present and not voting, and 12 excused and not voting.

LEGISLATIVE BILL 166. Title read. Considered.

Standing Committee amendment, AM0562, found in the Journal on page 927, was adopted with 26 ayes, 0 nays, 11 present and not voting, and 12 excused and not voting.

Advanced to E & R for review with 27 ayes, 0 nays, 11 present and not voting, and 11 excused and not voting.

LEGISLATIVE BILL 199. Title read. Considered.

Advanced to E & R for review with 26 ayes, 0 nays, 12 present and not voting, and 11 excused and not voting.

LEGISLATIVE BILL 454. Title read. Considered.

Advanced to E & R for review with 25 ayes, 0 nays, 13 present and not voting, and 11 excused and not voting.

LEGISLATIVE BILL 582. Title read. Considered.

Advanced to E & R for review with 27 ayes, 0 nays, 11 present and not voting, and 11 excused and not voting.

LEGISLATIVE BILL 586. Title read. Considered.

Advanced to E & R for review with 25 ayes, 0 nays, 13 present and not voting, and 11 excused and not voting.

UNANIMOUS CONSENT - Print in Journal

Mr. Kristensen asked unanimous consent to print the following amendment to LB 783 in the Journal. No objections. So ordered.

AM0728

1. Strike original section 30.
2. Renumber remaining sections accordingly.

NOTICE OF COMMITTEE HEARINGS
Education

Governor Appointment Thursday, April 4, 1991 1:25 p.m.
Wilbur "Doc" Kloepping - Educational Lands and Funds

Monday, April 15, 1991, Room 1517 1:00 p.m.
Annual Program Review-Postsecondary Commission
Joint Hearing Education and Appropriations

Governor Appointment Wednesday, April 17, 1991 1:15 p.m.
Marshall Faith - School Restructuring Commission

(Signed) Ron Withem, Chairperson

STANDING COMMITTEE REPORTS
Transportation

LEGISLATIVE BILL 783. Placed on General File.

(Signed) Doug Kristensen, Chairperson

Education

LEGISLATIVE BILL 588. Indefinitely postponed.

(Signed) Ron Withem, Chairperson

RESOLUTIONS

LEGISLATIVE RESOLUTION 52. Introduced by Crosby, 29.

WHEREAS, the Mid-America Arts Alliance is a private, nonprofit arts organization whose partners include the state arts agencies of Nebraska, Kansas, Missouri, Oklahoma, Texas, and Arkansas, with financial support from the National Endowment for the Arts and private contributions; and

WHEREAS, the Mid-America Arts Alliance was created in 1972 by D. B. Varner, former President of the University of Nebraska, to combine the resources of the partner states to attract major symphonies, opera and ballet companies, and art exhibits that the state arts agencies alone were incapable of attracting; and

WHEREAS, the most significant contribution of the Mid-America Arts Alliance is its touring program which allows artists and art organizations of the six-state region of the alliance to perform throughout the alliance; and

WHEREAS, Nebraskans have played a significant role in the Mid-America Arts Alliance, as the chairpersons of the alliance have always been either a current Nebraska resident or a former Nebraska resident.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature, as well as all citizens of Nebraska, recognize the tremendous accomplishments of the Mid-America Arts Alliance and the significant role played by Nebraskans.

2. That a copy of this resolution be sent to the Mid-America Arts Alliance and its current Chairperson, Wallace Richardson.

Laid over.

LEGISLATIVE RESOLUTION 53. Introduced by Schmit, 23.

WHEREAS, the Wahoo Bishop Neumann High School boys' basketball team won the Class C Boys' State High School Basketball Championship with a victory over Hartington Cedar Catholic; and

WHEREAS, the team won twenty-one of twenty-five games played this season; and

WHEREAS, the Legislature should recognize the academic, athletic, and artistic achievements of the youth of our state.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Wahoo Bishop Neumann High School boys' basketball team, consisting of Jim Specht, Jason Bouc, Adam Johnson, Andrew Brabec, Shane Corey, Matt Meduna, Matt Turman, Jeff Wiess, Jason Hraban, Greg Hain, Brian Vech, Jerome Masek, Bill Hammond, Mark Specht, Chris Kavan, Jay Divis, Paul Smith, Matt Brown, and Chris Hain, be congratulated for their exemplary effort this season and in the Boys' State High School Basketball Tournament.

2. That a copy of this resolution be sent to Coach Paul Johnson and the Wahoo Bishop Neumann High School boys' basketball team.

Laid over.

LEGISLATIVE RESOLUTION 54. Introduced by Schmit, 23.

WHEREAS, the Wahoo High School boys' basketball team won their fourth straight Class B Boys' State High School Basketball Championship with a victory over York; and

WHEREAS, the team had a perfect record this season of twenty-three victories, extending their winning streak to ninety games; and

WHEREAS, the Legislature should recognize the academic, athletic, and artistic achievements of the youth of our state.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Wahoo High School boys' basketball team, consisting of Bernie Inbody, Todd Kaiser, Ryan Eddie, Trent Toline, Jason Glock, Steve Volin, Joel Weyand, Jeremy Herrmann, Jeff Simons, Keith Klemme, Sean Brennan, Ryan Glock, and Justin Anderson, be congratulated for their exemplary effort this season and in the Boys' State High School Basketball Tournament.

2. That a copy of this resolution be sent to Coach Mick Anderson and the Wahoo High School boys' basketball team.

Laid over.

LEGISLATIVE RESOLUTION 55. Introduced by Schmit, 23.

WHEREAS, the David City Aquinas High School boys' basketball team participated in the Class C Boys' State High School Basketball Tournament; and

WHEREAS, the team won sixteen of twenty-three games played this season; and

WHEREAS, the Legislature should recognize the academic, athletic, and artistic achievements of the youth of our state.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the David City Aquinas High School boys' basketball team, consisting of Dave Weddle, Chris Kirby, Troy Jelinek, Todd Buresh, Jason Vidlak, Jeremy Belsky, Craig Jakub, Matt Portrey, Paul Schmit, Kamron Grubaugh, Eric Semin, and Joe Mick, be congratulated for their effort this season and in the Boys' State High School Basketball Tournament.

2. That a copy of this resolution be sent to Coach Leon Portrey and the David City Aquinas High School boys' basketball team.

Laid over.

LEGISLATIVE RESOLUTION 56. Introduced by Robinson, 16.

WHEREAS, the Blair High School girls' basketball team qualified for the Class B Girls' State High School Basketball Tournament; and

WHEREAS, this achievement represents a continuation of basketball excellence as this was the third consecutive year that the team qualified for the tournament; and

WHEREAS, the team and Coach Marty Rogers deserve special recognition for the discipline, teamwork, and enthusiasm that they displayed throughout the season.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates the Blair High School girls' basketball team and Coach Marty Rogers.

2. That a copy of this resolution be sent to the Blair girls' basketball team and Coach Marty Rogers.

Laid over.

LEGISLATIVE RESOLUTION 57. Introduced by Robinson, 16.

WHEREAS, the Oakland-Craig High School boys' basketball team qualified for the Class C-1 Boys' State High School Basketball Tournament; and

WHEREAS, this achievement represents a culmination of the dedication and hard work that the team and Coach Dave Summers have put forth; and

WHEREAS, the team and Coach Summers should receive special recognition for the outstanding season they have just completed.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates the Oakland-Craig High School boys' basketball team and Coach Dave Summers.

2. That a copy of this resolution be sent to the Oakland-Craig High School boys' basketball team and Coach Dave Summers.

Laid over.

LEGISLATIVE RESOLUTION 58. Introduced by Robinson, 16.

WHEREAS, Fort Atkinson was our nation's largest and most westerly military post from 1819 to 1827; and

WHEREAS, Fort Atkinson was guardian of the fur trade, overseer of Indian affairs, and gateway to western exploration and commerce during a crucial era in American history; and

WHEREAS, the Fort Atkinson garrison is credited with the first farming operations, the first school, and first library in Nebraska; and

WHEREAS, over two hundred soldiers of the Fort Atkinson garrison lost their lives to disease and accident while serving in the military far from home and family; and

WHEREAS, the burial place of these approximately two hundred soldiers in the Fort Atkinson Cemetery, known to be near the site of Fort Atkinson, has been unrecognized for one hundred sixty-four years; and

WHEREAS, the soldiers who gave their lives while serving at Fort Atkinson deserve the same recognition and respect accorded other United States military personnel who died in service to their nation; and

WHEREAS, the 40 & 8 of Voiture Locale 1018 has received the support of the Fort Calhoun and Blair American Legions, the state's veteran's organizations, the Nebraska State Historical Society, and the Legislature in seeking recognition for the Fort Atkinson Cemetery.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Nebraska State Historical Society be requested to prepare a report setting forth available documentation about the Fort Atkinson Cemetery and the number and identity of the individuals interred there.

2. That these findings be furnished to the Legislature and to members of the Nebraska congressional delegation.

3. That the Legislature acknowledges that the Fort Atkinson Cemetery, as the final resting place of United States soldiers who gave their lives in the line of duty, is deserving of recognition by the United States Government.

Laid over.

SELECT FILE

LEGISLATIVE BILL 244. E & R amendment, AM5073, found in the Journal on page 1017, was adopted.

Mr. Wesely offered the following amendment:
(Amendment on file in the Clerk's Office - Room 2018 - AM0607.)

The Wesely amendment was adopted with 26 ayes, 0 nays, 12 present and not voting, and 11 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 244A. Advanced to E & R for engrossment.

LEGISLATIVE BILL 232. E & R amendment, AM5075, found in the Journal on page 1024, was adopted.

Mr. Beutler moved to indefinitely postpone LB 232.

Laid over.

LEGISLATIVE BILL 292. E & R amendment, AM5074, found in the Journal on page 1025, was adopted.

Mr. Beutler offered the following Landis amendment:
FA51

1. On page 2, line 23 strike "and".

2. On page 3 line 2 strike the period and insert "; and" and after line 2 insert:

"(5) Person shall include individual, corporation, company, association, partnership, and other business entity."

The Landis amendment was adopted with 25 ayes, 0 nays, 14 present and not voting, and 10 excused and not voting.

Advanced to E & R for engrossment.

GENERAL FILE

LEGISLATIVE BILL 400. Title read. Considered.

Messrs. Beyer and Schmit asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Coordsen asked unanimous consent to be excused. No objections. So ordered.

Advanced to E & R for review with 25 ayes, 0 nays, 11 present and not voting, and 13 excused and not voting.

Mr. Dierks asked unanimous consent to be excused until he returns. No objections. So ordered.

LEGISLATIVE BILL 789. Title read. Considered.

Standing Committee amendment, AM0614, found in the Journal on page 994, was considered.

MR. MORRISSEY PRESIDING

Mrs. Labedz offered the following amendment to the pending Standing Committee amendment:

AM0724

(Amendments to Standing Committee amendments, AM0614)

1. On page 1, strike beginning with "line" in line 1 through line 3 and insert "lines 2, 4, and 5, strike the new matter and reinstate the stricken matter; strike beginning with 'In' in line 12 through 'one' in line 13 and insert 'One'; in line 19 reinstate the stricken period; and strike lines 20 through 24.

2. On page 15, strike beginning with

'pursuant' in line 2 through 'or' in line 4 and insert 'shall be completed'.

3. On page 17, lines 9 through 14, strike the new matter and reinstate the stricken matter; and strike lines 20 through 25.

4. On page 18, strike lines 1 through 25.

5. On page 19, strike line 1.".

Mr. R. Johnson asked unanimous consent to be excused until he returns. No objections. So ordered.

Mrs. Labedz moved for a call of the house. The motion prevailed with 13 ayes, 0 nays, and 36 not voting.

PRESIDENT MOUL PRESIDING

Mrs. Labedz requested a roll call vote on her amendment.

Voting in the affirmative, 13:

Beutler	Hefner	Labedz	Peterson	Schrock
Beyer	Horgan	Lamb	Schellpeper	Wehrbein
Crosby	Johnson, L.	Lynch		

Voting in the negative, 17:

Bernard-Stevens	Conway	Morrissey	Robak	Wesely
Chambers	Hall	Nelson	Robinson	Will
Chizek	Hillman	Pirsch	Schimek	Withem
	Kristensen	Rasmussen		

Present and not voting, 6:

Byars	Elmer	Moore	Rogers	Wickersham
Cudaback				

Absent and not voting, 1:

Smith

Excused and not voting, 12:

Abboud	Baack	Dierks	Hartnett	Landis
Ashford	Coordsen	Haberman	Johnson, R.	Lindsay

Schmit Warner

The Labedz amendment lost with 13 ayes, 17 nays, 6 present and not voting, 1 absent and not voting, and 12 excused and not voting.

The Chair declared the call raised.

Mrs. Smith asked unanimous consent to be excused until she returns. No objections. So ordered.

Mr. Lynch offered the following amendment to the pending Standing Committee amendment:
AM0729
(Amendments to Standing Committee amendments, AM0614)
1. On page 1, line 2, strike the first "and";
and in line 3 before the period insert "; strike
beginning with 'In' in line 12 through 'one' in line 13
and insert 'One'; in line 19 reinstate the stricken
period; and strike lines 20 through 24".

Mr. Chizek asked unanimous consent to be excused until he returns. No objections. So ordered.

Messrs. Beyer, Moore, and Schellpeper asked unanimous consent to be excused. No objections. So ordered.

Pending.

ANNOUNCEMENTS

The Agriculture Committee designates LB 398 as its priority bill.

The Education Committee designates LB 698 and LB 245 as its priority bills.

The Nebraska Retirement Systems Committee designates LB 543 and LB 549 as its priority bills.

Mrs. Nelson designates LB 132 as her priority bill.

NOTICE OF COMMITTEE HEARINGS
Health and Human Services

Governor Appointments Thursday, March 21, 1991 1:30 p.m.
Dale Johnson - Department of Public Institutions
Mary Dean Harvey - Department of Social Services
Bruce Bailey - Modular Housing Advisory Board
Lyle O'Hare - Modular Housing Advisory Board
Cynthia Lewis Trujillo - Modular Housing Advisory Board

(Signed) Don Wesely, Chairperson

ANNOUNCEMENT

Mr. Withem announced the Education Committee will hold an Executive Session on Monday, March 18, 1991 at 2:10 P.M. in Room 1126.

MOTION - Suspend Rules

Mr. Withem moved to suspend Rule 6, section 6 (f) and 6 (g) and Rule 8, section 5, to allow LB 209 to be read on Final Reading.

Laid over.

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 732A. Introduced by Kristensen, 37.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 732, Ninety-second Legislature, First Session, 1991.

RESOLUTION

LEGISLATIVE RESOLUTION 59. Introduced by Schmit, 23.

WHEREAS, the Wahoo Bishop Neumann High School girls' basketball team participated in the Class C Girls' State High School Basketball Tournament; and

WHEREAS, the team won sixteen of twenty-one games played this season; and

WHEREAS, the Legislature should recognize the academic, athletic, and artistic achievements of the youth of our state.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Wahoo Bishop Neumann High School girls' basketball team, consisting of Nancy Barry, Amy Masek, Mary Spicka, Jean Stanek, Melissa Kruce, Becky Masek, Tia Brandt, Kari Pospisil, Tasha Brandt, Kari Kastl, Kelly Stuchlik, Michelle Hayes, and Becky Vech, be congratulated for their exemplary effort this season and in the Girls' State High School Basketball Tournament.

2. That a copy of this resolution be sent to Coach Teresa Brestel and the Wahoo Bishop Neumann High School.

Laid over.

ANNOUNCEMENTS

Mr. Cudaback designates LB 583 as his priority bill.

Mr. Ashford designates LB 355 as his priority bill.

Mr. Conway designates LB 579 as his priority bill.

Mr. Haberman designates LB 427 as his priority bill.

UNANIMOUS CONSENT - Print in Journal

Mr. R. Johnson asked unanimous consent to print the following amendment to LB 409 in the Journal. No objections. So ordered.

AM0712
(Amendments to Standing Committee amendments, AM0625)

1. Strike section 23 and renumber the remaining section accordingly.

2. Strike amendment 11 and renumber the remaining amendment accordingly.

STANDING COMMITTEE REPORTS
Health and Human Services

LEGISLATIVE BILL 138. Indefinitely postponed.
LEGISLATIVE BILL 265. Indefinitely postponed.
LEGISLATIVE BILL 605. Indefinitely postponed.
LEGISLATIVE BILL 646. Indefinitely postponed.
LEGISLATIVE BILL 654. Indefinitely postponed.

(Signed) Don Wesely, Chairperson

UNANIMOUS CONSENT - Print in Journal

Mr. Elmer asked unanimous consent to print the following amendment to LB 663 in the Journal. No objections. So ordered.

FA52

To amend Committee Amendment to LB 663, AM0445 --

On page 14 of the amendment on line 8 - strike "1993" and insert "1995"

On line 10, page 14 of the amendment strike "1993" and insert "1995"

Mr. Wehrbein asked unanimous consent to print the following amendment to LB 398 in the Journal. No objections. So ordered.

AM0713

1. Insert the following new section:

"Sec. 3. The vote of a member of a county agricultural society or county fair board for any election held within such society or board shall be cast by the member personally and shall not be cast by a proxy vote.".

2. Renumber remaining sections accordingly.

ANNOUNCEMENTS

Mr. Lynch designates LB 647 as his priority bill.

Mr. Horgan designates LB 91 as his priority bill.

UNANIMOUS CONSENT - Add Co-Introducer

Mr. Peterson asked unanimous consent to have his name added as co-introducer to LB 167. No objections. So ordered.

UNANIMOUS CONSENT - Print in Journal

Mrs. Crosby asked unanimous consent to print the following amendment to LB 522 in the Journal. No objections. So ordered.

AM0747

1. Strike original section 1 and all amendments thereto and insert the following new section:

"Section 1. Any school district, governing body of a nonpublic school approved or accredited by the State Department of Education, the State of Nebraska, or any governmental agency or political subdivision employing, supervising, licensing, contracting with, or certifying teachers, child care providers, nurses, physicians, surgeons, respiratory care specialists, osteopathic medicine specialists, chiropractors, dentists, dental hygienists, pharmacists, podiatrists, optometrists, massage therapists, physical therapists, audiologists, speech-language pathologists, and psychologists may, as a condition of employment, licensure, or certification or as a part of an investigation pursuant to section 79-1283, require a check of the person's criminal history record information as defined in section 29-3506 except as provided in section 5 of this act. Any such person for whom a criminal history record information check has been required shall sign and file a release and a complete set of fingerprints with the Commissioner of Education, local school district, or other requesting entity or the Nebraska State Patrol.".

VISITORS

Visitors to the Chamber were 12 juniors, seniors, and teachers from Sidney Public School; 32 seventh grade students and sponsors from Sandy Creek School; 17 seniors and teacher from Falls City; 32 fourth grade students and teacher from Blessed Sacrament School, Lincoln; members of the Association of American University Women; members of the Plattsmouth Chamber of Commerce; and Herman Widhelm from North Bend.

The Doctor of the Day was Dr. Darroll Loschen from York.

ADJOURNMENT

At 11:59 a.m., on a motion by Mr. Wesely, the Legislature adjourned until 9:00 a.m., Monday, March 18, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

FORTY-FOURTH DAY - MARCH 18, 1991

LEGISLATIVE JOURNAL

FORTY-FOURTH DAY - MARCH 18, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

FORTY-FOURTH DAY

Legislative Chamber, Lincoln, Nebraska
Monday, March 18, 1991

Pursuant to adjournment, the Legislature met at 9:02 a.m., Speaker Baack presiding.

PRAYER

The prayer was offered by Dr. Howard Dooley, President, Omaha Presbyterian Seminary Foundation, Omaha, Nebraska.

ROLL CALL

The roll was called and all members were present except Messrs. Bernard-Stevens, Chizek, Haberman, Hall, R. Johnson, Lindsay, Lynch, Morrissey, Schellpeper, Wesely, Wickersham, Mmes. Pirsch, Rasmussen, and Robak who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Forty-Third Day was approved.

PRESENTATION

Mrs. Labedz presented to the Legislature a brief speech on "National Women in History Month."

STANDING COMMITTEE REPORTS
Health and Human Services

LEGISLATIVE BILL 184. Indefinitely postponed.
LEGISLATIVE BILL 558. Indefinitely postponed.

(Signed) Don Wesely, Chairperson

REPORTS

The following reports were received by the Legislature:

Statements of deposits to the Highway Cash Fund and Roads Operation Cash Fund for the calendar month of February 1991, from the Nebraska Department of Roads in compliance with Section 66-476, R.S. Supp. 1988.

Corrected Annual Report on Charitable Gaming from the Department of Revenue in compliance with Chapter 9, section 9-1,101, R.S.Supp., 1989.

Status of Negotiations for 1991-93 between the Nebraska Department of Education and the Nebraska Association of Public Employees, AFSCME Local 61, submitted by the Nebraska Department of Education as required under §81-1384, R.R.S. 1943, Reissue of 1987.

Status of Negotiations for 1991-93 between the Nebraska Department of Education and the Nebraska Department of Education, Teachers' Association, submitted by the Nebraska Department of Education as required under §81-1384, R.R.S. 1943, Reissue of 1987.

Labor Relations Report from the Department of Personnel, State of Nebraska, regarding the status of negotiations under the State Employees Collective Bargaining Act codified by the Legislature in LB 661, pursuant to Statute 81-1384.

The Nebraska Individual Income Tax System report, as of 1989, from the Department of Revenue.

Annual report from the Department of Revenue on the Employment and Investment Growth Act (LB 775) and the Employment Expansion and Investment Incentive Act (LB 270) as required by sections 77-4110 and 77-27,195 (R.R.S., 1943).

From the Department of Agriculture, in accordance with the provisions of section 2-3901 (Cum. Supp. 1990), certified copies from the United States Department of Health and Human Services entitled

Fabrication of Single-Service Containers and Closures for Milk and Milk Products, 1985 revision; Grade "A" Pasteurized Milk Ordinance, 1989 revision; and Grade A Condensed and Dry Milk Products and Condensed and Dry Whey, Supplement I to the Grade A Pasteurized Milk Ordinance, 1978 recommendations.

MESSAGE FROM THE GOVERNOR

March 14, 1991

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Madam President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Department of Personnel, requiring legislative confirmation.

> Appointee: Gwendolyn M. Combs, 4111 South 82nd, Lincoln, NE 68506, (402) 483-2582.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:bh

ANNOUNCEMENTS

Mr. Baack designates LB 577 as his priority bill.

The Business and Labor Committee designates LB 452 and LB 562 as its priority bills.

Mr. L. Johnson designates LB 798 as his priority bill.

Mr. Warner designates LB 627 as his priority bill.

UNANIMOUS CONSENT - Print in Journal

Mr. Baack asked unanimous consent to print the following amendment to LB 44 in the Journal. No objections. So ordered.

AM0707

1. Strike the original sections and insert the following new sections:

"Section 1. That section 60-462, Revised Statutes Supplement, 1990, be amended to read as follows:

60-462. Sections 60-462 to 60-4,181 and section 4 of this act shall be known and may be cited as the Motor Vehicle Operator's License Act.

Sec. 2. That section 60-4,112, Revised Statutes Supplement, 1990, be amended to read as follows:

60-4,112. Sections 60-4,114 to 60-4,130 and section 4 of this act shall apply to the operation of any motor vehicle except a commercial motor vehicle.

Sec. 3. That section 60-4,123, Revised Statutes Supplement, 1990, be amended to read as follows:

60-4,123. Any person who is at least fifteen years of age may obtain an LPD-learner's permit from the county treasurer, which permit shall be valid for a period of twelve months, and he or she may operate a motor vehicle on the highways of this state if he or she is accompanied at all times by a licensed operator who is at least nineteen years of age and who is actually occupying the seat beside the driver or, in the case of a motorcycle or moped, if he or she is within visual contact of and under the supervision of, in the case of a motorcycle, a licensed motorcycle operator or, in the case of a moped, a licensed motor vehicle operator. ~~Any person who has attained the age of fourteen years may operate a motor vehicle upon the highways of this state if he or she is accompanied or, in the case of a motorcycle or moped, supervised at all times by a licensed operator who is a high school driver training instructor certified by the Commissioner of Education.~~ The county treasurer shall collect a fee of three dollars from each successful applicant for an LPD-learner's permit.

Sec. 4. Any person who has attained or will attain the age of fourteen years on or before October 15

of the current year may operate a motor vehicle upon the highways of this state if he or she is accompanied or, in the case of a motorcycle or moped, supervised at all times by a licensed operator who is a driver training instructor certified by the Commissioner of Education.

Sec. 5. That original sections 60-462, 60-4,112, and 60-4,123, Revised Statutes Supplement, 1990, are repealed.".

Mr. Baack asked unanimous consent to print the following amendment to LB 573 in the Journal. No objections. So ordered.

AM0721

(Amendments to Standing Committee amendments, AM0532)

1. Strike amendment 1 and insert the following new amendment:

"1. On page 5, line 11, strike 'The' and insert 'If state funding is available for distribution pursuant to section 6 of this act, the'.".

STANDING COMMITTEE REPORTS
Banking, Commerce and Insurance

LEGISLATIVE BILL 537. Placed on General File.
LEGISLATIVE BILL 538. Placed on General File.
LEGISLATIVE BILL 739. Placed on General File.

LEGISLATIVE BILL 172. Placed on General File as amended.
Standing Committee amendment to LB 172:
AM0702

1. Strike original section 1 and insert the following new section:

"Section 1. That section 9-203, Uniform Commercial Code, be amended to read as follows:

U9-203. Attachment and enforceability of security interest; proceeds, formal requisites.

(1) Subject to the provisions of section 4-208 on the security interest of a collecting bank, section 8-321 on security interests in securities, and section 9-113 on a security interest arising under the article on Sales, a security interest is not enforceable against the debtor or third parties with respect to the collateral and does not attach unless:

(a) the collateral is in the possession of the

secured party pursuant to agreement, or the debtor has signed a security agreement which contains a description of the collateral and in addition, when the security interest covers crops growing or to be grown or timber to be cut, a description of the land concerned;

(b) value has been given; and

(c) the debtor has rights in the collateral.

(2) A security interest attaches when it becomes enforceable against the debtor with respect to the collateral. Attachment occurs as soon as all of the events specified in subsection (1) have taken place unless explicit agreement postpones the time of attaching.

(3) Unless otherwise agreed a security agreement gives the secured party the rights to proceeds provided by section 9-306.

(4) A transaction, although subject to this article, is also subject to the Nebraska Installment Sales Act and sections 8-401 to 8-417.01, 8-815 to 8-829, 21-1760 to 21-17,126, and 45-114 to 45-158, Reissue Revised Statutes of Nebraska, 1943, and amendments thereto, and in the case of conflict between the provisions of this article and any such statute, the provisions of such statute control. Failure to comply with any applicable statute has only the effect which is specified therein.

(5) For the purposes of this section the debtor has no rights~~:~~ ~~(a)~~ in crops until they are planted or otherwise become growing crops~~,~~ or in the young of livestock until they are conceived. ~~;~~

~~(b) in fish until caught, in oil, gas, or minerals until they are extracted, and in timber until it is cut;~~

~~(c) in a contract right until the contract has been made; or~~

~~(d) in an account until it comes into existence.~~".

LEGISLATIVE BILL 394. Placed on General File as amended.
Standing Committee amendment to LB 394:
AM0704

1. On page 2, line 16, after "68-1025" insert "or an organ transplant recipient terminated from coverage under medicare".

LEGISLATIVE BILL 395. Placed on General File as amended.
Standing Committee amendment to LB 395:
AM0705

1. Strike the original sections and insert the following new sections:

"Section 1. That section 72-1271, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

72-1271. For purposes of ~~As used in~~ sections 72-1270 to 72-1276, unless the context otherwise requires:

(1) Doing business shall mean conducting, performing, or exercising the ordinary functions and activities for which a company, corporation, or financial institution is organized;

(2) Financial institution shall mean any federal or state-chartered bank, savings and loan, or thrift institution, or any other institution permitted by state or federal law to receive deposits of money and to pay out such money through loans, draft accounts, or the sale of financial institution securities;

(3) Financial institution securities shall mean any stock or bond issued by a financial institution and any certificate of deposit, bankers acceptance, or other negotiable security issued by a financial institution;

(4) Instrumentality shall mean any subdivision or agency of the South African Government or any corporation or subsidiary or affiliate of a corporation that is more than fifty percent owned or operated by the South African Government;

(5) Public sector shall mean the South African Government or its instrumentalities;

(6) State shall mean the State of Nebraska; ~~and~~

(7) State funds shall mean state-invested pension funds and any money administered or invested by the state other than:

(a) Commercial paper with a maturity date of one hundred eighty days or less; and

(b) Premiums or deposits paid to insurance or annuity companies;

(8) Company shall mean a union or association

of persons carrying on a commercial or industrial enterprise. Company shall include a partnership, corporation, association, or joint-stock company; and

(9) South Africa shall include the Republic of South Africa, any territory under the administration, legal or illegal, of the Republic of South Africa, and Bantustans or homelands to which black South Africans are assigned on the basis of ethnic origin.

Sec. 2. That section 72-1273, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

72-1273. (1) After January 1, 1985, and prior to or on the effective date of this act, no new investment of state funds shall be made in the bonds of any financial institution which directly or through its subsidiaries has outstanding loans to the South African Government or in the bonds of any corporation doing business in or with the Republic of South Africa, which has not satisfied the provisions of section 72-1275.

(2) After the effective date of this act, no new investment of state funds shall be made in the bonds of any financial institution which directly or through its subsidiaries has outstanding loans to the South African Government or in the bonds of any company doing business in or with South Africa. ~~New investment of state funds may be made in the bonds of any financial institution which adopts a formal policy relative to the South African Government and its instrumentalities, which policy shall include:~~

~~(a) A complete listing of any outstanding South African public sector loans and the purposes for which such loans were made;~~

~~(b) The amortization schedule for such loans; and~~

~~(c) A public commitment not to renew any existing loans or make any new loans to the South African public sector.~~

(3) As long as any state funds remain invested in the bonds of any financial institution referred to in subsection (1) of this section, the fund trustees shall annually file a report with the Governor and the Clerk of the Legislature on or before January 31. Such report shall contain:

(a) All South Africa-related bond investments

held by the fund;

(b) The amount of such bonds;

(c) The yield of such bonds;

(d) The maturity date of such bonds; and

(e) The nature of the business operations of the financial institution ~~or corporation's business operations~~ in or with the Republic of South Africa. A copy of such report shall be available to members of the Legislature upon request.

Sec. 3. That section 72-1274, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

72-1274. (1) After January 1, 1987, no state funds shall remain invested in the stocks of any financial institution or United States-based corporation doing business in or with the Republic of South Africa which has not satisfied the provisions of section 72-1275.

(2) After the effective date of this act, no new investment of state funds shall be made in the stocks of any financial institution or company doing business in or with South Africa.

(3) As long as any state funds remain invested in the stocks of any corporation or financial institution referred to in subsection (1) of this section, the fund trustee shall annually file a report with the Governor and the Clerk of the Legislature on or before January 31. Such report shall contain a listing of all South Africa-related stock investments held by the fund and their book value as of the preceding December. Copies of such report shall be made available to members of the Legislature upon request.

Sec. 4. That section 72-1276, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

72-1276. (1) On or before the effective date of this act, affected ~~Affected~~ financial institutions and corporations which make loans to, invest in, or do business in or with the Republic of South Africa shall be identified from the list of such financial institutions and corporations compiled by the American Consulate General in Johannesburg, South Africa. In determining whether corporations and financial institutions are making good progress in the

implementation of the provisions of section 72-1275, reports submitted to the International Council of Equal Opportunity Principles regarding the implementation of the Sullivan Principles by corporations or financial institutions monitored by such council may be considered.

(2) After the effective date of this act, affected financial institutions and companies which make loans to, invest in, or do business in or with South Africa shall be identified from the list of such financial institutions and companies compiled by the Investor Responsibility Research Center in Washington, D.C.

Sec. 5. That original sections 72-1271, 72-1273, 72-1274, and 72-1276, Reissue Revised Statutes of Nebraska, 1943, are repealed.".

LEGISLATIVE BILL 496. Placed on General File as amended.
Standing Committee amendment to LB 496:
AM0597

1. Strike the original sections and insert the following new sections:

"Section 1. Sections 1 to 8 of this act shall be known and may be cited as the Nebraska Connection Act.

Sec. 2. The Legislature hereby finds and declares that it is the policy of the State of Nebraska to strengthen local economies and to put money from Nebraska businesses to work within the state whenever possible. Import substitution can be an important means for strengthening and diversifying the state's economy.

Sec. 3. For purposes of the Nebraska Connection Act:

(1) Department shall mean the Department of Economic Development;

(2) Import substitution shall mean the practice of replacing products which are imported into the state with Nebraska-made goods of a competitive price and quality;

(3) Market opportunity shall mean an opportunity to enter competitive open bidding for a contract to purchase or sell a product or service to interested Nebraska businesses; and

(4) Subcontractor shall mean a nonprofit

organization, business, trade association, economic development association, or private company selected to open and operate an import substitution office.

Sec. 4. (1) The department shall select a subcontractor to establish an import substitution office in a city of the metropolitan class and to establish and administer an import substitution program to assist Nebraska businesses in meeting their needs for products and services competitively within Nebraska.

(2) The department shall use competitive bidding procedures to select a subcontractor, except that the department may give preference to a subcontractor which (a) has a broad spectrum of community and business support and (b) has prior experience in operating import substitution programs.

(3) The department shall:

(a) Prepare promotional materials to inform communities and organizations about the subcontractor and the import substitution program;

(b) Provide technical assistance to the subcontractor; and

(c) Help establish goals for the subcontractor and the import substitution program.

(4) The department shall report annually to the Legislature on the activities and accomplishments of the subcontractor and the import substitution program.

Sec. 5. The subcontractor shall:

(1) Contact Nebraska businesses to identify which products and services such businesses currently are purchasing outside Nebraska and items such businesses plan to purchase in the future and determine which of such goods and services could be purchased competitively within Nebraska from existing, diversified, or newly-created Nebraska businesses;

(2) Determine products and services for which such businesses are willing to take contract agreements;

(3) Advertise market opportunities;

(4) Receive bid responses from potential suppliers and collect and provide all bids to the prospective purchaser pursuant to bid criteria;

(5) Assist in developing contract agreements between purchasers and sellers within the state;

(6) Explain and promote the purpose and operation of the subcontractor through media and public

relations;

(7) Solicit and receive contributions to support the import substitution program and, whenever possible, charge reasonable service fees for businesses that profit as a result of their participation in the import substitution program; and

(8) Report quarterly to the department on the progress and activities of the import substitution program.

Sec. 6. The department shall award a challenge grant to the subcontractor selected to carry out the import substitution program. The grant shall be made from funds appropriated by the Legislature specifically for the import substitution program. The grant shall not be for a period of more than one year and shall not be awarded to a subcontractor unless the subcontractor secures matching funds from another source in an amount equal to the amount of the grant requested by the subcontractor.

Sec. 7. The department shall adopt and promulgate rules and regulations to carry out the Nebraska Connection Act. Such rules and regulations shall include:

(1) Requirements necessary to carry out section 6 of this act;

(2) Means of measuring the willingness and ability of the subcontractor to provide equal access to all businesses in the state;

(3) Criteria prescribed in section 4 of this act; and

(4) Criteria necessary to evaluate a subcontractor's proposed import substitution program and any related activities and any other information deemed relevant by the department.

Sec. 8. All state agencies shall cooperate with the subcontractor in providing information and technical assistance necessary for the operation of the import substitution program.".

LEGISLATIVE BILL 664. Placed on General File as amended.
Standing Committee amendment to LB 664:
AM0706

1. Strike original sections 1 and 4 and insert the following new sections:

"Section 1. The Secretary of State may accept credit cards as a means of payment for any filing fees due the Secretary of State. The Secretary of State shall charge a fee in addition to the required filing fee to cover the costs incurred as a result of credit card use. Such fee shall be established by rule and regulation and shall reflect the amount of the costs incurred in accepting the credit card, rounded up to the next highest increment of fifty cents.

Sec. 4. That section 9-420, Uniform Commercial Code, be amended to read as follows:

U9-420. Uniform Commercial Code Cash Fund; created; use; Secretary of State; furnish printers.

(1) There is hereby created the Uniform Commercial Code Cash Fund. All funds received pursuant to section 9-403, Uniform Commercial Code, and sections 52-1312, 52-1313, 52-1316, and 52-1602 shall be placed in the fund and used by the Secretary of State to carry out subsection (2) of this section, sections 9-401, 9-403, and 9-411 to 9-415, Uniform Commercial Code, and sections 52-1301 to 52-1321.

(2) The Secretary of State shall furnish each county clerk a printer compatible with the centralized computer system established pursuant to section 9-415 so the county clerk is able to mail written confirmation of inquiries by the end of the next business day as required by section 52-1316.

(3) Any county clerk or register of deeds may request that the Secretary of State supply additional terminals or other access to the centralized computer system established pursuant to section 9-415, Uniform Commercial Code. Upon receiving such request, the Secretary of State shall hold a public hearing on the request in the courthouse of the requesting county clerk or register of deeds. If the Secretary of State determines that sufficient need exists, the Secretary of State shall provide the equipment or service.".

2. On page 8, line 4, strike "The" and insert "After adopting and promulgating rules and regulations regarding filing by telefax, the".

3. On page 14, lines 2 and 3, strike the new matter and reinstate the stricken matter.

4. On page 16, line 18, strike "9-402,"; and in line 19 strike "and 9-411" and insert "9-411, and

9-420".

5. Renumber the remaining sections accordingly.

LEGISLATIVE BILL 787. Placed on General File as amended.
Standing Committee amendment to LB 787:
AM0644

1. On page 2, line 15, after "Any" insert "homeowner association or".

2. On page 3, line 22, after the first "the" insert "master deed," and after declaration insert an underscored comma.

LEGISLATIVE BILL 48. Indefinitely postponed.
LEGISLATIVE BILL 71. Indefinitely postponed.
LEGISLATIVE BILL 390. Indefinitely postponed.
LEGISLATIVE BILL 486. Indefinitely postponed.
LEGISLATIVE BILL 536. Indefinitely postponed.
LEGISLATIVE BILL 650. Indefinitely postponed.
LEGISLATIVE BILL 674. Indefinitely postponed.
LEGISLATIVE BILL 740. Indefinitely postponed.

(Signed) David Landis, Chairperson

Government, Military and Veterans Affairs

LEGISLATIVE BILL 54. Placed on General File as amended.
Standing Committee amendment to LB 54:
AM0580

1. Strike the original sections and insert the following new sections:

"Section 1. That at the general election in November 1992 there shall be submitted to the electors of the State of Nebraska for approval the following amendment to the Constitution of Nebraska by amending Article VII, section 10, which is hereby proposed by the Legislature:

CVII-10 'The general government of the University of Nebraska shall, under the direction of the Legislature, be vested in a board of not less than six nor more than eight regents to be designated the Board of Regents of the University of Nebraska, who shall be elected from and by districts as ~~herein~~ provided in this section, and three students of the University of

Nebraska who shall serve as nonvoting members. Such nonvoting student members shall consist of the student body president of the University of Nebraska at Lincoln, the student body president of the University of Nebraska at Omaha, and the student body president of the University of Nebraska Medical Center. The terms of office of elected members shall be for ~~six~~ four years, except that any member serving on the effective date of this amendment shall serve for the remainder of his or her six-year term. ~~each~~ The terms of office of student members shall be for the period of service as student body president. Their duties and powers shall be prescribed by law. The members~~; and they~~ shall receive no compensation~~,~~ but may be reimbursed their actual expenses incurred in the discharge of their duties.

The Legislature shall divide the state, along county lines, into as many compact regent districts~~,~~ as there are regents provided by the Legislature, of approximately equal population, which shall be numbered consecutively.

The Legislature shall redistrict the state after each federal decennial census. Such districts shall not be changed except upon the concurrence of a majority of the members of the Legislature. In any such redistricting, county lines shall be followed whenever practicable~~,~~ but other established lines may be followed at the discretion of the Legislature. Whenever the state is so redistricted the members elected prior to the redistricting shall continue in office, and the law providing for such redistricting shall where necessary specify the newly established district which they shall represent for the balance of their term.'.

Sec. 2. That the proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1. The proposition for the submission of the proposed amendment shall be placed upon the ballot in the following form:

'A constitutional amendment to change the term of office of the Board of Regents of the University of Nebraska from six years to four years.

For

Against'.

Sec. 3. That the proposed amendment, if adopted, shall be in force and take effect immediately upon the completion of the canvass of the votes, at which time it shall be the duty of the Governor to proclaim it as a part of the Constitution of Nebraska.".

LEGISLATIVE BILL 228. Placed on General File as amended.
Standing Committee amendment to LB 228:
AM0737

1. On page 2, strike lines 11 through 18; in line 19 strike "(3)" and insert "(1)"; strike beginning with "any" in line 20 through "legislation" in line 22 and insert "by any member of the Legislature concerning questions of law when the request has the prior approval of the Executive Board of the Legislative Council"; and in line 23 strike "(4)" and insert "(2)".
2. On page 3, strike lines 2 and 3.

(Signed) Gerald Conway, Chairperson

RESOLUTIONS

LEGISLATIVE RESOLUTION 52. Read. Considered.

LR 52 was adopted with 25 ayes, 0 nays, and 24 not voting.

Mr. Warner asked unanimous consent to be excused until he returns. No objections. So ordered.

LEGISLATIVE RESOLUTION 53. Read. Considered.

LR 53 was adopted with 26 ayes, 0 nays, and 23 not voting.

LEGISLATIVE RESOLUTION 54. Read. Considered.

LR 54 was adopted with 25 ayes, 0 nays, and 24 not voting.

LEGISLATIVE RESOLUTION 55. Read. Considered.

LR 55 was adopted with 25 ayes, 0 nays, and 24 not voting.

LEGISLATIVE RESOLUTION 56. Read. Considered.

LR 56 was adopted with 25 ayes, 0 nays, and 24 not voting.

LEGISLATIVE RESOLUTION 57. Read. Considered.

LR 57 was adopted with 25 ayes, 0 nays, and 24 not voting.

LEGISLATIVE RESOLUTION 58. Read. Considered.

LR 58 was adopted with 25 ayes, 0 nays, and 24 not voting.

LEGISLATIVE RESOLUTION 59. Read. Considered.

LR 59 was adopted with 25 ayes, 0 nays, and 24 not voting.

BILLS ON FINAL READING

The following bills were read and put upon final passage:

LEGISLATIVE BILL 36.

A BILL FOR AN ACT relating to landlord and tenant; to adopt the Disposition of Personal Property Landlord and Tenant Act.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 44:

Abboud	Conway	Horgan	Moore	Schellpeper
Ashford	Crosby	Johnson, L.	Morrissey	Schimek
Baack	Cudaback	Johnson, R.	Nelson	Schmit
Bernard-Stevens	Dierks	Kristensen	Peterson	Schrock
	Elmer	Labedz	Pirsch	Smith
Beutler	Haberman	Lamb	Rasmussen	Wehrbein
Beyer	Hartnett	Landis	Robak	Wesely
Byars	Hefner	Lindsay	Robinson	Will
Chambers	Hillman	Lynch	Rogers	Withem

Voting in the negative, 0.

Present and not voting, 1:

Coordsen

Excused and not voting, 4:

Chizek	Hall	Warner	Wickersham

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 100.

A BILL FOR AN ACT relating to the Local Option Revenue Act; to amend section 77-27,147, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to point of sale as prescribed; to provide an operative date; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 43:

Abboud	Coordsen	Horgan	Morrissey	Schimek
Ashford	Crosby	Johnson, L.	Nelson	Schmit
Baack	Cudaback	Kristensen	Peterson	Schrock
Bernard-Stevens	Dierks	Labedz	Pirsch	Smith
	Elmer	Lamb	Rasmussen	Wehrbein
Beyer	Haberman	Landis	Robak	Wesely
Byars	Hartnett	Lindsay	Robinson	Will
Chambers	Hefner	Lynch	Rogers	Withem
Conway	Hillman	Moore	Schellpeper	

Voting in the negative, 0.

Present and not voting, 2:

Beutler	Johnson, R.

Excused and not voting, 4:

Chizek	Hall	Warner	Wickersham

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

MOTION - Return LB 237 to Select File

Mr. Landis moved to return LB 237 to Select File for his specific amendment, AM0638, found in the Journal on page 1030.

The Landis motion to return prevailed with 37 ayes, 0 nays, 9 present and not voting, and 3 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 237. The Landis specific amendment, AM0638, found in the Journal on page 1030, was adopted with 38 ayes, 0 nays, 9 present and not voting, and 2 excused and not voting.

Advanced to E & R for re-engrossment.

WITHDRAW - Amendment to LB 237

Mr. Lindsay withdrew his pending amendment, AM0610, found in the Journal on page 1049, to LB 237.

MOTION - Return LB 237 to Select File

Messrs. Lindsay and Landis moved to return LB 237 to Select File for the following specific amendment:
AM0790

(Amendments to Final Reading copy)

1. Insert the following new section:

"Sec. 73. That section 44-4830, Revised Statutes Supplement, 1990, as amended by section 80, Legislative Bill 236, Ninety-second Legislature, First Session, 1991, be amended to read as follows:

44-4830. (1) Mutual debts or mutual credits whether arising out of one or more contracts between the insurer and another person in connection with any action or proceeding under the Nebraska Insurers Supervision, Rehabilitation, and Liquidation Act shall be set off and the balance only shall be allowed or paid except as provided in subsections (2) through (4) of this section and in section 44-4833.

(2) No setoff shall be allowed in favor of any person when:

(a) The obligation of the insurer to the person would not at the date of the filing of a petition for liquidation entitle the person to share as a

claimant in the assets of the insurer;

(b) The obligation of the insurer to the person was purchased by or transferred to the person with a view to its being used as a setoff;

(c) The obligation of the insurer is owed to an affiliate of such person or any other entity or association other than the person;

(d) The obligation of the person is owed to an affiliate of the insurer or any other entity or association other than the insurer;

(e) The obligation of the person is to pay an assessment levied against the members or subscribers of the insurer, is to pay a balance upon a subscription to the capital stock of the insurer, or is in any other way in the nature of a capital contribution; or

(f) The obligation between the person and the insurer arises from business which is both ceded to and assumed from the insurer, except that the rehabilitator may, with regard to such business, allow certain setoffs in rehabilitation if he or she finds the allowance of the setoffs appropriate.

(3) The liquidator shall provide persons that assumed business from the insurer with accounting statements identifying debts which are currently due and payable. Such persons may set off against such debts only mutual credits which are currently due and payable by the insurer to such persons for the period covered by the accounting statement.

(4) A person that ceded business to the insurer may set off debts due the insurer against only those mutual credits which the person has paid or which have been allowed in the insurer's delinquency proceeding.

(5) Notwithstanding the provisions of subsections (2) through (4) of this section, a setoff of sums due on obligations in the nature of those set forth in subdivision (2)(f) of this section shall be allowed for those sums accruing from business written if the contracts were entered into, renewed, or extended with the express written approval of the director, commissioner, or equivalent official of the state of domicile of the now-insolvent insurer, when in his or her judgment it was necessary to provide reinsurance in order to prevent or mitigate a threatened impairment or

insolvency of a domiciliary insurer in connection with the exercise of his or her regulatory responsibilities.

(6) The provisions of subsections (2) through (5) of this section shall apply to all contracts entered into, renewed, extended, or amended on or after ~~January~~ July 1, 1992, and to debts or credits arising from any business written after such date pursuant to any contract, including contracts in existence prior to such date, and shall supersede any agreements or contractual provisions which might be construed to enlarge the setoff rights of any person under any contract with the insurer. For purposes of this subsection, any change in the terms of or consideration for any such contract shall be deemed an amendment of the contract.".

2. On page 1, line 6, strike the first "and"; in line 7 after "1990" insert ", and section 44-4830, Revised Statutes Supplement, 1990, as amended by section 80, Legislative Bill 236, Ninety-second Legislature, First Session, 1991".

3. On page 2, line 4, after the first semicolon insert "to change the applicability date of certain setoff provisions;".

4. On page 79, line 10, strike the first "and"; and in line 11 after the last comma insert "and section 44-4830, Revised Statutes Supplement, 1990, as amended by section 80, Legislative Bill 236, Ninety-second Legislature, First Session, 1991,".

5. Renumber the remaining section accordingly.

The Lindsay-Landis motion to return prevailed with 35 ayes, 0 nays, 12 present and not voting, and 2 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 237. The Lindsay-Landis specific amendment, AM0790, found in this day's Journal, was adopted with 33 ayes, 0 nays, 14 present and not voting, and 2 excused and not voting.

Advanced to E & R for re-engrossment.

BILLS ON FINAL READING

The following bills were read and put upon final passage:

LEGISLATIVE BILL 313.

A BILL FOR AN ACT relating to military memorials; to amend section 55-101, Reissue Revised Statutes of Nebraska, 1943; to provide duties related to military ceremonies and honors; to authorize the display of POW/MIA flags; to harmonize provisions; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 43:

Abboud	Crosby	Horgan	Morrissey	Schmit
Ashford	Cudaback	Johnson, L.	Nelson	Schrock
Baack	Dierks	Johnson, R.	Peterson	Smith
Bernard-Stevens	Elmer	Kristensen	Pirsch	Wehrbein
	Haberman	Labedz	Rasmussen	Wesely
Beutler	Hall	Lamb	Robak	Wickersham
Byars	Hartnett	Landis	Robinson	Will
Conway	Hefner	Lindsay	Rogers	Withem
Coordsen	Hillman	Lynch	Schellpeper	

Voting in the negative, 1:

Chambers

Present and not voting, 3:

Beyer Moore Schimek

Excused and not voting, 2:

Chizek Warner

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 330.

A BILL FOR AN ACT relating to cities and villages; to amend section 17-563, Reissue Revised Statutes of Nebraska, 1943, and

section 16-230, Revised Statutes Supplement, 1990; to change provisions relating to the removal of weeds and litter in cities of the first and second classes and villages; to provide penalties; to define terms; to harmonize provisions; and to repeal the original sections, and also section 17-563.01, Reissue Revised Statutes of Nebraska, 1943.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 41:

Abboud	Cudaback	Johnson, L.	Morrissey	Schellpeper
Baack	Dierks	Kristensen	Nelson	Schimek
Bernard-Stevens	Elmer	Labedz	Peterson	Schrock
	Haberman	Lamb	Pirsch	Wehrbein
Beyer	Hall	Landis	Rasmussen	Wesely
Chambers	Hartnett	Lindsay	Robak	Wickersham
Conway	Hefner	Lynch	Robinson	Will
Coordsen	Hillman	Moore	Rogers	Withem
Crosby	Horgan			

Voting in the negative, 2:

Schmit Smith

Present and not voting, 4:

Ashford Beutler Byars Johnson, R.

Excused and not voting, 2:

Chizek Warner

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 354. With Emergency.

A BILL FOR AN ACT relating to the Nebraska Liquor Control Act; to amend section 53-179, Reissue Revised Statutes of Nebraska, 1943; to change a provision relating to the retail sale of alcoholic liquor

during certain hours as prescribed; to repeal the original section; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 26:

Abboud	Elmer	Johnson, R.	Morrissey	Schellpeper
Ashford	Haberman	Kristensen	Pirsch	Schmit
Baack	Hall	Labedz	Rasmussen	Wickersham
Bernard-Stevens	Hartnett	Lindsay	Robak	Will
Conway	Hillman	Lynch	Robinson	Withem
	Horgan			

Voting in the negative, 16:

Beutler	Crosby	Johnson, L.	Nelson	Smith
Beyer	Dierks	Lamb	Peterson	Wehrbein
Chambers	Hefner	Landis	Schrock	Wesely
Coordsen				

Present and not voting, 5:

Byars	Cudaback	Moore	Rogers	Schimek

Excused and not voting, 2:

Chizek	Warner

Having failed to receive a constitutional two-thirds majority voting in the affirmative, the bill failed to pass with the emergency clause attached. The question is, "Shall the bill pass with the emergency clause stricken?"

Voting in the affirmative, 26:

Abboud	Elmer	Johnson, R.	Morrissey	Schellpeper
Ashford	Haberman	Kristensen	Pirsch	Schmit
Baack	Hall	Labedz	Rasmussen	Wickersham
Bernard-Stevens	Hartnett	Lindsay	Robak	Will
Conway	Hillman	Lynch	Robinson	Withem
	Horgan			

Voting in the negative, 19:

Beutler	Coordsen	Johnson, L.	Nelson	Smith
Beyer	Crosby	Lamb	Peterson	Wehrbein
Byars	Dierks	Landis	Schimek	Wesely
Chambers	Hefner	Moore	Schrock	

Present and not voting, 2:

Cudaback Rogers

Excused and not voting, 2:

Chizek Warner

A constitutional majority having voted in the affirmative, the bill was declared passed with the emergency clause stricken.

UNANIMOUS CONSENT - Member Excused

Mr. Lindsay asked unanimous consent to be excused until he returns. No objections. So ordered.

BILL ON FINAL READING

The following bill was read and put upon final passage:

LEGISLATIVE BILL 837. With Emergency.

A BILL FOR AN ACT relating to low-level radioactive waste; to amend sections 81-1578 and 81-1599.02, Revised Statutes Supplement, 1990, and Laws 1983, LB 200, section 1; to restrict access to a facility under the Low-Level Radioactive Waste Disposal Act as prescribed; to amend the Central Interstate Low-Level Radioactive Waste Compact regarding definitions, commission membership, fees, liability, open meetings, and public records; to harmonize provisions; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 45:

Abboud	Coordsen	Hillman	Moore	Schimek
Ashford	Crosby	Horgan	Morrissey	Schmit
Baack	Cudaback	Johnson, L.	Nelson	Schrock
Bernard-Stevens	Dierks	Johnson, R.	Pirsch	Smith
Beutler	Elmer	Kristensen	Rasmussen	Wehrbein
Beyer	Haberman	Labedz	Robak	Wesely
Byars	Hall	Lamb	Robinson	Wickersham
Chambers	Hartnett	Landis	Rogers	Will
Conway	Hefner	Lynch	Schellpeper	Withem

Voting in the negative, 0.

Present and not voting, 1:

Peterson

Excused and not voting, 3:

Chizek Lindsay Warner

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

UNANIMOUS CONSENT - Member Excused

Mr. Schmit asked unanimous consent to be excused until he returns. No objections. So ordered.

SELECT COMMITTEE REPORT
Enrollment and Review

Correctly Enrolled

The following bill were correctly enrolled: 354.

(Signed) Eric Will, Chairperson

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the attached report on Governor appointments.

General Affairs
Jean Sidwell - Nebraska Arts Council

Judiciary
Ronald L. Bartee - Nebraska Board of Parole

(Signed) Jerome Warner, Chairperson
Legislative Council
Executive Board

ANNOUNCEMENTS

Mr. Abboud designates LB 227 as his priority bill.

Mr. Lindsay designates LB 186 as his priority bill.

Mr. Beyer designates LB 291 as his priority bill.

Mr. R. Johnson designates LB 827 as his priority bill.

Ms. Schimek designates LB 256 as her priority bill.

Mr. Elmer designates LB 748 as his priority bill.

Mr. Coordsen designates LB 170 as his priority bill.

Mr. Will designates LB 849 as his priority bill.

Mr. Morrissey designates LB 528 as his priority bill.

RESOLUTION

LEGISLATIVE RESOLUTION 60. Introduced by Moore, 24.

WHEREAS, the Concordia College Bulldogs mens basketball team, through teamwork, outstanding athletic ability, and hard work, achieved a record of twenty-three wins and eleven losses; and

WHEREAS, the achievements of the Bulldogs in the 1990-91 basketball season led to their first ever appearance in the NAIA national basketball tournament in Kansas City; and

WHEREAS, at the NAIA tournament, the Bulldogs came within three points of defeating the second seeded team; and

WHEREAS, the achievements of Coach Grant Schmidt, his assistant coaches, and all members of the Concordia College Bulldogs mens' basketball team have set an outstanding example for the youth of this state; and

WHEREAS, the collective athletic abilities, accomplishments, and dedication of the coaches and players should be commended and are deserving of special recognition.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature commends and applauds the Concordia College Bulldogs mens' basketball team for its outstanding effort and achievements this season.

2. That a copy of this resolution be sent to Coach Grant Schmidt and the Concordia College Bulldogs mens' basketball team in recognition of their accomplishments.

3. That a copy of this resolution be sent to Concordia College, in care of Dean Richard A. Jostes, in recognition of this achievement.

Laid over.

UNANIMOUS CONSENT - Print in Journal

Mr. Baack asked unanimous consent to print the following amendment to LB 207 in the Journal. No objections. So ordered.

AM0616

1. Insert the following new sections:

"Sec. 2. That section 79-1103.05, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-1103.05. (1) When application is made in writing by the parent or guardian of a pupil subject to the provisions of this section, the board of education of any Class VI school district ~~of the sixth class~~ maintaining an accredited high school may pay the regular high school tuition or such portion thereof as may be agreed upon by the respective governing bodies for any pupil residing in such school district and attending ~~an accredited or approved high school in this state outside such school district~~ a school district outside this state when such high school ~~shall be~~ is

located at least ten miles closer to the place of residence of such pupil than the school maintained by such school district and when, in the opinion of the board of education, the best interest of such pupil or such school district may so require. ~~When the school attended is outside this state, the board of education may pay the regular high school tuition or such portion thereof as may be agreed upon by the respective governing bodies.~~

(2) Any parent or guardian of such student who is aggrieved by a decision of the board of education may appeal such decision to the State Board of Education. If the State Board of Education determines that it would be in the best interest of such student to attend a school outside the State of Nebraska, fifty percent of the high school tuition for such student shall be paid by the State Department of Education from funds budgeted and appropriated for such purpose. Such funds shall not exceed five thousand three hundred seventy-five dollars. In the event that appropriated funds are insufficient to provide fifty percent of the high school tuition as required under the provisions of this section, the appropriated funds shall be prorated among the students who qualify under this section.

Sec. 8. Sections 2 and 9 of this act shall become operative on July 1, 1993. The other sections of this act shall become operative on their effective date.

Sec. 9. That original section 79-1103.05, Reissue Revised Statutes of Nebraska, 1943, is repealed.".

2. On page 7, line 20, strike "1993-94" and insert "1991-92".

3. On page 9, line 10, after "district" insert "and who has been enrolled in his or her original resident school district for the immediately preceding two years".

4. In the Standing Committee amendments, AM0349:

a. On page 2, line 23, strike "; or" and insert an underscored comma; and

b. On page 3, line 1, strike "has affiliated" and insert "affiliates"; in line 2 after "district" insert "as defined in section 79-101.02 after the operative date of this section" and strike "79-402.04"

and insert "79-402.16"; in line 3 after "Act" insert ", or (e) any student in a Class I district that becomes part of a Class VI district after the operative date of this section pursuant to sections 79-402 to 79-402.16 or the Reorganization of School Districts Act who is in a grade level offered by the Class VI district,"; and in lines 6, 11, and 16 after "affiliation" insert "with a high school district as defined in section 79-101.02 or becoming part of a Class VI district".

5. Renumber the remaining sections accordingly.

Mr. Beutler asked unanimous consent to print the following amendment to LB 204 in the Journal. No objections. So ordered.

AM0411

1. On page 8, line 10, after "charge" insert "reasonable"; and in line 11 strike "as deemed appropriate" and insert ", not to exceed the actual costs thereof,".

STANDING COMMITTEE REPORT
Banking, Commerce and Insurance

LEGISLATIVE BILL 710. Placed on General File as amended.
Standing Committee amendment to LB 710:
AM0740

1. On page 2, line 7, strike "may" and insert "shall"; and in line 11 after "Act" insert ". A foreign professional corporation shall not transact business in this state if the laws of the jurisdiction under which such foreign professional corporation is incorporated do not allow for a professional corporation incorporated under the laws of this state to transact business in such jurisdiction".

(Signed) David Landis, Chairperson

SELECT COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 159. Placed on Select File as amended.
E & R amendment to LB 159:
AM5082

1. On page 2, line 3, strike "act", show as stricken, and insert "code".

2. On page 11, line 6, strike "such", show as stricken, and insert "those"; in line 11 after the last quotation mark insert an underscored comma; in line 12 strike "is" and show as stricken and after "event" insert "is"; and in line 15 strike "to be" and show as stricken.

3. On page 25, line 12, after "60-104" insert ", Reissue Revised Statutes of Nebraska, 1943"; in line 15 after "state" insert on underscored comma; and in line 17 strike "article" and insert "act".

4. On page 79, strike beginning with "this" in line 13 through "effective" in line 14 and insert "the effective date of this act"; and strike beginning with "time" in line 22 through "default" in line 23 and insert "times specified in sections 2A-519 and 2A-528".

5. On page 95, line 24, after "expenses" insert an underscored comma.

6. On page 110, line 2, after "or" insert "under article".

7. On page 111, line 2, after "Sales" insert "or the article on Leases" and strike the new matter.

LEGISLATIVE BILL 160. Placed on Select File.

LEGISLATIVE BILL 161. Placed on Select File as amended.
E & R amendment to LB 161:
AM5090

1. On page 3, strike beginning with "this" in line 5 through the underscored comma in line 6, show the old matter as stricken, and insert "the Uniform Commercial Code"; and in line 22 strike "this act", show as stricken, and insert "the code", and strike the new matter.

2. On page 3, lines 8 and 19; page 9, lines 3 and 4; and page 10, lines 11 and 12; strike beginning with "this" through "1-101", show the old matter as stricken, and insert "the code".

3. On page 5, line 20, strike beginning with "this" through the second underscored comma, show the old matter as stricken, and insert "the code".

4. On page 7, strike beginning with "this" in line 3 through the comma in line 4, show the old matter

as stricken, and insert "the code"; and in line 11 after the last quotation mark insert an underscored comma.

5. On page 17, strike beginning with "this" in line 7 through the comma in line 8, show the old matter as stricken, and insert "the Uniform Commercial Code"; and in line 15 strike "shall be known and".

6. On page 78, line 10, strike "subsection" and insert "subsections".

7. On page 91, line 20, strike "subsections" and insert "subsection".

8. On page 93, line 1, strike "3-414(c)" and insert "3-414(d)".

9. On page 97, line 9, strike "that" and insert "than".

10. On page 105, line 20, after "bank" insert an underscored comma.

11. On page 106, line 9, after "items" insert an underscored comma.

12. On page 110, line 6, strike the period and insert an underscored semicolon.

13. On page 114, line 10, strike "Uniform Commercial Code" and insert "code".

14. On page 144, line 24, after "money" insert an underscored comma.

15. On page 166, line 2, insert paragraphing before the stricken matter.

16. On page 167, line 15, after "default" insert an underscored comma.

17. On page 171, lines 6 and 7, after "he" insert "or she"; in line 9 strike "his" and show as stricken; and in line 19 after "limitation" insert an underscored comma.

LEGISLATIVE BILL 162. Placed on Select File as amended.
E & R amendment to LB 162:
AM5083

1. On page 2, line 3, strike "act", show as stricken, and insert "code".

2. On page 4, line 21, strike "1-205" and insert "1-105".

LEGISLATIVE BILL 429. Placed on Select File.
LEGISLATIVE BILL 429A. Placed on Select File.

LEGISLATIVE BILL 500. Placed on Select File as amended.
E & R amendment to LB 500:
AM5084
1. On page 2, line 3, strike the comma.

LEGISLATIVE BILL 716. Placed on Select File as amended.
E & R amendment to LB 716:
AM5085
1. On page 1, strike beginning with "technical" in line 1 through line 5 and insert "the Low-Level Radioactive Waste Disposal Act; to amend sections 81-1578 and 81-15,101.01, Revised Statutes Supplement, 1990, and Laws 1983, LB 200, section 3; to transfer a law; to change a section reference; to harmonize provisions; to repeal the original sections; and to declare an emergency.".

(Signed) Eric Will, Chairperson

GENERAL FILE

LEGISLATIVE BILL 789. Considered.

Mr. Lynch renewed his pending amendment, AM0729, found in the Journal on page 1071, to the pending Standing Committee amendment, AM0614, found in the Journal on page 994 and considered on page 1069.

MR. MORRISSEY PRESIDING

Mr. Lynch moved for a call of the house. The motion prevailed with 15 ayes, 0 nays, and 34 not voting.

Mr. Lynch requested a roll call vote on his amendment.

Voting in the affirmative, 14:

Beyer	Dierks	Johnson, R.	Lynch	Smith
Byars	Hefner	Labedz	Peterson	Wehrbein
Crosby	Johnson, L.	Lamb	Schellpeper	

Voting in the negative, 25:

Abboud	Ashford	Baack

Bernard-Stevens	Hartnett	Lindsay	Rasmussen	Schimek
Chambers	Hillman	Moore	Robak	Wesely
Conway	Horgan	Morrissey	Robinson	Will
Hall	Kristensen	Nelson	Rogers	Withem
	Landis	Pirsch		

Present and not voting, 7:

Beutler	Cudaback	Haberman	Schrock	Wickersham
Coordsen	Elmer			

Excused and not voting, 3:

Chizek	Schmit	Warner

The Lynch amendment lost with 14 ayes, 25 nays, 7 present and not voting, and 3 excused and not voting.

SPEAKER BAACK PRESIDING

The Chair declared the call raised.

Mr. Coordsen and Mrs. Pirsch asked unanimous consent to be excused until they return. No objections. So ordered.

The Standing Committee amendment was adopted with 27 ayes, 0 nays, 17 present and not voting, and 5 excused and not voting.

Advanced to E & R for review with 28 ayes, 3 nays, 13 present and not voting, and 5 excused and not voting.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following bills: 36, 100, 313, 330, 354, and 837.

RESOLUTION

LEGISLATIVE RESOLUTION 61. Introduced by Byars, 30.

WHEREAS, farming has become steadily more complex, requiring the farmer to be an agriculturalist, a conservationist, and a business expert; and

WHEREAS, Joseph and Debbie Thimm of Beatrice, Nebraska, received the Nebraska Outstanding Young Farmer Award and were recognized as one of the four National Outstanding Young Farmers for 1991; and

WHEREAS, Joseph and Debbie Thimm have been very active in the Nebraska Farm and Business Association, the Mennonite Church, and their community; and

WHEREAS, the last six years there have been four Nebraskans recognized as one of four National Outstanding Young Farmers; and

WHEREAS, the Outstanding Young Farmer Program has been conducted in the United States for the past thirty-five years; and

WHEREAS, the Nebraska Jaycees seek to promote a better understanding between urban and rural America by honoring those young farmers who have made significant contributions to agriculture and to their community, state, and nation.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature commends the Nebraska Jaycees and Joseph and Debbie Thimm for receiving national recognition in the Outstanding Young Farmer Program.

2. That the Clerk of the Legislature send a copy of the resolution to Joseph and Debbie Thimm of Beatrice, Nebraska, and Brian Duncan of Omaha, Nebraska.

Laid over.

UNANIMOUS CONSENT - Print in Journal

Mr. Withem asked unanimous consent to print the following amendment to LB 663 in the Journal. No objections. So ordered.

(Amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM0742.)

Mr. Wesely asked unanimous consent to print the following amendment to LB 703 in the Journal. No objections. So ordered.

AM0770

1. Insert the following new sections:

"Section 1. This act shall be known and may be cited as the Critical Incident Stress Debriefing Act.

Sec. 2. For purposes of the Critical Incident Stress Debriefing Act:

(1) Committee shall mean the Interagency Management Committee;

(2) Council shall mean the Critical Incident Stress Debriefing Council;

(3) Critical incident shall mean a traumatic or crisis situation;

(4) Critical incident stress shall mean a strong emotional, cognitive, or physical reaction which has the potential to interfere with normal functioning; including physical and emotional illness, loss of interest in the job, personality changes, marital discord, and loss of ability to function;

(5) Emergency service agency shall mean any law enforcement agency, fire department, ambulance service, dispatcher, rescue service, first responder service, or other entity which provides emergency response services;

(6) Emergency service personnel shall include law enforcement personnel, firefighters, and emergency medical services personnel; and

(7) Program shall mean the Critical Incident Stress Debriefing Program.

Sec. 3. The Legislature hereby finds that emergency service personnel are potentially placed in a high-risk situation every time they are called upon to respond to an emergency since the extent of the emergency cannot be anticipated and the eventual outcome cannot be predicted. Since the services of emergency service personnel affect the public health, safety, and welfare, the Legislature declares that a critical incident stress debriefing program designed to reduce critical incident stress experienced by such personnel would be in the public interest and would assist such personnel with the demands which occur in their work.

Sec. 4. There is hereby created the Critical Incident Stress Debriefing Program. The focus of the program shall be to minimize the harmful effects of critical incident stress for emergency service personnel, with a high priority on confidentiality and respect for the individuals involved. The program shall:

(1) Provide a debriefing session to emergency service personnel who appropriately request such assistance in an effort to address critical incident

stress;

(2) Assist in providing the emotional and educational support necessary to ensure optimal functioning of emergency service personnel;

(3) Conduct preincident educational programs to acquaint emergency service personnel with stress management techniques;

(4) Promote interagency cooperation; and

(5) Provide an organized statewide response to the emotional needs of emergency service personnel impacted by critical incidents.

Sec. 5. There is hereby created the Critical Incident Stress Debriefing Council. The council shall be composed of the Director of Health, the Director of Public Institutions, the State Fire Marshal, and the Superintendent of Law Enforcement and Public Safety. The council shall specify the organizational and operational goals for the program and shall provide overall policy direction for the program.

Sec. 6. There is hereby created the Interagency Management Committee. Each member of the council shall designate a representative of his or her agency to be a member of the committee. The committee shall be responsible for:

(1) Planning and budget development;

(2) Program development and evaluation;

(3) Coordination of program activities and emergency response;

(4) Providing a mechanism for quality assurance which may include certification of critical incident stress debriefing team members;

(5) Identifying critical incident stress debriefing regions;

(6) Developing regulations and standards;

(7) Arranging for and supporting training of critical incident stress debriefing teams; and

(8) Back-up to regional critical incident stress debriefing teams.

Sec. 7. The Department of Health shall be the lead agency for the program. The department shall:

(1) Provide office support to program activities;

(2) Provide necessary equipment for the program and participants;

(3) Provide staff support to the council;

(4) Adopt and promulgate rules and regulations to implement the program;

(5) Recruit emergency medical workers to be trained as critical incident stress debriefing peers;

(6) Participate in the training and continuing education of such peers and mental health professionals; and

(7) Appoint a director for the program who shall be an employee of the department and shall be the chairperson of the committee.

Sec. 8. (1) The Department of Public Institutions shall participate in the council and committee, recruit mental health workers for each critical incident stress debriefing region, and participate in the training and continuing education activities of critical incident stress debriefing peers and mental health professionals.

(2) The Nebraska State Patrol shall participate in the council and committee, receive all initial requests for debriefings, coordinate transportation requirements for critical incident stress debriefing team members, recruit members of the law enforcement profession in each region to be trained as critical incident stress debriefing peers, participate in the training and continuing education activities of critical incident stress debriefing peers and mental health professionals, and appoint a member of the patrol to each regional management committee.

(3) The State Fire Marshal shall participate in the council and committee, cooperate in providing transportation for critical incident stress debriefing teams, recruit firefighters to be trained as critical incident stress debriefing peers in each critical incident stress debriefing region, participate in the training and continuing education activities of critical incident stress debriefing peers and mental health professionals, and appoint an individual who is employed by the State Fire Marshal to be on each regional management committee.

Sec. 9. The council shall appoint a statewide clinical director. The statewide clinical director shall be a member of the committee and, working with the committee, shall supervise and evaluate the professional

and peer support team members, including the regional clinical directors. The statewide clinical director may conduct critical incident stress debriefing training and continuing education activities.

Sec. 10. Each critical incident stress debriefing region shall have a regional management committee composed of representatives of the Department of Health, the State Fire Marshal, and the Nebraska State Patrol and a regional clinical director. The regional clinical director shall have a graduate degree in a mental health discipline. The regional management committee shall be responsible for the implementation and coordination of the program in the region according to the specifications developed by the council and Interagency Management Committee. The regional management committee shall develop critical incident stress debriefing teams to facilitate the debriefing process.

Sec. 11. No individual who provides gratuitous assistance to emergency service personnel as a member of the statewide critical incident stress debriefing team in accordance with the Critical Incident Stress Debriefing Act and the rules and regulations shall be held liable for any civil damages as a result of any act of commission or omission arising out of and in the course of rendering such assistance in good faith or any act or failure to act to provide or arrange for mental health treatment or care for emergency service personnel.".

STANDING COMMITTEE REPORTS
Natural Resources

LEGISLATIVE BILL 446. Placed on General File.

LEGISLATIVE BILL 748. Placed on General File as amended.
Standing Committee amendment to LB 748:
AM0529

1. On page 2, line 3, after "accepts" insert "and approves"; in line 5 after "follows" insert "only"; in line 6 strike "the" and insert "all of the other"; and in line 15 strike "14" and insert "12".

LEGISLATIVE BILL 813. Placed on General File as amended.

(Standing Committee amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM0749.)

(Signed) Rod Johnson, Chairperson

UNANIMOUS CONSENT - Member Excused

Mr. Haberman asked unanimous consent to be excused until he returns. No objections. So ordered.

GENERAL FILE

LEGISLATIVE BILL 732. Title read. Considered.

Mr. Landis asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Wickersham offered the following amendment:
AM0313

1. On page 9, strike beginning with "be" in line 5 through the period in line 9 and insert "have its principal administrative office in Lincoln, Nebraska. The Court of Appeals shall hear arguments at sites throughout the state by designation of the Chief Judge of the Court of Appeals. The Chief Judge shall give primary consideration to the convenience of the litigants and counsel when designating sites to hear arguments.".

The Wickersham amendment was adopted with 25 ayes, 0 nays, 18 present and not voting, and 6 excused and not voting.

Mr. Chambers offered the following amendment:
FA53

Page 7, line 3:
After "imposed", insert ", cases involving a Class IB felony"

Messrs. Ashford and Robinson asked unanimous consent to be excused. No objections. So ordered.

Pending.

UNANIMOUS CONSENT - Print in Journal

Mr. Wickersham asked unanimous consent to print the following amendment to LB 698 in the Journal. No objections. So ordered.

AM0772
(Amendments to Standing Committee amendments, AM0488)

1. On page 1, line 1, strike "48" and insert "7, 48,".

2. On page 8, line 18, strike "55" and insert "54".

3. On page 9, line 20, strike "55" and insert "54".

4. Strike amendments 6, 7, and 14 and renumber the remaining amendments accordingly.

5. On page 14, line 16, after the first comma insert "line 4, strike '79-402,'; in" and strike the second comma.

6. Renumber the remaining sections accordingly.

Mr. Hefner asked unanimous consent to print the following amendment to LB 199 in the Journal. No objections. So ordered.

AM0773

1. Insert the following new section:

"Sec. 2. The observances provided for in sections 84-104.05, 84-104.08, 84-107, 84-108, and section 1 of this act shall not include provisions for such days to be declared paid holidays pursuant to subsection (3) of section 84-1001.".

ANNOUNCEMENTS

Mr. Dierks designates LB 72 as his priority bill.

The General Affairs Committee designates LB 718 and LR 9CA as its priority bill and resolution.

Mrs. Smith designates LR 24CA as her priority resolution.

Mr. Wesely designates LB 830 as his priority bill.

The Transportation Committee designates LB 461 and LB 337 as its priority bills.

Mr. Wehrbein designates LB 320 as his priority bill.

The Government, Military and Veterans Affairs Committee designates LB 424 and LB 228 as its priority bills.

Mr. Chizek designates LB 181 as his priority bill.

The Judiciary Committee designates LB 437 and LB 523 as its priority bills.

Mr. Beutler designates LB 714 as his priority bill.

Mrs. Pirsch designates LB 742 as her priority bill.

Mr. Landis designates LB 90 as his priority bill.

The Banking, Commerce and Insurance Committee designates LB 394 and LB 537 as its priority bills.

STANDING COMMITTEE REPORT
Natural Resources

The Committee on Natural Resources desires to report favorably upon the appointment listed below. The Committee suggests the appointment be confirmed by the Legislature and suggests a record vote.

Lou Lamberty - Environmental Control Council

VOTE: Aye: Senators Beutler, Elmer, Horgan, R. Johnson, Lamb, Morrissey, and Schmit. Absent: Senator Hartnett.

(Signed) Rod Johnson, Chairperson

PRESENTED TO THE GOVERNOR

Presented to the Governor on March 18, 1991, at 11:37 a.m., were the following bills: 36, 100, 313, 330, 354, and 837.

(Signed) Pam Moravec, Enrolling Clerk

ANNOUNCEMENTS

Mr. Moore designates LB 503 as his priority bill.

Mrs. Rasmussen designates LB 701 as her priority bill.

Mr. Hefner designates LR 10 as his priority resolution.

Mr. Hartnett designates LB 773 as his priority bill.

Mr. Schrock designates LB 754 as his priority bill.

The Urban Affairs Committee designates LB 764 as its priority bill.

The Health and Human Services Committee designates LB 836 and LB 678 as its priority bills.

The Revenue Committee designates LB 662 and LB 829 as its priority bills.

Mr. Schmit designates LB 470 as his priority bill.

The Natural Resources Committee designates LB 406 and LB 338 as its priority bills.

The Agriculture Committee designates LB 312 as its priority bill.

UNANIMOUS CONSENT - Add Co-Introducer

Mr. Schmit asked unanimous consent to have his name added as co-introducer to LR 10. No objections. So ordered.

UNANIMOUS CONSENT - Withdraw Co-Introducer

Mrs. Pirsch asked unanimous consent to have her name withdrawn as co-introducer to LB 789. No objections. So ordered.

VISITORS

Visitors to the Chamber were 45 students from Wallace School in Adams County; nine seniors and sponsor from Crete High School; Lisa Zierke from Pierce and Hildegard Richter from East Germany; Mary Minino and Pat Kyker from Omaha; 120 sophomores, juniors, and sponsor from Nebraska Farm Bureau Citizenship, Safety Youth Seminar from across the state; and a group from Nebraska Council of Youth for the Annual Legislative Government Day.

The Doctor of the Day was Dr. Denise Sammons from Lincoln.

ADJOURNMENT

At 11:59 a.m., on a motion by Mr. Wehrbein, the Legislature adjourned until 9:00 a.m., Tuesday, March 19, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

FORTY-FIFTH DAY - MARCH 19, 1991

LEGISLATIVE JOURNAL

FORTY-FIFTH DAY - MARCH 19, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

FORTY-FIFTH DAY

Legislative Chamber, Lincoln, Nebraska
Tuesday, March 19, 1991

Pursuant to adjournment, the Legislature met at 9:00 a.m., Speaker Baack presiding.

PRAYER

The prayer was offered by Rev. Harland Johnson, Chaplain Coordinator.

PRESENTATION

Mrs. Crosby presented to the Legislature a brief speech on "National Women in History Month."

ROLL CALL

The roll was called and all members were present except Mrs. Rasmussen who was excused; and Messrs. Abboud, Bernard-Stevens, Conway, Haberman, Hall, Lamb, Lindsay, Warner, Wickersham, Mmes. Labedz, Smith, and Ms. Schimek who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Forty-Fourth Day was approved.

MR. MORRISSEY PRESIDING

SELECT COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 190. Placed on Select File.

LEGISLATIVE BILL 367. Placed on Select File as amended.
E & R amendment to LB 367:
AM5094

1. On page 2, line 13, insert paragraphing after the period.

2. On page 3, strike beginning with "Within" in line 3 through "(2)" in line 8 and show the old matter as stricken; in line 8 after "appointed" insert "to the board"; strike beginning with "to" in line 9 through "board" in line 10 and show as stricken; strike beginning with "Director" in line 13 through "existing" in line 15 and show as stricken; in line 19 strike "(3)" and insert "(2)" and strike the comma; in line 22 strike beginning with "subsections" through "of"; and in line 24 after "year" insert an underscored comma.

3. On page 4, line 5 strike "upon" and insert "on"; and in line 11 after "appointed" insert "to the board".

4. Strike beginning with "Within" on page 5, line 25, through "the" on page 6, line 2, show as stricken, and insert "The".

LEGISLATIVE BILL 685. Placed on Select File as amended.
E & R amendment to LB 685:
AM5086

1. On page 2, line 14, after "nonvoting" insert an underscored comma.

2. On page 5, line 4, after "member" insert "of the board".

LEGISLATIVE BILL 368. Placed on Select File as amended.
E & R amendment to LB 368:
AM5089

1. On page 2, line 6, after "members" insert an underscored comma; in line 8 after "Legislature" insert an underscored comma and strike "who shall serve"; and in line 9 strike "of the council".

LEGISLATIVE BILL 51. Placed on Select File.
LEGISLATIVE BILL 51A. Placed on Select File.

LEGISLATIVE BILL 403. Placed on Select File as amended.
E & R amendment to LB 403:
AM5087

1. On page 1, line 4, strike "permit" and insert "certificate of competency".

2. On page 2, line 13, eliminate the paragraphing.

LEGISLATIVE BILL 772. Placed on Select File as amended.
E & R amendment to LB 772:
AM5091

1. Insert the following new section:

"Sec. 7. That section 46-2,116.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

46-2,116.02. If the Nebraska Natural Resources Commission determines that instream flow needs can be met through the use of stored water in new storage facilities, the applicant may request financial assistance for the construction of necessary storage facilities from the Nebraska Resources Development ~~Fund or the Nebraska Water Management~~ Fund. The cost of the project may be shared with any other users of the stored water.".

2. On page 1, line 2, strike "and"; in line 3 after the second comma insert "and 46-2,116.02,"; in line 5 strike "; to eliminate" and insert ", the Nebraska Water Management Fund, provisions relating to state goals for water resource use, and"; in line 7 strike "a fund" and insert "funds"; in line 9, strike "to 2-15,120" and insert ", 2-15,109 to 2-15,117"; and in line 11 after "1943" insert ", and section 2-15,108, Revised Statutes Supplement, 1990".

3. On page 4, line 7, strike the first "with" and show as stricken.

4. On page 9, line 7 strike "and" and after the last comma insert "and 46-2,116.02,"; in line 9 strike "to 2-15,120" and insert ", 2-15,109 to 2-15,117"; and in line 10 after the second comma insert "and section 2-15,108, Revised Statutes Supplement, 1990,".

5. Renumber the remaining section accordingly.

LEGISLATIVE BILL 408. Placed on Select File.

LEGISLATIVE BILL 766. Placed on Select File as amended.
E & R amendment to LB 766:
AM5093

1. On page 2, line 5, after "responsible" insert a comma and after "private" insert a comma; in line 6 strike the comma and insert "in order"; in line 10 strike "its" and strike the period and insert "; and"; and in line 24 after "Nebraska" insert a comma.

2. On page 3, line 5, after "responsible" insert a comma; in line 6 after "private" insert a comma and after "nonprofit" insert a comma; and in line 14 strike the comma.

3. On page 4, line 4, after "at" insert "the".

LEGISLATIVE BILL 639. Placed on Select File as amended.
E & R amendment to LB 639:
AM5092

1. On page 2, line 4, strike "geographic" and insert "geographically".

2. On page 5, line 17, strike "and"; and in line 23 after the second "of" insert "an".

LEGISLATIVE BILL 350. Placed on Select File as amended.
E & R amendment to LB 350:
AM5088

1. On page 1, line 8, after "administrator" insert a semicolon.

LEGISLATIVE BILL 193. Placed on Select File.

Correctly Engrossed

The following bills were correctly engrossed: 133, 276, 277, 278, 385, 393, 420, 420A, 455, and 488.

(Signed) Eric Will, Chairperson

Enrollment and Review Change to LB 133

The following changes, required to be reported for publication in the Journal, have been made:

ER7021

1. On page 1, line 2, "section" has been struck and "sections 86-1002 and" inserted; in line 3 "to redefine terms;" has been inserted after the semicolon; and in line 6 "section" has been struck and "sections" inserted.

Enrollment and Review Change to LB 278

The following changes, required to be reported for publication in the Journal, have been made:

ER7022

1. On page 3, lines 19 and 20, the stricken comma has been reinstated.

Enrollment and Review Change to LB 385

The following changes, required to be reported for publication in the Journal, have been made:

ER7018

1. On page 3, line 12; and page 5, line 20, paragraphing has been inserted after the period.

Enrollment and Review Change to LB 455

The following changes, required to be reported for publication in the Journal, have been made:

ER7020

1. In the E & R amendment, AM5046, on page 1, the matter beginning with the last "and" in line 3 through "of" in line 4 has been struck.

(Signed) Mary E. Sommermeyer
E & R Attorney

STANDING COMMITTEE REPORTS
General Affairs

LEGISLATIVE RESOLUTION 9CA. Placed on General File.

LEGISLATIVE BILL 473. Placed on General File as amended.
Standing Committee amendment to LB 473:

AM0538

1. On page 4, lines 4 and 10, strike "shall" and insert "may"; in line 14 after "microcomputers"

insert "or any other study of electrical-related material that is approved by the board"; in line 22 after "board" insert "at least ninety days in advance of the course offering"; strike line 23 and insert "approval by the board of the application shall be valid for one calendar year from the date of approval and shall include the following"; and in line 25 after "(a)" insert "Name of the sponsoring organization or school, if any, the address of such organization or school, and the name of the contact person;

(b)".

2. On page 5, line 2, strike "(b)" and insert "(c)"; in line 3 strike "(c) A complete" and insert "(d) A"; in line 5 strike "(d)" and insert "(e)" and strike "exact"; in line 7 strike "(e)" and insert "(f)"; in line 8 strike "(f) A comprehensive," and insert "(g) A"; in line 12 strike "(g)" and insert "(h)"; in line 14 strike "(h)" and insert "(i)"; in line 15 strike "professional education"; in line 17 after the period insert "Any application for approval of the instructor and course offering that is rejected shall be returned to the applicant with specific reasons for such rejection and stating what is needed for approval."; in line 19 strike "may" and insert "shall"; and strike lines 22 through line 25 and insert an underscored period.

3. On page 6, strike beginning with "satisfactory" in line 1 through the period in line 2.

LEGISLATIVE BILL 567. Placed on General File as amended.
Standing Committee amendment to LB 567:
AM0306

1. Insert the following new section:

"Sec. 2. That section 9-235.01, Revised Statutes Supplement, 1990, be amended to read as follows:

9-235.01. (1) An organization licensed to conduct bingo under a Class II license pursuant to section 9-233 shall be required to license a gaming manager. An organization licensed to conduct bingo under a Class I license may license a gaming manager.

(2) No gaming manager licensed under the Nebraska Bingo Act shall be connected with or interested in, directly or indirectly, any person, partnership,

firm, corporation, or other party licensed as a distributor under section 9-235 nor shall any such person hold any other licenses issued under the Nebraska Bingo Act or under any other kind of gaming activity which is authorized or regulated under Chapter 9.".

2. On page 4, line 1, strike "section" and insert "sections" and after "9-233" insert "and 9-235.01"; and in line 2 strike "is" and insert "are".

3. Renumber the remaining sections accordingly.

LEGISLATIVE BILL 581. Placed on General File as amended.
Standing Committee amendment to LB 581:
AM0636

1. Strike the original sections and insert the following new sections:

"Section 1. That section 2-1225, Revised Statutes Supplement, 1990, be amended to read as follows:

2-1225. For purposes of sections 2-1207 and 2-1224 to 2-1229 and sections 2 to 9 of this act, unless the context otherwise requires:

(1) Commission shall mean the State Racing Commission;

(2) Interstate combined wagering pool shall mean a parimutuel pool established in one racing jurisdiction which is combined with comparable parimutuel pools from one or more racing jurisdictions if such pool is established for the purpose of establishing payoff prices in the various racing jurisdictions;

(3) Interstate simulcast shall mean parimutuel wagering at any licensed racetrack within the state on the results of any horserace conducted outside the state;

~~(3)~~ (4) Licensed horserace meeting shall include, but not be limited to, licensed racetracks at which simulcasts or interstate simulcasts are conducted;

~~(4)~~ (5) Operator shall mean any licensee issued a license under sections 2-1201 to 2-1223 operating a simulcast facility in accordance with sections 2-1224 to 2-1229;

~~(5)~~ (6) Receiving track shall mean any track which displays a simulcast which originates from another

track or which conducts interstate simulcasts;

~~(6)~~ (7) Sending track shall mean any track from which a simulcast or interstate simulcast originates;

~~(7)~~ (8) Simulcast shall mean the telecast of live audio and visual signals of any horserace conducted in the state for the purpose of parimutuel wagering;

~~(8)~~ (9) Simulcast facility shall mean a facility within the state which is authorized to display simulcasts for parimutuel wagering purposes under sections 2-1224 to 2-1227 or to conduct interstate simulcasts under sections 2-1228 and 2-1229; and

~~(9)~~ (10) Track shall mean the grounds or enclosures within which horseraces are conducted by licensees authorized to conduct such races in accordance with sections 2-1201 to 2-1223.

Sec. 2. Subject to applicable federal laws, including the federal Interstate Horseracing Act of 1978, the commission may permit a licensee to participate in interstate combined wagering pools, including pools which include international jurisdictions. All provisions of law governing parimutuel betting shall apply to parimutuel betting in interstate combined wagering pools except as otherwise provided in sections 3 to 9 of this act.

Sec. 3. Participation in an interstate combined wagering pool with wagering facilities in one or more other states shall not cause the participating entity to be deemed doing business in any state other than the state in which the entity is physically located.

Sec. 4. With the prior approval of the commission, a licensee who is permitted to accept wagers in this state on horse races conducted at racetracks located outside of this state may combine parimutuel pools in this state with comparable pools at the sending racetrack. Notwithstanding other provisions of law and subject to the approval of the commission, the types of wagering, takeout, distribution of winnings, and rules of racing in effect for parimutuel pools at the sending racetrack shall govern wagers placed in this state and merged into the interstate combined wagering pool. Breakage for interstate combined wagering pools shall be calculated in accordance with the law or rules governing

the sending racetrack and shall be distributed between participating jurisdictions in a manner agreed to between the licensee and the sending racetrack.

Sec. 5. With the prior approval of the commission and concurrence of the sending racetrack, an interstate combined wagering pool may be formed among the licensee and other receiving persons or entities in any states other than the state in which the sending racetrack is located. For such an interstate combined wagering pool, the commission may approve the types of wagering, takeout, distribution of winnings, rules of racing, and calculation of breakage which are different than those which would otherwise be applied in this state but are consistent for all parties to the pool.

Sec. 6. The licensee may deduct from wagers placed in any interstate combined wagering pool any fee to the person or entity conducting the race for the privilege of conducting parimutuel wagering on the race and payment of costs incurred in transmitting the broadcast of the race and participation in the interstate combined wagering pool.

Sec. 7. Provisions of law or contract governing the distribution of shares of the takeout from wagers placed in this state in separate parimutuel pools on races run in another state to this state as parimutuel taxes or to purses in this state shall remain in effect for wagers placed in interstate combined wagering pools, except that (1) if the commission approves an adjustment in the takeout rate, the distribution of the takeout within this state shall be adjusted proportionately to reflect the adjustment in the takeout rate and (2) with the concurrence of the licensee and the organization representing a majority of the horsepersons, the respective share to purses may be modified.

Sec. 8. With the prior approval of the commission, a licensee may permit one or more of its races to be utilized for parimutuel wagering at one or more locations in other states, may transmit audio and visual signals of races the licensee conducts to one or more locations outside the state, and may permit parimutuel pools in other states to be combined with its comparable wagering pools or with wagering pools established by other states. The commission may adopt

and promulgate rules and regulations governing interstate combined wagering pools.

Sec. 9. Parimutuel taxes shall not be imposed upon any amounts wagered in an interstate combined wagering pool other than upon amounts wagered within this state.

Sec. 10. If any section in this act or any part of any section shall be declared invalid or unconstitutional, such declaration shall not affect the validity or constitutionality of the remaining portions thereof.

Sec. 11. That original section 2-1225, Revised Statutes Supplement, 1990, is repealed.".

(Signed) Jacklyn Smith, Chairperson

Government, Military and Veterans Affairs

LEGISLATIVE BILL 109. Indefinitely postponed.
LEGISLATIVE BILL 141. Indefinitely postponed.
LEGISLATIVE BILL 372. Indefinitely postponed.
LEGISLATIVE BILL 645. Indefinitely postponed.

LEGISLATIVE RESOLUTION 3. Indefinitely postponed.

(Signed) Gerald Conway, Chairperson

Education

LEGISLATIVE BILL 223. Placed on General File.

(Signed) Ron Withem, Chairperson

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 663A. Introduced by Withem, 14.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 663, Ninety-second Legislature, First Session, 1991.

UNANIMOUS CONSENT - Print in Journal

Mr. Withem asked unanimous consent to print the following amendment to LB 232 in the Journal. No objections. So ordered.

AM0797

1. On page 4, line 25, strike the new matter.
2. On page 5, line 6, strike "honorarium,".
3. On page 7, line 23, reinstate the stricken matter.

MESSAGES FROM THE GOVERNOR

March 18, 1991

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Madam President and Senators:

This is to inform the honorable members of the Legislature that I have made the following reappointment to the Nebraska Arts Council, requiring legislative approval.

> Appointee: J. Robert Duncan, Duncan Aviation, PO Box 81887, Lincoln, NE 68501, 402-475-2611.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:fc

March 18, 1991

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Madam President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the veterinarian's position on the Nebraska Board of Health, requiring legislative approval.

Appointee: Dr. Charles M. Wempe, DVM, 827 E. Seventh St., York, NE 68467, 402-362-6076.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:fc

REPORTS

Received report from the University of Nebraska on the status of negotiations for the 1991-93 biennium, pursuant to Section 81-1283 R.R.S. Neb. 1943.

Received minutes of the Board of Public Roads Classifications and Standards for the month of February 1991 from the Nebraska Department of Roads.

RESOLUTION

LEGISLATIVE RESOLUTION 23. Read. Considered.

LR 23 was adopted with 25 ayes, 0 nays, and 24 not voting.

MOTION - Approve Appointment

Mr. R. Johnson moved the adoption of the report of the Natural Resources Committee for the following Governor appointment found in the Journal on page 1117: Lou Lamberty - Environmental Control Council.

Voting in the affirmative, 29:

Baack	Coordsen	Hefner	Landis	Robinson
Beutler	Crosby	Hillman	Moore	Rogers
Beyer	Cudaback	Horgan	Morrissey	Schellpeper
Byars	Elmer	Johnson, L.	Peterson	Schmit
Chizek	Hartnett	Johnson, R.	Robak	Schrock

Wehrbein	Wesely	Will	Withem

Voting in the negative, 0.

Present and not voting, 7:

Ashford	Dierks	Lynch	Nelson	Pirsch
Chambers	Kristensen			

Excused and not voting, 13:

Abboud	Conway	Labedz	Rasmussen	Warner
Bernard-Stevens	Haberman Hall	Lamb Lindsay	Schimek Smith	Wickersham

The appointment was confirmed with 29 ayes, 0 nays, 7 present and not voting, and 13 excused and not voting.

GENERAL FILE

LEGISLATIVE BILL 57A. Title read. Considered.

Mrs. Smith offered the following amendment:
AM0655

1. On page 2, line 2, strike "$360,540" and insert "$180,270"; in line 3 strike "$483,240" and insert "$241,620"; in line 11 strike "$387,649" and insert "$257,773", and strike "$704,321" and insert "$468,347"; in line 12 strike "$527,090" and insert "$350,513"; and in line 13 strike "$957,670" and insert "$636,847".

SPEAKER BAACK PRESIDING

The Smith amendment was adopted with 25 ayes, 0 nays, 13 present and not voting, and 11 excused and not voting.

Mrs. Smith moved for a call of the house. The motion prevailed with 14 ayes, 0 nays, and 35 not voting.

Advanced to E & R for review with 25 ayes, 2 nays, 14 present and not voting, and 8 excused and not voting.

The Chair declared the call raised.

LEGISLATIVE BILL 67A. Title read. Considered.

Mr. Lynch asked unanimous consent to be excused until he returns. No objections. So ordered.

Advanced to E & R for review with 25 ayes, 0 nays, 17 present and not voting, and 7 excused and not voting.

Mr. Schellpeper asked unanimous consent to be excused until he returns. No objections. So ordered.

LEGISLATIVE BILL 142A. Title read. Considered.

Mr. R. Johnson moved for a call of the house. The motion prevailed with 10 ayes, 0 nays, and 39 not voting.

Advanced to E & R for review with 25 ayes, 7 nays, 8 present and not voting, and 9 excused and not voting.

LEGISLATIVE BILL 410A. Considered.

Mr. Wesely offered the following amendment:
FA54

On page 2, line 2 strike "69,935" and insert "59,784; in line 3, strike "66,109" and insert "60,263; in line 9, strike "46,482, and insert "44,721"; and in line 10, strike "47,615", and insert "45,859".

The Wesely amendment was adopted with 28 ayes, 0 nays, 14 present and not voting, and 7 excused and not voting.

Advanced to E & R for review with 28 ayes, 1 nay, 13 present and not voting, and 7 excused and not voting.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following resolutions: LRs 52, 53, 54, 55, 56, 57, 58, and 59.

The Chair declared the call raised.

UNANIMOUS CONSENT - Members Excused

Messrs. Cudaback and Wehrbein asked unanimous consent to be excused until they return. No objections. So ordered.

UNANIMOUS CONSENT - Print in Journal

Mr. Schmit asked unanimous consent to print the following amendment to LB 297 in the Journal. No objections. So ordered.

AM0565

1. On page 2, line 19, reinstate the stricken comma and after the reinstated comma insert "including any individual employed as a newspaper carrier or employed in the sale of newspapers or magazines to ultimate consumers,".

Mr. Schmit asked unanimous consent to print the following amendment to LB 751 in the Journal. No objections. So ordered.

AM0738

1. On page 2, lines 7 and 24, strike "employees" and insert "teachers"; in lines 10, 24, and 25 strike "alternative"; in lines 12 and 13 strike "employee" and insert "teacher"; in line 18 after the semicolon insert "and"; and strike beginning with the semicolon in line 20 through "79-2216" in line 22.

2. On page 3, lines 4, 17, and 18, strike "employee" and insert "teacher"; in line 7 strike "the alternative employment contract" and insert "an employment contract pursuant to this section"; in line 8 strike "alternative employment contract" and insert "employment contract pursuant to this section"; in line 10 strike "The alternative" and insert "Such"; in line 15 strike "employees" and insert "teachers"; and in lines 19, 20, and 22 strike "employee's" and insert "teacher's".

3. On page 4, line 2, strike "employee's" and insert "teacher's"; in lines 6 and 23 strike "employee" and insert "teacher"; in lines 9 and 10 strike "an employee" and insert "a teacher"; in line 14 strike both occurrences of "employee" and insert "teacher"; in line 18 strike "employees" and insert "teachers"; and in line 24 strike "alternative employment contract" and insert "employment contract pursuant to section 3 of this act".

Mr. Elmer asked unanimous consent to print the following amendment to LB 748 in the Journal. No objections. So ordered.

AM0821

1. On page 3, line 7, strike "10" and insert "3".

STANDING COMMITTEE REPORTS
Judiciary

LEGISLATIVE BILL 90. Placed on General File.
LEGISLATIVE BILL 249. Placed on General File.
LEGISLATIVE BILL 371. Placed on General File.
LEGISLATIVE BILL 425. Placed on General File.
LEGISLATIVE BILL 434. Placed on General File.
LEGISLATIVE BILL 435. Placed on General File.

LEGISLATIVE BILL 194. Placed on General File as amended.
Standing Committee amendment to LB 194:
AM0732

1. On page 3, lines 1 and 4; page 4, line 4; page 5, line 23; and page 6, line 8, strike "twenty-five" and insert "fifteen".

LEGISLATIVE BILL 436. Placed on General File as amended.
Standing Committee amendment to LB 436:
AM0794

1. On page 2, line 11, after "probation" insert "and for presentence investigations".

LEGISLATIVE BILL 437. Placed on General File as amended.
Standing Committee amendment to LB 437:
AM0798

1. On page 4, line 19, after "software" insert "available on the state computer network".

LEGISLATIVE BILL 440. Placed on General File as amended.
Standing Committee amendment to LB 440:
AM0793

1. Strike original section 1 and insert the following new section:

"Section 1. That section 29-908, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

29-908. ~~Whoever~~ A person who is charged with a felony and is released from custody under bail, recognizance, or a conditioned release and willfully fails to appear before the court granting such release when legally required or to surrender himself or herself within three days thereafter~~,~~ shall be guilty of a Class IV felony~~,~~ in addition to any other penalties or forfeitures provided by law.

~~Whoever~~ A person who is charged with a misdemeanor or violation of city or village ordinance, ~~conviction of which would carry a jail sentence of more than ninety days,~~ who is released from custody under bail, ~~or~~ recognizance, or a conditioned release, and who willfully fails to appear before the court granting such release when legally required to surrender himself or herself or within three days thereafter~~,~~ shall be guilty of a Class II misdemeanor~~,~~ in addition to any other penalties or forfeitures provided by law.".

LEGISLATIVE BILL 457. Placed on General File as amended.
Standing Committee amendment to LB 457:
AM0670

1. On page 7, line 6, strike "The" and insert "In any case in which services are provided under Title IV-D of the Social Security Act, the"; in line 18 after "date" insert "after the effective date of this act which"; and after line 18 insert the following new paragraph:

"The obligor shall receive notice of income withholding and his or her right to a hearing pursuant to section 43-1720 when his or her income is withheld pursuant to subdivision (b)(ii) or (b)(iii) of this subsection.".

LEGISLATIVE BILL 523. Placed on General File as amended.
Standing Committee amendment to LB 523:
AM0771

1. Insert the following new sections:

"Sec. 5. If the Department of Public Institutions determines that treatment in an inpatient treatment program operated by the Department of Public Institutions is not appropriate for a convicted sex offender, the offender may request the sentencing judge to review the determination in accordance with

subsection (2) of this section.

(2) Within thirty days of the determination of the department that the treatment in an inpatient treatment program operated by the Department of Public Institutions is not appropriate for a convicted sex offender, the offender may apply to the sentencing judge for a review of the denial of treatment. The review shall be conducted under the following rules of procedure:

(a) The court may allow each party to call witnesses on its behalf at such party's expense. Witnesses may be subpoenaed at the expense of the party calling the witness;

(b) Each party shall be allowed to be represented by counsel at such party's expense;

(c) Each party may be allowed to cross-examine adverse witnesses;

(d) The Nebraska Rules of Evidence shall not apply unless expressly provided for by law, and the court may consider all evidence which in its discretion is relevant to whether the determination of the department is appropriate;

(e) The court may affirm the determination of the department, remand the matter for further proceedings, or reverse or modify the determination if such determination is unsupported by competent, material, and substantial evidence in view of the entire record as made on review or if the determination is arbitrary and capricious; and

(f) The review pursuant to this section shall not be subject to appeal.

Sec. 13. Each person committed to a regional center or other secure public institution operated by the Department of Public Institutions as a mentally disordered sex offender by a court after having entered a plea of guilty or nolo contendre and sentenced pursuant to sections 29-2911 to 29-2921 as such sections existed prior to the effective date of this act who is in a facility operated by the Department of Correctional Services awaiting treatment on such date shall be placed in a treatment facility operated by the Department of Public Institutions for evaluation and treatment as soon as practical after space and staff become available. Within thirty days of such placement, the Department of

Public Institutions shall report its findings to the offender and to the committing district court based on criteria and procedures established by the Department of Public Institutions. Within thirty days after the evaluation and treatment period, if the offender has at least one hundred eighty days remaining on his or her sentence, he or she shall be returned to the committing district court. The offender shall elect whether to be resentenced under the Convicted Sex Offender Act or continue his or her commitment pursuant to sections 29-2911 to 29-2921 as such sections existed prior to the effective date of this act. The duties of the Department of Public Institutions in effectuating the purpose of this section shall be the same as otherwise provided in the act.".

2. On page 2, line 1, strike "13" and insert "15".

3. On page 3, line 11, strike "5" and insert "6".

4. On page 5, line 13, after the period insert "The Department of Correctional Services may make a recommendation concerning treatment as provided in subsection (4) of this section."; and after line 22 insert the following new subsection:

"(4) If the Department of Correctional Services determines that an offender participating in treatment offered by the Department of Correctional Services will benefit from a treatment program operated by the Department of Public Institutions, the Department of Correctional Services shall notify the Department of Public Institutions and recommend admission of the offender to the treatment program. The evaluation process to determine whether such offender is to be admitted into a treatment program operated by the Department of Public Institutions pursuant to this subsection shall be based upon criteria and procedures established by the Department of Public Institutions and shall not be subject to appeal or review.".

5. On page 10, line 15, after "section" insert "or section 13 of this act"; and in line 16 strike "Each" and insert "Except as provided in section 13 of this act, each".

6. On page 11, line 22, strike "6 to 10" and insert "7 to 11".

7. On page 12, line 14, strike "8" and insert "9" and strike "9 and 10" and insert "10 and 11".

8. Renumber the remaining sections accordingly.

LEGISLATIVE BILL 527. Placed on General File as amended.
Standing Committee amendment to LB 527:
AM0671

1. On page 16, line 21, strike "whether private or group," and insert "or"; and strike line 22.

2. On page 25, line 15, strike "inadequate" and show as stricken.

3. On page 28, line 21, reinstate the stricken "or"; in line 22 after "child" insert "or the state"; and strike the new matter in lines 24 and 25.

4. On page 29, strike the new matter in lines 1 through 4.

5. On page 43, line 8, strike the new matter and insert "following defenses:"; and strike the new matter and reinstate the stricken matter in lines 10 through 25.

LEGISLATIVE BILL 568. Placed on General File as amended.
Standing Committee amendment to LB 568:
AM0731

1. Insert the following new section:

"Sec. 8. Radioactive waste shall include high-level radioactive waste as defined by section 81-1589 and low-level radioactive waste as defined by section 81-1591.".

2. On page 4, line 11, after "waste" insert "and any materials contaminated by such waste".

3. On page 5, strike lines 11 through 14.

4. Renumber remaining sections accordingly.

LEGISLATIVE BILL 577. Placed on General File as amended.
Standing Committee amendment to LB 577:
AM0449

1. Strike original sections 2 and 3 and insert the following new sections:

"Sec. 2. (1) No person shall engage in sampling except in conformance with this section.

(2) A person may provide samples to persons who are not minors only in, upon, or at:

(a) Private social functions open only to persons who are not minors to which persons have been invited to engage in sampling;

(b) Professional conventions at which the general public is excluded and which are open only to persons who are not minors;

(c) Places that are open only to persons to whom smokeless tobacco products may lawfully be sold;

(d) The premises of a tobacco retail outlet; and

(e) A private industrial production site or a construction site.

(3) No person shall engage in sampling within five hundred feet of any center of youth activities.

Sec. 3. (1) No person shall urge any person to accept a sample after the person has declined or refused to accept it.

(2) A person engaged in sampling shall secure stocks of samples in a safe location in order to avoid inadvertent distribution of samples contrary to sections 2 to 4 of this act.

(3) A person engaged in sampling shall cease such activity at a particular location when circumstances arise which make it apparent that sampling cannot continue in a manner consistent with such sections. The person may resume sampling at that location when the circumstances abate.

(4) A person who engages in sampling shall use reasonable means to dispose of empty sample boxes and ensure that no litter remains in the immediate area of sampling as a result of sampling.".

2. On page 2, line 6, after "any" insert "other"; and in line 8 after "used" insert "primarily".

3. On page 6, line 1, strike "shall" and insert "or county attorney may"; and in line 8 after "General" insert "or county attorney".

LEGISLATIVE BILL 715. Placed on General File as amended.
Standing Committee amendment to LB 715:
AM0549

1. On page 19, line 21, strike "inadequate" and show as stricken.

LEGISLATIVE BILL 818. Placed on General File as amended.

Standing Committee amendment to LB 818:
AM0302

1. On page 3, strike beginning with "in" in line 22 through "picketed" in line 24 and show the old matter as stricken.

2. On page 4, line 1, strike "constitute", show as stricken, and insert "constitutes".

LEGISLATIVE BILL 821. Placed on General File as amended.
Standing Committee amendment to LB 821:
AM0766

1. Strike original section 1 and insert the following new section:

"Section 1. That section 25-21,181, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

25-21,181. ~~No~~ (1) Except as provided in subsection (2) of this section, no product liability action based on the doctrine of strict liability in tort shall be commenced or maintained against any seller or lessor of a product which is alleged to contain or possess a defective condition unreasonably dangerous to the buyer, user, or consumer unless the seller or lessor is also the manufacturer of the product or the part thereof claimed to be defective.

(2) If the manufacturer of the product cannot be identified, the seller or lessor of the product shall be deemed the manufacturer of the product for purposes of this section unless the seller or lessor has no reasonable means to identify the manufacturer.

If the manufacturer cannot be identified, the seller or lessor has no reasonable means to identify the manufacturer,and the distributor or wholesaler has reasonable means to identify the manufacturer but cannot or will not identify the manufacturer, the distributor or wholesaler shall be deemed the manufacturer of the product for purposes of this section."

LEGISLATIVE BILL 825. Placed on General File as amended.
Standing Committee amendment to LB 825:
AM0656

1. Insert the following new section:

"Sec. 52. If any section in this act or any part of any section shall be declared invalid or

unconstitutional, such declaration shall not affect the validity or constitutionality of the remaining portions thereof.".

2. On page 12, line 4, strike "February 1, 1993" and insert "September 1, 1991".

3. On page 25, after line 22, insert the following new subsection:

"A conciliation agreement between a respondent and complainant which has been approved by the commission shall not be deemed an adjudication that the respondent has committed a discriminatory housing practice nor shall the conciliation agreement be the subject of an order for relief under section 38 of this act, unless the conciliation agreement is entered after an adjudication pursuant to an administrative proceeding or a civil action pursuant to state or federal law in which the respondent was found to have committed a discriminatory housing practice.".

4. On page 27, line 1, strike the first comma; and strike beginning with "following" in line 2 through the first "investigation" in line 3.

5. On page 31, line 7, strike "beginning of the trial" and insert "filing"; and in line 9 after "state" insert "or federal".

6. On page 33, line 22, after the period insert "The hearing officer shall meet the qualifications of a judge of the district court prescribed in section 24-301 or any successor statute. The hearing officer shall be appointed by the commission pursuant to rules and regulations promulgated by the commission.".

7. On page 34, line 24, strike "beginning of the trial" and insert "filing"; and in line 25 after "state" insert "or federal".

8. On page 44, line 10, strike "and punitive".

9. On page 64, line 25, strike "Governor's Policy Research" and insert "Department of Economic Development".

10. On page 65, line 1, strike "Office"; in lines 6, 8, and 12 strike "office" and insert "department"; and in lines 12 and 13 strike "Department of Economic Development" and insert "Governor's Policy Research Office".

11. On page 67, line 11, strike "office" and insert "Department of Economic Development".

12. Renumber the remaining section accordingly.

LEGISLATIVE BILL 439. Indefinitely postponed.
LEGISLATIVE BILL 794. Indefinitely postponed.

(Signed) Jerry Chizek, Chairperson

GENERAL FILE

LEGISLATIVE BILL 732. Mr. Chambers renewed his pending amendment, FA53, found in the Journal on page 1115.

Messrs. Haberman and Morrissey asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Chambers moved for a call of the house. The motion prevailed with 17 ayes, 0 nays, and 32 not voting.

Mr. Chambers requested a roll call vote on his amendment.

Voting in the affirmative, 16:

Ashford	Beutler	Hartnett	Robak	Smith
Baack	Chambers	Horgan	Schimek	Wesely
Bernard-Stevens	Conway	Landis	Schmit	Withem
	Crosby			

Voting in the negative, 20:

Beyer	Elmer	Kristensen	Nelson	Schrock
Byars	Hefner	Labedz	Pirsch	Warner
Chizek	Hillman	Lamb	Rogers	Wickersham
Coordsen	Johnson, L.	Lindsay	Schellpeper	Will

Present and not voting, 5:

Dierks	Johnson, R.	Peterson	Robinson	Wehrbein

Absent and not voting, 1:

Moore

Excused and not voting, 7:

Abboud	Haberman	Lynch	Morrissey	Rasmussen
Cudaback	Hall			

The Chambers amendment lost with 16 ayes, 20 nays, 5 present and not voting, 1 absent and not voting, and 7 excused and not voting.

The Chair declared the call raised.

Messrs. Rogers and Schmit asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Chambers requested a record vote on the advancement of the bill.

Voting in the affirmative, 27:

Baack	Elmer	Kristensen	Nelson	Warner
Beyer	Hartnett	Labedz	Robak	Wehrbein
Byars	Hefner	Lamb	Robinson	Wickersham
Chizek	Hillman	Lynch	Schellpeper	Will
Coordsen	Johnson, L.	Moore	Schrock	Withem
Crosby	Johnson, R.			

Voting in the negative, 4:

Chambers	Morrissey	Schimek	Smith

Present and not voting, 11:

Ashford	Beutler	Horgan	Lindsay	Pirsch
Bernard-Stevens	Conway	Landis	Peterson	Wesely
	Dierks			

Excused and not voting, 7:

Abboud	Haberman	Rasmussen	Rogers	Schmit
Cudaback	Hall			

Advanced to E & R for review with 27 ayes, 4 nays, 11 present and not voting, and 7 excused and not voting.

Mr. Schrock asked unanimous consent to be excused. No objections. So ordered.

LEGISLATIVE BILL 732A. Title read. Considered.

Mr. R. Johnson asked unanimous consent to be excused. No objections. So ordered.

Mr. Chambers requested a record vote on the advancement of the bill.

Voting in the affirmative, 26:

Baack	Coordsen	Hillman	Lindsay	Schellpeper
Beutler	Crosby	Horgan	Nelson	Warner
Beyer	Elmer	Johnson, L.	Pirsch	Wickersham
Byars	Hartnett	Kristensen	Robak	Will
Chizek	Hefner	Landis	Robinson	Withem
Conway				

Voting in the negative, 5:

Bernard-Stevens	Chambers	Morrissey	Schimek	Smith

Present and not voting, 11:

Ashford	Labedz	Lynch	Peterson	Wehrbein
Dierks	Lamb	Moore	Schmit	Wesely
Hall				

Excused and not voting, 7:

Abboud	Haberman	Rasmussen	Rogers	Schrock
Cudaback	Johnson, R.			

Advanced to E & R for review with 26 ayes, 5 nays, 11 present and not voting, and 7 excused and not voting.

SELECT COMMITTEE REPORTS
Enrollment and Review

Correctly Engrossed

The following bills were correctly engrossed: 192, 224, 250, 316, 341, 356, 356A, 357, 359, 477, and 648.

(Signed) Eric Will, Chairperson

Enrollment and Review Change to LB 224

The following changes, required to be reported for publication in the Journal, have been made:
ER7023

1. In the Abboud amendment, AM0546, on page 1, line 16, "shall constitute" has been struck and "constitutes" inserted.

Enrollment and Review Change to LB 356

The following changes, required to be reported for publication in the Journal, have been made:
ER7026

1. On page 22, line 4, "with" has been inserted after "mixed".
2. On page 32, the matter beginning with "sections" in line 13 through "act" in line 15 has been struck and "the provisions of the Weights and Measures Act other than this section" inserted; and in line 16 "sections" has been struck and "provisions of the act" inserted.
3. On page 34, line 6, an underscored comma has been inserted after "seller"; and in line 8 an underscored comma has been inserted after "responsibility".
4. On page 40, lines 13 and 14 "to be" has been struck and "as being" inserted; and the matter beginning with "by" in line 24 through "regulation" in line 25 has been struck, the old matter shown as stricken, and "rules and regulations prescribing" inserted.
5. On page 44, line 7, ": The" has been struck and "the" inserted.
6. On page 45, line 23, "does not need" has been struck and "shall not be required" inserted; and in line 25 ": (1) The" has been struck and "(1) the" inserted.
7. On page 46, line 1, the semicolon has been struck.
8. On page 47, line 9, "15" has been struck and "16" inserted.
9. On page 50, line 7, "that" has been inserted after "determines"; and in line 18 "shall be" has been inserted after "or".
10. On page 68, line 23, "81-216.09" has been struck and "81-216.29" inserted.

Enrollment and Review Change to LB 359

The following changes, required to be reported for publication in the Journal, have been made:
ER7019

1. In the E & R amendment, AM5049, on page 1, the matter beginning with "line" in line 13 through "in" in line 14 has been struck; and in line 19 "and" has been inserted before "(2)" and ", and" has been inserted before "(3)".

2. On page 4, the matter beginning with "have" in line 22 through "pseudorabies" in line 25 has been struck, the old matter shown as stricken, and "are infected" inserted.

3. On page 6, line 1, "affected" has been inserted after "the"; and the matter beginning with "on" in line 1 through "confined" in line 2 has been struck.

4. On page 8, line 16, "with pseudorabies" has been struck.

5. On page 9, line 8, "with pseudorabies" has been struck and shown as stricken.

6. On page 27, line 1, "as to" has been struck and "governing" inserted.

7. On page 29, line 2, the stricken "areas" has been reinstated and "regulations" has been struck.

(Signed) Mary E. Sommermeyer
E & R Attorney

UNANIMOUS CONSENT - Print in Journal

Mr. Landis asked unanimous consent to print the following amendment to LB 161 in the Journal. No objections. So ordered.

AM0804

1. Insert the following section:
"Sec. 118. This act shall become operative on January 1, 1992.".
2. Renumber the remaining section accordingly.

Mr. Landis asked unanimous consent to print the following amendment to LB 162 in the Journal. No objections. So ordered.

AM0805

1. Insert the following new section:
"Sec. 5. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.".

Mr. Conway asked unanimous consent to print the following amendment to LB 731 in the Journal. No objections. So ordered.

AM0801

1. On page 9, line 13, after the first semicolon insert "libraries; senior citizen centers; community activity centers;".

Mr. Beutler asked unanimous consent to print the following amendment to LB 663 in the Journal. No objections. So ordered.

AM0754

1. Insert the following new sections:

"Sec. 39. That section 85-404, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

85-404. Either of the boards referred to in section 85-403 is hereby specifically authorized and empowered, by resolution or agreement, to pledge all or any part of the revenue and fees derived from the operation of the dormitories, residence halls, ~~single-~~ single-dwelling or multiple-dwelling units, buildings, and facilities for parking and other facilities for housing, boarding, athletic purposes, medical care, and physical development, and for other activities of students, faculties, or employees of such institutions referred to in section 85-403, or any of them, erected or acquired, or previously erected or acquired by such board, and contract as to the care, insurance, management, and operation of such buildings and facilities and the charges to be made and the rights of the holders of the revenue bonds. When the board contracts that the operation of any building or facility or part thereof shall be performed other than by the board itself, the board shall at all times maintain supervision thereof and control over the fees and charges imposed for the use thereof. When such board proposes to pledge all or any part of the revenue and fees from buildings and facilities other than the building or facility to be constructed, the plans for such building or facility to be constructed, including financing plans, shall first be submitted for approval to the ~~Legislature, after which such board may proceed with construction of the buildings and facilities unless~~

~~the Legislature has by resolution or motion disapproved such plans within thirty days after the same have been so submitted~~ Coordinating Commission for Postsecondary Education which shall approve or disapprove such plans within sixty days after such plans have been submitted to the commission.

Sec. 40. That section 85-408, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

85-408. The boards are authorized and directed to establish and maintain such schedule of rates, fees, or charges for the use of the facilities afforded by the buildings constructed or acquired hereunder, and other facilities controlled by such board, the revenue of which in whole or in part ~~are~~ is pledged to the holder of the bonds, which shall be in an amount at least sufficient on the amortization plan to pay the operating and maintenance charges thereof and the principal and interest representing the indebtedness against the income and revenue therefrom, and may be sufficient in amount to provide for such bond reserve, replacement, and surplus funds as the boards in their discretion shall determine. The amounts in such funds shall be expended for such purposes in connection with the facilities as the boards shall determine, and any amount in any surplus or replacement fund and any amounts received through the sale, condemnation, or destruction of any facilities may be used to construct, repair, or replace any of the types of facilities described in section 85-403. Any amounts in such funds are specifically appropriated to the purposes of such funds and shall at all times be subject to the orders of the boards accordingly. Before any single expenditure in excess of one hundred thousand dollars is made from any such surplus or replacement fund, the board concerned shall first secure the approval of the ~~Legislature and if the Legislature is not in session, then of the Executive Board of the Legislative Council~~ Coordinating Commission for Postsecondary Education.".

2. On page 74, line 3, after the last comma insert "85-404, 85-408,".

3. Renumber the remaining sections and correct internal references accordingly.

ANNOUNCEMENT

Speaker Baack announced his priority bills are as follows: LBs 27, 102, 140, 203, 223, 262, 269, 301, 327, 413, 456, 457, 522, 529, 545, 573, 669, 682, 693, 696, 715, 719, 813, 816, and 825.

BILLS ON FIRST READING

The following bills were read for the first time by title:

LEGISLATIVE BILL 409A. Introduced by R. Johnson, 34.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 409, Ninety-second Legislature, First Session, 1991.

LEGISLATIVE BILL 749A. Introduced by Schmit, 23.

A BILL FOR AN ACT relating to appropriations; to reduce appropriated funds to reflect the provisions of Legislative Bill 749, Ninety-second Legislature, First Session, 1991.

STANDING COMMITTEE REPORT
General Affairs

The Committee on General Affairs desires to report favorably upon the appointments listed below. The Committee suggests the appointments be confirmed by the Legislature and suggests a record vote.

Helen W. Cherniak - Nebraska Arts Council
Thomas J. Milliken - Nebraska Arts Council
Ted Stutheit - Nebraska State Electrical Board

VOTE: Aye: Senators Hartnett, Labedz, Rasmussen, Smith, and Will. Nay: none. Not voting: none. Absent: Senators Cudaback, R. Johnson, and Rogers.

(Signed) Jacklyn Smith, Chairperson

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the attached report on the referral of Governor appointments.

Government, Military and Veterans Affairs
Gwendolyn Combs - Department of Personnel

General Affairs
J. Robert Duncan - Nebraska Arts Council

Health and Human Services
Dr. Charles M. Wempe - Nebraska Board of Health

(Signed) Jerome Warner, Chairperson
Legislative Council
Executive Board

NOTICE OF COMMITTEE HEARING
Appropriations

LB 845	Wednesday, March 27, 1991	5:30 p.m.
LB 846	Wednesday, March 27, 1991	5:30 p.m.

(Signed) Scott Moore, Chairperson

UNANIMOUS CONSENT - Add Co-Introducers

Mr. Wesely asked unanimous consent to have his name added as co-introducer to LB 696. No objections. So ordered.

Mr. Lynch asked unanimous consent to have his name added as co-introducer to LB 647. No objections. So ordered.

VISITORS

Visitors to the Chamber were 38 members of Women Involved in Farm Economics from across the state; 16 eighth grade students and teacher from St. Francis, Humphrey; Don and Shirley Steinacher from Omaha; and Lavon Sumption from North Platte.

ADJOURNMENT

At 11:56 a.m., on a motion by Mr. Beutler, the Legislature adjourned until 9:00 a.m., Wednesday, March 20, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

FORTY-SIXTH DAY - MARCH 20, 1991

LEGISLATIVE JOURNAL

FORTY-SIXTH DAY - MARCH 20, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

FORTY-SIXTH DAY

Legislative Chamber, Lincoln, Nebraska
Wednesday, March 20, 1991

Pursuant to adjournment, the Legislature met at 9:00 a.m., Speaker Baack presiding.

PRAYER

The prayer was offered by Lynn Froning, St. Paul Methodist Church, Lincoln, Nebraska.

PRESENTATION

Mrs. Pirsch presented to the Legislature a brief speech on "National Women in History Month."

ROLL CALL

The roll was called and all members were present except Messrs. Landis and Rogers who were excused; and Messrs. Bernard-Stevens, Conway, Hall, Hefner, Lamb, Moore, Morrissey, Schmit, Wickersham, and Mrs. Hillman who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Forty-Fifth Day was approved.

STANDING COMMITTEE REPORTS
Banking, Commerce and Insurance

LEGISLATIVE BILL 272. Placed on General File as amended.
Standing Committee amendment to LB 272:

AM0703

1. Strike original sections 1 and 7.

2. On page 4, lines 18, 21, 22, and 23, strike the new matter and reinstate the stricken matter.

3. On page 9, strike beginning with the comma in line 14 through "filled" in line 16; strike beginning with "and" in line 17 through "dollars" in line 20; in line 24 after "each" insert "recurring" and after the semicolon insert "and"; and in line 25 strike "Awarding" and insert "Investing funds and awarding" and after "funds" insert an underscored comma.

4. On page 10, strike lines 4 through 10.

5. On page 13, line 22, after "of" insert "investments".

6. On page 14, line 25, strike "each project's" and insert "the".

7. On page 15, line 1, strike "provided" and insert " invested, loaned, or granted"; strike beginning with "A" in line 2 through "(e)" in line 5; in line 7 strike "(f)" and insert "(e)" and strike the comma and insert "and"; strike beginning with the comma in line 8 through "liability" in line 9; in line 10 strike "(g) A description of planned" and insert "(f) A general description of"; after line 11 insert the following new paragraph:

"The authority shall compile a list of all outside individuals and firms receiving in excess of five thousand dollars in payments for services and file such list with the Clerk of the Legislature on an annual basis."; and in line 17 strike "sections 58-401 and" and insert "section".

8. Renumber the remaining sections accordingly.

LEGISLATIVE BILL 470. Placed on General File as amended.
Standing Committee amendment to LB 470:
AM0552

1. Strike original section 1 and insert the following new section:

"Section 1. That section 8-157, Revised Statutes Supplement, 1990, be amended to read as follows:

8-157. (1) ~~No bank shall maintain any branch bank, and except~~ Except as provided in subsections (2)

through (7) of this section and section 8-122.01, the general business of every bank shall be transacted at the place of business specified in its charter.

(2) With the approval of the director, ~~(a)~~ any bank may establish and maintain ~~an attached auxiliary office if such office is physically connected by a pneumatic tube or tubes or a walkway, tunnel, or any other electronic, mechanical, or structural connection or attachment for the public use of the bank and is within two hundred feet of the building containing the premises specified as its place of business in its charter or any adjacent connected building housing a continuation of the operations of the bank's main office and (b) any bank may establish and maintain not more than five detached auxiliary offices~~ six branch banks at which all banking transactions allowed by law may be made if such branch banks are within a radius of twenty-five miles of the place of business specified in the bank's charter on the effective date of this act. ~~Such auxiliary offices shall be within the corporate limits of the city in which such bank is located, or if the bank is located within the zoning jurisdiction of a city of the primary class, such auxiliary offices may also be within the corporate limits of such city. Any detached auxiliary office established and maintained by a bank pursuant to the acquisition or merger of an institution under sections 8-1506 to 8-1510 or the acquisition of an eligible savings association under section 8-1515 shall not count against the number or location of detached auxiliary offices permitted under this section.~~

(3) With the approval of the director, a bank may acquire another bank in Nebraska as the result of a purchase or merger so long as the acquired bank has been chartered for more than eighteen months and the acquired institution and its ~~detached auxiliary offices~~ branch banks are converted to ~~auxiliary offices~~ branch banks of the acquiring bank. Such ~~auxiliary offices~~ branch banks shall not count against the number of ~~locations of detached auxiliary offices~~ branch banks permitted under subsections (1) and (2) of this section. If the acquired institution has not established six branch banks as permitted by subdivision (2)(b) of this section, following each such purchase or merger, the

acquiring bank may establish and maintain the acquired institution's branch banks to the same extent that the acquired institution could have established and maintained branch banks as provided in subdivision (2)(b) of this section if the purchase or merger had not occurred, except that such branch banks may be established no more than one per year, beginning in the year of the purchase or merger, until a total of six such branch banks have been established.

(4) With the approval of the director, a bank may acquire the assets and assume the deposits of a ~~detached auxiliary office~~ branch bank of another bank in Nebraska if: (a) The acquired ~~detached auxiliary office~~ branch bank has been approved for more than eighteen months; (b) the acquired ~~detached auxiliary office~~ branch bank is converted to ~~an auxiliary office~~ a branch bank of the acquiring bank; and (c) the bank from which the ~~detached auxiliary office~~ branch bank is acquired and the acquiring bank are subsidiaries of the same bank holding company or the ~~detached auxiliary office~~ branch bank to be acquired was chartered as a bank prior to becoming a ~~detached auxiliary office~~ branch bank. All banking transactions allowed by law may be made at a ~~detached auxiliary office~~ branch bank acquired pursuant to this subsection. ~~Such auxiliary office shall not count against the number of locations of detached auxiliary offices permitted under subsections (1) and (2) of this section.~~ The restrictions contained in this subsection shall not limit the authority of a bank to acquire another bank and to continue to operate all of the ~~detached auxiliary offices~~ branch banks of the acquired bank as ~~auxiliary offices~~ branch banks of the acquiring bank.

(5) With the approval of the director, a bank may acquire the assets and assume the deposits of a ~~detached auxiliary office~~ branch bank of another bank in Nebraska or acquire the assets and assume the deposits of an eligible savings association acquired by another bank in Nebraska pursuant to section 8-1515 if (a) the acquired ~~detached auxiliary office~~ branch bank or eligible savings association is converted to ~~an auxiliary office~~ a branch bank of the acquiring bank and (b) the ~~detached auxiliary office~~ branch bank or the eligible savings association to be acquired was

operated, established, and maintained as an eligible savings association at its existing location prior to August 9, 1989, and was maintained at such location on such date. All banking transactions allowed by law may be made at a ~~detached auxiliary office~~ branch bank acquired pursuant to this subsection. ~~Such auxiliary offices shall not count against the number of locations of detached auxiliary offices permitted under subsections (1) and (2) of this section.~~ The restrictions contained in this subsection shall not limit the authority of a bank to acquire another bank and to continue to operate all of the ~~detached auxiliary offices~~ branch banks of the acquired bank as ~~auxiliary offices~~ branch banks of the acquiring bank.

(6) With the approval of the director and subject to the limitations specified in this subsection, a single bank may establish one ~~detached auxiliary office~~ branch bank within the corporate limits of any municipality in which a financial institution has closed and ceased doing business within the preceding two years if no other financial institution operates ~~an office~~ a bank or branch bank within such municipality. If thirty days or less have elapsed since the financial institution ceased operation, the director shall only approve the establishment of a ~~detached auxiliary office~~ branch bank by a bank which has its place of business, as specified in its charter, in the same county as or in a contiguous county to the county in which such municipality is located. If more than thirty days have elapsed since the financial institution ceased operation, the director may approve the establishment of a ~~detached auxiliary office~~ branch bank by any bank located within Nebraska.

For purposes of this subsection:

(a) An unmanned electronic terminal shall not be deemed to be ~~an office~~ a branch bank operated by a financial institution; and

(b) Financial institution shall mean a bank, savings bank, building and loan association, savings and loan association, industrial loan and investment company, credit union, or other institution offering electronic terminal transactions.

(7) The name given to any ~~detached bank or~~ branch bank established and maintained pursuant to this

section shall not be substantially similar to the name of any existing bank or branch bank which is unaffiliated with the newly created bank or branch bank and is located in the same municipality. The name of such newly created bank or branch bank shall be approved by the director.".

LEGISLATIVE BILL 469. Indefinitely postponed.
LEGISLATIVE BILL 667. Indefinitely postponed.
LEGISLATIVE BILL 790. Indefinitely postponed.

(Signed) David Landis, Chairperson

ATTORNEY GENERAL'S OPINION

Opinion No. 91017

DATE: March 15, 1991

SUBJECT: Distribution of Payments Based on Gross Revenues Made by Public Power Districts under Neb.Rev.Stat. § 70-651.04 (Reissue 1990).

REQUESTED BY: John Breslow, Auditor of Public Accounts

WRITTEN BY: Don Stenberg, Attorney General
L. Jay Bartel, Assistant Attorney General

You have requested us to review the conclusion reached in our letter opinion to former State Auditor Ray A. C. Johnson dated July 13, 1989, regarding the interpretation of the distribution under Neb.Rev.Stat. § 70-651.04 (Reissue 1990) to local government subdivisions of the five percent gross revenue payments made by certain public power and irrigation districts pursuant to Neb.Rev.Stat. § 70-651.03 (Reissue 1990).

Section 70-651.03 provides:

> Beginning in 1960, every public corporation and political subdivision of the state, which is organized primarily to provide electricity or irrigation and electricity, and which sells electricity at retail within incorporated cities or villages, shall on or before April 1, of each year, pay to the county treasurer of the county in which any such incorporated city or village may be located, a sum equivalent to five per cent of the gross revenue derived by it during the preceding calendar year from retail sales of electricity within

such incorporated city or village, less an amount equivalent to the amount paid by such public corporation in lieu of taxes in the 1957 calendar year with respect to its properties in such city or village.

The distribution of payments received by a County Treasurer is governed by §70-651.04, which provides:

All payments which are based on retail revenue from each incorporated city or village shall be divided and distributed by the county treasurer to that city or village, to the school districts located in that city or village, and to the county in which may be located any such incorporated city or village in the proportion that their respective property tax levies in the preceding year bore to the total of such levies. (Emphasis added).

The distribution language contained in §70-651.04 is very similar to language establishing the method of distributing in lieu of tax payments by public power districts previously contained in Neb.Rev.Stat. §70-653 (Reissue 1950) (repealed Laws 1959, c.317, §6). Section 70-653 provided that such payments were to be distributed ". . . proportionate to the respective tax levies for the current year of the state and governmental subdivisions entitled to participate in such distribution." The method of distribution set forth in §70-653 was interpreted in State ex rel. School District of Scottsbluff v. Ellis, 160 Neb. 400, 70 N.W.2d 320 (1955) to mean that each governmental subdivision was entitled to participate in distribution of the total amount paid in lieu of taxes in each county proportionately based on the ratio which the mill levy of each subdivision bore in relation to the total mill levy. See also Report of Attorney General 1959-60, Opinion No. 118, p. 205.

Based on the foregoing, we concluded in our prior opinion that, under current §70-651.04, any in lieu of tax payments received by a County Treasurer pursuant to §70-651.03 must be distributed to the ". . . city or village, to the school districts located in that city or village, and to the county in which may be located any such incorporated city or village in the proportion that their respective property tax levies in the preceding year bore to the total of such levies." (Emphasis added). We believe this language is clear and straightforward, and mandates distribution to the respective subdivisions based on the proportion which their particular property tax rate for the year preceding distribution bears in relation to the total property tax rate for all such entities in that year.

In asking us to review our conclusion, you have directed us to a prior opinion of this office discussing the distribution to local subdivisions of fees deposited in the Motor Vehicle Tax Fund under former Neb.Rev.Stat. § 77-1241.09 (transferred to Neb.Rev.Stat. § 60-305(15) (Reissue 1988)). Report of Attorney General 1979-80,

Opinion No. 322, p. 465. In this opinion, we concluded the term "levy," in the context of construing the statutory requirement that funds deposited in the Motor Vehicle Tax Fund be distributed to taxing agencies within a county "in the same proportion that the levy of each such taxing agency bears to the total of such levies of all taxing agencies in the county," referred to the amount of taxes levied, as opposed to the rate of tax imposed. We noted that the word "levy" has been used interchangeably with the term "mill levy," and thus could be interpreted as being "either the amount of taxes to be collected or the rate of taxation, i.e. mill levy." Id. at 466. Construing the particular statute at issue, we determined that the word "levy" was intended to refer to the total amount of taxes levied, as opposed to the rate of taxation. Id. at 467.

In construing the distribution formula set forth in § 70-651.04, however, it must be remembered that the authority for the Legislature to require certain public power districts to make payments based on a portion of their gross revenues, and the distribution of funds received from public power districts in this manner, emanates from a specific grant of constitutional power. Article VIII, Section 11, of the Nebraska Constitution, provides, in part:

> Every public corporation and political subdivision organized primarily to provide electricity or irrigation and electricity shall annually make the same payments in lieu of taxes as it made in 1957, which payments shall be allocated in the same proportion to the same public bodies or their successors as they were in 1957.
>
> The legislature may require each such public corporation to pay to the treasurer of any county in which may be located any incorporated city or village, within the limits of which such public corporation sells electricity at retail, a sum equivalent to five (5) per cent of the annual gross revenue of such public corporation derived from retail sales of electricity within such city or village, less an amount equivalent to the 1957 payments in lieu of taxes made by such public corporation with respect to property or operations in any such city or village. The payments in lieu of tax as made in 1957, together with any payments made as authorized in this section shall be in lieu of all other taxes, but shall not be in lieu of motor vehicle licenses and wheel taxes, permit fees, gasoline tax and other such excise taxes or general sales taxes levied against the public generally.

Of particular importance with regard to interpreting the proper distribution under § 70-651.04 of payments by public power districts of five per cent of gross revenues (less the in lieu payment amount) is the final portion of Article VIII, Section 11, which provides:

So much of such five (5) per cent as is in excess of an amount equivalent to the amount paid by such public corporation in lieu of taxes in 1957 shall be distributed in each year to the city or village, the school districts located in such city or village, the county in which such city or village is located, and the State of Nebraska, in the proportion that their respective property tax mill levies in each such year bear to the total of such mill levies. (Emphasis added).

While we noted in our 1980 opinion that the term "levy" may be used to refer to either the amount of taxes levied or the rate of taxation (i.e., mill levy), the provisions of Article VIII, Section 11, mandating distribution of the five per cent gross revenue payments made by public power districts to subdivisions based on the proportion in the respective "property tax mill levies" bear to the "total of such mill levies," eliminates any possible ambiguity as to the meaning of the word "lev{y}" in § 70-651.04. As we stated in our earlier opinion, the term "mill levy" can only refer to the rate of taxation; it cannot be construed to mean the amount of taxes levied. Thus, while it is true that property tax rates in Nebraska are no longer stated as "mill levies," it is our conclusion that the reference in § 70-651.04 to distribution of proceeds of payments made by public power districts based on gross revenues pursuant to § 70-651.03 must be based on the proportion that each subdivision's property tax rate bears to the total property tax rate for all subdivisions.

Very truly yours,
DON STENBERG
Attorney General
(Signed) L. Jay Bartel
Assistant Attorney General

7-18-7.1

STANDING COMMITTEE REPORT
Banking, Commerce and Insurance

The Committee on Banking, Commerce and Insurance desires to report favorably upon the appointment listed below. The Committee suggests the appointment be confirmed by the Legislature and suggests a record vote.

Steve Buttress - Department of Economic Development

VOTE: Aye: Senators Landis, Schmit, Conway, Hall, Lindsay, and Wesely. Absent: Senators Abboud and Haberman.

(Signed) David Landis, Chairperson

REPORT

Received report from the Board of Trustees of the Nebraska State College System on the status of negotiations for faculties at Chadron State, Peru State, and Wayne State as required in Section 81-1283 of the Nebraska Statutes.

RESOLUTIONS

LEGISLATIVE RESOLUTION 48. Read. Considered.

LR 48 was adopted with 30 ayes, 0 nays, and 19 not voting.

LEGISLATIVE RESOLUTION 61. Read. Considered.

LR 61 was adopted with 30 ayes, 0 nays, and 19 not voting.

MOTION - Approve Appointments

Mrs. Smith moved the adoption of the report of the General Affairs Committee for the following Governor appointments found in the Journal on page 1150: Helen W. Cherniak and Thomas J. Milliken - Nebraska Arts Council, and Ted Stutheit - Nebraska State Electrical Board.

Voting in the affirmative, 30:

Abboud	Coordsen	Hartnett	Peterson	Schrock
Ashford	Crosby	Johnson, L.	Pirsch	Smith
Baack	Cudaback	Johnson, R.	Rasmussen	Wehrbein
Bernard-Stevens	Dierks	Lindsay	Robak	Wesely
Beyer	Elmer	Lynch	Robinson	Will
Chizek	Haberman	Moore	Schellpeper	Withem

Voting in the negative, 0.

Present and not voting, 10:

Beutler	Chambers	Horgan	Labedz	Schimek
Byars	Conway	Kristensen	Nelson	Warner

Excused and not voting, 9:

Hall	Hillman	Landis	Rogers	Wickersham
Hefner	Lamb	Morrissey	Schmit	

These appointments were confirmed with 30 ayes, 0 nays, 10 present and not voting, and 9 excused and not voting.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following resolution: LR 23.

MOTION - Return LB 344 to Select File

Mr. Beutler moved to return LB 344 to Select File for the following specific amendment:
FA55
Restore to the bill the entire sentence beginning with the word "any" in line 17, page 101.

The Beutler motion to return prevailed with 26 ayes, 0 nays, 15 present and not voting, and 8 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 344. The Beutler specific amendment, FA55, found in this day's Journal, was adopted with 25 ayes, 0 nays, 16 present and not voting, and 8 excused and not voting.

Advanced to E & R for re-engrossment.

LEGISLATIVE BILL 724. Mrs. Smith requested a machine vote on the advancement of the bill.

Advanced to E & R for engrossment with 25 ayes, 6 nays, 10 present and not voting, and 8 excused and not voting.

LEGISLATIVE BILL 724A. Mrs. Smith requested a machine vote on the advancement of the bill.

MR. WARNER PRESIDING

Advanced to E & R for engrossment with 26 ayes, 4 nays, 13 present and not voting, and 6 excused and not voting.

LEGISLATIVE BILL 232. Mr. Beutler withdrew his pending motion, found in the Journal on page 1068, to indefinitely postpone.

Mr. Wesely offered the following amendment:
AM0730
1. On page 4, line 25, strike "an honorarium" and insert "any honorarium which exceeds one hundred dollars".

Mr. Wesely moved for a call of the house. The motion prevailed with 26 ayes, 0 nays, and 23 not voting.

Mr. Wesely requested a roll call vote on his amendment.

Voting in the affirmative, 24:

Abboud	Chambers	Hillman	Lynch	Schmit
Ashford	Chizek	Johnson, R.	Moore	Smith
Baack	Dierks	Kristensen	Morrissey	Wehrbein
Bernard-Stevens	Haberman	Labedz	Nelson	Wesely
	Hartnett	Lindsay	Rasmussen	Will

Voting in the negative, 13:

Beutler	Cudaback	Lamb	Robak	Schellpeper
Byars	Horgan	Peterson	Robinson	Warner
Crosby	Johnson, L.	Pirsch		

Present and not voting, 7:

Beyer	Coordsen	Schimek	Schrock	Withem
Conway	Elmer			

Excused and not voting, 5:

Hall	Hefner	Landis	Rogers	Wickersham

The Wesely amendment lost with 24 ayes, 13 nays, 7 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Mr. Withem renewed his pending amendment, AM0797, found in the Journal on page 1130.

Mr. Withem withdrew his pending amendment.

Mr. Beutler offered the following amendment:
AM0722

1. On page 7, line 7, strike "a", show as stricken, and insert "an honorarium except as provided in subsection (4) of this section or a"; in line 11 strike "a", show as stricken, and insert "an honorarium except as provided in subsection (4) of this section or a"; in line 16 strike "a", show as stricken, and insert "an honorarium except as provided in subsection (4) of this section or a"; in line 18 strike "a", show as stricken, and insert "an honorarium except as provided in subsection (4) of this section or a"; and in line 21 strike "As used in", show as stricken, and insert "For purposes of".

2. On page 8, after line 16, insert the following new subsection:

"(4) For purposes of sections 49-1480 to 49-1492, honorarium shall mean a payment to a public official for a service which the public official is not legally required to perform by reason of his or her public office. An honorarium may be provided to a public official if it bears a reasonable relationship to the value of the services rendered by the official receiving the honorarium.".

Messrs. Lamb and Schmit asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Hartnett moved the previous question. The question is, "Shall the debate now close?"

Mr. Hartnett moved for a call of the house. The motion prevailed with 16 ayes, 0 nays, and 33 not voting.

The motion to cease debate prevailed with 25 ayes, 2 nays, and 22 not voting.

The Chair declared the call raised.

Mr. R. Johnson asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Beutler moved for a call of the house. The motion prevailed with 28 ayes, 0 nays, and 21 not voting.

Mr. Beutler requested a roll call vote on his amendment.

Voting in the affirmative, 19:

Abboud	Coordsen	Horgan	Robinson	Warner
Beutler	Crosby	Kristensen	Schellpeper	Wehrbein
Beyer	Dierks	Labedz	Schrock	Withem
Byars	Elmer	Peterson	Smith	

Voting in the negative, 17:

Baack	Haberman	Lindsay	Pirsch	Wesely
Chambers	Hall	Moore	Rasmussen	Wickersham
Conway	Hartnett	Morrissey	Schimek	Will
Cudaback	Johnson, L.			

Present and not voting, 8:

Ashford	Bernard-Stevens	Chizek	Hillman	Nelson
		Hefner	Lynch	Robak

Excused and not voting, 5:

Johnson, R.	Lamb	Landis	Rogers	Schmit

The Beutler amendment lost with 19 ayes, 17 nays, 8 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Mr. Withem reoffered his pending amendment, AM0797, found in the Journal on page 1130, and considered in this day's Journal.

Mr. Withem moved for a call of the house. The motion prevailed with 14 ayes, 0 nays, and 35 not voting.

The Withem amendment was adopted with 25 ayes, 1 nay, 18 present and not voting, and 5 excused and not voting.

Pending.

The Chair declared the call raised.

Mr. Horgan asked unanimous consent to be excused. No objections. So ordered.

SELECT COMMITTEE REPORTS
Enrollment and Review

Correctly Engrossed

The following bills were correctly engrossed: 67, 205, 221, 251, 253, 286, 305, 311, 324, 325, 363, 363A, 410, 498, and 731.

(Signed) Eric Will, Chairperson

Enrollment and Review Change to LB 253

The following changes, required to be reported for publication in the Journal, have been made:
ER7024

1. On page 1, the matter beginning with "the" in line 1 through "Act" in line 2 has been struck and "finance" inserted; in line 9 "and" has been struck; and in line 12 ", and Laws 1990, LB 272A, section 4" has been inserted after "1990".

2. On page 2, line 1, "in the Nebraska Investment Finance Authority Act" has been inserted after "provisions"; in line 10 "to change provisions governing distribution of money appropriated to the Department of Banking and Finance for certain depositors;" has been inserted after the semicolon; in line 11 "and" has been struck; and in line 13 "; and to declare an emergency" has been inserted after "1943".

3. On page 11, line 18, "subdivision" has been struck, shown as stricken, and "subsection" inserted.

4. On page 19, line 7, "an" has been struck, shown as stricken, and "the" inserted.

Enrollment and Review Change to LB 286

The following changes, required to be reported for publication in the Journal, have been made:
ER7032
1. On page 9, line 14, the semicolon has been struck and an underscored period inserted.

Enrollment and Review Change to LB 305

The following changes, required to be reported for publication in the Journal, have been made:
ER7029
1. On page 22, line 5, an underscored comma has been inserted after "state".

Enrollment and Review Change to LB 311

The following changes, required to be reported for publication in the Journal, have been made:
ER7031
1. On page 5, line 5, "sections" has been struck and "section" inserted.

Enrollment and Review Change to LB 731

The following changes, required to be reported for publication in the Journal, have been made:
ER7030
1. In the E & R amendments, AM5059, on page 3, line 18, "that" has been struck and shown as stricken.
2. On page 1, line 4, "the" has been inserted after "of".

(Signed) Mary E. Sommermeyer
E & R Attorney

STANDING COMMITTEE REPORTS
Business and Labor

LEGISLATIVE BILL 452. Placed on General File.

LEGISLATIVE BILL 145. Placed on General File as amended.
Standing Committee amendment to LB 145:
AM0817
1. Insert the following new section:
"Sec. 8. This act shall become operative on

January 1, 1993.".

2. On page 2, line 24, strike "fifty" and insert "one hundred".

3. On page 3, line 24, strike "Constant" and insert "Continuous".

4. On page 4, line 4, strike "worked for" and insert "been employed by"; strike beginning with "up" in line 6 through "consecutive" in line 7 and insert "a total of six"; in line 13 after "notice" insert ". In the event of a medical emergency, the employee must provide written verification from a physician that a medical emergency exists as soon as possible after the medical emergency arises"; and in lines 21 and 22 strike "eight" and insert "six".

5. On page 5, line 4, after "equivalent" insert "company"; in line 6 after "employment" insert ", subject to subsection (4) of section 5 of this act"; and in line 8 after "because" insert "the company finds it impossible or unreasonable to do so because".

6. On page 6, line 4, after the second "or" insert "company".

LEGISLATIVE BILL 229. Placed on General File as amended.
Standing Committee amendment to LB 229:
AM0474

1. Insert the following new sections:

"Section 1. Sections 1 to 21 of this act shall be known and may be cited as the Contractor Registration Act.

Sec. 2. It is the intent of the Legislature that all contractors doing business in the State of Nebraska be registered with the department. It is not the intent of the Legislature to endorse the quality or performance of services provided by any individual contractor.

Sec. 15. There is hereby created the contractor Registration Cash Fund to be administered by the department. The fund shall consist of such sums as are appropriated to it by the Legislature and any fees collected in the administration of the Contractor Registration act. All funds collected shall be remitted to the State Treasurer for credit to the fund. Any money in the fund available for investment shall be invested by the state investment officer pursuant to

sections 72-1237 to 72-1276.".

2. On page 2, lines 1 and 2, strike "sections" 1 to 18 of this act" and insert "the Contractor Registration act".

3. On page 4, strike beginning with "an" in line 18 through "the" in line 20 and insert "a certificate evidencing approval of self-insurance privileges as provided by the Nebraska"; and after line 25 insert the following new paragraph:

"Each application shall be renewed annually upon payment of the fee prescribed in section 5 of this act.".

4. On page 5, line 16, after "application" insert "or renewal"; and in lines 17 and 18, strike "twelve dollars and fifty cents" and insert "twenty-five dollars".

5. On page 6, strike beginning with "self-insure" in line 20 through "in" in line 22 and insert "are approved by the Nebraska Workers' Compensation Court for self-insurance shall notify the department at least ten days prior to the termination of such".

6. On page 9, lines 7 and 8, strike "forward it to the appeals tribunal" and insert "provide a hearing pursuant to the Administrative Procedure Act".

7. Renumber the remaining sections accordingly.

LEGISLATIVE BILL 378. Placed on General File as amended.
Standing Committee amendment to LB 378:
AM0818

1. On page 2, line 13, strike "four" and insert "fifty".

2. On page 3, line 6, after "employer" insert "among"; and in line 7 strike "primary responsibility is" and insert "responsibilities are".

LEGISLATIVE BILL 380. Placed on General File as amended.
Standing Committee amendment to LB 380:
AM0819

1. Strike original section 1.

2. On page 2, line 23, strike "to 3" and insert "and 2".

3. Renumber the remaining sections

5 accordingly.

LEGISLATIVE BILL 820. Indefinitely postponed.

(Signed) George Coordsen, Chairperson

SELECT COMMITTEE REPORTS
Enrollment and Review

Correctly Engrossed

The following bills were correctly engrossed: 85, 85A, 115, 218, 297, 297A, 340, 382, 433, 433A, and 444.

(Signed) Eric Will, Chairperson

Enrollment and Review Change to LB 218

The following changes, required to be reported for publication in the Journal, have been made:
ER7025

1. In the Schellpeper-Wehrbein amendment, AM0579, on page 1, line 1, "except" has been struck and "that" inserted; in line 4 the comma has been struck; and in line 13 the underscored period has been struck.

2. In the E & R amendment, AM5066, on page 1, the matter beginning with "change" in line 12 through "Committee" in line 13 has been struck and "harmonize provisions" inserted.

3. On page 1, line 5, "to restrict the recording of brands for ribs;" has been inserted after the second semicolon.

(Signed) Mary E. Sommermeyer
E & R Attorney

SELECT FILE

LEGISLATIVE BILL 232. Mr. Lynch offered the following amendment:
FA56

On page 5, line 4 strike "member of such official's staff" and insert "any employee of the State of Nebraska.

Mr. Lynch withdrew his pending amendment.

Advanced to E & R for engrossment.

Mr. Haberman asked unanimous consent to be excused. No objections. So ordered.

LEGISLATIVE BILL 44. Mr. Baack renewed his pending amendment, AM0707, found in the Journal on page 1079.

The Baack amendment was adopted with 26 ayes, 0 nays, 16 present and not voting, and 7 excused and not voting.

Advanced to E & R for engrossment.

SPEAKER BAACK PRESIDING

LEGISLATIVE BILL 333. E & R amendment, AM5076, found in the Journal on page 1054, was adopted.

Mr. Abboud offered the following amendment:
AM0603

1. Insert the following new sections:

"Sec. 2. That section 60-1417.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-1417.01. Any prospective seller of a used motor vehicle or trailer at auction ~~as described in section 60-1401.02~~ shall complete a buyer's information form approved by the board. ~~The auction dealer shall be responsible for insuring that such form is prominently displayed on a window on the driver's side of the vehicle at the time such vehicle or trailer is displayed and being offered for sale at the auction.~~

The form ~~prescribed by the board~~ shall include~~, but not be limited to, the following information:~~ (1) ~~The~~ the make, (2) the model, (3) the year, (4) the actual mileage if known, except for trailers, (5) the vehicle identification number, (6) the name and address of the present owner of the vehicle or trailer, (7) the name and address of the previous owner, (8) the name and address of the person offering the vehicle for sale if such person is an employee or agent of the present owner, (9) the name and address of the person who has physical possession of the certificate of title, (10) a statement as to whether the title is

available for inspection and transfer immediately upon the sale of the motor vehicle or trailer, and (11) whether the unit is subject to any kind of ride-and-drive provisions and can or cannot be rejected and returned for refund within a specific period. The buyer's information form shall be in ~~triplicate~~ duplicate and signed by the seller or the seller's agent and the auction dealer. One copy of the form ~~shall be displayed on the unit as provided in this section, one copy~~ shall be retained by the seller, and one copy of the form shall be retained and maintained as a record by the auction dealer for a period of two years from the date offered for sale. The auction dealer shall be responsible for insuring that a form containing the information required in subdivisions (1) through (5), (10), and (11) of this section and the name of the state of origin of the current title is prominently displayed on a window on the driver's side of the vehicle or on the trailer at the time a vehicle or trailer is displayed and being offered for sale at auction.

When any dealer, except an auction dealer selling at auction, sells any unit on consignment, he or she shall take title to such unit in his or her own name, except that any dealer or other person, other than the owner of a used mobile home, selling a used mobile home shall not be required to take title but shall complete a buyer's information form approved by the board.

The seller of the used mobile home shall be responsible for insuring that ~~the form is prominently displayed in or on the home and that~~ a copy of the form is delivered to the buyer prior to closing the sale of the used mobile home.

The ~~buyer's information~~ form shall include~~, but not be limited to,~~ the ~~following information~~ (a) name and address of the record owner of the mobile home, (b) model, (c) year, and (d) serial number.

Sec. 5. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.".

2. On page 7, line 7, after "60-315" insert ", 60-1417.01,".

3. Renumber the remaining sections accordingly.

The Abboud amendment was adopted with 27 ayes, 0 nays, 15 present and not voting, and 7 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 335. Advanced to E & R for engrossment.

LEGISLATIVE BILL 358. E & R amendment, AM5081, found in the Journal on page 1054, was adopted.

Advanced to E & R for engrossment.

Mr. Robinson asked unanimous consent to be excused. No objections. So ordered.

LEGISLATIVE BILL 254. Advanced to E & R for engrossment.
LEGISLATIVE BILL 254A. Advanced to E & R for engrossment.

LEGISLATIVE BILL 689. E & R amendment, AM5079, found in the Journal on page 1057, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 534. Advanced to E & R for engrossment.

LEGISLATIVE BILL 745. E & R amendment, AM5080, found in the Journal on page 1057, was adopted.

Messrs. Hartnett and Beutler offered the following amendment:
AM0853
1. On page 6, line 1, after "if" insert ", in each year of the payment schedule,"; and in line 2 strike "in any one year".

The Hartnett-Beutler amendment was adopted with 25 ayes, 0 nays, 16 present and not voting, and 8 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 810. Advanced to E & R for engrossment.

LEGISLATIVE BILL 159. E & R amendment, AM5082, found in the Journal on page 1105, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 160. Advanced to E & R for engrossment.

LEGISLATIVE BILL 161. E & R amendment, AM5090, found in the Journal on page 1106, was adopted.

Mr. Lindsay renewed the pending Landis amendment, AM0804, found in the Journal on page 1147.

The Landis amendment was adopted with 25 ayes, 0 nays, 17 present and not voting, and 7 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 162. E & R amendment, AM5083, found in the Journal on page 1107, was adopted.

Mr. Lindsay renewed the pending Landis amendment, AM0805, found in the Journal on page 1147.

The Landis amendment was adopted with 28 ayes, 0 nays, 14 present and not voting, and 7 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 429. Advanced to E & R for engrossment.
LEGISLATIVE BILL 429A. Advanced to E & R for engrossment.

LEGISLATIVE BILL 500. E & R amendment, AM5084, found in the Journal on page 1108, was adopted.

Advanced to E & R for engrossment.

Mrs. Robak asked unanimous consent to be excused. No objections. So ordered.

LEGISLATIVE BILL 716. E & R amendment, AM5085, found in the Journal on page 1108, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 190. Advanced to E & R for engrossment.

LEGISLATIVE BILL 367. E & R amendment, AM5094, found in the Journal on page 1121, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 685. E & R amendment, AM5086, found in the Journal on page 1121, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 368. E & R amendment, AM5089, found in the Journal on page 1121, was adopted.

Advanced to E & R for engrossment.

Messrs. Lynch and Moore asked unanimous consent to be excused. No objections. So ordered.

LEGISLATIVE BILL 51. Mr. Schmit offered the following amendment:
AM0820

1. Insert the following new section:

"Sec. 5. That section 46-673.10, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

46-673.10. (1) If allocation is adopted for use of ground water for irrigation purposes in a management area, the permissible withdrawal of ground water shall be allocated equally per irrigated acre. Such allocation shall specify the total number of acre-inches that are allocated per irrigated acre per year, except that the district may allow a ground water user to average his or her allocation over any reasonable period of time not to exceed five years. A ground water user may use his or her allocation on all or any part of the irrigated acres to which the allocation applies.

(2) A ground water user in a management area shall not be prevented from increasing the number of acres which he or she irrigates, or otherwise adding new or additional acres or uses of ground water, but all such new or additional acres or uses shall be subject to the controls adopted pursuant to sections 46-656 to

46-674. A person who increases the number of acres which he or she irrigates, or otherwise adds new or additional uses of ground water, shall be entitled to the same allocation as existing acres or uses.

(3) If annual rotation is adopted for use of ground water for irrigation purposes in a management area, the nonuse of irrigated acres shall be a uniform percentage reduction of each landowner's irrigated acres within that management area or subarea. Such uniform reduction may be adjusted for each landowner based upon crops grown on his or her land to reflect the varying consumptive requirements between crops.".

2. On page 6, line 21, strike "and" and show as stricken.

3. On page 7, line 5, after "discharged" insert ";

(21) Allocation shall mean the allotment of a specified total number of acre-inches of irrigation water per irrigated acre per year or an average number of acre-inches of irrigation water per irrigated acre over any reasonable period of time not to exceed five years; and

(22) Rotation shall mean a recurring series of use and nonuse of irrigation wells on an hourly, daily, weekly, or monthly basis or of irrigated acres on an annual basis".

4. On page 21, line 21, after "46-673.09," insert "46-673.10,".

5. Renumber the remaining sections accordingly.

The Schmit amendment was adopted with 26 ayes, 0 nays, 13 present and not voting, and 10 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 51A. Advanced to E & R for engrossment.

Mr. R. Johnson asked unanimous consent to be excused. No objections. So ordered.

LEGISLATIVE BILL 403. E & R amendment, AM5087, found in the Journal on page 1122, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 772. E & R amendment, AM5091, found in the Journal on page 1122, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 408. Advanced to E & R for engrossment.

LEGISLATIVE BILL 766. E & R amendment, AM5093, found in the Journal on page 1123, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 639. E & R amendment, AM5092, found in the Journal on page 1123, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 350. E & R amendment, AM5088, found in the Journal on page 1123, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 193. Advanced to E & R for engrossment.

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 181A. Introduced by Chizek, 31.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 181, Ninety-second Legislature, First Session, 1991.

RESOLUTION

LEGISLATIVE RESOLUTION 62. Introduced by Moore, 24.

WHEREAS, the Concordia College Bulldogs men's basketball team, through teamwork, outstanding athletic ability, and hard work, achieved a record of twenty-three wins and eleven losses; and

WHEREAS, the achievements of the Bulldogs in the 1990-91 basketball season led to their first ever appearance in the NAIA national basketball tournament in Kansas City; and

WHEREAS, at the NAIA tournament, the Bulldogs only loss was to the eventual tournament champion Oklahoma City team by three points; and

WHEREAS, the achievements of Coach Grant Schmidt, his assistant coaches, and all members of the Concordia College Bulldogs men's basketball team have set an outstanding example for the youth of this state; and

WHEREAS, the collective athletic abilities, accomplishments, and dedication of the coaches and players should be commended and are deserving of special recognition.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature commends and applauds the Concordia College Bulldogs men's basketball team for its outstanding effort and achievements this season.

2. That a copy of this resolution be sent to Coach Grant Schmidt and the Concordia College Bulldogs men's basketball team in recognition of their accomplishments.

3. That a copy of this resolution be sent to Concordia College in care of Dean Richard A. Jostes, in recognition of this achievement.

Laid over.

EXPLANATION OF VOTE

Had I been present, I would have voted aye on LB 732 and LB 732A.

(Signed) Jessie K. Rasmussen

UNANIMOUS CONSENT - Print in Journal

Mrs. Robak asked unanimous consent to print the following amendment to LB 561 in the Journal. No objections. So ordered.

AM0825

1. Insert the following new section:

"Sec. 3. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.".

NOTICE OF COMMITTEE HEARINGS
Health and Human Services

Governor Appointments Wednesday, April 10, 1991 1:30 p.m.
Bruce L. Gilmore - Board of Health
Nancy O'Brien - Child Abuse Prevention Fund Board
Samuel H. Perry, II - Child Abuse Prevention Fund Board
Foster Care Review Board
Alva Barnett
Violet Fickel
Carol S. Holyoke
Jo Lamb
Nancy Thompson
Modular Housing Advisory Board
Max A. Burroughs
Roger Cross
Gary Rickett
Rod Tompkins

(Signed) Don Wesely, Chairperson

Government, Military and Veterans Affairs

LB 852 Thursday, March 28, 1991 1:30 p.m.

(Signed) Gerald Conway, Chairperson

ATTORNEY GENERAL'S OPINION

Opinion No. 91018

DATE: March 20, 1991

SUBJECT: Constitutionality of legislative act providing state income tax deductions for certain educational expenses incurred by individuals whose dependent(s) attend nonprofit public or private elementary or secondary schools in Nebraska.

REQUESTED BY: Senator Timothy J. Hall
Nebraska State Legislature

OPINION BY: Don Stenberg, Attorney General

L. Steven Grasz, Deputy Attorney General

You have requested an opinion as to the constitutionality of the tuition tax deduction proposed in LB 332 of the Ninety-Second Legislature, First Session (1991). Specifically, you have asked us to consider the constitutionality of this proposal in light of the Nebraska Supreme Court's decision in Cunningham v. Lutjeharms, 231 Neb. 756, 437 N.W.2d 806 (1989).

Section one of LB 332 would amend Neb.Rev.Stat. §77-2716.01 (Reissue 1990) by adding subsection (4) thereto, and thus create a state income tax deduction as follows:

4. (a) Every resident individual shall be allowed to subtract from federal adjusted gross income the actual amount paid to others for tuition, textbooks, and transportation during the tax year not in excess of one thousand one hundred dollars for each dependent in grades kindergarten through six and one thousand seven hundred dollars for each dependent in grades seven through twelve attending a public or nonpublic elementary or secondary school. No deduction shall be allowed under this subsection unless the school is located in the state, is not operated for profit, does not discriminate on the basis of race, color, or national origin, and fulfills the school term requirements prescribed in section 79-201.

(b) For purposes of this subsection:

(i) Textbooks shall mean and include books, instructional materials, and equipment used in teaching the elementary or secondary instructional program prescribed by the rules and regulations of the State Board of Education. Textbooks shall not include books, instructional materials, or equipment used in the teaching of religious tenets, doctrines, or worship or for extracurricular activities;

(ii) Transportation shall not include transportation to and from extracurricular activities; and

(iii) Dependent shall mean a person for whom the individual claims a dependency exemption on his or her federal income tax return.

For the reasons set forth below, it is the opinion of the Attorney General LB 332 does not violate the Constitution of the State of Nebraska or the Constitution of the United States.

Article VII, §11 of the Constitution of the State of Nebraska provides public funds may not be appropriated to a school not owned or controlled by the State:

Notwithstanding any other provision in the Constitution, appropriation of public funds shall not be made to any school or

institution of learning not owned or exclusively controlled by the state or a political subdivision thereof. . . .

The benefits of LB 332 would clearly be available on a nondiscriminatory basis to state tax payers whose dependents attend nonprofit private and parochial schools as well as public schools. At issue then, is whether the tuition tax deductions contained in LB 332 constitute an appropriation of funds to non-state owned or controlled schools.

The "appropriation of public funds," in the context of Art. VII, §11, has been defined by the Nebraska Supreme Court as follows:

> Regarding appropriation of public funds, to appropriate means to set apart, or assign to a particular person or use in exclusion of others, to use or employ for a particular purpose, or in a particular case.

State ex rel. Creighton University v. Smith, 217 Neb. 682, 688, 353 N.W.2d 267 (1984).

The Nebraska Supreme Court has repeatedly held Art. VII, §11 should be interpreted literally. Thus, §11 "prohibits appropriations by the Legislature to nonpublic schools." Cunningham v. Lutjeharms, 231 Neb. 756, 759, 437 N.W.2d 806 (1989) (emphasis in original); State ex rel. Creighton, 217 Neb. at 689; State ex rel. Bouc v. School Dist. of City of Lincoln, 211 Neb. 731, 736, 320 N.W.2d 472 (1982); Lenstrom v. Thone, 209 Neb. 783, 787, 311 N.W.2d 884 (1981). As the court has made clear, "{Article VII, §11} says what it means and means what it says." Lenstrom, 209 Neb. at 788.

Consistent with the holdings in Cunningham, Bouc, and Lenstrom, we find that LB 332 does not authorize an appropriation of funds to nonpublic schools. Furthermore, any indirect benefit to such institutions does not violate Art. VII, §11. "{A}ny benefit that may inure to the nonprofit private institution is merely incidental and certainly cannot be deemed to be an 'appropriation . . . to' that institution." Bouc, 211 Neb. at 737, 320 N.W.2d at 476. Therefore, it is our opinion LB 332 does not violate Art. VII, §11.

As to the question of whether LB 332 violates the Establishment Clause of the First Amendment to the Constitution of the United States (made applicable to the states through the Fourteenth Amendment), it is the opinion of the Attorney General LB 332 is constitutionally sound.

The United States Supreme Court's most well-developed "tests" for application of the Establishment Clause were set out in Lemon v. Kurtzman. These tests are as follows:

> First, the statute must have a secular legislative purpose; second, its principal or primary effect must be one that neither

advances nor inhibits religion, . . . finally, the statute must not foster "an excessive government entanglement with religion." . . . Lemon v. Kurtzman, 403 U.S. 613, 91 S.Ct. 2105, 2111 (1971).

In Mueller v. Allen, 463 U.S. 388, 394, 103 S.Ct. 3062, 3066 (1983), the United States Supreme Court upheld a Minnesota statute which, like LB 332, allows state taxpayers, in computing their state income tax, to deduct expenses incurred in providing tuition, textbooks, and transportation for their children attending public or private elementary or secondary school. Mueller v. Allen is dispositive of the Establishment Clause issues arising from LB 332. The tax deduction provided for in LB 332 has a secular legislative purpose. See Mueller v. Allen, 463 U.S. at 394. "A State's decision to defray the cost of educational expenses incurred by parents - regardless of the type of schools their children attend - evidences a purpose that is both secular and understandable." Id. at 395.

LB 332 does not have the primary effect of advancing religion. See Mueller v. Allen, 463 U.S. at 396-397. Here, as in Mueller, "the deduction is available for educational expenses incurred by all parents. . . ." Id. at 397. Likewise, "Public funds become available only as a result of numerous private choices of individual parents of school-age children." Id. at 399. As the Supreme Court noted, "The historic purposes of the {Establishment} Clause simply do not encompass the sort of attenuated financial benefit, ultimately controlled by the private choices of individual parents, that eventually flows to parochial schools from the neutrally available tax benefits at issue in this case." Id. at 400. Furthermore, under LB 332, as under Minnesota's statute, "If parents of children in private schools choose to take special advantage of the relief provided by {the bill} it is no doubt due to the fact that they bear a particularly great financial burden in educating their children." Id. at 402.

Finally, LB 332 does not excessively entangle the State in religion. See Mueller v. Allen, 403 U.S. at 388. See also Cunningham, 231 Neb. at 763.

In conclusion, LB 332 violates neither Neb.Const.Art. VII, §11 nor the Establishment Clause of the First Amendment to the Constitution of the United States. Attorney General Opinion No. 89012 dated March 9, 1989, is hereby expressly overruled.

Respectfully submitted,

Sincerely yours,
DON STENBERG
Attorney General
(Signed) L. Steven Grasz

Deputy Attorney General

3-60-3

UNANIMOUS CONSENT - Add Co-Introducer

Mr. Schrock asked unanimous consent to have his name added as co-introducer to LB 754. No objections. So ordered.

SELECT COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 284. Placed on Select File as amended.
E & R amendment to LB 284:
AM5095

1. On page 6, line 23, strike "all program proposals", show as stricken, and insert "a program proposal"; and in line 25 strike "of each".
2. On page 7, line 1, strike "such proposal".

LEGISLATIVE BILL 303. Placed on Select File.
LEGISLATIVE BILL 343. Placed on Select File.
LEGISLATIVE BILL 422. Placed on Select File.
LEGISLATIVE BILL 561. Placed on Select File.

LEGISLATIVE BILL 625. Placed on Select File as amended.
E & R amendment to LB 625:
AM5096

1. On page 2, line 17, after "and" insert "is", after "into" insert "a", and after "four-year" insert an underscored comma; and in line 18 strike "institutions", show as stricken, and insert "institution".
2. On page 7, line 15, strike "institutions", show as stricken, and insert "institution".
3. On page 9, line 10, strike the colon and strike "Preparation" and insert "preparation"; and in lines 11, 12, 13, and 17 strike the semicolon and insert an underscored comma.

(Signed) Eric Will, Chairperson

STANDING COMMITTEE REPORTS
Revenue

LEGISLATIVE BILL 734. Placed on General File.

LEGISLATIVE BILL 322. Placed on General File as amended.
Standing Committee amendment to LB 322:
AM0835

1. On page 2, line 13, strike "operating" and insert "real".

2. On page 3, line 17, before "property" insert "real".

LEGISLATIVE BILL 397. Placed on General File as amended.
(Standing Committee amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM0808.)

LEGISLATIVE BILL 727. Placed on General File as amended.
Standing Committee amendment to LB 727:
AM0486

1. On page 13, line 22, after "Commencing" insert "with any transaction occurring on or after".

2. On page 14, strike beginning with "Such" in line 2 through "(ii)" in line 15 and show the old matter as stricken; and in line 20 strike "(iii)", show as stricken, and insert "(ii)".

3. On page 15, line 1, strike "(iv)", show as stricken, and insert "(iii)"; in line 18 strike "Commencing October 1, 1985, any" and insert "Any"; and in line 22 after "business" insert "as long as a sales or use tax has been directly or indirectly paid on such property in a previous transaction. This subdivision shall apply to any transaction occurring on or after October 1, 1985".

LEGISLATIVE BILL 168. Indefinitely postponed.
LEGISLATIVE BILL 246. Indefinitely postponed.
LEGISLATIVE BILL 487. Indefinitely postponed.
LEGISLATIVE BILL 501. Indefinitely postponed.
LEGISLATIVE BILL 509. Indefinitely postponed.
LEGISLATIVE BILL 535. Indefinitely postponed.
LEGISLATIVE BILL 603. Indefinitely postponed.
LEGISLATIVE BILL 604. Indefinitely postponed.
LEGISLATIVE BILL 737. Indefinitely postponed.
LEGISLATIVE BILL 738. Indefinitely postponed.
LEGISLATIVE BILL 755. Indefinitely postponed.
LEGISLATIVE BILL 796. Indefinitely postponed.

LEGISLATIVE RESOLUTION 19CA. Indefinitely postponed.

(Signed) Tim Hall, Chairperson

VISITORS

Visitors to the Chamber were 62 eighth grade students and teachers from Mary Our Queen, Omaha; Joe and Debbie Timm and their family from Beatrice; 15 members and director of Nebraska Development/Awareness Team from across the state; 20 members and director of Emerald Club from Tekamah; and 45 fourth grade students and teachers from Lincoln Elementary, Fremont.

ADJOURNMENT

At 11:59 a.m., on a motion by Mrs. Rasmussen, the Legislature adjourned until 9:00 a.m., Thursday, March 21, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

FORTY-SEVENTH DAY - MARCH 21, 1991

LEGISLATIVE JOURNAL

FORTY-SEVENTH DAY - MARCH 21, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

FORTY-SEVENTH DAY

Legislative Chamber, Lincoln, Nebraska
Thursday, March 21, 1991

Pursuant to adjournment, the Legislature met at 9:03 a.m., Speaker Baack presiding.

PRAYER

The prayer was offered by Pastor Robert Folkers, Executive Director of Ministries for Methodist Conference, Lincoln, Nebraska.

PRESENTATION

Mrs. Rasmussen presented to the Legislature a brief speech on "National Women in History Month."

ROLL CALL

The roll was called and all members were present except Messrs. Ashford and Hall who were excused; and Messrs. Abboud, Chambers, Conway, Dierks, Haberman, Horgan, Lynch, Schmit, Schrock, Warner, Wesely, and Mrs. Labedz who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Forty-Sixth Day was approved.

SELECT COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 700. Placed on Select File.

LEGISLATIVE BILL 166. Placed on Select File as amended.
E & R amendment to LB 166:
AM5097

1. On page 1, line 1, strike "section" and insert "sections 79-12,107 and"; in line 3 after the semicolon insert "to redefine a term;"; and in line 5 strike "section" and insert "sections".

LEGISLATIVE BILL 199. Placed on Select File.

(Signed) Eric Will, Chairperson

STANDING COMMITTEE REPORTS
Urban Affairs

LEGISLATIVE BILL 492. Placed on General File as amended.
Standing Committee amendment to LB 492:
AM0495

1. On page 2, line 19, strike the new matter.
2. On page 4, line 2, insert paragraphing before "The"; and strike lines 8 and 9 and insert "by appointing seven members who shall serve until their successors are elected at the first general city election following such appointment. Members of the board shall be nominated and elected by district in the same manner as provided by law for the election of officers of the city concerned and shall take office at the same time as the officers of such city. Members of such board shall be residents of the city for which such authority is created and, except for members initially appointed, shall serve for terms of four years. Any vacancy on such board shall be filled by temporary appointment by the mayor, with the approval of the city council, until a successor can be elected at the next general city election. A member of such board may be removed from office for incompetence, neglect of duty, or malfeasance in office. An action for the removal of such officer may be brought, upon resolution of the city council, in the district court of the county in which such city is located.".

LEGISLATIVE BILL 513. Placed on General File as amended.
Standing Committee amendment to LB 513:

AM0777

1. Insert the following new section:

"Sec. 6. Any resident or property owner within a sanitary and improvement district is fully entitled to any and all services provided by a county to any resident or property owner not living within the boundaries of an incorporated city or village except for such services specifically provided for in sections 31-727 to 31-780 as being the responsibility of the district. No county shall deny the resident or property owner any such services or benefits solely because of his or her presence within a sanitary and improvement district.".

2. On page 2, line 4, strike "five" and insert "ten" and after "years" insert "since the first issuance of bonds"; in line 9 strike "ten" and insert "fifty"; in line 10 after the period insert "Following the filing of the petition and until such time as the city or village takes formal action on the petition, the board of trustees of the sanitary and improvement district shall, at the request of the city or village, provide full and complete information on its bond schedule, its financial condition, and other matters relevant to annexation."; in line 14 strike "ninety days" and insert "one calendar year"; and in line 20 strike "twelve months" and insert "one calendar year".

3. On page 3, line 9, strike "ten" and insert "fifty".

4. On page 4, lines 1 and 2 and 10, strike "taxable inhabitants", show as stricken, and insert "registered voters".

5. Renumber the remaining section accordingly.

LEGISLATIVE BILL 609. Placed on General File as amended.
Standing Committee amendment to LB 609:
AM0781

1. On page 3, strike beginning with "at" in line 5 through "Program" in line 9 and insert "there shall be a sixth, nonvoting commissioner appointed as provided for in section 3 of this act".

2. On page 5, line 11, strike the comma and reinstate the stricken "or"; and strike beginning with the comma in line 12 through "Program" in line 16.

3. On page 9, line 11, strike "fifteen" and insert "nine"; strike beginning with "The" in line 14 through line 16; in lines 19 and 20 strike "five" and insert "three"; and in line 21 after the period insert "In the event that any member of the owners advisory board ceases to be an owner or management agent of housing units participating in the housing authority's Section Eight Housing Program or Moderate Rehabilitation Program, the term of the member shall automatically terminate and a successor shall be appointed to fill the vacancy in the manner provided for original appointments.".

4. On page 10, after line 5, insert the following new subsection:

"(4) The members of the owners advisory board shall elect one of its members to serve as chairperson of the board for a term of one year. The chairperson shall call and preside at all meetings of the board. Such chairperson shall also serve as an ex officio nonvoting commissioner of the housing authority.".

LEGISLATIVE BILL 764. Placed on General File as amended.
Standing Committee amendment to LB 764:
AM0778

1. Strike original sections 1, 2, 4, and 5.

2. On page 4, lines 12 and 13, strike the new matter and reinstate the stricken matter.

3. On page 6, lines 2 through 16, strike the new matter.

4. On page 9, line 21, strike the new matter and reinstate the stricken matter.

5. On page 14, line 15, strike "sections 31-723," and insert "section"; in line 16 strike "31-733," and strike "and 31-739,"; and in line 17 strike "are" and insert "is".

6. Renumber remaining sections accordingly.

(Signed) D. Paul Hartnett, Chairperson

Agriculture

LEGISLATIVE BILL 282. Placed on General File as amended.
(Standing Committee amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM0775.)

LEGISLATIVE BILL 312. Placed on General File as amended.
Standing Committee amendment to LB 312:
AM0791

1. Strike the original sections and insert the following new sections:

"Section 1. A person who without permission releases an animal lawfully confined for science, research, commerce, or education is liable to the owner of the animal for damages, including the costs of restoring the animal to confinement and to its health condition prior to release and for damage to real property caused by the released animal. If the release causes the failure of an experiment, the person shall also be liable for all costs of repeating the experiment, including replacement of the animals, labor, and materials.

Sec. 2. A person who intentionally and without permission releases an animal lawfully confined for science, research, commerce, or education shall guilty of a Class II misdemeanor for the first offense and a Class I misdemeanor for all subsequent offenses.

Sec. 3. For purposes of sections 1 and 2 of this act, animal shall mean any warmblooded or coldblooded animal used in food, fur, or fiber production, agriculture, research, testing, or education and shall include dogs, cats, poultry, fish, and invertebrates.

Sec. 4. That section 28-101, Revised Statutes Supplement, 1990, be amended to read as follows:

28-101. Sections 28-101 to 28-1348 and sections 1, 2, and 3 of this act shall be known and may be cited as the Nebraska Criminal Code.

Sec. 5. That original section 28-101, Revised Statutes Supplement, 1990, is repealed.".

(Signed) Carson Rogers, Chairperson

Banking, Commerce and Insurance

LEGISLATIVE BILL 544. Placed on General File as amended.
(Standing Committee amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM0741.)

(Signed) David Landis, Chairperson

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following resolutions: LR 48 and LR 61.

RESOLUTION

LEGISLATIVE RESOLUTION 62. Read. Considered.

LR 62 was adopted with 26 ayes, 0 nays, and 23 not voting.

MOTION - Approve Appointment

Mr. Landis moved the adoption of the report of the Banking, Commerce and Insurance Committee for the following Governor appointment found in the Journal on page 1160: Steve Buttress - Department of Economic Development.

Voting in the affirmative, 25:

Baack	Cudaback	Johnson, L.	Morrissey	Rogers
Beyer	Elmer	Johnson, R.	Pirsch	Schellpeper
Byars	Hartnett	Landis	Rasmussen	Wehrbein
Coordsen	Hefner	Lindsay	Robak	Will
Crosby	Hillman	Moore	Robinson	Withem

Voting in the negative, 0.

Present and not voting, 10:

Bernard-Stevens	Chizek	Lamb	Peterson	Smith
Beutler	Kristensen	Nelson	Schimek	Wickersham

Excused and not voting, 14:

Abboud	Conway	Hall	Lynch	Warner
Ashford	Dierks	Horgan	Schmit	Wesely
Chambers	Haberman	Labedz	Schrock	

The appointment was confirmed with 25 ayes, 0 nays, 10 present and not voting, and 14 excused and not voting.

ANNOUNCEMENT

The Chair announced today is Ms. Schimek's birthday.

GENERAL FILE

LEGISLATIVE BILL 853. Title read. Considered.

Advanced to E & R for review with 26 ayes, 0 nays, 13 present and not voting, and 10 excused and not voting.

STANDING COMMITTEE REPORTS

Nebraska Retirement Systems

LEGISLATIVE BILL 756. Indefinitely postponed.

(Signed) Arlene Nelson, Chairperson

Revenue

LEGISLATIVE BILL 320. Placed on General File as amended.
Standing Committee amendment to LB 320:
AM0783

1. Strike original sections 3, 7, 10, and 13 and insert the following new sections:

"Sec. 6. The Legislature prescribes the method described in this section as an accurate and fair measure of the actual value of agricultural land and horticultural land for purposes of property taxation. The Department of Revenue shall collect market information of actual sales of agricultural land and horticultural land and shall collect information to determine net income per acre as a percentage of actual sales price of such land. A market value as determined by the market information collected shall be divided into the net income per acre producing a market-derived capitalization rate. The department shall adjust the market-derived capitalization rates for risk and parcelization effects of agricultural land and horticultural land markets. The adjustment shall be an equal percentage across all categories of agricultural

land and horticultural land, except that for tax year 1992 the adjustment shall be one hundred twenty-five percent of the market-derived capitalization rate. The actual value per acre shall be determined by taking the net income per acre and dividing it by the adjusted market-derived capitalization rate.

Sec. 9. That section 77-1363, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-1363. ~~For assessment year 1989, agricultural land and horticultural land shall be divided into five major categories, including irrigated cropland, dryland cropland, pasture, rangeland, and wasteland. For assessment year 1990 and each year thereafter, agricultural~~ Agricultural land and horticultural land shall be divided into four major categories, including irrigated cropland, dryland cropland, grassland, and wasteland. Intensive agricultural uses, such as nurseries, feedlots, and orchards, shall be categorized as either irrigated cropland or dryland cropland. Such categories shall be divided into subclasses based on soil classification standards developed by the United States Department of Agriculture Soil Conservation Service. Land enrolled in a federal or state program in which payments are received for removing such land from agricultural or horticultural production shall be classified according to its ~~use in the assessment year prior to its enrollment in such program~~ actual value as determined in section 6 of this act. County assessors shall utilize and implement soil surveys in the tax year after the soil survey maps become available. County assessors shall utilize and implement soil classifications as converted into land valuation groups provided by the Tax Commissioner.

Sec. 12. That section 77-1506.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-1506.02. Upon the completion of the equalization of individual assessments of real or personal property pursuant to sections 77-1502 and 77-1504, the county board of equalization may increase or decrease by a percentage the valuation of all of a class or subclass of property, as defined by the Tax

Commissioner. The county board of equalization may increase or decrease by a percentage the valuation of a subclass of agricultural land or horticultural land but may not increase or decrease the valuation of the class of agricultural land or horticultural land. ~~, except on and after assessment year 1991 agricultural land or horticultural land as defined in section 77-1359.~~ Any adjustment made pursuant to this section shall be made to achieve the uniform and proportionate valuation of the classes or subclasses within the county. Notice shall be given by publication in a newspaper of general circulation within the county~~. Such notice shall be given~~ at least ten days before the final action of the county board of equalization is taken. Nonresident owners of real property ~~affected by such action~~ whose valuation is adjusted by the action of the county board of equalization shall be notified by mail of any changes in the valuation if the nonresident owner has an address of record on file with the county assessor as of January 1 of each year. The notice shall be mailed within ten days from the date on which the county board of equalization took final action pursuant to this section. No action shall be taken by the county board of equalization pursuant to this section after June 15 of each year.

When making percentage adjustments to classes or subclasses of property pursuant to this section, the county board of equalization shall make such adjustments so that the valuation of the classes or subclasses is adjusted to the aggregate level of values of all taxable property in the county, except any adjustment to a subclass of agricultural land or horticultural land shall be to the aggregate level of value of all agricultural land or horticultural land in the county.

~~For assessment year 1989, the Department of Revenue shall calculate an adjustment factor for all subclasses within each land-use category of agricultural land and horticultural land. On or before May 1, 1989, the department shall provide such adjustment factors to each county board of equalization. The adjustment factors shall be calculated in order to adjust the values found in the 1989 agricultural land valuation manual to comply with the actual value standard prescribed in section 77-112. The county board of~~

~~equalization shall use such adjustment factors to determine the actual value of agricultural land and horticultural land.~~

~~For assessment years 1989 and 1990, the county board of equalization shall adjust the actual value of agricultural land and horticultural land in order to correlate and equalize agricultural land and horticultural land value with that of all other property classes.~~.".

2. On page 3, line 15, strike "when applied to" and insert "of".

3. On page 3, lines 18 and 23; page 10, line 6; and page 12, line 4, strike "7" and insert "6".

4. On page 7, line 25, reinstate the stricken matter.

5. On page 12, line 4, reinstate the stricken matter and before "section" insert "and".

6. On page 15, line 9, reinstate the stricken matter.

7. On page 16, reinstate the stricken matter beginning with "For" in line 21 through the second "of" in line 25 and after the reinstated matter insert "the class or subclass of property in which the protested property is categorized.".

8. On page 18, line 22, strike "77-508.01,"; and in line 23 strike "77-1365," and insert "77-1363,", after "77-1367," insert "and", and strike "and"; in line 24 strike "77-1506.02,"; and in line 25 strike "77-1370, and" and insert "and 77-1370,".

9. On page 19, line 1, strike "77-1371,".

10. Renumber the remaining sections accordingly.

LEGISLATIVE BILL 754. Placed on General File as amended.
Standing Committee amendment to LB 754:
AM0785

1. Strike original sections 5 and 10 through 14 and insert the following new section:

Sec. 9. Through December 31, 1999, each seller of Nebraska-produced ethyl tertiary butyl ether shall receive a credit of fifty cents per gallon of each gallon of Nebraska-produced ethyl tertiary butyl ether sold, which credit shall be in the form of a transferable income tax credit certificate. The credit

shall be given only for ethyl tertiary butyl ether produced at a plant in Nebraska. The credit shall be claimed no later than the due date, including extensions, of the tax return filed for the taxable year of the claimant ending not more than thirty-six months after the taxable year of the claimant in which the certificate is issued. The Department of Revenue shall prescribe an application form and procedures for claiming the credit and shall adopt and promulgate rules and regulations to carry out this section.".

2. On page 2, line 17; and page 3, line 11, strike "December 31", show as stricken, and insert "September 30" and strike "1999" and insert "2000".

3. On page 7, line 25, strike "(a)".

4. On page 8, strike beginning with the comma in line 11 through the comma in line 12 and show as stricken; and strike lines 16 through 25.

5. On page 9, strike lines 1 and 2.

6. Strike beginning with "The" on page 12, line 22, through page 13, line 6, and show the old matter as stricken.

7. On page 13, line 10, strike "1997", show as stricken, and insert "1992"; in line 11 strike "twenty", show as stricken, and insert "ten"; in line 12 after "Nebraska" insert ", and through December 31, 1997, each producer of ethanol shall receive a credit of twenty cents per gallon of ethanol produced in Nebraska"; in line 17 strike the new matter and reinstate the stricken matter; and in line 22 after the period insert "Each producer of ethyl tertiary butyl ether shall receive that portion of the ethanol credit given in this section equal to the proportion of ethanol contained in ethyl tertiary butyl ether produced in Nebraska.".

8. On page 17, line 23, strike "66-1214,"; and in line 24 after "66-1307," insert "and" and strike "and 77-27,189,".

9. Renumber remaining sections accordingly.

LEGISLATIVE BILL 591. Indefinitely postponed.

(Signed) Tim Hall, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 63. Introduced by Crosby, 29; Beutler, 28.

WHEREAS, the Lincoln Christian High School boys' basketball team won their second Class C-2 Boys' State High School Basketball Championship with a victory over Grant; and

WHEREAS, the team won twenty of twenty-five games played this season; and

WHEREAS, the Legislature should recognize the academic, athletic, and artistic achievements of the youth of our state.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Lincoln Christian High School boys' basketball team be congratulated for their exemplary effort this season and in the Boys' State High School Basketball Tournament.

2. That a copy of this resolution be sent to Coach Wes Shepard and the Lincoln Christian High School boys' basketball team.

Laid over.

UNANIMOUS CONSENT - Print in Journal

Mr. Haberman asked unanimous consent to print the following amendment to LB 732 in the Journal. No objections. So ordered.

AM0827

1. Insert the following new sections:

"Sec. 40. That section 24-809, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

24-809. The ~~Judge~~ judge of the Supreme Court on each judicial nominating commission shall be the chairperson of the ~~chairman of said~~ commission and shall preside at all of its meetings. He or she shall not be entitled to vote. In selecting or rejecting judicial nominees, ~~said~~ the members of the commission shall vote by oral roll call vote at a public hearing or meeting in open session. Each candidate ~~must~~ shall receive a majority vote of the members of the ~~nominating~~ commission to have his or her name submitted to the Governor.

Sec. 41. That section 24-810, Revised

Statutes Supplement, 1990, be amended to read as follows:

24-810. (1) In the event of the death, retirement, resignation, or removal of any district or county judge, the failure of a district or county judge to be retained in office, or an increase in the number of district or county judgeships authorized by law and except in those judicial districts required to be served by at least one county judge pursuant to section 24-503 and one district court judge pursuant to section 24-301.02, the Supreme Court shall, after holding a public hearing, determine whether a judicial vacancy exists. The determination shall be based upon the Supreme Court's analysis of the caseload, travel time, and other factors necessary to assure efficiency and service. After a determination that a judicial vacancy exists, the declaration of the location of the vacancy shall be made by the Judicial Resources Commission. The Supreme Court shall adopt and promulgate rules and regulations on the procedures to be followed in making a determination of the existence of and declaration of the location of judicial vacancies.

(2) When the location of a district or county judicial vacancy is declared by the Judicial Resources Commission or in the event of a judicial vacancy in any other court, the Clerk of the Supreme Court shall contact the chairperson of the judicial nominating commission relating to such vacancy and shall ascertain from him or her a time and place for the first meeting of such judicial nominating commission, at which time a public hearing will be held. He or she shall thereupon notify each commission member in writing of the time and place of the meeting and shall also cause appropriate notice to be published by various news media of the time and place of the public hearing of the judicial nominating commission and of the interest of the commission in receiving information relating to qualified candidates for the judicial vacancy. At least two days prior to the public hearing, the chairperson shall release to the public the names of lawyers who have signified in writing their willingness to serve as a judge if nominated and appointed to such judgeship, and immediately prior to the public hearing the chairperson shall release the names of any additional

lawyers who have so signified. Any member of the public shall be entitled to attend the public hearing to express, either orally or in writing, his or her views concerning candidates for the judicial vacancy.

(3) After the public hearing the nominating commission shall hold such additional ~~private or confidential~~ meetings as it determines to be necessary. Additional information may be submitted in writing to the judicial nominating commission at any time prior to its selection of qualified candidates to fill the vacancy. The judicial nominating commission shall make such independent investigation and inquiry as it considers necessary or expedient to determine the qualifications of candidates for the judicial vacancy and shall take such action as it deems necessary or expedient to encourage qualified candidates to accept judicial office or nomination for judicial office.

(4) The commission may, before or after the hearing provided for in subsection (2) of this section, institute a search for additional candidates. If additional candidates are obtained, the commission shall hold further public hearings in the same manner as provided in subsection (2) of this section.

(5) Any hearing or meeting held by a judicial nominating commission pursuant to this section shall be subject to sections 84-1408 to 84-1414.

(6) The names of candidates shall be submitted to the Governor within sixty days after a declaration of the location of a district or county judicial vacancy by the Judicial Resources Commission or, in the event of a judicial vacancy in any other court, after a judicial vacancy occurred if one public hearing is held and within ninety days if more than one public hearing is held.

(7) ~~(6)~~ The first public hearing provided for in this section shall be held within forty-five days after the location of a vacancy has been declared or the vacancy occurs, as the case may be.

Sec. 159. That section 84-1409, Revised Statutes Supplement, 1990, be amended to read as follows:

84-1409. For purposes of sections 84-1408 to 84-1414, unless the context otherwise requires:

(1) Public body shall mean (a) governing

bodies of all political subdivisions of the State of Nebraska, (b) governing bodies of all agencies, now or hereafter created by the Constitution of Nebraska, statute, or otherwise pursuant to law, of the executive department of the State of Nebraska, (c) all independent boards, commissions, bureaus, committees, councils, subunits, or any other bodies, now or hereafter created by the Constitution of Nebraska, statute, or otherwise pursuant to law, (d) the Certificate of Need Review Committee, (e) all study or advisory committees of the executive department of the State of Nebraska whether having continuing existence or appointed as special committees with limited existence, (f) advisory committees of the bodies referred to in subdivisions (a), (b), and (c) of this subdivision, ~~and~~ (g) instrumentalities exercising essentially public functions, and (h) all judicial nominating commissions. Sections 84-1408 to 84-1414 shall not apply to subcommittees of such bodies unless such subcommittees are holding hearings, making policy, or taking formal action on behalf of their parent body nor shall such sections apply to judicial proceedings unless a court or other judicial body is exercising rulemaking authority, deliberating, or deciding upon the issuance of administrative orders; and

(2) Meeting shall mean all regular, special, or called meetings, formal or informal, of any public body for the purposes of briefing, discussion of public business, formation of tentative policy, or the taking of any action of the public body.".

2. On page 188, line 2, after the second comma insert "24-809,"; in line 21 after the last comma insert "24-810,"; and in line 23 strike "and 84-918" and insert "84-918, and 84-1409".

3. Renumber the remaining sections accordingly.

GENERAL FILE

LEGISLATIVE BILL 409. Title read. Considered.

Standing Committee amendment, AM0625, printed separately from the Journal and referred to on page 1009, was considered.

Mr. R. Johnson renewed his pending amendment, AM0712, found in the Journal on page 1073, to the pending Standing Committee amendment.

The R. Johnson amendment was adopted with 25 ayes, 0 nays, 16 present and not voting, and 8 excused and not voting.

Mr. Morrissey offered the following amendment to the pending Standing Committee amendment:
FA57
Amend committee amendments to LB 409 by striking Section 18

The Morrissey amendment was adopted with 19 ayes, 0 nays, 23 present and not voting, and 7 excused and not voting.

Mr. Beutler offered the following amendment to the pending Standing Committee amendment:
FA58
Amend the committee amendments to LB 409 as follows:
On line 14, page 1, add the following language:
"The department, in consultation with interested parties, shall report to the members of the legislature at the beginning of every third year during which the fund is in existence on the availability of private insurance to insure these damages for which payment may be made from the fund"
Add the following sentence to line 16, page 2:
"provided, however, that such fee shall increase by 5% on January 1, 1994, and on each January 1 thereafter and by 10% on January 1, 1998, and each year thereafter"

The Beutler amendment was adopted with 18 ayes, 2 nays, 22 present and not voting, and 7 excused and not voting.

Mr. Lamb offered the following amendment to the pending Standing Committee amendment:
FA59
Amend LB 409 committee amendments
Page 2 line 16 after tank insert - used for wholesale or retail purposes.

Mr. Lamb withdrew his pending amendment.

The Standing Committee amendment, as amended, was adopted with 27 ayes, 3 nays, 14 present and not voting, and 5 excused and not voting.

Mrs. Labedz and Mr. Haberman asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Schmit offered the following amendment:
AM0838

1. Insert the following new section:

"Sec. 23. That section 81-15,123, Revised Statutes Supplement, 1990, be amended to read as follows:

81-15,123. The State Fire Marshal shall adopt and promulgate rules and regulations governing release, detection, prevention, and correction procedures applicable to all owners and operators as shall be necessary to protect human health, public safety, and the environment. Such rules and regulations may distinguish between types, classes, and ages of tanks. In making such distinctions, the State Fire Marshal shall consider, but not be limited to, location of the tanks, soil and climate conditions, uses of the tanks, history of maintenance, age of the tanks, current industry-recommended practices, national consensus codes, hydrogeology, depth to the ground water, size of the tanks, quantity of regulated substances periodically deposited in or dispensed from the tanks, the technical capability of the owners and operators, and the compatibility of the regulated substance and the materials of which the tank is fabricated. Before adoption, such rules and regulations shall be reviewed and approved by the Director of Environmental Control who shall determine whether the proposed rules and regulations are adequate to protect the environment. Rules and regulations adopted and promulgated pursuant to this section shall include, but not be limited to:

(1) Proper procedures and specifications for the construction, design, installation, replacement, or repair of tanks. The rules and regulations may not require licensure or certification of a person who installs or replaces a tank;

(2) A permit and registration system for all tanks;

(3) A program to establish an inspection system for all tanks. Such program shall provide for periodic safety inspections and spot checks of monitoring systems by the State Fire Marshal. A fee schedule may also be developed for the inspection of new tank and piping installations and tank closures in the manner prescribed in section 81-505.01. Such inspection fees shall be remitted by the State Fire Marshal to the State Treasurer who shall credit them to the Underground Storage Tank Fund. No fee shall be charged for the periodic safety inspections and spot checks of monitoring systems by the State Fire Marshal;

(4) A monitoring system for all tanks which includes, but is not limited to, the following:

(a) An inventory-control procedure for any tank used to hold petroleum products or hazardous substances for resale;

(b) An inventory-control procedure for any tank used solely for consumptive onsite purposes and not for resale. Such control procedure shall determine the method of inventory measurement giving consideration to the economic burden created by the procedure. The frequency of inventory measurement for such category of tank shall include at least one measurement every thirty days;

(c) Provisions for the prompt reporting of any release of a regulated substance; and

(d) A procedure for the proper method of monitoring tanks;

(5) A procedure for notifying the State Fire Marshal of temporarily or permanently abandoned tanks;

(6) A procedure for removing or making safe any abandoned tanks, except that the State Fire Marshal may dispense with such procedure in special circumstances;

(7) Financial responsibility requirements, taking into account the financial responsibility requirements established pursuant to 42 U.S.C. 6991b(d);

(8) Requirements for maintaining a leak-detection system, an inventory system, and a tank-testing or comparable system or method designed to identify releases in a manner consistent with the protection of human health, public safety, and the environment; and

(9) Requirements for maintaining records of any monitoring or leak-detection system, inventory-control system, or tank-testing or comparable system.".

2. On page 24, line 2, strike "section 81-15,119" and insert "sections 81-15,119 and 81-15,123".

3. Renumber the remaining sections accordingly.

Mr. Morrissey asked unanimous consent to be excused. No objections. So ordered.

Mr. Schmit moved for a call of the house. The motion prevailed with 14 ayes, 0 nays, and 35 not voting.

Mr. Withem requested a roll call vote on the Schmit amendment.

Voting in the affirmative, 26:

Baack	Conway	Johnson, L.	Nelson	Schmit
Bernard-Stevens	Coordsen	Kristensen	Peterson	Schrock
Beyer	Cudaback	Labedz	Robinson	Smith
Byars	Dierks	Lamb	Rogers	Warner
Chizek	Elmer	Moore	Schellpeper	Wehrbein
	Hefner			

Voting in the negative, 14:

Beutler	Hartnett	Lindsay	Schimek	Will
Chambers	Horgan	Pirsch	Wesely	Withem
Crosby	Landis	Rasmussen	Wickersham	

Present and not voting, 3:

Hillman	Johnson, R.	Robak

Excused and not voting, 6:

Abboud	Haberman	Hall	Lynch	Morrissey
Ashford				

The Schmit amendment was adopted with 26 ayes, 14 nays, 3 present and not voting, and 6 excused and not voting.

The Chair declared the call raised.

Mr. Wehrbein offered the following amendment:
FA60

Amend the Beutler amendment FA58 by striking that portion which reads:

"Provided, however that such fee shall increase by 5% on Jan. 1, 1994, and on each Jan. 1 thereafter and by 10% on Jan. 1, 1998 and each year thereafter."

Messrs. Rogers, Kristensen, and Schellpeper asked unanimous consent to be excused. No objections. So ordered.

Pending.

SELECT COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 454. Placed on Select File as amended.
E & R amendment to LB 454:
AM5098

1. On page 1, line 5, after "change" insert ", transfer, and eliminate penalty".

2. On page 2, line 9, strike the comma.

3. On page 3, line 14; and page 4, line 3, strike "liquors", show as stricken, and insert "liquor".

4. On page 3, line 24, after "a" insert "retail"; and strike beginning with "to" in line 24 through "retail" in line 25 and show as stricken.

5. On page 4, line 5, strike the last comma and show as stricken; in line 11 after "managing" insert an underscored comma; in lines 12 and 21 before "club" insert "or"; in line 14 strike the comma and show as stricken; in lines 15 and 22 strike "theretofore" and show as stricken and strike "to", show as stricken, and insert "for"; strike beginning with "sections" in line 16 through the underscored period in line 18 and show the old matter as stricken; in line 18 after the stricken "53-190" insert "the Nebraska Liquor Control Act" and reinstate the stricken period; strike beginning with "sections" in line 23 through the underscored period in line 25 and show the old matter as stricken; and in line 25 after the stricken "53-190" insert "the

act" and reinstate the stricken period.

6. On page 5, line 5, strike beginning with the first "shall" through "and" and show as stricken.

LEGISLATIVE BILL 582. Placed on Select File as amended.
E & R amendment to LB 582:
AM5100

1. To aid potential correlation with LB 344, section 47, strike original section 1 and insert the following new section:

"Section 1. That section 53-164.01, Revised Statutes Supplement, 1990, be amended to read as follows:

53-164.01. Payment of the tax provided for in section 53-160 on alcoholic liquor shall be paid by the manufacturer or distributor as follows: ~~provided in this section.~~

(1)(a) All ~~such~~ manufacturers or distributors, except ~~for~~ farm winery producers, whether ~~within or without~~ inside or outside this state shall, on or before the twenty-fifth day of each calendar month ~~commencing on the twenty-fifth day of the calendar month~~ following the month in which ~~the~~ shipments ~~are~~ were made, ~~make~~ submit a report under oath or affirmation to the commission upon forms ~~to be~~ furnished by the commission ~~for the purpose of~~ showing the ~~exact~~ total amount of alcoholic liquor in gallons ~~of alcoholic liquor,~~ or fractional parts thereof~~,~~ shipped by such manufacturer or distributor, whether ~~within or without the State of Nebraska~~ inside or outside this state, during the preceding calendar month; ~~.~~

(b) All beer distributors shall, on or before the twenty-fifth day of each calendar month following the month in which ~~the~~ shipments ~~are~~ were made, ~~make~~ submit a report under oath or affirmation to the commission upon forms furnished by the commission ~~for the purpose of~~ showing the ~~exact~~ total amount of beer in gallons ~~of beer,~~ or fractional parts thereof~~,~~ shipped by all manufacturers, whether ~~within or without the State of Nebraska~~ inside or outside this state, during the preceding calendar month to such distributor; ~~.~~

(c) Farm winery producers shall, on or before the twenty-fifth day of each calendar month ~~commencing on the twenty-fifth day of the calendar month~~ following

the month in which ~~the~~ wine ~~is~~ was packaged or bottled for sale, ~~make~~ submit a report under oath or affirmation to the commission upon forms furnished by the commission ~~for the purpose of~~ showing the ~~exact~~ total amount of wine in gallons ~~of wine,~~ or fractional parts thereof~~,~~ packaged or bottled by such producer during the preceding calendar month; and ~~.~~

~~Such report~~ (d) Reports submitted pursuant to subdivision (a), (b), or (c) of this subdivision shall also contain a statement of the ~~exact~~ total amount ~~in gallons, or fractional parts thereof,~~ of alcoholic liquor, except beer, in gallons or fractional parts thereof shipped to holders of retailers' licenses ~~within~~ inside this state~~. All reports submitted by each manufacturer, distributor, or farm winery producer, as required by this section, shall contain~~ and such other information as the commission may require; ~~.~~

(2) The distributor or farm winery producer shall~~,~~ at the time of the filing of the report~~,~~ pay to the commission the ~~amount of the~~ tax due on alcoholic liquor, except beer, shipped to holders of retailers' licenses ~~within~~ inside this state at the rate fixed in accordance with section 53-160. The tax due on beer shall be paid by the distributor on beer shipped from all manufacturers; ~~.~~

~~Such~~ (3) The tax shall be due on the date the report is due less a discount of one percent of ~~such~~ the tax on alcoholic liquor for submitting the report and paying the tax in a timely manner. ~~Such~~ The discount shall be deducted from the payment of ~~such~~ the tax before remittance ~~of the tax~~ to the commission~~,~~ and shall be shown in ~~such~~ the report to the commission as required in this section. If the ~~, and shall be a commission for the making of such report and for the timely payment of such tax, but if such~~ tax is not paid within the time provided in this section, ~~then such~~ the discount shall not be allowed and ~~the discount~~ shall not be deducted from the ~~payment of such~~ tax; ~~.~~

~~A penalty of ten percent of the amount of the tax shall be collected by the commission if~~ (4) If the report is not ~~filed~~ submitted by the twenty-fifth day of the calendar month or if the tax is not paid to the commission by the twenty-fifth day of the calendar month, the following penalties shall be assessed on the

amount of the tax: One to five days late, three percent; six to ten days late, six percent; and over ten days late, ten percent. In addition, ~~and in addition thereto~~ interest on the tax shall be collected at the rate of one percent per month, or fraction of a month, from the date the tax became due until paid; ~~.~~

(5) No tax shall be levied or collected on alcoholic liquor manufactured ~~within the State of Nebraska~~ inside this state and shipped or transported outside ~~the State of Nebraska~~ this state for sale and consumption outside ~~the State of Nebraska.~~ this state;

(6) In order to insure the payment of ~~all~~ state taxes ~~imposed by law~~ on alcoholic liquor, together with ~~all~~ interest and penalties, ~~thereon, all~~ persons required to ~~make~~ submit reports and payment of ~~such~~ the tax shall first enter into a surety bond with corporate surety, both ~~such~~ the bond form and surety to be approved by the commission. In lieu of such corporate surety bond, there may be filed a personal bond in such form as the commission may prescribe and secured by ~~the~~ a pledge of property having a net value over and above any encumbrance or encumbrances thereon at least double the amount of the bond required. Subject to the limitations specified in this ~~section~~ subdivision, the amount of ~~such~~ the bond required of any taxpayer shall be fixed by the commission and may be increased or ~~reduced~~ decreased by ~~it~~ the commission at any time. In fixing the amount of the bond, the commission shall require a bond ~~in a total amount~~ equal to the amount of the taxpayer's estimated maximum monthly excise tax ascertained in ~~such~~ a manner as determined by the commission, ~~deems proper.~~ Nothing ~~contained~~ in this section shall ~~be construed to~~ prevent or prohibit the commission from accepting and approving bonds which run for a term longer than the license period. ~~In any event, the amount of such~~ The amount of a bond required of any one taxpayer shall not be less than one thousand dollars. ~~These~~ The bonds shall be filed with the commission; ~~.~~

(7) No person shall order or receive alcoholic liquor in this state which has been shipped directly to him or her from outside this state by any person other than a holder of a permit for a license year issued by the commission. The commission may issue such permits

to manufacturers which allow the permittee to ship alcoholic liquor to and only to holders of a distributor's license issued under this section, except that a licensed distributor may, without a permit and for the purposes of subdivision (2) of section 53-161, receive alcoholic liquor in this state which has been shipped from outside the state by a manufacturer in accordance with the Nebraska Liquor Control Act to the distributor, then transported by the distributor to another state for retail distribution, and then returned by the retailer to such distributor. A fee of two hundred dollars shall be charged by the commission for each permit issued. The application for such permit and the permit shall be in such form as the commission shall prescribe. The application shall contain all such provisions as the commission deems proper and necessary to effectuate the purpose of any section of the act and the rules and regulations of the commission that apply to manufacturers and shall include, but not be limited to, a provision that the permittee, in consideration of the issuance of a permit, agrees:

~~(1)~~ (a) To comply with and be bound by this section in the making and filing of returns, the payment of taxes, penalties, and interest, and the keeping of records;

~~(2)~~ (b) That he or she will permit and be subject to all of the powers granted by this section to the commission or its duly authorized employees or agents for inspection and examination of his or her premises and records and will pay his or her actual expenses, excluding salary, reasonably attributable to such inspections and examinations made by duly authorized employees of the commission if within the United States; and

~~(3)~~ (c) That if ~~any such~~ the permittee violates any of the provisions of his or her application, any section of the act, or the rules and regulations of the commission that apply to manufacturers, the commission may revoke or suspend such permit for such period of time as it may determine; and

(8) When a manufacturer or distributor ~~shall sell~~ sells and ~~deliver~~ delivers alcoholic liquor upon which the tax has been paid to any instrumentality of

the armed forces of the United States engaged in resale activities as provided in section 53-160.01, the manufacturer or distributor shall be entitled to a credit in the amount of the tax paid ~~upon such alcoholic liquor sold and delivered to such person or persons~~ in the event no tax is due on such alcoholic liquor as provided in section 53-160.01. The ~~, and the~~ amount of the credit, if any, shall be deducted from the tax due on the following monthly report~~, as provided by this section to be filed, or shall be allowed as a credit on~~ and subsequent reports until liquidated.".

LEGISLATIVE BILL 586. Placed on Select File as amended.
E & R amendment to LB 586:
AM5099

1. On page 2, lines 5 and 7, strike "liquors", show as stricken, and insert "liquor"; in line 9 strike "Nebraska Liquor Control Commission", show as stricken, and insert "commission"; in line 10 after "licensee" insert an underscored comma; and in line 12 after "suspension" insert an underscored comma.

2. On page 3, line 4, strike "transmitted", show as stricken, and insert "remitted"; and strike the matter beginning with "and" in line 4 through line 5, show the old matter as stricken, and insert "for credit to".

(Signed) Eric Will, Chairperson

STANDING COMMITTEE REPORTS
Judiciary

LEGISLATIVE BILL 102. Placed on General File.
LEGISLATIVE BILL 711. Placed on General File.

LEGISLATIVE BILL 130. Placed on General File as amended.
Standing Committee amendment to LB 130:
AM0848

1. Strike original sections 2 to 5 and insert the following new sections:

"Sec. 2. (1) Except as provided in subsection (2) of this section, it shall be unlawful to dispense cigarettes or other tobacco products from a vending machine or similar device. Any person violating this

section shall be guilty of a Class III misdemeanor. In addition, upon conviction for a second offense, the court shall order a six-month suspension of the offender's license to sell tobacco if any and, upon conviction for a third or subsequent offense, the court shall order the permanent revocation of the offender's license to sell tobacco if any.

(2) Cigarettes or other tobacco products may be dispensed from a vending machine or similar device when such machine or device is located in an area, office, business, plant, or factory which is not open to the general public.

Sec. 3. Nothing in section 2 of this act shall be construed to restrict or prohibit a governing body of a city or village from establishing and enforcing ordinances at least as stringent as or more stringent than the provisions of such section.

Sec. 4. This act shall become operative on January 1, 1993.".

2. On page 2, line 13, after "products" insert "in facilities, buildings, or areas which are open to the general public".

3. Remove underscoring of original section 1.

LEGISLATIVE BILL 186. Placed on General File as amended.
Standing Committee amendment to LB 186:
AM0849

1. Strike the original sections and insert the following new sections:

"Section 1. That section 81-1848, Revised Statutes Supplement, 1990, be amended to read as follows:

81-1848. (1) Victims as defined in section 29-119 shall have the following rights:

(a) To examine information which is a matter of public record and collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of issuance of arrest warrants, arrests, detentions, indictments, charges by information, and other formal criminal charges. Such information shall include any disposition arising from such arrests, charges, sentencing, correctional supervision, and release, but shall not include intelligence or investigative information;

(b) To receive from the county attorney advance reasonable notice of any scheduled court proceedings and notice of any changes in that schedule;

(c) To be notified by the county attorney by any means reasonably calculated to give prompt actual notice of the time and place of the sentencing proceeding and to be notified by the county attorney in writing of the final disposition of the case within thirty days of the final disposition of the case; ~~and~~

(d) To be notified by the county attorney by any means reasonably calculated to give prompt actual notice of the time and place of any subsequent judicial proceedings if the defendant was acquitted on grounds of insanity;

(e) Within ninety days of conviction of an offender, to be notified of the tentative date of release and the earliest parole eligibility date of such offender; and

(f) To be notified of any parole hearings, to testify before the Board of Parole or submit a written statement for consideration by the board, and to be notified of the decision of and any action taken by the board.

(2) Victims and witnesses of crimes shall have the following rights:

(a) To be informed on all writs of subpoena or notices to appear that they are entitled to apply for and may receive a witness fee;

(b) To be notified that a court proceeding to which they have been subpoenaed will not go on as scheduled in order to save the person an unnecessary trip to court;

(c) To receive protection from harm and threats of harm arising out of their cooperation with law enforcement and prosecution efforts and to be provided with information as to the level of protection available;

(d) To be informed of financial assistance and other social services available as a result of being a witness or a victim of a crime, including information on how to apply for the assistance and services;

(e) To be informed of the procedure to be followed in order to apply for and receive any witness fee to which they are entitled;

(f) To be provided, whenever possible, a secure waiting area during court proceedings that does not require them to be in close proximity to defendants and families and friends of defendants;

(g) To have any stolen or other personal property expeditiously returned by law enforcement agencies when no longer needed as evidence. If feasible, all such property, except weapons, currency, contraband, property subject to evidentiary analysis, and property the ownership of which is disputed, shall be returned to the person within ten days of being taken;

(h) To be provided with appropriate employer intercession services to insure that employers of victims and witnesses will cooperate with the criminal justice process in order to minimize an employee's loss of pay and other benefits resulting from court appearances;

(i) To be entitled to a speedy disposition of the case in which they are involved as a victim or witness in order to minimize the length of time they must endure the stress of their responsibilities in connection with the matter; ~~and~~

(j) To be informed by the county attorney of the final disposition of a felony case in which they were involved and to be notified pursuant to section 2 of this act whenever the defendant in such case is released from custody; and

(k) To have the family members of all homicide victims afforded all of the rights under subsection (2) of this section and services analogous to those provided under section 81-1847.

Sec. 2. (1) Upon request of the victim and at the time of conviction of the offender, the county attorney of the jurisdiction in which a person is convicted of a felony shall forward to the Board of Parole the name and address of any victim as defined in section 29-119 of the convicted person. The board shall include the name in the file of the convicted person, but the name shall not be part of the public record of any parole hearings of the convicted person. Any victim, including a victim who has waived his or her right to notification at the time of conviction, may request the notification prescribed in this section by

sending a written request to the board any time after the convicted person is incarcerated and until the convicted person is no longer under the jurisdiction of the board or the Department of Correctional Services.

(2) A victim whose name appears in the file of the convicted person shall be notified by the Board of Parole:

(a) When a convicted person who is on parole is returned to custody because of parole violations; and

(b) If the convicted person has been adjudged a mentally disordered sex offender, when such person is released from custody or treatment.

Such notification shall be given in person, by telecommunication, or by certified or registered mail.

(3) A victim whose name appears in the file of the convicted person shall be notified by the Department of Correctional Services:

(a) When a convicted person is granted a furlough or release from incarceration for twenty-four hours or longer;

(b) When a convicted person is released into community-based programs, including educational release, work release, and extended-leave programs. Such notification shall occur at the beginning and termination of any such program;

(c) When a convicted person escapes or does not return from a granted furlough or release and again when the convicted person is returned into custody; and

(d) When a convicted person is discharged from custody upon completion of his or her sentence.

(4) The Board of Parole and the Department of Correctional Services shall adopt and promulgate rules and regulations to carry out this section.

Sec. 3. Notwithstanding any other provision of law, when a person has been convicted of sexual assault pursuant to sections 28-317 to 28-320 or sexual assault of a child pursuant to section 28-320.01, the presiding judge shall, at the request of the victim as part of the sentence of the convicted person, order the convicted person to submit to a human immunodeficiency virus antibody or antigen test. Such test shall be conducted under the jurisdiction of the Department of Correctional Services. The results of the test shall be reported to the victim of the sexual assault or to the

parents or guardian of the victim if the victim is a minor or is mentally incompetent.

The department shall adopt and promulgate rules and regulations to carry out this section.

Sec. 4. That original section 81-1848, Revised Statutes Supplement, 1990, is repealed.".

LEGISLATIVE BILL 413. Placed on General File as amended.
Standing Committee amendment to LB 413:
AM0852

1. On page 5, strike beginning with "Class" in line 21 through line 23, show the old matter as stricken, and insert "felony for any knowing and willful violation and shall, upon conviction thereof, be punished by a fine of not more than ten thousand dollars per day for each violation and may also be punished by a term of up to six months imprisonment".

2. On page 6, strike beginning with "Class" in line 17 through the comma in line 20, show the old matter as stricken, and insert "felony for any knowing and willful violation and shall, upon conviction thereof, be punished by a fine of not more than ten thousand dollars per day for each violation and may also be punished by a term of up to six months imprisonment".

(Signed) Jerry Chizek, Chairperson

Government, Military and Veterans Affairs

LEGISLATIVE BILL 595. Indefinitely postponed.
LEGISLATIVE BILL 817. Indefinitely postponed.

(Signed) Gerald Conway, Chairperson

Natural Resources

The Committee on Natural Resources desires to report favorably upon the appointment listed below. The Committee suggests the appointment be confirmed by the Legislature and suggests a record vote.

Jack Crowley - Power Review Board

VOTE: Aye: Senators Beutler, Elmer, Hartnett, Horgan, R. Johnson, Lamb, and Morrissey. Absent: Senator Schmit.

(Signed) Rod Johnson, Chairperson

Government, Military and Veterans Affairs

The Committee on Government, Military and Veterans Affairs desires to report favorably upon the appointments listed below. The Committee suggests the appointments be confirmed by the Legislature and suggests a record vote.

Ron Tussing - Superintendent of the State Patrol
Harold Clarke - Director, Department of Correctional Services
Tom Sams - Nebraska State Personnel Board

VOTE: Aye: Senators Conway, Coordsen, Schrock, Smith, and Withem. Absent: Senators Lindsay, Robak, and Schimek.

(Signed) Gerald Conway, Chairperson

NOTICE OF COMMITTEE HEARING
Government, Military and Veterans Affairs

Government Appointment Thursday, March 28, 1991 1:30 p.m.
Gwendolyn Combs - Director, Department of Personnel

(Signed) Gerald Conway, Chairperson

UNANIMOUS CONSENT - Print in Journal

Mr. Schmit asked unanimous consent to print the following amendment to LB 253 in the Journal. No objections. So ordered.

AM0837

1. On page 62, line 7, strike "The", show as stricken, and insert "Other than the one-hundred-million-dollar bond issue for agricultural loans which is due in 1992, the".

BILLS ON FIRST READING

The following bills were read for the first time by title:

LEGISLATIVE BILL 532A. Introduced by Landis, 46.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 532, Ninety-second Legislature, First Session, 1991.

LEGISLATIVE BILL 585A. Introduced by Warner, 25.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 585, Ninety-second Legislature, First Session, 1991.

MESSAGES FROM THE GOVERNOR

March 21, 1991

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Madam President and Senators:

I am returning LB 100 without my signature and with my objections.

LB 100 would change the point of sale for retailers delivering live plants or live flower arrangements for purposes of assessing local option sales tax.

Last year the Attorney General issued an opinion that raised questions regarding the Constitutionality of LB 1219, which contained essentially the same provisions as LB 100. In the Opinion, the Attorney General stated that such legislation may constitute unreasonable class legislation, violating Article III, Section 18 of the Nebraska Constitution.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

March 21, 1991

Patrick J. O'Donnell
Clerk of the Legislature

State Capitol
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 36, 313, 330, and 837 were received in my office on March 18, 1991.

These bills were signed by me on March 21, 1991, and delivered to the Secretary of State.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

ATTORNEY GENERAL'S OPINION

Opinion No. 91019

DATE: March 14, 1991

REQUESTED BY: Senator David F. Bernard-Stevens

WRITTEN BY: Don Stenberg, Attorney General
David Edward Cygan,
Assistant Attorney General

SUBJECT: Constitutionality of LB 695, Authorizing refusal of motor vehicle registration due to outstanding distress warrants.

LB 695 would permit the county treasurers to adopt policies under which they may refuse to receive or accept application or registration fees or to issue registration certificates for motor vehicles unless the applicants exhibit proof of payment of all distress warrants outstanding in the county for personal property. Thus, those individuals who have not properly paid their distress warrants may not be permitted to register their motor vehicles. You have requested our opinion as to whether LB 695 violates the Constitution of Nebraska. We believe that the bill is constitutionally permissible. Our analysis is set forth below.

As we have noted on previous occasions, a general question on the constitutionality of a legislative bill will necessarily result in a general response from this office. See Opinion of the Attorney General 89028,

April 4, 1989; Opinion of the Attorney General 85157, December 20, 1985. If we are to address specific questions or potential problems with a bill they must be set out in the opinion request. You have simply asked whether LB 695 violates our state constitution in any sense. We must, therefore, provide a general response to your question in the absence of any description of your specific concerns.

We have contacted you and your staff, and you were unable to identify any specific questions regarding the constitutionality of the bill. We have, at your direction, contacted the Nebraska Association of County Officials. It is now our understanding that the sole concern of this opinion request is the impact of the proposed legislation upon joint owners of a motor vehicle where an individual is delinquent to the county on his payment of personal property taxes. Initially, permit us to direct your attention to the fact this hypothetical situation is no different than a sale of real estate for taxes where such real estate is held in joint tenancy, and one of the joint tenants is delinquent on real property taxes. Individuals should exercise discretion as to whom they choose for a business or financial partner.

We assume that the question before us is whether the joint owner of a motor vehicle is denied due process of law when the county treasurer refuses registration of the motor vehicle due to the outstanding distress warrant of the partner. As indicated above, LB 695 creates a mechanism by which a county sheriff may notify the county treasurer of outstanding distress warrants for personal property in the county. The county treasurer then may refuse to register motor vehicles for the applicants until they have exhibited proof of payment of the distress warrant. The issue that comes immediately to our attention is whether or not such action requires substantive due process, and if so, has substantive due process already been afforded. Note immediately that the operation of a motor vehicle in the state is a privilege afforded by the state. Bell v. Burson, 402 U.S. 535 (1971). Although the revocation of such privilege may initiate the requirements of substantive due process, initial issuance of such a privilege does not. The reason why is that the applicant has no property interest based upon an expectation of issuance of the registration. Id. Accordingly, the answer must be that the joint owner is not denied due process, for the reason that he/she was never entitled to due process.

We foresee no constitutional difficulty with LB 695. If you have more specific questions regarding the constitutionality of LB 695, we will be willing to provide you with a more detailed analysis.

Respectfully Submitted,
DON STENBERG

Attorney General
(Signed) David Edward Cygan
Assistant Attorney General

32-23-6.1

STANDING COMMITTEE REPORTS
Government, Military and Veterans Affairs

LEGISLATIVE BILL 811. Placed on General File as amended.
Standing Committee amendment to LB 811:
AM0601

1. On page 5, strike lines 16 through 18, show the old matter as stricken, and insert "the district court (i) on or after July 1, 1989, and before the effective date of this act, the review shall be conducted by the court without a jury de novo on the record of the agency, (ii) on or after the effective date of this act, and the hearing officer and the representative of the agency are not the same person, the review shall be conducted by the court without a jury de novo on the record of the agency, and (iii) on or after the effective date of this act, and the hearing officer and the representative of the agency are the same person, the review shall be conducted by the court without a jury by trial de novo.".

LEGISLATIVE BILL 824. Placed on General File as amended.
Standing Committee amendment to LB 824:
AM0762

1. On page 7, line 7, reinstate the stricken "cooling towers," and after the reinstated "towers" insert "with approved screening".

(Signed) Gerald Conway, Chairperson

UNANIMOUS CONSENT - Print in Journal

Mrs. Nelson asked unanimous consent to print the following amendment to LB 663 in the Journal. No objections. So ordered.

FA61

1. On page 24, line 14, after "review" insert "followed by approval or disapproval" and in line 15, strike "March 1" and insert "June 30".

VISITORS

Visitors to the Chamber were Senator Byars' father-in-law, Jerry Busboom, from Beatrice; 12 seniors from Grand Island High School; 14 sixth through eighth grade students and teacher from R4 School, Elm Creek; 30 fourth and eighth grade students and teachers from St. Mary's, Omaha; 12 high school students and teacher from Odell; 32 seniors and sponsor from Gibbon High School; and 50 fourth and fifth grade students and teachers from St. Mary's, Bellevue.

ADJOURNMENT

At 12:00 noon, on a motion by Mr. Lamb, the Legislature adjourned until 9:00 a.m., Friday, March 22, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

FORTY-EIGHTH DAY - MARCH 22, 1991

LEGISLATIVE JOURNAL

FORTY-EIGHTH DAY - MARCH 22, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

FORTY-EIGHTH DAY

Legislative Chamber, Lincoln, Nebraska
Friday, March 22, 1991

Pursuant to adjournment, the Legislature met at 9:05 a.m., Speaker Baack presiding.

PRAYER

The prayer was offered by Dr. Clarence Higgins, Jr., Conference Minister, United Church of Christ, Lincoln, Nebraska.

PRESENTATION

Mrs. Hillman presented to the Legislature a brief speech on "National Women in History Month."

ROLL CALL

The roll was called and all members were present except Messrs. Hall, and Schmit who were excused; and Messrs. Ashford, Hartnett, Horgan, Landis, Lynch, Moore, Morrissey, Schrock, Warner, and Mrs. Pirsch who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Forty-Seventh Day was approved.

SELECT COMMITTEE REPORTS
Enrollment and Review

Correctly Engrossed

The following bills were correctly engrossed: 244, 244A, and 292.

Correctly Re-Engrossed

The following bills were correctly re-engrossed: 237 and 344.

(Signed) Eric Will, Chairperson

Enrollment and Review Change to LB 237
(Final Reading copy)

The following changes, required to be reported for publication in the Journal, have been made:
ER7028

1. In the Landis amendment, AM0638, on page 3, line 2, "Second" has been struck and "First" inserted.

2. Because of the repeal of sections 44-2101 to 44-2119 by section 89, Legislative Bill 236, Ninety-second Legislature, First Session, 1991, and the enactment of the Insurance Holding Company System Act by such legislative bill:

a. On page 1, line 3; and page 79, line 8, "44-2102, 44-2103," has been struck;

b. On page 33, lines 21 and 22; and page 34, lines 20 and 21, "sections 44-2101 to 44-2119" has been struck and "the Insurance Holding Company System Act" inserted; and

c. Sections 64 and 65 have been struck and the remaining sections renumbered accordingly.

Enrollment and Review Change to LB 244

The following changes, required to be reported for publication in the Journal, have been made:
ER7027

1. In the Wesely amendment, AM0607:

a. On page 3, line 12, "qualified" has been inserted after "or";

b. On page 3, line 17; and page 6, line 17, "and section 7 of this act" has been inserted after "81-604.01";

c. On page 5, line 2; page 12, line 18; and page 19, line 3, "and section 7 of this act" has been inserted after "71-2029";

d. On page 11, line 20, the new matter has been struck and an underscored comma inserted after "nursing"; and in line 21 the new matter has been struck and ", and nursing" inserted after "care"; and

e. On page 15, lines 9 and 10, "this state" has been struck, shown as stricken, and "Nebraska" inserted.

2. In the E & R amendment, AM5073, on page 2, line 7, "68-1038," has been inserted after "sections" and "71-2017," has been inserted after the last comma; in line 8 "71-2017.03," has been

inserted after the first comma, "and" has been struck, and "71-5801, 71-5803, 71-5810, 71-5830, and 77-2704," has been inserted after the last comma; and in line 13 "to harmonize provisions;" has been inserted after the last semicolon.

3. In the Standing Committee amendments, AM0092, on page 8, line 14, underscored commas have been inserted after "day" and after "week".

4. On page 7, line 9; and page 17, line 12, underscored commas have been inserted after "day" and after "week".

5. On page 17, line 19; and page 18, lines 1, 6, and 10, "or hospital" has been inserted after "facility".

6. On page 17, line 23, "or hospitals" has been inserted after "facilities".

Enrollment and Review Change to LB 344
(Final Reading copy)

The following changes, required to be reported for publication in the Journal, have been made:
ER7033

1. In lieu of the Beutler amendment, FA55, on page 101, the matter beginning with "Any" in line 17 through "who" in line 18 has been reinstated; in line 18 "violates" has been inserted after the second stricken "of"; and the matter beginning with "this" in line 18 through the period in line 19 has been reinstated.

(Signed) Mary E. Sommermeyer
E & R Attorney

SELECT COMMITTEE REPORT
Enrollment and Review

LEGISLATIVE BILL 400. Placed on Select File as amended.
E & R amendment to LB 400:
AM5101

1. On page 1, line 11; and page 23, line 12, after "to" insert "71-5623, 71-5625 to 71-5631, 71-5632.01 to 71-5636, 71-5639 to" and after "71-5645" insert a comma.

2. On page 2, line 4; page 3, line 22; and page 9, line 13, strike the colon.

3. On page 2, line 5, strike "Residents" and insert "residents".

4. On page 2, lines 7, 9, 11, 13, 16, 19, and

22; page 3, line 24; page 4, lines 3 and 7; and page 9, line 15, strike the semicolon and insert an underscored comma.

5. On page 3, line 23, strike "Create" and insert "create".

6. On page 6, line 5, strike "Ten" and insert "Eleven".

7. On page 7, line 13, strike beginning with "receive" through "shall".

8. On page 9, line 13, strike "Student" and insert "student".

9. On page 10, line 12, strike "professional" and insert "profession"; and in line 16 strike "System" and insert "Systems".

10. On page 11, line 19, strike "more" and insert "most".

11. On page 12, line 9, strike "a legal" and insert "an".

12. On page 13, strike beginning with "subdivisions" in line 4 through line 5 and insert "the following:".

13. On page 15, line 11, strike "(2)" and insert "(3)".

14. On page 17, line 8, strike "Nebraska".

15. On page 19, lines 8 and 16, after "medical" insert "profession".

16. On page 20, line 19, after the comma insert "Reissue"; and in line 20 strike "Supplement, 1990" and insert "of Nebraska, 1943".

17. On page 22, line 20, strike "Incentives" and insert "Incentive".

(Signed) Eric Will, Chairperson

STANDING COMMITTEE REPORTS
Banking, Commerce and Insurance

LEGISLATIVE BILL 835. Placed on General File as amended. (Standing Committee amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM0874.)

(Signed) David Landis, Chairperson

Government, Military and Veterans Affairs

LEGISLATIVE BILL 453. Placed on General File as amended.
Standing Committee amendment to LB 453:
AM0880

1. On page 2, line 25, after "entry" insert ", the date of the entry, and the date of departure"; and after line 25 insert the following new paragraph:

"Nothing in this section shall be construed to restrict the right of a representative of a county, city, village, or national resources district to enter upon property to carry out duties and responsibilities pursuant to specific statutory requirements.".

(Signed) Gerald Conway, Chairperson

Health and Human Services

LEGISLATIVE BILL 144. Placed on General File as amended.
Standing Committee amendment to LB 144:
AM0767

1. Strike original sections 1 and 4 and insert the following new sections:

"Sec. 2. That section 71-1706, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1706. ~~As used in~~ For purposes of the Nurse Practitioner Act, unless the context otherwise requires, the definitions provided in sections 71-1707 to 71-1717 shall apply except as provided in section 71-1716.04.

Sec. 3. That section 71-1716.04, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1716.04. ~~Supervision~~ For purposes of sections 71-1704 to 71-1728, supervision shall mean the ready availability of the collaborating licensed practitioner for consultation and direction of the activities of the nurse practitioner related to delegated medical functions as may be required by the boards.".

2. On page 6, line 8, reinstate the stricken matter and strike "board"; in line 11 strike "board" and insert "boards" and strike "determines" and insert "determine"; and in line 25 strike "board" and insert "boards".

3. On page 8, line 25; and page 9, line 5, strike the underscored semicolon and reinstate the stricken matter.

4. On page 9, line 14, reinstate the stricken matter.

5. On page 9, line 23, after the comma insert "71-1706, 71-1716.04,".

6. Renumber the remaining sections accordingly.

LEGISLATIVE BILL 227. Placed on General File as amended.
Standing Committee amendment to LB 227:
AM0623

1. On page 2, line 13, after "in" insert "county-approved".

2. On page 3, line 7, after "(1)" insert "Community service shall mean labor performed for a governmental agency, nonprofit corporation, or health care corporation;

(2)"; in lines 11 and 12 strike "an approved", show as stricken, and insert "a county-approved"; and in line 20 strike "(2)", show as stricken, and insert "(3)".

3. On page 4, lines 9, 13, 22, and 24, after "a" insert "county-approved"; and in lines 14 and 18 before "a" insert "such".

4. On page 5, after line 7, insert the following new subsection:

"(4) No individual required to perform community service pursuant to this section shall be denied general assistance for failure to participate in a county-approved community service program through no fault of his or her own."; in line 11 after "a" insert "county-approved"; in line 14 after "in" insert "such"; and in line 22 after "a" insert "county-approved".

(Signed) Don Wesely, Chairperson

REPORT OF REGISTERED LOBBYISTS

In accordance with LB 987, passed in the 1976 session of the Legislature and amended by LB 4 and LB 41 in the 1977 session of the Legislature, the attached is a list of all Lobbyists who have

registered as of March 21, 1991. Further lists listing additional lobbyists who have registered will be filed weekly.

(Signed) Patrick J. O'Donnell
Clerk of the Legislature

Burnham, Shawn Elizabeth Lincoln	Assoication of Students at University of Nebraska Lincoln
MacLean, Chauncey A. - Lincoln (Withdrawn 03-20-91)	Paul Korslund for Legislature
Matzke, Stan - Lincoln (Withdrawn 03-15-91)	Nebraska Bankers Association
McCallister, Kathleen - Lincoln	Nebraska Individual Taxpayer's Association
Mueller, Willima J./Knudsen, Berkheimer, et al.	
Mueller, William J. - Lincoln	Lieben, Dahlk, Whitted, Houghton & Jahn, P.C.
Palmquist, Richard F. - Omaha	Nebraska Broadcasters Association
Pappas, James E. - Lincoln	O'Hara & Associates
Peters, William E. - Lincoln	Railway Progress Institute
Radcliffe and Associates	
Radcliffe, Walter H. - Lincoln	Nebraska New Car & Truck Dealers Association
Ruth, Larry L./Knudsen, Berkheimer, et al.	
Ruth, Larry L. - Lincoln	Lieben, Dahlk, Whitted, Houghton & Jahn, P.C.
Thurber, Eric Thomas - Lincoln	Association of Students at University of Nebraska Lincoln
Weber, Kappie - Lincoln	Nebraska Religious Coalition for Abortion Rights

STANDING COMMITTEE REPORTS
Health and Human Services

The Committee on Health and Human Services desires to report favorably upon the appointments listed below. The Committee suggests the appointments be confirmed by the Legislature and suggests a record vote.

Mary Dean Harvey - Director, Department of Social Services
Dale Johnson - Director, Department of Public Institutions
Bruce Bailey - Modular Housing Advisory Board
Lyle O'Hare - Modular Housing Advisory Board

VOTE: Aye: Senators Beyer, Byars, Cudaback, Dierks, Rasmussen, Schellpeper, and Wesely. Nay: none. Absent: none.

(Signed) Don Wesely, Chairperson

MESSAGE FROM THE GOVERNOR

March 21, 1991

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol
Lincoln, Nebraska 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bill 354 was received in my office on March 18, 1991.

This bill was signed by me on March 21, 1991, and delivered to the Secretary of State.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

UNANIMOUS CONSENT - Print in Journal

Mr. R. Johnson asked unanimous consent to print the following amendment to LB 754 in the Journal. No objections. So ordered.

AM0881

1. Insert the following new section:

"Sec. 6. That section 66-1225, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

66-1225. Reformulated gasoline which is sold ~~in Nebraska~~ after January 1, 1992, in ozone nonattainment areas of Nebraska as designated by the federal Environmental Protection Agency shall contain an oxygen content equal to or greater than three and one-tenth percent. ~~and shall contain a maximum aromatic content of not greater than twenty percent.~~".

2. On page 17, line 23, after "66-1214," insert "66-1225,".

3. Renumber the remaining sections and correct internal references accordingly.

Mr. Robinson asked unanimous consent to print the following amendment to LB 297 in the Journal. No objections. So ordered.

AM0872

1. On page 2, line 16, after the comma insert "and which has gross receipts of two hundred seventy-five thousand dollars or more annually,".

Mrs. Crosby asked unanimous consent to print the following amendment to LB 522 in the Journal. No objections. So ordered.

AM0859

1. Strike original section 1 and all amendments thereto and insert the following new section:

"Section 1. Any school district, governing body of a nonpublic school approved or accredited by the State Department of Education, the State of Nebraska, or any governmental agency or political subdivision employing, supervising, licensing, contracting with, or certifying teachers, child care providers, employment agents, and real estate agents may, as a condition of employment, licensure, or certification or as a part of an investigation pursuant to section 79-1283, require the person seeking employment, licensure, or certification or being investigated to obtain a criminal clearance verification based upon a check of the person's criminal history record information as defined in section 29-3506 except as provided in section 5 of this act. The person shall sign and file a release for a check of the criminal history record information and shall file a complete set of fingerprints with the Nebraska State Patrol.".

Mrs. Crosby asked unanimous consent to print the following amendment to LB 522 in the Journal. No objections. So ordered.

AM0860

1. Strike original section 1 and all amendments thereto and insert the following new section:

"Section 1. Any school district, governing body of a nonpublic school approved or accredited by the State Department of Education, the State of Nebraska, or any governmental agency or political subdivision

employing, supervising, licensing, contracting with, or certifying teachers, child care providers, law enforcement officers, firefighters, correctional facility workers, probation officers, and health care facility workers may, as a condition of employment, licensure, or certification or as a part of an investigation pursuant to section 79-1283, require the person seeking employment, licensure, or certification or being investigated to obtain a criminal clearance verification based upon a check of the person's criminal history record information as defined in section 29-3506 except as provided in section 5 of this act. The person shall sign and file a release for a check of the criminal history record information and shall file a complete set of fingerprints with the Nebraska State Patrol.".

Mrs. Crosby asked unanimous consent to print the following amendment to LB 522 in the Journal. No objections. So ordered.

AM0862

1. Strike original section 1 and all amendments thereto and insert the following new section:

"Section 1. Any school district, governing body of a nonpublic school approved or accredited by the State Department of Education, the State of Nebraska, or any governmental agency or political subdivision employing, supervising, licensing, contracting with, or certifying teachers, child care providers, social workers, counselors, nutritionists, librarians, cosmetologists, barbers, child protective services workers, sanitarians, and athletic trainers may, as a condition of employment, licensure, or certification or as a part of an investigation pursuant to section 79-1283, require the person seeking employment, licensure, or certification or being investigated to obtain a criminal clearance verification based upon a check of the person's criminal history record information as defined in section 29-3506 except as provided in section 5 of this act. The person shall sign and file a release for a check of the criminal history record information and shall file a complete set of fingerprints with the Nebraska State Patrol.".

Mrs. Crosby asked unanimous consent to print the following amendment to LB 522 in the Journal. No objections. So ordered.

AM0861

1. Strike original section 1 and all amendments thereto and insert the following new section:

"Section 1. Any school district, governing body of a nonpublic school approved or accredited by the State Department of Education, the State of Nebraska, or any governmental agency or political subdivision employing, supervising, licensing, contracting with, or certifying teachers, child care providers, accountants, attorneys, guardians, conservators, truth and deception examiners, and occupational therapists may, as a condition of employment, licensure, or certification or as a part of an investigation pursuant to section 79-1283, require the person seeking employment, licensure, or certification or being investigated to obtain a criminal clearance verification based upon a check of the person's criminal history record information as defined in section 29-3506 except as provided in section 5 of this act. The person shall sign and file a release for a check of the criminal history record information and shall file a complete set of fingerprints with the Nebraska State Patrol.".

Mrs. Crosby asked unanimous consent to print the following amendment to LB 522 in the Journal. No objections. So ordered.

AM0863

1. Strike original section 1 and all amendments thereto and insert the following new section:

"Section 1. Any school district, governing body of a nonpublic school approved or accredited by the State Department of Education, the State of Nebraska, or any governmental agency or political subdivision employing, supervising, licensing, contracting with, or certifying teachers, child care providers, nurses, physicians, surgeons, respiratory care specialists, osteopathic medicine specialists, chiropractors, dentists, dental hygienists, pharmacists, podiatrists, optometrists, massage therapists, physical therapists, audiologists, speech-language pathologists, and psychologists may, as a condition of employment,

licensure, or certification or as a part of an investigation pursuant to section 79-1283, require the person seeking employment, licensure, or certification or being investigated to obtain a criminal clearance verification based upon a check of the person's criminal history record information as defined in section 29-3506 except as provided in section 5 of this act. The person shall sign and file a release for a check of the criminal history record information and shall file a complete set of fingerprints with the Nebraska State Patrol.".

MOTHERS OF THE YEAR

Messrs. Hefner and Beutler escorted the following women to the rostrum: Joan Rossiter Burney, Mother of the Year; and Debra Nelson, Young Mother Representative.

RESOLUTION

LEGISLATIVE RESOLUTION 63. Read. Considered.

LR 63 was adopted with 27 ayes, 0 nays, and 22 not voting.

MOTION - Approve Appointments

Mr. Conway moved the adoption of the report of the Government, Military and Veterans Affairs Committee for the following Governor appointments found in the Journal on page 1216: Ron Tussing - Superintendent of the State Patrol, Harold Clarke - Director, Department of Correctional Services, and Tom Sams - Nebraska State Personnel Board.

Voting in the affirmative, 29:

Abboud	Chizek	Johnson, L.	Rasmussen	Schrock
Baack	Conway	Johnson, R.	Robak	Smith
Bernard-Stevens	Coordsen	Lindsay	Robinson	Wesely
	Crosby	Lynch	Rogers	Wickersham
Beyer	Elmer	Moore	Schellpeper	Will
Byars	Hillman	Nelson	Schimek	Withem

Voting in the negative, 0.

Present and not voting, 11:

Beutler	Dierks	Hefner	Lamb	Warner
Chambers	Haberman	Kristensen	Peterson	Wehrbein
Cudaback				

Excused and not voting, 9:

Ashford	Hartnett	Labedz	Morrissey	Schmit
Hall	Horgan	Landis	Pirsch	

These appointments were confirmed with 29 ayes, 0 nays, 11 present and not voting, and 9 excused and not voting.

Mr. R. Johnson moved the adoption of the report of the Natural Resources Committee for the following Governor appointment found in the Journal on page 1215: Jack Crowley - Power Review Board.

Voting in the affirmative, 29:

Abboud	Cudaback	Lamb	Robinson	Warner
Baack	Dierks	Lynch	Rogers	Wehrbein
Beutler	Elmer	Moore	Schellpeper	Wesely
Beyer	Johnson, L.	Peterson	Schimek	Wickersham
Coordsen	Johnson, R.	Rasmussen	Schrock	Withem
Crosby	Kristensen	Robak	Smith	

Voting in the negative, 0.

Present and not voting, 11:

Bernard-Stevens	Chambers	Haberman	Hillman	Nelson
	Chizek	Hefner	Lindsay	Will
Byars	Conway			

Excused and not voting, 9:

Ashford	Hartnett	Labedz	Morrissey	Schmit
Hall	Horgan	Landis	Pirsch	

The appointment was confirmed with 29 ayes, 0 nays, 11 present and not voting, and 9 excused and not voting.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following resolution: LR 62.

STANDING COMMITTEE REPORTS

Education

LEGISLATIVE BILL 701. Placed on General File as amended.
Standing Committee amendment to LB 701:
AM0879

1. On page 4, line 15, after "guardian" insert "and school personnel".

2. On page 7, line 5, after "selected" insert ". A referral coordinator shall meet professional standards established by the lead agency"; and in line 7 after "interaction" insert ", as determined by the services coordination team and specified in the individualized family service plan,".

3. On page 14, line 7, strike "statewide" and insert "pilot"; strike beginning with "verified" in line 10 through "age" in line 12 and insert "developmentally delayed children or infants or toddlers with disabilities"; and strike beginning with "The" in line 15 through line 25 and insert "The pilot billing system shall become operative on January 1, 1992. Not later than January 1, 1993, the lead agency shall provide the Legislature a report on the efficiency of expansion of such billing system to a statewide system basis.".

4. On page 15, strike lines 1 through 3; in line 4 strike "School" and insert "Beginning January 1, 1992, two or more school"; in line 6, strike "required" and insert "selected"; and strike beginning with "unless" in line 7 through "Act" in line 9.

5. On page 16, line 20, strike "This" and insert "Section 11 of this"; and in line 21 after the period insert "The other sections of this act shall become operative on January 1, 1993.".

(Signed) Ron Withem, Chairperson

Judiciary

LEGISLATIVE BILL 28. Placed on General File.
LEGISLATIVE BILL 560. Placed on General File.

LEGISLATIVE BILL 643. Placed on General File.

LEGISLATIVE BILL 180. Placed on General File as amended.
Standing Committee amendment to LB 180:
AM0441

1. Strike the original sections and insert the following new sections:

"Section 1. That section 27-504, Revised Statutes Supplement, 1990, be amended to read as follows:

27-504. (1) As used in this rule:

(a) A patient is a person who consults or is examined or interviewed by a physician or professional counselor for purposes of diagnosis or treatment of his or her physical, mental, or emotional condition;

(b) A physician is (i) a person authorized to practice medicine in any state or nation or who is reasonably believed by the patient so to be or (ii) a person licensed or certified as a psychologist under the laws of any state or nation, who devotes all or a part of his or her time to the practice of clinical psychology;

(c) A professional counselor is a person licensed or certified as a professional counselor under the laws of any state or nation who devotes all or a part of his or her time to the practice of professional counseling; and

~~(c)~~ (d) A communication is confidential if not intended to be disclosed to third persons other than those present to further the interest of the patient in the consultation, examination, or interview, persons reasonably necessary for the transmission of the communication, or persons who are participating in the diagnosis and treatment under the direction of the physician or professional counselor, including members of the patient's family.

(2) A patient has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made for the purposes of diagnosis or treatment of his or her physical, mental, or emotional condition among himself or herself, his or her physician or professional counselor, or persons who are participating in the diagnosis or treatment under the direction of the physician or professional

counselor, including members of the patient's family.

(3) The privilege may be claimed by the patient, by his or her guardian or conservator, or by the personal representative of a deceased patient. The person who was the physician or professional counselor may claim the privilege but only on behalf of the patient. His or her authority so to do is presumed in the absence of evidence to the contrary.

(4)(a) There is no privilege under this rule for communications relevant to an issue in proceedings to hospitalize the patient for physical, mental, or emotional illness if the physician or professional counselor, in the course of diagnosis or treatment, has determined that the patient is in need of hospitalization.

(b) If the judge orders an examination of the physical, mental, or emotional condition of the patient, communications made in the course thereof are not privileged under this rule with respect to the particular purpose for which the examination is ordered unless the judge orders otherwise.

(c) There is no privilege under this rule as to communications relevant to an issue of the physical, mental, or emotional condition of the patient in any proceeding in which he or she relies upon the condition as an element of his or her claim or defense or, after the patient's death, in any proceeding in which any party relies upon the condition as an element of his or her claim or defense.

(d) There is no privilege under this rule in any judicial proceedings under the Nebraska Juvenile Code regarding injuries to children, incompetents, or disabled persons or in any criminal prosecution involving injury to any such person or the willful failure to report any such injuries.

(e) There is no privilege under this rule in any judicial proceeding regarding unlawfully obtaining or attempting to obtain (i) a controlled substance, (ii) a written or oral prescription for a controlled substance, or (iii) the administration of a controlled substance from a practitioner. For purposes of this subdivision, the definitions found in section 28-401 and the declaration found in subsection (2) of section 28-404 shall apply.

Sec. 2. That section 28-382, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

28-382. (1) No rule of evidence or other provision of law concerning confidential communications shall apply to prevent reports made pursuant to the Adult Protective Services Act unless otherwise specifically mentioned in the act.

(2) Evidence shall not be excluded from any judicial proceeding resulting from a report made pursuant to the Adult Protective Services Act on the ground that it is a confidential communication protected by the privilege granted to husband and wife or patient and physician or professional counselor.

Sec. 3. That section 28-707, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

28-707. (1) A person commits child abuse if he or she knowingly, intentionally, or negligently causes or permits a minor child to be:

(a) Placed in a situation that endangers his or her life or health; or

(b) Cruelly confined or cruelly punished; or

(c) Deprived of necessary food, clothing, shelter, or care.

(2) The statutory privilege between patient and physician or professional counselor and between husband and wife shall not be available for excluding or refusing testimony in any prosecution for a violation of this section.

(3) Child abuse is a Class I misdemeanor if the offense is committed negligently.

(4) Child abuse is a Class IV felony if the offense is committed knowingly and intentionally.

Sec. 4. That section 28-714, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

28-714. The privileged communication between patient and physician, or professional counselor and between husband and wife, shall not be a ground for excluding evidence in any judicial proceeding resulting from a report pursuant to sections 28-710 to 28-717.

Sec. 5. That section 71-1,204, Reissue Revised Statutes of Nebraska, 1943, be amended to read

as follows:

71-1,204. Any insurer or employee of an insurer making a report as required by section 71-1,199 or 71-1,200 shall be immune from criminal penalty of any kind or from civil liability or other penalty for slander, libel, defamation, breach of the ~~physician-patient~~ privilege between patient and physician or professional counselor, or violation of the laws of the State of Nebraska relating to the business of insurance that may be incurred or imposed on account of or in connection with the making of such report, except that such immunity shall not apply to the making of malicious or knowingly false statements or to the initiating of a report with reckless disregard for the truth of such report.

Sec. 6. That original sections 28-382, 28-707, 28-714, and 71-1,204, Reissue Revised Statutes of Nebraska, 1943, and section 27-504, Revised Statutes Supplement, 1990, are repealed.".

LEGISLATIVE BILL 694. Placed on General File as amended.
Standing Committee amendment to LB 694:
AM0727

1. Insert the following new sections:

"Section 1. That section 25-1223, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

25-1223. The clerks of the several courts ~~and judges of the county courts~~ shall on application of any person having a cause or any matter pending in court, issue ~~a subpoena~~ subpoenas for witnesses under the seal of the court~~, inserting all the names required by the applicant in one subpoena,~~ which may be served by any person not interested in the action, or by the sheriff, coroner, or constable. When ~~, but when~~ served by any person other than a public officer, proof of service shall be shown by affidavit, but no costs of serving the ~~same~~ subpoena shall be allowed, except when served by an officer. Only one fee for return shall be allowed for all returns required by a single application for multiple subpoenas.

Sec. 2. That section 25-1227, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

25-1227. (1) Witnesses in civil cases cannot be compelled to attend a trial ~~in the district court~~ out of the state where they are served~~, nor~~ or at a distance of more than one hundred miles from the place of their residence~~,~~ or from the place where they are served with a subpoena~~,~~ unless within the same county. Witnesses in civil cases shall not be obliged to attend a deposition outside the county of their residence~~,~~ or outside the county where the subpoena is served.

(2) A ~~district court~~ judge~~,~~ for good cause shown~~,~~ may, upon deposit with the clerk of the court of sufficient money to pay the legal fees and mileage and reasonable expenses for hotel and meals of such a witness who attends at points so far removed from his or her residence as to make it reasonably necessary that such expenses be incurred, order a subpoena to issue requiring the trial attendance, but excluding a deposition appearance, of such witness from a greater distance within the state than that provided in subsection (1) of this section. Mileage shall be computed at the rate provided in section 81-1176. ~~for state employees.~~ The subpoena shall show that it is issued under ~~the provisions hereof~~ this section. After the appearance of such witness in response to any such subpoena, the judge shall enter an order directing the payment to the witness from such deposit of such legal fees, mileage, and the actual expenses for hotel and meals incurred by such witness. If such deposit is not adequate for such purpose, the judge shall direct the party procuring the issuance of such subpoena to pay to such witness the deficiency.

~~(3) No other subpoena except from the district court can compel a witness to attend for examination on the trial of a civil action, except in the county of his or her residence, nor to attend to give his or her deposition out of the county where he or she resides, or where he or she may be when the subpoena is served upon him or her.~~".

2. On page 2, line 13, strike "district court" and insert "judge of the district court"; and in lines 17 and 18 strike "of such court".

3. On page 3, line 9, after "the" insert "county court," and after "court" insert an underscored comma; strike beginning with "judge" in line 13 through

"any" in line 14 and show as stricken; and in line 16 after "located" insert "subject to section 24-519".

4. On page 5, line 1, after "the" insert "county court," and after "district" insert "court,"; in line 4 strike "judge of the county court or" and show as stricken; and in line 10 after "sections" insert "25-1223, 25-1227,".

5. Renumber the remaining sections accordingly.

LEGISLATIVE BILL 154. Indefinitely postponed.
LEGISLATIVE BILL 155. Indefinitely postponed.
LEGISLATIVE BILL 156. Indefinitely postponed.
LEGISLATIVE BILL 185. Indefinitely postponed.
LEGISLATIVE BILL 634. Indefinitely postponed.
LEGISLATIVE BILL 687. Indefinitely postponed.
LEGISLATIVE BILL 709. Indefinitely postponed.

(Signed) Jerry Chizek, Chairperson

WITHDRAW - Amendments to LB 204

Mrs. Smith withdrew her pending amendment, AM0600, found in the Journal on page 1015, to LB 204.

Mr. Beutler withdrew his pending amendment, AM0411, found in the Journal on page 1105, to LB 204.

MOTION - Return LB 204 to Select File

Mrs. Smith moved to return LB 204 to Select File for the following specific amendment:
AM0886

(Amendments to Final Reading copy)

1. On page 8, line 10, after "charge" insert "reasonable"; in line 11 strike "as deemed appropriate" and insert ", not to exceed the actual costs thereof,"; and in line 12 after the period insert "The fees established by the commission pursuant to the act shall be established at the level necessary to meet expenditures of the commission as approved by the Legislature and to provide a sufficient cash fund balance.".

The Smith motion to return prevailed with 26 ayes, 0 nays, 17 present and not voting, and 6 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 204. The Smith specific amendment, AM0886, found in this day's Journal, was adopted with 31 ayes, 0 nays, 12 present and not voting, and 6 excused and not voting.

Advanced to E & R for re-engrossment.

BILLS ON FINAL READING

The following bills were read and put upon final passage:

LEGISLATIVE BILL 133.

A BILL FOR AN ACT relating to emergency telephone communications systems; to amend sections 86-1002 and 86-1003, Revised Statutes Supplement, 1990; to redefine terms; to authorize interlocal agreements for the provision of 911 service; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 41:

Abboud	Chizek	Hillman	Moore	Schimek
Ashford	Conway	Johnson, L.	Nelson	Schrock
Baack	Coordsen	Johnson, R.	Peterson	Smith
Bernard-Stevens	Crosby	Kristensen	Rasmussen	Warner
	Cudaback	Lamb	Robak	Wehrbein
Beutler	Dierks	Landis	Robinson	Wickersham
Beyer	Elmer	Lindsay	Rogers	Will
Byars	Haberman	Lynch	Schellpeper	Withem
Chambers	Hefner			

Voting in the negative, 0.

Present and not voting, 2:

Labedz Wesely

Excused and not voting, 6:

Hall	Horgan	Morrissey	Pirsch	Schmit
Hartnett				

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 192.

A BILL FOR AN ACT relating to elections; to amend section 32-707, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to ballot titles for referred measures; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 42:

Abboud	Chizek	Hillman	Nelson	Schrock
Ashford	Conway	Johnson, L.	Peterson	Smith
Baack	Coordsen	Johnson, R.	Rasmussen	Warner
Bernard-Stevens	Crosby	Kristensen	Robak	Wehrbein
Beutler	Cudaback	Lamb	Robinson	Wesely
Beyer	Dierks	Landis	Rogers	Wickersham
Byars	Elmer	Lindsay	Schellpeper	Will
Chambers	Haberman	Lynch	Schimek	Withem
	Hefner	Moore		

Voting in the negative, 0.

Present and not voting, 1:

Labedz

Excused and not voting, 6:

Hall	Horgan	Morrissey	Pirsch	Schmit
Hartnett				

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 224.

A BILL FOR AN ACT relating to insurance; to provide for the enforceability of certain provisions in automobile liability policies and endorsements as prescribed.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 39:

Abboud	Conway	Hillman	Moore	Schrock
Ashford	Coordsen	Johnson, L.	Nelson	Smith
Baack	Crosby	Johnson, R.	Peterson	Warner
Bernard-Stevens	Cudaback	Kristensen	Robak	Wehrbein
Beutler	Dierks	Lamb	Robinson	Wesely
Beyer	Elmer	Landis	Rogers	Wickersham
Byars	Haberman	Lindsay	Schellpeper	Will
	Hefner	Lynch	Schimek	Withem

Voting in the negative, 0.

Present and not voting, 4:

Chambers	Chizek	Labedz	Rasmussen

Excused and not voting, 6:

Hall	Horgan	Morrissey	Pirsch	Schmit
Hartnett				

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 250.

A BILL FOR AN ACT relating to nonprofit corporations; to amend sections 21-1912 and 21-1921, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to meetings; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 41:

Abboud	Chizek	Hillman	Moore	Schimek
Ashford	Conway	Johnson, L.	Nelson	Smith
Baack	Coordsen	Johnson, R.	Peterson	Warner
Bernard-Stevens	Crosby	Kristensen	Rasmussen	Wehrbein
Beutler	Cudaback	Lamb	Robak	Wesely
Beyer	Dierks	Landis	Robinson	Wickersham
Byars	Elmer	Lindsay	Rogers	Will
Chambers	Haberman	Lynch	Schellpeper	Withem
	Hefner			

Voting in the negative, 0.

Present and not voting, 2:

Labedz Schrock

Excused and not voting, 6:

Hall	Horgan	Morrissey	Pirsch	Schmit
Hartnett				

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 276.

A BILL FOR AN ACT relating to interstate ditches; to amend section 46-213, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to duties of the Department of Water Resources; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 43:

Abboud	Chizek	Hillman	Moore	Schrock
Ashford	Conway	Horgan	Nelson	Smith
Baack	Coordsen	Johnson, L.	Peterson	Warner
Bernard-Stevens	Crosby	Johnson, R.	Rasmussen	Wehrbein
Beutler	Cudaback	Kristensen	Robak	Wesely
Beyer	Dierks	Lamb	Robinson	Wickersham
Byars	Elmer	Landis	Rogers	Will
Chambers	Haberman	Lindsay	Schellpeper	Withem
	Hefner	Lynch	Schimek	

Voting in the negative, 0.

Present and not voting, 1:

Labedz

Excused and not voting, 5:

Hall	Hartnett	Morrissey	Pirsch	Schmit

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 277.

A BILL FOR AN ACT relating to water; to amend section 46-242, Reissue Revised Statutes of Nebraska, 1943; to authorize permits to appropriate certain water for instream uses; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 41:

Abboud	Chizek	Hefner	Lindsay	Rogers
Baack	Conway	Hillman	Lynch	Schellpeper
Bernard-Stevens	Coordsen	Horgan	Moore	Schimek
Beutler	Crosby	Johnson, L.	Nelson	Smith
Beyer	Cudaback	Johnson, R.	Peterson	Warner
Byars	Dierks	Kristensen	Rasmussen	Wehrbein
Chambers	Elmer	Lamb	Robak	Wesely
	Haberman	Landis	Robinson	Wickersham

Will	Withem			

Voting in the negative, 0.

Present and not voting, 3:

Ashford	Labedz	Schrock

Excused and not voting, 5:

Hall	Hartnett	Morrissey	Pirsch	Schmit

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 278.

A BILL FOR AN ACT relating to irrigation; to amend sections 46-238, 46-2,114, 46-640, and 46-658, Reissue Revised Statutes of Nebraska, 1943; to provide for payment of certain publication costs as prescribed; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 44:

Abboud	Chizek	Hillman	Lynch	Schimek
Ashford	Conway	Horgan	Moore	Schrock
Baack	Coordsen	Johnson, L.	Morrissey	Smith
Bernard-Stevens	Crosby	Johnson, R.	Nelson	Warner
	Cudaback	Kristensen	Peterson	Wehrbein
Beutler	Dierks	Labedz	Rasmussen	Wesely
Beyer	Elmer	Lamb	Robinson	Wickersham
Byars	Haberman	Landis	Rogers	Will
Chambers	Hefner	Lindsay	Schellpeper	Withem

Voting in the negative, 0.

Present and not voting, 1:

Robak

Excused and not voting, 4:

Hall Hartnett Pirsch Schmit

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 316.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-1242.01, Reissue Revised Statutes of Nebraska, 1943; to change an exemption for motor vehicles of members of the armed forces of the United States; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 44:

Abboud	Chizek	Hillman	Moore	Schimek
Ashford	Conway	Horgan	Morrissey	Schrock
Baack	Coordsen	Johnson, L.	Nelson	Smith
Bernard-Stevens	Crosby	Johnson, R.	Peterson	Warner
	Cudaback	Kristensen	Rasmussen	Wehrbein
Beutler	Dierks	Labedz	Robak	Wesely
Beyer	Elmer	Lamb	Robinson	Wickersham
Byars	Haberman	Landis	Rogers	Will
Chambers	Hefner	Lindsay	Schellpeper	Withem

Voting in the negative, 0.

Present and not voting, 1:

Lynch

Excused and not voting, 4:

Hall Hartnett Pirsch Schmit

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 341.

A BILL FOR AN ACT relating to the Game Law; to amend section 37-505, Revised Statutes Supplement, 1990; to eliminate a prohibition on possession of certain protected game as prescribed; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 45:

Abboud	Conway	Horgan	Moore	Schellpeper
Ashford	Coordsen	Johnson, L.	Morrissey	Schimek
Baack	Crosby	Johnson, R.	Nelson	Schrock
Bernard-Stevens	Cudaback	Kristensen	Peterson	Smith
Beutler	Dierks	Labedz	Pirsch	Warner
Beyer	Elmer	Lamb	Rasmussen	Wehrbein
Byars	Haberman	Landis	Robak	Wesely
Chambers	Hefner	Lindsay	Robinson	Will
Chizek	Hillman	Lynch	Rogers	Withem

Voting in the negative, 0.

Present and not voting, 1:

Wickersham

Excused and not voting, 3:

Hall Hartnett Schmit

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 357.

A BILL FOR AN ACT relating to agriculture; to amend section 2-4816, Revised Statutes Supplement, 1990; to extend the termination date of the Farm Mediation Act; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 42:

Abboud	Coordsen	Johnson, L.	Morrissey	Schrock
Ashford	Crosby	Johnson, R.	Nelson	Smith
Baack	Cudaback	Kristensen	Pirsch	Warner
Beutler	Dierks	Labedz	Rasmussen	Wehrbein
Beyer	Elmer	Lamb	Robak	Wesely
Byars	Haberman	Landis	Robinson	Wickersham
Chambers	Hefner	Lindsay	Rogers	Will
Chizek	Hillman	Lynch	Schellpeper	Withem
Conway	Horgan			

Voting in the negative, 0.

Present and not voting, 4:

Bernard-Stevens	Moore	Peterson	Schimek

Excused and not voting, 3:

Hall	Hartnett	Schmit

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 359. With Emergency.

A BILL FOR AN ACT relating to the Pseudorabies Control and Eradication Act; to amend sections 54-2203, 54-2205, 54-2206, 54-2209, 54-2210, 54-2212 to 54-2218, 54-2219, 54-2220, and 54-2222, Reissue Revised Statutes of Nebraska, 1943, and sections 54-2201, 54-2202, 54-2208 to 54-2208.03, 54-2208.06, 54-2218.01, 54-2220.02, 54-2220.03, 54-2221, 54-2221.04, 54-2221.05, 54-2221.07, 54-2221.09 to 54-2221.14, 54-2223, 54-2223.01, 54-2223.03 to 54-2229, 54-2233, and 54-2234, Revised Statutes Supplement, 1990; to define, redefine, and eliminate terms; to eliminate and change provisions relating to assessment and funding for certain swine herds as prescribed; to transfer sections; to harmonize provisions; to change provisions relating to surveillance of certain herds; to change provisions relating

to certain swine testing programs; to change provisions relating to penalties; to change provisions relating to testing expenses and funding; to change provisions relating to access to premises; to change provisions relating to programs for the control and eradication of pseudorabies as prescribed; to change provisions relating to rules and regulations; to eliminate a committee; to change certain official tests and their use; to repeal the original sections, and also sections 54-2204 and 54-2211, Reissue Revised Statutes of Nebraska, 1943, and sections 54-2208.04, 54-2208.05, 54-2218.02, 54-2220.01, 54-2220.04, 54-2221.02, 54-2221.03, 54-2221.06, 54-2221.08, 54-2223.02, 54-2230, 54-2231, 54-2231.01, and 54-2232, Revised Statutes Supplement, 1990; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 46:

Abboud	Conway	Johnson, L.	Morrissey	Schimek
Ashford	Coordsen	Johnson, R.	Nelson	Schrock
Baack	Crosby	Kristensen	Peterson	Smith
Bernard-Stevens	Cudaback	Labedz	Pirsch	Warner
Beutler	Dierks	Lamb	Rasmussen	Wehrbein
Beyer	Elmer	Landis	Robak	Wesely
Byars	Haberman	Lindsay	Robinson	Wickersham
Chambers	Hefner	Lynch	Rogers	Will
Chizek	Hillman	Moore	Schellpeper	Withem
	Horgan			

Voting in the negative, 0.

Excused and not voting, 3:

Hall	Hartnett	Schmit

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

Mr. Ashford asked unanimous consent to be excused until he returns. No objections. So ordered.

LEGISLATIVE BILL 385. With Emergency.

A BILL FOR AN ACT relating to the Clinical Laboratories Certification Act; to amend sections 71-6806 and 71-6807, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to education and experience requirements for clinical laboratory technicians as prescribed; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 44:

Abboud	Conway	Horgan	Moore	Schellpeper
Baack	Coordsen	Johnson, L.	Morrissey	Schimek
Bernard-Stevens	Crosby	Johnson, R.	Nelson	Schrock
	Cudaback	Kristensen	Peterson	Smith
Beutler	Dierks	Labedz	Pirsch	Warner
Beyer	Elmer	Lamb	Rasmussen	Wehrbein
Byars	Haberman	Landis	Robak	Wesely
Chambers	Hefner	Lindsay	Robinson	Will
Chizek	Hillman	Lynch	Rogers	Withem

Voting in the negative, 0.

Present and not voting, 1:

Wickersham

Excused and not voting, 4:

Ashford	Hall	Hartnett	Schmit

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

LEGISLATIVE BILL 393.

A BILL FOR AN ACT relating to motor vehicles; to amend section 60-1438, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to warranty services and repairs; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 45:

Abboud	Coordsen	Johnson, L.	Morrissey	Schimek
Baack	Crosby	Johnson, R.	Nelson	Schrock
Bernard-Stevens	Cudaback	Kristensen	Peterson	Smith
Beutler	Dierks	Labedz	Pirsch	Warner
Beyer	Elmer	Lamb	Rasmussen	Wehrbein
Byars	Haberman	Landis	Robak	Wesely
Chambers	Hefner	Lindsay	Robinson	Wickersham
Chizek	Hillman	Lynch	Rogers	Will
Conway	Horgan	Moore	Schellpeper	Withem

Voting in the negative, 0.

Excused and not voting, 4:

Ashford	Hall	Hartnett	Schmit

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 455. With Emergency.

A BILL FOR AN ACT relating to nursing home administrators; to amend sections 71-6055 and 71-6056, Reissue Revised Statutes of Nebraska, 1943; to change certain training requirements for administrator-in-training programs as prescribed; to change requirements for reciprocal licensure; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 43:

Abboud	Bernard-Stevens	Beutler	Byars	Chizek
Baack		Beyer	Chambers	Conway

Coordsen	Horgan	Lindsay	Robak	Warner
Crosby	Johnson, L.	Lynch	Robinson	Wehrbein
Cudaback	Johnson, R.	Moore	Rogers	Wesely
Dierks	Kristensen	Morrissey	Schellpeper	Wickersham
Elmer	Labedz	Peterson	Schimek	Will
Haberman	Lamb	Pirsch	Schrock	Withem
Hefner	Landis	Rasmussen	Smith	

Voting in the negative, 0.

Present and not voting, 2:

Hillman	Nelson

Excused and not voting, 4:

Ashford	Hall	Hartnett	Schmit

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

LEGISLATIVE BILL 477.

A BILL FOR AN ACT relating to firearms; to amend section 28-1212, Reissue Revised Statutes of Nebraska, 1943, and section 28-101, Revised Statutes Supplement, 1990; to prohibit possession, receipt, retention, and disposition of stolen firearms; to provide a penalty; to harmonize provisions; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 43:

Abboud	Coordsen	Horgan	Lynch	Robinson
Baack	Crosby	Johnson, L.	Moore	Rogers
Bernard-Stevens	Cudaback	Johnson, R.	Morrissey	Schellpeper
	Dierks	Kristensen	Nelson	Schimek
Beyer	Elmer	Labedz	Peterson	Schrock
Byars	Haberman	Lamb	Pirsch	Smith
Chizek	Hefner	Landis	Rasmussen	Warner
Conway	Hillman	Lindsay	Robak	Wehrbein

Wesely	Wickersham	Will	Withem

Voting in the negative, 1:

Chambers

Present and not voting, 1:

Beutler

Excused and not voting, 4:

Ashford	Hall	Hartnett	Schmit

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 488. With Emergency.

A BILL FOR AN ACT relating to schools and school districts; to eliminate a provision relating to conflicts of interest for members of boards of education of Class V school districts; to repeal section 79-1004.05, Reissue Revised Statutes of Nebraska, 1943; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 45:

Abboud	Coordsen	Johnson, L.	Morrissey	Schimek
Baack	Crosby	Johnson, R.	Nelson	Schrock
Bernard-Stevens	Cudaback	Kristensen	Peterson	Smith
Beutler	Dierks	Labedz	Pirsch	Warner
Beyer	Elmer	Lamb	Rasmussen	Wehrbein
Byars	Haberman	Landis	Robak	Wesely
Chambers	Hefner	Lindsay	Robinson	Wickersham
Chizek	Hillman	Lynch	Rogers	Will
Conway	Horgan	Moore	Schellpeper	Withem

Voting in the negative, 0.

Excused and not voting, 4:

Ashford Hall Hartnett Schmit

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

UNANIMOUS CONSENT - Member Excused

Mr. Chambers asked unanimous consent to be excused until he returns. No objections. So ordered.

UNANIMOUS CONSENT - Print in Journal

Mr. Elmer asked unanimous consent to print the following amendment to LB 126 in the Journal. No objections. So ordered.

FA62
On line 18, page 2, strike "an" and insert "a contract or"
On line 20, page 2, after the "." insert "Such a contract or agreement shall not be canceled or amended unless agreed to by all parties to such contract or agreement."

Mr. Conway asked unanimous consent to print the following amendment to LB 579 in the Journal. No objections. So ordered.

(Amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM0868.)

GENERAL FILE

LEGISLATIVE BILL 409. The pending Wehrbein amendment, FA60, found in the Journal on page 1205, was renewed.

Messrs. Chizek and Dierks asked unanimous consent to be excused until they return. No objections. So ordered.

MR. CONWAY PRESIDING

Mr. Wehrbein moved for a call of the house. The motion prevailed with 22 ayes, 0 nays, and 27 not voting.

SPEAKER BAACK PRESIDING

Mr. Wehrbein requested a roll call vote on his amendment.

Voting in the affirmative, 31:

Baack	Cudaback	Kristensen	Pirsch	Schrock
Bernard-Stevens	Elmer	Labedz	Robak	Smith
Beyer	Haberman	Lamb	Robinson	Warner
Byars	Hefner	Moore	Rogers	Wehrbein
Conway	Hillman	Nelson	Schellpeper	Wickersham
Coordsen	Johnson, L.	Peterson	Schimek	Withem
	Johnson, R.			

Voting in the negative, 10:

Abboud	Beutler	Horgan	Lindsay	Wesely
Ashford	Chambers	Landis	Morrissey	Will

Present and not voting, 3:

Crosby	Lynch	Rasmussen

Excused and not voting, 5:

Chizek	Dierks	Hall	Hartnett	Schmit

The Wehrbein amendment was adopted with 31 ayes, 10 nays, 3 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Mrs. Labedz, Messrs. Will, and Wehrbein asked unanimous consent to be excused until they return. No objections. So ordered.

Pending.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following bills and resolution: LBs 133, 192, 224, 250, 276, 277, 278, 316, 341, 357, 359, 385, 393, 455, 477, 488, and LR 63.

GENERAL FILE

LEGISLATIVE BILL 409. Considered.

Mr. Lynch asked unanimous consent to be excused. No objections. So ordered.

Advanced to E & R for review with 31 ayes, 0 nays, 11 present and not voting, and 7 excused and not voting.

LEGISLATIVE BILL 409A. Title read. Considered.

Advanced to E & R for review with 26 ayes, 0 nays, 16 present and not voting, and 7 excused and not voting.

UNANIMOUS CONSENT - Print in Journal

Mr. Withem asked unanimous consent to print the following amendment to LB 409 in the Journal. No objections. So ordered.

AM0896

(Amendments to AM0838)

1. On page 2, line 12, strike "installs or replaces" and insert "removes".

Mr. Beutler asked unanimous consent to print the following amendment to LB 409 in the Journal. No objections. So ordered.

FA63

Add a new section:

No monies from the fund shall be expended for damages claims deriving from leaks from tanks installed on or after the effective date of this bill.

Mr. Beutler asked unanimous consent to print the following amendment to LB 409 in the Journal. No objections. So ordered.

FA64

Add the following sentence to line 16, page 2:

"provided, however, that such fee shall increase by 5% on January 1, 1994, and on each January 1 thereafter and by 10% on January 1, 1998, and each year thereafter to and including January 1, 2003.

Mr. Moore asked unanimous consent to print the following amendment to LB 663 in the Journal. No objections. So ordered.

(Amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM0843.)

Mr. Warner asked unanimous consent to print the following amendment to LB 663 in the Journal. No objections. So ordered.

AM0869

(Amendments to Standing Committee amendments, AM0445)

1. On page 1, line 3, strike "1992-93" and insert "1991-92"; and in line 20 after "that" insert "for sections 5, 16, 17, and 18 of this act,".

2. On page 3, line 12, after "of" insert "either of" and strike "either"; and in line 23 after "of" insert "commission review of".

3. On page 4, line 11, after "in" insert "Article VII, section 14, of the Constitution of Nebraska and".

4. On page 5, line 13, after "Act" insert "or as otherwise provided in the Coordinating Commission for Postsecondary Education Act".

5. On page 6, line 19, strike "by January 1, 1993. The" and insert ". By January 1, 1993, the".

6. On page 8, line 10, strike "after 'develop' " and insert "strike 'a' and".

7. On page 10, line 13, after the semicolon insert "in line 12 after the second comma insert 'except for any program for which funds have been specifically earmarked by the Legislature for FY1990-91,';"; in line 14 after the semicolon insert "and"; and strike beginning with the semicolon in line 15 through the last quotation mark in line 21.

8. On page 11, line 18, after "disapproval" insert "of".

9. Insert the following new amendment:

"29. On page 39, line 1, after 'coordination' insert 'as prescribed in the Coordinating Commission for Postsecondary Education Act'.".

10. On page 14, lines 8 and 10, strike "1993" and insert "1994"; and in line 21 before the period insert "and after 'offer' insert 'other' ".

11. Strike amendment 38 and insert the following new amendments:

"39. On page 62, line 8, after 'by' insert

'the Board of Trustees of the Nebraska State Colleges and'.

40. On page 63, line 16; and page 64, line 9, after the period insert 'Subject to approval by the Board of Trustees of the Nebraska State Colleges,'.".

12. Renumber the remaining amendments accordingly.

STANDING COMMITTEE REPORTS
Health and Human Services

LEGISLATIVE BILL 770. Placed on General File as amended.
Standing Committee amendment to LB 770:
AM0908

1. Insert the following new sections:

"Section 1. That section 81-5,133, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-5,133. Apartment house shall mean any building which is occupied as the home or residence of ~~three~~ one or more families or persons living independently of each other and doing their own cooking in the building, and ~~such term~~ shall include buildings containing ~~three~~ one or more apartments.

Sec. 2. That section 81-5,134, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-5,134. Dwelling shall mean any building which is not an apartment house, lodging house, hotel, ~~or~~ mobile home, or owner-occupied, single-family residence and which contains one or two dwelling units which are, or are intended or designed to be, occupied for living purposes.

Sec. 3. That section 81-5,136, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-5,136. Hotel shall mean any building, or portion thereof, containing ~~six~~ one or more guest rooms intended or designed to be used, or which are used, rented, or hired out to be occupied, or which are occupied for sleeping purposes by guests.

Sec. 4. That section 81-5,137, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-5,137. Lodging house shall mean any building, or portion thereof, containing not more than ~~five~~ one guest ~~rooms~~ room which ~~are~~ is used or ~~are~~ is intended to be used for sleeping purposes by guests and for which rent is paid in money, goods, labor, or otherwise.".

2. On page 2, lines 10 and 24, after "more" insert "battery or electronic"; and in line 12 after the period insert "Every owner-occupied, single-family residence constructed, remodeled, or sold after January 1, 1982, shall be provided with one or more battery or electronic operating smoke detectors meeting the requirements of the State Fire Marshal's rules and regulations. In the event of a sale, the provision of smoke detectors shall be the sole responsibility of the seller, which responsibility shall not be assigned or imputed to any other party or the agent of any party to the sale.".

3. On page 3, line 7, strike "section" and insert "sections 81-5,133, 81-5,134, 81-5,136, 81-5,137, and"; and in line 8 strike "is" and insert "are".

4. Renumber the remaining sections accordingly.

(Signed) Don Wesely, Chairperson

Nebraska Retirement Systems

LEGISLATIVE BILL 517. Placed on General File as amended.
Standing Committee amendment to LB 517:
AM0523

1. Strike the original sections and insert the following new sections:

"Section 1. That section 23-1118, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

23-1118. (1) Unless the county has adopted a retirement system pursuant to ~~section 23-2329~~ the County Employees Retirement Act, the county board of any county having a population of one hundred thousand inhabitants or more may, in its discretion and with the approval of the voters, provide retirement benefits for present and future employees of the county. The cost of such retirement benefits shall be funded in accordance with

sound actuarial principles with the necessary cost being treated in the county budget in the same way as any other operating expense. Each employee shall be required to contribute, or have contributed on his or her behalf, an amount at least equal to the county's contribution to the cost of any such retirement program as to service performed after the adoption of such retirement program, but the cost of any benefits based on prior service shall be borne solely by the county. Before the county board provides retirement benefits for the employees of the county, such question shall be submitted at a regular general or primary election held within the county, and in which election all persons eligible to vote for the county officials of the county shall be entitled to vote on such question, which shall be submitted in the following language: Shall the county board provide retirement benefits for present and future employees of the county? If a majority of the votes cast upon such question shall be in favor of such question, then the county board shall be empowered to provide retirement benefits for present and future employees as provided in this section. If such retirement benefits for present and future county employees are approved by the voters and authorized by the county board, then the funds of such retirement system, in excess of the amount required for current operations as determined by the county board, may be invested and reinvested in the class of securities and investments described in section 30-3209. ~~As used in~~ For purposes of this section, employees shall mean all persons or officers devoting more than twenty hours per week to employment by the county, all elected officers of the county, and such other persons or officers as are classified from time to time as permanent employees by the county board.

(2) The county may pick up the member contributions required by this section for all compensation paid on or after January 1, 1985, and the contributions so picked up shall be treated as employer contributions in determining federal tax treatment under the United States Internal Revenue Code, except that the county shall continue to withhold federal income taxes based upon these contributions until the Internal Revenue Service, or the federal courts, rule that,

pursuant to section 414(h) of the United States Internal Revenue Code, these contributions shall not be included as gross income of the member until such time as they are distributed or made available. The county shall pay these member contributions from the same source of funds which is used in paying earnings to the member. The county shall pick up these contributions by a salary deduction either through a reduction in the cash salary of the member or a combination of a reduction in salary and offset against a future salary increase. Member contributions picked up shall be treated in the same manner and to the same extent as member contributions made prior to the date picked up.

(3) Whenever a sheriff or deputy sheriff, who has served a total of at least five years in a sheriff's department and has been a member of a retirement plan created pursuant to this section, dies or is disabled as a result of hypertension or heart or respiratory defect or disease, there shall be a rebuttable presumption that such death or disability resulted from accident or other cause while in the line of duty for purposes of the pension plan of such sheriff or deputy sheriff. The rebuttable presumption shall apply in any action or proceeding arising out of death or disability incurred prior to the effective date of this act, and which has not been processed to final administrative or judicial conclusion prior to such date.

Sec. 2. That original section 23-1118, Reissue Revised Statutes of Nebraska, 1943, is repealed.".

(Signed) Arlene Nelson, Chairperson

VISITORS

Visitors to the Chamber were 50 students and sponsors from Home Schools, Omaha; six seventh grade students and teacher from Consolidated Christian Academy, Lincoln; 17 students and teacher from Elmwood-Murdock School; 41 fourth grade students and teachers from Wildwood School, Ralston; Jennifer Martin, Anthony Kaczmarek, and Kiersten Yanken from North Platte; presidents and officials of Nebraska's independent colleges and universities from across the state; and guests from Czechoslovakia, Hungary, Poland, Romania, and sponsors from Northwest Missouri State University.

ADJOURNMENT

At 11:58 a.m., on a motion by Mr. Beyer, the Legislature adjourned until 9:00 a.m., Monday, March 25, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

FORTY-NINTH DAY - MARCH 25, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

FORTY-NINTH DAY

Legislative Chamber, Lincoln, Nebraska
Monday, March 25, 1991

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Moul presiding.

PRAYER

The prayer was offered by Dr. N. Dwain Acker, Regional Minister, Christian Church, Disciples of Christ, Lincoln, Nebraska.

ROLL CALL

The roll was called and all members were present except Messrs. Bernard-Stevens and Hall who were excused; and Messrs. Abboud, Ashford, Chambers, Conway, Coordsen, Haberman, R. Johnson, Landis, Lindsay, Morrissey, Schmit, Warner, Mmes. Nelson, Pirsch, and Smith who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

Page 1260, line 11, strike "Select" and insert "General".
Page 1260, line 12, strike "E & R" and insert "Standing Committee".
The Journal for the Forty-Eighth Day was approved as corrected.

SELECT COMMITTEE REPORT
Enrollment and Review

LEGISLATIVE BILL 853. Placed on Select File.

(Signed) Eric Will, Chairperson

PRESENTED TO THE GOVERNOR

Presented to the Governor on March 22, 1991, at 12:45 p.m., were the following bills: 133, 192, 224, 250, 276, 277, 278, 316, 341, 357, 359, 385, 393, 455, 477, and 488.

(Signed) Pam Moravec, Enrolling Clerk

MOTION - Approve Appointments

Mr. Wesely moved the adoption of the report of the Health and Human Services Committee for the following Governor appointments found in the Journal on page 1228: Mary Dean Harvey - Director, Department of Social Services; Dale Johnson - Director, Department of Public Institutions; Bruce Bailey and Lyle O'Hare - Modular Housing Advisory Board.

Voting in the affirmative, 25:

Baack	Elmer	Johnson, L.	Rasmussen	Schimek
Beyer	Hartnett	Kristensen	Robak	Warner
Chizek	Hefner	Labedz	Robinson	Wehrbein
Crosby	Hillman	Moore	Rogers	Wesely
Cudaback	Horgan	Peterson	Schellpeper	Withem

Voting in the negative, 0.

Present and not voting, 8:

Beutler	Dierks	Lynch	Wickersham	Will
Byars	Lamb	Schrock		

Excused and not voting, 16:

Abboud	Chambers	Hall	Lindsay	Pirsch
Ashford	Conway	Johnson, R.	Morrissey	Schmit
Bernard-Stevens	Coordsen	Landis	Nelson	Smith
	Haberman			

These appointments were confirmed with 25 ayes, 0 nays, 8 present and not voting, and 16 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 200. E & R amendment, AM5077, found in the Journal on page 1057, was adopted.

Mr. Will asked unanimous consent to pass over LB 200. No objections. So ordered.

LEGISLATIVE BILL 334. E & R amendment, AM5078, found in the Journal on page 1057, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 284. E & R amendment, AM5095, found in the Journal on page 1183, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 303. Mr. Warner offered the following amendment:
FA65
Add E clause to LB 303

The Warner amendment was adopted with 25 ayes, 0 nays, 11 present and not voting, and 13 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 343. Advanced to E & R for engrossment.

LEGISLATIVE BILL 561. Mrs. Robak renewed her pending amendment, AM0825, found in the Journal on page 1178.

The Robak amendment was adopted with 27 ayes, 0 nays, 9 present and not voting, and 13 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 700. Advanced to E & R for engrossment.

LEGISLATIVE BILL 166. E & R amendment, AM5097, found in the Journal on page 1187, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 199. Mr. Hefner renewed his pending amendment, AM0773, found in the Journal on page 1116.

The Hefner amendment was adopted with 26 ayes, 0 nays, 12 present and not voting, and 11 excused and not voting.

Mr. Lynch offered the following amendment:
FA66

Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.

The Lynch amendment was adopted with 26 ayes, 0 nays, 12 present and not voting, and 11 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 454. E & R amendment, AM5098, found in the Journal on page 1205, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 582. E & R amendment, AM5100, found in the Journal on page 1206, was adopted.

Mr. Schellpeper offered the following amendment:
AM0912

1. Insert the following new sections:

"Section 1. That section 53-101, Revised Statutes Supplement, 1990, be amended to read as follows:

53-101. Sections 53-101 to 53-1,121 and section 2 of this act shall be known and may be cited as the Nebraska Liquor Control Act.

Sec. 2. (1) The commission may license the sale of alcoholic liquor at retail in the original package to applicants who reside in any county in which there is no incorporated city or village or in which the county seat is not located in an incorporated city or village if the licensed premises are situated in an unincorporated village having a population of twenty-five inhabitants or more.

(2) The commission may license the sale of beer at retail in any county outside the corporate limits of any city or village therein and license the

sale of alcoholic liquor at retail for consumption on the premises and off the premises, sales in the original package only.

(3) The commission may license the sale of alcoholic liquor for consumption on the premises as provided in subdivision (5)(c) of section 53-124 on lands controlled by airport authorities when such land is located on and under county jurisdiction or by the State Board of Agriculture.

This section shall not be construed to limit the commission in the issuance of licenses described in subdivision (5)(g) or (9) of section 53-124.".

2. On page 9, line 3, strike "is" and insert "and section 53-101, Revised Statutes Supplement, 1990, are".

3. Renumber remaining sections accordingly.

The Schellpeper amendment was adopted with 25 ayes, 0 nays, 15 present and not voting, and 9 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 586. E & R amendment, AM5099, found in the Journal on page 1210, was adopted.

Mr. Will offered the following amendment:
AM0882

1. Insert the following new sections:

"Sec. 2. That section 53-1,104, Reissue Revised Statutes of Nebraska, 1943, as amended by section 71, Legislative Bill 344, Ninety-second Legislature, First Session, 1991, be amended to read as follows:

53-1,104. (1) Any licensee which sells or permits the sale of any alcoholic liquor not authorized under the terms of such license on the licensed premises or in connection with such licensee's business or otherwise shall be subject to suspension, cancellation, or revocation of such license by the commission.

(2) When any order suspending a retail license to sell alcoholic liquor becomes final, the licensee may elect to pay a cash penalty to the commission in lieu of suspending sales of alcoholic liquor for the designated period. ~~Such penalty shall be paid to the commission.~~

For the first such suspension for any licensee, the penalty shall be fifty dollars per day. For a second or any subsequent suspension, the penalty shall be one hundred dollars per day, except that for any licensee which has no violation for a period of four years consecutively, the suspension shall be treated as a first suspension. Such election shall be filed with the commission in writing one week before such suspension is ordered to commence and shall be accompanied by payment in full of the sum required by this section. If such election has not been received by the commission by the close of business one week before the day such suspension is ordered to commence, it shall be conclusively presumed that the licensee has elected to close for the period of the suspension and any election received later shall be absolutely void and the payment made shall be returned to the licensee. The election shall be made on a form prescribed by the commission. All funds received under this section shall be remitted to the State Treasurer for credit to the temporary school fund.

Sec. 3. Sections 2 and 4 of this act shall become operative on the effective date of Legislative Bill 344, Ninety-second Legislature, First Session, 1991. The other sections of this act shall become operative on their effective date.

Sec. 4. That original section 53-1,104, Reissue Revised Statutes of Nebraska, 1943, as amended by section 71, Legislative Bill 344, Ninety-second Legislature, First Session, 1991, and also section 53-140.01, Reissue Revised Statutes of Nebraska, 1943, as amended by section 1, Legislative Bill 586, Ninety-second Legislature, First Session, 1991, are repealed.".

2. Renumber remaining sections accordingly.

The Will amendment was adopted with 29 ayes, 0 nays, 13 present and not voting, and 7 excused and not voting.

Mr. Beutler offered the following amendment:
FA67

On line 11, page 2 change the word "fifty" to "seventy five" and on line 12, page 2 add the word "fifty" after the word "hundred"

Mr. Chizek asked unanimous consent to be excused until he returns. No objections. So ordered.

The Beutler amendment lost with 17 ayes, 21 nays, 4 present and not voting, and 7 excused and not voting.

Advanced to E & R for engrossment.

UNANIMOUS CONSENT - Member Excused

Mr. Baack asked unanimous consent to be excused until he returns. No objections. So ordered.

GENERAL FILE

LEGISLATIVE BILL 782. Title read. Considered.

Standing Committee amendment, AM0443, found in the Journal on page 839, was adopted with 27 ayes, 0 nays, 14 present and not voting, and 8 excused and not voting.

Advanced to E & R for review with 25 ayes, 1 nay, 15 present and not voting, and 8 excused and not voting.

LEGISLATIVE BILL 663. Title read. Considered.

Standing Committee amendment, AM0445, printed separately from the Journal and referred to on page 897, was considered.

Mr. Elmer renewed his pending amendment, FA52, found in the Journal on page 1074, to the pending Standing Committee amendment.

The Elmer amendment was adopted with 24 ayes, 0 nays, 17 present and not voting, and 8 excused and not voting.

Mr. Warner withdrew his pending amendment, AM0869, found in the Journal on page 1259.

Mr. Warner offered the following amendment to the pending Standing Committee amendment:
AM0927
(Amendments to Standing Committee amendments, AM0445)
1. On page 1, line 3, strike "1992-93" and

insert "1991-92"; and in line 20 after "that" insert "for sections 5, 16, 17, and 18 of this act,".

2. On page 3, line 12, after "of" insert "either of" and strike "either"; and in line 23 after "of" insert "commission review of".

3. On page 4, line 11, after "in" insert "Article VII, section 14, of the Constitution of Nebraska and".

4. On page 5, line 13, after "Act" insert "or as otherwise provided in the Coordinating Commission for Postsecondary Education Act".

5. On page 6, line 19, strike "by January 1, 1993. The" and insert ". By January 1, 1993, the".

6. On page 8, line 10, strike "after 'develop' " and insert "strike 'a' and".

7. On page 10, line 13, after the semicolon insert "in line 12 after the second comma insert 'except for any program for which funds have been specifically earmarked by the Legislature for FY1990-91,';"; in line 14 after the semicolon insert "and"; and strike beginning with the semicolon in line 15 through the last quotation mark in line 21.

8. On page 11, line 18, after "disapproval" insert "of".

9. Insert the following new amendment:

"29. On page 39, line 1, after 'coordination' insert 'as prescribed in the Coordinating Commission for Postsecondary Education Act'.".

10. On page 14, lines 8 and 10, strike "1993" and insert "1995"; and in line 21 before the period insert "and after 'offer' insert 'other' ".

11. Strike amendment 38 and insert the following new amendments:

"39. On page 62, line 8, after 'by' insert 'the Board of Trustees of the Nebraska State Colleges and'.

40. On page 63, line 16; and page 64, line 9, after the period insert 'Subject to approval by the Board of Trustees of the Nebraska State Colleges.'.".

12. Renumber the remaining amendments accordingly.

The Warner amendment was adopted with 21 ayes, 0 nays, 20 present and not voting, and 8 excused and not voting.

The Standing Committee amendment, as amended, was adopted with 27 ayes, 0 nays, 16 present and not voting, and 6 excused and not voting.

Mrs. Nelson renewed her pending amendment, FA61, found in the Journal on page 1220.

MR. CONWAY PRESIDING

PRESIDENT MOUL PRESIDING

Mrs. Nelson moved for a call of the house. The motion prevailed with 17 ayes, 0 nays, and 32 not voting.

The Nelson amendment was adopted with 26 ayes, 2 nays, 15 present and not voting, and 6 excused and not voting.

The Chair declared the call raised.

Mr. Withem renewed his pending amendment, AM0742, printed separately from the Journal and referred to on page 1110.

Mr. Haberman asked unanimous consent to be excused until he returns. No objections. So ordered.

The Withem amendment was adopted with 30 ayes, 0 nays, 12 present and not voting, and 7 excused and not voting.

Mr. Beutler renewed his pending amendment, AM0754, found in the Journal on page 1148.

Mr. Beutler withdrew his pending amendment.

Mr. Moore renewed his pending amendment, AM0843, printed separately from the Journal and referred to on page 1258.

Mrs. Robak, Messrs. Peterson, and Schmit asked unanimous consent to be excused until they return. No objections. So ordered.

SPEAKER BAACK PRESIDING

The Moore amendment was adopted with 25 ayes, 0 nays, 15 present and not voting, and 9 excused and not voting.

Advanced to E & R for review with 30 ayes, 0 nays, 10 present and not voting, and 9 excused and not voting.

LEGISLATIVE BILL 663A. Title read. Considered.

Advanced to E & R for review with 26 ayes, 0 nays, 14 present and not voting, and 9 excused and not voting.

STANDING COMMITTEE REPORTS
Government, Military and Veterans Affairs

LEGISLATIVE BILL 612. Placed on General File as amended.
Standing Committee amendment to LB 612:
AM0914

1. Strike original section 2.
2. On page 3, strike beginning with "Have" in line 23 through line 25 and insert "Upon the approval of the Legislature and the Governor, enter into long-term contracts with any person or political subdivision for the expansion, construction, or use of facilities under the jurisdiction of the department; and".
3. On page 4, strike lines 1 and 2.
4. On page 5, strike beginning with "and" in line 20 through "are" in line 21 and insert "is".
5. Renumber the remaining section accordingly.

(Signed) Gerald Conway, Chairperson

Urban Affairs

LEGISLATIVE BILL 507. Placed on General File as amended.
Standing Committee amendment to LB 507:
AM0779

1. Insert the following new sections:

"Section 1. That section 15-106, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

15-106. The proprietor of any land within the corporate limits of a city of the primary class or contiguous thereto may lay out such land into lots, blocks, public ways, and other grounds under the name of ..... addition to the city of

..... and shall cause an accurate plat thereof to be made, designating explicitly the land so laid out and particularly describing the lots, blocks, public ways, and grounds belonging to such addition. The lots shall be designated by number and ~~streets, and public~~ by street. Public ways and other grounds shall be designated by name and by number. Such plat shall be acknowledged before some officer authorized to take acknowledgment of deeds and shall have appended to it a certificate made by a registered land surveyor ~~to the effect~~ that he or she has accurately surveyed such addition and that the lots, blocks, public ways, and other grounds are staked and marked as required by such city. When such plat is ~~so~~ made, acknowledged, and certified, complies with the requirements of section 15-901, and is approved by the city ~~council~~ planning commission, such plat shall be filed and recorded in the office of the register of deeds and county assessor of the county. In lieu of approval by the city ~~council~~ planning commission, the city council may designate specific types of plats which may be approved by the city planning director. No plat shall be recorded in the office of the register of deeds or have any force or effect unless such plat is approved by the ~~city council of such~~ city planning commission or the city planning director. ~~It~~ The plat shall, after being filed with the register of deeds, be equivalent to a deed in fee simple absolute to the city, from the proprietor, of all streets, public ways, ~~public~~ squares, parks, and commons, and such portion of the land as is therein set apart for public use or dedicated to charitable, religious, or educational purposes. All additions thus laid out shall remain a part of the city, and all additions, except those additions as set forth in sections 15-106.01 and 15-106.02, ~~now or hereafter~~ laid out adjoining or contiguous to the corporate limits of a city of the primary class shall be included therein and become ~~thereby~~ a part of the city for all purposes. The inhabitants of such addition shall be entitled to all the rights and privileges and ~~shall be~~ subject to all the laws, ordinances, rules, and regulations of the city. The mayor and city council shall have power by ordinance to compel owners of any such addition to lay out streets and public ways to correspond in width and

direction and to be continuous with the streets and public ways in the city or additions contiguous to or near the proposed addition. No addition shall have any validity, right, or privilege as an addition unless the terms and conditions of such ordinance and of this section are complied with, the plats thereof are submitted to and approved by the city ~~council~~ planning commission or the city planning director, and ~~such~~ the approval of the city planning commission or the city planning director is endorsed thereon.

Sec. 2. That section 15-901, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

15-901. No owner of ~~any~~ real estate located in ~~an area which is within~~ any city of the primary class or within three miles of the corporate limits of any city of the primary class, when such real estate is located in the same county as ~~such~~ the city ~~of the primary class~~ and outside of any organized city or village, shall be permitted to subdivide, plat, or lay out ~~said~~ the real estate in building lots and streets, or other portions of the same intended to be dedicated for public use or for the use of the purchasers or owners of lots fronting thereon or adjacent thereto, without first having obtained ~~the~~ approval ~~thereof~~ by the ~~city council~~ planning commission of such city. No ~~;~~ ~~and no~~ plat or subdivision of such real estate shall be recorded in the office of the register of deeds or have any force or effect unless the same ~~be~~ is approved by the ~~city council of such city. Such a~~ city planning commission. A city of the primary class shall have authority within the area ~~above described~~ to regulate the subdivision of land for the purpose, whether immediate or future, of ~~transfer of~~ transferring ownership or building development, except that the city shall have no power to regulate subdivision in those instances where the smallest parcel created is more than ten acres in area. A city of the primary class shall have authority ~~;~~ to prescribe standards for laying out subdivisions in harmony with the comprehensive plan; to require the installation of improvements by the owner, ~~or~~ by the creation of public improvement districts, or by requiring a good and sufficient bond guaranteeing installation of such improvements; and to require the

dedication of land for public purposes.

Subdivision shall mean the division of a lot, tract, or parcel of land into two or more lots, sites, or other divisions of land for the purpose, whether immediate or future, of ownership or building development, except that the division of land shall not be considered to be subdivision when the smallest parcel created is more than ten acres in area.

Subdivision plats shall be approved by the city planning commission on recommendation by the planning director and public works and utilities department. The city planning commission ~~and shall be submitted to the council for its consideration and legislative action. The council~~ may withhold approval of a plat until the public works and utilities department has certified that the improvements required by the regulations have been satisfactorily installed, ~~or~~ until a sufficient bond guaranteeing installation of the improvements has been posted, ~~with the city~~ or until public improvement districts are created.".

2. On page 2, lines 5, 20, and 22, before "commission" insert "planning"; and in line 8 before "commission's" insert "planning".

3. On page 3, line 4, before the second "commission" insert "planning"; in line 5 strike "may", show as stricken, and insert "shall"; strike beginning with "In" in line 7 through the period in line 13; and strike beginning with "by" in line 15 through the first "the" in line 16 and insert "within that".

4. On page 4, lines 3, 10, 17, 21, and 23, before "commission" insert "planning".

5. On page 5, line 9, before "commission" insert "planning"; in line 18 strike "section" and insert "sections 15-106, 15-901, and"; and in line 19 strike "is" and insert "are".

6. Renumber the remaining sections accordingly.

(Signed) D. Paul Hartnett, Chairperson

Judiciary

LEGISLATIVE BILL 816. Placed on General File.

The Committee on Judiciary desires to report favorably upon the appointments listed below. The Committee suggests the appointments be confirmed by the Legislature and suggests a record vote.

Marlene Cupp - Nebraska State Parole Board
Michael D. McLaughlin - Nebraska Parole Board

VOTE: Aye: Senators Chambers, Chizek, Kristensen, Labedz, and Wickersham. Absent: Senators Abboud, Nelson, and Pirsch.

(Signed) Jerry Chizek, Chairperson

UNANIMOUS CONSENT - Print in Journal

Mr. Hefner asked unanimous consent to print the following amendment to LB 698 in the Journal. No objections. So ordered.

AM0829
(Amendments to Standing Committee amendments, AM0488)
1. On page 13, strike beginning with "if" in line 10 through "program" in line 11.

Messrs. Lindsay, Byars, Wesely, and Mrs. Rasmussen asked unanimous consent to print the following amendment to LB 703 in the Journal. No objections. So ordered.

AM0708
1. Insert the following new sections:
"Sec. 6. That section 71-1,132.06, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:
71-1,132.06. Sections 71-1,132.04 to 71-1,132.41 confer no authority to practice medicine or surgery nor do they prohibit:
(1) Home care ~~of the sick~~ provided by parents, foster parents, family, or friends~~, domestic servants, nurse maids, or household aides of any type,~~ so long as such persons do not represent or hold themselves out to be licensed nurses, licensed practical nurses, licensed registered nurses, or registered nurses, or use any designation in connection with their names which tend to imply that they are licensed to practice under sections 71-1,132.04 to 71-1,132.37;
(2) Gratuitous nursing, with or without

compensation or personal profit, when done in connection with the practice of the religious tenets of any church by adherents thereof;

(3) Auxiliary services provided by persons carrying out duties necessary for the support of nursing service under the direction of a licensed physician, dentist, osteopathic physician, or podiatrist or a nurse licensed under sections 71-1,132.04 to 71-1,132.37, 71-1,132.47, and 71-1,132.48;

(4) Gratuitous nursing service performed by anyone in case of an emergency;

(5) Nursing by any legally licensed nurse of any other state whose engagement requires him or her to accompany and care for a patient temporarily residing in this state during the period of one such engagement not to exceed six months in length as long as such person does not represent or hold himself or herself out as a nurse licensed to practice in this state;

(6) Nursing services rendered by a student enrolled in an approved school of nursing when the services are a part of the student's course of study;

(7) Nursing services rendered by a graduate of an approved school of nursing in Nebraska or any other state, pending the results of the first licensing examination scheduled by the board following such graduation;

(8) Nursing services rendered by a person who holds a current license or other evidence of the right to practice professional or practical nursing, as those terms are defined in section 71-1,132.05, issued by any other state, territory, or province of the United States during the period that an application filed by such person for licensure in Nebraska is pending before the board; or

(9) The practice of professional or practical nursing by any legally licensed nurse of another state who is employed by the United States Government or any bureau, division, or agency thereof while in the discharge of his or her official duties or, if permitted by federal law, as a citizen of a foreign country temporarily residing in Nebraska for a period not to exceed one year for the purpose of postgraduate study and experience, certified to be such by an appropriate agency satisfactory to the board.

Sec. 7. That section 71-1,132.11, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,132.11. The board may adopt, promulgate, and revise, with the approval of the department, such rules and regulations consistent with ~~the provisions of~~ sections 71-1,132.04 to ~~71-1,132.09 and 71-1,132.11 to~~ 71-1,132.41 as may be necessary to carry into effect the provisions ~~thereof~~ of such sections. All such rules and regulations shall be published and distributed. The board shall:

(1) Establish minimum standards to be met by educational programs conducted pursuant to sections 71-1,132.24 to 71-1,132.28;

(2) Develop standards in cooperation with schools of nursing to be used in the evaluation and approval of such schools;

(3) Review the standards at least every four years or more frequently as deemed necessary;

(4) Establish rules, regulations, and procedures for approving and classifying schools of practical and professional nursing, taking into consideration the administrative and organizational pattern of the school, the philosophy, the curriculum and program of studies, the number and selection of students, the student personnel services including housing, the guidance and health services, the number and preparation of faculty in relation to the curriculum and enrollments, the instructional materials and equipment, the instructional facilities including clinical resources and library facilities and materials, and the health and safety factors in residence halls, education buildings, and clinical facilities;

(5) Provide surveys for each program at least every four years or more frequently as deemed necessary;

(6) Approve such programs as meet the requirements of ~~the provisions of~~ sections 71-1,132.04 to ~~71-1,132.09 and 71-1,132.11 to~~ 71-1,132.41;

(7) Evaluate and approve courses offered by cooperating agencies;

(8) Examine, license, and renew the license of duly qualified applicants;

(9) Keep a record of all its proceedings and make an annual report to the Governor;

(10) Approve the clinical facilities used by each school;

(11) Develop rules, regulations, and mandatory educational review courses governing the return to practice of any nurse who has not engaged in the practice of nursing, as defined in section 71-1,132.52, for five years or longer; ~~and~~

(12) Adopt rules and regulations establishing standards for delegation of nursing activities, including training or experience requirements, competency determination, and nursing supervision; and

(13) Administer the provisions of sections 71-1704 to 71-1737.

The department shall appoint an executive secretary who shall be a registered nurse currently licensed in this state and who has graduated with a master's degree in nursing or a related field of study. The executive secretary shall have a minimum of five years' experience within the last ten years in the areas of administration, teaching, or consultation in the field of nurse education. The salary of the executive secretary shall be fixed by the department and be competitive with salaries of nursing education positions which require similar education and experience. The executive secretary shall not be a member of the board. The executive secretary shall be bonded under the blanket surety bond required by section 11-201.

Sec. 11. That section 83-1,143.04, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-1,143.04. ~~Commencing July 1, 1973, programs for the retarded, whether provided by a school district, educational service unit, or the office of mental retardation, shall meet the minimum standards established by the office of mental retardation.~~

The office of mental retardation shall, in conjunction with, and with the approval of, the Board of Nursing, adopt and promulgate rules and regulations establishing standards for the training of personnel for work in the field of special care needs including the use of special care procedures. The standards shall govern training curriculum requirements, competency testing, nursing supervision, and requirements for periodic reporting by the supervising registered nurse

to the Board of Nursing.

(2) The Board of Nursing shall approve core training curricula specific to persons with developmental disabilities who have special care needs.

(3) For purposes of this subsection, special care procedure shall mean a procedure that is necessitated by a specific medical need which an individual with a developmental disability would have performed for himself or herself but for his or her disability if, in the opinion of the supervising registered nurse, the procedure can be performed safely by a trained special care provider. Special care procedures shall include such medically related procedures as gastrostomy tube-feeding, urine and blood glucose testing, clean intermittent catheterization, continuous nondiscretionary oxygen administration, routine colostomy and ileostomy care excluding irrigation, care of tracheostomy stoma excluding ties, and oral pharyngeal suctioning. Any other procedure shall be presented to the Board of Nursing for a determination on a case-by-case basis as to whether it may qualify as a special care procedure.

Sec. 12. Section 16 of this act shall become operative October 1, 1991. Sections 6, 7, 11, 13, 15, and 17 of this act shall become operative July 1, 1991. The other sections of this act shall become operative three calendar months after the adjournment of this Legislative session.

Sec. 13. If any section in this act or any part of any section shall be declared invalid or unconstitutional, such declaration shall not affect the validity or constitutionality of the remaining portions thereof.

Sec. 15. That original sections 71-1,132.06, 71-1,132.11, and 83-1,143.04, Reissue Revised Statutes of Nebraska, 1943, are repealed.

Sec. 16. That section 71-6502, Reissue Revised Statutes of Nebraska, 1943, is repealed.

Sec. 17. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.".

2. Renumber the remaining sections accordingly.

Messrs. Lamb and Warner asked unanimous consent to print the following amendment to LB 208 in the Journal. No objections. So ordered.

AM0684

(Amendments to Standing Committee amendments, AM0112)

1. Insert the following new amendment:

"1. On page 2, strike beginning with 'superintendents' in line 13 through 'county' in line 16, show as stricken, and insert 'clerks shall certify to the Commissioner of Education for tax levies for all taxing entities'; and in line 25 after the period insert 'In addition, each school district in any county containing school land or saline land shall receive a portion of an amount equal to the actual value of such school land or saline land applied to all nonschool levies that would apply to the school land or saline land if taxable. The portion shall be determined by multiplying the amount to be distributed by a ratio which is the proportion the total valuation of all property in the county belonging to the district bears to the total valuation of all property in the county.' and insert paragraphing before 'The'.".

2. Renumber the remaining amendment accordingly.

Mr. Wesely asked unanimous consent to print the following amendment to LB 400 in the Journal. No objections. So ordered.

FA68

Add a new sub-section to Section 13, as follows:

(3) As a majority of osteopathic physicians are known to locate their practices in rural communities, students enrolled or accepted for enrollment in an accredited college of osteopathic medicine, or who are graduates of an accredited college of osteopathic medicine, shall be eligible to participate in the financial assistance programs provided under the Rural Health Systems and Professional Incentive Act, notwithstanding the location of the accredited college of osteopathic medicine.

UNANIMOUS CONSENT - Bracket LB 161

Mr. Landis asked unanimous consent to bracket LB 161 on E & R Final. No objections. So ordered.

UNANIMOUS CONSENT - Add Co-Introducer

Mr. Abboud asked unanimous consent to have his name added as co-introducer to LB 333. No objections. So ordered.

VISITORS

Visitors to the Chamber were 14 seniors and teachers from Stratton High School; and 56 fourth grade students and teachers from Conestoga School, Nehawka.

RECESS

At 12:03 p.m., on a motion by Mr. Morrissey, the Legislature recessed until 1:30 p.m.

AFTER RECESS

The Legislature reconvened at 1:32 p.m., Speaker Baack presiding.

ROLL CALL

The roll was called and all members were present except Messrs. Bernard-Stevens and Hall who were excused; and Messrs. Abboud, Ashford, Beutler, Chambers, Chizek, Dierks, R. Johnson, Lamb, Lynch, Schmit, Schrock, Warner, Wickersham, Will, Withem, Mmes. Labedz, Nelson, and Pirsch who were excused until they arrive.

UNANIMOUS CONSENT - Member Excused

Mr. Haberman asked unanimous consent to be excused until he returns. No objections. So ordered.

GENERAL FILE

LEGISLATIVE BILL 123. Title read. Considered.

Standing Committee amendment, AM0300, found in the Journal on page 706, was considered.

Mr. Kristensen asked unanimous consent to be excused until he returns. No objections. So ordered.

The Standing Committee amendment was adopted with 25 ayes, 0 nays, 2 present and not voting, and 22 excused and not voting.

Advanced to E & R for review with 25 ayes, 0 nays, 3 present and not voting, and 21 excused and not voting.

MR. MORRISSEY PRESIDING

LEGISLATIVE BILL 207. Title read. Considered.

Standing Committee amendment, AM0349, found in the Journal on page 741, was considered.

Mr. Baack withdrew his pending amendment, AM0427, found in the Journal on page 826.

The Standing Committee amendment was adopted with 25 ayes, 0 nays, 3 present and not voting, and 21 excused and not voting.

Mr. Baack renewed his pending amendment, AM0345, found in the Journal on page 825.

The Baack amendment was adopted with 25 ayes, 0 nays, 6 present and not voting, and 18 excused and not voting.

Mr. Baack renewed his pending amendment, AM0616, found in the Journal on page 1103.

The Baack amendment was adopted with 25 ayes, 0 nays, 7 present and not voting, and 17 excused and not voting.

Advanced to E & R for review with 27 ayes, 0 nays, 8 present and not voting, and 14 excused and not voting.

Mr. Baack asked unanimous consent to be excused until he returns. No objections. So ordered.

LEGISLATIVE BILL 583. Title read. Considered.

Standing Committee amendment, AM0371, found in the Journal on page 850, lost with 1 aye, 19 nays, 14 present and not voting, and 15 excused and not voting.

Messrs. Rogers, Cudaback, Schellpeper, Coordsen, Morrissey, Hefner, Elmer, and Chambers offered the following amendment: (Amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM0640.)

Mr. Lindsay asked unanimous consent to be excused until he returns. No objections. So ordered.

SPEAKER BAACK PRESIDING

Mr. Landis asked unanimous consent to be excused until he returns. No objections. So ordered.

The Rogers et al. amendment was adopted with 27 ayes, 0 nays, 10 present and not voting, and 12 excused and not voting.

Advanced to E & R for review with 27 ayes, 0 nays, 10 present and not voting, and 12 excused and not voting.

STANDING COMMITTEE REPORTS
Natural Resources

LEGISLATIVE BILL 49. Placed on General File.
LEGISLATIVE BILL 198. Placed on General File.
LEGISLATIVE BILL 497. Placed on General File.
LEGISLATIVE BILL 661. Placed on General File.
LEGISLATIVE BILL 714. Placed on General File.

LEGISLATIVE BILL 66. Placed on General File as amended.
Standing Committee amendment to LB 66:
AM0906

1. Insert the following new sections:

"Sec. 2. That section 2-4608, Revised Statutes Supplement, 1990, be amended to read as follows:

2-4608. (1) Except to the extent jurisdiction has been assumed by a municipality or county, the district may inspect or cause to be inspected any land within the district upon receipt of a written and signed complaint which alleges that soil erosion is occurring in excess of the applicable soil-loss limit. Complaints shall be filed on a form provided by the director. Complaints may be filed by any owner or operator of land being damaged by sediment, by any state agency or

political subdivision whose roads or other public facilities are being damaged by sediment, by any state agency or political subdivision with responsibility for water quality maintenance if it is alleged that the soil erosion complained of is adversely affecting water quality, or by a staff member or other agent of the district authorized by the board of directors to file such complaints. Inspections following receipt of a written and signed complaint may be made only after notice to the owner and, if appropriate, the operator of the land involved, and such person shall be given an opportunity to accompany the inspector.

(2) The owner, the operator if appropriate, and the district may agree to a plan and schedule for eliminating excessive erosion on and sedimentation from the land involved. Any such agreement may be enforced in district court in the same manner as an administrative order issued pursuant to the Erosion and Sediment Control Act. If no agreement is reached, the findings of the inspection shall be presented to the district board of directors and the owner and, if appropriate, the operator of the land shall be given a reasonable opportunity to be heard at a meeting of the board or, if requested, at a public hearing. If the district finds that the alleged sediment damage is occurring and that excess soil erosion is occurring on the land inspected, it shall issue an administrative order to the owner of record and, if appropriate, to the operator describing the land and stating as nearly as possible the extent to which the soil erosion exceeds the applicable soil-loss limit. When the complained-of erosion is the result of agricultural, horticultural, or silvicultural activities, the district shall direct the owner and, if appropriate, the operator to bring the land into conformance with the applicable soil-loss limit. When the complained-of erosion is the result of a nonagricultural land-disturbing activity, the district may authorize the owner and, if appropriate, the operator to either bring such land into conformance with the soil-loss limit or to prevent sediment resulting from excessive erosion from leaving such land.

(3) The district may specify, as applicable, alternative soil and water conservation practices or erosion or sediment control practices which the owner

and, if appropriate, the operator may use to comply with the administrative order. A copy of the administrative order shall be delivered by either personal service or certified or registered mail to each person to whom it is directed and shall:

(a) In the case of erosion occurring on the site of any nonagricultural land-disturbing activity, state ~~the~~ a reasonable time~~, which shall be not less than five days nor more than fifteen days~~ after service or mailing of the order, when the work necessary to establish or maintain erosion or sediment control practices shall be commenced and the time, not more than forty-five days after service or mailing of the order, when the work shall be satisfactorily completed;

(b) In all other cases, state the time, not more than six months after service or mailing of the order, the work needed to establish or maintain the necessary soil and water conservation practices or permanent erosion control practices shall be commenced and the time, not more than one year after the service or mailing of the order, the work shall be satisfactorily completed, unless the requirements of the order are superseded by section 2-4610; and

(c) State any reasonable requirements regarding the operation, utilization, and maintenance of the practices to be installed, constructed, or applied.

(4) Upon failure to comply with the order, the owner or, if appropriate, the operator shall be deemed in violation of the ~~Erosion and Sediment Control Act~~ act and subject to further actions as provided by ~~such~~ the act.

Sec. 3. That section 2-4610, Revised Statutes Supplement, 1990, be amended to read as follows:

2-4610. (1) Any person owning or operating private agricultural, horticultural, or silvicultural lands who has a farm unit conservation plan approved by the district and is implementing and maintaining the plan in strict compliance with a conservation agreement or any person whose normal agricultural, horticultural, and silvicultural practices are in conformance with the applicable soil-loss limit shall, for purposes of such land, be deemed to be in compliance with the requirements of the Erosion and Sediment Control Act and any approved erosion and sediment control program.

(2) If there is not available to any owner or operator at least ninety percent cost-sharing assistance for the installation of permanent soil and water conservation practices which are required in an approved farm unit conservation plan or are required to conform agricultural, horticultural, and silvicultural practices to the applicable soil-loss limit, any such owner or operator shall not be required to install such practices pursuant to the Erosion and Sediment Control Act until such cost-sharing assistance is made available, except that such owner or operator may agree to a cost-share rate of less than ninety percent. To be enforceable, any agreement providing for cost-sharing assistance at a rate of less than ninety percent shall include notice that the owner or operator may choose not to sign such agreement and that such choice will preserve the right to not less than ninety percent cost-sharing assistance before any permanent soil and water conservation practices can be required by the district. The owner or operator may be required to utilize temporary soil and water conservation practices in the interim to minimize soil erosion and sediment damage.

(3) In order to prevent excessive erosion and sediment from leaving the land due to any nonagricultural land-disturbing activity, cost-sharing assistance may be available from any district. Such assistance may be used for erosion or sediment control practices defined in section 2-4603.".

2. On page 5, line 4, strike "and"; reinstate the stricken matter beginning with "and" in line 6 through the semicolon in line 8; and in line 8 after the reinstated "developments" insert "on sites under two acres in size".

3. On page 6, line 13, strike "section" and insert "sections" and after the comma insert "2-4608, and 2-4610,"; and in line 14 strike "is" and insert "are".

LEGISLATIVE BILL 306. Placed on General File as amended.
Standing Committee amendment to LB 306:
AM0895

1. Insert the following new sections:

"Sec. 10. That section 46-635, Reissue Revised Statutes of Nebraska, 1943, be amended to read

as follows:

46-635. Ground water is that water which occurs in or moves, seeps, filters, or percolates through the ground under the surface of the land. A hydrogeologic connection exists between surface water and ground water, water moving to an aquifer recharges the ground water, and water leaving an aquifer increases the volume in a stream or lake.

Sec. 11. That section 46-657, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

46-657. As used in the Nebraska Ground Water Management and Protection Act and in sections 46-601 to 46-613.01 and 46-636 to 46-655, unless the context otherwise requires:

(1) Person shall mean a natural person, partnership, association, corporation, municipality, irrigation district, or ~~any~~ agency or political subdivision of the state;

(2) Ground water shall mean that water which occurs in or moves, seeps, filters, or percolates through ground under the surface of the land. A hydrogeologic connection exists between surface water and ground water, water moving to an aquifer recharges the ground water, and water leaving the aquifer increases the volume in a stream or lake;

(3) Well shall mean any artificial opening or excavation in the ground through which ground water flows under natural pressure or is artificially withdrawn. A series of wells developed and pumped as a single unit shall be considered as one well. For purposes of the ~~Nebraska Ground Water Management and Protection Act~~ act, well shall not mean any artificial opening or excavation in which a pump of less than one hundred gallons per minute capacity is to be installed and which is to be used solely for supply of ground water for domestic purposes;

(4) Construction of a well shall mean boring, drilling, jetting, digging, or excavating and installing casing, pumps, and other devices for withdrawing or facilitating the withdrawal of ground water;

(5) Contamination or contamination of ground water shall mean nitrate nitrogen or other material which enters the ground water due to action of any

person and causes degradation of the quality of ground water sufficient to make such ground water unsuitable for present or reasonably foreseeable beneficial uses;

(6) District shall mean a natural resources district operating pursuant to Chapter 2, article 32;

(7) Director shall mean the Director of Water Resources;

(8) Illegal well shall mean (a) any well operated or constructed without or in violation of a permit required by the ~~Nebraska Ground Water Management and Protection Act~~ act, (b) any well not in compliance with rules and regulations adopted and promulgated pursuant to ~~such~~ the act, (c) any well not properly registered in accordance with sections 46-602 to 46-604, or (d) any well not in compliance with any other applicable laws of the State of Nebraska or with rules and regulations adopted and promulgated pursuant to such laws;

(9) Control area shall mean any area so designated by the director following a public hearing initiated and conducted pursuant to section 46-658;

(10) To commence construction of a well shall mean the beginning of the boring, drilling, jetting, digging, or excavating of the actual well from which ground water is to be withdrawn;

(11) Well driller shall mean any person who constructs, reconstructs, alters, or repairs a well. The term shall not include a person who performs labor or services for a well driller at his or her direction and under his or her supervision;

(12) Management area shall mean any area so designated by a district pursuant to sections 46-673.01 to 46-673.06;

(13) Ground water reservoir life goal shall mean the finite or infinite period of time which a district establishes as its goal for maintenance of the supply of water in a ground water reservoir at the time a ground water management plan is adopted;

(14) Board shall mean the board of directors of a district;

(15) Irrigated acre shall mean any acre that is certified as such pursuant to rules and regulations of the district and that is actually capable of being supplied water through irrigation works, mechanisms, or

facilities existing at the time of the allocation;

(16) Acre-inch shall mean the amount of water necessary to cover an acre of land one inch deep;

(17) Subirrigation or subirrigated land shall mean the natural occurrence of a ground water table within the root zone of agricultural vegetation, not exceeding ten feet below the surface of the ground;

(18) Best management practices shall mean schedules of activities, maintenance procedures, and other management practices utilized to prevent or reduce present and future contamination of ground water which may include irrigation scheduling, proper timing of fertilizer and pesticide application, and other fertilizer and pesticide management programs;

(19) Special ground water quality protection area shall mean any area designated as such by the Director of Environmental Control following a public hearing, with boundaries approved by the Director of Environmental Control, in which contamination of ground water is occurring; and

(20) Point source shall mean any discernible, confined, and discrete conveyance, including, but not limited to, any pipe, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, vessel, other floating craft, or ~~any~~ other conveyance, over which the Department of Environmental Control has regulatory authority and from which a substance which can cause or contribute to contamination of ground water is or may be discharged.".

2. On page 3, line 13, after "supplies" insert "but also recognizes that management of ground water and surface water as an interrelated system will require careful balancing of the rights of both ground water and surface water users and protection of such rights in a fair and equitable manner".

3. On page 4, lines 7 and 13, strike "further"; in line 8 after "use" insert "unless the Director of Water Resources determines that such ground water is not interrelated with the natural stream"; and after line 14 insert the following new subsection:

"(5) Nothing in this section shall be construed to give surface water users a preference over ground water users or to authorize an automatic better right for surface water users based on priority of

appropriation over ground water users based on date of well installation or first use.".

4. On page 9, line 16, strike "and", show as stricken, and insert the following new subdivision:

"(6) If ground water supplies are the subject of the application, a water conservation plan exists that includes, but is not limited to, a description of how water shortages would be dealt with and how the applicant would supply essential uses only; and"; and in line 17 strike "(6)" and insert "(7)".

5. On page 10, line 2, strike "first".

6. On page 11, line 1, strike "and" and after the last comma insert "46-635, and 46-657,".

7. Renumber the remaining section accordingly.

LEGISLATIVE BILL 338. Placed on General File as amended.
Standing Committee amendment to LB 338:
AM0096

1. On page 3, line 1, after "Maintenance" insert "Cash"; strike beginning with "its" in line 9 through "fund" in line 10 and insert "expenses incurred in carrying out its duties under sections 2 to 5 of this act"; and in line 19 after "Maintenance" insert "Cash".

2. On page 4, line 16, strike "act" and insert "federal Safe Drinking Water Act".

3. On page 5, line 17, after "Maintenance" insert "Cash"; and strike beginning with "testing" in line 19 through "provide" in line 21.

LEGISLATIVE BILL 342. Placed on General File as amended.
Standing Committee amendment to LB 342:
AM0196

1. Strike the original section 6 and insert the following new section:

"Section 1. That section 28-905, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

28-905. (1) Any person who operates any motor vehicle to flee in such vehicle in an effort to avoid arrest or citation for the violation of any law of the State of Nebraska constituting a misdemeanor, infraction, traffic infraction, or any city or village ordinance, except nonmoving traffic violations, commits the offense of misdemeanor operation of a motor vehicle

to avoid arrest.

(2) Any person who operates any motor vehicle to flee in such vehicle in an effort to avoid arrest for the violation of any law of the State of Nebraska constituting a felony commits the offense of felony operation of a motor vehicle to avoid arrest.

(3) Operating a motor vehicle to avoid arrest under subsection (1) of this section is a Class I misdemeanor and the court shall, as part of the judgment of conviction, order such person not to operate any motor vehicle for any purpose for a period of two years.

(4) Operating a motor vehicle to avoid arrest under subsection (2) of this section is a Class IV felony.

(5) The court may, as a part of the judgment of conviction under this section and subject to the mandatory provision of subsection (3) of this section, order such person not to operate any motor vehicle for any purpose for a period of up to one year from the date of his or her release from imprisonment, or in the case of a fine only, for a period of one year from the date of satisfaction of the fine.

(6)(a) Any person who operates a vessel as defined in section 37-1203 to flee in such vessel in an effort to avoid arrest or citation for the violation of any statute punishable as a misdemeanor or any city or village ordinance shall be guilty of misdemeanor operation of a vessel to avoid arrest.

(b) Any person violating subdivision (a) of this subsection shall be guilty of a Class I misdemeanor, and upon conviction thereof the court shall, as part of the judgment of conviction, order such person not to operate any vessel for any purpose for a period of one year.

(7)(a) Any person who operates a vessel as defined in section 37-1203 to flee in such vessel in an effort to avoid arrest for the violation of any statute punishable as a felony shall be guilty of felony operation of a vessel to avoid arrest.

(b) Any person violating subdivision (a) of this subsection shall be guilty of a Class IV felony, and upon conviction thereof the court may, as part of the judgment of conviction and subject to the mandatory provision of subdivision (6)(a) of this section, order

such person not to operate any vessel for any purpose for a period of up to two years from (i) the date of his or her release from imprisonment if the sentence imposed includes imprisonment or (ii) from the date of satisfaction of the fine if the sentence imposed includes only a fine and no imprisonment.".

2. On page 6, line 21, strike "4" and insert "5"; and in line 23 after "sections" insert "28-905,".

LEGISLATIVE BILL 406. Placed on General File as amended. (Standing Committee amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM0792.)

LEGISLATIVE BILL 576. Placed on General File as amended. Standing Committee amendment to LB 576:
AM0905

1. On page 2, line 7 strike "significant and".

2. On page 3, line 2, strike "significant".

LEGISLATIVE BILL 526. Indefinitely postponed.
LEGISLATIVE BILL 565. Indefinitely postponed.
LEGISLATIVE BILL 592. Indefinitely postponed.
LEGISLATIVE BILL 752. Indefinitely postponed.
LEGISLATIVE BILL 781. Indefinitely postponed.

(Signed) Rod Johnson, Chairperson

UNANIMOUS CONSENT - Print in Journal

Mr. Haberman asked unanimous consent to print the following amendment to LB 424 in the Journal. No objections. So ordered.

AM0904

1. Insert the following new section:

"Sec. 2. That section 32-711, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

32-711. Immediately preceding any general election at which any initiated law, ~~or~~ act or part of an act passed by the Legislature, or amendment to the constitution is to be submitted to the people, the Secretary of State ~~will~~ shall cause to be published in all legal newspapers in the state once each week for

~~three~~ two weeks a true copy of the title and text of each measure to be submitted, with the number and form in which the ballot title thereof will be printed on the official ballot, for which publications a rate shall be charged as provided in section 33-141. If the Secretary of State ~~shall deem~~ deems it more expeditious or economical, he or she may delegate the duty of transmitting such constitutional amendment proposals and notices to every newspaper in the state to the office of the Nebraska Press Association which shall perform such task and make an itemized report to the Secretary of State showing the names of all legal newspapers to which such notices were sent, the amount claimed by each paper for such publication, the vouchers filed by each publication for such claims, and any other information desired by the Secretary of State pertaining to such task.".

2. On page 10, line 5, after "original" insert "section 32-711, Reissue Revised Statutes of Nebraska, 1943, and".

3. Renumber the remaining sections accordingly.

Mr. Ashford asked unanimous consent to print the following amendment to LB 422 in the Journal. No objections. So ordered.

AM0919

1. Insert the following new sections:

"Sec. 2. Before or after the commencement of the hearing on an application for a temporary injunction pursuant to section 25-1063, the court may order the trial of the action on the merits to be advanced and consolidated with the hearing of the application. Any evidence received on an application for a temporary injunction which would be admissible at the trial on the merits shall become part of the record on the trial and need not be reintroduced at the trial, even if consolidation is not ordered. This section shall be construed and applied to save to the parties any rights they may have to trial by jury.

Sec. 3. In all actions in which a temporary injunction has been granted and entered in the district court, a party against whom the temporary injunction is entered shall have the right to appeal pursuant to

sections 25-1911 to 25-1937 as if the temporary injunction were a final order.".

2. Renumber the remaining section accordingly.

GENERAL FILE

LEGISLATIVE BILL 579. Title read. Considered.

Standing Committee amendment, AM0309, printed separately from the Journal and referred to on page 806, was adopted with 27 ayes, 0 nays, 10 present and not voting, and 12 excused and not voting.

Ms. Schimek moved to indefinitely postpone LB 579.

Laid over.

LEGISLATIVE BILL 427. Title read. Considered.

Standing Committee amendment, AM0197, found in the Journal on page 663, was considered.

Mrs. Smith renewed her pending amendment, AM0526, found in the Journal on page 938, to the pending Standing Committee amendment.

The Smith amendment was adopted with 18 ayes, 0 nays, 19 present and not voting, and 12 excused and not voting.

Mr. Abboud asked unanimous consent to be excused until he returns. No objections. So ordered.

The Standing Committee amendment, as amended, was adopted with 26 ayes, 0 nays, 11 present and not voting, and 12 excused and not voting.

Advanced to E & R for review with 26 ayes, 0 nays, 12 present and not voting, and 11 excused and not voting.

Mr. Schmit asked unanimous consent to be excused until he returns. No objections. So ordered.

LEGISLATIVE BILL 798. Title read. Considered.

Standing Committee amendment, AM0576, found in the Journal on page 994, was adopted with 27 ayes, 0 nays, 10 present and not voting, and 12 excused and not voting.

Mr. Haberman asked unanimous consent to be excused until he returns. No objections. So ordered.

Advanced to E & R for review with 27 ayes, 0 nays, 10 present and not voting, and 12 excused and not voting.

Mr. Chambers asked unanimous consent to be excused until he returns. No objections. So ordered.

LEGISLATIVE BILL 748. Title read. Considered.

Standing Committee amendment, AM0529, found in the Journal on page 1114, was adopted with 25 ayes, 0 nays, 12 present and not voting, and 12 excused and not voting.

Mr. Elmer renewed his pending amendment, AM0821, found in the Journal on page 1135.

The Elmer amendment was adopted with 27 ayes, 0 nays, 10 present and not voting, and 12 excused and not voting.

Mr. Morrissey moved to indefinitely postpone LB 748.

Laid over.

LEGISLATIVE BILL 170. Title read. Considered.

Standing Committee amendment, AM0481, found in the Journal on page 854, was considered.

Mr. Coordsen offered the following amendment to the pending Standing Committee amendment:
AM0864
(Amendments to Standing Committee amendment, AM0481)
1. On page 1, line 7, strike "five" and insert "ten".

Mrs. Hillman asked unanimous consent to be excused until she returns. No objections. So ordered.

PRESIDENT MOUL PRESIDING

The Coordsen amendment lost with 11 ayes, 17 nays, 13 present and not voting, and 8 excused and not voting.

The Standing Committee amendment was adopted with 26 ayes, 0 nays, 15 present and not voting, and 8 excused and not voting.

Mr. Warner moved to indefinitely postpone LB 170.

Mr. R. Johnson asked unanimous consent to be excused. No objections. So ordered.

The Warner motion to indefinitely postpone lost with 11 ayes, 18 nays, 11 present and not voting, and 9 excused and not voting.

Mr. Coordsen moved for a call of the house. The motion prevailed with 21 ayes, 0 nays, and 28 not voting.

Mr. Coordsen requested a roll call vote on the advancement of the bill.

Voting in the affirmative, 22:

Abboud	Coordsen	Kristensen	Nelson	Schellpeper
Ashford	Cudaback	Lamb	Peterson	Schrock
Baack	Dierks	Moore	Rasmussen	Wehrbein
Byars	Elmer	Morrissey	Rogers	Wickersham
Conway	Hefner			

Voting in the negative, 7:

Beutler	Landis	Warner	Wesely	Will
Horgan	Lindsay			

Present and not voting, 11:

Beyer	Johnson, L.	Pirsch	Robinson	Smith
Crosby	Lynch	Robak	Schimek	Withem
Hartnett				

Excused and not voting, 9:

Bernard-Stevens	Chambers	Haberman	Hillman	Labedz
	Chizek	Hall	Johnson, R.	Schmit

Failed to advance to E & R for review with 22 ayes, 7 nays, 11 present and not voting, and 9 excused and not voting.

STANDING COMMITTEE REPORTS
Education

LEGISLATIVE BILL 91. Placed on General File as amended.
Standing Committee amendment to LB 91:
AM0945

1. Insert the following new section:

"Sec. 4. No revenue raised pursuant to the increases in the income tax rate and sales tax rate provided in Laws 1990, LB 1059, shall be appropriated by the Legislature in support of the Help Education Lead to Prosperity Act.".

2. On page 2, line 5, strike "section 3" and insert "sections 3 and 4".

3. On page 4, strike beginning with "for" in line 13 through line 14 and insert "in excess of amounts received in school year 1990-91".

4. Renumber the remaining section accordingly.

(Signed) Ron Withem, Chairperson

Health and Human Services

LEGISLATIVE BILL 503. Placed on General File as amended.
Standing Committee amendment to LB 503:
AM0764

1. Strike the original sections and insert the following new sections:

"Section 1. That section 71-101, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-101. Sections 71-101 to 71-1,107.30, 71-1,133 to 71-1,294, 71-1325 to 71-1354, and 71-2801 to 71-2822 and section 3 of this act shall be known and may be cited as the Uniform Licensing Law.

For purposes of the Uniform Licensing Law, unless the context otherwise requires:

(1) Board of examiners or board shall mean one of the boards appointed by the State Board of Health;

(2) Licensed, when applied to any licensee in any of the professions named in section 71-102, shall mean a person licensed under the Uniform Licensing Law;

(3) Profession or health profession shall mean and refer to any of the several groups named in section 71-102;

(4) Department shall mean the Department of Health;

(5) Whenever the masculine gender is used, it shall be construed to include the feminine, and the singular number shall include the plural when consistent with the intent of the Uniform Licensing Law;

(6) License, licensing, or licensure shall mean permission to engage in a health profession which would otherwise be unlawful in this state in the absence of such permission and which is granted to individuals who meet prerequisite qualifications and allows them to perform prescribed health professional tasks and use a particular title;

(7) Certificate, certify, or certification, with respect to professions, shall mean a voluntary process by which a statutory, regulatory entity grants recognition to an individual who has met certain prerequisite qualifications specified by such regulatory entity and who may assume or use certified in the title or designation to perform prescribed health professional tasks. When appropriate, certificate shall also mean a document issued by the department which designates particular credentials for an individual; and

(8) Lapse shall mean the termination of the right or privilege to represent oneself as a licensed or certified person and to practice the profession when a license is required to do so.

Sec. 2. That section 71-1,133, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,133. For purposes of the Uniform Licensing Law, the practice of optometry is defined as being one or a combination of the following, without the use of surgery:

(1) The examination of the human eye to diagnose, treat, or refer for consultation or treatment

any abnormal condition of the human eye or lid;

(2) The employment of instruments, devices, topical ocular pharmaceutical agents, excluding anti-glaucoma agents, and procedures intended for the purpose of investigating, examining, diagnosing, or correcting visual defects or abnormal conditions of the human eye or lid or for the removal of superficial foreign bodies; or

(3) The prescribing and application of lenses, devices containing lenses, prisms, contact lenses, ophthalmic devices excluding laser surgery, orthoptics, vision training, topical ocular pharmaceutical agents which treat eye infection, inflammation, and superficial abrasions, and prosthetic devices to correct, relieve, or treat defects or abnormal conditions of the human eye or lid.

Sec. 3. (1) If an optometrist is licensed in this state and is under the supervision of an ophthalmologist residing in this state and licensed to practice medicine in this state and such supervision is approved by the board of examiners, the optometrist may, after the effective date of this act, prescribe (a) oral ocular pharmaceutical agents and (b) topical ocular pharmaceutical agents for the treatment of glaucoma.

(2) For purposes of this section, board of examiners shall mean the Board of Examiners in Medicine and Surgery and supervision shall mean the ready availability of the supervising ophthalmologist for consultation and direction of the activities of the optometrist. Contact with the supervising ophthalmologist by telecommunication shall be sufficient to show ready availability if the board of examiners finds that such contact is sufficient to provide quality medical care.

(3) Approval by the board of examiners shall be on an individual basis. Any such approval shall require site visits by the supervising ophthalmologist, regular reporting to the supervising ophthalmologist by the optometrist, and arrangements for supervision at all times by the supervising ophthalmologist which are sufficient to provide quality medical care.

(4) The board of examiners shall formulate guidelines for the consideration and approval of applications by an ophthalmologist or optometrist for

the ophthalmologist to supervise an optometrist. Any application made by an ophthalmologist or optometrist shall include all of the following:

(a) The qualifications, including related experience, of the optometrist;

(b) The professional background of the ophthalmologist; and

(c) A description by the ophthalmologist and optometrist of their practice and the way in which the optometrist shall be used.

(5) The board of examiners, with the concurrence of the department, shall approve an application of an ophthalmologist to supervise an optometrist when the board of examiners is satisfied that the optometrist is fully qualified to prescribe the agents set forth in subsection (1) of this section under the responsible supervision of an ophthalmologist and that the public will be adequately protected by the arrangement proposed in the application.

(6) An optometrist who performs medical services under the supervision of an ophthalmologist shall be subject to regulation by the board of examiners.

(7) The board of examiners shall adopt and promulgate rules and regulations to carry out this section.

Sec. 4. That original sections 71-101 and 71-1,133, Reissue Revised Statutes of Nebraska, 1943, are repealed.".

(Signed) Don Wesely, Chairperson

UNANIMOUS CONSENT - Print in Journal

Mr. Wesely asked unanimous consent to print the following amendment to LB 537 in the Journal. No objections. So ordered.

AM0910

1. Insert the following new section:

"Sec. 22. The director may adopt and promulgate rules and regulations to carry out the Small Employer Health Insurance Act.".

Mr. Chizek asked unanimous consent to print the following amendment to LB 355 in the Journal. No objections. So ordered.

AM0913

1. Strike the original section and insert the following new sections:

"Section 1. A person shall not purchase, lease, rent, or receive transfer of a handgun until he or she has obtained an annual certificate in accordance with section 2 of this act. A person shall not sell, lease, rent, or transfer a handgun to a person who has not obtained an annual certificate. The certificate shall not be required if:

(1) The person acquiring the handgun is a licensed firearms dealer under federal law;

(2) The handgun is an antique handgun;

(3) The person acquiring the handgun is authorized to do so on behalf of a law enforcement agency;

(4) The transfer is a temporary transfer of a handgun and the transferee remains (a) in the line of sight of the transferor or (b) within the premises of an established shooting facility; or

(5) The transfer is between a person and his or her spouse, sibling, parent, or child or a person related by consanguinity of the third degree.

Sec. 2. Any person desiring to purchase, lease, rent, or receive transfer of a handgun shall apply with the chief of police or sheriff of the applicant's place of residence for an annual certificate. The application form and certificate shall be made on forms approved by the Superintendent of Law Enforcement and Public Safety. The application shall state the applicant's full name, social security number, address, and date of birth. The applicant shall also present a current Nebraska motor vehicle operator's license or state identification card or military identification card. An applicant shall receive a certificate if he or she is twenty-one years of age or older and is not prohibited from purchasing or possessing a handgun by 18 U.S.C. 922(g) or (h).

Sec. 3. Upon the filing of an application for an annual certificate, the chief of police or sheriff shall issue a certificate or deny a certificate and

furnish the applicant the specific reasons for the denial in writing. The chief of police or sheriff shall be permitted up to two days in which to conduct an investigation to determine whether the applicant is prohibited by law from purchasing or possessing a handgun. If it is determined that the purchase or possession of a handgun by the applicant would be in violation of applicable federal, state, or local law, the chief of police or sheriff shall deny the certificate. In computing the two-day period, the day of application shall not be included and the last day of the two-day period shall be included. The two-day period shall expire at 11:59 p.m. of the second day unless it is a Saturday, Sunday, or legal holiday in which event the period shall run until 11:59 p.m. of the next day which is not a Saturday, Sunday, or legal holiday. No civil liability shall arise based on the action or inaction of any law enforcement agency in connection with this act.

Sec. 4. Any person who is denied an annual certificate or whose certificate is revoked may appeal within ten days of receipt of the denial or revocation to the county court of the county of the applicant's place of residence. The applicant shall file with the court the specific reasons for the denial or revocation by the chief of police or sheriff and a filing fee of ten dollars in lieu of any other filing fee required by law. The court shall issue its decision within thirty days of the filing of the appeal.

Sec. 5. An annual certificate issued in accordance with section 2 of this act shall contain the holder's name, social security number, address, and date of birth and the effective date of the certificate. An annual certificate shall authorize the holder to acquire any number of handguns during the period that the certificate is valid. The certificate shall be valid throughout the state and shall become invalid three hundred sixty-four days after its effective date. If the chief of police or sheriff who issued the certificate determines that the applicant has become disqualified for the certificate under section 2 of this act, he or she may immediately revoke the certificate and require the holder to surrender the certificate immediately. Revocation may be appealed pursuant to

section 4 of this act.

Sec. 6. Any person who willfully provides false information on an application form for an annual certificate under section 2 of this act or who willfully violates the provisions of this act shall, upon conviction, be guilty of a Class IV felony. As a part of the judgment of the conviction, the court may order the confiscation of the handgun.

Sec. 7. Any city or village ordinance existing on the effective date of this act shall not be preempted by this act.

Sec. 8. For purposes of this act:

(1) Antique handgun or pistol shall mean any handgun or pistol, including those with a matchlock, flintlock, percussion cap, or similar type of ignition system, manufactured in or before 1898 and any replica of such a handgun or pistol if such replica (a) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition or (b) uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade; and

(2) Handgun shall mean any firearm with a barrel less than sixteen inches in length or any firearm designed to be fired by the use of a single hand.".

Mr. Kristensen asked unanimous consent to print the following amendment to LB 798 in the Journal. No objections. So ordered.

AM0915

1. Insert the following new sections:

"Sec. 3. That section 23-343.11, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

23-343.11. The county board shall have power to levy a tax each year of not to exceed three and five-tenths cents on each one hundred dollars upon the actual value of all the taxable property in such county~~,~~ ~~except intangible property,~~ for the purpose of acquiring, remodeling, improving, equipping, maintaining, and operating such facility or facilities as provided by section 23-343. In counties having a population of not more than seven thousand persons, such

tax shall not exceed seven cents on each one hundred dollars of the actual value. The county board shall, by resolution, determine and declare how the same shall be managed. The tax authorized by this section shall not be included within the levy limitations for general county purposes prescribed in section 23-119 or Article VIII, section 5, of the Constitution of Nebraska.

Sec. 4. That section 23-343.19, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

23-343.19. The board of trustees of any such facility or facilities organized under ~~the provisions of~~ section 23-343.15~~,~~ shall, each year, fix the amount of money for the proposed budget statement as may be deemed sufficient and necessary for the operation of such hospital during the following calendar year. After the adoption of the budget statement~~,~~ and during the first week of June of each year, the board of trustees of such hospital shall certify to the county board of the county in which such hospital is located the amount of the tax to be levied~~,~~ which the hospital requires under the hospital's adopted budget statement to be received from taxation. Such county board shall apportion such amount among the counties concerned in proportion to the actual valuation of all taxable property~~, except intangible property,~~ and shall certify to each county its share of such amount. Each county shall levy a tax sufficient to raise the amount so certified to it, and the county treasurer shall transmit the proceeds of such tax to the treasurer of the county in which such hospital is located for credit to the hospital fund. The tax authorized by this section shall not be included within the levy limitations for general county purposes prescribed in section 23-119 or Article VIII, section 5, of the Constitution of Nebraska.".

2. On page 6, line 8, strike "and" and insert a comma; and in line 9 after the first comma insert "23-343.11, and 23-243.19,".

3. Renumber the remaining section accordingly.

Mr. Lamb asked unanimous consent to print the following amendment to LB 511 in the Journal. No objections. So ordered.

(Amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM0907.)

SELECT COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 789. Placed on Select File as amended.
(E & R amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM5103.)

LEGISLATIVE BILL 57A. Placed on Select File.
LEGISLATIVE BILL 67A. Placed on Select File.
LEGISLATIVE BILL 142A. Placed on Select File.
LEGISLATIVE BILL 410A. Placed on Select File.

LEGISLATIVE BILL 732. Placed on Select File as amended.
E & R amendment to LB 732:
AM5102

1. On page 2, line 9; and page 188, line 14, strike "65-101,".

2. On page 2, strike beginning with "for" in line 23 through "Court" in line 24.

3. On page 3, line 4, strike beginning with "provide" through "to".

4. On page 10, line 3, after "action" insert an underscored comma.

5. On page 14, line 14, after "association" insert "or corporation".

6. On page 21, lines 22 and 23, reinstate the stricken commas.

7. On page 22, line 12, after "finds" insert "that".

8. On page 32, strike beginning with "It" in line 11 through "report" in line 12 and show the old matter as stricken; and in line 13 after the stricken "year" insert "The clerk of each court shall report".

9. On page 47, line 19, strike "and" and show as stricken; and in line 24 after "appointment" insert an underscored comma.

10. On page 48, line 23, strike the first "and" and show as stricken and strike the second "and", show as stricken, and insert "courts, and clerks of the".

11. On page 49, line 10, after "petition"

insert "which".

12. On page 51, line 3, after "to" insert "the".

13. On page 59, line 7, strike "for continuance" and show as stricken; and in line 17 strike "therein" and "lower" and show both as stricken.

14. On page 64, line 18, after "asking" insert "for".

15. On page 65, line 2, after "Court" insert an underscored comma; and in line 12 reinstate the stricken comma.

16. On page 67, line 12, after the comma insert "which"; in line 13 strike the comma and show as stricken; and in line 14 strike "is" and show as stricken.

17. On page 85, line 22, reinstate the stricken comma; and in line 25 after "Appeals" insert an underscored comma.

18. On page 86, line 1, after "29-2301" insert an underscored comma.

19. On page 87, line 18, after "and" insert "that".

20. On page 99, line 17, reinstate the stricken commas.

21. On page 100, line 23, reinstate the stricken commas; and in line 25 strike the new matter and reinstate the stricken matter.

22. On page 101, line 5, strike the period, show as stricken, and insert an underscored semicolon; and in line 21 after "of" insert "the".

23. On page 106, line 25, after "be" insert "a".

24. On page 107, line 16, strike the commas and show as stricken; and in line 25 after "Governor" insert an underscored comma.

25. On page 116, line 15, strike the comma and show as stricken.

26. On page 123, line 24, strike "who feels" and insert "and feeling".

27. On page 139, strike beginning with the first "of" in line 2 through the comma in line 3, show as stricken, and insert an underscored comma.

28. On page 148, line 18, strike "exists", show as stricken, and insert "exist".

29. On page 179, line 16, strike the comma and show as stricken.

30. On page 182, line 13, strike the second "the" and show as stricken; in lines 14 and 20 strike "the" and show as stricken; in line 17 strike both occurrences of "the" and show as stricken; and in line 19 strike the third "the" and show as stricken.

31. On page 183, line 16, after the last comma insert "or"; and in line 17 strike the first comma and show as stricken and after "or" insert "any".

LEGISLATIVE BILL 732A. Placed on Select File.

(Signed) Eric Will, Chairperson

UNANIMOUS CONSENT - Add Co-Introducers

Messrs. Conway and Baack asked unanimous consent to have their names added as co-introducers to LB 579. No objections. So ordered.

VISITORS

Visitors to the Chamber were 33 fifth grade students and teachers from Hebron Elementary School; and Daniel and Patsy Rathe, Mr. and Mrs. Manuel Gonzales, and son, Guspavo, and Monica and Manuela Alfonso from Mexico.

ADJOURNMENT

At 4:49 p.m., on a motion by Mr. Baack, the Legislature adjourned until 9:00 a.m., Tuesday, March 26, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

FIFTIETH DAY - MARCH 26, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

FIFTIETH DAY

Legislative Chamber, Lincoln, Nebraska
Tuesday, March 26, 1991

Pursuant to adjournment, the Legislature met at 9:02 a.m., President Moul presiding.

PRAYER

The prayer was offered by Rev. Harland Johnson, Chaplain Coordinator.

ROLL CALL

The roll was called and all members were present except Mr. Hall who was excused; and Messrs. Bernard-Stevens, Byars, Chambers, Landis, Lynch, Morrissey, Peterson, Rogers, Schmit, Schrock, Warner, Mmes. Rasmussen, Smith, and Ms. Schimek who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Forty-Ninth Day was approved.

SELECT COMMITTEE REPORTS
Enrollment and Review

Correctly Engrossed

The following bills were correctly engrossed: 44, 51, 51A, 159, 160, 162, 190, 193, 232, 254, 254A, 333, 335, 350, 358, 367, 368, 403, 408, 429, 429A, 500, 534, 639, 685, 689, 716, 724, 724A, 745, 766, 772, and 810.

Correctly Re-Engrossed

The following bill was correctly re-engrossed: 204.

(Signed) Eric Will, Chairperson

Enrollment and Review Change to LB 44

The following changes, required to be reported for publication in the Journal, have been made:
ER7035

1. On page 1, line 1, "section" has been struck and "sections 60-462, 60-4,112, and" inserted; in line 5 "to harmonize provisions;" has been inserted after the semicolon; and in line 6 "section" has been struck and "sections" inserted.

Enrollment and Review Change to LB 51

The following changes, required to be reported for publication in the Journal, have been made:
ER7037

1. In the Schmit amendment, AM0820, on page 2, line 10, "that" has been struck and "the" inserted and "subarea" has been struck and "a subarea of the management area" inserted.

2. On page 1, line 2, "46-673.10," has been inserted after the last comma; and in line 6 "redefine a term" has been struck and "define and redefine terms" inserted.

3. On page 9, line 24; and page 10, line 22, "6" has been struck and "7" inserted.

Enrollment and Review Change to LB 204
(Final Reading copy)

The following changes, required to be reported for publication in the Journal, have been made:
ER7039

1. Because of the amendment of sections 81-885.01, 81-885.14, and 81-885.21 by LB 118, sections 2, 3, and 4, respectively:

a. Sections 1 and 6 have been struck;

b. On page 1, the matter beginning with "section" in line 2 through the first comma in line 4 has been struck and "sections"

inserted; and the matter beginning with the second "to" in line 8 through the semicolon in line 9 has been struck;

c. On page 11, lines 1, 4, 7, 10, and 11, the new matter has been struck; and in line 10 the stricken matter has been reinstated;

d. On page 15, the matter beginning with "section" in line 8 through the first comma in line 10 has been struck and "sections" inserted; and

e. The remaining sections have been renumbered accordingly.

Enrollment and Review Change to LB 232

The following changes, required to be reported for publication in the Journal, have been made:

ER7034

1. In the E & R amendment, AM5075, on page 1, the matter beginning with the first semicolon in line 19 through "stricken" in line 20 has been struck.

Enrollment and Review Change to LB 333

The following changes, required to be reported for publication in the Journal, have been made:

ER7036

1. In the Abboud amendment, AM0603, on page 2, lines 8 and 16, paragraphing has been inserted after the period.

2. On page 1, line 2, ", 60-1417.01," has been inserted after "60-315"; in line 6 "and" has been struck and "to change provisions relating to buyer's information forms;" inserted; and in line 7 "; and to declare an emergency" has been inserted after "sections".

Enrollment and Review Change to LB 358

The following changes, required to be reported for publication in the Journal, have been made:

ER7040

1. On page 25, line 4, "8" has been struck and "10" inserted and "31" has been struck and "33" inserted.

2. On page 33, line 3, the paragraphing has been struck.

3 . On page 57, the matter beginning with "in" in line 10 through the period in line 11 has been struck, shown as stricken, and an underscored period inserted.

Enrollment and Review Change to LB 367

The following changes, required to be reported for publication in the Journal, have been made:
ER7041

1. On page 3, line 17, an underscored comma has been inserted after "district".

2. On page 6, line 4, an underscored comma has been inserted after "large"; and in line 13 "(3)" has been struck and "(2)" inserted.

Enrollment and Review Change to LB 639

The following changes, required to be reported for publication in the Journal, have been made:
ER7044

1. On page 4, line 8, "a term" has been struck and "terms" inserted.

Enrollment and Review Change to LB 716

The following changes, required to be reported for publication in the Journal, have been made:
ER7038

1. Because of the amendment of section 81-1578 by LB 837, section 2:

a. In the E & R amendment, AM5085, on page 1, line 4 "sections 81-1578 and" has been struck and "section" inserted; and in line 5 "section 81-1578, Revised Statutes Supplement, 1990, as amended by section 2, Legislative Bill 837, Ninety-second Legislature, First Session, 1991," has been inserted after the second comma; and

b. In the R. Johnson amendment, AM0639, section 1 has been struck and the following new section inserted:

"Section 1. That section 81-1578, Revised Statutes Supplement, 1990, as amended by section 2, Legislative Bill 837, Ninety-second Legislature, First Session, 1991, be amended to read as follows:

81-1578. Sections 81-1578 to 81-15,116 and section 1 of this act and section 2 of this act shall be known and may be cited as the Low-Level Radioactive Waste Disposal Act."; the matter beginning with "line" in line 18 through "in" in line 19 has been struck; and in line 20 "section 81-1578, Revised Statutes Supplement, 1990, as amended by section 2, Legislative Bill 837, Ninety-second Legislature, First Session, 1991," has been inserted before the second "and".

(Signed) Mary E. Sommermeyer
E & R Attorney

STANDING COMMITTEE REPORTS
Urban Affairs

LEGISLATIVE BILL 489. Placed on General File.

LEGISLATIVE BILL 506. Indefinitely postponed.
LEGISLATIVE BILL 608. Indefinitely postponed.
LEGISLATIVE BILL 610. Indefinitely postponed.

(Signed) D. Paul Hartnett, Chairperson

Health and Human Services

LEGISLATIVE BILL 248. Placed on General File as amended.
Standing Committee amendment to LB 248:
AM0909

1. Strike original sections 2 and 3.
2. On page 3, lines 22 through 25, strike the new matter.
3. On page 4, lines 1 through 10, strike the new matter.
4. On page 7, strike beginning with "section" in line 3 through "and" in line 4; and in line 5 strike "are" and insert "is".
5. Renumber the remaining sections accordingly.

LEGISLATIVE BILL 308. Placed on General File as amended.
Standing Committee amendment to LB 308:
AM0602

1. On page 2, line 23, strike "metabolic conditions,".
2. On page 3, line 1, strike "temporarily or permanently"; and strike beginning with "and" in line 2 through "dysfunction" in line 11.
3. On page 6, strike beginning with "Short-term" in line 2 through "long-term" in line 3 and insert "Inpatient, postacute".

LEGISLATIVE BILL 431. Placed on General File as amended.
Standing Committee amendment to LB 431:
AM0402

1. On page 5, line 13, strike "Distribute" and insert "(a) For fiscal year 1991-92, distribute,

free of any shipping, handling, or other charges, to practitioners who qualify under section 5 of this act and who practice in counties in which public immunization services are not available, the covered vaccines required to carry out the purposes of the act for such year in such counties; and

(b) For fiscal years 1992-93 and thereafter, distribute"; in line 14 strike "such vaccines" and after "to" insert "all"; and in line 15 after "act" insert "the covered vaccines necessary to carry out the purposes of the act".

LEGISLATIVE BILL 831. Indefinitely postponed.

(Signed) Don Wesely, Chairperson

Education

The Committee on Education desires to report favorably upon the appointment listed below. The Committee suggests the appointment be confirmed by the Legislature and suggests a record vote.

Senator David Bernard-Stevens - School Restructuring Commission

VOTE: Aye: Senators Withem, Dierks, Warner, Nelson, Schrock, Chizek, Beutler, and Lamb. Nay: none. Absent: none.

(Signed) Ron Withem, Chairperson

ATTORNEY GENERAL'S OPINION

Opinion No. 91020

DATE: March 22, 1991

SUBJECT: Appropriation of Funds for Reimbursement of Expenses Incurred in the Reburial of American Indian Remains Pursuant to Neb.Rev.Stat. § 12-1208 (1990 Cum.Supp.)

REQUESTED BY: Senator Scott Moore, Nebraska State Legislature

WRITTEN BY: Don Stenberg, Attorney General

Dale A. Comer, Assistant Attorney General

Neb.Rev.Stat. §§ 12-1201 et seq. (1990 Cum.Supp.) make up the Unmarked Human Burial Sites and Skeletal Remains Protection Act. Among other things, that legislation creates certain obligations for persons who discover human skeletal remains or burial goods associated with an unmarked human burial. It further provides for the disposition of those skeletal remains or burial goods including, in some instances, reburial of those materials. Neb.Rev.Stat. § 12-1208(3) (1990 Cum.Supp.) specifically provides, in pertinent part:

> If the {Nebraska State Historical} society finds that the discovered human skeletal remains or burial goods are of American Indian origin, it shall promptly notify in writing the Commission on Indian Affairs and any known relatives in the order listed in section 71-1339 or, if no relatives are known, any Indian tribes reasonably identified as tribally linked to such remains or goods in order to ascertain and follow the wishes of the relative or Indian tribe, if any, as to reburial or other disposition. Reburial by any such relative or Indian tribe shall be by and at the expense of such relative or Indian tribe.

(Emphasis added). From your correspondence, we understand that the Appropriations Committee of the Legislature is considering a request to provide state funds for the reimbursement of expenses incurred in the reburial of American Indian remains under the Act. You are concerned about the propriety of such an appropriation in light of the portion of § 12-1208(3) emphasized above.

Your specific questions are in several parts. First, you wish to know if the Legislature can make either a deficit appropriation or an appropriation for the upcoming biennium to a state agency which would be used directly by that agency itself or paid out to a political subdivision as directed by language in the appropriations bill, for the purpose of reimbursement of expenses incurred in the reburial of American Indian remains pursuant to § 12-1208(3). The expenses involved would have been billed to a relative or an Indian tribe as described in § 12-1208(3).

We do not believe that § 12-1208(3) would prevent such an appropriation. The language at issue in that section simply requires that the reburial of identifiable American Indian remains be "by and at the expense of" the relative or Indian tribe involved. It does not prevent a political subdivision from advancing the funds necessary for such a reburial so long as the monies expended are ultimately recouped from the relative or Indian tribe involved. It does not prevent an appropriation by the State to reimburse the political subdivision; again, so long as the funds expended are ultimately

repaid by the affected relative or Indian tribe. However, stating that an appropriation is possible here raises a broader question. Namely, under the present Unmarked Human Burial Sites and Skeletal Remains Protection Act, can any state agency actually reimburse such reburial costs even when the funds have been appropriated.

Under Nebraska law, it is clear that an administrative agency has no power or authority other than that specifically conferred by statute or by a construction of the statutes necessary to accomplish the plain purpose of the act. Nebraska Association of Public Employees, Game and Parks Chapter v. Game and Parks Commission, 220 Neb. 883, 374 N.W.2d 46 (1985); Application of Lincoln Electric System, 207 Neb. 289, 298 N.W.2d 366 (1980). Therefore, a state agency must have statutory authority to make payments of funds appropriated to reimburse the costs of reburial of American Indian remains.

We have also indicated on numerous occasions that appropriations bills must be restricted to making appropriations only and cannot enact substantive law. Opinion of the Attorney General No. 24, February 13, 1981; Opinion of the Attorney General No. 289, May 14, 1980; Report of the Attorney General, 1977-1978, No. 241 at 368 and No. 75 at 112; Report of the Attorney General, 1975-1976, No. 201 at 281. As we stated in our Opinion No. 75 in 1977, substantive language in an appropriations bill "has no legal or binding effect and may be ignored by the persons charged with the administration of the executive units of government to which the language refers." Report of the Attorney General, 1977-1978, No. 75 at 113. As a result, an appropriations bill appropriating funds for the reimbursement of costs associated with the reburial of American Indian remains cannot be used to actually create authority to make such payments. That authority must be created in the substantive legislation itself.

We can find no language in the Unmarked Human Burial Sites and Skeletal Remains Protection Act which would specifically authorize any state agency to reimburse expenditures incurred by a political subdivision to rebury identifiable American Indian remains when those costs were billed to the affected relative or Indian tribe. Nor can such authority be necessarily inferred from the language of the Act, particularly where the legislative history of those statutes clearly indicates that such costs are to be paid by the relative or Indian tribe seeking reburial. See, Government, Military and Veterans Affairs Committee Statement on LB 340, 90th Legislature, Second Session (1989). Consequently, while an appropriation of funds for such reimbursement might be possible, we do not believe that a state agency would have statutory authority to actually pay out the funds under the provisions of the pertinent statutes.

You also ask whether the Legislature may make an appropriation to a state agency for the upcoming biennium to reimburse expenses incurred by the agency or a political subdivision to erect a memorial related to a reburial under § 12-1208(3). For the reasons outlined above, we believe that such an appropriation might be proper but that no statutory authority exists for such a reimbursement.

Finally, you ask whether an appropriation might be made to a state agency for the upcoming biennium to reimburse expenses related to a reburial under § 12-1208(3) which were incurred directly by a relative or interested Indian tribe under that section. We believe that such an appropriation would be in direct contravention of that portion of § 12-1208(3) which provides that, "{r}eburial by such relative or Indian tribe shall be by and at the expense of such relative or Indian tribe."

Sincerely,
DON STENBERG
Attorney General
(Signed) Dale A. Comer
Assistant Attorney General

05-03-14.91
cc: Patrick J. O'Donnell
Clerk of the Legislature

MOTION - Approve Appointments

Mr. Chizek moved the adoption of the report of the Judiciary Committee for the following Governor appointments found in the Journal on page 1278: Marlene Cupp and Michael D. McLaughlin - Nebraska State Parole Board.

Voting in the affirmative, 26:

Abboud	Conway	Hartnett	Kristensen	Schellpeper
Ashford	Coordsen	Hefner	Lamb	Wehrbein
Baack	Dierks	Hillman	Lindsay	Wesely
Beutler	Elmer	Horgan	Pirsch	Will
Beyer	Haberman	Johnson, L.	Robinson	Withem
Chizek				

Voting in the negative, 0.

Present and not voting, 8:

Crosby	Johnson, R.	Moore	Robak	Wickersham
Cudaback	Labedz	Nelson		

Excused and not voting, 15:

Bernard-Stevens	Hall	Morrissey	Rogers	Schrock
Byars	Landis	Peterson	Schimek	Smith
Chambers	Lynch	Rasmussen	Schmit	Warner

These appointments were confirmed with 26 ayes, 0 nays, 8 present and not voting, and 15 excused and not voting.

UNANIMOUS CONSENT - Member Excused

Mr. Chizek asked unanimous consent to be excused until he returns. No objections. So ordered.

BILL ON FINAL READING

The following bill was read and put upon final passage:

LEGISLATIVE BILL 205. With Emergency.

A BILL FOR AN ACT relating to commercial paper; to amend section 3-106, Uniform Commercial Code; to define and redefine terms; to repeal the original section; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 36:

Abboud	Cudaback	Horgan	Lindsay	Robinson
Ashford	Dierks	Johnson, L.	Lynch	Schellpeper
Baack	Elmer	Johnson, R.	Nelson	Warner
Beutler	Haberman	Kristensen	Peterson	Wehrbein
Beyer	Hartnett	Labedz	Pirsch	Wesely
Conway	Hefner	Lamb	Rasmussen	Will
Coordsen	Hillman	Landis	Robak	Withem
Crosby				

Voting in the negative, 0.

Present and not voting, 2:

Moore Wickersham

Excused and not voting, 11:

Bernard-Stevens	Chambers	Morrissey	Schimek	Schrock
	Chizek	Rogers	Schmit	Smith
Byars	Hall			

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

MOTION - Return LB 218 to Select File

Mr. Beutler moved to return LB 218 to Select File for the following specific amendment:
FA69
Strike Section 1

Mr. Coordsen asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Beutler withdrew his motion to return.

Mr. Bernard-Stevens moved to return LB 218 to Select File for the following specific amendment:
AM0885

(Amendments to Final Reading copy)

1. On page 3, strike beginning with "livestock" in line 2 through "54-101" in line 3 and insert "cattle"; and in line 4 strike "livestock" and insert "cattle".

The Bernard-Stevens motion to return prevailed with 32 ayes, 0 nays, 9 present and not voting, and 8 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 218. The Bernard-Stevens specific amendment, AM0885, found in this day's Journal, was adopted with

25 ayes, 4 nays, 12 present and not voting, and 8 excused and not voting.

Advanced to E & R for re-engrossment.

MOTION - Return LB 218 to Select File

Mr. Wickersham moved to return LB 218 to Select File for the following specific amendment:
FA70

Amend LB 218 by adding a new subsection (8), in Section 1, as follows:

"8. Amounts taken pursuant to one scheme or course of conduct from one person shall be aggregated in the indictment or information in determining the classification of the offense."

Strike Subsection (7), on pages 2 and 3.

The Wickersham motion to return prevailed with 29 ayes, 0 nays, 13 present and not voting, and 7 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 218. The Wickersham specific amendment, FA70, found in this day's Journal, was adopted with 30 ayes, 1 nay, 12 present and not voting, and 6 excused and not voting.

Advanced to E & R for re-engrossment.

BILL ON FINAL READING

The following bill was read and put upon final passage:

LEGISLATIVE BILL 221. With Emergency.

A BILL FOR AN ACT relating to secured transactions; to amend section 9-504, Uniform Commercial Code; to change provisions relating to a secured party's right to dispose of collateral after default; to repeal the original section; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 41:

Abboud	Conway	Horgan	Morrissey	Schimek
Ashford	Crosby	Johnson, L.	Nelson	Schrock
Baack	Cudaback	Johnson, R.	Peterson	Smith
Bernard-Stevens	Dierks	Kristensen	Pirsch	Warner
Beutler	Elmer	Lamb	Rasmussen	Wehrbein
Beyer	Haberman	Landis	Robak	Wesely
Byars	Hartnett	Lindsay	Robinson	Will
Chizek	Hefner	Moore	Schellpeper	Withem
	Hillman			

Voting in the negative, 0.

Present and not voting, 3:

Labedz	Lynch	Wickersham

Excused and not voting, 5:

Chambers	Coordsen	Hall	Rogers	Schmit

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

MOTION - Return LB 251 to Select File

Mr. Haberman moved to return LB 251 to Select File for the following specific amendment:
AM0297

1. Insert the following new section:

"Sec. 8. That section 84-1409, Revised Statutes Supplement, 1990, be amended to read as follows:

84-1409. For purposes of sections 84-1408 to 84-1414, unless the context otherwise requires:

(1) Public body shall mean (a) governing bodies of all political subdivisions of the State of Nebraska, (b) governing bodies of all agencies, now or hereafter created by the Constitution of Nebraska, statute, or otherwise pursuant to law, of the executive department of the State of Nebraska, (c) all independent boards, commissions, bureaus, committees, councils, subunits, or any other bodies, now or hereafter created

by the Constitution of Nebraska, statute, or otherwise pursuant to law, (d) the Certificate of Need Review Committee, (e) all study or advisory committees of the executive department of the State of Nebraska whether having continuing existence or appointed as special committees with limited existence, (f) advisory committees of the bodies referred to in subdivisions (a), (b), and (c) of this subdivision, ~~and~~ (g) instrumentalities exercising essentially public functions, and (h) all judicial nominating commissions. Sections 84-1408 to 84-1414 shall not apply to subcommittees of such bodies unless such subcommittees are holding hearings, making policy, or taking formal action on behalf of their parent body nor shall such sections apply to judicial proceedings unless a court or other judicial body is exercising rulemaking authority, deliberating, or deciding upon the issuance of administrative orders; and

(2) Meeting shall mean all regular, special, or called meetings, formal or informal, of any public body for the purposes of briefing, discussion of public business, formation of tentative policy, or the taking of any action of the public body.".

2. On page 8, line 14, strike "Judge", show as stricken, and insert "judge"; in line 20 after "vote" insert "at a public hearing or meeting in open session"; and in line 22 strike "nominating" and show as stricken.

3. On page 11, lines 4 and 5, strike "private or confidential" and show as stricken; and in line 23 after "(5)" insert "Any hearing or meeting held by a judicial nominating commission pursuant to this section shall be subject to sections 84-1408 to 84-1414.

(6)".

4. On page 12, line 6, strike "(6)", show as stricken, and insert "(7)".

5. On page 13, line 2, strike "section" and insert "sections" and after "24-810" insert "and 84-1409".

6. Renumber the remaining section accordingly.

Mr. Kristensen requested a ruling of the Chair on whether the Haberman amendment is germane to the bill.

The Chair ruled the Haberman amendment is not germane to the bill.

Mr. Chizek asked unanimous consent to be excused until he returns. No objections. So ordered.

BILLS ON FINAL READING

The following bills were read and put upon final passage:

LEGISLATIVE BILL 251.

A BILL FOR AN ACT relating to judicial nominating commissions; to amend sections 24-802, 24-803, 24-806, 24-807, 24-809, and 24-810.01, Reissue Revised Statutes of Nebraska, 1943, and section 24-810, Revised Statutes Supplement, 1990; to change a residency requirement for commission members; to change provisions relating to the nomination and election of certain commission members; to provide for the election of alternate members of commissions; to change certain time limitations; to harmonize provisions; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 44:

Abboud	Conway	Hillman	Lynch	Schimek
Ashford	Coordsen	Horgan	Moore	Schrock
Baack	Crosby	Johnson, L.	Nelson	Smith
Bernard-Stevens	Cudaback	Johnson, R.	Peterson	Warner
Beutler	Dierks	Kristensen	Pirsch	Wehrbein
Beyer	Elmer	Labedz	Rasmussen	Wesely
Byars	Haberman	Lamb	Robak	Wickersham
Chizek	Hartnett	Landis	Robinson	Will
	Hefner	Lindsay	Schellpeper	Withem

Voting in the negative, 0.

Present and not voting, 1:

Morrissey

Excused and not voting, 4:

Chambers Hall Rogers Schmit

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 286. With Emergency.

A BILL FOR AN ACT relating to telecommunications; to amend sections 86-803 and 86-804, Reissue Revised Statutes of Nebraska, 1943; to change complaint procedures as prescribed; to eliminate termination dates; to require a plan for disposition of revenue resulting from tax law changes; to change the date a report is due; to harmonize provisions; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 44:

Abboud	Conway	Hillman	Lynch	Rogers
Ashford	Coordsen	Horgan	Moore	Schellpeper
Baack	Crosby	Johnson, L.	Morrissey	Schrock
Bernard-Stevens	Cudaback	Johnson, R.	Nelson	Smith
Beutler	Dierks	Kristensen	Peterson	Warner
Beyer	Elmer	Labedz	Pirsch	Wehrbein
Byars	Haberman	Lamb	Rasmussen	Wickersham
Chizek	Hartnett	Landis	Robak	Will
	Hefner	Lindsay	Robinson	Withem

Voting in the negative, 0.

Present and not voting, 2:

Schimek Wesely

Excused and not voting, 3:

Chambers Hall Schmit

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

Mr. Chizek asked unanimous consent to be excused until he returns. No objections. So ordered.

LEGISLATIVE BILL 305.

A BILL FOR AN ACT relating to the Securities Act of Nebraska; to amend sections 8-417, 8-1101, 8-1103, 8-1108, and 8-1111, Revised Statutes Supplement, 1990; to eliminate certain exceptions to applicability of the act; to redefine terms; to change provisions relating to and to provide fees; to change provisions relating to registration of an indefinite amount of securities; to harmonize provisions; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 46:

Abboud	Crosby	Johnson, R.	Nelson	Schmit
Ashford	Cudaback	Kristensen	Peterson	Schrock
Baack	Dierks	Labedz	Pirsch	Smith
Bernard-Stevens	Elmer	Lamb	Rasmussen	Warner
	Haberman	Landis	Robak	Wehrbein
Beutler	Hartnett	Lindsay	Robinson	Wesely
Beyer	Hefner	Lynch	Rogers	Wickersham
Byars	Hillman	Moore	Schellpeper	Will
Conway	Horgan	Morrissey	Schimek	Withem
Coordsen	Johnson, L.			

Voting in the negative, 0.

Excused and not voting, 3:

Chambers	Chizek	Hall

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

Mr. Beutler asked unanimous consent to be excused until he returns. No objections. So ordered.

LEGISLATIVE BILL 311.

A BILL FOR AN ACT relating to the Nebraska Wage Payment and Collection Act; to amend section 48-1231, Reissue Revised Statutes of Nebraska, 1943, and section 48-1229; Revised Statutes Supplement, 1990; to define a term; to change a provision relating to the recovery of attorney's fees as prescribed; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 44:

Abboud	Crosby	Johnson, R.	Nelson	Schmit
Ashford	Cudaback	Kristensen	Peterson	Schrock
Baack	Dierks	Labedz	Pirsch	Smith
Bernard-Stevens	Elmer	Lamb	Rasmussen	Warner
	Haberman	Landis	Robak	Wehrbein
Beyer	Hartnett	Lindsay	Robinson	Wesely
Byars	Hefner	Lynch	Rogers	Wickersham
Conway	Horgan	Moore	Schellpeper	Will
Coordsen	Johnson, L.	Morrissey	Schimek	Withem

Voting in the negative, 0.

Present and not voting, 1:

Hillman

Excused and not voting, 4:

Beutler	Chambers	Chizek	Hall

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

STANDING COMMITTEE REPORTS
Judiciary

LEGISLATIVE BILL 111. Placed on General File.
LEGISLATIVE BILL 566. Placed on General File.
LEGISLATIVE BILL 691. Placed on General File.
LEGISLATIVE BILL 812. Placed on General File.

(Signed) Jerry Chizek, Chairperson

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following bills: 205, 221, 251, 286, 305, and 311.

UNANIMOUS CONSENT - Members Excused

Messrs. Hefner, Lamb, and Dierks asked unanimous consent to be excused until they return. No objections. So ordered.

GENERAL FILE

LEGISLATIVE BILL 579. Ms. Schimek withdrew her pending motion, found in the Journal on page 1297, to indefinitely postpone.

Mr. Conway renewed his pending amendment, AM0868, printed separately from the Journal and referred to on page 1256.

Mr. Ashford asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Conway offered the following amendment to his pending amendment:
FA71
Amend AM0868 (to LB 579) by attaching the "E" clause

MR. MORRISSEY PRESIDING

The Conway amendment was adopted with 27 ayes, 0 nays, 15 present and not voting, and 7 excused and not voting.

PRESIDENT MOUL PRESIDING

Ms. Schimek offered the following amendment to the pending Conway amendment:

AM0951

(Amendments to AM0868)

1. On page 2, line 13, strike "inefficiency,".

The Schimek amendment was adopted with 22 ayes, 0 nays, 20 present and not voting, and 7 excused and not voting.

Ms. Schimek offered the following amendment to the pending Conway amendment:

AM0952

(Amendments to AM0868)

1. Insert the following new section:

"Sec. 2. (1) No appointed member of the State Election Board shall engage in any activity or hold any position or office which is related to the functions of the board such as (a) lobbying, (b) being a public official, a public employee, or a state elective official, (c) campaigning for the election or appointment of himself or herself to an elective public office, or (d) holding an office in any political party or political committee.

(2) An appointed member shall withdraw from any activity and resign from any such position or office prior to beginning his or her term on the board.

(3) Nothing in this section shall be construed to limit an appointed member's right to vote in any election or to limit his or her right to make political contributions.".

2. Renumber the remaining sections accordingly.

The Schimek amendment was adopted with 20 ayes, 0 nays, 22 present and not voting, and 7 excused and not voting.

Ms. Schimek offered the following amendment to the pending Conway amendment:

AM0953

(Amendments to AM0868)

1. Insert the following new section:

"Sec. 2. If a political party other than a legally recognized party receives at least five percent of the entire vote of the state at a general election, the membership of the State Election Board shall be

increased by one. The additional member shall be appointed by the Governor from a list of at least five individuals submitted by the state chairperson of the political party receiving such five percent vote. If any political party fails to poll at least five percent of the entire vote of the state at a general election, the position of that party shall be terminated, except that any person serving as a member may serve to the end of that person's term.".

2. On page 1, line 7, strike "the following manner" and insert "such a manner as to assure that not more than four of the eight appointed members are from the same political party. The Governor shall appoint".

3. On page 2, strike beginning with "two" in line 4 through "(d)" in line 7 and insert "one member appointed pursuant to subdivisions (1)(b) and (c) of this section shall be appointed for two-year terms and one member appointed pursuant to subdivisions (1)(b) and (c) of this section".

4. Renumber the remaining sections accordingly.

Mr. Rogers asked unanimous consent to be excused until he returns. No objections. So ordered.

The Schimek amendment was adopted with 19 ayes, 0 nays, 22 present and not voting, and 8 excused and not voting.

Mr. Chambers offered the following amendment to the pending Conway amendment:
FA72
Amend amendment (Conway)
P. 2, line 15, after "disability", add: "sufficient to impair substantially the ability to discharge the duties of a member."

Mr. Schmit asked unanimous consent to be excused until he returns. No objections. So ordered.

The Chambers amendment was adopted with 20 ayes, 0 nays, 21 present and not voting, and 8 excused and not voting.

Mr. Chambers offered the following amendment to the pending Conway amendment:
FA73

Amend Conway Amendment
P. 6, lines 14 & 15, strike "verbal" and insert "oral"

The Chambers amendment was adopted with 20 ayes, 0 nays, 21 present and not voting, and 8 excused and not voting.

Messrs. Haberman, Robinson, Peterson, and Mrs. Robak asked unanimous consent to be excused until they return. No objections. So ordered.

The pending Conway amendment, as amended, was adopted with 29 ayes, 0 nays, 11 present and not voting, and 9 excused and not voting.

Pending.

PRESENTED TO THE GOVERNOR

Presented to the Governor on March 26, 1991, at 11:10 a.m., were the following bills: 205, 221, 251, 286, 305, and 311.

(Signed) Pam Moravec, Enrolling Clerk

STANDING COMMITTEE REPORT
Natural Resources

LEGISLATIVE BILL 827. Placed on General File as amended. (Standing Committee amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM0930.)

(Signed) Rod Johnson, Chairperson

BILLS ON FIRST READING

The following bills were read for the first time by title:

LEGISLATIVE BILL 456A. Introduced by Wesely, 26.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 456, Ninety-second Legislature, First Session, 1991.

LEGISLATIVE BILL 537A. Introduced by Wesely, 26.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 537, Ninety-second Legislature, First Session, 1991.

LEGISLATIVE BILL 538A. Introduced by Wesely, 26.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 538, Ninety-second Legislature, First Session, 1991.

UNANIMOUS CONSENT - Print in Journal

Mr. Landis asked unanimous consent to print the following amendment to LB 234 in the Journal. No objections. So ordered.

(Amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM0875.)

VISITORS

Visitors to the Chamber were Mr. and Mrs. Burt Schutz from Norfolk; 104 fourth grade students from Crete; and 50 representatives of Nebraska Council of Catholic Women from across the state.

RECESS

At 12:04 p.m., on a motion by Mr. Baack, the Legislature recessed until 1:30 p.m.

AFTER RECESS

The Legislature reconvened at 1:30 p.m., Speaker Baack presiding.

ROLL CALL

The roll was called and all members were present except Mr. Hall who was excused; and Messrs. Abboud, Ashford, Chambers, Chizek, Haberman, Kristensen, Lamb, Landis, Robinson, Rogers, Schmit, Wesely, Wickersham, Will, Mmes. Labedz, Nelson, Pirsch, Robak, and Smith who were excused until they arrive.

STANDING COMMITTEE REPORT
Education

LEGISLATIVE BILL 638. Placed on General File as amended.
Standing Committee amendment to LB 638:
AM0946

1. Strike the original sections and insert the following new sections:

"Section 1. This act shall be known and may be cited as the Children with Disabilities and Family Service System Act.

Sec. 2. The Legislature finds there are children with disabilities in Nebraska whose needs are so unique and demanding that very specialized educational programs and family support systems are necessary to address those needs.

The Legislature further recognizes that in accordance with sections 43-532 to 43-535 every effort should be made in Nebraska to provide programs that are family based and community based. Furthermore, Nebraska, in compliance with 20 U.S.C. 1400 to 1485 and the Special Education Act shall provide free and appropriate education in the least restrictive environment.

The Legislature finds that appropriate educational programs and family support systems needed by some have not always been available in Nebraska, and consequently children and youth from Nebraska have been placed out of their homes in programs in other states. Such programs are often extraordinarily expensive and result in children being hundreds or thousands of miles away from their families and home communities.

The Legislature finds that it is necessary to provide an array of services in order to meet the specialized needs of children with disabilities who are at risk for being placed out of their homes. Such an array may include, but is not limited to, intensive in-home therapy, specialized foster care, alternative home placement, and temporary and permanent residential care.

The Legislature recognizes that such services need to be comprehensive, addressing both the educational and family needs of the children. Such comprehensive services will require the coordination and collaboration of state agencies in partnership with regional and local service providers. While the State Department of Education is responsible for the

educational needs in compliance with Article VII, section 1, of the Constitution of Nebraska, other agencies will need to work in concert with the State Department of Education to provide necessary family support systems.

The Legislature, therefor, declares it is the responsibility of the state to make every effort to provide appropriate educational and family services for all its citizens within the state through a system based on the prudent management of resources. It is the intent of the Legislature to cause services to be arranged and configured so that out-of-state placement is seldom needed. It shall also be the public policy of this state to provide an array of comprehensive services for children with disabilities who may be at risk for out-of-home placement because of specialized educational and family needs. Through interagency coordination and collaboration, such services, to the greatest extent possible, shall be community based and provided in the most appropriate least restrictive environment.

Sec. 3. For purposes of the Children with Disabilities and Family Service System Act:

(1) Children with disabilities shall mean handicapped children as defined in section 79-3309 who are subject to section 79-3315 and who cannot be educated in their home communities or who are at risk of out-of-home placement;

(2) Department shall mean the State Department of Education; and

(3) State plan shall mean the annual plan of services prepared by the department pursuant to section 4 of this act.

Sec. 4. The department, in consultation with the Children with Disabilities and Family Service System Planning Team created in section 7 of this act, shall by January 1, 1992, prepare a state plan. The state plan shall be a plan of services for children with disabilities, which plan shall include:

(1) The number of children with disabilities to be served and a description of their needs;

(2) A detailed description of programs and services to be provided;

(3) A detailed description of programs and services needed with proposals for funding and

development;

(4) Recommendations for specific duties and responsibilities for state agencies;

(5) A process for dissemination of proposed standards and regulations which facilitates the active involvement of communities and families;

(6) Procedures for regular case reviews and program reviews by agency administrators;

(7) Reports of independent studies of the efficiency and effectiveness of programs provided and policies implemented;

(8) A variety of mechanisms for families and, when appropriate, for students to advise the administrators of the programs operated under the Children with Disabilities and Family Service System Act about program structures, expectations, outcomes, unmet needs, and issues specific to groups defined by economic status or by racial, cultural, or ethnic identity;

(9) An interagency decision process for the provision of appropriate educational and family support services for children at risk of out-of-home placement. Such a decision process shall assure that all options for community-based programs have been explored before out-of-community placements are made. It shall also assure that appropriate services are present in communities before children are placed in such communities; and

(10) A process for monitoring and reporting expenditures of state funds for all out-of-state placements shall be proposed by the planning team.

Sec. 5. The state plan prepared by the Department and Children with Disabilities and Family Service System Planning Team shall include an examination of existing state school resources and consideration of reorganization and restructuring of such resources to meet the needs of the children with disabilities at risk for out-of-home placement. By January 1, 1992, the team shall report to the Legislature all information required in section 4 of this act.

Sec. 6. The state plan prepared by the Department and Children with Disabilities and Family Service System Planning Team shall be responsive to the cultural needs of the hearing impaired and visually

impaired communities.

Sec. 7. There is hereby created the Children with Disabilities and Family Service System Planning Team.

(1) The team shall consist of no more than ten members appointed by the Governor representing educators, parents, service providers, the Department of Health, the Department of Public Institutions, the State Department of Education, and the Department of Social Services. Appointments to the planning team shall be made no later than June 30, 1991.

(2) The team shall assist the department in developing the state plan and shall consult with groups, entities, or individuals who may be affected by the proposed state plan.

(3) The team shall report the state plan to the Legislature by January 1, 1992. The team shall cease to exist on June 1, 1992. Prior to such date, the team shall make a recommendation to the department for continued community input.

Sec. 8. The department shall annually update the state plan. Each state plan and annual update shall be submitted to the Legislature by June 1 of each year beginning in 1992.

Sec. 9. A process for monitoring and reporting expenditures of state funds for all out-of-state placements shall be proposed by the Children with Disabilities and Family Service System Planning Team authorized in section 7 of this act. A coordinated monitoring and reporting process shall be adopted by the relevant state agencies no later than June 1, 1992.

Sec. 10. The State Department of Education, the Department of Health, the Department of Public Institutions, and the Department of Social Services shall adopt and promulgate rules and regulations to carry out the Children with Disabilities and Family Service System Act.

Sec. 11. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.".

(Signed) Ron Withem, Chairperson

GENERAL FILE

LEGISLATIVE BILL 579. Considered.

Mr. Conway moved for a call of the house. The motion prevailed with 15 ayes, 0 nays, and 34 not voting.

Advanced to E & R for review with 25 ayes, 1 nay, 9 present and not voting, and 14 excused and not voting.

The Chair declared the call raised.

LEGISLATIVE BILL 748. Mr. Morrissey renewed his pending motion, found in the Journal on page 1298, to indefinitely postpone.

Mr. Hartnett asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Lynch asked unanimous consent to be excused. No objections. So ordered.

PRESIDENT MOUL PRESIDING

Mr. Kristensen asked unanimous consent to be excused until he returns. No objections. So ordered.

The Morrissey motion to indefinitely postpone lost with 8 ayes, 13 nays, 15 present and not voting, and 13 excused and not voting.

Mr. R. Johnson offered the following amendment:
AM0949

1. On page 2, strike beginning with "For" in line 1 through "licensure" in line 7 and all amendments thereto and insert: "For purposes of meeting the requirements of the Low-Level Radioactive Waste Disposal Act, the Legislature accepts and approves, on behalf of the State of Nebraska, certain real estate legally described as follows only if all of the other requirements necessary for approval of the license to receive radioactive waste have been met".

Mr. Bernard-Stevens asked unanimous consent to be excused. No objections. So ordered.

Pending.

Mr. Dierks moved to bracket LB 748 until January 15, 1992.

SPEAKER BAACK PRESIDING

Mr. Dierks moved for a call of the house. The motion prevailed with 11 ayes, 0 nays, and 38 not voting.

Mr. Dierks requested a roll call vote on his motion to bracket.

Voting in the affirmative, 15:

Ashford	Dierks	Morrissey	Schellpeper	Wesely
Coordsen	Landis	Robak	Schimek	Will
Cudaback	Lindsay	Rogers	Smith	Withem

Voting in the negative, 20:

Baack	Conway	Hefner	Johnson, R.	Rasmussen
Beutler	Crosby	Hillman	Lamb	Schmit
Beyer	Elmer	Horgan	Moore	Warner
Byars	Haberman	Johnson, L.	Peterson	Wehrbein

Present and not voting, 3:

Abboud	Robinson	Schrock

Excused and not voting, 11:

Bernard-Stevens	Chizek	Kristensen	Lynch	Pirsch
	Hall	Labedz	Nelson	Wickersham
Chambers	Hartnett			

The Dierks motion to bracket lost with 15 ayes, 20 nays, 3 present and not voting, and 11 excused and not voting.

The Chair declared the call raised.

The pending R. Johnson amendment was adopted with 29 ayes, 1 nay, 8 present and not voting, and 11 excused and not voting.

Mr. Abboud and Mrs. Hillman asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. R. Johnson moved for a call of the house. The motion prevailed with 20 ayes, 0 nays, and 29 not voting.

Mr. Dierks requested a roll call vote on the advancement of the bill.

Voting in the affirmative, 23:

Baack	Crosby	Horgan	Nelson	Robinson
Beutler	Elmer	Johnson, L.	Peterson	Schmit
Beyer	Haberman	Johnson, R.	Rasmussen	Warner
Byars	Hefner	Lamb	Robak	Wehrbein
Conway	Hillman	Moore		

Voting in the negative, 12:

Ashford	Labedz	Morrissey	Schimek	Wesely
Dierks	Landis	Schellpeper	Smith	Withem
Kristensen	Lindsay			

Present and not voting, 5:

Coordsen	Cudaback	Rogers	Schrock	Will

Excused and not voting, 9:

Abboud	Chambers	Hall	Lynch	Wickersham
Bernard-Stevens	Chizek	Hartnett	Pirsch	

Failed to advance to E & R for review with 23 ayes, 12 nays, 5 present and not voting, and 9 excused and not voting.

STANDING COMMITTEE REPORT
Education

LEGISLATIVE BILL 719. Placed on General File as amended. (Standing Committee amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM0873.)

(Signed) Ron Withem, Chairperson

UNANIMOUS CONSENT - Print in Journal

Ms. Schimek and Mr. Chambers asked unanimous consent to print the following amendment to LB 579 in the Journal. No objections. So ordered.

FA74
Amend: AM0868
On page 4, line eight add "and periodic training thereafter;"
On page 6, line 7, delete "give effect to their directions, including assisting" and insert the word "assist".

Mr. Robinson asked unanimous consent to print the following amendment to LB 254 in the Journal. No objections. So ordered.

AM0925
1. On page 2, lines 18 and 20, strike "every four years".

Mr. Schmit asked unanimous consent to print the following amendment to LB 409 in the Journal. No objections. So ordered.

AM0950
1. In the Schmit amendment, AM0838:
a. On page 2, line 12, strike "installs or replaces a tank" and all amendments thereto and insert "operates a backhoe or similar equipment to install or replace a tank"; and
b. On page 4, line 1, after "circumstances" insert ". The rules and regulations may not require licensure or certification of a person who operates a backhoe or similar equipment to remove a tank".

Mr. Morrissey asked unanimous consent to print the following amendment to LB 511 in the Journal. No objections. So ordered.

FA75
1. On page 2, line 16, strike the word, "may" and insert the word, "shall".
2. On page 5, strike the material beginning after the "," in line 9 and ending with the word, "entered" in line 11. Insert the words "shall enter" before the word, "into" in line 12.

UNANIMOUS CONSENT - Members Excused

Mmes. Labedz and Nelson asked unanimous consent to be excused until they return. No objections. So ordered.

GENERAL FILE

LEGISLATIVE BILL 528. Title read. Considered.

Standing Committee amendment, AM0414, found in the Journal on page 873, was adopted with 26 ayes, 0 nays, 12 present and not voting, and 11 excused and not voting.

Messrs. Kristensen and Schmit asked unanimous consent to be excused. No objections. So ordered.

Advanced to E & R for review with 26 ayes, 0 nays, 9 present and not voting, and 14 excused and not voting.

LEGISLATIVE BILL 181. Title read. Considered.

Pending.

VISITOR

The Doctor of the Day was Dr. Pat Hotovy from Bee.

MOTION - Adjournment

Mr. Moore moved to adjourn. The motion prevailed with 17 ayes, 4 nays, and 28 not voting, and at 4:13 p.m., the Legislature adjourned until 9:00 a.m., Wednesday, March 27, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

FIFTY-FIRST DAY - MARCH 27, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

FIFTY-FIRST DAY

Legislative Chamber, Lincoln, Nebraska
Wednesday, March 27, 1991

Pursuant to adjournment, the Legislature met at 9:06 a.m., President Moul presiding.

PRAYER

The prayer was offered by Senator Carol Pirsch.

ROLL CALL

The roll was called and all members were present except Mr. Bernard-Stevens who was excused; and Messrs. Beutler, Beyer, Chambers, Dierks, Haberman, Hall, R. Johnson, Lindsay, Moore, Schmit, Mmes. Rasmussen, and Smith who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Fiftieth Day was approved.

STANDING COMMITTEE REPORT
Urban Affairs

LEGISLATIVE BILL 104. Placed on General File as amended.
Standing Committee amendment to LB 104:
AM0926

1. Strike the original section and insert the following new section:

"Section 1. (1) A city of the metropolitan class shall provide written notice of any proposal to

change the zoning classification of a parcel of property located within the zoning jurisdiction of the city to all owners of real property any portion of which is located within three hundred feet of the nearest boundary line of the property which is the subject of the pending zoning action.

(2) The notice required by subsection (1) of this section shall be provided to owners whose names appear on the records of the office of the county assessor as provided or made available to the city prior to the last business day before the twenty-fifth day preceding the planning commission and city council public hearings on the proposed change. It shall not be necessary to give further notice of adjourned or continued hearings. The notice shall be sent by regular United States mail, postage prepaid, postmarked at least twenty-one days prior to the planning commission and city council hearings, and shall describe the subject property and the nature of the zoning change requested and shall contain the time and location of the planning commission or city council hearing.

(3) A notice of appropriate size and configuration containing the same information required by subsection (2) of this section shall be posted by the city in a conspicuous place on or near the property upon which the zoning action is pending so that it is easily visible from the street. Such notice shall be so posted for at least eight consecutive days before the date of the hearing before the planning commission and the city council. Any person removing, mutilating, destroying, or changing the posted notice prior to a hearing shall be guilty of a Class III misdemeanor.

(4) No zoning decision made by the governing body of a city of the metropolitan class shall be void, invalidated, or affected in any way by any irregularity, defect, error, or failure on the part of the city or its employees to cause notice to be given or posted as required in this section.

(5) The city and its employees shall not be liable for any damage to any person resulting from failure to cause notice to be given or posted as required by this section.".

(Signed) D. Paul Hartnett, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 47. Read. Considered.

LR 47 was adopted with 26 ayes, 0 nays, and 23 not voting.

MOTION - Approve Appointment

Mr. Withem moved the adoption of the report of the Education Committee for the following Governor appointment found in the Journal on page 1316: Senator David Bernard-Stevens - School Restructuring Commission.

Voting in the affirmative, 25:

Abboud	Conway	Elmer	Landis	Smith
Ashford	Coordsen	Hillman	Lynch	Wehrbein
Beutler	Crosby	Horgan	Robak	Wesely
Byars	Cudaback	Kristensen	Schellpeper	Will
Chizek	Dierks	Lamb	Schimek	Withem

Voting in the negative, 0.

Present and not voting, 15:

Baack	Johnson, L.	Morrissey	Pirsch	Schrock
Hartnett	Johnson, R.	Nelson	Robinson	Warner
Hefner	Labedz	Peterson	Rogers	Wickersham

Excused and not voting, 9:

Bernard-Stevens	Beyer	Haberman	Lindsay	Rasmussen
	Chambers	Hall	Moore	Schmit

The appointment was confirmed with 25 ayes, 0 nays, 15 present and not voting, and 9 excused and not voting.

UNANIMOUS CONSENT - Member Excused

Mr. Lynch asked unanimous consent to be excused until he returns. No objections. So ordered.

MOTION - Return LB 234 to Select File

Mr. Landis moved to return LB 234 to Select File for his pending specific amendment, AM0875, printed separately from the Journal and referred to on page 1333.

The Landis motion to return prevailed with 34 ayes, 0 nays, 6 present and not voting, and 9 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 234. The Landis specific amendment, AM0875, printed separately from the Journal and referred to on page 1333, was adopted with 31 ayes, 0 nays, 9 present and not voting, and 9 excused and not voting.

Advanced to E & R for re-engrossment.

MOTION - Return LB 234 to Select File

Mr. Horgan moved to return LB 234 to Select File for the following specific amendment:
AM0996

(Amendments to Final Reading copy)

1. Insert the following new section:

"Sec. 38. That section 15, Legislative Bill 236, Ninety-second Legislature, First Session, 1991, to be amended to read as follows:

Sec. 15. (1) Notwithstanding the control of a domestic insurer by any person, the officers and directors of the insurer shall not thereby be relieved of any obligation or liability to which they would otherwise be subject by law, and the insurer shall be managed so as to assure its separate operating identity consistent with the Insurance Holding Company System Act.

(2) Nothing in this section shall preclude a domestic insurer from having or sharing a common management or cooperative or joint use of personnel, property, or services with one or more other persons under arrangements meeting the standards of subsection (1) of section 13 of this act.

(3) Not less than ~~one-third~~ one-fifth of the directors of a domestic insurer which is a member of an insurance holding company system shall be persons who

are not officers or employees of such insurer or of any entity controlling, controlled by, or under common control with such insurer and who are not beneficial owners of a controlling interest in the voting stock of such insurer or any such entity. At least one such person shall be included in any quorum for the transaction of business at any meeting of the board of directors.

(4) Subsection (3) of this section shall not apply to a domestic insurer if the person controlling such insurer has a board of directors that meets the requirements of such subsection.".

2. On page 1, line 6, strike "and"; in line 8 after "1990" insert ", and section 15, Legislative Bill 236, Ninety-second Legislature, First Session, 1991".

3. On page 2, line 3, after the first semicolon insert "to change a requirement relating to directors of certain insurers;".

4. On page 51, line 22, strike "and"; and in line 25 after the last comma insert "and section 15, Legislative Bill 236, Ninety-second Legislature, First Session, 1991,".

5. Renumber the remaining sections accordingly.

The Horgan motion to return lost with 7 ayes, 14 nays, 20 present and not voting, and 8 excused and not voting.

BILLS ON FINAL READING

The following bills were read and put upon final passage:

LEGISLATIVE BILL 356.

A BILL FOR AN ACT relating to weights and measures; to amend sections 14-102, 66-1219, 81-216.29, 81-216.30, 89-183 to 89-188, 89-192 to 89-1,101, and 89-1,103, Reissue Revised Statutes of Nebraska, 1943; to name the Weights and Measures Act; to define and redefine terms; to eliminate a term; to change a reference to an institute; to adopt certain handbooks by reference; to provide additional standards for rules and regulations; to provide for requirements and exemptions for a Certificate of Conformance; to provide for modification and removal from service of certain weighing and measuring devices; to provide for testing of weighing

and measuring devices; to provide duties for the Director of Agriculture, county attorneys, and the Attorney General; to limit existing penalties; to harmonize provisions; to provide for permits to operate certain weighing and measuring establishments and devices as prescribed; to provide for hearings; to change provisions relating to inspections; to change provisions relating to labeling; to prohibit certain acts as unlawful as prescribed and prescribe procedure for prevention; to provide for payment of certain costs; to provide for maintenance of records as prescribed; to provide for a Division of Weights and Measures as prescribed; to eliminate certain powers and duties of the Director of Agriculture and weights and measures officials; to eliminate provisions relating to weights and measures officials; to eliminate provisions relating to certain acts as unlawful; to eliminate provisions relating to prior acts and certain cities establishing standard weights and measures; and to repeal the original sections, and also sections 15-213, 16-223, 17-553, 89-189, 89-190, 89-191, and 89-1,102, Reissue Revised Statutes of Nebraska, 1943.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 41:

Abboud	Crosby	Horgan	Nelson	Schrock
Ashford	Cudaback	Johnson, L.	Peterson	Smith
Baack	Dierks	Johnson, R.	Pirsch	Warner
Beutler	Elmer	Kristensen	Robak	Wehrbein
Byars	Haberman	Lamb	Robinson	Wesely
Chambers	Hartnett	Landis	Rogers	Wickersham
Chizek	Hefner	Moore	Schellpeper	Will
Conway	Hillman	Morrissey	Schimek	Withem
Coordsen				

Voting in the negative, 0.

Present and not voting, 1:

Labedz

Excused and not voting, 7:

Bernard-Stevens	Beyer	Lindsay	Rasmussen	Schmit
	Hall	Lynch		

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 356A.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 356, Ninety-second Legislature, First Session, 1991.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 42:

Abboud	Cudaback	Johnson, L.	Nelson	Schrock
Ashford	Dierks	Johnson, R.	Peterson	Smith
Baack	Elmer	Kristensen	Pirsch	Warner
Byars	Haberman	Labedz	Robak	Wehrbein
Chambers	Hall	Lamb	Robinson	Wesely
Chizek	Hartnett	Landis	Rogers	Wickersham
Conway	Hefner	Moore	Schellpeper	Will
Coordsen	Hillman	Morrissey	Schimek	Withem
Crosby	Horgan			

Voting in the negative, 0.

Present and not voting, 1:

Beutler

Excused and not voting, 6:

Bernard-Stevens	Beyer	Lynch	Rasmussen	Schmit
	Lindsay			

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 324.

A BILL FOR AN ACT relating to the Uniform Residential Landlord and Tenant Act; to amend sections 76-1401, 76-1440, and 76-1442,

Reissue Revised Statutes of Nebraska, 1943; to authorize constructive service for actions to recover possession of premises; to harmonize provisions; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 42:

Abboud	Cudaback	Johnson, L.	Morrissey	Schimek
Ashford	Dierks	Johnson, R.	Nelson	Schrock
Baack	Elmer	Kristensen	Peterson	Smith
Beutler	Haberman	Labedz	Pirsch	Warner
Byars	Hall	Lamb	Robak	Wehrbein
Chizek	Hartnett	Landis	Robinson	Wickersham
Conway	Hefner	Lynch	Rogers	Will
Coordsen	Hillman	Moore	Schellpeper	Withem
Crosby	Horgan			

Voting in the negative, 0.

Present and not voting, 2:

Chambers Wesely

Excused and not voting, 5:

Bernard-Stevens	Beyer	Lindsay	Rasmussen	Schmit

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 325. With Emergency.

A BILL FOR AN ACT relating to waste management; to amend sections 81-15,161 and 81-15,166, Revised Statutes Supplement, 1990; to change powers and duties of the Director of Environmental Control and the Environmental Control Council regarding certain grants; to extend the deadline for completion of the comprehensive solid waste management plan; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 44:

Abboud	Crosby	Horgan	Morrissey	Schrock
Ashford	Cudaback	Johnson, L.	Nelson	Smith
Baack	Dierks	Johnson, R.	Peterson	Warner
Beutler	Elmer	Kristensen	Pirsch	Wehrbein
Byars	Haberman	Labedz	Robak	Wesely
Chambers	Hall	Lamb	Robinson	Wickersham
Chizek	Hartnett	Landis	Rogers	Will
Conway	Hefner	Lynch	Schellpeper	Withem
Coordsen	Hillman	Moore	Schimek	

Voting in the negative, 0.

Excused and not voting, 5:

Bernard-Stevens	Beyer	Lindsay	Rasmussen	Schmit

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

LEGISLATIVE BILL 340.

A BILL FOR AN ACT relating to the habitat stamp; to amend section 37-216.01, Reissue Revised Statutes of Nebraska, 1943; to increase the fee for such stamp; to provide an operative date; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 41:

Abboud	Byars	Crosby	Haberman	Hillman
Ashford	Chizek	Cudaback	Hall	Horgan
Baack	Conway	Dierks	Hartnett	Johnson, L.
Beutler	Coordsen	Elmer	Hefner	Johnson, R.

Kristensen	Morrissey	Robak	Schimek	Wesely
Labedz	Nelson	Robinson	Schrock	Wickersham
Landis	Pirsch	Rogers	Warner	Will
Lynch	Rasmussen	Schellpeper	Wehrbein	Withem
Moore				

Voting in the negative, 4:

Chambers	Lamb	Peterson	Smith

Excused and not voting, 4:

Bernard-Stevens	Beyer	Lindsay	Schmit

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 363.

A BILL FOR AN ACT relating to health; to amend section 71-5403, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to drug product selection as prescribed; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 46:

Abboud	Cudaback	Johnson, L.	Nelson	Schmit
Ashford	Dierks	Johnson, R.	Peterson	Schrock
Baack	Elmer	Kristensen	Pirsch	Smith
Beutler	Haberman	Labedz	Rasmussen	Warner
Byars	Hall	Lamb	Robak	Wehrbein
Chambers	Hartnett	Landis	Robinson	Wesely
Chizek	Hefner	Lynch	Rogers	Wickersham
Conway	Hillman	Moore	Schellpeper	Will
Coordsen	Horgan	Morrissey	Schimek	Withem
Crosby				

Voting in the negative, 0.

Excused and not voting, 3:

Bernard-Stevens	Beyer	Lindsay

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 363A.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 363, Ninety-second Legislature, First Session, 1991.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 45:

Abboud	Crosby	Horgan	Morrissey	Schimek
Ashford	Cudaback	Johnson, L.	Nelson	Schrock
Baack	Dierks	Johnson, R.	Peterson	Smith
Beutler	Elmer	Kristensen	Pirsch	Warner
Byars	Haberman	Labedz	Rasmussen	Wehrbein
Chambers	Hall	Lamb	Robak	Wesely
Chizek	Hartnett	Landis	Robinson	Wickersham
Conway	Hefner	Lynch	Rogers	Will
Coordsen	Hillman	Moore	Schellpeper	Withem

Voting in the negative, 0.

Present and not voting, 1:

Schmit

Excused and not voting, 3:

Bernard-Stevens	Beyer	Lindsay

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 382.

A BILL FOR AN ACT relating to schools and school districts; to amend section 79-520, Reissue Revised Statutes of Nebraska, 1943; to change, transfer, and eliminate provisions relating to borrowing money by school districts; to state effect; and to repeal the original section, and also section 79-1377, Reissue Revised Statutes of Nebraska, 1943.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 44:

Abboud	Cudaback	Johnson, L.	Nelson	Schrock
Ashford	Dierks	Johnson, R.	Peterson	Smith
Baack	Elmer	Kristensen	Pirsch	Warner
Byars	Haberman	Labedz	Rasmussen	Wehrbein
Chambers	Hall	Lamb	Robak	Wesely
Chizek	Hartnett	Landis	Robinson	Wickersham
Conway	Hefner	Lynch	Schellpeper	Will
Coordsen	Hillman	Moore	Schimek	Withem
Crosby	Horgan	Morrissey	Schmit	

Voting in the negative, 0.

Present and not voting, 2:

Beutler Rogers

Excused and not voting, 3:

Bernard-Stevens Beyer Lindsay

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 498.

A BILL FOR AN ACT relating to employment security; to amend section 48-628, Revised Statutes Supplement, 1990; to change

provisions relating to the disqualification for benefits as prescribed; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 45:

Abboud	Crosby	Horgan	Morrissey	Schimek
Ashford	Cudaback	Johnson, L.	Nelson	Schrock
Baack	Dierks	Johnson, R.	Peterson	Smith
Beutler	Elmer	Kristensen	Pirsch	Warner
Byars	Haberman	Labedz	Rasmussen	Wehrbein
Chambers	Hall	Lamb	Robak	Wesely
Chizek	Hartnett	Landis	Robinson	Wickersham
Conway	Hefner	Lynch	Rogers	Will
Coordsen	Hillman	Moore	Schellpeper	Withem

Voting in the negative, 0.

Present and not voting, 1:

Schmit

Excused and not voting, 3:

Bernard-Stevens	Beyer	Lindsay

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

UNANIMOUS CONSENT - Member Excused

Mr. Chambers asked unanimous consent to be excused until he returns. No objections. So ordered.

WITHDRAW - Amendment to LB 253

Mr. Schmit withdrew his pending amendment, AM0837, found in the Journal on page 1216, to LB 253.

MOTION - Return LB 253 to Select File

Mr. Schmit moved to return LB 253 to Select File for the following specific amendment:
AM0924

(Amendments to Final Reading copy)

1. On page 62, line 7, strike "The", show as stricken, and insert "Other than the one-hundred-million-dollar bond issue, Series 1986A, for agricultural loans which is due November 1, 1993, the".

Mr. Schmit withdrew his motion to return.

Mr. Lynch asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Landis moved to return LB 253 to Select File for the following specific amendment:
FA76
"Change the operative date"

Mr. Landis withdrew his motion to return.

Mr. Hartnett asked unanimous consent to be excused until he returns. No objections. So ordered.

BILL ON FINAL READING

The following bill was read and put upon final passage:

LEGISLATIVE BILL 253. With Emergency.

A BILL FOR AN ACT relating to finance; to amend sections 58-204 to 58-206, 58-208 to 58-210, 58-211 to 58-213, 58-216 to 58-218, 58-220 to 58-223, 58-225, 58-226, 58-228 to 58-232, 58-234 to 58-239.01, 58-242 to 58-249, 58-252 to 58-257, 58-259 to 58-262, 58-264 to 58-266, and 58-268 to 58-270, Reissue Revised Statutes of Nebraska, 1943, sections 58-201 to 58-203, 58-207, 58-207.01, 58-210.01, 58-214, 58-219, 58-223.01, 58-240, and 58-250, Revised Statutes Supplement, 1990, and Laws 1990, LB 272A, section 4; to restate findings and intent; to define and redefine terms; to change provisions in the Nebraska Investment Finance Authority Act relating to loans to agricultural enterprises, first-time homebuyers, and nonprofit entities; to change provisions relating to bond issues as prescribed; to add and eliminate duties for the executive director

and the authority; to eliminate a provision relating to divisions of the authority; to provide for and eliminate provisions relating to reports as prescribed; to provide for funds for loans to low-income persons as prescribed; to change provisions relating to reserves; to change provisions relating to refunding bonds; to provide for notification of pending bond issues as prescribed; to change provisions governing distribution of money appropriated to the Department of Banking and Finance for certain depositors; to harmonize provisions; to repeal the original sections, and also section 58-233, Reissue Revised Statutes of Nebraska, 1943; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 43:

Abboud	Cudaback	Kristensen	Pirsch	Schrock
Ashford	Dierks	Labedz	Rasmussen	Smith
Baack	Elmer	Lamb	Robak	Warner
Beutler	Haberman	Landis	Robinson	Wehrbein
Beyer	Hall	Lindsay	Rogers	Wesely
Chizek	Hefner	Moore	Schellpeper	Wickersham
Conway	Hillman	Morrissey	Schimek	Will
Coordsen	Horgan	Nelson	Schmit	Withem
Crosby	Johnson, L.	Peterson		

Voting in the negative, 0.

Present and not voting, 2:

Byars Johnson, R.

Excused and not voting, 4:

Bernard-Stevens	Chambers	Hartnett	Lynch

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following bills: 356, 356A, 324, 325, 340, 363, 363A, 382, 498, and 253.

STANDING COMMITTEE REPORT
Nebraska Retirement Systems

LEGISLATIVE BILL 549. Placed on General File as amended.
Standing Committee amendment to LB 549:
AM0599

1. Insert the following new sections:

"Sec. 20. That section 72-1237, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

72-1237. There is hereby created the Nebraska Investment Council, ~~hereinafter~~ referred to in the Nebraska State Funds Investment Act as the council. The council shall consist of five members appointed by the Governor with the approval of the Legislature. One of the members shall be designated ~~chairman~~ chairperson by the Governor.

Each of the members of the council shall be appointed for a term of five years. ~~, except that of the members first appointed, the chairman shall be appointed for a term of five years and the other four members shall be appointed for terms of four years, three years, two years and one year, respectively.~~ The term of any member shall be extended until the date on which his or her successor's appointment is effective. A member may be reappointed. A successor shall be appointed in the same manner as provided for the members first appointed, and in case of a vacancy caused by death, resignation, or otherwise, the Governor shall appoint a qualified person to fill the vacancy for the unexpired term.

No member of the council shall be personally liable, except in cases of willful dishonesty, gross negligence, or intentional violation of law, for actions relating to investment decisions pertaining to funds of the retirement systems invested by the council.

Sec. 21. That section 72-1243, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

72-1243. Except as otherwise specifically

provided by ~~this act~~ law, the state investment officer shall direct the investment and reinvestment of money in all state funds not currently needed and all funds described in section 83-133 and order the purchase, sale, or exchange of securities for such funds. He or she shall notify the State Treasurer of any payment, receipt, or delivery that may be required as a result of any investment decision, which notification shall be the authorization and direction for the State Treasurer to make such disbursement, receipt, or delivery from the appropriate fund.

The council and the Public Employees Retirement Board shall jointly have an analysis made of the investment return that has been achieved on the assets of each retirement system administered by the board as provided in section 84-1503.

Sec. 46. That section 79-1556, Revised Statutes Supplement, 1990, be amended to read as follows:

79-1556. ~~The retirement board may contract with the state investment officer for investment services with payment for such services to~~ Any funds of the retirement system available for investment shall be invested by the Nebraska Investment Council pursuant to sections 72-1237 to 72-1276. Payment for investment services by the council shall be charged directly against the gross investment returns of the funds or accounts. Charges so incurred shall not be a part of the board's annual budget request. The amounts of payment for such services, as of December 31 of each year, shall be reported not later than March 31 of the following year to the ~~Nebraska Investment Council~~ council, the retirement board, and ~~members of~~ the Nebraska Retirement Systems Committee. All money received by the State Treasurer and the retirement board for the retirement system shall be invested by the state investment officer within thirty-one days of receipt.

Sec. 53. That section 81-2022, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-2022. ~~The state investment officer may invest such funds of the system as the board shall certify to the Nebraska Investment Council under sections 72-1237 to 72-1269 and shall sell any such~~

~~securities upon request from the officers of the system so as to provide money for the payment of benefits or annuities.~~ Any funds of the Nebraska State Patrol Retirement System available for investment shall be invested by the Nebraska Investment Council pursuant to sections 72-1237 to 72-1276. Payment for investment services by the council shall be charged directly against the gross investment returns of the ~~fund~~ funds. Charges so incurred shall not be a part of the board's annual budget request. The amounts of payment for such services, as of December 31 of each year, shall be reported not later than March 31 of the following year to the ~~Nebraska Investment Council~~ council, the board, and ~~members of~~ the Nebraska Retirement Systems Committee.

The state investment officer shall sell any securities upon request from the director so as to provide money for the payment of benefits or annuities.".

2. On page 26, line 23, strike "executive officer", show as stricken, and insert "director".

3. On page 27, line 19, strike "executive officer", show as stricken, and insert "director".

4. On page 28, lines 8 and 12, strike "executive officer", show as stricken, and insert "director".

5. On page 31, line 22, after "of" insert "the retirement system for judges provided for in"; in line 24 after "funds" insert an underscored comma; and strike beginning with "subject" in line 24 through the comma in line 25 and show the old matter as stricken.

6. On page 32, line 25, strike "the officers", show as stricken, and insert "him or her".

7. On page 33, line 6, after "of" insert "such"; strike beginning with "The" in line 13 through "to" in line 15, show as stricken, and insert "Any funds of the retirement system available for investment shall be invested by the Nebraska Investment Council pursuant to sections 72-1237 to 72-1276. Payment for investment services by the council shall"; in line 16 strike "return of the fund", show as stricken, and insert "returns of the funds"; in line 21 strike "Nebraska Investment Council", show as stricken, and insert "council"; and in line 22 strike "members of" and show

as stricken; and in line 24 strike "officers", show as stricken, and insert "director".

8. On page 50, line 16, strike "26" and insert "28".

9. On page 58, line 12, after "funds" insert an underscored comma; and strike beginning with "subject" in line 12 through the comma in line 13 and show the old matter as stricken.

10. On page 91, line 15, after "funds" insert an underscored comma; and strike beginning with "subject" in line 15 through the comma in line 16 and show the old matter as stricken.

11. On page 121, line 5, strike "64" and insert "68".

12. On page 122, line 10, strike "To", show as stricken, and insert "With respect to the retirement systems for which the board invests funds, to".

13. On page 123, line 5, strike "To", show as stricken, and insert "With respect to the retirement systems for which the board invests funds, to".

14. On page 124, line 2, strike "It shall be the duty of such board to", show as stricken, and insert "The board and the Nebraska Investment Council shall jointly"; in line 13 after "waived" insert "jointly" and after "board" insert "and the council"; in line 14 after the period insert "A copy of the analysis shall be given to the board, the council, and the Nebraska Retirement Systems Committee."; in line 18 after the second comma insert "72-1237, 72-1243,"; and in line 21 after the first comma insert "81-2022,".

15. On page 125, line 1, after the second comma insert "79-1556,".

16. Renumber remaining sections accordingly.

(Signed) Arlene Nelson, Chairperson

SELECT COMMITTEE REPORTS
Enrollment and Review

Correctly Engrossed

The following bills were correctly engrossed: 166, 199, 284, 303, 334, 343, 454, 561, and 700.

(Signed) Eric Will, Chairperson

Enrollment and Review Change to LB 199

The following changes, required to be reported for publication in the Journal, have been made:
ER7042

1. In the Hefner amendment, AM0773, on page 1, line 3, "and" has been inserted after the third comma; and the last comma has been struck.

2. On page 1, the matter beginning with "Workers" in line 1 through line 3 has been struck and "commemorative days; to require the proclamation of Workers Memorial Day; to prohibit the declaration of certain days as paid holidays; and to declare an emergency." inserted.

Enrollment and Review Change to LB 700

The following changes, required to be reported for publication in the Journal, have been made:
ER7046

1. On page 3, line 2, "(a)" has been struck, shown as stricken, and "(i)" inserted; and in line 5 "(b)" has been struck shown as stricken, and "(ii)" inserted.

(Signed) Mary E. Sommermeyer
E & R Attorney

LEGISLATIVE BILL 409. Placed on Select File as amended.
E & R amendment to LB 409:
AM5104

1. In the Schmit amendment, AM0838, renumber section 23 as section 22.

2. In lieu of the Beutler amendment, FA 58, as amended by the Wehrbein amendment, FA 60, in the Standing Committee amendments, AM0625, on page 1, line 5, after the period insert "(1)"; and after line 14 insert the following new subsection:

"(2) The department, in consultation with interested parties, shall report to the Legislature at the beginning of every third year during which the fund is in existence on the availability of private insurance to insure the damages for which payment may be made from the fund.".

3. In the Morrissey amendment, FA57, insert the following new amendment:

"2. Renumber remaining sections and correct internal references accordingly.".

4. In the Standing Committee amendments, AM0625, on page 5, line 1, strike "part's" and insert "party's".

5. On page 1, line 4, after the first comma insert "66-1518," and after the second comma insert "66-1520,"; in line 6 strike "section 81-15,119" and insert "sections 81-15,119 and 81-15,123"; in line 9 strike "collection of"; in line 11 after the semicolon insert "to change provisions relating to rules and regulations; to require a report;"; in line 12 after the first semicolon insert "to provide for the disposition of tangible personal property; to provide for access to certain property;"; and in line 13 strike "and" and after "sections" insert "; and to declare an emergency".

6. On page 6, line 25, strike "proposes" and insert "propose".

7. On page 7, line 10, strike "(i)" and insert "(a)"; and in line 13 strike "(ii)" and insert "(b)".

8. On page 14, lines 3 and 15, strike "department", show as stricken, and insert "Department of Environmental Control".

9. On page 21, line 4, after "decree" insert an underscored comma.

LEGISLATIVE BILL 409A. Placed on Select File.

(Signed) Eric Will, Chairperson

GENERAL FILE

LEGISLATIVE BILL 181. Considered.

SPEAKER BAACK PRESIDING

Advanced to E & R for review with 30 ayes, 1 nay, 15 present and not voting, and 3 excused and not voting.

LEGISLATIVE BILL 181A. Title read. Considered.

Mr. Dierks asked unanimous consent to be excused until he returns. No objections. So ordered.

PRESIDENT MOUL PRESIDING

Advanced to E & R for review with 27 ayes, 1 nay, 17 present and not voting, and 4 excused and not voting.

LEGISLATIVE BILL 742. Title read. Considered.

Messrs. Chizek and Haberman asked unanimous consent to be excused until they return. No objections. So ordered.

Advanced to E & R for review with 25 ayes, 0 nays, 20 present and not voting, and 4 excused and not voting.

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following resolution: LR 47.

PRESENTED TO THE GOVERNOR

Presented to the Governor on March 27, 1991, at 11:40 a.m., were the following bills: 356, 356A, 324, 325, 340, 363, 363A, 382, 498, and 253.

(Signed) Pam Moravec, Enrolling Clerk

ATTORNEY GENERAL'S OPINION

Opinion No. 91021

DATE: March 22, 1991

SUBJECT: Whether LB 143 as proposed would violate Art. VII Sec. 5 of the Nebraska Constitution because the fees collected would not be used to support schools.

REQUESTED BY: Senator Rod Johnson

WRITTEN BY: Don Stenberg, Attorney General
Marilyn B. Hutchinson,

Assistant Attorney General

LB 143 provides that as part of court costs a fee of $25.00 shall be assessed "{u}pon the conviction of any person for violation of the provisions of section 39-669.07 or of driving a motor vehicle while under the influence of alcoholic liquor or of any drug in violation of any city or village ordinance" and a fee of $3.00 shall be assessed "{w}hen a person has been convicted in any court in this state of any traffic offense." Such fees are to be remitted to the State Treasurer for deposit in the Emergency Medical Services System Fund to be created by the bill.

We have concluded that such a disposition of those fees would be unconstitutional as discussed below.

Art. VII sec. 5 of the Nebraska Constitution provides in part:

> {A}ll fines, penalties, and license money arising under the general laws of the state, . . . shall belong and be paid over to the counties respectively where the same may be levied or imposed, and all fines, penalties and license money arising under the rules, bylaws, or ordinances of cities, villages, precincts, or other municipal subdivision less than a county shall belong and be paid over to the same respectively. All such fines, penalties, and license money shall be appropriated exclusively to the use and support of the common schools in the respective subdivisions where the same may accrue, . . .

"Fines" and "penalties" which must go to the school fund as directed by that section of the constitution were defined in School District of the City of Omaha v. Adams, 147 Neb. 1060, 26 N.W.2d 24 (1947):

> We think that the provisions of the foregoing section of the Constitution infer that the word "penalties" as therein used, means exactions imposed in the enforcing of the criminal laws and police regulations of the state and its governmental subdivisions. The word "fine" is broad enough ordinarily to include all exactions imposed in a criminal proceeding. But the draftsmen of the Constitution specifically provided that it should have application to rules, by-laws, or ordinances of cities, villages, towns, precincts, or other municipal subdivisions less than a county, violations of which are generally considered as penalties recoverable in a civil suit, although having the general characteristics of a criminal proceeding. This clearly indicates an intent that fines and penalties assessed in criminal prosecutions are to come within the constitutional provision, plus such fines and penalties that are assessed under the rules, by-laws, or ordinances of cities, villages, towns, precincts, or other municipal subdivisions less than a

county, which are criminal in character but collectible by civil action.

Supra. at 1064, 1065. The rationale suggested for that disposition of fines and penalties was the general notion that money exacted as punishment for crimes should go to the school fund as a general deterrent to crime by supporting a better public school system. Id.

There are some limitations. It is not enough that the exaction be punitive to the wrongdoer; it must also not be compensatory to the government. Thus, in the Adams case, above, the fee was held not subject to Art. VII sec. 5 because it was compensatory as well as punitive. In School District of McCook v. City of McCook, 163 Neb. 817, 825, 81 N.W.2d 224 (1957), a fee was held subject to that section because it was only punitive, not compensatory.

In LB 143 the additional fees are characterized as court costs. "Court costs have never been treated as penalties for the violation of a law." DeCamp v. City of Lincoln, 202 Neb. 727, 732, 277 N.W.2d 83 (1979). Court costs are "something distinct from either fines or penalties;" they are "payable both in civil as well as criminal cases," "{s}ome of such costs are in partial recompense for the expenses of court operation, while others reimburse the party for expenses incurred," and they are uniform throughout the entire range of offenses. Id. at 731, 732, 735. Calling the fees court costs is not controlling if they are penalties disguised as court costs. Id. at 733 and School District of McCook, above, at 825.

Under LB 143 the court costs prescribed are not uniform throughout the entire range of covered offenses. They do not recompense the court for any expenses of operating the court or reimburse filing fees. Thus a court may well conclude that such fees, which are additions to existing court costs when a person is convicted of certain offenses, are actually additional penalties for those convicted of the covered offenses.

"License moneys" as used in Art. VII sec. 5 does not include fees collected for the issuance of a state license, but includes only those imposed by a county or some minor municipal corporation. See, State ex rel. Stevens v. Nickerson, 97 Neb. 837, 839, 151 N.W. 981 (1915), School District of Omaha v. Gass, 131 Neb. 312, 318, 267 N.W. 528 (1936), and Wilcox v. Havekost, 144 Neb. 562, 13 N.W.2d 889 (1944). Therefore, the moneys collected for a license imposed by the state may be directed to the state school fund. Id. Or they may be appropriated by the Legislature for some legal purpose other than maintenance of schools. Wilcox v. Havekost, above, at 566. We have found no similar exception for fines and penalties.

We have concluded that the additional fees which would be imposed by LB 143 are probably penalties and subject to Art. VII sec.

5. Thus the proposed disposition of those fees for a use other than for use of the common schools as provided by that section of the constitution is unconstitutional.

Sincerely yours,
DON STENBERG
Attorney General
(Signed) Marilyn B. Hutchinson
Assistant Attorney General

16-18-6.1

UNANIMOUS CONSENT - Print in Journal

Mrs. Labedz and Mr. Hall asked unanimous consent to print the following amendment to LB 427 in the Journal. No objections. So ordered.

AM0858

1. Insert the following new sections:

"Section 1. That section 9-233, Revised Statutes Supplement, 1990, be amended to read as follows:

9-233. (1) All licenses to conduct bingo and licenses issued to designated supervising members and designated members responsible for the proper utilization of gross receipts shall expire on September 30 of each year or such other date as the department may prescribe by rule and regulation and may be renewed annually. Each annual application for a license shall be accompanied by:

(a) A sworn statement of each designated supervising member that he or she will be responsible for compliance with appropriate rules and regulations; and

(b) A sworn statement by the member designated as responsible for the proper utilization of gross receipts that no commission, fee, rent, salary, profits, compensation, reward, or recompense will be paid to any person or organization, except payments sanctioned by the department, and that all profits will be spent for a lawful purpose.

(2) The department shall establish the following classes of licenses: ~~for licensed organizations:~~

(a) Class I licenses which shall include organizations with gross receipts from the conduct of bingo ~~not exceeding~~ which are less than one hundred fifty thousand dollars per license year; and

(b) Class II licenses which shall include organizations with gross receipts from the conduct of bingo equal to or greater than one hundred fifty thousand dollars per license year. For purposes of this subsection, when bingo occasions are conducted on a joint basis by two or more licensed organizations, the class of license required shall be determined based upon the combined gross receipts of all licensed organizations involved in the conduct of the bingo occasion.

(3) A fee of fifteen dollars shall be charged for a Class I license, ~~to conduct bingo,~~ a fee of fifty dollars for a Class II license, a fee of five dollars for a license for each designated supervising member, and a fee of five dollars for a license for each designated member responsible for the proper utilization of gross receipts.

(4) The department shall adopt and promulgate rules and regulations to establish reporting requirements for each class of ~~licensed organization~~ license issued.

Sec. 2. That section 9-235.01, Revised Statutes Supplement, 1990, be amended to read as follows:

9-235.01. (1) An organization licensed to conduct bingo under a Class II license pursuant to section 9-233 shall be required to license a gaming manager. An organization licensed to conduct bingo under a Class I license may license a gaming manager.

(2) No gaming manager licensed under the Nebraska Bingo Act shall be connected with or interested in, directly or indirectly, any person, partnership, firm, corporation, or other party licensed as a distributor under section 9-235 nor shall any such person hold any other licenses issued under the Nebraska Bingo Act or under any other kind of gaming activity which is authorized or regulated under Chapter 9.".

2. On page 2, line 18, strike "section" and insert "sections 9-233, 9-235.01, and"; and in line 19 strike "is" and insert "are".

3. Renumber the remaining sections accordingly.

VISITORS

Visitors to the Chamber were eight students and sponsor from Bridgeport High School; 12 seniors and teacher from Cedar Bluffs High School; 14 members of Delta Sigma Theta Sorority from Omaha; 65 fourth grade students and teachers from Linden Elementary School, Fremont; and 40 seventh and eighth grade students and teachers from Mission and Logan Jr. High Schools, Bellevue.

RECESS

At 11:53 a.m., on a motion by Mr. Baack, the Legislature recessed until 1:30 p.m.

AFTER RECESS

The Legislature reconvened at 1:30 p.m., Speaker Baack presiding.

ROLL CALL

The roll was called and all members were present except Mr. Bernard-Stevens who was excused; and Messrs. Abboud, Beutler, Beyer, Chambers, Chizek, Conway, Haberman, Kristensen, Moore, Morrissey, Schmit, Warner, Wickersham, Mmes. Hillman, Labedz, Nelson, Pirsch, Rasmussen, Smith, and Ms. Schimek who were excused until they arrive.

GENERAL FILE

LEGISLATIVE BILL 773. Title read. Considered.

Standing Committee amendment, AM0518, printed separately from the Journal and referred to on page 904, was considered.

Mr. Hartnett offered the following amendment to the pending Standing Committee amendment:
AM0989
(Amendments to Standing Committee amendments, AM0518)
1. Strike amendments 3 through 9 and insert the following new amendment:

"3. On page 36, strike beginning with 'Any' in line 2 through 'events' in line 6, show the old matter as stricken, and insert 'Any periodical, including a newspaper, published at stated intervals'.".

2. Renumber the remaining amendments accordingly.

Messrs. Lynch, Kristensen, and Rogers asked unanimous consent to be excused until they return. No objections. So ordered.

PRESIDENT MOUL PRESIDING

Mr. Hefner moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 2 nays, and 21 not voting.

The Hartnett amendment was adopted with 20 ayes, 11 nays, 7 present and not voting, and 11 excused and not voting.

Mr. Hartnett offered the following amendment to the pending Standing Committee amendment:

AM0988

(Amendments to Standing Committee amendments, AM0518)

1. Insert the following new amendment:

"3. On page 34, strike beginning with 'tangible' in line 18 through 'including' in line 19; in line 20 strike the comma; and in line 21 strike 'other than the purchaser but' and insert 'to whom the advertising is directed. Other consumption'.".

2. Renumber the remaining amendments accordingly.

The Hartnett amendment was adopted with 26 ayes, 0 nays, 12 present and not voting, and 11 excused and not voting.

Mr. Hall offered the following amendment to the pending Standing Committee amendment:

FA77

Amend the Committee Amendments

1. In the Hartnett amendment AM0989 strike lines 3 through 6 and insert

3. On page 36, lines 2 through 11 strike the new language and reinsert the stricken language.

The Hall amendment was adopted with 26 ayes, 0 nays, 12 present and not voting, and 11 excused and not voting.

Mr. Moore asked unanimous consent to be excused until he returns. No objections. So ordered.

The Standing Committee amendment, as amended, was adopted with 27 ayes, 0 nays, 11 present and not voting, and 11 excused and not voting.

Advanced to E & R for review with 25 ayes, 0 nays, 13 present and not voting, and 11 excused and not voting.

SELECT COMMITTEE REPORTS
Enrollment and Review

Correctly Engrossed

The following bills were correctly engrossed: 582 and 586.

(Signed) Eric Will, Chairperson

Enrollment and Review Change to LB 582

The following changes, required to be reported for publication in the Journal, have been made:
ER7045

1. The following new section has been inserted:

"Sec. 4. If Legislative Bill 344, Ninety-second Legislature, First Session, 1991, does not become law, the Revisor of Statutes shall substitute (5)C. for (5)(c) and substitute (5)H. for (5)(g) in section 2 of this act.".

2. In the Schellpeper amendment, AM0912, on page 2, line 7, "(4)" has been inserted before "This"; in line 10 "line 2, strike 'section' and insert 'sections 53-101 and'; and in" has been inserted after the first comma; and in line 11 the matter beginning with "and" through the last comma has been struck.

3. On page 1, line 1, "section" has been struck and "sections 53-101 and" inserted; in line 2 "to provide for the issuance of licenses to sell alcoholic liquor as prescribed;" has been inserted after the semicolon; in line 4 "to provide duties for the Revisor of Statutes; to harmonize provisions;" has been inserted after the semicolon and "section" has been struck and "sections" inserted.

4. The remaining section has been renumbered accordingly.

Enrollment and Review Change to LB 586

The following changes, required to be reported for publication in the Journal, have been made:
ER7043

1. On page 1, line 3, ", and section 53-1,104, Reissue Revised Statutes of Nebraska, 1943, as amended by section 71, Legislative Bill 344, Ninety-second Legislature, First Session, 1991" has been inserted after "1943"; in line 5 "to harmonize provisions; to provide operative dates;" has been inserted after the first semicolon and "section" has been struck and "sections, and also section 53-140.01, Reissue Revised Statutes of Nebraska, 1943, as amended by section 1, Legislative Bill 586, Ninety-second Legislature, First Session, 1991" inserted.

(Signed) Mary E. Sommermeyer
E & R Attorney

UNANIMOUS CONSENT - Print in Journal

Mr. Landis asked unanimous consent to print the following amendment to LB 470 in the Journal. No objections. So ordered.

AM0980
(Amendments to Standing Committee amendments, AM0552)

1. Strike section 1 and insert the following new section:

"Section 1. That section 8-157, Revised Statutes Supplement, 1990, be amended to read as follows:

8-157. (1) ~~No bank shall maintain any branch bank, and except~~ Except as provided in subsections (2) through (7) of this section and section 8-122.01, the general business of every bank shall be transacted at the place of business specified in its charter.

(2) With the approval of the director (a) any bank may establish and maintain an attached ~~auxiliary office~~ branch bank if such ~~office~~ branch bank is physically connected by a pneumatic tube or tubes or a walkway, tunnel, or any other electronic, mechanical, or structural connection or attachment for the public use of the bank and is within two hundred feet of the building containing the premises specified as its place

of business in its charter or any adjacent connected building housing a continuation of the operations of the bank's main office and (b) any bank may establish and maintain not more than ~~five~~ six detached ~~auxiliary offices~~ branch banks at which all banking transactions allowed by law may be made if such branch banks are within a radius of twenty-five miles of the place of business specified in the bank's charter on the effective date of this act. Such ~~auxiliary offices~~ branch banks shall be within the corporate limits of the city in which such bank is located, or if the bank is located within the zoning jurisdiction of a city of the primary class, such ~~auxiliary offices~~ branch banks may also be within the corporate limits of such city. Any detached ~~auxiliary office~~ branch bank established and maintained by a bank pursuant to the acquisition or merger of an institution under sections 8-1506 to 8-1510 or the acquisition of an eligible savings association under section 8-1515 shall not count against the number or location of detached ~~auxiliary offices~~ branch banks permitted under this section.

(3) With the approval of the director, a bank may acquire another bank in Nebraska as the result of a purchase or merger so long as the acquired bank has been chartered for more than eighteen months and the acquired institution and its detached ~~auxiliary offices~~ branch banks are converted to ~~auxiliary offices~~ branch banks of the acquiring bank. Such ~~auxiliary offices~~ branch banks shall not count against the number of ~~locations of~~ detached ~~auxiliary offices~~ branch banks permitted under subsections (1) and (2) of this section. If the acquired institution has not established six branch banks as permitted by subdivision (2)(b) of this section, following each such purchase or merger, the acquiring bank may establish and maintain the acquired institution's branch banks to the same extent that the acquired institution could have established and maintained branch banks as provided in subdivision (2)(b) of this section if the purchase or merger had not occurred, except that such branch banks may be established no more than one per year, beginning in the year of the purchase or merger, until a total of six such branch banks have been established.

(4) With the approval of the director, a bank

may acquire the assets and assume the deposits of a detached ~~auxiliary office~~ branch bank of another bank in Nebraska if: (a) The acquired detached ~~auxiliary office~~ branch bank has been approved for more than eighteen months; (b) the acquired detached ~~auxiliary office~~ branch bank is converted to ~~an auxiliary office~~ a branch bank of the acquiring bank; and (c) the bank from which the detached ~~auxiliary office~~ branch bank is acquired and the acquiring bank are subsidiaries of the same bank holding company or the detached ~~auxiliary office~~ branch bank to be acquired was chartered as a bank prior to becoming a detached ~~auxiliary office~~ branch bank. All banking transactions allowed by law may be made at a detached ~~auxiliary office~~ branch bank acquired pursuant to this subsection. Such ~~auxiliary office~~ branch bank shall not count against the number of locations of detached ~~auxiliary offices~~ branch banks permitted under subsections (1) and (2) of this section. The restrictions contained in this subsection shall not limit the authority of a bank to acquire another bank and to continue to operate all of the detached ~~auxiliary offices~~ branch banks of the acquired bank as ~~auxiliary offices~~ branch banks of the acquiring bank.

(5) With the approval of the director, a bank may acquire the assets and assume the deposits of a detached ~~auxiliary office~~ branch bank of another bank in Nebraska or acquire the assets and assume the deposits of an eligible savings association acquired by another bank in Nebraska pursuant to section 8-1515 if (a) the acquired detached ~~auxiliary office~~ branch bank or eligible savings association is converted to ~~an auxiliary office~~ a branch bank of the acquiring bank and (b) the detached ~~auxiliary office~~ branch bank or the eligible savings association to be acquired was operated, established, and maintained as an eligible savings association at its existing location prior to August 9, 1989, and was maintained at such location on such date. All banking transactions allowed by law may be made at a detached ~~auxiliary office~~ branch bank acquired pursuant to this subsection. Such ~~auxiliary offices~~ branch banks shall not count against the number of locations of detached ~~auxiliary offices~~ branch banks permitted under subsections (1) and (2) of this section. The restrictions contained in this subsection shall not

limit the authority of a bank to acquire another bank and to continue to operate all of the detached ~~auxiliary offices~~ branch banks of the acquired bank as ~~auxiliary offices~~ branch banks of the acquiring bank.

(6) With the approval of the director and subject to the limitations specified in this subsection, a single bank may establish one detached ~~auxiliary office~~ branch bank within the corporate limits of any municipality in which a financial institution has closed and ceased doing business within the preceding two years if no other financial institution operates an office within such municipality. If thirty days or less have elapsed since the financial institution ceased operation, the director shall only approve the establishment of a detached ~~auxiliary office~~ branch bank by a bank which has its place of business, as specified in its charter, in the same county as or in a contiguous county to the county in which such municipality is located. If more than thirty days have elapsed since the financial institution ceased operation, the director may approve the establishment of a detached ~~auxiliary office~~ branch bank by any bank located within Nebraska.

For purposes of this subsection:

(a) An unmanned electronic terminal shall not be deemed to be an office operated by a financial institution; and

(b) Financial institution shall mean a bank, savings bank, building and loan association, savings and loan association, industrial loan and investment company, credit union, or other institution offering electronic terminal transactions.

(7) The name given to any detached ~~bank or~~ branch bank established and maintained pursuant to this section shall not be substantially similar to the name of any existing bank or branch bank which is unaffiliated with the newly created bank or branch bank and is located in the same municipality. The name of such newly created bank or branch bank shall be approved by the director.".

Mr. Haberman asked unanimous consent to print the following amendments to LB 732 in the Journal. No objections. So ordered.

(1)

AM0932

1. Strike original section 8 and all amendments thereto and insert the following new section:

"Sec. 8. The Court of Appeals shall have its principal administrative office in Lincoln, Nebraska. The Court of Appeals shall hear arguments on a case in the Supreme Court judicial district where the decision appealed was rendered. Each judge of the Court of Appeals shall reside and maintain his or her office in the Supreme Court judicial district from which he or she was appointed and shall be entitled to staff as determined by the Supreme Court. The State Court Administrator shall make arrangements for office space and courtrooms to be used by the Court of Appeals.".

(2)

AM0898

1. Strike original section 8 and all amendments thereto and insert the following new section:

"Sec. 8. The Court of Appeals shall have its principal administrative office in Lincoln, Nebraska. The Court of Appeals shall hear arguments on a case in the Supreme Court judicial district where the decision appealed was rendered. Each judge of the Court of Appeals may maintain an office in his or her home community or in Lincoln, Nebraska, and shall be entitled to staff as determined by the Supreme Court. The State Court Administrator shall make arrangements for office space and courtrooms to be used by the Court of Appeals.".

(3)

AM0931

(Amendments to AM0898)

1. On page 1, strike beginning with "may" in line 8 through the second comma in line 9 and insert "shall reside and maintain his or her office in the Supreme Court judicial district from which he or she was appointed".

(4)

AM0897

1. Strike original section 8 and all amendments thereto and insert the following new section:

"Sec. 8. The Court of Appeals shall have its principal administrative office in Lincoln, Nebraska. The Court of Appeals shall hear arguments at sites throughout the state by designation of the Chief Judge of the Court of Appeals. The Chief Judge shall give primary consideration to the convenience of the litigants and counsel when designating sites to hear arguments. Each judge of the Court of Appeals shall reside and maintain his or her office in the Supreme Court judicial district from which he or she was appointed and shall be entitled to staff as determined by the Supreme Court. The State Court Administrator shall make arrangements for office space and courtrooms to be used by the Court of Appeals.".

Mr. Robinson asked unanimous consent to print the following amendment to LB 254 in the Journal. No objections. So ordered.

AM1001

(Amendments to the Final Reading copy)

1. On page 2, strike beginning with the comma in line 16 through the period in line 18 and insert "once within four years from the effective date of this act."; and in line 20 strike "every four years".

MOTION - Place LB 671 on General File

Mr. Landis moved to place LB 671 on General File, pursuant to Rule 3, Section 19(b).

Laid over.

UNANIMOUS CONSENT - Member Excused

Mr. Kristensen asked unanimous consent to be excused until he returns. No objections. So ordered.

GENERAL FILE

LEGISLATIVE BILL 355. Title read. Considered.

SPEAKER BAACK PRESIDING

Mr. Chizek renewed his pending amendment, AM0913, found in the Journal on page 1304.

Mr. Withem asked unanimous consent to be excused. No objections. So ordered.

PRESIDENT MOUL PRESIDING

Mr. Schmit asked unanimous consent to be excused until he returns. No objections. So ordered.

Pending.

MESSAGE FROM THE GOVERNOR

March 27, 1991

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol
Lincoln, Nebraska 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 133, 192, 224, 250, 276, 277, 278, 316, 341, 357, 359e, 385e, 393, 455e, 477, and 488e were received in my office on March 22, 1991, and engrossed Legislative Bill 253e was received in my office on March 27, 1991.

These bills were signed by me on March 27, 1991, and delivered to the Secretary of State.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

UNANIMOUS CONSENT - Print in Journal

Mr. Morrissey asked unanimous consent to print the following amendment to LB 511 in the Journal. No objections. So ordered.

AM1004

(Amendments to AM0907)

1. On page 2, line 7, strike "will allow" and insert "shall require"; and in line 16 strike "may" and

insert "shall".

2. On page 5, strike beginning with "a" in line 9 through "all" in line 11 and insert "the"; and in line 11 strike "have entered" and insert "shall enter".

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 714A. Introduced by Beutler, 28.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 714, Ninety-second Legislature, First Session, 1991; and to declare an emergency.

STANDING COMMITTEE REPORT
Health and Human Services

LEGISLATIVE BILL 830. Placed on General File as amended.
Standing Committee amendment to LB 830:
AM0923

1. Strike original sections 7 and 8 and insert the following new sections:

"Sec. 35. That section 83-1,143.06, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-1,143.06. There are hereby created six ~~mental retardation~~ developmental disability regions in the state. Each region shall consist of the following counties:

Region 1 shall consist of Sioux, Dawes, Sheridan, Box Butte, Scotts Bluff, Morrill, Garden, Kimball, Banner, Cheyenne, and Deuel counties;

Region 2 shall consist of Grant, Hooker, Thomas, Arthur, McPherson, Logan, Keith, Lincoln, Perkins, Dawson, Chase, Hayes, Frontier, Gosper, Dundy, Hitchcock, and Red Willow counties;

Region 3 shall consist of Blaine, Loup, Garfield, Wheeler, Custer, Valley, Greeley, Sherman, Howard, Merrick, Buffalo, Hall, Hamilton, Phelps, Kearney, Adams, Clay, Furnas, Harlan, Franklin, Webster, and Nuckolls counties;

Region 4 shall consist of Cherry, Keya Paha,

Boyd, Brown, Rock, Holt, Knox, Cedar, Dixon, Antelope, Pierce, Wayne, Dakota, Thurston, Madison, Stanton, Cuming, Burt, Boone, Platte, Colfax, and Nance counties;

Region 5 shall consist of Saunders, York, Seward, Lancaster, Otoe, Polk, Butler, Fillmore, Saline, Gage, Johnson, Nemaha, Thayer, Jefferson, Pawnee, and Richardson counties; and

Region 6 shall consist of Dodge, Washington, Douglas, Sarpy, and Cass counties.

Sec. 36. That section 83-376, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-376. When the full cost determined to be necessary for the care, support, maintenance, and treatment of any patient is not paid by the patient or his or her relatives within thirty days of receipt of such care, (1) the county in which the patient resides shall pay (a) the first fifteen dollars per day of the unpaid cost for each of the first thirty days at the Hastings Regional Center, the Lincoln Regional Center, the Norfolk Regional Center, or the University of Nebraska Medical Center, (b) the first ten dollars per day of the unpaid cost for each of the first thirty days at the Beatrice State Developmental Center, except that effective July 1, 1993, the county in which the patient resides shall pay the first five dollars per day of the unpaid costs for each day after the first thirty days at the Beatrice State Developmental Center, and (c) the first three dollars per day of the unpaid costs for each day after the first thirty days at any such institution, (2) the balance of the unpaid cost shall be borne by the state, and (3) the county in which the patient resides shall be credited by the Director of Public Institutions for amounts collected from such patient or his or her relatives in excess of the portion of such costs borne by the state.

Sec. 37. If any section in this act or any part of any section shall be declared invalid or unconstitutional, such declaration shall not affect the validity or constitutionality of the remaining portions thereof.".

2. On page 3, line 1, strike "31" and insert "29"; in line 4, strike "The" and insert "It is the intent of the" and strike "finds"; and in line 6 strike

"should" and insert "shall".

3. On page 4, line 15, strike the first "and" and after "neglect" insert ", and protection from harm".

4. On page 5, line 1, strike "and" and after "training" insert ", employment, and recreation"; in line 6 strike "10" and insert "8"; in line 8 strike "Developmental Disabilities" and insert "Public Institutions"; after line 15 insert

"(b) Is manifested before the age of twenty-two years;"; in line 16 strike "(b)" and insert "(c)"; and in line 17 strike "(c)" and insert "(d)".

5. On page 6, line 8, strike "Developmental Disabilities" and insert "Public Institutions".

6. On page 7, line 9, before the underscored comma insert "by a team process"; in line 10 after "developed" insert "by a team process"; in line 11 after "needs" insert "which incorporate the input of the individual and the family"; in line 15 strike "developing" and insert "promoting the development of"; and in line 25 strike "and" and insert an underscored comma, and after "Governor" insert ", service providers, and the public".

7. On page 8, line 5, after "the" insert "adequate and"; in line 6 strike "through" and insert "based upon a consistent rationale for"; in line 7 strike "method"; in line 9 after "funds" insert "as may be allowed by law"; in line 10 strike "and"; in line 21 strike the period and insert "and the designated protection and advocacy system authorized pursuant to the Developmental Disabilities Assistance and Bill of Rights Act, 42 U.S.C. 6000; and"; and after line 21 insert the following new subdivision:

"(5) Establish and staff a developmental disabilities division which shall assist in carrying out the policies and purposes of the Developmental Disabilities Services Act.".

8. On page 9, strike line 3 and insert "developmental disability region to administer local programs"; in line 4 strike "office"; in lines 7 and 8 strike "regional governing board" and insert "developmental disability region"; in line 13 after "county" insert "of origin"; strike beginning with "by" in line 16 through line 19 and insert "by July 1, 1992, and at least five dollars per day by July 1, 1993."; and

strike beginning with "regional" in line 21 through "county" in line 23 and insert "developmental disability region".

9. On page 10, line 14, after the second period insert "(1)"; strike beginning with "by" in line 14 through "department" in line 15 and insert "in a developmental disability region"; in line 16 strike "13" and insert "11"; in line 18 strike "mental retardation" and insert "developmental disability"; strike line 19; and after line 22 insert "(2) If the counties served in a developmental disability region meet the requirements of section 11, the developmental disability region shall provide suitable office space, furniture, office equipment, and access to files and records to the department for purposes of carrying out the provisions of section 9 of this act".

10. On page 12, lines 10 and 22, strike "delegated" and insert "granted".

11. On page 13, line 2, strike "1992" and insert "1993"; in line 5 strike "or" and insert an underscored comma, and after "years" insert ", or are currently receiving services"; in line 11 strike "1992" and insert "1993"; in line 18 strike "1993" and insert "1994"; and in line 22 after "contract" insert "for specialized services and shall only contract".

12. On page 14, line 13, before the underscored comma insert "or have an advisory committee"; in line 17 strike "county commissioners" and insert "elected officials"; and in line 22 strike "standards" and insert "certification requirements".

13. On page 15, line 3, strike "jurisdiction" and insert "governance"; in line 8 after the semicolon insert "and"; strike lines 9 and 10; in line 11 strike "(5)" and insert "(4)"; and in line 12 strike "22" and insert "20".

14. On page 16, line 7, strike "24" and insert "22"; in line 11, strike "state or"; in line 12 strike "public"; and in line 22 strike "24 to 29" and insert "22 to 27".

15. On page 17, lines 1 and 19, strike "24" and insert "22".

16. On page 19, strike beginning with "or" in line 15 through "completed" in line 17.

17. On page 21, line 7, strike "before" and

insert "no later than when"; in line 8 after "age" insert "and until the student graduates from a special education program or is no longer eligible to receive services pursuant to section 79-3315"; in line 22 strike "local field office" and insert "transition team"; and in line 24 strike "school district" and insert "local field office".

18. On page 22, strike lines 19 and 20 and insert "enter into an interagency agreement with the Department of Public Institutions for assistance in the development of rules and regulations for specialized developmental disability services pursuant to the medical assistance program".

19. On page 23, line 11, strike "delegate" and insert "grant", and strike "Developmental Disabilities" and insert "Public Institutions".

20. On page 25, line 8, strike "delegate to" and insert "enter into an interagency agreement with"; and in line 9 strike "Developmental Disabilities the authority" and insert "Public Institutions".

21. On page 26, line 6, strike "delegation" and insert "grant"; in line 7 strike "Developmental Disabilities" and insert "Public Institutions"; in line 15 strike "and" and after the last comma insert "83-1,143.06, and 83-376,"; and in line 17 after the first "to" insert "83-1,143.05, 83-1,143.07 to".

22. Renumber the remaining sections accordingly.

(Signed) Don Wesely, Chairperson

SELECT COMMITTEE REPORT
Enrollment and Review

LEGISLATIVE BILL 782. Placed on Select File.

(Signed) Eric Will, Chairperson

VISITORS

Visitors to the Chamber were ten seventh and eighth grade students and teacher from St. James Elementary School, Crete; and 16 fourth grade students and teacher from Columbian School, Plattsmouth.

ADJOURNMENT

At 4:28 p.m., on a motion by Mr. Will, the Legislature adjourned until 9:00 a.m., Thursday, March 28, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

FIFTY-SECOND DAY - MARCH 28, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

FIFTY-SECOND DAY

Legislative Chamber, Lincoln, Nebraska
Thursday, March 28, 1991

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Moul presiding.

PRAYER

The prayer was offered by Pastor Charles Tyler, Allen Chapel, Omaha, Nebraska.

ROLL CALL

The roll was called and all members were present except Mr. Haberman who was excused; and Messrs. Bernard-Stevens, Beutler, Chambers, Hall, Hartnett, Moore, Morrissey, Robinson, Schmit, Warner, Mmes. Nelson, Pirsch, and Robak who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Fifty-First Day was approved.

UNANIMOUS CONSENT - Print in Journal

Mr. L. Johnson asked unanimous consent to print the following amendment to LB 427 in the Journal. No objections. So ordered.

AM0823

1. Insert the following new sections:

"Section 1. That section 9-201, Revised Statutes Supplement, 1990, be amended to read as

follows:

9-201. Sections 9-201 to 9-266 and section 3 of this act shall be known and may be cited as the Nebraska Bingo Act.

Sec. 2. That section 9-203, Revised Statutes Supplement, 1990, be amended to read as follows:

9-203. For purposes of the Nebraska Bingo Act, unless the context otherwise requires, the definitions found in sections 9-204 to 9-225 and section 3 of this act shall be used.

Sec. 3. Excursion or dinner train shall mean a train which has all of its passengers board and depart from the same location and is operated for trips of short duration for sightseeing, dining, entertainment, or other recreational purpose.

Sec. 4. That section 9-216, Revised Statutes Supplement, 1990, be amended to read as follows:

9-216. Premises shall mean a building, ~~or~~ a distinct portion of a building, or a railroad coach car of an excursion or dinner train in which bingo is being played and shall not include any area of land surrounding the building or excursion or dinner train.

No premises shall be subdivided to provide multiple premises where games of bingo are managed, operated, or conducted whether or not such premises have different mailing addresses or legal descriptions.

Sec. 5. That section 9-236, Revised Statutes Supplement, 1990, be amended to read as follows:

9-236. Upon payment of an annual permit fee of ten dollars, a licensed organization shall obtain a permit from the city or village clerk or finance department when bingo is to be conducted within the limits of any incorporated city or village and from the county clerk when bingo is to be conducted on an excursion or dinner train or outside the limits of any incorporated city or village. Such annual permit fee of ten dollars shall be paid before bingo is played and shall be paid to the city or village clerk or finance director or county clerk at the time of obtaining the annual permit. When bingo is to be conducted jointly by two or more licensed organizations, such licensed organizations shall obtain a permit therefor by paying a fee of ten dollars. All permits shall expire on September 30 of each year or such other date as the

department may prescribe by rule and regulation. Such permit shall be displayed conspicuously at the place where bingo is conducted at all times during the conduct thereof.

Sec. 6. That section 9-239, Revised Statutes Supplement, 1990, be amended to read as follows:

9-239. (1) The department shall collect a state tax of six percent on the gross receipts received from the conducting of bingo within the state. Such tax shall be remitted to the department and credited to the Charitable Gaming Operations Fund. The tax shall be remitted quarterly, not later than thirty days from the close of the preceding quarter, together with any other reports as may be required by the department. The proceeds from the tax shall be used to pay for the costs of regulation and enforcement of the Nebraska Bingo Act.

(2) Any city or village is hereby directed to impose a tax of two percent on the gross receipts received from the conducting of bingo within such city or village. Where bingo is conducted <u>on an excursion or dinner train or</u> outside the limits of any incorporated city or village, the county in which such bingo is conducted shall impose a tax of two percent on the gross receipts from the conducting of bingo <u>on such excursion or dinner train or</u> outside the corporate limits of such city or village. Such tax shall be credited to the general fund of the county, city, or village which issued a permit for the conducting of bingo pursuant to section 9-236. Such tax shall be remitted to the clerk of the political subdivision imposing the tax, and the clerk shall remit the tax to the treasurer of such subdivision. The tax shall be remitted quarterly, not later than thirty days from the close of the preceding quarter, together with such reports as may be required by the political subdivision imposing the tax. The proceeds from the tax shall be used to pay for the costs of regulation and enforcement of the Nebraska Bingo Act.

Sec. 9. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.".

2. On page 2, line 18, strike "section 9-250" and insert "sections 9-201, 9-203, 9-216, 9-236, 9-239, and 9-250" and in line 19, strike "is" and insert "are".

23 3. Renumber remaining sections accordingly.

MOTION - Return LB 731 to Select File

Mr. Conway moved to return LB 731 to Select File for his specific amendment, AM0801, found in the Journal on page 1148.

Mr. Conway withdrew his motion to return.

BILLS ON FINAL READING

The following bills were read and put upon final passage:

LEGISLATIVE BILL 731. With Emergency.

A BILL FOR AN ACT relating to the Interlocal Cooperation Act; to amend sections 13-801 to 13-803 and 13-805 to 13-807, Reissue Revised Statutes of Nebraska, 1943, and section 13-804, Reissue Revised Statutes of Nebraska, 1943, as amended by section 1, Legislative Bill 81, Ninety-second Legislature, First Session, 1991; to define a term; to provide for joint entities; to provide for bonds; to provide for the construction of the act; to harmonize provisions; to provide severability; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 37:

Abboud	Crosby	Johnson, L.	Nelson	Schrock
Ashford	Cudaback	Johnson, R.	Pirsch	Smith
Baack	Dierks	Kristensen	Rasmussen	Wehrbein
Beyer	Elmer	Lamb	Rogers	Wesely
Byars	Hartnett	Lindsay	Schellpeper	Wickersham
Chizek	Hefner	Lynch	Schimek	Will
Conway	Hillman	Morrissey	Schmit	Withem
Coordsen	Horgan			

Voting in the negative, 0.

Present and not voting, 2:

Labedz	Peterson			

Excused and not voting, 10:

Bernard-Stevens	Chambers	Hall	Moore	Robinson
Beutler	Haberman	Landis	Robak	Warner

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

Mrs. Labedz asked unanimous consent to be excused until she returns. No objections. So ordered.

LEGISLATIVE BILL 237.

A BILL FOR AN ACT relating to insurance; to amend sections 21-1339, 21-2108, 44-319.01, 44-320, 44-322, 44-386, 44-402.03, 44-821, 44-2202, 44-2213, 44-2909, 44-3106, and 44-4313, Reissue Revised Statutes of Nebraska, 1943, sections 21-2109, 44-2827.01, and 44-32,137, Revised Statutes Supplement, 1990, and section 44-4830, Revised Statutes Supplement, 1990, as amended by section 80, Legislative Bill 236, Ninety-second Legislature, First Session, 1991; to adopt the Insurers Investment Act; to change provisions relating to authorized investments; to change provisions relating to transactions between domestic insurance companies and directors or officers of such companies; to eliminate provisions relating to investments and domestic assessment associations; to change the applicability date of certain setoff provisions; to harmonize provisions; and to repeal the original sections, and also sections 44-309 to 44-310.09, 44-311.01 to 44-316, 44-321, 44-397 to 44-399, and 44-824, Reissue Revised Statutes of Nebraska, 1943.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 44:

Abboud	Bernard-Stevens	Byars	Crosby	Hartnett
Ashford	Beutler	Chizek	Cudaback	Hefner
Baack	Beyer	Conway	Dierks	Hillman
		Coordsen	Elmer	Horgan

Johnson, L.	Lynch	Rasmussen	Schimek	Wehrbein
Johnson, R.	Morrissey	Robak	Schmit	Wesely
Kristensen	Nelson	Robinson	Schrock	Wickersham
Lamb	Peterson	Rogers	Smith	Will
Landis	Pirsch	Schellpeper	Warner	Withem
Lindsay				

Voting in the negative, 0.

Excused and not voting, 5:

Chambers	Haberman	Hall	Labedz	Moore

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 244. With Emergency.

A BILL FOR AN ACT relating to health care facilities; to amend sections 68-1038, 71-507, 71-2017, 71-2017.01, 71-2017.03, 71-2017.06, 71-2020, 71-5801, 71-5803, 71-5810, 71-5830, and 77-2704, Reissue Revised Statutes of Nebraska, 1943; to define and redefine terms; to change staffing requirements for certain facilities; to provide for and change provisions relating to waiver of staffing requirements; to provide for nursing facilities; to provide fees; to harmonize provisions; to eliminate provisions relating to a Health Service Supervisor; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 44:

Abboud	Coordsen	Johnson, L.	Nelson	Schmit
Baack	Crosby	Johnson, R.	Peterson	Schrock
Bernard-Stevens	Cudaback	Kristensen	Pirsch	Smith
	Dierks	Lamb	Rasmussen	Warner
Beutler	Elmer	Landis	Robak	Wehrbein
Beyer	Hartnett	Lindsay	Robinson	Wesely
Byars	Hefner	Lynch	Rogers	Wickersham
Chizek	Hillman	Moore	Schellpeper	Will
Conway	Horgan	Morrissey	Schimek	Withem

Voting in the negative, 0.

Present and not voting, 1:

Ashford

Excused and not voting, 4:

Chambers Haberman Hall Labedz

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

LEGISLATIVE BILL 244A. With Emergency.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 244, Ninety-second Legislature, First Session, 1991; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 42:

Abboud	Coordsen	Kristensen	Pirsch	Schrock
Baack	Crosby	Lamb	Rasmussen	Smith
Bernard-Stevens	Cudaback	Landis	Robak	Warner
Beutler	Dierks	Lindsay	Robinson	Wehrbein
Beyer	Elmer	Lynch	Rogers	Wesely
Byars	Hartnett	Moore	Schellpeper	Wickersham
Chizek	Hefner	Morrissey	Schimek	Will
Conway	Hillman	Nelson	Schmit	Withem
	Horgan	Peterson		

Voting in the negative, 0.

Present and not voting, 3:

Ashford Johnson, L. Johnson, R.

Excused and not voting, 4:

Chambers Haberman Hall Labedz

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

UNANIMOUS CONSENT - Member Excused

Mr. Cudaback asked unanimous consent to be excused until he returns. No objections. So ordered.

MOTION - Override Veto on LB 100

Mr. Lynch moved that LB 100 be passed notwithstanding any objections of the Governor.

Whereupon the President stated: "The question shall be, 'Shall the bill pass notwithstanding the objections of the Governor?' "

Voting in the affirmative, 17:

Beyer	Hall	Lynch	Pirsch	Schmit
Coordsen	Hefner	Moore	Robinson	Schrock
Crosby	Johnson, L.	Peterson	Rogers	Smith
Elmer	Kristensen			

Voting in the negative, 22:

Abboud	Beutler	Johnson, R.	Schellpeper	Wesely
Ashford	Chambers	Lindsay	Schimek	Wickersham
Baack	Conway	Nelson	Warner	Will
Bernard-Stevens	Hillman	Rasmussen	Wehrbein	Withem
	Horgan	Robak		

Present and not voting, 7:

Byars	Dierks	Lamb	Landis	Morrissey
Chizek	Hartnett			

Excused and not voting, 3:

Cudaback Haberman Labedz

Having failed to receive a constitutional three-fifths majority voting in the affirmative, the bill failed to pass notwithstanding the objections of the Governor.

REPORT OF REGISTERED LOBBYISTS

In accordance with LB 987, passed in the 1976 session of the Legislature and amended by LB 4 and LB 41 in the 1977 session of the Legislature, the attached is a list of all Lobbyists who have registered as of March 27, 1991. Further lists listing additional lobbyists who have registered will be filed weekly.

(Signed) Patrick J. O'Donnell
Clerk of the Legislature

Kelley, Michael - Omaha	Omaha Airport Authority
Kendrick, Leslie E. - Omaha	Uta Hallee Village for Girls

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 718A. Schmit, 23.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 718, Ninety-second Legislature, First Session, 1991; and to declare an emergency.

UNANIMOUS CONSENT - Print in Journal

Mr. Dierks asked unanimous consent to print the following amendment to LB 400 in the Journal. No objections. So ordered.

AM1011

1. On page 6, line 5, strike "Ten" and insert "Twelve"; and in line 9 strike "a" and insert "each".
2. In the E and R amendments, AM5101, strike amendment 6 and renumber the remaining amendments.

Mr. Dierks asked unanimous consent to print the following amendment to LB 400 in the Journal. No objections. So ordered.

AM1012

1. In the Schellpeper amendments, AM0274, on page 1, strike beginning with the third "in" in line 5 through the semicolon in line 6; and in line 7 after the semicolon insert "in line 9 strike 'a' and insert 'each';".

2. In the E and R amendments, AM5101, strike amendment 6 and renumber the remaining amendments.

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following bills: 731, 237, 244, and 244A.

GENERAL FILE

LEGISLATIVE BILL 795. Title read. Considered.

Standing Committee amendment, AM0199, found in the Journal on page 724, was considered.

Mr. Withem renewed his pending amendment, AM0378, found in the Journal on page 810, to the Standing Committee amendment.

Mr. Kristensen asked unanimous consent to be excused until he returns. No objections. So ordered.

The Withem amendment was adopted with 23 ayes, 0 nays, 22 present and not voting, and 4 excused and not voting.

Messrs. Ashford, Hall, Will, Horgan, Lynch, Lindsay, Beyer, Abboud, Chambers, Chizek, Mmes. Pirsch, and Rasmussen renewed their pending amendment, AM0586, found in the Journal on page 972, to the Standing Committee amendment.

SPEAKER BAACK PRESIDING

Mr. Schmit asked unanimous consent to be excused until he returns. No objections. So ordered.

The Ashford et al. amendment was adopted with 20 ayes, 0 nays, 24 present and not voting, and 5 excused and not voting.

The Standing Committee amendment, as amended, was adopted with 28 ayes, 0 nays, 16 present and not voting, and 5 excused and not voting.

Mr. Dierks asked unanimous consent to be excused until he returns. No objections. So ordered.

Advanced to E & R for review with 25 ayes, 5 nays, 14 present and not voting, and 5 excused and not voting.

LEGISLATIVE BILL 355. The Chizek pending amendment, AM0913, found in the Journal on page 1304 and considered on page 1378, was renewed.

Messrs. Abboud, Rogers, Dierks, Beyer, Mmes. Nelson, and Labedz asked unanimous consent to be excused until they return. No objections. So ordered.

MR. WARNER PRESIDING

Mr. Chizek moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 1 nay, and 22 not voting.

SPEAKER BAACK PRESIDING

Mr. Ashford moved for a call of the house. The motion prevailed with 27 ayes, 0 nays, and 22 not voting.

Mr. Ashford requested a roll call vote on the Chizek amendment.

Voting in the affirmative, 26:

Abboud	Crosby	Johnson, R.	Morrissey	Warner
Ashford	Hall	Kristensen	Pirsch	Wehrbein
Baack	Hartnett	Landis	Rasmussen	Wesely
Beutler	Hillman	Lindsay	Schimek	Will
Chizek	Horgan	Lynch	Schmit	Withem
Conway				

Voting in the negative, 16:

Bernard-Stevens	Byars	Cudaback	Johnson, L.	Moore
	Coordsen	Hefner	Lamb	Peterson

Robak	Rogers	Schrock	Smith	Wickersham
Robinson	Schellpeper			

Present and not voting, 3:

Beyer	Chambers	Elmer

Excused and not voting, 4:

Dierks	Haberman	Labedz	Nelson

The Chizek amendment was adopted with 26 ayes, 16 nays, 3 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

Mr. Hefner moved to indefinitely postpone LB 355.

Messrs. Withem, Landis, and Peterson asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Wesely moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 3 nays, and 20 not voting.

Messrs. R. Johnson and Schmit asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Hefner moved for a call of the house. The motion prevailed with 15 ayes, 2 nays, and 32 not voting.

Mr. Hefner requested a roll call vote on his motion to indefinitely postpone.

Voting in the affirmative, 16:

Abboud	Elmer	Johnson, L.	Robinson	Schrock
Beyer	Hefner	Lamb	Rogers	Smith
Byars	Hillman	Robak	Schellpeper	Wickersham
Coordsen				

Voting in the negative, 22:

Ashford	Baack

Bernard-Stevens	Conway	Horgan	Morrissey	Warner
Beutler	Crosby	Kristensen	Pirsch	Wehrbein
Chambers	Hall	Lindsay	Rasmussen	Wesely
Chizek	Hartnett	Moore	Schimek	Will

Present and not voting, 2:

Cudaback Lynch

Excused and not voting, 9:

Dierks	Johnson, R.	Landis	Peterson	Withem
Haberman	Labedz	Nelson	Schmit	

The Hefner motion to indefinitely postpone lost with 16 ayes, 22 nays, 2 present and not voting, and 9 excused and not voting.

Pending.

The Chair declared the call raised.

UNANIMOUS CONSENT - Print in Journal

Mr. Wehrbein asked unanimous consent to print the following amendment to LB 115 in the Journal. No objections. So ordered.

AM1002

(Amendments to Final Reading copy)

1. Insert the following new section:

"Sec. 4. The changes made by this legislative bill to sections 32-4,104, 32-548, and 32-556 shall become operative whenever laws containing substantially the same provisions as the changes in such sections are enacted by twenty-five additional states.".

2. On page 1, line 6, after the semicolon insert "to provide an operative provision;".

3. Renumber the remaining section accordingly.

Mr. Bernard-Stevens asked unanimous consent to print the following amendment to LB 218 in the Journal. No objections. So ordered.

AM0984

(Amendments to the Final Reading Copy)

1. Strike section 1 and all amendments thereto.

2. On page 1, line 2, strike "28-518,"; and strike line 4.

3. On page 21, line 15, strike "28-518,".

4. Renumber the remaining sections accordingly.

Mr. Coordsen asked unanimous consent to print the following amendment to LB 297 in the Journal. No objections. So ordered.

FA78

Amend the Final Reading copy of LB 297 to read as follows:

Page 2, line 12, strike "four or more employees at any", and strike in line 13, "one time", and insert "ten or more employees for at least 30 hours per week in each of twenty or more calendar weeks in the current or preceding calendar year"

PRESENTED TO THE GOVERNOR

Presented to the Governor on March 28, 1991, at 10:45 a.m., were the following bills: 731, 237, 244, and 244A.

(Signed) Pam Moravec, Enrolling Clerk

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 186A. Introduced by Lindsay, 9.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 186, Ninety-second Legislature, First Session, 1991.

COMMUNICATION

March 28, 1991

The Honorable Allen Beermann
Secretary of State
2300 State Capitol Building
Lincoln, NE 68509

Dear Mr. Beermann:

Inasmuch as the Legislature did not override the veto by Governor Nelson on LB 100, I am delivering the bill for filing.

Sincerely,
(Signed) Patrick J. O'Donnell
Clerk of the Legislature

PJO:r
Enc.

MOTION - Adjournment

Mr. Schellpeper moved to adjourn. The motion lost with 4 ayes, 22 nays, 14 present and not voting, and 9 excused and not voting.

GENERAL FILE

LEGISLATIVE BILL 355. Mr. Schellpeper offered the following amendment:
AM0847

1. Strike the original sections and all amendments thereto and insert the following new sections:

"Section 1. No importer, manufacturer, or dealer licensed pursuant to 18 U.S.C. 923 shall sell or deliver any handgun to another person other than a licensed importer, manufacturer, dealer, or collector until he or she has:

(1) Obtained a completed consent form from the potential buyer or transferee, which form shall be established by the Nebraska State Patrol and provided by the licensed importer, manufacturer, or dealer. The form shall include only the name, date of birth, gender, race, and social security number or other identification number of such potential buyer or transferee;

(2) Inspected an identification containing a photograph of the potential buyer or transferee which appropriately and completely identifies such person;

(3) Requested by toll-free telephone call or other electromagnetic communication that the Nebraska State Patrol conduct a criminal history record check; and

(4) Received a unique approval number for such inquiry from the Nebraska State Patrol indicating the

date and number on the consent form.

Sec. 2. (1) Upon receipt of a request for a criminal history record check, the Nebraska State Patrol shall as soon as possible during the licensee's telephone call or by return telephone call:

(a) Review its criminal history records to determine if the potential buyer or transferee is prohibited from receipt or possession of a handgun pursuant to state or federal law; and

(b) Inform the licensee either (i) that its records demonstrate that the potential buyer or transferee is prohibited from receipt or possession of a handgun or (ii) provide the licensee with a unique approval number.

(2) In the event of electronic failure or similar emergency beyond the control of the Nebraska State Patrol, the patrol shall immediately notify a requesting licensee of the reason for and estimated length of such delay. In any event, no later than the end of the next business day the Nebraska State Patrol shall either (a) inform the licensee that its records demonstrate that the potential buyer of transferee is prohibited from receipt or possession of a handgun or (b) provide the licensee with a unique approval number. If the licensee is not informed by the end of the next business day that the potential buyer is prohibited from receipt or possession of a handgun, and regardless of whether the unique approval number has been received, the licensee may complete the sale or delivery and shall not be deemed to be in violation of this act with respect to such sale or delivery.

Sec. 3. (1) Any records which are created by the Nebraska State Patrol to conduct the criminal history check containing any of the information set forth in subdivision (1) of section 1 of this act pertaining to a potential buyer or transferee who is not prohibited from receipt or transfer of a handgun by reason of state or federal law shall be confidential and may not be disclosed by the patrol or any officer or employee thereof to any person. The Nebraska State Patrol shall destroy any such records as soon as possible after communicating the unique approval number and, in any event, such records shall be destroyed within forty-eight hours after the date of receipt of

the licensee's request.

(2) Notwithstanding the provisions of this section, the Nebraska State Patrol shall only maintain a log of dates of requests for criminal history record checks and unique approval numbers corresponding to such dates for not to exceed one year.

(3) Nothing in this section shall be construed to allow the state to maintain records containing the names of licensees who receive unique approval numbers or to maintain records of handgun transactions, including the names or other identification of licensees and potential buyers or transferees including persons not otherwise prohibited by law from the receipt or possession of handguns.

Sec. 4. The Nebraska State Patrol shall establish a toll-free telephone number which shall be operational seven days a week between 8 a.m. and 10 p.m. for purposes of responding to requests under section 1 of this act. The Nebraska State Patrol shall employ and train such personnel as is necessary to expeditiously administer the provisions of this act. The Nebraska State Patrol shall notify all licensed importers, manufacturers, and dealers in writing prior to January 1, 1993, that the procedures and toll-free telephone number described in this act will be operational on such date.

Sec. 5. Any person who is denied the right to purchase or receive a handgun as a result of procedures established by this act may request amendment of the record pertaining to him or her by petitioning the Nebraska State Patrol. If the Nebraska State Patrol fails to amend the record within seven days, the person requesting the amendment may petition the district court of the county in which he or she resides for an order directing the patrol to amend the record. If the person proves by a preponderance of the evidence that the record should be amended, the court shall order the record be amended. If the record demonstrates that such person is not prohibited from receipt or possession of a handgun by state or federal law, the Nebraska State Patrol shall destroy any records it maintains which contain any information derived from the criminal history record check.

Sec. 6. The Nebraska State Patrol shall adopt

and promulgate rules and regulations to ensure the identity, confidentiality, and security of all records and data provided pursuant to this act.

Sec. 7. A licensed importer, manufacturer, or dealer shall not be required to comply with the provisions of this act in the event of:

(1) Unavailability of telephone service at the licensed premises due to (a) the failure of the entity which provides telephone service in the state, region, or other geographical area in which the licensee is located to provide telephone service to the premises due to the location of such premises or (b) the interruption of telephone service by reason of hurricane, flood, natural disaster, other act of God, war, riot, or other bona fide emergency or reason beyond the control of the licensee; or

(b) Failure of the Nebraska State Patrol to comply reasonably with the requirements of this act.

Sec. 8. Compliance with this act shall be a defense by the Nebraska State Patrol and the licensee transferring a handgun in any cause of action under the laws of this state for liability for damages arising from the importation or manufacture, or the subsequent sale or transfer, of any handgun which has been shipped or transported in interstate or foreign commerce to any person who has been convicted in any court of any crime punishable by a term of more than one year.

Sec. 9. This act shall not apply to:

(1) Any handgun, including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system, manufactured in or before 1898;

(2) Any replica of any firearm described in subdivision (1) of this section if such replica is not designed or redesigned to use rimfire or conventional centerfire fixed ammunition and uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade; and

(3) Any firearm which is a curio or relic as defined by 27 C.F.R. 178.11.

Sec. 10. Any licensed importer, manufacturer, or dealer who knowingly and intentionally requests a criminal history record check from the Nebraska State

Patrol for any purpose other than compliance with this act or knowingly and intentionally disseminates any criminal history record information to any person other than the subject of such information shall be guilty of a Class I misdemeanor.

Sec. 11. Any person who, in connection with the purchase, transfer, or attempted purchase of a handgun pursuant to this act, knowingly and intentionally makes any materially false oral or written statement or knowingly and intentionally furnishes any false identification intended or likely to deceive the licensee shall be guilty of a Class I misdemeanor.

Sec. 12. Any licensed importer, manufacturer, or dealer who knowingly and intentionally sells or delivers a handgun in violation of this act shall be guilty of a Class I misdemeanor.

Sec. 13. Any person who knowingly and intentionally obtains a handgun for the purposes of transferring it to a person who is prohibited from receipt or possession of a handgun by state or federal law shall be guilty of a Class IV felony.

Sec. 14. The Nebraska State Patrol shall provide an annual report to the Judiciary Committee of the Legislature which includes the number of inquiries made pursuant to this act for the prior calendar year, the number of such inquiries resulting in a determination that the potential buyer or transferee was prohibited from receipt or possession of a handgun pursuant to state or federal law, the estimated costs of administering this act, the number of instances in which a person requested amendment of the record pertaining to such person pursuant to section 5 of this act, and the number of instances in which a district court issued an order directing the patrol to amend a record.

Sec. 15. Sections 4 and 6 of this act shall become operative on September 15, 1992. The other sections of this act shall become operative on January 1, 1993.".

Mr. Schellpeper withdrew his pending amendment.

Pending.

UNANIMOUS CONSENT - Print in Journal

Mmes. Rasmussen and Hillman asked unanimous consent to print the following amendment to LB 425 in the Journal. No objections. So ordered.

AM1036

1. Strike the original sections and all amendments thereto and insert the following new sections:

"Section 1. (1) The Legislature further finds and declares that because of the permanent and profound consequences of unintended pregnancy among young women, it is essential that young women be fully informed as to all of their options in dealing with such a pregnancy. that they be encouraged to seek professional help and medical care at the earliest opportunity, and that barriers to such help and care be removed.

(2) The Legislature further finds that requirements of parental or judicial consent to such care and counseling have no effect because, in the majority of cases:

(a) The pregnant young woman voluntarily consults with one or both of her parents;

(b) The requirements do not foster communication if it does not already exist;

(c) The requirements serve to delay the pregnant young woman in seeking medical care, resulting in increased physical risk; and

(d) The requirements cause severe psychological trauma, particularly in dysfunctional families.

(3) The Legislature further finds that pregnant young women in some cases benefit from family involvement or from consultation with sympathetic adults or professional counseling in making voluntary decisions regarding an unintended pregnancy.

(4) Accordingly, the Legislature hereby finds and declares that, as a matter of public policy, pregnant young women should be informed of the option of voluntarily consulting with a parent or other adult with regard to an unintended pregnancy and, if such consultation is detrimental to their best interests or otherwise inappropriate, should have prompt access to professional counseling and guidance and appropriate

medical care.

Sec. 2. For purposes of this act:

(1) Counselor shall mean (a) licensed psychiatrist or psychologist, (b) certified professional counselor, (c) certified social worker, (d) certified marriage and family therapist, (e) certified guidance counselor, (f) ordained member of the clergy, (g) licensed registered nurse, (h) licensed practical nurse, (i) licensed nurse practitioner, or (j) licensed physicians assistant; and

(2) Minor shall mean a person who is less than sixteen years of age.

Sec. 3. Prior to the performance of an abortion upon a minor, a physician or counselor shall provide pregnancy information and counseling in accordance with this section in a manner and language that will be understood by the minor. The physician or counselor shall:

(1) Explain that the information is being given objectively and is not intended to coerce, persuade, or induce the minor to choose to have an abortion or to carry the pregnancy to term;

(2) Explain that the minor may withdraw a decision to have an abortion at any time before the abortion is performed or may reconsider a decision not to have an abortion at any time within the time period during which an abortion may legally be performed;

(3) Explain to the minor the alternative choices available for managing the pregnancy, including (a) carrying the pregnancy to term and keeping the child, (b) carrying the pregnancy to term and placing the child for adoption, placing the child with a relative, or obtaining voluntary foster care for the child, and (c) having an abortion;

(4) Explain that public and private agencies are available to assist the minor with whichever alternative listed in subdivision (3) of this section she chooses and that a list of the agencies and the services available from each will be provided if the minor requests;

(5) Explain that public and private agencies are available to provide birth control information and that a list of the agencies and the services available from each will be provided if the minor requests;

(6) Discuss the possibility of involving the minor's parents or guardian or other adult family members in the minor's decisionmaking concerning the pregnancy and whether the minor believes that involvement would be in the minor's best interests; and

(7) Provide adequate opportunity for the minor to ask any questions concerning the pregnancy, abortion, child care, and adoption and provide information the minor seeks or, if the physician or counselor can not provide the information, indicate where the minor can receive the information.

Sec. 4. After the physician or counselor provides the information and counseling to a minor as required by section 3 of this act, the physician or counselor shall have the minor sign and date a form stating that:

(1) The minor has received information on alternatives to abortion and that there are agencies that will provide assistance and that a list of the agencies and the services available from each will be provided if the minor requests;

(2) The minor has received an explanation that the minor may withdraw an abortion decision or reconsider a decision to carry a pregnancy to term;

(3) The alternatives available for managing the pregnancy have been explained to the minor;

(4) The minor has received an explanation about agencies available to provide birth control information and that a list of the agencies and the services available from each will be provided if the minor requests;

(5) The minor has discussed with the physician or counselor providing the information and counseling the possibility of involving the minor's parents or guardian or other adult family members in the minor's decisionmaking about the pregnancy;

(6) If applicable, the minor has determined that not involving the minor's parents or guardian or other adult family members is in the minor's best interests; and

(7) The minor has been given an adequate opportunity to ask questions.

Sec. 5. (1) The physician or counselor providing the information and counseling shall also sign

and date the form and shall include his or her business address and business telephone number. The physician or counselor shall keep a copy for such minor's medical record and shall give the form to the minor or, if the minor requests and if such physician or counselor is not the attending physician, transmit the form to the minor's attending physician. Such medical record shall be maintained as otherwise provided by law.

(2) The provision of pregnancy information and counseling by a physician or counselor which is evidenced in writing containing the information and statements provided in section 4 of this act and which is signed by the minor shall be presumed to be evidence of compliance with the requirements of this section.

Sec. 6. The requirements of sections 3 and 4 of this act shall not apply when, in the best medical judgment of the physician based on the facts of the case before him or her, a medical emergency exists that so complicates the pregnancy or the health, safety, or well-being of the minor as to require an immediate abortion. A physician who does not comply with the requirements of such sections by reason of this section shall state in the medical record of the abortion the medical indications on which his or her judgment was based.".

MOTION - Adjournment

Mr. Will moved to adjourn. The motion lost with 10 ayes, 21 nays, 9 present and not voting, and 9 excused and not voting.

GENERAL FILE

LEGISLATIVE BILL 355. Mr. Ashford offered the following amendment:
AM0847

1. Strike the original sections and all amendments thereto and insert the following new sections:

"Section 1. No importer, manufacturer, or dealer licensed pursuant to 18 U.S.C. 923 shall sell or deliver any handgun to another person other than a licensed importer, manufacturer, dealer, or collector until he or she has:

(1) Obtained a completed consent form from the potential buyer or transferee, which form shall be established by the Nebraska State Patrol and provided by the licensed importer, manufacturer, or dealer. The form shall include only the name, date of birth, gender, race, and social security number or other identification number of such potential buyer or transferee;

(2) Inspected an identification containing a photograph of the potential buyer or transferee which appropriately and completely identifies such person;

(3) Requested by toll-free telephone call or other electromagnetic communication that the Nebraska State Patrol conduct a criminal history record check; and

(4) Received a unique approval number for such inquiry from the Nebraska State Patrol indicating the date and number on the consent form.

Sec. 2. (1) Upon receipt of a request for a criminal history record check, the Nebraska State Patrol shall as soon as possible during the licensee's telephone call or by return telephone call:

(a) Review its criminal history records to determine if the potential buyer or transferee is prohibited from receipt or possession of a handgun pursuant to state or federal law; and

(b) Inform the licensee either (i) that its records demonstrate that the potential buyer or transferee is prohibited from receipt or possession of a handgun or (ii) provide the licensee with a unique approval number.

(2) In the event of electronic failure or similar emergency beyond the control of the Nebraska State Patrol, the patrol shall immediately notify a requesting licensee of the reason for and estimated length of such delay. In any event, no later than the end of the next business day the Nebraska State Patrol shall either (a) inform the licensee that its records demonstrate that the potential buyer of transferee is prohibited from receipt or possession of a handgun or (b) provide the licensee with a unique approval number. If the licensee is not informed by the end of the next business day that the potential buyer is prohibited from receipt or possession of a handgun, and regardless of whether the unique approval number has been received,

the licensee may complete the sale or delivery and shall not be deemed to be in violation of this act with respect to such sale or delivery.

Sec. 3. (1) Any records which are created by the Nebraska State Patrol to conduct the criminal history check containing any of the information set forth in subdivision (1) of section 1 of this act pertaining to a potential buyer or transferee who is not prohibited from receipt or transfer of a handgun by reason of state or federal law shall be confidential and may not be disclosed by the patrol or any officer or employee thereof to any person. The Nebraska State Patrol shall destroy any such records as soon as possible after communicating the unique approval number and, in any event, such records shall be destroyed within forty-eight hours after the date of receipt of the licensee's request.

(2) Notwithstanding the provisions of this section, the Nebraska State Patrol shall only maintain a log of dates of requests for criminal history record checks and unique approval numbers corresponding to such dates for not to exceed one year.

(3) Nothing in this section shall be construed to allow the state to maintain records containing the names of licensees who receive unique approval numbers or to maintain records of handgun transactions, including the names or other identification of licensees and potential buyers or transferees including persons not otherwise prohibited by law from the receipt or possession of handguns.

Sec. 4. The Nebraska State Patrol shall establish a toll-free telephone number which shall be operational seven days a week between 8 a.m. and 10 p.m. for purposes of responding to requests under section 1 of this act. The Nebraska State Patrol shall employ and train such personnel as is necessary to expeditiously administer the provisions of this act. The Nebraska State Patrol shall notify all licensed importers, manufacturers, and dealers in writing prior to January 1, 1993, that the procedures and toll-free telephone number described in this act will be operational on such date.

Sec. 5. Any person who is denied the right to purchase or receive a handgun as a result of procedures

established by this act may request amendment of the record pertaining to him or her by petitioning the Nebraska State Patrol. If the Nebraska State Patrol fails to amend the record within seven days, the person requesting the amendment may petition the district court of the county in which he or she resides for an order directing the patrol to amend the record. If the person proves by a preponderance of the evidence that the record should be amended, the court shall order the record be amended. If the record demonstrates that such person is not prohibited from receipt or possession of a handgun by state or federal law, the Nebraska State Patrol shall destroy any records it maintains which contain any information derived from the criminal history record check.

Sec. 6. The Nebraska State Patrol shall adopt and promulgate rules and regulations to ensure the identity, confidentiality, and security of all records and data provided pursuant to this act.

Sec. 7. A licensed importer, manufacturer, or dealer shall not be required to comply with the provisions of this act in the event of:

(1) Unavailability of telephone service at the licensed premises due to (a) the failure of the entity which provides telephone service in the state, region, or other geographical area in which the licensee is located to provide telephone service to the premises due to the location of such premises or (b) the interruption of telephone service by reason of hurricane, flood, natural disaster, other act of God, war, riot, or other bona fide emergency or reason beyond the control of the licensee; or

(b) Failure of the Nebraska State Patrol to comply reasonably with the requirements of this act.

Sec. 8. Compliance with this act shall be a defense by the Nebraska State Patrol and the licensee transferring a handgun in any cause of action under the laws of this state for liability for damages arising from the importation or manufacture, or the subsequent sale or transfer, of any handgun which has been shipped or transported in interstate or foreign commerce to any person who has been convicted in any court of any crime punishable by a term of more than one year.

Sec. 9. This act shall not apply to:

(1) Any handgun, including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system, manufactured in or before 1898;

(2) Any replica of any firearm described in subdivision (1) of this section if such replica is not designed or redesigned to use rimfire or conventional centerfire fixed ammunition and uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade; and

(3) Any firearm which is a curio or relic as defined by 27 C.F.R. 178.11.

Sec. 10. Any licensed importer, manufacturer, or dealer who knowingly and intentionally requests a criminal history record check from the Nebraska State Patrol for any purpose other than compliance with this act or knowingly and intentionally disseminates any criminal history record information to any person other than the subject of such information shall be guilty of a Class I misdemeanor.

Sec. 11. Any person who, in connection with the purchase, transfer, or attempted purchase of a handgun pursuant to this act, knowingly and intentionally makes any materially false oral or written statement or knowingly and intentionally furnishes any false identification intended or likely to deceive the licensee shall be guilty of a Class I misdemeanor.

Sec. 12. Any licensed importer, manufacturer, or dealer who knowingly and intentionally sells or delivers a handgun in violation of this act shall be guilty of a Class I misdemeanor.

Sec. 13. Any person who knowingly and intentionally obtains a handgun for the purposes of transferring it to a person who is prohibited from receipt or possession of a handgun by state or federal law shall be guilty of a Class IV felony.

Sec. 14. The Nebraska State Patrol shall provide an annual report to the Judiciary Committee of the Legislature which includes the number of inquiries made pursuant to this act for the prior calendar year, the number of such inquiries resulting in a determination that the potential buyer or transferee was prohibited from receipt or possession of a handgun

pursuant to state or federal law, the estimated costs of administering this act, the number of instances in which a person requested amendment of the record pertaining to such person pursuant to section 5 of this act, and the number of instances in which a district court issued an order directing the patrol to amend a record.

Sec. 15. Sections 4 and 6 of this act shall become operative on September 15, 1992. The other sections of this act shall become operative on January 1, 1993.".

Pending.

VISITORS

Visitors to the Chamber were members of St. Stanislaus Gem Club, Omaha; 75 fourth grade students and teachers from Gretna Elementary School; 40 fourth grade students and teacher from Louisville Public School; Mark Schaefer; Chris Reinary and Chris Coquet from Omaha; 38 fifth and sixth grade students and sponsors from Palmer; and Senator Withem's wife and children, Diane, Suzanne, and Justin, and Pam, Josh, and Liz Kuper.

The Doctor of the Day was Dr. Robert Beer from Omaha.

MOTION - Adjournment

Mr. Beutler moved to adjourn. The motion prevailed with 22 ayes, 12 nays, 8 present and not voting, and 7 excused and not voting, and at 1:01 p.m., the Legislature adjourned until 9:00 a.m., Tuesday, April 2, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

FIFTY-THIRD DAY - APRIL 2, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

FIFTY-THIRD DAY

Legislative Chamber, Lincoln, Nebraska
Tuesday, April 2, 1991

Pursuant to adjournment, the Legislature met at 9:00 a.m., Speaker Baack presiding.

PRAYER

The prayer was offered by Pastor Sherman McCormick, Piedmont Seventh-Day Adventist Church, Lincoln, Nebraska.

ROLL CALL

The roll was called and all members were present except Mrs. Hillman and Mr. Wickersham who were excused; and Messrs. Abboud, Ashford, Chambers, Hall, R. Johnson, Moore, Morrissey, Schellpeper, Schmit, Schrock, Warner, Mmes. Labedz, and Smith who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Fifty-Second Day was approved.

MESSAGES FROM THE GOVERNOR

March 29, 1991

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 205e, 221e, 251, 286e, 305, and 311 were received in my office on March 26, 1991; engrossed Legislative Bills 356, 356A, 324, 325e, 340, 363, 363A, 382, and 498 were received in my office on March 27, 1991; and 731e, 237, 244e, and 244Ae were received on March 28, 1991.

These bills were signed by me on March 29, 1991, and delivered to the Secretary of State.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

March 28, 1991

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Madam President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the optometrist position on the Nebraska Board of Health, requiring legislative approval.

Appointee: Dr. Duane E. Polzien, O.D., 7824 South Sycamore Drive, Lincoln, NE 68504, 402-475-7000.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:fc

March 29, 1991

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Madam President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Department of Veterans' Affairs, requiring legislative confirmation.

Appointee: Jonathan F. Sweet, 6104 North 31st Avenue, Omaha, NE 68111, (402) 457-4640.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:bh

MESSAGE FROM THE SECRETARY OF STATE

March 28, 1991

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. Clerk:

I have received your cover letter attached to enclosed Legislative Bill 100. This letter and the enclosed Legislative Bill 100 were filed in the office of Secretary of State on Thursday, March 28, 1991. Your letter indicates that the Legislature did not override the veto by Governor Nelson on Legislative Bill 100.

I respectfully request that you place a copy of this letter in the Journal for this session.

Finally, Legislative Bill 100 will stand vetoed and will be filed in this office and made a part of the public record along with a copy of the Governor's veto message dated March 21, 1991.

Respectfully acknowledged,
(Signed) ALLEN J. BEERMANN
Secretary of State

BILLS ON FINAL READING

The following bills were read and put upon final passage:

LEGISLATIVE BILL 76.

A BILL FOR AN ACT relating to industrial development; to amend section 13-1115, Reissue Revised Statutes of Nebraska, 1943; to change a provision relating to restrictions on annexation of industrial areas as prescribed; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 33:

Baack	Conway	Hartnett	Lindsay	Robinson
Bernard-Stevens	Coordsen	Hefner	Lynch	Rogers
Beutler	Crosby	Horgan	Nelson	Schimek
Beyer	Cudaback	Johnson, L.	Peterson	Wehrbein
Byars	Dierks	Kristensen	Pirsch	Will
Chizek	Elmer	Lamb	Rasmussen	Withem
	Haberman	Landis	Robak	

Voting in the negative, 0.

Present and not voting, 1:

Wesely

Excused and not voting, 15:

Abboud	Hall	Labedz	Schellpeper	Smith
Ashford	Hillman	Moore	Schmit	Warner
Chambers	Johnson, R.	Morrissey	Schrock	Wickersham

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 292.

A BILL FOR AN ACT relating to credit services; to adopt the Credit Services Organization Act.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 36:

Baack	Coordsen	Horgan	Lynch	Rogers
Bernard-Stevens	Crosby	Johnson, L.	Nelson	Schimek
Beutler	Cudaback	Kristensen	Peterson	Schmit
Beyer	Dierks	Labedz	Pirsch	Warner
Byars	Elmer	Lamb	Rasmussen	Wehrbein
Chizek	Haberman	Landis	Robak	Will
Conway	Hartnett	Lindsay	Robinson	Withem
	Hefner			

Voting in the negative, 0.

Present and not voting, 1:

Wesely

Excused and not voting, 12:

Abboud	Hall	Moore	Schellpeper	Smith
Ashford	Hillman	Morrissey	Schrock	Wickersham
Chambers	Johnson, R.			

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 344.

A BILL FOR AN ACT relating to the Nebraska Liquor Control Act; to amend sections 20-113, 53-102, 53-108, 53-118, 53-123 to 53-123.03, 53-123.07, 53-123.09, 53-123.11, 53-123.14, 53-124.11 to 53-124.13, 53-125, 53-126, 53-130, 53-135, 53-135.01, 53-140, 53-142, 53-146, 53-150, 53-157, 53-160, 53-161, 53-165, 53-168, 53-168.05, 53-169, 53-169.01, 53-171, 53-176, 53-178.01, 53-179, 53-180.02, 53-180.07, 53-183, 53-184, 53-185, 53-186.01, 53-188, 53-192, 53-1,100, 53-1,104 to 53-1,106, 53-1,114, and 53-1,118, Reissue Revised Statutes of Nebraska, 1943, and sections 53-101, 53-101.01, 53-101.04, 53-103, 53-110, 53-113, 53-117, 53-122, 53-123.04, 53-123.13, 53-124, 53-128, 53-131, 53-132, 53-134, 53-145, 53-147,

53-159, 53-164.01, 53-172, 53-175, and 53-1,116, Revised Statutes Supplement, 1990; to define and redefine terms; to eliminate references to distributors, distributorships, inspectors, and jobbers in the act; to revise the powers and duties of the Nebraska Liquor Control Commission as prescribed; to provide requirements for employees of the commission; to transfer, change, and eliminate provisions relating to licenses, permits, taxes, sales of alcoholic liquor, and judicial review of orders of the commission; to eliminate certain labeling requirements, a requirement for filing proof of publication, provisions relating to bonded warehouses, certain pricing requirements, provisions relating to transportation of alcoholic liquor by a common carrier, penalties, and obsolete provisions as prescribed; to harmonize provisions; and to repeal the original sections, and also sections 53-104, 53-119, 53-120, 53-138.02, 53-140.01, 53-144, 53-151 to 53-156, 53-158, 53-166, 53-168.01, 53-170.01 to 53-170.04, 53-173, 53-193, 53-194, 53-195, and 53-1,117, Reissue Revised Statutes of Nebraska, 1943.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 40:

Ashford	Crosby	Johnson, L.	Nelson	Schimek
Baack	Cudaback	Kristensen	Peterson	Schmit
Bernard-Stevens	Dierks	Labedz	Pirsch	Schrock
Beyer	Elmer	Lamb	Rasmussen	Warner
Byars	Haberman	Landis	Robak	Wehrbein
Chizek	Hartnett	Lindsay	Robinson	Wesely
Conway	Hefner	Lynch	Rogers	Will
Coordsen	Horgan	Morrissey	Schellpeper	Withem

Voting in the negative, 0.

Present and not voting, 1:

Beutler

Excused and not voting, 8:

Abboud	Hall	Johnson, R.	Smith	Wickersham
Chambers	Hillman	Moore		

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

UNANIMOUS CONSENT - Member Excused

Mr. Chizek asked unanimous consent to be excused until he returns. No objections. So ordered.

MOTION - Return LB 218 to Select File

Mr. Bernard-Stevens moved to return LB 218 to Select File for the following specific amendment:
AM1029

(Amendments to Final Reading copy)

1. Strike the Bernard-Stevens amendment, AM0885, and the Wickersham amendment, FA70.
2. On page 2, line 9, after "dollars" insert "or the thing involved is cattle and the value is not over one thousand dollars"; and strike line 25.
3. On page 3, strike lines 1 through 4.

Mr. Ashford and Mrs. Labedz asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Bernard-Stevens moved for a call of the house. The motion prevailed with 17 ayes, 0 nays, and 32 not voting.

Mr. Lindsay requested a roll call vote on the Bernard-Stevens motion to return.

Voting in the affirmative, 27:

Baack	Crosby	Hefner	Nelson	Schmit
Bernard-Stevens	Cudaback	Johnson, L.	Peterson	Schrock
Beyer	Dierks	Labedz	Robinson	Smith
Byars	Elmer	Lamb	Rogers	Wehrbein
Coordsen	Haberman	Moore	Schellpeper	Withem
	Hall	Morrissey		

Voting in the negative, 13:

Beutler	Conway	Kristensen	Lindsay	Pirsch
Chambers	Horgan	Landis	Lynch	Schimek

Warner Wesely Will

Present and not voting, 2:

Rasmussen Robak

Absent and not voting, 1:

Hartnett

Excused and not voting, 6:

Abboud Chizek Hillman Johnson, R. Wickersham
Ashford

The Bernard-Stevens motion to return prevailed with 27 ayes, 13 nays, 2 present and not voting, 1 absent and not voting, and 6 excused and not voting.

The Chair declared the call raised.

SELECT FILE

LEGISLATIVE BILL 218. The Bernard-Stevens specific amendment, AM1029, found in this day's Journal, was considered.

Mr. Cudaback asked unanimous consent to be excused until he returns. No objections. So ordered.

MR. WARNER PRESIDING

Mr. Morrissey and Mrs. Labedz asked unanimous consent to be excused until they return. No objections. So ordered.

SPEAKER BAACK PRESIDING

Mr. Bernard-Stevens moved for a call of the house. The motion prevailed with 14 ayes, 0 nays, and 35 not voting.

Mr. Bernard-Stevens requested a roll call vote on his amendment.

Voting in the affirmative, 19:

Baack

Bernard-Stevens	Dierks	Johnson, L.	Peterson	Schmit
Beyer	Elmer	Lamb	Robinson	Schrock
Coordsen	Haberman	Moore	Rogers	Wehrbein
	Hefner	Nelson	Schellpeper	

Voting in the negative, 15:

Beutler	Conway	Landis	Pirsch	Warner
Byars	Hall	Lindsay	Rasmussen	Wesely
Chambers	Horgan	Lynch	Smith	Will

Present and not voting, 7:

Ashford	Hartnett	Robak	Schimek	Withem
Crosby	Kristensen			

Excused and not voting, 8:

Abboud	Cudaback	Johnson, R.	Morrissey	Wickersham
Chizek	Hillman	Labedz		

The Bernard-Stevens amendment lost with 19 ayes, 15 nays, 7 present and not voting, and 8 excused and not voting.

Advanced to E & R for re-engrossment.

The Chair declared the call raised.

Messrs. Robinson, Rogers, and Schmit asked unanimous consent to be excused until they return. No objections. So ordered.

MOTION - Return LB 218 to Select File

Mr. Bernard-Stevens moved to return LB 218 to Select File for his specific amendment, AM0984, found in the Journal on page 1397.

The Bernard-Stevens motion to return prevailed with 25 ayes, 1 nay, 12 present and not voting, and 11 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 218. The Bernard-Stevens specific amendment, AM0984, found in the Journal on page 1397, was

adopted with 27 ayes, 0 nays, 11 present and not voting, and 11 excused and not voting.

Advanced to E & R for re-engrossment.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following bills: 76, 292, and 344.

STANDING COMMITTEE REPORT
Government, Military and Veterans Affairs

The Committee on Government, Military and Veterans Affairs desires to report favorably upon the appointment listed below. The Committee suggests the appointment be confirmed by the Legislature and suggests a record vote.

Gwendolyn Combs - Director, State Department of Personnel

VOTE: Aye: Senators Conway, Coordsen, Lindsay, Robak, Schimek, Schrock, and Withem. Absent: Senator Smith.

(Signed) Gerald Conway, Chairperson

UNANIMOUS CONSENT - Print in Journal

Mr. Landis asked unanimous consent to print the following amendment to LB 470 in the Journal. No objections. So ordered.

AM1040

1. Strike section 1 and insert the following new section:

"Section 1. That section 8-157, Revised Statutes Supplement, 1990, be amended to read as follows:

8-157. (1) ~~No bank shall maintain any branch bank, and except~~ Except as provided in subsections (2) through (7) of this section and section 8-122.01, the general business of every bank shall be transacted at the place of business specified in its charter.

(2) With the approval of the director (a) any bank may establish and maintain an attached ~~auxiliary office~~ branch bank if such ~~office~~ branch bank is

physically connected by a pneumatic tube or tubes or a walkway, tunnel, or any other electronic, mechanical, or structural connection or attachment for the public use of the bank and is within two hundred feet of the building containing the premises specified as its place of business in its charter or any adjacent connected building housing a continuation of the operations of the bank's main office and (b) any bank may establish and maintain not more than ~~five~~ six detached ~~auxiliary offices~~ branch banks at which all banking transactions allowed by law may be made if such branch banks are within a radius of twenty-five miles of the place of business specified in the bank's charter on the effective date of this act. ~~Such auxiliary offices shall be within the corporate limits of the city in which such bank is located, or if the bank is located within the zoning jurisdiction of a city of the primary class, such auxiliary offices may also be within the corporate limits of such city.~~ Any detached ~~auxiliary office~~ branch bank established and maintained by a bank pursuant to the acquisition or merger of an institution under sections 8-1506 to 8-1510 or the acquisition of an eligible savings association under section 8-1515 shall not count against the number or location of detached ~~auxiliary offices~~ branch banks permitted under this section.

(3) With the approval of the director, a bank may acquire another bank in Nebraska as the result of a purchase or merger so long as the acquired bank has been chartered for more than eighteen months and the acquired institution and its detached ~~auxiliary offices~~ branch banks are converted to ~~auxiliary offices~~ branch banks of the acquiring bank. Such ~~auxiliary offices~~ branch banks shall not count against the number of ~~locations of~~ detached ~~auxiliary offices~~ branch banks permitted under subsections (1) and (2) of this section. If the acquired institution has not established six branch banks as permitted by subdivision (2)(b) of this section, following each such purchase or merger, the acquiring bank may establish and maintain the acquired institution's branch banks to the same extent that the acquired institution could have established and maintained branch banks as provided in subdivision (2)(b) of this section if the purchase or merger had not

occurred, except that such branch banks may be established no more than one per year, beginning in the year of the purchase or merger, until a total of six such branch banks have been established.

(4) With the approval of the director, a bank may acquire the assets and assume the deposits of a detached ~~auxiliary office~~ branch bank of another bank in Nebraska if: (a) The acquired detached ~~auxiliary office~~ branch bank has been approved for more than eighteen months; (b) the acquired detached ~~auxiliary office~~ branch bank is converted to ~~an auxiliary office~~ a branch bank of the acquiring bank; and (c) the bank from which the detached ~~auxiliary office~~ branch bank is acquired and the acquiring bank are subsidiaries of the same bank holding company or the detached ~~auxiliary office~~ branch bank to be acquired was chartered as a bank prior to becoming a detached ~~auxiliary office~~ branch bank. All banking transactions allowed by law may be made at a detached ~~auxiliary office~~ branch bank acquired pursuant to this subsection. Such ~~auxiliary office~~ branch bank shall not count against the number of locations of detached ~~auxiliary offices~~ branch banks permitted under subsections (1) and (2) of this section. The restrictions contained in this subsection shall not limit the authority of a bank to acquire another bank and to continue to operate all of the detached ~~auxiliary offices~~ branch banks of the acquired bank as ~~auxiliary offices~~ branch banks of the acquiring bank.

(5) With the approval of the director, a bank may acquire the assets and assume the deposits of a detached ~~auxiliary office~~ branch bank of another bank in Nebraska or acquire the assets and assume the deposits of an eligible savings association acquired by another bank in Nebraska pursuant to section 8-1515 if (a) the acquired detached ~~auxiliary office~~ branch bank or eligible savings association is converted to ~~an auxiliary office~~ a branch bank of the acquiring bank and (b) the detached ~~auxiliary office~~ branch bank or the eligible savings association to be acquired was operated, established, and maintained as an eligible savings association at its existing location prior to August 9, 1989, and was maintained at such location on such date. All banking transactions allowed by law may be made at a detached ~~auxiliary office~~ branch bank

acquired pursuant to this subsection. Such ~~auxiliary offices~~ branch banks shall not count against the number of locations of detached ~~auxiliary offices~~ branch banks permitted under subsections (1) and (2) of this section. The restrictions contained in this subsection shall not limit the authority of a bank to acquire another bank and to continue to operate all of the detached ~~auxiliary offices~~ branch banks of the acquired bank as ~~auxiliary offices~~ branch banks of the acquiring bank.

(6) With the approval of the director and subject to the limitations specified in this subsection, a single bank may establish one detached ~~auxiliary office~~ branch bank within the corporate limits of any municipality in which a financial institution has closed and ceased doing business within the preceding two years if no other financial institution operates an office within such municipality. If thirty days or less have elapsed since the financial institution ceased operation, the director shall only approve the establishment of a detached ~~auxiliary office~~ branch bank by a bank which has its place of business, as specified in its charter, in the same county as or in a contiguous county to the county in which such municipality is located. If more than thirty days have elapsed since the financial institution ceased operation, the director may approve the establishment of a detached ~~auxiliary office~~ branch bank by any bank located within Nebraska.

For purposes of this subsection:

(a) An unmanned electronic terminal shall not be deemed to be an office operated by a financial institution; and

(b) Financial institution shall mean a bank, savings bank, building and loan association, savings and loan association, industrial loan and investment company, credit union, or other institution offering electronic terminal transactions.

(7) The name given to any detached ~~bank or~~ branch bank established and maintained pursuant to this section shall not be substantially similar to the name of any existing bank or branch bank which is unaffiliated with the newly created bank or branch bank and is located in the same municipality. The name of such newly created bank or branch bank shall be approved by the director.".

Mr. Hefner asked unanimous consent to print the following amendment to LB 297 in the Journal. No objections. So ordered.

AM1041

(Amendments to Final Reading copy)

1. On page 4, line 15, reinstate the stricken matter; in line 16 after the stricken "thirty-five" insert "eighty-five" and reinstate the stricken "cents per hour," and in line 17 before "four" insert "and beginning July 1, 1992,".

Mr. Withem asked unanimous consent to print the following amendment to LB 425 in the Journal. No objections. So ordered.

AM1018

1. Insert the following new section:

"Sec. 8. On or before October 1 of each school year, each school district shall provide written information to all students in grades seven through twelve explaining the provisions of section 2 of this act with regard to the requirements for parental notification as a condition for obtaining an abortion. The information shall also explain the provisions of sections 3 and 4 of this act with regard to seeking a judicial waiver from the parental notification requirements, including the address and telephone number of the appropriate district court, separate juvenile court, or county court with jurisdiction to grant a waiver. The State Department of Education shall develop and distribute to all public schools a standardized information form which may be used to comply with this section.".

2. Renumber the remaining sections accordingly.

Mr. Warner asked unanimous consent to print the following amendment to LB 648 in the Journal. No objections. So ordered.

AM1043

(Amendments to Final Reading copy)

1. On page 2, line 9, strike "offer" and insert "assist other entities in providing".

Mr. Warner asked unanimous consent to print the following amendment to LB 240 in the Journal. No objections. So ordered.

AM1023

(Amendments to Final Reading copy)

1. On page 5, line 18, after "to" insert "error or unreasonable delay in performing a ministerial duty by the Department of Revenue or to"; and in line 20 strike "Department of Revenue" and insert "department".

STANDING COMMITTEE REPORT
Government, Military and Veterans Affairs

LEGISLATIVE BILL 720. Placed on General File as amended.
Standing Committee amendment to LB 720:
AM0997

1. Strike original sections 1 and 2 and insert the following new sections:

"Section 1. That section 80-401.01, Revised Statutes Supplement, 1990, be amended to read as follows:

80-401.01. For purposes of sections 80-401 to 80-412, unless the context otherwise requires:

(1) A recognized veterans organization shall mean a veterans organization that has been chartered by the Congress of the United States, which maintains a fully staffed state headquarters, and which, at the time an appointment is to be made, has enrolled in its membership in Nebraska at least ten percent of the World War I, World War II, Korean War, and Vietnam War veterans eligible therefor, except that the Disabled American Veterans organization shall have enrolled in its membership in Nebraska at least ten percent of those Nebraska veterans receiving service-connected compensation from the United States Department of Veterans Affairs. The recognized veterans organizations shall be the American Legion, Disabled American Veterans, Paralyzed Veterans of America, and Veterans of Foreign Wars of the United States;

(2) Veteran of World War I shall mean a person who served on active duty in the armed forces of the United States between April 6, 1917, and November 11, 1918, and who has received an honorable discharge, or its equivalent, from such service or who, being a

resident of the United States at the time of his or her entry into such service, served with the military forces of any government allied with the United States in that war;

(3) Veteran of World War II shall mean a person who served on active duty in the armed forces of the United States between December 7, 1941, and December 31, 1946, and who received an honorable discharge, or its equivalent, from such service or who, being a citizen of the United States at the time of his or her entry into such service, served with the military forces of any government allied with the United States in that war and who received an honorable discharge, or its equivalent, from such service;

(4) Veteran of the Korean War shall mean a person who served on active duty in the armed forces of the United States between June 25, 1950, and January 31, 1955, and who received an honorable discharge, or its equivalent, from such service or who, being a citizen of the United States at the time of his or her entry into such service, served with the military forces of any government allied with the United States in that war and who received an honorable discharge, or its equivalent, from such service;

(5) Veteran of the Vietnam War shall mean a person who served on active duty in the armed forces of the United States between August 5, 1964, and May 7, 1975, and who received an honorable discharge, or its equivalent, from such service or who, being a citizen of the United States at the time of his or her entry into such service, served with the military forces of any government allied with the United States in that war and who received an honorable discharge, or its equivalent, from such service;

(6) Veteran of the Persian Gulf War shall mean a person who served on active duty in the armed forces of the United States beginning on August 2, 1990, and ending on the date thereafter prescribed by Presidential proclamation or by law, and who received an honorable discharge, or its equivalent, from such service or who, being a citizen of the United States at the time of his or her entry into such service, served with the military forces of any government allied with the United States in that war and who received an honorable discharge, or

its equivalent, from such service;

(7) Veteran of the Spanish-American War shall mean a person who served on active duty in the armed forces of the United States between April 21, 1898, and July 4, 1902, and received an honorable discharge, or its equivalent, from such service or who, being a citizen of the United States at the time of his or her entry into such service, served with the military forces of any government allied with the United States in that war;

~~(7)~~ (8) Active duty shall mean full-time duty in the armed forces other than active duty for training; and

~~(8)~~ (9) Active duty for training shall mean full-time duty in the armed forces performed by reserves for training purposes.

2. That original section 80-401.01, Revised Statutes Supplement, 1990, is repealed.".

(Signed) Gerald Conway, Chairperson

BILLS ON FIRST READING

The following bills were read for the first time by title:

LEGISLATIVE BILL 387A. Introduced by Wesely, 26.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 387, Ninety-second Legislature, First Session, 1991.

LEGISLATIVE BILL 457A. Introduced by Schellpeper, 18; Labedz, 5.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 457, Ninety-second Legislature, First Session, 1991.

SELECT FILE

LEGISLATIVE BILL 200. Mr. Hall offered the following amendment:

AM0987

1. Strike original section 2.

2. In the E and R amendment, AM5077, on page 1, strike beginning with the semicolon in line 5 through line 7 and insert a period.
3. Renumber the remaining section.

Messrs. Byars, Haberman, Mmes. Robak, and Pirsch asked unanimous consent to be excused until they return. No objections. So ordered.

The Hall amendment lost with 8 ayes, 11 nays, 15 present and not voting, and 15 excused and not voting.

Pending.

VISITORS

Visitors to the Chamber were members of Benson Women's Group from Omaha; 59 fourth grade students and teachers from Washington and Northside Elementary Schools, Fremont; 40 seniors, teacher, and principal from Wisner-Pilger School; and 65 eighth grade students from Millard Central.

RECESS

At 12:03 p.m., on a motion by Mr. Hall, the Legislature recessed until 1:30 p.m.

AFTER RECESS

The Legislature reconvened at 1:30 p.m., Speaker Baack presiding.

ROLL CALL

The roll was called and all members were present except Mrs. Hillman, Messrs. Schmit, and Wickersham who were excused; and Messrs. Chizek, L. Johnson, R. Johnson, Lamb, Moore, Mmes. Pirsch, and Robak who were excused until they arrive.

PRESENTED TO THE GOVERNOR

Presented to the Governor on April 2, 1991, at 12:00 p.m., were the following bills: 76, 292, and 344.

(Signed) Pam Moravec, Enrolling Clerk

SELECT FILE

LEGISLATIVE BILL 200. Mr. Hall offered the following amendment:
AM0972

1. On page 3, line 6, after "license" insert ", except that the commission shall not require a person to be fingerprinted if such person has been previously fingerprinted in connection with a license application in this state or any other state within the last five years prior to the application for such license".

The Hall amendment was adopted with 26 ayes, 0 nays, 13 present and not voting, and 10 excused and not voting.

Mr. Hall offered the following amendment:
AM0855

1. On page 3, line 6, after the period insert "Any person involved in the administration or management of a racetrack, including the governing body, shall be subject to fingerprinting and a check of his or her criminal history record information maintained by the Identification Division of the Federal Bureau of Investigation."; and in line 7 strike "or" and insert an underscored comma and after "licensee" insert ", or person involved in the administration or management of a racetrack".

The Hall amendment was adopted with 25 ayes, 1 nay, 13 present and not voting, and 10 excused and not voting.

Mrs. Smith and Mr. Schellpeper offered the following amendment:
AM1033

1. Insert the following new sections:

"Sec. 3. That section 2-1208, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-1208. (1) For race meetings devoted principally to running races, every corporation or association licensed under ~~the provisions of~~ sections 2-1201 to ~~2-1218~~ 2-1229 and section 2 of this act shall pay the tax imposed by section 2-1208.01 and shall also pay to the State Racing Commission the sum of thirty

cents for each person entering the grounds or enclosure of the licensee upon a ticket of admission. If tickets are issued good for more than one day, ~~then~~ the sum of thirty cents shall be paid for each person using such ticket on each day that the ~~same~~ ticket is used. If ~~;~~ ~~and if~~ any free passes or complimentary admission tickets ~~shall be~~ are issued, the licensee shall pay the same tax upon such passes or complimentary tickets as if the ~~same~~ passes or tickets were sold at the regular and usual admission rate, but nothing ~~herein~~ in this subsection shall be construed to prohibit the issuance of tax-free passes to actual and necessary officials and employees of the licensee or other persons actually working at such racetrack. The ~~; PROVIDED, that the~~ issuance of all such tax-free passes shall be under the regulations or orders of the commission, and a list of all persons to whom such tax-free passes are issued shall be filed with the commission.

(2) For race meetings devoted principally to running races, the licensee shall pay to the commission the sum of four hundred dollars for each racing day of each horserace meeting if the racetrack within which such races are conducted is located in a county of ~~two~~ three hundred thousand population or more, in counties of more than ~~seventy-five~~ forty thousand but less than ~~two~~ three hundred thousand population, the licensee shall pay to the commission for each racing day the sum of one hundred fifty dollars, and in counties of not more than ~~seventy-five~~ forty thousand population, the sum of ~~thirty~~ fifty dollars.

(3) For each racing day in which a licensed racetrack with an interstate simulcast facility license simulcasts the entire program from one or more out-of-state racetracks, license fees shall be paid by the licensee in the amount of only one-half of the daily fees respectively prescribed in this section for running a race meeting, graduated in accordance with the population of the county in which the racing day is conducted. For each racing day in which a licensed racetrack with a simulcast facility license simulcasts the entire program that includes races originating live in Nebraska, license fees shall be paid by the licensee in the amount of one-fourth of the daily fees respectively prescribed in this section for running a

race meeting, graduated in accordance with the population of the county in which the racing day is conducted.

(4) For race meetings devoted exclusively to harness races or at which the majority of the races conducted each day are harness races, every corporation or association licensed under ~~the provisions of~~ sections 2-1201 to ~~2-1218~~ 2-1229 and section 2 of this act shall pay to the State Racing Commission, for each racing day of each horserace meeting for which a license ~~shall have~~ has been issued, license fees in the amount of only one-fourth of the daily fees respectively ~~hereinbefore~~ prescribed in this section for running race meetings, graduated ~~as aforesaid~~ in accordance with the population of the county in which the race meeting is conducted.

(5) No other license tax, permit tax, occupation tax, or excise tax, or racing fee, except as provided in this section and in sections 2-1203 and 2-1208.01, shall be levied, assessed, or collected from any such licensee by the state or by any county, township, district, city, village, or ~~any~~ other governmental subdivision or body having power to levy, assess, or collect any such tax or fee.

Sec. 4. That section 2-1209, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-1209. Out of the funds received pursuant to section 2-1208 the expenses of the commissioners, the compensation of the secretary, assistants, and employees and their reasonable expenses, and the other reasonable expenses of the commission, including suitable furniture, equipment, supplies, and office expense, shall first be paid, and the commission shall retain in its hands the further sum of ~~five~~ fifty thousand dollars as a permanent fund out of which to pay its current expenses. No sums shall be paid out by the commission ~~except~~ until the same ~~be~~ are regularly audited and allowed, ~~and~~ the allowance thereof is recorded in the minutes of its meetings, and a voucher ~~therefor be~~ is signed by ~~its chairman~~ the chairperson and secretary.

Sec. 5. Sections 3 and 6 of this act shall become operative on January 1, 1992. The other sections of this act shall become operative on their effective date.

Sec. 6. That original section 2-1208, Reissue Revised Statutes of Nebraska, 1943, is repealed.".

2. On page 3, line 15, strike "section 2-1203" and insert "sections 2-1203 and 2-1209"; and in line 16 strike "is" and insert "are".

3. Renumber the remaining section accordingly.

Mr. Withem requested a ruling of the Chair on whether the Smith-Schellpeper amendment is germane to the bill.

The Chair ruled the Smith-Schellpeper amendment is germane to the bill.

Mr. Dierks asked unanimous consent to be excused until he returns. No objections. So ordered.

Mrs. Smith moved for a call of the house. The motion prevailed with 18 ayes, 0 nays, and 31 not voting.

Mrs. Smith requested a roll call vote on the Smith-Schellpeper amendment.

Voting in the affirmative, 13:

Crosby	Hefner	Moore	Smith	Wehrbein
Elmer	Lamb	Rogers	Warner	Wesely
Haberman	Landis	Schellpeper		

Voting in the negative, 20:

Abboud	Byars	Hall	Kristensen	Nelson
Ashford	Conway	Hartnett	Labedz	Rasmussen
Baack	Coordsen	Horgan	Lindsay	Will
Bernard-Stevens	Cudaback	Johnson, R.	Morrissey	Withem

Present and not voting, 8:

Beutler	Chambers	Peterson	Schimek	Schrock
Beyer	Lynch	Robinson		

Excused and not voting, 8:

Chizek	Hillman	Pirsch	Schmit	Wickersham
Dierks	Johnson, L.	Robak		

The Smith-Schellpeper amendment lost with 13 ayes, 20 nays, 8 present and not voting, and 8 excused and not voting.

The Chair declared the call raised.

Mr. Landis asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Beutler offered the following amendment:
AM1081

1. On page 3, line 6, after the period insert "Any person holding a license issued by the commission on the effective date of this act who continues to hold or renew such license and any person involved in administration or management on such date shall not be subject to the requirements prescribed in this section unless such person has been convicted of a felony, has been convicted of a drug-related or alcohol-related felony or misdemeanor within the five-year period prior to making an application for license, or has had a license to participate in horseracing or other regulated gambling in another state denied, suspended, or revoked for a period of thirty days or more within the five-year period prior to making the application for license.".

Mr. Coordsen asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Beutler moved for a call of the house. The motion prevailed with 13 ayes, 0 nays, and 36 not voting.

Mr. Beutler requested a roll call vote on his amendment.

Voting in the affirmative, 13:

Ashford	Hall	Lynch	Rasmussen	Will
Baack	Johnson, R.	Morrissey	Schrock	Withem
Beutler	Lindsay	Nelson		

Voting in the negative, 8:

Beyer	Hefner	Lamb	Warner	Wehrbein
Byars	Kristensen	Smith		

Present and not voting, 17:

Abboud	Conway	Haberman	Moore	Rogers
Bernard-Stevens	Crosby	Hartnett	Peterson	Schellpeper
Chambers	Cudaback	Horgan	Robinson	Schimek
	Elmer	Labedz		

Absent and not voting, 1:

Wesely

Excused and not voting, 10:

Chizek	Dierks	Johnson, L.	Pirsch	Schmit
Coordsen	Hillman	Landis	Robak	Wickersham

The Beutler amendment lost with 13 ayes, 8 nays, 17 present and not voting, 1 absent and not voting, and 10 excused and not voting.

Advanced to E & R for engrossment.

The Chair declared the call raised.

LEGISLATIVE BILL 422. Mr. Kristensen offered the following amendment:
AM0884

1. Insert the following new section:
"Sec. 3. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.".

The Kristensen amendment was adopted with 28 ayes, 0 nays, 11 present and not voting, and 10 excused and not voting.

Mr. Ashford withdrew his pending amendment, AM0919, found in the Journal on page 1296.

Mr. Ashford offered the following amendment:
AM1073

1. Insert the following new sections:
"Section 1. That section 24-517, Reissue

Revised Statutes of Nebraska, 1943, be amended to read as follows:

24-517. Each county court shall have the following jurisdiction:

(1) Exclusive original jurisdiction of all matters relating to decedents' estates, including the probate of wills and the construction thereof;

(2) Exclusive original jurisdiction of all matters relating to guardianship or conservatorship of any person, including (a) original jurisdiction to consent to and authorize a voluntary selection, partition, and setoff of a ward's interest in real estate owned in common with others and to exercise any right of the ward in connection therewith which the ward could exercise if competent and (b) original jurisdiction to license the sale of such real estate for cash or on such terms of credit as shall seem best calculated to produce the highest price subject only to the requirements set forth in section 30-3201;

(3) Concurrent jurisdiction with the district court to involuntarily partition a ward's interest in real estate owned in common with others;

(4) Concurrent original jurisdiction with the district court in all civil actions of any type when the amount in controversy does not exceed ~~ten~~ fifteen thousand dollars. When the pleadings or discovery proceedings in a civil action indicate an amount in controversy may exceed ~~ten~~ fifteen thousand dollars, the county court shall certify the proceedings to the district court as provided in section 25-2706;

(5) Concurrent original jurisdiction with the district court in any criminal matter classified as a misdemeanor or for any infraction;

(6) Exclusive original jurisdiction in any action based on violation of a city or village ordinance;

(7) Exclusive original jurisdiction in all juvenile matters, except in counties which have established separate juvenile courts;

(8) Exclusive original jurisdiction in all matters of adoption; and

(9) All other jurisdiction heretofore provided and not specifically repealed by Laws 1972, Legislative Bill 1032, and such other jurisdiction as hereafter

provided by law.

Sec. 2. That section 25-2706, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

25-2706. The county court shall certify proceedings to the district court of the county in which an action is pending when the pleadings or discovery proceedings indicate there is an amount in controversy in excess of ~~ten~~ fifteen thousand dollars. The county court shall certify the proceedings to the district court and file the original papers of such action and a certified transcript of the docket entries with the clerk of the district court. The action shall then be tried and determined by the district court as if the proceedings were originally brought in such district court, except that no new pleadings need be filed unless ordered by the district court.

If it is determined, upon adjudication, that the allegations of either party to such action are asserted with the intention solely of avoiding the jurisdiction of the county court, the offending party shall not recover any costs in the county court or the district court.

Sec. 4. That section 30-2488, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

30-2488. (a) As to claims presented in the manner described in section 30-2486 within the time limit prescribed in section 30-2485, the personal representative may mail a notice to any claimant stating that the claim has been disallowed. If, after allowing or disallowing a claim, the personal representative changes his or her decision concerning the claim, he or she shall notify the claimant. The personal representative may not change a disallowance of a claim after the time for the claimant to file a petition for allowance or to commence a proceeding on the claim has run and the claim has been barred. Every claim which is disallowed in whole or in part by the personal representative is barred so far as not allowed unless the claimant files a petition for allowance in the court or commences a proceeding against the personal representative not later than sixty days after the mailing of the notice of disallowance or partial

allowance if the notice warns the claimant of the impending bar. Failure of the personal representative to mail notice to a claimant of action on his or her claim for sixty days after the time for original presentation of the claim has expired has the effect of a notice of allowance.

(b)(1) At any time within fourteen days of the filing of a petition for allowance of a claim not in excess of ~~ten~~ fifteen thousand dollars, the personal representative may transfer the claim to the regular docket of the county court by filing with the court a notice of transfer. The county court shall hear and determine the claim in the same manner as actions originally filed in the county court on the regular docket. The county court may order such additional pleadings as are necessary.

(2) At any time within fourteen days of the filing of a petition for allowance of a claim in excess of ~~ten~~ fifteen thousand dollars, the personal representative may transfer the claim to the district court by filing with the county court a notice of transfer and depositing with the clerk a docket fee in the amount of the filing fee in district court for cases originally commenced in district court. Upon the filing of a notice of transfer and the deposit of the docket fee the clerk of the county court shall transmit to the clerk of the district court a certified copy of the notice of transfer, a certified copy of the petition for allowance of the claim, and the docket fee. Upon the filing of the notice and petition the district court shall have jurisdiction over the proceedings on the claim. The district court may order such additional pleadings as are necessary. The district court shall adjudicate the claim in the manner provided in section 25-1104 as to actions for the recovery of money or of specific real or personal property.

(c) Upon the petition of the personal representative or of a claimant in a proceeding for the purpose, the court may allow in whole or in part any claim or claims filed with the clerk of the court in due time and not barred by subsection (a) of this section. Notice in this proceeding shall be given to the claimant, the personal representative, and those other persons interested in the estate as the court may direct

by order entered at the time the proceeding is commenced.

(d) A final judgment in a proceeding in any court against a personal representative to enforce a claim against a decedent's estate is an allowance of the claim.

(e) Unless otherwise provided in any final judgment in any court entered against the personal representative, allowed claims bear interest at the legal rate for the period commencing sixty days after the time for original presentation of the claim has expired unless based on a contract making a provision for interest, in which case they bear interest in accordance with that provision.".

2. On page 2, line 23, strike "section" and insert "sections 24-517, 25-2706," and after the comma insert "30-2488,"; and in line 24 strike "is" and insert "are".

3. Renumber the remaining sections accordingly.

The Ashford amendment was adopted with 25 ayes, 0 nays, 14 present and not voting, and 10 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 625. E & R amendment, AM5096, found in the Journal on page 1183, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 400. E & R amendment, AM5101, found in the Journal on page 1224, was adopted.

Mr. Schellpeper offered the following amendment:
AM0274

1. On page 5, line 23, strike "fourteen" and insert "eleven"; and in line 25 strike the comma and insert "and".

2. On page 6, strike beginning with the comma in line 2 through "designee" in line 3; in line 5 strike "Ten" and insert "Nine"; strike beginning with "medical" in line 8 through "one" in line 9; in line 11 strike the comma and insert "and"; Strike beginning with the comma

in line 12 through "care" in line 14; strike beginning with the first "two" in line 15 through "or" in line 17 and insert "one physician, one consumer representative, one hospital administrator, one"; in line 17 after "home" insert "administrator" and strike "and" and insert a comma; in line 18 after "assistant" insert ", and one mental health professional"; and in line 23 after the period insert "The appointed membership of the commission shall, to the extent possible, represent the three congressional districts equally.".

3. On page 9, line 17, after "physicians" insert "or physician assistants"; and strike beginning with "An" in line 20 through the period in line 22.

4. On page 10, line 6, after "student" insert "or a physician assistant student"; in lines 7 and 11 after "medical" insert "or physician assistant"; and in line 23 after "to" insert "(a)" and after "per" insert "physician".

5. On page 11, line 1, after "per" insert "physician" and after "recipient" insert "and (b) five thousand dollars per physician-assistant recipient per year of full-time practice in a designated medical profession shortage area and shall not exceed twenty thousand dollars per physician-assistant recipient".

6. On page 13, line 5, strike the semicolon and insert a colon; and in lines 14 and 24 after "within" insert "a period not to exceed twice".

7. On page 14, strike beginning with "the" in line 13 through "law" in line 14 and insert "a rate of twenty-four percent simple interest".

8. On page 16, line 8, strike beginning with "one" through "four" and insert "two"; in line 12 after "year" insert "per physician recipient and up to five thousand dollars per year per physician-assistant recipient"; in line 13 after "debts" insert ", for a maximum of four years"; in line 22 after "physician" insert "and physician assistants" and after "be" insert "(1)".

9. On page 17, line 1, after "per" insert "physician" and after "recipient" insert "and (2) at least two thousand five hundred dollars per year but not more than five thousand dollars per year so that the total loan repayment does not exceed ten thousand dollars per year per physician-assistant recipient"; and

in line 5 strike "and physicians" and insert ", physician, and physician assistants".

The Schellpeper amendment was adopted with 25 ayes, 0 nays, 15 present and not voting, and 9 excused and not voting.

Mr. Schellpeper renewed the pending Dierks amendment, AM1012, found in the Journal on page 1393.

The Dierks amendment was adopted with 25 ayes, 0 nays, 15 present and not voting, and 9 excused and not voting.

Mr. Schellpeper withdrew the pending Dierks amendment, AM1011, found in the Journal on page 1393.

Mr. Haberman offered the following amendment:
AM0643

1. Insert the following new sections:

"Sec. 25. For purposes of sections 25 to 31 of this act:

(1) Board of Regents shall mean the Board of Regents of the University of Nebraska;

(2) Medical center shall mean the University of Nebraska Medical Center;

(3) Student shall mean a person enrolled in or accepted for admission to a program of medical education to become a practicing physician; and

(4) Tuition shall not include fees, living expenses, clothing, books, or equipment which a student may be required to own or lease.

Sec. 26. (1) A medical education scholarship program at the medical center is hereby established. The Board of Regents shall maintain and administer the program.

(2) The Board of Regents shall waive the tuition charged to any student enrolled in or accepted for admission to the medical center who is selected for a medical education scholarship pursuant to section 28 of this act and who signs a contract with the Board of Regents pursuant to the conditions prescribed in section 29 of this act.

(3) It is the intent of the Legislature that no General Funds shall be expended for the medical education scholarship program. The medical center shall

seek private sources of financing or federal funding for scholarships authorized in this section.

Sec. 27. (1) Each academic year the Board of Regents, upon recommendation of the medical center or the Nebraska Rural Health Advisory Commission, may select up to six students in each junior and senior undergraduate class at the medical center to receive medical education scholarships. Not more than twelve such medical education scholarships shall be awarded. The award shall entitle the student to a tuition waiver for the remainder of his or her undergraduate medical education at the medical center unless the Board of Regents removes the scholarship pursuant to section 29 of this act or the student elects to forfeit the scholarship. Forfeiture or removal of the scholarship shall not remove the liability of the student for tuition previously waived pursuant to the contract required by section 28 of this act. If a scholarship is forfeited or removed, the Board of Regents may award such scholarship to another student in the same academic class as the student whose scholarship was forfeited or removed. Any student enrolled in or accepted for admission to the medical center may apply for a medical education scholarship.

(2) In selecting the scholarship winners, the Board of Regents shall consider:

(a) The student's interest in primary care, especially family practice;

(b) The likelihood that the student will serve an underserved area of the state;

(c) A satisfactory academic record of the student;

(d) An indication of support for the student from one or more communities in an underserved area of the state; and

(e) Other indicators of the possible success the student may have in completing his or her medical education and serving in one of the underserved areas of the state.

Sec. 28. Any student selected to receive a medical education scholarship shall sign a contract agreeing to:

(1) Complete the undergraduate and graduate medical education requirements to become a practicing

physician;

(2) Serve an area of the state, which was determined by the Nebraska Rural Health Advisory Commission to be medically underserved at the time the student signed the contract, within one year after the completion of his or her graduate medical education and maintain that service for a period of one year for each academic year the student received a medical education scholarship; and

(3) Pay interest on the amount of tuition waived at the rate specified in section 45-104.01, as such rate may from time to time be adjusted by the Legislature, to accrue from the time the scholarship is awarded, if the student does not complete the terms of the contract.

Sec. 29. The medical center shall annually review the performance of each scholarship recipient. The medical center may recommend to the Board of Regents that a scholarship be removed if it appears that the student will be unable to complete his or her medical education and serve an underserved area of the state.

Sec. 30. (1) If the Board of Regents determines that the recipient of a medical education scholarship has violated any of the provisions of section 28 of this act, he or she shall repay the amount of tuition waived and shall pay such damages as may be determined by any court in this state in which a civil action may be brought by the Board of Regents. If the student is required to repay tuition and interest, he or she shall do so no later than five years after the Board of Regents has determined a violation of the agreement has occurred. Any net repayment shall be credited to the appropriate fund of the medical center.

(2) The Board of Regents may forgive or defer all or part of the repayment required in this section if it determines that special circumstances exist due to the death or disability of the student or due to an extreme hardship which renders the student unable to complete his or her medical education or fulfill his or her service obligation.

Sec. 31. The Board of Regents shall administer and maintain records for the medical education scholarship program. The Board of Regents shall adopt and promulgate rules and regulations to

establish application procedures, collection procedures, notification procedures, award procedures, and any other criteria necessary to carry out the program.

Sec. 34. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.".

2. On page 9, line 6, after "act" insert "except the scholarships as described in sections 25 to 31 of this act".

3. Renumber the remaining sections accordingly.

Mr. Warner offered the following amendment to the pending Haberman amendment:

FA79

Amend AM0643 page 2 line 5 by striking "no" and by striking in line 6 "the medical center shall" and lines 7 and 8.

Mr. Morrissey asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Warner withdrew his pending amendment.

Mr. Schellpeper requested a ruling of the Chair on whether the Haberman amendment is germane to the bill.

The Chair ruled the Haberman amendment is not germane to the bill.

Mr. Wesely withdrew his pending amendment, FA68, found in the Journal on page 1283.

Mr. Beutler offered the following amendment:

AM1091

1. On page 4, line 8, after "program" insert "for student loans and loan repayments".

2. On page 7, strike beginning with "Conference" in line 20 through line 25.

3. On page 8, strike beginning with "of" in line 1 through the period in line 2.

4. On page 12, line 5, strike "and"; and in line 7 after "services" insert "; and

(5) Demographic trends in an area both past and future".

5. On page 13, line 18, after the comma

insert "practices a specialty other than primary care or psychiatry in Nebraska, or practices outside Nebraska"; and in line 19 after "principal" insert "with interest at a rate of twenty-four percent simple interest".

6. On page 14, strike beginning with "If" in line 1 through "(e)" in line 20.

7. On page 15, line 4, strike "(f)" and insert "(d)"; and strike beginning with "The" in line 14 through line 17.

Mr. Lynch asked unanimous consent to be excused until he returns. No objections. So ordered.

The Beutler amendment was adopted with 25 ayes, 0 nays, 15 present and not voting, and 9 excused and not voting.

Mr. Beutler offered the following amendment:
AM1046

1. On page 11, line 16, after "the" insert "rural areas of the".

The Beutler amendment lost with 1 aye, 15 nays, 25 present and not voting, and 8 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 853. Advanced to E & R for engrossment.

LEGISLATIVE BILL 789. E & R amendment, AM5103, printed separately from the Journal and referred to on page 1308, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 57A. Advanced to E & R for engrossment.
LEGISLATIVE BILL 67A. Advanced to E & R for engrossment.
LEGISLATIVE BILL 142A. Advanced to E & R for engrossment.
LEGISLATIVE BILL 410A. Advanced to E & R for engrossment.
LEGISLATIVE BILL 782. Advanced to E & R for engrossment.

LEGISLATIVE BILL 732. E & R amendment, AM5102, found in the Journal on page 1308, was adopted.

Mr. Haberman renewed his pending amendment, AM0827, found in the Journal on page 1197.

Mr. Haberman withdrew his pending amendment.

Mr. Haberman renewed his pending amendment (1), AM0932, found in the Journal on page 1376.

The Haberman amendment lost with 2 ayes, 11 nays, 30 present and not voting, and 6 excused and not voting.

Mr. Haberman renewed his pending amendment (2), AM0898, found in the Journal on page 1376.

The Haberman amendment lost with 1 aye, 8 nays, 34 present and not voting, and 6 excused and not voting.

Mr. Haberman renewed his pending amendment (3), AM0931, found in the Journal on page 1376.

Mr. Haberman withdrew his pending amendment.

Mr. Haberman withdrew his pending amendment (4), AM0897, found in the Journal on page 1377.

Mr. Morrissey asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Kristensen offered the following amendment:
(Amendment on file in the Clerk's Office - Room 2018 - AM1034.)

Messrs. Abboud, Horgan, Beyer, Peterson, and Wesely asked unanimous consent to be excused. No objections. So ordered.

Mr. Kristensen moved for a call of the house. The motion prevailed with 12 ayes, 0 nays, and 37 not voting.

The Kristensen amendment was adopted with 25 ayes, 0 nays, 13 present and not voting, and 11 excused and not voting.

Pending.

STANDING COMMITTEE REPORTS
Government, Military and Veterans Affairs

LEGISLATIVE BILL 353. Placed on General File as amended.
Standing Committee amendment to LB 353:
AM0501

1. On page 6, line 1, after "licensure" insert "and establishing and collecting any fees necessary to conduct such examinations"; and in line 23 after "person" insert "and persons who are a consumer reporting agency as defined and regulated by the federal Fair Credit Reporting Act".

2. On page 7, line 21, after "officers" insert "whether on duty or off duty".

3. On page 9, line 12, strike "and" and insert "or".

4. On page 10, strike beginning with "and" in line 3 through "applicant" in line 5; and in line 23 after the period insert "A person who holds a valid license as a private detective or plain clothes investigator on July 1, 1992, shall be exempt from the examination requirement, except that a person who is exempt from the examination requirement, for purposes of professional credentials and reciprocity, may take the examination.".

5. On page 11, line 18, strike "and" and insert "or".

6. On page 12, line 10, after "applicant" insert "unless such applicant is employed as a private investigator or intern private investigator under the bond of a private investigative agency pursuant to section 8 of this act".

7. On page 18, strike beginning with "and" in line 1 through "act" in line 2.

LEGISLATIVE BILL 852. Placed on General File as amended.
Standing Committee amendment to LB 852:
AM0983

1. On page 3, line 5, strike "a" and insert "(a) any"; and in line 7 after "department" insert "or (b) any person who is an employee of a department on the effective date of this act".

LEGISLATIVE BILL 87. Indefinitely postponed.
LEGISLATIVE BILL 580. Indefinitely postponed.
LEGISLATIVE BILL 713. Indefinitely postponed.

LEGISLATIVE BILL 741. Indefinitely postponed.

LEGISLATIVE RESOLUTION 16CA. Indefinitely postponed.

(Signed) Gerald Conway, Chairperson

UNANIMOUS CONSENT - Print in Journal

Mr. R. Johnson asked unanimous consent to print the following amendment to LB 409 in the Journal. No objections. So ordered.

AM1022

1. In the Standing Committee amendments, AM0625, on page 4, strike beginning with "If" in line 1 through the period in line 17.

2. Insert the following new sections:

"Sec. 21. That section 81-15,117, Revised Statutes Supplement, 1990, be amended to read as follows:

81-15,117. Sections 81-15,117 to 81-15,127 and section 22 of this act shall be known and may be cited as the Petroleum Products and Hazardous Substances Storage and Handling Act.

Sec. 22. If necessary in the course of an investigation or inspection or during the remedial action and if the owner of property or the owner's agent has specifically denied the Department of Environmental Control access to the property for such purposes, the department may order the owner or owner's agent to grant access to property for the performance of reasonable steps, including drilling, to determine the source and extent of contamination or for remediation. Access shall be by the department or by a person conducting an investigation, inspection, or remedial action at the direction of the department. All actions taken on the property shall be performed in the least obtrusive manner possible to allow the investigation, inspection, or remedial action to proceed. Upon completion of any such actions, the property shall be restored as nearly as possible to its original condition. Any claim for damaged property shall be filed as provided in section 76-705.".

3. On page 5, line 18, after the last comma insert "damages caused by site access,".

4. On page 16, strike beginning with "at" in line 24 through the period in line 25, show as stricken, and insert an underscored period.

5. On page 22, line 7, after "tank" insert "or any overfilling of a tank".

6. On page 24, strike line 2 and all amendments thereto and insert "and sections 81-15,117, 81-15,119, and 81-15,123, Revised Statutes Supplement,".

7. Renumber the remaining sections accordingly.

Mr. R. Johnson asked unanimous consent to print the following amendment to LB 409A in the Journal. No objections. So ordered.

AM1000

1. Insert the following new section:

"Sec. 2. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.".

2. On page 2, line 2, strike "$2,785,717" and insert "$3,060,609"; and in line 3 strike "$2,795,651" and insert "$3,067,477".

Mr. Hall asked unanimous consent to print the following amendment to LB 773 in the Journal. No objections. So ordered.

AM1037

1. On page 19, line 23, strike the third "or" and show as stricken.

2. On page 20, line 4, after "school" insert ", or (iii) ballot question committees, candidate committees, independent committees, and political party committees as defined in the Nebraska Political Accountability and Disclosure Act.".

Mr. Hall asked unanimous consent to print the following amendment to LB 773 in the Journal. No objections. So ordered.

AM1013

1. Insert the following new section:

"Sec. 9. That section 77-2716.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-2716.01. (1) Every individual shall be

allowed to subtract from federal adjusted gross income an amount for personal exemptions. For tax year 1987, the amount allowed to be subtracted shall be one thousand one hundred dollars multiplied by the number of exemptions allowed on the federal return. For tax year 1988, the amount allowed to be subtracted shall be one thousand one hundred thirty dollars multiplied by the number of exemptions allowed on the federal return. For tax year 1989, the amount allowed to be subtracted shall be one thousand one hundred eighty dollars multiplied by the number of exemptions allowed on the federal return. For tax year 1990 and each tax year thereafter, the amount to be subtracted shall be adjusted for inflation by the method provided in section 151 of the Internal Revenue Code. If any amount to be subtracted is not a multiple of ten dollars, the amount shall be rounded to the next lowest multiple of ten dollars. The amount shall then be multiplied by the number of exemptions allowed on the federal return.

(2) Every individual who did not itemize deductions on his or her federal return shall be allowed to subtract from federal adjusted gross income a standard deduction equal to the federal standard deduction for the filing status used on the federal return.

(3) Every individual who itemized deductions on his or her federal return shall be allowed to subtract from federal adjusted gross income the greater of either the standard deduction allowed in subsection (2) of this section or all of his or her federal itemized deductions~~,~~ except for the amount deducted on the federal return for state or local income taxes paid.

(4)(a) Every resident individual shall be allowed to subtract from federal adjusted gross income the actual amount paid to others for tuition, textbooks, and transportation during the tax year not in excess of one thousand one hundred dollars for each dependent in grades kindergarten through six and one thousand seven hundred dollars for each dependent in grades seven through twelve attending a public or nonpublic elementary or secondary school. No deduction shall be allowed under this subsection unless the school is located in the state, is not operated for profit, does not discriminate on the basis of race, color, or

national origin, and fulfills the school term requirements prescribed in section 79-201.

(b) For purposes of this subsection:

(i) Dependent shall mean a person for whom the individual claims a dependency exemption on his or her federal income tax return;

(ii) Textbooks shall mean and include books, instructional materials, and equipment used in teaching the elementary or secondary instructional program prescribed by the rules and regulations of the State Board of Education. Textbooks shall not include books, instructional materials, or equipment used in the teaching of religious tenets, doctrines, or worship or for extracurricular activities;

(iii) Transportation shall not include transportation to and from extracurricular activities; and

(iv) Tuition shall mean any amount charged for the opportunity to be enrolled in an instructional program by a public or nonpublic elementary or secondary school approved or accredited under rules and regulations established by the State Board of Education pursuant to subdivision (5)(c) of section 79-328.".

2. On page 70, line 19, after the third comma insert "77-2716.01,".

3. In the Standing Committee amendments, AM0518, on page 11, line 17, strike "17" and insert "18".

4. Renumber the remaining sections accordingly.

Mr. Kristensen asked unanimous consent to print the following amendment to LB 732 in the Journal. No objections. So ordered.

AM0940

1. On page 4, line 2, strike "nine" and insert "six"; strike beginning with "(2)" in line 13 through the period in line 18 and insert "One judge of the Court of Appeals shall be appointed by the Governor from each Supreme Court judicial district."; and after line 20 insert the following new subsection:

"(2) An additional judge of the Court of Appeals shall be appointed by the Governor upon certification by the State Court Administrator to the

Supreme Court, Governor, and Legislature that one hundred fifty appeals have been filed in the Court of Appeals and Supreme Court above the base amount in each of the preceding two calendar years. The base amount shall be one thousand three hundred appeals, and each time an additional judge of the Court of Appeals is appointed the base amount shall be increased by one hundred fifty appeals. Up to three additional judges of the Court of Appeals may be appointed pursuant to this subsection. Judges of the Court of Appeals appointed pursuant to this subsection and any successors may be selected from any Supreme Court judicial district, but no more than two judges of the Court of Appeals appointed pursuant to this subsection and any successors shall be from the same district.".

UNANIMOUS CONSENT - Unbracket LB 161

Mr. Landis asked unanimous consent to unbracket LB 161. No objections. So ordered.

UNANIMOUS CONSENT - Bracket LB 625

Mr. Warner asked unanimous consent to bracket LB 625 on E & R Final. No objections. So ordered.

VISITORS

Visitors to the Chamber were Senator Warner's grandson, Drew Warner, Hollis Craig, and Bill Towner from Seattle; and Don Ainsworth, Roger Davis, John Davis, and Steve Mahanes from Nebraska City.

ADJOURNMENT

At 4:59 p.m., on a motion by Mrs. Crosby, the Legislature adjourned until 9:00 a.m., Wednesday, April 3, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

FIFTY-FOURTH DAY - APRIL 3, 1991

LEGISLATIVE JOURNAL

FIFTY-FOURTH DAY - APRIL 3, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

FIFTY-FOURTH DAY

Legislative Chamber, Lincoln, Nebraska
Wednesday, April 3, 1991

Pursuant to adjournment, the Legislature met at 9:02 a.m., Speaker Baack presiding.

PRAYER

The prayer was offered by Pastor Fred Wolfe, Friedens Lutheran Church, Lincoln, Nebraska.

ROLL CALL

The roll was called and all members were present except Messrs. Bernard-Stevens, Beutler, Chambers, Hall, Lynch, Moore, Morrissey, Robinson, Rogers, Schellpeper, Schmit, Wesely, Mmes. Labedz, and Pirsch who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Fifty-Third Day was approved.

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 90A. Introduced by Landis, 46.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 90, Ninety-second Legislature, First Session, 1991.

UNANIMOUS CONSENT - Print in Journal

Mr. Hefner asked unanimous consent to print the following amendment to LB 91 in the Journal. No objections. So ordered.

AM1085
(Amendments to Standing Committee amendments, AM0945)
1. On page 1, line 1, strike "Insert" and insert "Strike original section 3 and insert"; in line 2 strike "4" and insert "3"; and strike lines 7 through 13.

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the attached report on Governor appointments.

Health and Human Services
Dr. Duane E. Polzien - Nebraska Board of Health

Government, Military and Veterans Affairs
Jonathan F. Sweet - Department of Veterans Affairs

(Signed) Jerome Warner, Chairperson
Legislative Council
Executive Board

NOTICE OF COMMITTEE HEARING
Banking, Commerce and Insurance

Governor Appointment Tuesday, April 30, 1991 11:30 a.m.
L. H. Kolkman - Nebraska Investment Council

(Signed) David Landis, Chairperson

MOTION - Approve Appointment

Mr. Conway moved the adoption of the report of the Government, Military and Veterans Affairs Committee for the following Governor appointment found in the Journal on page 1422: Gwendolyn Combs - Director, State Department of Personnel.

Voting in the affirmative, 30:

Abboud	Coordsen	Hefner	Lindsay	Smith
Baack	Crosby	Hillman	Nelson	Warner
Beyer	Dierks	Horgan	Rasmussen	Wehrbein
Byars	Elmer	Johnson, L.	Robak	Wickersham
Chizek	Haberman	Johnson, R.	Schimek	Will
Conway	Hartnett	Kristensen	Schrock	Withem

Voting in the negative, 0.

Present and not voting, 5:

Ashford	Cudaback	Lamb	Landis	Peterson

Excused and not voting, 14:

Bernard-Stevens	Chambers	Lynch	Pirsch	Schellpeper
Beutler	Hall	Moore	Robinson	Schmit
	Labedz	Morrissey	Rogers	Wesely

The appointment was confirmed with 30 ayes, 0 nays, 5 present and not voting, and 14 excused and not voting.

BILLS ON FINAL READING

The following bills were read and put upon final passage:

LEGISLATIVE BILL 44.

A BILL FOR AN ACT relating to motor vehicles; to amend sections 60-462, 60-4,112, and 60-4,123, Revised Statutes Supplement, 1990; to change provisions authorizing certain persons to drive on the highways as prescribed; to harmonize provisions; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 39:

Abboud	Bernard-Stevens	Byars	Crosby	Haberman
Ashford	Beutler	Chizek	Cudaback	Hartnett
Baack	Beyer	Conway	Dierks	Hefner
		Coordsen	Elmer	Hillman

Horgan	Landis	Peterson	Schimek	Wehrbein
Johnson, L.	Lindsay	Rasmussen	Schrock	Wickersham
Johnson, R.	Lynch	Robak	Smith	Will
Kristensen	Nelson	Robinson	Warner	Withem
Lamb				

Voting in the negative, 0.

Excused and not voting, 10:

Chambers	Labedz	Morrissey	Rogers	Schmit
Hall	Moore	Pirsch	Schellpeper	Wesely

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 160.

A BILL FOR AN ACT relating to funds transfers; to amend section 1-105, Uniform Commercial Code; to adopt uniform provisions governing funds transfers; to harmonize provisions; to provide duties for the Revisor of Statutes; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 45:

Abboud	Conway	Hillman	Lynch	Schimek
Ashford	Coordsen	Horgan	Moore	Schrock
Baack	Crosby	Johnson, L.	Morrissey	Smith
Bernard-Stevens	Cudaback	Johnson, R.	Nelson	Warner
Beutler	Dierks	Kristensen	Peterson	Wehrbein
Beyer	Elmer	Labedz	Rasmussen	Wesely
Byars	Haberman	Lamb	Robak	Wickersham
Chambers	Hartnett	Landis	Robinson	Will
Chizek	Hefner	Lindsay	Schellpeper	Withem

Voting in the negative, 0.

Excused and not voting, 4:

Hall Pirsch Rogers Schmit

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 162. With Emergency.

A BILL FOR AN ACT relating to the Uniform Commercial Code; to amend sections 1-105 and 2-403, Uniform Commercial Code; to eliminate provisions relating to bulk transfers; to harmonize provisions; to provide for validity and enforceability of certain rights and obligations; to repeal the original sections, and also sections 6-101 to 6-105, 6-107 to 6-111, and 9-111, Uniform Commercial Code; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 44:

Abboud	Conway	Hillman	Lynch	Schimek
Ashford	Coordsen	Horgan	Moore	Schrock
Baack	Crosby	Johnson, L.	Morrissey	Smith
Bernard-Stevens	Cudaback	Johnson, R.	Nelson	Warner
Beyer	Dierks	Kristensen	Peterson	Wehrbein
Byars	Elmer	Labedz	Rasmussen	Wesely
Chambers	Haberman	Lamb	Robak	Wickersham
Chizek	Hartnett	Landis	Robinson	Will
	Hefner	Lindsay	Schellpeper	Withem

Voting in the negative, 0.

Present and not voting, 1:

Beutler

Excused and not voting, 4:

Hall Pirsch Rogers Schmit

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

LEGISLATIVE BILL 190.

A BILL FOR AN ACT relating to banks and banking; to amend section 8-157, Revised Statutes Supplement, 1990; to change a provision relating to detached auxiliary offices; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 36:

Abboud	Coordsen	Horgan	Lindsay	Schimek
Ashford	Cudaback	Johnson, L.	Moore	Schrock
Baack	Elmer	Johnson, R.	Morrissey	Wehrbein
Beutler	Haberman	Kristensen	Nelson	Wesely
Beyer	Hartnett	Labedz	Rasmussen	Wickersham
Byars	Hefner	Lamb	Robak	Will
Chizek	Hillman	Landis	Schellpeper	Withem
Conway				

Voting in the negative, 6:

Bernard-Stevens	Chambers	Crosby	Dierks	Smith	Warner

Present and not voting, 3:

Lynch	Peterson	Robinson

Excused and not voting, 4:

Hall	Pirsch	Rogers	Schmit

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 193.

A BILL FOR AN ACT relating to the documentary stamp tax; to amend section 76-902, Reissue Revised Statutes of Nebraska, 1943; to change exemption provisions; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 44:

Abboud	Conway	Hillman	Lynch	Schimek
Ashford	Coordsen	Horgan	Moore	Schrock
Baack	Crosby	Johnson, L.	Morrissey	Smith
Bernard-Stevens	Cudaback	Johnson, R.	Nelson	Warner
Beyer	Dierks	Kristensen	Peterson	Wehrbein
Byars	Elmer	Labedz	Rasmussen	Wesely
Chambers	Haberman	Lamb	Robak	Wickersham
Chizek	Hartnett	Landis	Robinson	Will
	Hefner	Lindsay	Schellpeper	Withem

Voting in the negative, 0.

Present and not voting, 1:

Beutler

Excused and not voting, 4:

Hall	Pirsch	Rogers	Schmit

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 204.

A BILL FOR AN ACT relating to the Nebraska Real Estate License Act; to amend sections 81-885.07, 81-885.14, 81-885.19, and 81-885.20, Revised Statutes Supplement, 1990; to change provisions relating to fees; to authorize the commission to establish fees; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 39:

Abboud	Chizek	Hillman	Lindsay	Schimek
Baack	Conway	Horgan	Lynch	Schrock
Bernard-Stevens	Crosby	Johnson, L.	Moore	Warner
	Cudaback	Johnson, R.	Morrissey	Wehrbein
Beutler	Dierks	Kristensen	Rasmussen	Wesely
Beyer	Elmer	Labedz	Robak	Wickersham
Byars	Hartnett	Lamb	Robinson	Will
Chambers	Hefner	Landis	Schellpeper	Withem

Voting in the negative, 5:

Coordsen	Haberman	Nelson	Peterson	Smith

Present and not voting, 1:

Ashford

Excused and not voting, 4:

Hall	Pirsch	Rogers	Schmit

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 232. With Emergency.

A BILL FOR AN ACT relating to the Nebraska Political Accountability and Disclosure Act; to amend sections 49-1403, 49-1434, 49-1483, 49-1488, 49-1490, 49-14,113, and 49-14,131, Reissue Revised Statutes of Nebraska, 1943, and section 49-1401, Revised Statutes Supplement, 1990; to change provisions relating to certain statements filed by lobbyists and principals as prescribed; to redefine terms; to provide a fee for late filing of statements as prescribed; to authorize fee reductions and filing exemptions; to change restrictions on eligibility for reappointment to the Nebraska Accountability and Disclosure Commission; to change provisions relating to appeal procedure; to harmonize provisions; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 42:

Abboud	Coordsen	Johnson, L.	Morrissey	Schrock
Ashford	Cudaback	Johnson, R.	Nelson	Smith
Baack	Dierks	Kristensen	Peterson	Warner
Bernard-Stevens	Elmer	Labedz	Rasmussen	Wehrbein
Beyer	Haberman	Lamb	Robak	Wesely
Chambers	Hartnett	Landis	Robinson	Wickersham
Chizek	Hefner	Lindsay	Schellpeper	Will
Conway	Hillman	Lynch	Schimek	Withem
	Horgan	Moore		

Voting in the negative, 2:

Byars Crosby

Present and not voting, 1:

Beutler

Excused and not voting, 4:

Hall Pirsch Rogers Schmit

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

MR. WARNER PRESIDING

UNANIMOUS CONSENT - Member Excused

Mr. Baack asked unanimous consent to be excused until he returns. No objections. So ordered.

WITHDRAW - Amendment to LB 254

Mr. Robinson withdrew his pending amendment, AM0925, found in the Journal on page 1341, to LB 254.

MOTION - Return LB 254 to Select File

Mr. Robinson moved to return LB 254 to Select File for his specific amendment, AM1001, found in the Journal on page 1377.

Mr. R. Johnson asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Beutler moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 0 nays, and 23 not voting.

The Robinson motion to return prevailed with 25 ayes, 16 nays, 4 present and not voting, and 4 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 254. The Robinson specific amendment, AM1001, found in the Journal on page 1377, was considered.

Mr. Robinson requested a roll call vote on his amendment.

Voting in the affirmative, 25:

Abboud	Cudaback	Horgan	Landis	Rasmussen
Bernard-Stevens	Dierks	Johnson, L.	Lindsay	Robinson
Beutler	Hartnett	Kristensen	Lynch	Schrock
Beyer	Hefner	Labedz	Moore	Wehrbein
Conway	Hillman	Lamb	Pirsch	Wickersham

Voting in the negative, 19:

Ashford	Coordsen	Hall	Schellpeper	Wesely
Byars	Crosby	Morrissey	Schimek	Will
Chambers	Elmer	Nelson	Smith	Withem
Chizek	Haberman	Robak	Warner	

Present and not voting, 1:

Peterson

Excused and not voting, 4:

Baack	Johnson, R.	Rogers	Schmit

The Robinson amendment was adopted with 25 ayes, 19 nays, 1 present and not voting, and 4 excused and not voting.

Advanced to E & R for re-engrossment.

MOTION - Bracket LB 115

Mr. Wehrbein moved to bracket LB 115 until January 10, 1992.

SPEAKER BAACK PRESIDING

Mr. Withem moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

Mr. Wehrbein requested a roll call vote on his motion to bracket.

Voting in the affirmative, 22:

Abboud	Cudaback	Johnson, R.	Peterson	Schrock
Beyer	Elmer	Kristensen	Pirsch	Smith
Byars	Haberman	Lamb	Robinson	Warner
Coordsen	Hefner	Moore	Rogers	Wehrbein
Crosby	Johnson, L.			

Voting in the negative, 26:

Ashford	Chizek	Horgan	Morrissey	Schimek
Baack	Conway	Labedz	Nelson	Wesely
Bernard-Stevens	Dierks	Landis	Rasmussen	Wickersham
Beutler	Hall	Lindsay	Robak	Will
Chambers	Hartnett	Lynch	Schellpeper	Withem
	Hillman			

Excused and not voting, 1:

Schmit

The Wehrbein motion to bracket lost with 22 ayes, 26 nays, and 1 excused and not voting.

MOTION - Return LB 115 to Select File

Mr. Wehrbein moved to return LB 115 to Select File for his specific amendment, AM1002, found in the Journal on page 1397.

Mr. Wesely moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 29 ayes, 0 nays, and 20 not voting.

The Wehrbein motion to return lost with 23 ayes, 25 nays, and 1 excused and not voting.

BILL ON FINAL READING

The following bill was read and put upon final passage:

LEGISLATIVE BILL 115.

A BILL FOR AN ACT relating to elections; to amend sections 32-4,104, 32-548, and 32-556, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to selection of presidential electors; to require presidential electors to cast their votes as prescribed; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 25:

Ashford	Chizek	Horgan	Morrissey	Schimek
Baack	Dierks	Labedz	Nelson	Wesely
Bernard-Stevens	Hall	Landis	Rasmussen	Wickersham
Beutler	Hartnett	Lindsay	Robak	Will
Chambers	Hillman	Lynch	Schellpeper	Withem

Voting in the negative, 23:

Abboud	Crosby	Johnson, L.	Peterson	Schrock
Beyer	Cudaback	Johnson, R.	Pirsch	Smith
Byars	Elmer	Kristensen	Robinson	Warner
Conway	Haberman	Lamb	Rogers	Wehrbein
Coordsen	Hefner	Moore		

Excused and not voting, 1:

Schmit

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 783A. Introduced by Lamb, 43; Wickersham, 49.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 783, Ninety-second Legislature, First Session, 1991; and to declare an emergency.

ATTORNEY GENERAL'S OPINION

Opinion No. 91024

DATE: April 2, 1991

SUBJECT: Constitutionality of Amendment of the Definition of Real Property for Tax Purposes under LB 1115 in Light of Natural Gas Pipeline Co. v. State Bd. of Equal., 237 Neb. 357, ___ N.W.2d ___ (1991).

REQUESTED BY: Senator W. Owen Elmer
Nebraska State Legislature

WRITTEN BY: Don Stenberg, Attorney General
L. Jay Bartel, Assistant Attorney General

You have requested us to reexamine our conclusions regarding the constitutionality of the amendment of the definition of real property for tax purposes under LB 1115 reached in Attorney General Opinion No. 90007, issued on February 14, 1990, in light of the recent Nebraska Supreme Court decision in Natural Gas Pipeline Co. v. State Bd. of Equal., 237 Neb. 357, ___ N.W.2d ___ (1991).

Generally, LB 1115 would alter the current system of property taxation by exempting all personal property other than motor vehicles, and by redefining the term "real property" in Neb.Rev.Stat. § 77-103 (Reissue 1990) (as amended by 1989 Neb. Laws, 1st Spec.

Sess., LB 1). The proposed redefinition of "real property" subject to taxation is contained in Section 24 of LB 1115, which provides, in pertinent part:

(1) Real property shall include both type A and type B real property.

(2) Type A real property shall mean all land, including land under water, and all mines, minerals in place, quarries, sand and gravel pits, mineral springs and wells, and oil and gas wells.

(3) Type B real property shall mean any improvement, upon or beneath type A real property, which remains, in the normal course of events, affixed upon or beneath such property for longer than twelve months. For purposes of this subsection, improvement shall mean any property that remains fixed and stationary by design in relation to the type A real property for twelve months or more, and affixed shall mean actually or constructively annexed or attached.

During a special session convened in November, 1989, the Legislature amended the definition of "real property" in §77-103 to include ". . . pipelines, railroad track structures, electrical and telecommunications poles, towers, lines, and all items actually annexed to such property, and any interest pertaining to the real property or real estate." 1989 Neb. Laws, 1st Special Session, LB 1.

We addressed at length the constitutionality of legislation amending the definition of real property in §77-103 in Attorney General Opinion No. 89071, dated November 13, 1989. In this opinion, we considered whether it was permissible for the Legislature to adopt a statutory definition of real property for tax purposes which differed from adherence to the common law standards which the Nebraska Supreme Court had found in Northern Natural Gas Co. v. State Board of Equalization and Assessment, 232 Neb. 806, 443 N.W.2d 249 (1989) {"Northern "} to be included in §77-103. Noting the general rule that "{i}t is competent for the Legislature to classify for purposes of legislation, if the classification rests on some reason of public policy, some substantial difference of situation or circumstance, that would naturally suggest the justice or expediency of diverse legislation with respect to the objects to be classified. . ." (Stahmer v. State, 192 Neb. 63, 68, 218 N.W.2d 893, 896 (1974)), we concluded the Legislature was not necessarily precluded from enacting legislation altering the definition of real property under §77-103, provided a reasonable basis could be articulated to justify any classification established by such redefinition. At the time of the issuance of our prior opinion discussing the constitutionality of Section 24 of LB 1115, we noted that no judicial determination had

been made as to the constitutionality of the amendment to § 77-103 made by LB 1. Attorney General Opinion No. 90007, at 2.

Subsequent to the issuance of our two prior opinions addressing the constitutionality of legislation altering the definition of "real property" for tax purposes, the Nebraska Supreme Court issued its opinion in Natural Gas Pipeline Co. v. State Bd. of Equal., 237 Neb. 357, ___ N.W.2d ___ (1991) {"NGPL"}, as well as opinions in several companion cases. You now ask us to revisit the question of the constitutionality of the proposed redefinition of "real property" for tax purposes under LB 1115 in light of the decision in NGPL.

In reversing and remanding the 1989 action of the State Board of Equalization and Assessment {"State Board"} with respect to the equalization of the personal property of centrally assessed taxpayers, the per curiam majority in NGPL held, in part, that the redefinition of "real property" accomplished under LB 1 could not be applied to determine the equalization claims before the State Board for the 1989 tax year. Specifically, the majority held that: (1) the subject matter of LB 1 was "irrelevant to the matter of equalization;" and (2) "the application of LB 1 for the 1989 tax year would result in the commutation of a tax, in violation of Neb. Const. art. VIII, § 4." Id. at 366, ___ N.W.2d at ___. Thus, the majority in NGPL did not deal with the constitutionality of LB 1 beyond making a determination that the bill could not be applied to tax year 1989. The per curiam majority did not reach any further question as to the constitutionality of LB 1.

In a separate concurring opinion, Judge Grant, joined by Judge Fahrnbruch, went further, expressing the view that LB 1 was "unconstitutional on its face." Id. at 377, ___ N.W.2d at ___ (Grant, and Fahrnbruch, J., concurring). Citing the court's prior decisions in State ex rel. Meyer v. Peters, 191 Neb. 330, 215 N.W.2d 520 (1974), and Moeller, McPherrin and Judd v. Smith, 127 Neb. 424, 255 N.W. 551 (1934), Judge Grant stated: "Although the Legislature has broad power to define property for tax purposes, its power to define is limited, since (1) the Legislature cannot abrogate or contradict an express constitutional definition and (2) the legislative definition must be reasonable and cannot be arbitrary or unfounded." 237 Neb. at 377, ___ N.W.2d at ___. Judge Grant determined the definition in LB 1 impermissibly nullified and circumvented the Legislature's authorization under Neb. Const. art. VIII, § 2, to classify and exempt personal property, finding "the Legislature has not 'classified' certain items of personal property, but has arbitrarily declared the personal property owned by an unfavored group of taxpayers to be 'fixtures,' which are presumedly taxable as real estate under our decision in Northern Natural Gas Co. v. State Bd. of Equal., 232 Neb. 806, 443

N.W.2d 249 (1989)." 237 Neb. at 379, ___ N.W.2d at ___. He continued by stating that, under LB 1, "the Legislature has attempted to define and designate as a 'fixture' that which is, in fact and in truth, personal property, and has gone beyond the bounds of its legitimate powers in doing so." Id. Judge Grant also concluded the classification set forth in LB 1 violated the prohibition against special legislation in Neb. Const. art. III, § 18, "because it is not based on any real and substantial difference between 'machinery and equipment used for business purposes or center pivot or other irrigation systems of a type used for agricultural or horticultural purposes' and machinery and equipment used for other purposes." Id.[1]

In another separate opinion, Judge Shanahan, concurring in part and dissenting in part, expressed his views concerning the reasonableness of the amendment to the definition of "real estate" under LB 1. Judge Shanahan, taking issue with the opinions expressed by Judge Grant as to the validity of LB 1, stated "the definition of 'real estate' in L.B. 1 and the exclusion of certain property from statutorily defined 'real estate'. . . have a rational basis and are, therefore, reasonable and are not arbitrary or unfounded." 237 Neb. at 392, ___ N.W.2d at ___ (Shanahan, J., concurring in part and dissenting in part). He further stated that, even if the business "machinery and equipment" provision of LB 1 were found to be unconstitutional, that provision was severable from the remainder of the bill. Id..

In summary, the following observations regarding the court's views as to the constitutionality of the Legislature's alteration of the definition of "real property" for tax purposes under LB 1 may be gleaned from the decision in NGPL: (1) A majority of the court has not expressed an opinion as to whether the redefinition of "real property" in § 77-103 accomplished by LB 1, which departs from the common law of fixtures for determining whether an item is real or personal property, is unconstitutional either on its face or as applied to tax years beyond 1990. Rather, the per curiam majority held only that the redefinition in LB 1 could not constitutionally be applied to the equalization claims for tax year 1989 pending before the court; (2) At least two members of the court (and possibly three) have expressed the opinion that the definition of "real property" in LB 1 is, in their view, unconstitutional on its face; and (3) One member of the court has stated it is his opinion that the amendment to the statutory definition of "real property" accomplished by LB 1 is constitutional, indicating the portion of the bill relating to business "machinery and equipment" may be unconstitutional but, nevertheless, severable so as to save the remainder of the bill.

In our previous opinions, we noted that several states have adopted statutory definitions of real property or real estate for tax purposes that include types of property, which, under the common law of fixtures, would likely constitute personalty, and that challenges to the constitutionality of such classifications have been rejected in other jurisdictions. Attorney General Opinion No. 89071, November 13, 1989, at 3; Attorney General Opinion No. 90007, February 14, 1990, at 2-3. Based on such authority, we previously stated it was not inherently unreasonable for the Legislature to classify property as real or personal for tax purposes in a manner which differed from the common law tests regarding fixtures, such as contained in LB 1 and Section 24 of LB 1115, provided the classifications established were reasonable.

We did note, however, that any attempt to reclassify real and personal property by definition could well be construed as creating an arbitrary and unreasonable classification contrary to the Nebraska Constitution. Specifically, with regard to LB 1115, we stated it was possible that an owner of property subject to taxation as " type B real property" under the bill could be able to successfully argue the taxation of such property was arbitrary and unreasonable when the same or similar property was, under the definition established by the bill, classified as personal property and, therefore, exempted from taxation. Attorney General Opinion No. 90007, February 14, 1990, at 3.

The recent per curiam opinion in NGPL does not, for the reasons stated previously, provide any definitive statement of the opinion of a majority of the court as to the Legislature's authority to classify property as real or personal for tax purposes. There is case law in Nebraska, however, relied upon by the members of the court concluding LB 1 was, in their view, unconstitutional, revealing that our court has consistently taken a very restrictive view as to the Legislature's ability to classify and define terms within the confines of the State Constitution in the area of property taxation.

In Moeller, McPherrin and Judd v. Smith, 127 Neb. 424, 255 N.W. 551 (1934) {"Moeller"}, the court held unconstitutional legislative action altering the taxation of tangible and intangible property accomplished by the enactment of a statute defining the term "tangible property" to include property which, by nature, was intangible. In particular, the court stated:

> May a legislature, under the guise of defining a word, do so with a definition which contravenes our Constitution, and which is not true or legal in fact? Class 2 of tangible property, as defined in House Roll No. 9, is intangible property as defined by the leading dictionaries.

* * *

Can the legislature define and designate as tangible that which is, in fact and in truth, intangible? It may be admitted that the legislature has power to define words used by it, but is this an unlimited power, or is it subject to a reasonable construction? Tangible is the direct opposite of intangible; and can the legislature, under the guise of calling it two separate classes of tangible property, include all intangible property under class 2 of tangible property? In our opinion, there is a limit to the legislature's power to nullify and circumvent constitutional provisions by putting an arbitrary, but improper and unfounded, definition upon a certain word.

The Constitution of Nebraska clearly provides for two kinds of personal property for purposes of taxation, and the legislature has abrogated one of these by the device of calling it a class under the other. The legislature could not directly blot out a provision of the Constitution; has it not, by House Roll No. 9, attempted to do it indirectly?

If the Constitution gives one definition of a legal term, and a statute another, it is the duty of a court to declare that the Constitution governs.

Id. at 433, 255 N.W. at 555-56.

Furthermore, in State ex rel. Meyer v. Peters, 191 Neb. 330, 215 N.W.2d 520 (1974) {"Peters"}, the court declared unconstitutional a statute exempting from property taxation household goods, "including major appliances either attached or detached to real property," and personal effects. The legislation was assertedly enacted pursuant to Article VIII, Section 2, of the Nebraska Constitution, which provided, in part: "Household goods and personal effects, as defined by law, may be exempted from taxation in whole or in part, as may be provided by general law. . . ." (Emphasis added). In holding the phrase "household goods and personal effects, as defined by law" in Article VIII, Section 2, referred to existing law at the time of adoption of the constitutional amendment in a descriptive and limiting manner, the court stated:

Any definitional powers given to the Legislature are prefixed and limited. The power to define household goods and personal effects necessarily is limited to those articles which ordinarily would be understood to be embraced within that term. Certainly, it cannot be interpreted to give the Legislature power to include air-conditioning systems, furnaces, automobiles, or real estate within the term "household goods and personal effects." Since there must be a limit to such powers, it is reasonable to find the common law concepts serve as guides.

* * *

> In any event, any power to define household goods must be limited for the term "household goods" to have any meaning whatever. It is obvious that the Legislature could not be allowed to define all property in the state as household goods and personal effects. To permit it to do so would allow it to negate other parts of the Constitution.

Id. at 334-35, 215 N.W.2d at 524-25.

While it is possible to try to distinguish the situations addressed in Moeller and Peters from the one presented herein, it is clear that certain members of our Supreme Court have taken a rather narrow view of the scope of the Legislature's power to classify and define property for tax purposes in this context. The concurring opinion of Judge Grant (joined by Judge Fahrnbruch), reflecting the view that the classifications set forth in LB 1 are unconstitutional, relies heavily on the court's prior decisions in Moeller and Peters. As noted previously, at least these two members of the court (and possibly a third member) are on record as expressing their opinion that LB 1 is unconstitutional. You should recognize that there are clear similarities between the constitutional infirmities articulated by these members of the court regarding LB 1, and the proposed amendment to the definition of "real property" under LB 1115.[2]

Five of the seven judges of the Nebraska Supreme Court must agree in order to hold a law unconstitutional. Neb. Const. art. V, § 2. It is reasonably certain that at least two judges would rule the definition of real property unconstitutional and at least one (Judge Shanahan) would likely rule the definition constitutional. Although we are of the opinion that Judge Shanahan's view is the more reasonable one, we do not know, and at this time cannot know, whether at least two of his colleagues will agree with that view.

Therefore, we cannot definitively answer the question you have raised. We, therefore, counsel caution but, at the same time, we cannot say that the definition would necessarily be ruled unconstitutional.

Finally, it is not apparent from your request whether you wish us to readdress the questions discussed in our prior opinion as to the constitutionality of certain other provisions of LB 1115. In this respect, we direct you to our earlier opinion as, upon review, we continue to adhere to the conclusions reached therein regarding the constitutionality of these provisions.

[1] In a separate concurrence, Judge Caporale stated "there may be much merit in what Judge Grant has written about L.B. 1." 237 Neb. at 381, ___ N.W.2d at ___ (Caporale, J., concurring).

[2] Furthermore, in considering the constitutionality of the exemption of property classified as "personal property" by virtue of the provisions of LB 1115, it should be noted that three members of the court indicated in a concurring opinion in NGPL that the exemption of all personal property may run afoul of the Constitution, in spite of the apparent authority granted to the Legislature under Neb. Const. art. VIII, § 2, to ". . . exempt all personal property from taxation." In this regard, Judges White and Fahrnbruch, joined by Judge Grant, stated "{u}nder our constitutional system, all property, except household goods and property owned by nonprofit educational, charitable, horticultural, or cemetery organizations, which property is used for those purposes, must be taxed, or no property may be taxed." 237 Neb. at 374, ___ N.W.2d ___ (White, and Fahrnbruch, J., concurring). In our opinion, it is unlikely that a constitutional majority of the court would accept this restrictive interpretation.

Very truly yours,
DON STENBERG
Attorney General
(Signed) L. Jay Bartel
Assistant Attorney General

7-22-7.1
cc: Patrick J. O'Donnell
Clerk of the Legislature

UNANIMOUS CONSENT - Member Excused

Mr. Horgan asked unanimous consent to be excused until he returns. No objections. So ordered.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following bills: 44, 160, 162, 190, 193, 204, 232, and 115.

MOTION - Place LB 671 on General File

Mr. Landis renewed his pending motion, found in the Journal on page 1377, to place LB 671 on General File, pursuant to Rule 3, Section 19(b).

Messrs. R. Johnson and Lynch asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Beutler moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 1 nay, and 23 not voting.

Mr. Landis moved for a call of the house. The motion prevailed with 22 ayes, 0 nays, and 27 not voting.

Mr. Lindsay requested a record vote on the Landis motion to place LB 671 on General File.

Voting in the affirmative, 27:

Ashford	Coordsen	Landis	Robinson	Wehrbein
Baack	Elmer	Moore	Schimek	Wesely
Bernard-Stevens	Haberman	Morrissey	Schrock	Wickersham
Beutler	Hillman	Nelson	Smith	Will
Chambers	Johnson, L.	Rasmussen	Warner	Withem
	Johnson, R.	Robak		

Voting in the negative, 17:

Abboud	Cudaback	Hefner	Lamb	Pirsch
Beyer	Dierks	Kristensen	Lindsay	Rogers
Chizek	Hall	Labedz	Peterson	Schellpeper
Conway	Hartnett			

Present and not voting, 2:

Byars Crosby

Excused and not voting, 3:

Horgan Lynch Schmit

The Landis motion to place on General File prevailed with 27 ayes, 17 nays, 2 present and not voting, and 3 excused and not voting.

PRESENTED TO THE GOVERNOR

Presented to the Governor on April 3, 1991, at 11:55 a.m., were the following bills: 44, 160, 162, 190, 193, 204, 232, and 115.

(Signed) Pam Moravec, Enrolling Clerk

VISITORS

Visitors to the Chamber were Mrs. Van Wren from Grand Island; 56 fourth grade students and teachers from Engleman School, Grand Island; ten seniors, juniors, and sponsor from Gothenburg High School; 27 third and fourth grade students and teacher from Diller Elementary School; and members of Nebraska Federation of Women's Clubs from across the state.

RECESS

At 12:09 p.m., on a motion by Mr. Schrock, the Legislature recessed until 1:30 p.m.

AFTER RECESS

The Legislature reconvened at 1:33 p.m., Speaker Baack presiding.

ROLL CALL

The roll was called and all members were present except Messrs. Ashford, Bernard-Stevens, Chambers, Coordsen, Hall, R. Johnson, Rogers, Schmit, Warner, Wickersham, Will, Mmes. Labedz, and Pirsch who were excused until they arrive.

UNANIMOUS CONSENT - Member Excused

Mr. Abboud asked unanimous consent to be excused until he returns. No objections. So ordered.

SELECT COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 663. Placed on Select File as amended.
(E & R amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM5105.)

LEGISLATIVE BILL 663A. Placed on Select File.

LEGISLATIVE BILL 123. Placed on Select File as amended.
E & R amendment to LB 123:

AM5106

1. In the Standing Committee amendments, AM0300:

a. On page 1, line 13, strike "dealership" and insert "dealer"; and

b. On page 3, line 7, strike "price" and insert "the comma" and in line 8 strike the comma.

2. On page 4, line 16, strike "on".

3. On page 10, line 8, after "or" insert an underscored comma; and in line 9 after "catalog" insert an underscored comma.

4. On page 15, lines 16 and 19, after "dealer" insert "or majority stockholder"; and in line 18 after "dealer's" insert "or majority stockholder's".

5. On page 16, line 22, strike "dealership" and insert "dealer".

LEGISLATIVE BILL 207. Placed on Select File as amended.
(E & R amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM5107.)

LEGISLATIVE BILL 583. Placed on Select File as amended.
E & R amendment to LB 583:
AM5108

1. In the Rogers et al. amendment, AM0640:

a. On page 1, line 6, strike the second comma;

b. On page 9, line 10, strike "Nebraska Brand Committee", show as stricken, and insert "brand committee"; and in line 15 after "the" insert "brand"; and

c. On page 12, line 4, strike "and" and insert a comma; in line 5 before "to" insert ", and 54-2114"; and in line 6 after the second comma insert "section 54-2113, Revised Statutes Supplement, 1990,".

2. On page 1, line 1, strike "section" and insert "sections"; in line 2 before the comma insert "and 54-2112"; in line 6 after "Agriculture" insert ", the Nebraska Beef Industry Development Board,"; strike beginning with "to" in line 7 through the semicolon in line 9; in line 11 after the semicolon insert "to eliminate the Nebraska Beef Industry Development Act, the Nebraska Beef Industry Development Board, and the Nebraska Beef Industry Development Fund; to provide operative dates;"; and in line 12 strike "section" and

insert "sections, and also sections 54-2101 to 54-2111, 54-2112.01, and 54-2114 to 54-2119, Reissue Revised Statutes of Nebraska, 1943, section 54-2113, Revised Statutes Supplement, 1990, and section 54-2112, Reissue Revised Statutes of Nebraska, 1943, as amended by section 8, Legislative Bill 583, Ninety-second Legislature, First Session, 1991".

LEGISLATIVE BILL 427. Placed on Select File as amended.
E & R amendment to LB 427:
AM5110

1. In the Standing Committee amendments, AM0197, on page 1, lines 5 and 6 and 18, strike "at which".

LEGISLATIVE BILL 798. Placed on Select File as amended.
E & R amendment to LB 798:
AM5109

1. On page 1, line 2, strike "and" and insert a comma and after the comma insert "and 23-343.48,".
2. On page 5, line 11, reinstate the stricken comma.

(Signed) Eric Will, Chairperson

GENERAL FILE

LEGISLATIVE BILL 203. Title read. Considered.

Standing Committee amendment, AM0383, printed separately from the Journal and referred to on page 806, was adopted with 25 ayes, 0 nays, 12 present and not voting, and 12 excused and not voting.

Mr. Beutler offered the following amendment:
AM1094

1. In the Standing Committee amendment, AM0383:
   a. On page 13, line 4, after "requirements" insert "or who meets the educational and testing requirements for licensure and has at least one thousand hours of appraisal experience as described in subdivision (4) of section 76-2230. Any holder of a transitional license shall sign all reports as a holder of a transitional license"; and

b. On page 20, strike beginning with the semicolon in line 7 through the quotation marks in line 10; and strike beginning with the semicolon in line 17 through the quotation marks in line 20.

2. On page 23, line 24, after "memoranda" insert ". Until January 1, 1993, the board, upon request, shall grant a one-year extension of time to complete this requirement after issuance of a transitional license. The requirement shall be completed by January 1, 1994".

3. On page 26, strike beginning with "Until" in line 6 through "1994" in line 10 and all amendments thereto.

4. Strike original section 12 and all amendments thereto.

5. Renumber the remaining sections and correct internal references accordingly.

The Beutler amendment was adopted with 25 ayes, 0 nays, 17 present and not voting, and 7 excused and not voting.

Mr. Bernard-Stevens offered the following amendment:
FA80

Page 40 line 4, after the word rules, strike the word "adopted" and insert "promulgated and approved".

The Bernard-Stevens amendment lost with 18 ayes, 0 nays, 24 present and not voting, and 7 excused and not voting.

Mr. Beutler offered the following amendment:
AM1104

1. On page 16, lines 23 through 25, strike the new matter.

The Beutler amendment was adopted with 26 ayes, 0 nays, 16 present and not voting, and 7 excused and not voting.

Advanced to E & R for review with 27 ayes, 0 nays, 15 present and not voting, and 7 excused and not voting.

Mrs. Hillman asked unanimous consent to be excused until she returns. No objections. So ordered.

LEGISLATIVE BILL 203A. Title read. Considered.

Advanced to E & R for review with 25 ayes, 0 nays, 17 present and not voting, and 7 excused and not voting.

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 836A. Introduced by Wesely, 26; Rasmussen, 20.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 836, Ninety-second Legislature, First Session, 1991; and to require certain transfers.

UNANIMOUS CONSENT - Print in Journal

Mr. Chizek asked unanimous consent to print the following amendment to LB 353 in the Journal. No objections. So ordered.

AM0734

1. Insert the following new section:

"Sec. 19. The license or permit of any person licensed or issued a permit pursuant to the Private Investigation Act who violates section 28-906 when a peace officer is lawfully conducting a criminal investigation or who continues to pursue an avenue of investigation in a criminal matter when specifically requested not to do so by a peace officer lawfully conducting a criminal investigation shall be subject to revocation or suspension pursuant to section 18 of this act.".

2. On page 2, line 1; and page 18, line 2, strike "24" and insert "25".

3. On page 22, line 14, strike "25, 26, and 29" and insert "26, 27, and 30".

4. Renumber the remaining sections accordingly.

Mr. Robinson asked unanimous consent to print the following amendment to LB 297 in the Journal. No objections. So ordered.

AM1080

(Amendments to Final Reading copy)

1. On page 2, line 16, after the first comma insert "and which has gross receipts of four hundred thousand dollars or more annually,".

SELECT COMMITTEE REPORTS
Enrollment and Review

Correctly Re-Engrossed

The following bills were correctly re-engrossed: 218 and 234.

Correctly Engrossed

The following bills were correctly engrossed: 161 and 853.

(Signed) Eric Will, Chairperson

Enrollment and Review Change to LB 161

The following changes, required to be reported for publication in the Journal, have been made:
ER7047

1. Because of the amendment of section 3-106, Uniform Commercial Code, by LB 205, section 1:

a. On page 1, line 13; and page 178, line 10, "to 3-105, 3-107" has been inserted after "3-101"; and

b. On page 2, line 2; and page 178, line 13, ", and section 3-106, Uniform Commercial Code, as amended by section 1, Legislative Bill 205, Ninety-second Legislature, First Session, 1991" has been inserted after "Code".

Enrollment and Review Change to LB 234
(Final Reading copy)

The following changes, required to be reported for publication in the Journal, have been made:
ER7048

1. In the Landis amendment, AM0875:

a. Section 26 has been renumbered as section 1;

b. Sections 40 and 42 have been struck; and

c. Amendment 3 has been struck and the remaining amendments renumbered accordingly.

2. On page 32, line 4, "17 to 25" has been struck and "18 to 26" inserted.
3. On page 33, line 25, "21" has been struck and "22" inserted.
4. On page 34, line 9, "20" has been struck and "21" inserted.
5. On page 37, line 21, "23" has been struck and "24" inserted.
6. On page 51, line 11, "2 and 17 to 25" has been struck and "3 and 18 to 26" inserted; and in line 25 "section 44-320, Reissue Revised Statutes of Nebraska, 1943, as amended by section 59, Legislative Bill 237, Ninety-second Legislature, First Session, 1991," has been inserted after the second comma.

(Signed) Mary E. Sommermeyer
E & R Attorney

MR. CONWAY PRESIDING

SELECT FILE

LEGISLATIVE BILL 732. Mr. Kristensen renewed his pending amendment, AM0940, found in the Journal on page 1452.

Mr. Moore offered the following amendment to the pending Kristensen amendment:
AM1076

(Amendments to AM0940)

1. On page 1, line 8, strike "shall" and insert "may".

The Moore amendment was adopted with 26 ayes, 0 nays, 17 present and not voting, and 6 excused and not voting.

Mr. Beutler requested a division of the question on the Kristensen amendment.

The Chair sustained the division of the question.

The first Kristensen amendment is as follows:
FA81

and after
line 20 insert the following new subsection:
"(2) An additional judge of the Court of Appeals may be appointed by the Governor upon certification by the State Court Administrator to the Supreme Court, Governor, and Legislature that one

hundred fifty appeals have been filed in the Court of Appeals and Supreme Court above the base amount in each of the preceding two calendar years. The base amount shall be one thousand three hundred appeals, and each time an additional judge of the Court of Appeals is appointed the base amount shall be increased by one hundred fifty appeals. Up to three additional judges of the Court of Appeals may be appointed pursuant to this subsection. Judges of the Court of Appeals appointed pursuant to this subsection and any successors may be selected from any Supreme Court judicial district, but no more than two judges of the Court of Appeals appointed pursuant to this subsection and any successors shall be from the same district.".

Mr. Lynch, Mmes. Nelson, and Smith asked unanimous consent to be excused until they return. No objections. So ordered.

SPEAKER BAACK PRESIDING

Mrs. Crosby asked unanimous consent to be excused until she returns. No objections. So ordered.

Mr. Kristensen moved for a call of the house. The motion prevailed with 17 ayes, 0 nays, and 32 not voting.

Mr. Kristensen requested a roll call vote on his first amendment.

Voting in the affirmative, 20:

Ashford	Conway	Hefner	Labedz	Robak
Baack	Crosby	Hillman	Lindsay	Warner
Byars	Elmer	Johnson, L.	Nelson	Wickersham
Chizek	Hartnett	Kristensen	Rasmussen	Will

Voting in the negative, 17:

Bernard-Stevens	Chambers	Lamb	Pirsch	Wehrbein
	Haberman	Landis	Robinson	Wesely
Beutler	Hall	Morrissey	Schmit	Withem
Beyer	Horgan	Peterson		

Present and not voting, 9:

Coordsen	Dierks	Moore	Schellpeper	Schrock
Cudaback	Johnson, R.	Rogers	Schimek	

Excused and not voting, 3:

Abboud	Lynch	Smith

The first Kristensen amendment lost with 20 ayes, 17 nays, 9 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

The second Kristensen amendment is as follows:
FA82

1. On page 4, line 2, strike "nine" and insert "six"; strike beginning with "(2)" in line 13 through the period in line 18 and insert "One judge of the Court of Appeals shall be appointed by the Governor from each Supreme Court judicial district.";

Mr. Ashford asked unanimous consent to be excused. No objections. So ordered.

Mrs. Labedz asked unanimous consent to be excused until she returns. No objections. So ordered.

The second Kristensen amendment was adopted with 33 ayes, 0 nays, 12 present and not voting, and 4 excused and not voting.

Ms. Schimek reoffered the amendment, AM0827, found in the Journal on page 1197 and considered on page 1447.

Mr. Kristensen requested a ruling of the Chair on whether the Schimek amendment is germane to the bill.

The Chair ruled the Schimek amendment is not germane to the bill.

Mr. Chambers challenged the ruling of the Chair. The question is, "Shall the Chair be overruled?"

Mrs. Nelson asked unanimous consent to be excused until she returns. No objections. So ordered.

Mr. Chambers moved for a call of the house. The motion prevailed with 34 ayes, 0 nays, and 15 not voting.

Mr. Chambers requested a roll call vote on his motion to overrule the Chair.

Voting in the affirmative, 13:

Bernard-Stevens	Chambers	Hall	Peterson	Wesely
Beyer	Crosby	Johnson, R.	Schimek	Will
	Haberman	Morrissey	Schmit	

Voting in the negative, 20:

Byars	Elmer	Kristensen	Lindsay	Schrock
Chizek	Hefner	Labedz	Moore	Warner
Coordsen	Hillman	Lamb	Pirsch	Wickersham
Cudaback	Johnson, L.	Landis	Robinson	Withem

Present and not voting, 11:

Baack	Dierks	Horgan	Robak	Schellpeper
Beutler	Hartnett	Rasmussen	Rogers	Wehrbein
Conway				

Excused and not voting, 5:

Abboud	Ashford	Lynch	Nelson	Smith

The Chambers motion to overrule the Chair lost with 13 ayes, 20 nays, 11 present and not voting, and 5 excused and not voting.

The Chair was sustained.

The Chair declared the call raised.

Mr. Beutler offered the following amendment:
FA83
On page 5, lines 18, strike "The Chief Justice" through "Court of Appeals." on line 21.

Messrs. R. Johnson, Withem, and Schmit asked unanimous consent to be excused until they return. No objections. So ordered.

MR. WARNER PRESIDING

Mr. Baack and Mrs. Hillman asked unanimous consent to be excused. No objections. So ordered.

Pending.

SELECT COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 579. Placed on Select File as amended.
(E & R amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM5112.)

LEGISLATIVE BILL 528. Placed on Select File as amended.
E & R amendment to LB 528:
AM5111

1. In the Standing Committee amendments, AM0414, on page 2, line 7, before "or" insert "licensees"; and strike line 8 and insert "licensee, permittee, or other person who is required by".

LEGISLATIVE BILL 181. Placed on Select File.
LEGISLATIVE BILL 181A. Placed on Select File.

LEGISLATIVE BILL 742. Placed on Select File as amended.
E & R amendment to LB 742:
AM5113

1. On page 3, line 14; and page 4, line 21, strike "subsections" and insert "subsection".

(Signed) Eric Will, Chairperson

VISITORS

Visitors to the Chamber were 16 fourth grade students and sponsor from Hooper; and 48 fourth grade students and teachers from Geneva.

The Doctor of the Day was Dr. Nancy Tabor from Lincoln.

ADJOURNMENT

At 5:02 p.m., on a motion by Mr. Wehrbein, the Legislature adjourned until 9:00 a.m., Thursday, April 4, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

FIFTY-FIFTH DAY - APRIL 4, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

FIFTY-FIFTH DAY

Legislative Chamber, Lincoln, Nebraska
Thursday, April 4, 1991

Pursuant to adjournment, the Legislature met at 9:00 a.m., Speaker Baack presiding.

PRAYER

The prayer was offered by Rev. Harland Johnson, Chaplain Coordinator.

ROLL CALL

The roll was called and all members were present except Messrs. Abboud, Haberman, Hall, Landis, Schmit, Warner, Wesely, Mmes. Crosby, and Labedz who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Fifty-Fourth Day was approved.

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 638A. Introduced by Rasmussen, 20.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 638, Ninety-second Legislature, First Session, 1991; and to declare an emergency.

UNANIMOUS CONSENT - Print in Journal

Mrs. Nelson asked unanimous consent to print the following amendment to LB 425 in the Journal. No objections. So ordered.

AM1005

1. On page 3, line 8, strike "human life within the womb of" and insert "embryo or fetus carried by"; and in line 9 strike "unborn child's" and insert "fetus' ".

STANDING COMMITTEE REPORTS
General Affairs

LEGISLATIVE RESOLUTION 24CA. Placed on General File.

LEGISLATIVE BILL 849. Placed on General File as amended. (Standing Committee amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM1071.)

(Signed) Jacklyn Smith, Chairperson

MOTION - Return LB 333 to Select File

Ms. Schimek moved to return LB 333 to Select File for the following specific amendment:

AM1038

(Amendments to Final Reading copy)

1. Insert the following new section:

"Sec. 2. That section 60-320.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-320.01. Any person purchasing a motor vehicle in this state other than from a licensed dealer in motor vehicles shall not operate such motor vehicle in this state without registration except as provided in this section. Such purchaser may operate such motor vehicle without registration for a period not to exceed fifteen days. Upon demand of proper authorities, there shall be presented by the person in charge of such vehicle, for examination, a certificate showing the date of transfer and the certificate of title to such vehicle with assignment thereof duly executed. When such vehicle is purchased from a nonresident, the person in

charge of such vehicle shall present upon demand proper evidence of ownership from the state where such vehicle was purchased.

Any person, firm, or corporation in this state engaged in the business of equipping or modifying motor vehicles which are not registered and which are not owned by such person, firm, or corporation ~~may cause the motor vehicle to be operated without registration solely for the purpose of equipping, modifying, and delivering such motor vehicle~~ shall make an application to the Department of Motor Vehicles for a certificate and one numbered plate. Such application shall be accompanied by a fee of thirty dollars. Additional certificates and plates may be procured for a fee of thirty dollars each. Such numbered plates shall be designed by the department and shall bear a mark and be serially numbered so as to be distinguished from each other. Such plates may be used solely for the purpose of equipping, modifying, and delivering such motor vehicles. Upon demand of proper authorities, the operator of such motor vehicle shall present a written ~~authorization from such person, firm, or corporation for delivery of the motor~~ statement from such owner authorizing operation of such vehicle.

Any purchaser of a vehicle from the State of Nebraska or any political subdivision of the state may operate such vehicle without registration for a period of fifteen days. Upon demand of proper authority, satisfactory proof of ownership, which shall be either the certificate of title to such vehicle with assignment thereof duly executed or a bill of sale which describes such vehicle with identification number, shall be presented by the person in charge of such vehicle for examination.".

2. On page 1, line 2, after the first comma insert "60-320.01,"; and in line 6 after the semicolon insert "to require a license plate and fee for equipping, modifying, and delivering motor vehicles as a business;".

3. On page 9, line 18, after the comma insert "60-320.01,".

4. Renumber the remaining sections accordingly.

The Schimek motion to return prevailed with 31 ayes, 0 nays, 9 present and not voting, and 9 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 333. The Schimek specific amendment, AM1038, found in this day's Journal, was adopted with 33 ayes, 0 nays, 7 present and not voting, and 9 excused and not voting.

Advanced to E & R for re-engrossment.

MOTION - Return LB 333 to Select File

Mrs. Nelson moved to return LB 333 to Select File for the following specific amendment:
FA84
After vehicles, line 15, page 2, add or testing after shop repair work.

The Nelson motion to return prevailed with 26 ayes, 0 nays, 14 present and not voting, and 9 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 333. The Nelson specific amendment, FA84, found in this day's Journal, was considered.

Ms. Schimek asked unanimous consent to be excused until she returns. No objections. So ordered.

The Nelson specific amendment lost with 5 ayes, 15 nays, 22 present and not voting, and 7 excused and not voting.

Advanced to E & R for re-engrossment.

Mr. Wehrbein asked unanimous consent to be excused until he returns. No objections. So ordered.

WITHDRAW - Amendment to LB 240

Mr. Warner withdrew his pending amendment, AM1023, found in the Journal on page 1427, to LB 240.

MOTION - Return LB 240 to Select File

Mr. Warner moved to return LB 240 to Select File for the following specific amendment:
AM1110

(Amendments to Final Reading copy)

1. Insert the following new section:

"Sec. 5. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.".

2. On page 5, line 18, after "to" insert "error or unreasonable delay in performing a ministerial duty by the Department of Revenue or to"; and in line 20 strike "Department of Revenue" and insert "department".

The Warner motion to return prevailed with 27 ayes, 0 nays, 16 present and not voting, and 6 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 240. The Warner specific amendment, AM1110, found in this day's Journal, was adopted with 27 ayes, 0 nays, 17 present and not voting, and 5 excused and not voting.

Advanced to E & R for re-engrossment.

Mr. Landis asked unanimous consent to be excused until he returns. No objections. So ordered.

MOTION - Return LB 648 to Select File

Mr. Warner moved to return LB 648 to Select File for his specific amendment, AM1043, found in the Journal on page 1426.

The Warner motion to return prevailed with 28 ayes, 0 nays, 15 present and not voting, and 6 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 648. The Warner specific amendment, AM1043, found in the Journal on page 1426, was adopted with 31 ayes, 0 nays, 12 present and not voting, and 6 excused and not voting.

Advanced to E & R for re-engrossment.

BILLS ON FINAL READING

The following bills were read and put upon final passage:

LEGISLATIVE BILL 335.

A BILL FOR AN ACT relating to motor vehicles; to amend section 60-491, Revised Statutes Supplement, 1990; to change provisions relating to prohibited acts regarding an operator's license or a state identification card as prescribed; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 42:

Ashford	Conway	Horgan	Nelson	Schimek
Baack	Coordsen	Johnson, L.	Peterson	Schrock
Bernard-Stevens	Crosby	Kristensen	Pirsch	Smith
	Cudaback	Labedz	Rasmussen	Warner
Beutler	Dierks	Lamb	Robak	Wesely
Beyer	Elmer	Landis	Robinson	Wickersham
Byars	Hartnett	Lindsay	Rogers	Will
Chambers	Hefner	Moore	Schellpeper	Withem
Chizek	Hillman	Morrissey		

Voting in the negative, 0.

Present and not voting, 2:

Johnson, R. Lynch

Excused and not voting, 5:

Abboud	Haberman	Hall	Schmit	Wehrbein

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 350.

A BILL FOR AN ACT relating to the retirement systems of Class V school districts; to amend sections 79-1035, 79-1037, 79-1051.01,

and 79-1060, Reissue Revised Statutes of Nebraska, 1943, and sections 79-1032, 79-1043, 79-1046, and 79-1048, Revised Statutes Supplement, 1990; to redefine terms; to provide for an administrator; to transfer duties; to change provisions relating to credit for military service; to provide a minimum number of payments for certain annuities; to change provisions relating to reduction of disability benefits and to investment of funds; to provide for payment of annuities and benefits pursuant to qualified domestic relations orders; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 41:

Ashford	Crosby	Kristensen	Peterson	Schmit
Baack	Cudaback	Labedz	Pirsch	Schrock
Bernard-Stevens	Dierks	Lamb	Rasmussen	Smith
	Elmer	Landis	Robak	Warner
Beyer	Hartnett	Lindsay	Robinson	Wesely
Chambers	Hefner	Lynch	Rogers	Wickersham
Chizek	Hillman	Moore	Schellpeper	Will
Conway	Horgan	Nelson	Schimek	Withem
Coordsen	Johnson, L.			

Voting in the negative, 0.

Present and not voting, 4:

Beutler	Byars	Johnson, R.	Morrissey

Excused and not voting, 4:

Abboud	Haberman	Hall	Wehrbein

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to:

Messrs. Bernard-Stevens and Horgan asked unanimous consent to be excused until they return. No objections. So ordered.

LEGISLATIVE BILL 358.

A BILL FOR AN ACT relating to the Department of Agriculture; to amend sections 2-1802, 2-1803, 2-3407, 54-1350, 54-1902, 81-201.03, 81-201.04, 81-216.03 to 81-216.13, 81-216.15 to 81-216.32, and 81-216.34 to 81-216.37, Reissue Revised Statutes of Nebraska, 1943, and sections 81-216.01, 81-216.02, 81-216.33, 81-216.38, and 81-216.39, Revised Statutes Supplement, 1990; to change the titles of certain division heads; to define, redefine, and eliminate terms; to transfer and change provisions for the application for, posting of, and retention of permits, for fees, and for disciplinary actions under the Nebraska Pure Food Act; to change provisions for inspections by the department as prescribed; to change provisions relating to the lease, loan, trade, or sale of certain swine; to change provisions relating to administrative services in the department; to change provisions relating to a fund; to provide sanitary and safety provisions for food establishments as prescribed; to provide duties for certain permitholders, the department, and county attorneys; to harmonize provisions; to change provisions relating to penalties; to eliminate a fund; and to repeal the original sections, and also sections 81-201.01, 81-201.02, and 81-216.14, Reissue Revised Statutes of Nebraska, 1943.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 43:

Ashford	Cudaback	Labedz	Pirsch	Schrock
Baack	Dierks	Lamb	Rasmussen	Smith
Beutler	Elmer	Landis	Robak	Warner
Beyer	Hall	Lindsay	Robinson	Wehrbein
Chambers	Hefner	Lynch	Rogers	Wesely
Chizek	Hillman	Moore	Schellpeper	Wickersham
Conway	Johnson, L.	Morrissey	Schimek	Will
Coordsen	Johnson, R.	Nelson	Schmit	Withem
Crosby	Kristensen	Peterson		

Voting in the negative, 0.

Present and not voting, 2:

Byars Hartnett

Excused and not voting, 4:

Abboud	Bernard-Stevens	Haberman	Horgan

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 367. With Emergency.

A BILL FOR AN ACT relating to agriculture; to amend sections 2-3304, 2-3305, and 2-3306, Reissue Revised Statutes of Nebraska, 1943; to increase the number of members on the Soybean Development, Utilization, and Marketing Board; to change provisions relating to districts for selection of board members as prescribed; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 45:

Ashford	Cudaback	Johnson, R.	Nelson	Schmit
Baack	Dierks	Kristensen	Peterson	Schrock
Beutler	Elmer	Labedz	Pirsch	Smith
Beyer	Hall	Lamb	Rasmussen	Warner
Chambers	Hartnett	Landis	Robak	Wehrbein
Chizek	Hefner	Lindsay	Robinson	Wesely
Conway	Hillman	Lynch	Rogers	Wickersham
Coordsen	Horgan	Moore	Schellpeper	Will
Crosby	Johnson, L.	Morrissey	Schimek	Withem

Voting in the negative, 0.

Present and not voting, 1:

Byars

Excused and not voting, 3:

Abboud	Bernard-Stevens	Haberman

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

Mr. Warner asked unanimous consent to be excused until he returns. No objections. So ordered.

LEGISLATIVE BILL 368.

A BILL FOR AN ACT relating to the Nebraska Investment Council; to amend sections 72-1237 and 72-1239, Reissue Revised Statutes of Nebraska, 1943; to provide that the State Treasurer is an ex officio member of the council; to harmonize provisions; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 42:

Ashford	Dierks	Kristensen	Nelson	Schimek
Baack	Elmer	Labedz	Peterson	Schmit
Beutler	Hall	Lamb	Pirsch	Schrock
Beyer	Hartnett	Landis	Rasmussen	Smith
Chambers	Hefner	Lindsay	Robak	Wesely
Chizek	Hillman	Lynch	Robinson	Wickersham
Conway	Horgan	Moore	Rogers	Will
Coordsen	Johnson, L.	Morrissey	Schellpeper	Withem
Cudaback	Johnson, R.			

Voting in the negative, 0.

Present and not voting, 3:

Byars	Crosby	Wehrbein

Excused and not voting, 4:

Abboud	Bernard-Stevens	Haberman	Warner

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

Mr. Dierks asked unanimous consent to be excused until he returns. No objections. So ordered.

LEGISLATIVE BILL 403.

A BILL FOR AN ACT relating to game and parks; to amend section 37-102, Revised Statutes Supplement, 1990; to provide for a bow hunter education program; to require a certificate of competency for bow and arrow hunting as prescribed; to harmonize provisions; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 37:

Ashford	Elmer	Kristensen	Pirsch	Schmit
Baack	Hall	Labedz	Rasmussen	Schrock
Beyer	Hartnett	Landis	Robak	Wehrbein
Chambers	Hefner	Lindsay	Robinson	Wesely
Chizek	Hillman	Moore	Rogers	Wickersham
Conway	Horgan	Morrissey	Schellpeper	Will
Coordsen	Johnson, L.	Peterson	Schimek	Withem
Crosby	Johnson, R.			

Voting in the negative, 5:

Cudaback	Lamb	Lynch	Nelson	Smith

Present and not voting, 2:

Beutler	Byars

Excused and not voting, 5:

Abboud	Bernard-Stevens	Dierks	Haberman	Warner

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 408.

A BILL FOR AN ACT relating to deceptive trade practices; to amend sections 87-302 and 87-307, Revised Statutes Supplement, 1990; to define and redefine terms; to enumerate a deceptive trade practice; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 42:

Ashford	Crosby	Johnson, R.	Morrissey	Schimek
Baack	Cudaback	Kristensen	Nelson	Schmit
Beutler	Elmer	Labedz	Peterson	Schrock
Beyer	Hall	Lamb	Pirsch	Smith
Byars	Hartnett	Landis	Robak	Wehrbein
Chambers	Hefner	Lindsay	Robinson	Wesely
Chizek	Hillman	Lynch	Rogers	Wickersham
Conway	Horgan	Moore	Schellpeper	Will
Coordsen	Johnson, L.			

Voting in the negative, 0.

Present and not voting, 2:

Rasmussen Withem

Excused and not voting, 5:

Abboud	Bernard-Stevens	Dierks	Haberman	Warner

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 429.

A BILL FOR AN ACT relating to the Resource Recovery Fund; to amend section 81-1647, Revised Statutes Supplement, 1990; to provide for the deposit of proceeds from the sale of surplus property as prescribed; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 43:

Ashford	Cudaback	Kristensen	Peterson	Schmit
Baack	Elmer	Labedz	Pirsch	Schrock
Beyer	Hall	Lamb	Rasmussen	Smith
Byars	Hartnett	Landis	Robak	Wehrbein
Chambers	Hefner	Lindsay	Robinson	Wesely
Chizek	Hillman	Lynch	Rogers	Wickersham
Conway	Horgan	Moore	Schellpeper	Will
Coordsen	Johnson, L.	Morrissey	Schimek	Withem
Crosby	Johnson, R.	Nelson		

Voting in the negative, 0.

Present and not voting, 1:

Beutler

Excused and not voting, 5:

Abboud	Bernard-Stevens	Dierks	Haberman	Warner

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 429A.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 429, Ninety-second Legislature, First Session, 1991.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 38:

Ashford	Beyer	Chambers	Conway	Cudaback
Baack	Byars	Chizek	Coordsen	Elmer

Hall	Kristensen	Moore	Rogers	Wehrbein
Hartnett	Labedz	Morrissey	Schellpeper	Wesely
Hefner	Lamb	Nelson	Schimek	Wickersham
Horgan	Landis	Pirsch	Schmit	Will
Johnson, L.	Lindsay	Robak	Schrock	Withem
Johnson, R.	Lynch	Robinson		

Voting in the negative, 1:

Smith

Present and not voting, 5:

Beutler	Crosby	Hillman	Peterson	Rasmussen

Excused and not voting, 5:

Abboud	Bernard-Stevens	Dierks	Haberman	Warner

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 500. With Emergency.

A BILL FOR AN ACT relating to the Game and Parks Commission; to authorize a conveyance of real estate to the Department of Roads; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 40:

Baack	Crosby	Johnson, L.	Nelson	Schmit
Beutler	Cudaback	Kristensen	Peterson	Schrock
Beyer	Elmer	Labedz	Pirsch	Smith
Byars	Hall	Lamb	Rasmussen	Wehrbein
Chambers	Hartnett	Landis	Robak	Wesely
Chizek	Hefner	Lindsay	Robinson	Wickersham
Conway	Hillman	Moore	Rogers	Will
Coordsen	Horgan	Morrissey	Schellpeper	Withem

Voting in the negative, 0.

Present and not voting, 4:

Ashford	Johnson, R.	Lynch	Schimek	

Excused and not voting, 5:

Abboud	Bernard-Stevens	Dierks	Haberman	Warner

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

LEGISLATIVE BILL 534.

A BILL FOR AN ACT relating to the Nebraska Political Accountability and Disclosure Act; to amend section 49-1405, Reissue Revised Statutes of Nebraska, 1943, and section 49-1461, Revised Statutes Supplement, 1990; to redefine a term; to change provisions relating to the filing of campaign statements as prescribed; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 41:

Ashford	Crosby	Kristensen	Peterson	Schmit
Baack	Cudaback	Labedz	Pirsch	Schrock
Beutler	Elmer	Lamb	Rasmussen	Smith
Beyer	Hall	Landis	Robak	Wehrbein
Byars	Hartnett	Lindsay	Robinson	Wesely
Chambers	Hefner	Moore	Rogers	Wickersham
Chizek	Hillman	Morrissey	Schellpeper	Will
Conway	Johnson, L.	Nelson	Schimek	Withem
Coordsen				

Voting in the negative, 0.

Present and not voting, 3:

Horgan	Johnson, R.	Lynch

Excused and not voting, 5:

Abboud	Bernard-Stevens	Dierks	Haberman	Warner

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 639.

A BILL FOR AN ACT relating to intergovernmental cooperation; to state purpose and intent; to create the Geographic Information System Steering Committee; to provide duties; and to require a report.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 40:

Ashford	Crosby	Johnson, R.	Nelson	Schmit
Baack	Elmer	Kristensen	Pirsch	Schrock
Beyer	Hall	Labedz	Rasmussen	Smith
Byars	Hartnett	Lamb	Robak	Wehrbein
Chambers	Hefner	Landis	Robinson	Wesely
Chizek	Hillman	Lindsay	Rogers	Wickersham
Conway	Horgan	Moore	Schellpeper	Will
Coordsen	Johnson, L.	Morrissey	Schimek	Withem

Voting in the negative, 1:

Cudaback

Present and not voting, 3:

Beutler	Lynch	Peterson

Excused and not voting, 5:

Abboud	Bernard-Stevens	Dierks	Haberman	Warner

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 689.

A BILL FOR AN ACT relating to schools and school districts; to amend section 79-439, Revised Statutes Supplement, 1990; to provide for the applicability of certain provisions to Class IV school districts; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 42:

Ashford	Cudaback	Kristensen	Peterson	Schmit
Baack	Elmer	Labedz	Pirsch	Schrock
Beutler	Hall	Lamb	Rasmussen	Smith
Beyer	Hartnett	Landis	Robak	Wehrbein
Chambers	Hefner	Lindsay	Robinson	Wesely
Chizek	Hillman	Moore	Rogers	Wickersham
Conway	Horgan	Morrissey	Schellpeper	Will
Coordsen	Johnson, L.	Nelson	Schimek	Withem
Crosby	Johnson, R.			

Voting in the negative, 0.

Present and not voting, 2:

Byars	Lynch

Excused and not voting, 5:

Abboud	Bernard-Stevens	Dierks	Haberman	Warner

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 716. With Emergency.

A BILL FOR AN ACT relating to the Low-Level Radioactive Waste Disposal Act; to amend section 81-15,101.01, Revised Statutes Supplement, 1990, section 81-1578, Revised Statutes Supplement, 1990, as amended by section 2, Legislative Bill 837, Ninety-second Legislature, First Session, 1991, and Laws 1983, LB 200, section 3; to transfer a law; to change a section reference; to harmonize provisions; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 43:

Ashford	Crosby	Johnson, R.	Peterson	Schmit
Baack	Cudaback	Kristensen	Pirsch	Schrock
Beutler	Elmer	Labedz	Rasmussen	Smith
Beyer	Hall	Lamb	Robak	Wehrbein
Byars	Hartnett	Landis	Robinson	Wesely
Chambers	Hefner	Lindsay	Rogers	Wickersham
Chizek	Hillman	Moore	Schellpeper	Will
Conway	Horgan	Morrissey	Schimek	Withem
Coordsen	Johnson, L.	Nelson		

Voting in the negative, 0.

Present and not voting, 1:

Lynch

Excused and not voting, 5:

Abboud	Bernard-Stevens	Dierks	Haberman	Warner

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

LEGISLATIVE BILL 745.

A BILL FOR AN ACT relating to cities of the metropolitan class; to amend sections 14-363, 14-364, 14-3,127, 14-536, and 14-537,

Reissue Revised Statutes of Nebraska, 1943; to authorize the armor coating of streets; to change provisions relating to assessments for paving repairs, street grading, and other improvements; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 37:

Ashford	Elmer	Lamb	Rasmussen	Schrock
Baack	Hall	Landis	Robak	Smith
Beyer	Hartnett	Lindsay	Robinson	Wehrbein
Chizek	Hefner	Moore	Rogers	Wesely
Conway	Johnson, L.	Morrissey	Schellpeper	Wickersham
Coordsen	Johnson, R.	Nelson	Schimek	Will
Crosby	Kristensen	Peterson	Schmit	Withem
Cudaback	Labedz			

Voting in the negative, 2:

Chambers	Pirsch

Present and not voting, 5:

Beutler	Byars	Hillman	Horgan	Lynch

Excused and not voting, 5:

Abboud	Bernard-Stevens	Dierks	Haberman	Warner

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 766.

A BILL FOR AN ACT relating to the Strategic Air Command Museum; to state intent; to authorize divestiture of the state's interest in the museum as prescribed; and to provide a duty for the State Treasurer.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 41:

Ashford	Cudaback	Johnson, R.	Nelson	Schmit
Baack	Elmer	Kristensen	Peterson	Schrock
Beutler	Hall	Labedz	Pirsch	Smith
Beyer	Hartnett	Lamb	Rasmussen	Wehrbein
Chambers	Hefner	Landis	Robak	Wesely
Chizek	Hillman	Lindsay	Robinson	Wickersham
Conway	Horgan	Moore	Rogers	Will
Coordsen	Johnson, L.	Morrissey	Schellpeper	Withem
Crosby				

Voting in the negative, 0.

Present and not voting, 3:

Byars	Lynch	Schimek

Excused and not voting, 5:

Abboud	Bernard-Stevens	Dierks	Haberman	Warner

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 772.

A BILL FOR AN ACT relating to natural resources; to amend sections 2-1507, 37-435, 46-209, 46-2,116, 46-2,116.01, and 46-2,116.02, Reissue Revised Statutes of Nebraska, 1943; to eliminate the Water Management Board, the Nebraska Water Management Fund, provisions relating to state goals for water resource use, and the Nebraska Water Project Revenue Bonding Act; to transfer funds; to harmonize provisions; and to repeal the original sections, and also sections 2-15,107, 2-15,109 to 2-15,117, 2-4501 to 2-4528, and 46-2,117, Reissue Revised Statutes of Nebraska, 1943, and section 2-15,108, Revised Statutes Supplement, 1990.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 40:

Ashford	Crosby	Johnson, L.	Nelson	Schmit
Baack	Cudaback	Johnson, R.	Peterson	Schrock
Beutler	Elmer	Kristensen	Pirsch	Smith
Beyer	Hall	Labedz	Rasmussen	Wehrbein
Chambers	Hartnett	Lamb	Robak	Wesely
Chizek	Hefner	Landis	Robinson	Wickersham
Conway	Hillman	Lindsay	Rogers	Will
Coordsen	Horgan	Moore	Schellpeper	Withem

Voting in the negative, 0.

Present and not voting, 4:

Byars	Lynch	Morrissey	Schimek

Excused and not voting, 5:

Abboud	Bernard-Stevens	Dierks	Haberman	Warner

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

UNANIMOUS CONSENT - Member Excused

Mr. R. Johnson asked unanimous consent to be excused until he returns. No objections. So ordered.

MOTION - Return LB 810 to Select File

Mr. Wesely moved to return LB 810 to Select File for the following specific amendment:
FA85
"to strike the enacting clause"

Mr. Wesely withdrew his motion to return.

BILL ON FINAL READING

The following bill was read and put upon final passage:

LEGISLATIVE BILL 810.

A BILL FOR AN ACT relating to cities of the first class; to provide powers as prescribed.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 41:

Baack	Elmer	Kristensen	Nelson	Schmit
Beutler	Haberman	Labedz	Peterson	Schrock
Beyer	Hall	Lamb	Pirsch	Smith
Chambers	Hartnett	Landis	Rasmussen	Wehrbein
Chizek	Hefner	Lindsay	Robinson	Wesely
Conway	Hillman	Lynch	Rogers	Wickersham
Coordsen	Horgan	Moore	Schellpeper	Will
Crosby	Johnson, L.	Morrissey	Schimek	Withem
Cudaback				

Voting in the negative, 0.

Present and not voting, 3:

Ashford	Byars	Robak

Excused and not voting, 5:

Abboud	Bernard-Stevens	Dierks	Johnson, R.	Warner

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

EXPLANATION OF VOTE

Had I been present, I would have voted aye on LBs 76 and 292.

(Signed) Ed Schrock

STANDING COMMITTEE REPORT
Government, Military and Veterans Affairs

LEGISLATIVE BILL 463. Placed on General File as amended.
Standing Committee amendment to LB 463:
AM0455

1. Strike original section 7.

2. On page 3, line 14, strike "shall" and insert "may"; and in line 16 strike "host organization" and insert "department under the Community Economic Development Partnership Act".

3. On page 4, line 15, after the comma insert "and"; in line 16 strike ", and (d) Director of Economic Development"; in line 22 strike "host organization" and insert "Department of Economic Development"; and in lines 23 and 24 strike "host organization" and insert "department".

4. On page 5, lines 3, 5, and 8 and 9, strike "host organization" and insert "department"; and in line 11 strike "host organization" and insert "Department of Economic Development".

5. On page 6, line 10, strike "host organization and the".

6. Renumber the remaining section accordingly.

(Signed) Gerald Conway, Chairperson

UNANIMOUS CONSENT - Print in Journal

Mr. Withem asked unanimous consent to print the following amendment to LB 425 in the Journal. No objections. So ordered.

AM1103

1. Insert the following new section:

"Sec. 8. On or before October 1 of each school year, each school district shall provide written information to all students in grades seven through twelve explaining the provisions of section 2 of this act with regard to the requirements for parental notification as a condition for obtaining an abortion. The information shall also explain the provisions of sections 3 and 4 of this act with regard to seeking a judicial waiver from the parental notification

requirements. The State Department of Education shall develop and distribute to all public schools a standardized information form which may be used to comply with this section.".

2. Renumber the remaining sections accordingly.

MR. CONWAY PRESIDING

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following bills: 335, 350, 358, 367, 368, 403, 408, 429, 429A, 500, 534, 639, 689, 716, 745, 766, 772, and 810.

GENERAL FILE

LEGISLATIVE BILL 850. Title read. Considered.

Mr. Morrissey offered the following amendment:
AM1111

1. On page 3, after line 10 insert the following:
"Claim No. 1076, against the Department of Environmental Control, pay to School District No. 23 of Nemaha Co., c/o Neal E. Stenberg, Attorney, P.O. Box 82028, Lincoln, NE 68501-2028, out of Fund 4840, Low-Level Radioactive Waste federal funds 34,064.87".

2. On page 4, line 24, strike "255.93" and insert "34,320.80".

3. On page 5, line 1, strike "1,511,785.48" and insert "1,545,850.35".

Messrs. Beutler, Chambers, Ashford, Hartnett, Haberman, Robinson, Peterson, Moore, L. Johnson, and Mrs. Smith asked unanimous consent to be excused until they return. No objections. So ordered.

SPEAKER BAACK PRESIDING

Mr. Morrissey moved for a call of the house. The motion prevailed with 16 ayes, 1 nay, and 32 not voting.

Mr. Morrissey requested a roll call vote on his amendment.

Voting in the affirmative, 15:

Dierks	Kristensen	Lindsay	Rogers	Wesely
Elmer	Labedz	Morrissey	Schimek	Will
Horgan	Landis	Pirsch	Wehrbein	Withem

Voting in the negative, 13:

Baack	Chizek	Cudaback	Lamb	Schellpeper
Beyer	Conway	Hefner	Nelson	Schmit
Byars	Coordsen	Hillman		

Present and not voting, 6:

Crosby	Rasmussen	Robak	Schrock	Wickersham
Hall				

Excused and not voting, 15:

Abboud	Beutler	Hartnett	Lynch	Robinson
Ashford	Chambers	Johnson, L.	Moore	Smith
Bernard-Stevens	Haberman	Johnson, R.	Peterson	Warner

The Morrissey amendment lost with 15 ayes, 13 nays, 6 present and not voting, and 15 excused and not voting.

Pending.

NOTICE OF COMMITTEE HEARING
Government, Military and Veterans Affairs

Governor Appointment Tuesday, April 16, 1991 1:00 p.m.
Jonathan F. Sweet - Department of Veterans Affairs

(Signed) Gerald Conway, Chairperson

UNANIMOUS CONSENT - Print in Journal

Mr. Kristensen asked unanimous consent to print the following amendment to LB 732A in the Journal. No objections. So ordered.

AM1075

1. On page 2, line 2, strike "$581,364" and insert "$387,576"; in line 3 strike "$830,083" and insert "$553,389"; in line 8 strike "$859,017" and insert "$616,960"; in line 9 strike "$1,009,968" and insert "$727,657"; in line 15 strike "$537,800" and insert "$378,200"; and in line 16 strike "$687,290" and insert "$480,890".

VISITORS

Visitors to the Chamber were Charlie Adams; 35 fourth grade students and teachers from Lincoln Elementary, Plattsmouth; 31 students and teachers from Douglas; 48 fourth grade students and teachers from Hillrise Elementary, Elkhorn; 30 fifth and sixth grade students and teachers from Elgin; Extension Club groups from Dunbar and Syracuse; 33 fourth grade students and teacher from Lincoln Elementary, Norfolk; and 60 students and sponsors from Wasmer School, Grand Island.

RECESS

At 12:06 p.m., on a motion by Mr. Wesely, the Legislature recessed until 1:30 p.m.

AFTER RECESS

The Legislature reconvened at 1:30 p.m., Speaker Baack presiding.

ROLL CALL

The roll was called and all members were present except Mr. Horgan who was excused; and Messrs. Abboud, Bernard-Stevens, Beutler, Chambers, Hartnett, R. Johnson, Lynch, Schmit, Warner, Mmes. Labedz, and Pirsch who were excused until they arrive.

UNANIMOUS CONSENT - Member Excused

Messrs. Dierks, Peterson, and Mrs. Smith asked unanimous consent to be excused until they return. No objections. So ordered.

PRESENTED TO THE GOVERNOR

Presented to the Governor on April 4, 1991, at 12:35 p.m., were the following bills: 335, 350, 358, 367, 368, 403, 408, 429, 429A, 500, 534, 639, 689, 716, 745, 766, 772, and 810.

(Signed) Pam Moravec, Enrolling Clerk

STANDING COMMITTEE REPORT
Education

The Committee on Education desires to report favorably upon the appointment listed below. The Committee suggests the appointment be confirmed by the Legislature and suggests a record vote.

Wilbur "Doc" Kloepping - Board of Educational Lands and Funds

VOTE: Aye: Senators Withem, Dierks, Schrock, Chizek, and Lamb. Nay: none. Absent: Senators Warner, Nelson, and Beutler.

(Signed) Ron Withem, Chairperson

GENERAL FILE

LEGISLATIVE BILL 850. Considered.

Mr. Haberman moved for a call of the house. The motion prevailed with 8 ayes, 1 nay, and 40 not voting.

Mr. Haberman offered the following amendment:
AM1108

1. On page 3, after line 18, insert the following new paragraph:
"DESCRIPTION DOLLARS
Claim No. 91-027, against the Department of Roads, pay to Hazel Grapes, Big Springs, NE 69122, out of the General Fund 238.55".
2. On page 4, line 22, strike "1,488,107.33" and insert "1,488,345.88".
3. On page 5, line 1, strike "1,511,785.48" and insert "1,512,024.03".

Mr. Haberman requested a roll call vote on his amendment.

Voting in the affirmative, 9:

Byars	Elmer	Hall	Lindsay	Withem
Crosby	Haberman	Kristensen	Schrock	

Voting in the negative, 21:

Ashford	Coordsen	Landis	Robinson	Warner
Baack	Hefner	Moore	Rogers	Wehrbein
Beyer	Johnson, L.	Nelson	Schellpeper	Wesely
Chizek	Lamb	Rasmussen	Schimek	Will
Conway				

Present and not voting, 2:

Morrissey	Robak

Excused and not voting, 17:

Abboud	Chambers	Hillman	Lynch	Schmit
Bernard-Stevens	Cudaback	Horgan	Peterson	Smith
	Dierks	Johnson, R.	Pirsch	Wickersham
Beutler	Hartnett	Labedz		

The Haberman amendment lost with 9 ayes, 21 nays, 2 present and not voting, and 17 excused and not voting.

Advanced to E & R for review with 28 ayes, 0 nays, 4 present and not voting, and 17 excused and not voting.

The Chair declared the call raised.

Messrs. Beyer and Robinson asked unanimous consent to be excused until they return. No objections. So ordered.

LEGISLATIVE BILL 355. Mr. Ashford renewed his pending amendment, AM0847, found in the Journal on page 1407.

Ms. Schimek moved the previous question. The question is, "Shall the debate now close?"

Mr. Ashford moved for a call of the house. The motion prevailed with 23 ayes, 0 nays, and 26 not voting.

The Chair declared a roll call vote on the motion to cease debate.

Voting in the affirmative, 39:

Ashford	Dierks	Kristensen	Peterson	Schrock
Beyer	Elmer	Labedz	Pirsch	Smith
Byars	Haberman	Lamb	Rasmussen	Warner
Chizek	Hall	Landis	Robak	Wehrbein
Conway	Hartnett	Lindsay	Robinson	Wesely
Coordsen	Hefner	Moore	Rogers	Will
Crosby	Hillman	Morrissey	Schellpeper	Withem
Cudaback	Johnson, L.	Nelson	Schimek	

Voting in the negative, 2:

Chambers Schmit

Present and not voting, 2:

Baack Wickersham

Excused and not voting, 6:

Abboud	Bernard-Stevens	Beutler	Horgan	Johnson, R. Lynch

The motion to cease debate prevailed with 39 ayes, 2 nays, 2 present and not voting, and 6 excused and not voting.

Mr. Schellpeper requested a roll call vote on the Ashford amendment.

Voting in the affirmative, 24:

Abboud	Coordsen	Hefner	Lamb	Rogers
Bernard-Stevens	Cudaback	Hillman	Moore	Schellpeper
Beyer	Dierks	Johnson, L.	Peterson	Schrock
Byars	Elmer	Kristensen	Robak	Smith
	Haberman	Labedz	Robinson	Wickersham

Voting in the negative, 21:

Ashford	Chizek	Landis	Pirsch	Warner
Baack	Conway	Lindsay	Rasmussen	Wehrbein
Beutler	Hall	Morrissey	Schimek	Wesely
Chambers	Hartnett	Nelson	Schmit	Will

Withem

Present and not voting, 1:

Crosby

Excused and not voting, 3:

Horgan Johnson, R. Lynch

The Ashford amendment lost with 24 ayes, 21 nays, 1 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Mr. Haberman offered the following amendment:
FA86

(Amendments to AM0913)

1. Insert the following new section:

"Sec. 9. The provisions of sections 1 to 15 of this act shall only apply to the purchase, sale, lease, rental, or transfer of handguns in cities having a population of one hundred thousand inhabitants or more.".

MR. WARNER PRESIDING

Mr. Coordsen asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Haberman withdrew his pending amendment.

SPEAKER BAACK PRESIDING

Mr. Will moved to indefinitely postpone LB 355.

Laid over.

UNANIMOUS CONSENT - Print in Journal

Mr. Landis asked unanimous consent to print the following amendment to LB 425 in the Journal. No objections. So ordered.

AM1089

1. On page 3, strike beginning with "Parent" in line 13 through the second "woman" in line 14 and insert "Adult family member shall mean one parent, grandparent, sister, brother, aunt, uncle, stepparent nineteen years of age or older, or guardian"; and in line 16 strike "parent" and insert "adult family member".

2. On page 4, in lines 7, 8, and 12, strike "parent" and insert "adult family member"; and in line 21 strike "her parent" and insert "an adult family member".

3. On page 5, line 6, strike "her parent" and insert "an adult family member".

MESSAGES FROM THE GOVERNOR

April 3, 1991

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Madam President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Nebraska Commission of Industrial Relations, requiring legislative approval.

Appointee: Karen Flowers, 6940 "O" St., Suite 326, Lincoln, NE 68510, 402-464-5500.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:fc

April 3, 1991

Madam President, Mr. Speaker
and Members of the Legislature

State Capitol Building
Lincoln, Nebraska 68509

Dear Madam President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Nebraska Child Abuse Prevention Fund Board, requiring legislative approval.

Appointee: Patricia Q. Lanphier, 4546 Shirley, Omaha, NE 68106, 402-551-4546.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:fc

April 4, 1991

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Madam President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Nebraska Agricultural Land Valuation Advisory Board, requiring legislative approval.

Appointee: Paul Phelps, P.O. Box 254, Decatur, NE 68020, 402-274-1226.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:fc

April 4, 1991

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Madam President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Nebraska Agricultural Land Valuation Advisory Board, requiring legislative approval.

Appointee: Ivan J. Schmedding, RR, Box 70, Winnebago, NE 68071, 402-846-5640.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:fc

April 3, 1991

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Madam President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Nebraska Agricultural Land Valuation Advisory Board, requiring legislative approval.

Appointee: Jack Ostergard, HC 79, Box 42, Gothenburg, NE 69138, 308-537-3256.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:fc

April 4, 1991

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Madam President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Nebraska Agricultural Land Valuation Advisory Board, requiring legislative approval.

Appointee: Robert J. Broomfield, 216 N 11th St., Lincoln, NE 68832, 402-845-4488.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:fc

April 3, 1991

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Madam President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Nebraska Arts Council, requiring legislative approval.

Appointee: Maryanne H. Harry, RR 1, Box 197A, Lexington, NE 68850.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:fc

April 3, 1991

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Madam President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Nebraska Natural Resources Commission, requiring legislative approval.

Appointee: Michael Shaughnessy, 1422 Jay St., St. Paul, NE 68873, 308-754-4491.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:fc

April 3, 1991

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Madam President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Nebraska Natural Resources Commission, requiring legislative approval.

Appointee: Wilbur L. Nelson, 776 W. St. Clair, Minden, NE 68959, 308-832-1669.

This appointment is respectfully submitted for your consideration.

Sincerely,

(Signed) E. Benjamin Nelson
Governor

EBN:fc

April 3, 1991

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Madam President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Nebraska Natural Resources Commission, requiring legislative approval.

Appointee: Glen L. Kroese, RR. #1, Box 35, Firth, NE 68358, 402-791-5859.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:fc

GENERAL FILE

LEGISLATIVE BILL 511. Title read. Considered.

Mr. Lamb renewed his pending amendment, AM0907, printed separately from the Journal and referred to on page 1307.

Messrs. Ashford, Haberman, and Wehrbein asked unanimous consent to be excused. No objections. So ordered.

Mr. Morrissey withdrew his pending amendment, FA75, found in the Journal on page 1341, to the pending Lamb amendment.

Pending.

STANDING COMMITTEE REPORTS
General Affairs

LEGISLATIVE BILL 533. Placed on General File as amended.
Standing Committee amendment to LB 533:
AM1112

1. Strike the original sections and insert the following new sections:

"Section 1. That section 9-301, Revised Statutes Supplement, 1990, be amended to read as follows:

9-301. Sections 9-301 to 9-356 and section 2 of this act shall be known and may be cited as the Nebraska Pickle Card Lottery Act.

Sec. 2. In any administrative action initiated by the department pursuant to subdivision (3) or (5) of section 9-322, an administrative order shall be issued within forty-five days following the conclusion of any hearing on such action.

Sec. 3. That section 9-329.03, Revised Statutes Supplement, 1990, be amended to read as follows:

9-329.03. (1) Any sole proprietorship, partnership, or corporation, which holds a retailer's license for consumption on the premises or a bottle club license issued by the Nebraska Liquor Control Commission pursuant to the Nebraska Liquor Control Act or which holds a retailer's license for consumption off the premises ~~so long as seventy-five percent of such retailer's revenue on an annual basis is received from the sale of alcoholic liquor,~~ may apply for a pickle card operator's license to sell individual pickle cards as opportunities to participate in a lottery by the sale of pickle cards. ~~The burden shall be on any licensee who holds an off-premises license to show that the licensee's sales revenue meets such percentage requirement.~~

(2) A pickle card operator licensed under the Nebraska Pickle Card Lottery Act shall not be connected with or interested in, directly or indirectly, any person, partnership, firm, or corporation or other party licensed as a distributor or manufacturer under section 9-330 or 9-332.

(3) A sole proprietor, partner in a partnership, or officer or director of a corporation licensed as a pickle card operator shall not be licensed

as a sales agent.

Sec. 4. That original sections 9-301 and 9-329.03, Revised Statutes Supplement, 1990, are repealed.".

LEGISLATIVE BILL 797. Indefinitely postponed.

(Signed) Jacklyn Smith, Chairperson

UNANIMOUS CONSENT - Print in Journal

Messrs. Wickersham and Lamb asked unanimous consent to print the following amendment to LB 783A in the Journal. No objections. So ordered.

AM1113

1. Strike original section 1.

2. On page 2, strike beginning with "$10,000,000" in line 7 through "Cash" in line 9 and insert "$1,260 from the General Fund for FY1991-92 and (2) $1,260 from the General".

3. Renumber remaining sections accordingly.

UNANIMOUS CONSENT - Add Co-Introducer

Mrs. Pirsch asked unanimous consent to have her name added as co-introducer to LB 186. No objections. So ordered.

VISITORS

Visitors to the Chamber were Mike Casey and Courtney McNulty from Arapahoe; 55 fourth grade students and teacher from Pierce; 20 seventh and eighth grade students and sponsors from Elba; Mr. and Mrs. James Koudelka and Mr. and Mrs. Ken Glandt from Battle Creek; and 42 fourth grade students and teachers from Morton School, Hastings.

The Doctor of the Day was Dr. Bill Lyons from Kearney.

ADJOURNMENT

At 4:11 p.m., on a motion by Mr. Lamb, the Legislature adjourned until 9:00 a.m., Friday, April 5, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

FIFTY-SIXTH DAY - APRIL 5, 1991

LEGISLATIVE JOURNAL

FIFTY-SIXTH DAY - APRIL 5, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

FIFTY-SIXTH DAY

Legislative Chamber, Lincoln, Nebraska
Friday, April 5, 1991

Pursuant to adjournment, the Legislature met at 9:00 a.m., Speaker Baack presiding.

PRAYER

The prayer was offered by Pastor Jerry David, Church on the Rock, Lincoln, Nebraska.

ROLL CALL

The roll was called and all members were present except Messrs. Hefner and Withem who were excused; and Messrs. Abboud, Ashford, Beutler, Chambers, Haberman, Hall, Lindsay, Moore, Morrissey, Robinson, and Warner who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

Page 1518, line 22, strike "Agriculture" and insert "Agricultural". The Journal for the Fifty-Fifth Day was approved as corrected.

SELECT COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 773. Placed on Select File as amended.
(E & R amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM5115.)

LEGISLATIVE BILL 795. Placed on Select File as amended.

E & R amendment to LB 795:
AM5114

1. On page 1, line 2, strike "9-625" and insert "9-601"; in line 3 after the semicolon insert "to limit the use of gross proceeds under the act as prescribed;"; in line 4 strike "a provision" and insert "provisions"; in line 5 strike "a lottery" and insert "lotteries;"; strike beginning with "and" in line 5 through the semicolon in line 8; and strike beginning with the first comma in line 10 through "1990" in line 11.

Correctly Engrossed

The following bills were correctly engrossed: 200 and 422.

(Signed) Eric Will, Chairperson

Enrollment and Review Change to LB 200

The following changes, required to be reported for publication in the Journal, have been made:
ER7049

1. On page 1, the matter beginning with "of" in line 6 through "licensees" in line 7 has been struck and "checks as prescribed" inserted.

Enrollment and Review Change to LB 422

The following changes, required to be reported for publication in the Journal, have been made:
ER7050

1. In the Ashford amendment, AM1073, on page 7, line 10, "and" has been inserted before "30-2488".

2. On page 1, line 1, "section" has been struck and "sections 24-517, 25-2706," inserted; in line 2 "and 30-2488," has been inserted after the first comma; in line 3 "to change the jurisdictional amount in county court;" has been inserted after the semicolon; in line 5 "and" has been struck; and in line 6 "section" has been struck and "sections; and to declare an emergency" inserted.

(Signed) Mary E. Sommermeyer
E & R Attorney

REPORT OF REGISTERED LOBBYISTS

In accordance with LB 987, passed in the 1976 session of the Legislature and amended by LB 4 and LB 41 in the 1977 session of the Legislature, the attached is a list of all Lobbyists who have registered as of April 4, 1991. Further lists listing additional lobbyists who have registered will be filed weekly.

(Signed) Patrick J. O'Donnell
Clerk of the Legislature

Adams, Donald D. - Lincoln (Withdrawn 91/04/04)	Nebraska Water Resources Association
Crosby, Guenzel, Davis, Kessner & Moody, Randall - Lincoln	Kuester Southeast Community College Faculty Association
Kelley, Michael - Omaha	Grover Little League
Pappas, James E. - Lincoln	Concerned Cattlemen of Howard County
Vickers, Tom - Lincoln	Citizens for Quality Education

UNANIMOUS CONSENT - Print in Journal

Mr. Baack asked unanimous consent to print the following amendment to LB 663 in the Journal. No objections. So ordered.

AM0854

(Amendments to the E & R amendments, AM5105)

1. Insert the following new sections:

"Sec. 39. That section 79-1254.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-1254.02. The contracts of the teaching staff and school nurses employed by the governing board of any ~~state technical~~ community college, any educational service unit, any educational program administered by the State Department of Education, the Department of Public Institutions, or any political subdivision of the state, except a school district, those colleges governed by the Board of Trustees of the Nebraska State Colleges, and any university governed by the Board of Regents of the University of Nebraska, shall require the sanction of a majority of the members of such governing board. Except as provided in section 79-1254.09, each such contract shall be deemed renewed

and in force and effect until a majority of the board votes, sixty days before the close of the contract period, to amend or terminate the contract for just cause. The secretary of the board shall notify each teacher or school nurse in writing at least ninety days before the close of the contract period of any conditions of unsatisfactory performance or a reduction in teaching staff or nursing staff that the board considers may be just cause to either amend or terminate the contract for the ensuing year. Any teacher or school nurse so notified shall have the right to file within five days of receipt of such notice a written request with the board for a hearing before the board. Upon receipt of such request, the board shall order the hearing to be held within ten days~~,~~ and shall give written notice of the time and place of the hearing to the teacher or school nurse. At the hearing, evidence shall be presented in support of the reasons given for considering amendment or termination of the contract, and the teacher or school nurse shall be permitted to produce evidence related thereto. The board shall render the decision to amend or terminate a contract based on the evidence produced at the hearing.

Sec. 49. That section 79-2664, Revised Statutes Supplement, 1990, be amended to read as follows:

79-2664. There is hereby created the Nebraska ~~Technical~~ Community College Aid Cash Fund. The fund shall be under the direction of the Nebraska ~~Technical~~ Community College Aid, Grant, and Contract Review Committee. The Legislature may appropriate nongeneral funds and transfers pursuant to subdivision (b)(3) of section 48-621 to the fund. The fund shall be used to provide aid, grants, or contracts to the ~~technical~~ community colleges for the purposes of funding grants for vocational-technical faculty training, instructional equipment upgrades, employee assessment, preemployment training, employment training, and dislocated worker programs benefiting the State of Nebraska. Any money in the fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1276. Any money in the Nebraska Technical Community College Aid Cash Fund on the operative date of this section shall be transferred to the Nebraska

Community College Aid Cash Fund on such date.

Sec. 115. Wherever the phrase technical community college or technical community colleges appears in sections 10-127, 10-142, 13-503, 13-916, 32-4,101, 32-4,104, 32-512, 48-621, 58-404, 71-1559, 71-1568, 77-677, 77-2363, 77-3617, 79-321.01, 79-4,147.04, 79-4,155, 79-1233, 79-1254.09, 79-1334, 79-2638, 79-2639, 79-2640, 79-2643, 79-2646, 79-2646.01, 79-2648, 79-2649, 79-2650, 79-2650.03, 79-2650.06, 79-2650.07, 79-2651.02, 79-2663, 79-3002, 80-411, 80-802, 80-901, 80-902, 81-1118.02, 81-1201.01, 81-1331, 84-1301, 84-1504, 84-1601, 85-502, 85-505, 85-507, 85-606, 85-606.01, 85-933, 85-941, 85-948, 85-959, 85-960, 85-964, 85-965, and 85-1101, the Revisor of Statutes shall substitute the phrase community college or community colleges as appropriate.".

2. On page 5, line 19; page 20, line 12; page 29, line 8; page 31, line 24; page 44, line 8; page 61, lines 5, 18, 20, and 23; page 62, lines 2, 4, 7, 8, 17, and 22; page 63, lines 3 and 4; page 65, lines 3 and 7; page 69, lines 6, 10, 17, and 22; page 70, lines 11 and 21; page 71, line 8; page 73, line 14; page 92, lines 1, 19, and 21; page 111, lines 17 and 21; page 113, line 17; and page 114, line 16, strike "technical".

3. On page 53, line 22; page 54, lines 5 and 7; page 55, line 3; page 59, line 1; page 61, line 15; page 63, lines 9 and 16; page 64, line 14; page 65, line 21; page 66, lines 8 and 19; page 67, lines 3, 8, 10, 21, and 23; page 71, line 16; page 72, lines 2 and 15; page 74, lines 1, 5, and 11; page 75, lines 20 and 24; page 76, lines 3, 6, 14, 18, and 21; page 77, lines 1, 5, 10, 13, 18, and 23; page 78, lines 10 and 16; page 112, lines 4 and 15; page 113, lines 2 and 22; page 114, line 2; page 124, line 15; page 125, line 18; and page 127, line 1, strike "technical" and show as stricken.

4. On page 54, lines 21 and 24, strike "Technical community" show as stricken, and insert "Community".

5. On page 55, line 2; and page 113, lines 4, 6, 7, 8, 10, and 11, strike "Technical" and show as stricken.

6. On page 90, line 9; page 91, line 21; and page 103, line 20, strike "Technical".

7. On page 133, strike beginning with "41" in

line 22 through "114" in line 23 and insert "39, 42, 44 to 49, 115, and 117"; and in line 24 strike "117" and insert "120".

8. On page 134, line 1, strike "116" and insert "119"; in line 5 after "original" insert "section 79-1254.02, Reissue Revised Statutes of Nebraska, 1943, and"; in line 6 strike "and" and after the last comma insert "and 79-2664,".

9. On page 135, line 24, after "54-1605," insert "79-1254.02,".

10. On page 136, line 9, after "79-2651.06," insert "79-2664,"; and in lines 19 and 21 strike "technical".

11. On page 137, line 6, after the semicolon insert "to change terminology relating to technical community colleges; to provide a duty for the Revisor of Statutes;".

12. Renumber the remaining sections and correct internal references accordingly.

Mr. Lynch asked unanimous consent to print the following amendment to LB 849 in the Journal. No objections. So ordered.

AM0956

(Amendments to AM1071)

1. Insert the following new sections:

"Sec. 68. That section 44-4201, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-4201. Sections 44-4201 to 44-4235 and section 69 of this act shall be known and may be cited as the Comprehensive Health Insurance Pool Act.

Sec. 69. The Comprehensive Health Insurance Pool Tax Premium Fund is hereby created. The fund shall be administered by the director. The fund shall be used to carry out the purposes of the pool at such time when the premium and related retaliatory tax liability as provided by section 44-4233 has been exceeded. Any money in the fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1276.

Sec. 70. That section 44-4233, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-4233. Any insurer subject to premium and related retaliatory tax liability imposed by section 44-150 or 77-908 may offset assessments paid to the pool by such insurer in a calendar year against its tax liability for that year. No individual insurer shall be subject to any liability of the pool in excess of its premium and related retaliatory tax liability which may be offset under the provisions of this section.".

2. On page 10, line 1, strike "Any" and insert "Ninety percent of the"; and in line 3 after the period insert "Ten percent of the money remaining after the payment of prizes and operating expenses shall be transferred to the Comprehensive Health Insurance Pool Tax Premium Fund.".

3. On page 121, line 9, after the second comma insert "44-4201, 44-4233,".

4. Renumber the remaining sections accordingly.

Mr. Lynch asked unanimous consent to print the following amendment to LB 849 in the Journal. No objections. So ordered.

AM0994

(Amendments to AM1071)

1. On page 4, after line 24, insert the following new subdivision:

"(4) Preference shall be given to bidders and applicants for contracts based in Nebraska if the costs and benefits are equal or superior to those available from competing persons. All contracts for goods or services essential to the operation of a lottery shall require that the person awarded the contract establish a permanent office in this state;".

2. On page 5, line 1, strike "(4)" and insert "(5)"; and in line 4 strike "(5)" and insert "(6)".

RESOLUTION

LEGISLATIVE RESOLUTION 64. Introduced by Hillman, 48; Baack, 47.

WHEREAS, the consolidation in recent years to automated flight service stations has been controversial; and

WHEREAS, the possibility of an additional manned flight service station may be considered for Nebraska; and

WHEREAS, the criteria regarding future locations of manned flight service stations will be determined by unique weather or operational conditions which are critical to the safety of flight; and

WHEREAS, the manned flight service stations nearest to Nebraska are in Columbus, Nebraska; Pierre, South Dakota; Casper, Wyoming; and Denver, Colorado; and

WHEREAS, a climatological summary of Western Nebraska would show the unique circumstances of projections of upward to 1,000 feet, common wind velocities of thirty to fifty miles per hour, outbreaks of cold polar air, and easterly winds that bring up slope conditions and low cloudiness and precipitation.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature approves of a future location of a manned flight service station in the Panhandle area of Western Nebraska.

2. That the Legislature encourages Nebraska's congressional delegation to pursue such a station for the safety and well-being of the air carriers and persons of Nebraska.

Laid over.

BILLS ON FINAL READING

The following bills were read and put upon final passage:

LEGISLATIVE BILL 685. With Emergency.

A BILL FOR AN ACT relating to the Nebraska Wheat Resources Act; to amend sections 2-2304 and 2-2305, Reissue Revised Statutes of Nebraska, 1943; to change the composition of districts of the Nebraska Wheat Development, Utilization, and Marketing Board; to change provisions relating to the terms of board members; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 34:

Baack

Bernard-Stevens	Crosby	Johnson, R.	Peterson	Schrock
Beyer	Cudaback	Kristensen	Pirsch	Smith
Byars	Dierks	Labedz	Rasmussen	Wehrbein
Chizek	Elmer	Lamb	Robak	Wesely
Conway	Hartnett	Landis	Schellpeper	Wickersham
Coordsen	Horgan	Lynch	Schimek	Will
	Johnson, L.	Nelson	Schmit	

Voting in the negative, 0.

Present and not voting, 2:

Hillman Rogers

Excused and not voting, 13:

Abboud	Chambers	Hefner	Morrissey	Warner
Ashford	Haberman	Lindsay	Robinson	Withem
Beutler	Hall	Moore		

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

LEGISLATIVE BILL 166.

A BILL FOR AN ACT relating to education; to amend sections 79-12,107 and 79-12,108, Reissue Revised Statutes of Nebraska, 1943; to redefine a term; to change provisions relating to tenure of certain employees as prescribed; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 36:

Baack	Coordsen	Horgan	Lynch	Schimek
Bernard-Stevens	Crosby	Johnson, L.	Nelson	Schmit
Beyer	Cudaback	Johnson, R.	Peterson	Schrock
Byars	Dierks	Kristensen	Pirsch	Smith
Chizek	Elmer	Labedz	Rasmussen	Warner
Conway	Hartnett	Lamb	Robak	Wehrbein
	Hillman	Landis	Schellpeper	Wesely

Wickersham Will

Voting in the negative, 0.

Present and not voting, 1:

Rogers

Excused and not voting, 12:

Abboud	Chambers	Hefner	Moore	Robinson
Ashford	Haberman	Lindsay	Morrissey	Withem
Beutler	Hall			

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 199. With Emergency.

A BILL FOR AN ACT relating to commemorative days; to require the proclamation of Workers Memorial Day; to prohibit the declaration of certain days as paid holidays; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 34:

Baack	Coordsen	Horgan	Nelson	Schrock
Bernard-Stevens	Crosby	Johnson, L.	Pirsch	Smith
	Cudaback	Johnson, R.	Rasmussen	Warner
Beyer	Dierks	Kristensen	Robak	Wehrbein
Byars	Elmer	Labedz	Schellpeper	Wesely
Chizek	Hartnett	Lamb	Schimek	Wickersham
Conway	Hillman	Lynch	Schmit	Will

Voting in the negative, 0.

Present and not voting, 3:

Landis	Peterson	Rogers

Excused and not voting, 12:

Abboud	Chambers	Hefner	Moore	Robinson
Ashford	Haberman	Lindsay	Morrissey	Withem
Beutler	Hall			

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

LEGISLATIVE BILL 284.

A BILL FOR AN ACT relating to community development; to amend sections 13-204 and 13-205, Reissue Revised Statutes of Nebraska, 1943, and section 13-203, Revised Statutes Supplement, 1990; to redefine terms; to change provisions relating to applying for tax credit status and department approval of programs; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 32:

Baack	Cudaback	Kristensen	Rasmussen	Smith
Beyer	Dierks	Labedz	Robak	Warner
Byars	Elmer	Lamb	Schellpeper	Wehrbein
Chizek	Hartnett	Landis	Schimek	Wesely
Conway	Horgan	Nelson	Schmit	Wickersham
Coordsen	Johnson, L.	Pirsch	Schrock	Will
Crosby	Johnson, R.			

Voting in the negative, 0.

Present and not voting, 5:

Bernard-Stevens	Hillman	Lynch	Peterson	Rogers

Excused and not voting, 12:

Abboud	Beutler	Haberman	Hefner	Moore
Ashford	Chambers	Hall	Lindsay	Morrissey

Robinson Withem

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 303. With Emergency.

A BILL FOR AN ACT relating to condemnation; to amend section 76-723, Reissue Revised Statutes of Nebraska, 1943; to change a provision relating to appraisers' fees; to repeal the original section; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 37:

Baack	Coordsen	Johnson, L.	Peterson	Schrock
Bernard-Stevens	Crosby	Johnson, R.	Pirsch	Smith
Beutler	Cudaback	Kristensen	Rasmussen	Warner
Beyer	Dierks	Labedz	Robak	Wehrbein
Byars	Elmer	Lamb	Schellpeper	Wesely
Chizek	Hartnett	Landis	Schimek	Wickersham
Conway	Hillman	Lynch	Schmit	Will
	Horgan	Nelson		

Voting in the negative, 0.

Present and not voting, 1:

Rogers

Excused and not voting, 11:

Abboud	Haberman	Hefner	Moore	Robinson
Ashford	Hall	Lindsay	Morrissey	Withem
Chambers				

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

LEGISLATIVE BILL 334.

A BILL FOR AN ACT relating to horseracing; to amend section 2-1213, Reissue Revised Statutes of Nebraska, 1943; to redefine Nebraska-bred horse; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 40:

Baack	Crosby	Johnson, R.	Peterson	Schmit
Bernard-Stevens	Cudaback	Kristensen	Pirsch	Schrock
Beutler	Dierks	Labedz	Rasmussen	Smith
Beyer	Elmer	Lamb	Robak	Warner
Byars	Hartnett	Landis	Robinson	Wehrbein
Chizek	Hillman	Lynch	Rogers	Wesely
Conway	Horgan	Moore	Schellpeper	Wickersham
Coordsen	Johnson, L.	Nelson	Schimek	Will

Voting in the negative, 0.

Excused and not voting, 9:

Abboud	Chambers	Hall	Lindsay	Withem
Ashford	Haberman	Hefner	Morrissey	

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 343.

A BILL FOR AN ACT relating to public defenders; to amend section 23-3401, Revised Statutes Supplement, 1990; to change provisions relating to the private practice of law by certain public defenders; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 37:

Baack	Crosby	Johnson, R.	Pirsch	Schmit
Bernard-Stevens	Cudaback	Kristensen	Rasmussen	Schrock
Beyer	Dierks	Labedz	Robak	Smith
Byars	Elmer	Lamb	Robinson	Warner
Chizek	Hartnett	Landis	Rogers	Wehrbein
Conway	Hillman	Lynch	Schellpeper	Wickersham
Coordsen	Horgan	Moore	Schimek	Will
	Johnson, L.	Nelson		

Voting in the negative, 1:

Wesely

Present and not voting, 2:

Beutler Peterson

Excused and not voting, 9:

Abboud	Chambers	Hall	Lindsay	Withem
Ashford	Haberman	Hefner	Morrissey	

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 454.

A BILL FOR AN ACT relating to liquor; to amend sections 53-180.06 and 53-186.01, Reissue Revised Statutes of Nebraska, 1943, and section 53-180.05, Revised Statutes Supplement, 1990; to change, transfer, and eliminate penalty provisions relating to minors; to establish methods for proof of age; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 41:

Baack	Byars	Cudaback	Horgan	Lamb
Bernard-Stevens	Chizek	Dierks	Johnson, L.	Landis
Beutler	Conway	Elmer	Johnson, R.	Lynch
Beyer	Coordsen	Hartnett	Kristensen	Moore
	Crosby	Hillman	Labedz	Morrissey

Nelson	Robak	Schimek	Smith	Wesely
Peterson	Robinson	Schmit	Warner	Wickersham
Pirsch	Rogers	Schrock	Wehrbein	Will
Rasmussen	Schellpeper			

Voting in the negative, 0.

Excused and not voting, 8:

Abboud	Chambers	Hall	Lindsay	Withem
Ashford	Haberman	Hefner		

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 561. With Emergency.

A BILL FOR AN ACT relating to civil procedure; to amend section 25-1905, Reissue Revised Statutes of Nebraska, 1943; to authorize a praecipe directing a tribunal, board, or officer to prepare a transcript of proceedings; to repeal the original section; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 39:

Baack	Coordsen	Johnson, R.	Nelson	Schmit
Bernard-Stevens	Crosby	Kristensen	Pirsch	Schrock
	Cudaback	Labedz	Rasmussen	Smith
Beutler	Dierks	Lamb	Robak	Warner
Beyer	Elmer	Landis	Robinson	Wehrbein
Byars	Hartnett	Lynch	Rogers	Wesely
Chizek	Horgan	Moore	Schellpeper	Wickersham
Conway	Johnson, L.	Morrissey	Schimek	Will

Voting in the negative, 0.

Present and not voting, 2:

Hillman Peterson

Excused and not voting, 8:

Abboud	Chambers	Hall	Lindsay	Withem
Ashford	Haberman	Hefner		

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

LEGISLATIVE BILL 586. With Emergency.

A BILL FOR AN ACT relating to liquors; to amend section 53-140.01, Reissue Revised Statutes of Nebraska, 1943, and section 53-1,104, Reissue Revised Statutes of Nebraska, 1943, as amended by section 71, Legislative Bill 344, Ninety-second Legislature, First Session, 1991; to change a provision relating to a penalty in lieu of suspension of sales as prescribed; to harmonize provisions; to provide operative dates; to repeal the original sections, and also section 53-140.01, Reissue Revised Statutes of Nebraska, 1943, as amended by section 1, Legislative Bill 586, Ninety-second Legislature, First Session, 1991; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 26:

Baack	Hartnett	Labedz	Rasmussen	Schmit
Beyer	Hillman	Lamb	Robak	Smith
Chizek	Johnson, L.	Landis	Robinson	Warner
Conway	Johnson, R.	Lynch	Rogers	Wickersham
Coordsen	Kristensen	Morrissey	Schellpeper	Will
Dierks				

Voting in the negative, 15:

Bernard-Stevens	Crosby	Horgan	Peterson	Schrock
Beutler	Cudaback	Moore	Pirsch	Wehrbein
Byars	Elmer	Nelson	Schimek	Wesely

Excused and not voting, 8:

Abboud	Chambers	Hall	Lindsay	Withem
Ashford	Haberman	Hefner		

Having failed to receive a constitutional two-thirds majority voting in the affirmative, the bill failed to pass with the emergency clause attached. The question is, "Shall the bill pass with the emergency clause stricken?"

Voting in the affirmative, 27:

Ashford	Hartnett	Lamb	Rasmussen	Schmit
Baack	Hillman	Landis	Robak	Smith
Chizek	Johnson, L.	Lynch	Robinson	Warner
Conway	Johnson, R.	Morrissey	Rogers	Wickersham
Coordsen	Kristensen	Pirsch	Schellpeper	Will
Dierks	Labedz			

Voting in the negative, 15:

Bernard-Stevens	Byars	Elmer	Nelson	Schrock
Beutler	Crosby	Horgan	Peterson	Wehrbein
Beyer	Cudaback	Moore	Schimek	Wesely

Excused and not voting, 7:

Abboud	Haberman	Hefner	Lindsay	Withem
Chambers	Hall			

A constitutional majority having voted in the affirmative, the bill was declared passed with the emergency clause stricken.

LEGISLATIVE BILL 700.

A BILL FOR AN ACT relating to the Special Education Act; to amend section 79-3322, Revised Statutes Supplement, 1990; to change provisions relating to transportation expenses; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 41:

Ashford	Coordsen	Johnson, R.	Nelson	Schmit
Baack	Crosby	Kristensen	Pirsch	Schrock
Bernard-Stevens	Cudaback	Labedz	Rasmussen	Smith
	Dierks	Lamb	Robak	Warner
Beutler	Elmer	Landis	Robinson	Wehrbein
Beyer	Hartnett	Lynch	Rogers	Wesely
Byars	Hillman	Moore	Schellpeper	Wickersham
Chizek	Horgan	Morrissey	Schimek	Will
Conway	Johnson, L.			

Voting in the negative, 0.

Present and not voting, 1:

Peterson

Excused and not voting, 7:

Abboud	Haberman	Hefner	Lindsay	Withem
Chambers	Hall			

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

GENERAL FILE

LEGISLATIVE BILL 511. Mr. Lamb renewed his pending amendment, AM0907, printed separately from the Journal and referred to on page 1307 and considered on page 1522.

MR. WARNER PRESIDING

Mr. Chizek asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Lamb moved for a call of the house. The motion prevailed with 22 ayes, 0 nays, and 27 not voting.

The Lamb amendment was adopted with 25 ayes, 5 nays, 12 present and not voting, and 7 excused and not voting.

The Chair declared the call raised.

Mr. Ashford asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Conway moved to bracket LB 511 to Jan. 15, 1992

Mrs. Labedz and Mr. Moore asked unanimous consent to be excused until they return. No objections. So ordered.

SPEAKER BAACK PRESIDING

The Conway motion to bracket lost with 14 ayes, 18 nays, 9 present and not voting, and 8 excused and not voting.

Mr. Dierks asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Beutler offered the following amendment:
(Amendment on file in the Clerk's Office - Room 2018 - AM1141.)

Mr. Haberman asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Beutler moved for a call of the house. The motion prevailed with 19 ayes, 0 nays, and 30 not voting.

Mr. Beutler requested a roll call vote on his amendment.

Voting in the affirmative, 17:

Beutler	Hartnett	Lindsay	Rasmussen	Schimek
Chambers	Horgan	Morrissey	Robak	Wesely
Conway	Johnson, R.	Nelson	Robinson	Will
Hall	Landis			

Voting in the negative, 22:

Baack	Coordsen	Johnson, L.	Rogers	Smith
Bernard-Stevens	Crosby	Kristensen	Schellpeper	Warner
	Cudaback	Lamb	Schmit	Wehrbein
Beyer	Elmer	Peterson	Schrock	Wickersham
Byars	Hillman	Pirsch		

Present and not voting, 2:

Lynch Moore

Excused and not voting, 8:

Abboud	Chizek	Haberman	Labedz	Withem
Ashford	Dierks	Hefner		

The Beutler amendment lost with 17 ayes, 22 nays, 2 present and not voting and 8 excused and not voting.

Pending.

The Chair declared the call raised.

Messrs. Landis, Robinson, Lindsay, and Mrs. Nelson asked unanimous consent to be excused until they return. No objections. So ordered.

SELECT COMMITTEE REPORT
Enrollment and Review

Correctly Enrolled

The following bill was correctly enrolled: 586.

(Signed) Eric Will, Chairperson

STANDING COMMITTEE REPORT
Revenue

LEGISLATIVE BILL 332. Placed on General File as amended.
Standing Committee amendment to LB 332:
AM1122

1. On page 4, after line 9, insert the following new subdivision:

"(ii) Tuition shall mean any amount charged for the opportunity to be enrolled in an instructional program by a public or nonpublic elementary or secondary school approved or accredited under rules and regulations established by the State Board of Education pursuant to subdivision (5)(c) of section 79-328;"; in line 10 strike "(ii)" and insert "(iii)"; and in line 13 strike "(iii)" and insert "(iv)".

(Signed) Tim Hall, Chairperson

UNANIMOUS CONSENT - Print in Journal

Mr. Kristensen asked unanimous consent to print the following amendment to LB 798 in the Journal. No objections. So ordered.

AM1099

1. Insert the following new sections:

"Sec. 3. That section 23-343.11, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

23-343.11. The county board shall have power to levy a tax each year of not to exceed three and five-tenths cents on each one hundred dollars upon the actual value of all the taxable property in such county, ~~except intangible property,~~ for the purpose of acquiring, remodeling, improving, equipping, maintaining, and operating such facility or facilities as provided by section 23-343. In counties having a population of not more than seven thousand persons, such tax shall not exceed seven cents on each one hundred dollars of the actual value. The county board shall, by resolution, determine and declare how the same shall be managed. The tax authorized by this section shall not be included within the levy limitations for general county purposes prescribed in section 23-119 or Article VIII, section 5, of the Constitution of Nebraska.

Sec. 4. That section 23-343.19, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

23-343.19. The board of trustees of any such facility or facilities organized under ~~the provisions of~~ section 23-343.15, shall, each year, fix the amount of money for the proposed budget statement as may be deemed sufficient and necessary for the operation of such hospital during the following calendar year. After the adoption of the budget statement, and during the first week of June of each year, the board of trustees of such hospital shall certify to the county board of the county in which such hospital is located the amount of the tax to be levied, which the hospital requires under the hospital's adopted budget statement to be received from taxation. Such county board shall apportion such amount

among the counties concerned in proportion to the actual valuation of all taxable property~~, except intangible property,~~ and shall certify to each county its share of such amount. Each county shall levy a tax sufficient to raise the amount so certified to it, and the county treasurer shall transmit the proceeds of such tax to the treasurer of the county in which such hospital is located for credit to the hospital fund. The tax authorized by this section shall not be included within the levy limitations for general county purposes prescribed in section 23-119 or Article VIII, section 5, of the Constitution of Nebraska.

Sec. 6. If any section in this act or any part of any section shall be declared invalid or unconstitutional, such declaration shall not affect the validity or constitutionality of the remaining portions thereof.".

2. On page 6, line 8, strike "and" and insert a comma; and in line 9 after the first comma insert "23-343.11, and 23-243.19,".

3. Renumber the remaining sections accordingly.

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 835A. Introduced by Wesely, 26.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 835, Ninety-second Legislature, First Session, 1991.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following bills: 685, 166, 199, 284, 303, 334, 343, 454, 561, 586, and 700.

GENERAL FILE

LEGISLATIVE BILL 511. Mr. Morrissey renewed his pending amendment, AM1004, found in the Journal on page 1378.

Mr. R. Johnson asked unanimous consent to be excused until he returns. No objections. So ordered.

The Morrissey amendment was adopted with 26 ayes, 0 nays, 11 present and not voting, and 12 excused and not voting.

Mr. Lamb moved for a call of the house. The motion prevailed with 22 ayes, 0 nays, and 27 not voting.

Mr. Lamb requested a roll call vote on the advancement of the bill.

Voting in the affirmative, 24:

Beyer	Dierks	Labedz	Pirsch	Smith
Byars	Elmer	Lamb	Rogers	Warner
Coordsen	Haberman	Lynch	Schellpeper	Wehrbein
Crosby	Hillman	Moore	Schmit	Wickersham
Cudaback	Johnson, L.	Peterson	Schrock	

Voting in the negative, 17:

Baack	Chambers	Horgan	Morrissey	Schimek
Bernard-Stevens	Conway	Kristensen	Rasmussen	Wesely
Beutler	Hall	Landis	Robak	Will
	Hartnett	Lindsay		

Present and not voting, 2:

Chizek	Johnson, R.

Excused and not voting, 6:

Abboud	Hefner	Nelson	Robinson	Withem
Ashford				

Failed to advance to E & R for review with 24 ayes, 17 nays, 2 present and not voting, and 6 excused and not voting.

The Chair declared the call raised.

Messrs. Hall, Haberman, Mmes. Smith, and Labedz asked unanimous consent to be excused until they return. No objections. So ordered.

LEGISLATIVE BILL 783. Title read. Considered.

Mrs. Pirsch asked unanimous consent to be excused until she returns. No objections. So ordered.

Mr. Kristensen renewed his pending amendment, AM0728, found in the Journal on page 1063.

MR. MORRISSEY PRESIDING

The Kristensen amendment was adopted with 26 ayes, 0 nays, 12 present and not voting, and 11 excused and not voting.

Messrs. Beyer, Chizek, Horgan, Moore, Will, and Mrs. Robak asked unanimous consent to be excused until they return. No objections. So ordered.

SPEAKER BAACK PRESIDING

Mr. Lynch moved the previous question. The question is, "Shall the debate now close?" The motion lost with 4 ayes, 10 nays, and 35 not voting.

Messrs. Lindsay, Lynch, Hartnett, Beutler, and Mrs. Hillman asked unanimous consent to be excused until they return. No objections. So ordered.

Pending.

EASE

The Legislature was at ease from 12:23 p.m. until 12:49 p.m.

PRESENTED TO THE GOVERNOR

Presented to the Governor on April 5, 1991, at 12:20 p.m., were the following bills: 685, 166, 199, 284, 303, 334, 343, 454, 561, 586, and 700.

(Signed) Jan Loder, Enrolling Clerk

ATTORNEY GENERAL'S OPINION

Opinion No. 91026

DATE: April 4, 1991

SUBJECT: Constitutionality of LB 718 as Amended - Legislative Authorization of Parimutuel Wagering on the Results of Horseraces by Means of "Telephonic Wagering" or Through "Teleracing Facilities."

REQUESTED BY: Senators Arlene Nelson and Stan Schellpeper
Nebraska State Legislature

WRITTEN BY: Don Stenberg, Attorney General
L. Jay Bartel, Assistant Attorney General

You have each requested our opinion regarding the constitutionality of LB 718, as amended by Committee Amendment AM0425. In its original form, LB 718 proposed to authorize parimutuel wagering on the results of horseraces by "racetrack messenger services" approved and licensed by the Nebraska State Racing Commission. Under the Committee Amendments to the bill, the references to "racetrack messenger services" have been eliminated, and, generally, have been replaced by references to the allowance of "telephonic wagering" on the results of horseraces or the placing of wagers through "teleracing facilities." You have each asked us to consider whether LB 718, as amended, violates Neb. Const. art. III, § 24.

Article III, Section 24, of the Nebraska Constitution, which expressly limits the power of the Legislature to authorize various gambling activities, provides, in pertinent part:

> Nothing in this section shall be construed to prohibit the enactment of laws providing for the licensing and regulation of wagering on the results of horseraces, wherever run, either within or outside of the state, by the parimutuel method, when such wagering is conducted by licensees within a licensed racetrack enclosure,.... (Emphasis added).

In a prior opinion, we concluded that the restrictions on the Legislature's power in Article III, Section 24, did not preclude the Legislature from authorizing parimutuel wagering at licensed racetrack enclosures in the state via simulcast arrangements on the results of horseraces conducted at other licensed racetrack facilities in Nebraska. Attorney General Opinion No. 87041, March 31, 1987. We noted that the courts of New Jersey had grappled with the constitutionality of legislation authorizing wagering on the results of

horseraces conducted within the state under a "simulcast" system similar to that proposed to be established in Nebraska. Atlantic City Racing Ass'n v. Attorney General, 189 N.J. Super. 549, 461 A.2d 178, aff'd 198 N.J. Super. 247, 486 A.2d 1261 (1983), rev'd 98 N.J. 535, 489 A.2d 165 (1985).[1] Upon consideration of these cases, we determined that, under our state constitution, the Legislature's authority to permit parimutuel wagering on the results of horseraces "when such wagering is conducted by licensees within a licensed racetrack enclosure" was consistent with the wagering authorized under the simulcast legislation, as such wagers were, in fact, placed "within a licensed racetrack enclosure." In considering the constitutionality of the prior legislation authorizing "simulcast" arrangements of this nature, we were not required to deal with the specific issue raised by your current requests, to wit, whether the state constitution permits the Legislature to authorize parimutuel wagering on the results of horseracing by providing for "telephonic wagering" or the operation of "teleracing facilities" located outside the boundaries of licensed racetrack enclosures, such as proposed under LB 718 as amended.[2]

In State ex rel. Hunter v. The Araho, 137 Neb. 389, 289 N.W. 545 (1940), the Nebraska Supreme Court addressed the question of whether the 1934 amendment to Article III, Section 24 (and implementing legislation) which legalized parimutuel horserace betting permitted the operation of establishments accepting wagers on the results of horseraces when such establishments were located outside the enclosure of licensed racetracks. Rejecting the contention that the constitutional amendment, and the legislation adopted pursuant to the amendment, authorized such wagering, the court stated:

> {I}t must be evident that such wide-spread gambling upon horseraces was not within the scope of the amendment, adopted by the majority of the voters of Nebraska, to permit only pari-mutuel betting and gambling, or in the minds of the members of the legislature, who adopted section 2-1513, supra, but it only permitted a definite form, known as pari-mutuel horse race betting, and required that the same must be conducted under license duly issued by the state racing commission, and be conducted in strict accordance with the conditions and limitations as set out in said law, which requires that it be conducted by licensees within the race track enclosure at licensed horserace meetings.
>
> In our opinion, nothing in the amendment to the constitution of Nebraska, or in the laws passed to carry said change into effect, supports the contention of the defendants that the bars are now

> down on all forms of games of chance, betting, and gambling in connection with horse races of any kind, wherever held.

Id. at 396-97, 289 N.W. at 550 (Emphasis added).[3]

In our opinion, the authorization of "telephonic wagering" or the placing of wagers through "teleracing facilities" under the proposed bill, as amended, is contrary to both the letter and spirit of our fundamental law. "Telephonic wagering" is defined as "the placing of parimutuel wagers by telephone to a telephone deposit center at a licensed racetrack . . .." LB 718, as amended, § 6(5). "Teleracing facility" is defined as "an area occupied by a licensee for the purpose of conducting telewagering. . . ." LB 718, as amended, § 6(6). "Telewagering" is defined as "the placing of a wager through betting terminals linked to a licensed racetrack, which electronic link instantaneously transmits the wagering information to the parimutuel pool for acceptance and issues tickets as evidence of such wager." LB 718, as amended, § 6(7).

The Legislature's power to define terms is limited because the Legislature may not, under the guise of definition: (1) abrogate or contradict an express constitutional provision; or (2) establish a definition which is unreasonable or arbitrary. See Natural Gas Pipeline Co. v. State Bd. of Equal., 237 Neb. 357, 377, ___ N.W.2d. ___ (1991) (Grant J., concurring); State ex rel. Meyer v. Peters, 191 Neb. 330, 215 N.W.2d 520 (1974); Moeller, McPherrin & Judd v. Smith, 127 Neb. 424, 255 N.W. 551 (1934). The Legislature may not, under the guise of definition, nullify or circumvent a provision of the Nebraska Constitution.[4]

Section 2 of LB 718, as amended, provides, in part, that "{w}agers placed through licensed teleracing facilities or by approved telephonic wagering. . . shall be deemed to be wagers placed and accepted within the enclosure of any racetrack." (Emphasis added). Section 3 of the bill, as amended, would amend Neb.Rev.Stat. § 2-1216 (Reissue 1987) to provide, in part, that: "The parimutual (sic) system of wagering on the results of horseraces, when conducted within the racetrack enclosure at licensed horserace meetings or through teleracing facilities, shall not under any circumstances be held or construed to be unlawful, ..." (Emphasis added).

In light of the foregoing, while we determined it was permissible for the Legislature to authorize simulcast wagering on horseraces within the confines of a "licensed racetrack enclosure" under Neb. Const. art. III, § 24, we cannot conclude that it is permissible for the Legislature to enact legislation such as LB 718, as amended. Simply put, we believe it is apparent that any attempt to define the telephonic wagering authorized under the bill as the making of wagers "within licensed racetrack enclosures" is contrary to any common

understanding of such terms, and defies any reasonable interpretation of the plain language of the limits on parimutuel wagering imposed by the Constitution. The people have not authorized parimutuel wagering on the results of horseracing at any location other than "within a licensed racetrack enclosure." The Legislature cannot circumvent this provision by impermissibly defining wagering by telephone from locations outside a racetrack to be "deemed" to be wagering within the confines of a licensed racetrack enclosure. Authorization for this type of wagering must be obtained by amending the provisions of our Constitution.

We recognize there are cases from other jurisdictions holding, in a variety of contexts, that a "wager" or "bet" is contractual in nature, and requires both an offer and an acceptance in order to be created. See State ex rel. Reading v. Western Union Tel. Co., 336 Mich. 84, 57 N.W.2d 537 (1953) (telegraphing out-of-state of offers to bet on horseraces not subject to injunction as public nuisance for violating gambling laws, as bets did not occur until acceptance, which occurred outside the state); see also State ex rel. Turner v. Drake, 242 N.W.2d 707 (Iowa 1976) (individual's placing of and collecting bets on the results of horseraces at racetracks for others, without compensation, did not violate statute prohibiting the recording or registration of bets, as bet requires agreement between two parties to pay something of value upon the happening or unhappening of a specified contingent event); State v. Countdown, Inc., 319 S.2d 924 (La. 1975) (operation of messenger service which took money from customers to racetrack and placed bets did not constitute illegal "off-track" betting, as no bet or wager occurred until the purchase of parimutuel tickets at the racetrack). But see Hochberg v. New York City Off-Track Betting Corp., 74 Misc. 2d 471, 343 N.Y.S.2d 651 (N.Y. Sup. Ct. 1973), aff'd 43 A.D.2d 910, 352 N.Y.S.2d 1423 (N.Y. App. Div. 1974) (placing of wager at racetrack does not create a wagering contract or agreement between the bettor and the track).

Under such authority, it could be argued that the Legislature's definitions in LB 718, as amended, providing that wagers placed through "teleracing facilities" or by "telephonic wagering" are deemed to be placed and accepted "within a licensed racetrack enclosure," might satisfy the requirements of Article III, Section 24, if no wager may be said to exist until it is "accepted" when received at the racetrack. In view of the restrictive nature of the language of our state constitution, as well as our prior opinions concluding the constitutional requirement that parimutuel wagering on the results of horseraces be "conducted within a licensed racetrack enclosure" precluded the Legislature from enacting legislation authorizing "off-track" betting, we are compelled to conclude the provisions of

LB 718, as amended, would, if challenged, be found unconstitutional. While the Legislature possesses broad powers of definition, we do not believe our Nebraska courts would construe the constitution's authorization of wagering on the results of horseraces "when conducted by licensees within a licensed racetrack enclosure" to encompass the type of "off-track" activities contemplated under LB 718, as amended.

In sum, it is our opinion that, based on the language of Neb. Const. art. III, § 24, the provisions of LB 718, as amended, are unconstitutional.

[1] For a complete discussion of these cases, we refer you to our prior Opinion No. 87041.

[2] Subsequent to the issuance of our opinion and the Legislature's enactment of legislation approving "intrastate" simulcasting of this nature, the voters in 1988 approved an amendment to Neb. Const. art. III, §24, authorizing wagering on horseraces conducted outside of Nebraska. The authorization of "interstate" simulcast wagering of this nature does not affect our response to your requests concerning the constitutionality of legislation approving "telephonic wagering" or the operation of "teleracing facilities" located outside the boundaries of racetrack enclosures in the state.

[3] The constitutionality of legislation prohibiting the operation of off-track "messenger services" accepting wagers for delivery to racetracks has been upheld in several cases. Midwest Messenger Ass'n v. Spire, 223 Neb. 748, 393 N.W.2d 438 (1986); Pegasus of Omaha, Inc. v. State, 203 Neb. 755, 280 N.W.2d 64 (1979); Nebraska Messenger Services v. Thone, 478 F. Supp. 1036 (D.Neb. 1979). These decisions, while upholding the authority of the Legislature to prohibit messenger service activities of this nature, do not address the question of whether the Legislature may constitutionally permit the telephonic wagering or placing of wagers from off-track "teleracing facilities" locations provided for under LB 718, as amended.

[4] In two prior opinions, we concluded that the Legislature could not, consistent with Article III, Section 24, legislate to authorize "off-track" parimutuel wagering on the results of horseraces. Report of Attorney General 1973-74, Opinion No. 7, Feb. 7, 1973, and Opinion No. 14, Feb. 20, 1973. In each instance, we advised that, in our view, the Legislature was without authority to employ its definitional powers to "define" off-track wagering sites as being "a

part of the racetrack enclosure" for purposes of satisfying the requirements of Article III, Section 24. Id. at pp. 8, 20.

Very truly yours,
DON STENBERG
Attorney General
(Signed) L. Jay Bartel
Assistant Attorney General

7-28-7.1
cc: Patrick O'Donnell

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the attached report on Governor appointments.

Natural Resources
Glen L. Kroese - Natural Resources Commission
Wilbur L. Nelson - Natural Resources Commission
Michael Shaughnessy - Natural Resources Commission

General Affairs
Maryanne H. Harry - Nebraska Arts Council

Revenue
Robert J. Broomfield - Agricultural Land Valuation Advisory Board
Jack Ostergard - Agricultural Land Valuation Advisory Board
Ivan J. Schmedding - Agricultural Land Valuation Advisory Board
Paul Phelps - Agricultural Land Valuation Advisory Board

Health and Human Services
Patricia Q. Lanphier - Child Abuse Prevention Fund Board

Business and Labor
Karen Flowers - Commission of Industrial Relations

(Signed) Jerome Warner, Chairperson
Legislative Council
Executive Board

UNANIMOUS CONSENT - Print in Journal

Mr. Lynch asked unanimous consent to print the following amendment to LB 425 in the Journal. No objections. So ordered.

AM1125

1. Insert the following new section:

"Section 1. The Legislature recognizes and hereby declares that many teenage pregnancies are a direct or indirect result of family or foster family abuse, neglect, or sexual assault. The Legislature further recognizes that the actions of abuse, neglect, or sexual assault are crimes regardless of whether they are committed by strangers, acquaintances, or family members. The Legislature further recognizes the need for a parent or guardian notification bypass system as set out in section 4 of this act, due to the number of unhealthy family environments in which many pregnant women reside. The Legislature further encourages county attorneys to prosecute persons accused of committing acts of abuse, neglect, or sexual assault pursuant to sections 28-319, 28-320, 28-320.01, 28-703, and 28-707 even if the alleged crime is committed by a biological or adoptive parent, foster parent, or other biological, adoptive, or foster family member.".

2. On page 3, line 1; page 6, lines 1, 19, and 22; and page 11, line 15, strike "7" and insert "8".

3. On page 7, line 18, strike "6" and insert "7".

4. On page 8, line 6, strike "2" and insert "3"; and in line 13 strike "4" and insert "5".

5. Renumber the remaining sections accordingly.

Ms. Schimek asked unanimous consent to print the following amendment to LB 425 in the Journal. No objections. So ordered.

FA87

On page 6, line 25 strike beginning with the second "the" through "notification" on page 7, line 3. Insert continuation of the pregnancy provides an immediate threat or grave risk to the life or health of the pregnant minor".

VISITORS

Visitors to the Chamber were Terri Lab from Kearney; 24 third and sixth grade students and teacher from Holstein; 27 fourth grade students and teachers from Grant Elementary, Norfolk; 48 fourth grade students and teachers from Neligh-Oakdale, Oakdale; Erin,

Carey, and Mimi McNergney from Charlottsville, Virginia; and Graten Beavers from Kearney.

The Doctor of the Day was Dr. Andrew Brainard and son, Joe, from Tekamah.

ADJOURNMENT

At 12:50 p.m., on a motion by Mr. Chambers, the Legislature adjourned until 9:00 a.m., Monday, April 8, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

FIFTY-SEVENTH DAY - APRIL 8, 1991

LEGISLATIVE JOURNAL

FIFTY-SEVENTH DAY - APRIL 8, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

FIFTY-SEVENTH DAY

Legislative Chamber, Lincoln, Nebraska
Monday, April 8, 1991

Pursuant to adjournment, the Legislature met at 9:00 a.m., Speaker Baack presiding.

PRAYER

The prayer was offered by Pastor Roger C. Harp, Executive Presbyter, Homestead Presbytery, Lincoln, Nebraska.

ROLL CALL

The roll was called and all members were present except Mr. Morrissey who was excused; and Messrs. Abboud, Beutler, Chambers, Chizek, Haberman, Hall, R. Johnson, Moore, Rogers, Schmit, Wesely, Will, Withem, Mmes. Pirsch, and Smith who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

Page 1543, line 22, strike "1523" and insert "1522".
The Journal for the Fifty-Sixth Day was approved as corrected.

SELECT COMMITTEE REPORTS
Enrollment and Review

Correctly Re-Engrossed

The following bills were correctly re-engrossed: 240, 254, 333, and 648.

Correctly Engrossed

The following bills were correctly engrossed: 57A, 67A, 142A, 400, 410A, 782, and 789.

(Signed) Eric Will, Chairperson

Enrollment and Review Change to LB 240
(Final Reading copy)

The following changes, required to be reported for publication in the Journal, have been made:
ER7054
1. On page 5, line 21, the comma and "(i)" have been struck; and in line 23 "(ii)" has been struck.

Enrollment and Review Change to LB 333
(Final Reading copy)

The following changes, required to be reported for publication in the Journal, have been made:
ER7052
1. In the Schimek amendment, AM1038:
a. On page 2, line 19, the first "such" has been struck and "the" inserted; and
b. On page 3, lines 8 through 10 have been struck and "insert 'to provide for a certificate and license plate for motor vehicles which are not registered as prescribed; to provide fees;'." inserted.

Enrollment and Review Change to LB 400

The following changes, required to be reported for publication in the Journal, have been made:
ER7051
1. In the Beutler amendment, AM1091, on page 1, line 13, an underscored comma has been inserted after the second "Nebraska".
2. In the Schellpeper amendment, AM0274:
a. On page 2, lines 4 and 5 have been struck and "line 22 after 'act' insert '(a) for physicians'." inserted; the matter beginning with "after" in line 6 through "and" in line 7 has been struck; in line 7 "for physician assistants shall be limited to" has been inserted after "(b)"; in lines 8, 11, and 21 "physician-assistant" has been struck; in line 20 "physician" has been struck and "for physicians" has been

inserted after "recipient"; in line 22 "for physician assistants" has been inserted after "recipient" and the comma has been struck; and

b. On page 3, the matter beginning with "after" in line 2 through "and" in line 3 has been struck; in line 3 "for physicians" has been inserted before "and"; in line 7 "physician-assistant" has been struck and "for physician assistants" has been inserted after "recipient"; and in line 9 the first "physician" has been struck and "physicians" inserted.

3. In the E & R amendments, AM5101, on page 1, line 10, "and" has been inserted after the second semicolon; and the matter beginning with the last semicolon in line 10 through "15" in line 11 has been struck.

4. On page 4, line 5, "and physician assistants" has been inserted after "physicians".

5. On page 5, line 23, "fourteen" and all amendments thereto have been struck and "twelve" inserted.

6. On page 7, line 13, "their" has been inserted after "for".

7. On page 8, line 2, "The" has been struck and "A" inserted.

8. On page 9, line 15, the semicolon has been struck.

Enrollment and Review Change to LB 789

The following changes, required to be reported for publication in the Journal, have been made:
ER7053

1. In the E & R amendment, AM5103:

a. On page 1, lines 6 and 7, the new matter has been struck;

b. On page 9, line 16; and page 12, line 13, "and insert a comma" has been inserted after the last quotation mark; and

c. On page 10, the matter beginning with "and" in line 17 through "23-151" in line 18 has been struck.

2. On page 16, line 17, the matter beginning with "are" through "qualified" has been struck, shown as stricken, and "assume office" inserted.

(Signed) Mary E. Sommermeyer
E & R Attorney

MOTION - Place LR 10 on General File

Mr. Hefner moved to place LR 10 on General File, pursuant to Rule 3, Section 19 (b).

Laid over.

MESSAGES FROM THE GOVERNOR

April 5, 1991

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 76, 292, and 344 were received in my office on April 2, 1991; engrossed Legislative Bills 44, 160, 162, 190, 193, 204, 232, and 115 were received in my office on April 3, 1991; and engrossed Legislative Bills 335, 350, 358, 367, 368, 403, 408, 429, 429A, 500, 534, 639, 689, 716, 745, 766, 772, and 810 were received on April 4, 1991.

These bills were signed by me on April 5, 1991, and delivered to the Secretary of State.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

April 4, 1991

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Madam President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment as the Compact Commissioner from Nebraska, Central Interstate Low-Level Radioactive Waste Compact, requiring legislative confirmation.

Appointee: William R. Hoppner, 1500 Regency Drive, Lincoln, NE 68506, (402) 483-1546.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:bh

REPORTS

Received audit reports from the Auditor of Public Accounts for the following: Wayne State College, Peru State College, Kearney State College, and Chadron State College for year ending 6-30-90; Nebraska State Board of Agriculture - State Appropriations and Related Disbursements for 7-1-87 to 6-30-90; State Treasurer's Telephone Records for 1-1-87 to 8-31-90; and Department of Insurance for 7-1-88 to 6-30-90.

RESOLUTION

LEGISLATIVE RESOLUTION 64. Read. Considered.

Mr. Bernard-Stevens offered the following amendment:
FA88
In the 1st "RESOLVED" strike the language which reads "the Panhandle area of Western"

The Bernard-Stevens amendment lost with 13 ayes, 10 nays, 12 present and not voting, and 14 excused and not voting.

Mr. Bernard-Stevens offered the following amendment:
FA89
In the 1st "RESOLVED" strike "the Panhandle area of" and insert "Central or"

The Bernard-Stevens amendment was adopted with 27 ayes, 3 nays, 7 present and not voting, and 12 excused and not voting.

LR 64, as amended, was adopted with 31 ayes, 0 nays, and 18 not voting.

MOTION - Approve Appointment

Mr. Dierks moved the adoption of the report of the Education Committee for the following Governor appointment found in the Journal on page 1513: Wilbur "Doc" Kloepping - Board of Educational Lands and Funds.

Voting in the affirmative, 31:

Ashford	Cudaback	Horgan	Lynch	Schimek
Baack	Dierks	Johnson, L.	Moore	Schrock
Beyer	Elmer	Kristensen	Nelson	Warner
Byars	Hartnett	Lamb	Peterson	Wehrbein
Conway	Hefner	Landis	Rasmussen	Wickersham
Coordsen	Hillman	Lindsay	Schellpeper	Withem
Crosby				

Voting in the negative, 0.

Present and not voting, 8:

Bernard-Stevens	Beutler	Labedz	Robinson	Will
	Chambers	Robak	Rogers	

Excused and not voting, 10:

Abboud	Haberman	Johnson, R.	Pirsch	Smith
Chizek	Hall	Morrissey	Schmit	Wesely

The appointment was confirmed with 31 ayes, 0 nays, 8 present and not voting, and 10 excused and not voting.

GENERAL FILE

LEGISLATIVE BILL 355. The Will pending motion, found in the Journal on page 1516, to indefinitely postpone, was renewed.

Mr. Ashford moved to bracket LB 355 to May 8, 1991.

Mr. Conway moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 27 ayes, 0 nays, and 22 not voting.

The Ashford motion to bracket prevailed with 30 ayes, 0 nays, 14 present and not voting, and 5 excused and not voting.

Mr. Hall asked unanimous consent to be excused until he returns. No objections. So ordered.

LEGISLATIVE BILL 783. Considered.

Messrs. Ashford and Haberman asked unanimous consent to be excused until they return. No objections. So ordered.

MR. WARNER PRESIDING

Advanced to E & R for review with 26 ayes, 0 nays, 17 present and not voting, and 6 excused and not voting.

LEGISLATIVE BILL 783A. Title read. Considered.

Messrs. Wickersham and Lamb renewed their pending amendment, AM1113, found in the Journal on page 1524.

The Wickersham-Lamb amendment was adopted with 26 ayes, 0 nays, 17 present and not voting, and 6 excused and not voting.

Advanced to E & R for review with 28 ayes, 0 nays, 15 present and not voting, and 6 excused and not voting.

LEGISLATIVE BILL 90. Title read. Considered.

Mrs. Robak asked unanimous consent to be excused until she returns. No objections. So ordered.

SPEAKER BAACK PRESIDING

Messrs. Hartnett, Will, Rogers, Coordsen, and Lynch asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Abboud moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 0 nays, and 23 not voting.

Advanced to E & R for review with 27 ayes, 0 nays, 17 present and not voting, and 5 excused and not voting.

LEGISLATIVE BILL 90A. Title read. Considered.

Advanced to E & R for review with 25 ayes, 0 nays, 19 present and not voting, and 5 excused and not voting.

UNANIMOUS CONSENT - Print in Journal

Mr. Withem asked unanimous consent to print the following amendment to LB 91 in the Journal. No objections. So ordered.

AM0421

1. On page 4, line 10, after the period insert "It is the intent of the Legislature that providers and teachers, in reaching an agreement regarding the distribution of funds pursuant to the Help Education Lead to Prosperity Act, shall consider the need for the improvement of teaching and learning and the use of such funds for the support and leveraging of school improvement programs cooperatively initiated by providers and teachers. Providers shall annually report to the department by November 1 detailing the method by which such funds were distributed, and the department shall annually report to the Education Committee of the Legislature by December 14 detailing the method by which such funds were distributed pursuant to the agreement reached by providers and teachers and describing the educational improvement programs and objectives prescribed in such agreement.".

VISITORS

Visitors to the Chamber were 18 fourth grade students and teacher from Brownell Talbot, Omaha; six students and teacher from Chase County High School, Imperial; 60 fourth grade students and sponsor from Cottonwood Elementary, Omaha; 32 students and sponsors attending the 7th Annual Sophomore Pilgrimage from across the state; and 45 eighth grade students and teachers from St. Margaret Mary, Omaha.

RECESS

At 12:01 p.m., on a motion by Mr. Byars, the Legislature recessed until 1:30 p.m.

AFTER RECESS

The Legislature reconvened at 1:30 p.m., Speaker Baack presiding.

ROLL CALL

The roll was called and all members were present except Mr. Morrissey who was excused; and Messrs. Beutler, Chizek, Haberman, Lynch, Schmit, Schrock, Withem, and Mrs. Smith who were excused until they arrive.

GENERAL FILE

LEGISLATIVE BILL 425. Title read. Considered.

Messrs. Moore and Abboud asked unanimous consent to be excused until they return. No objections. So ordered.

Pending.

RESOLUTION

LEGISLATIVE RESOLUTION 65. Introduced by Wesely, 26.

WHEREAS, the Nebraska Jaycees have played a vital part in the development of young leaders for our state through management training and personal-growth programs offered by this organization for the past sixty-four years; and

WHEREAS, this organization of young Nebraskans has contributed to the betterment of the state and nation through its involvement in a wide variety of programs such as youth leadership development, skills competitions, elderly assistance, local government affairs and community leadership roles, raising funds for charitable organizations with special concern for the aid to foster children, the American Cancer Society, and the Muscular Dystrophy Association; and

WHEREAS, the Nebraska Jaycees have made a positive impact upon thousands of Nebraskans with more than seven thousand members and over one hundred ten chapters in communities across the state; and

WHEREAS, the Nebraska Jaycees remain in the top twenty of Jaycee states in the United States Jaycee Parade of States.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature proclaim the day of April 5, 1991, Nebraska Jaycee Governmental Affairs Day and urge all citizens in the state to give full regard to the past and continuing services of the Nebraska Jaycees.

Laid over.

UNANIMOUS CONSENT - Member Excused

Mr. Wesely asked unanimous consent to be excused. No objections. So ordered.

GENERAL FILE

LEGISLATIVE BILL 425. Mr. Withem withdrew his pending amendment, AM1018, found in the Journal on page 1426.

Mmes. Rasmussen and Hillman renewed their pending amendment, AM1036, found in the Journal on page 1404.

Mmes. Hillman and Rasmussen offered the following amendment to their pending amendment:
AM1153

(Amendments to AM1036)

1. On page 3, strike line 3 and insert "physician assistant, none of whom is employed by the clinic or facility at which the abortion is to be performed; and".

The Hillman-Rasmussen amendment to the pending Rasmussen-Hillman amendment was adopted with 19 ayes, 0 nays, 19 present and not voting, and 11 excused and not voting.

Mr. Dierks moved the previous question. The question is, "Shall the debate now close?"

Mr. Dierks moved for a call of the house. The motion prevailed with 18 ayes, 0 nays, and 31 not voting.

The motion to cease debate prevailed with 25 ayes, 7 nays, and 22 not voting.

Mr. Hefner requested a record vote on the Rasmussen-Hillman amendment, as amended.

Voting in the affirmative, 13:

Ashford	Bernard-Stevens	Chambers	Hillman	Nelson
Baack		Haberman	Landis	Rasmussen

Schimek	Warner	Wickersham	Will

Voting in the negative, 25:

Abboud	Cudaback	Johnson, L.	Lindsay	Rogers
Beyer	Dierks	Johnson, R.	Peterson	Schellpeper
Byars	Elmer	Kristensen	Pirsch	Schmit
Coordsen	Hefner	Labedz	Robak	Schrock
Crosby	Horgan	Lamb	Robinson	Wehrbein

Present and not voting, 4:

Conway	Hall	Hartnett	Withem

Excused and not voting, 7:

Beutler	Lynch	Morrissey	Smith	Wesely
Chizek	Moore			

The Rasmussen-Hillman amendment, as amended, lost with 13 ayes, 25 nays, 4 present and not voting, and 7 excused and not voting.

The Chair declared the call raised.

Mr. Will asked unanimous consent to be excused until he returns. No objections. So ordered.

Mrs. Nelson renewed her pending amendment, AM1005, found in the Journal on page 1488.

Mr. Kristensen asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Hefner moved the previous question. The question is, "Shall the debate now close?"

Mr. Hefner moved for a call of the house. The motion prevailed with 16 ayes, 0 nays, and 33 not voting.

The motion to cease debate prevailed with 25 ayes, 3 nays, and 21 not voting.

The Nelson amendment lost with 11 ayes, 26 nays, 6 present and not voting, and 6 excused and not voting.

The Chair declared the call raised.

Mr. Withem renewed his pending amendment, AM1103, found in the Journal on page 1509.

MR. CONWAY PRESIDING

Mr. Landis asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Haberman moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

Mr. Moore asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Withem moved for a call of the house. The motion prevailed with 29 ayes, 0 nays, and 20 not voting.

The Withem amendment was adopted with 25 ayes, 11 nays, 8 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Messrs. Abboud and Dierks asked unanimous consent to be excused. No objections. So ordered.

Mr. Landis renewed his pending amendment, AM1089, found in the Journal on page 1516.

SPEAKER BAACK PRESIDING

Messrs. Haberman, Withem, and Mrs. Smith asked unanimous consent to be excused until they return. No objections. So ordered.

Mrs. Labedz moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 2 nays, and 21 not voting.

The Landis amendment lost with 13 ayes, 16 nays, 12 present and not voting, and 8 excused and not voting.

Pending.

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 827A. Introduced by R. Johnson, 34.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 827, Ninety-second Legislature, First Session, 1991; and to declare an emergency.

UNANIMOUS CONSENT - Print in Journal

Mr. Wesely asked unanimous consent to print the following amendment to LB 227 in the Journal. No objections. So ordered.

AM1146

1. On page 3, line 19, strike "and" and show as stricken; and in line 23 before the period insert "; and

(3) Job training program shall mean vocational training in technical job skills and equivalent knowledge".

Mr. Wesely asked unanimous consent to print the following amendment to LB 144 in the Journal. No objections. So ordered.

AM1145

(Amendments to Standing Committee amendments, AM0767)

1. Insert the following new amendment:

"3. On page 7, line 7, after 'anesthetist' insert 'or a nurse anesthetist temporarily certified pursuant to section 71-1731'; and in lines 8 through 11 reinstate the old matter and strike the new matter.".

2. Renumber the remaining amendments accordingly.

Mr. Coordsen asked unanimous consent to print the following amendment to LB 727 in the Journal. No objections. So ordered.

AM1084

1. On page 10, line 12, after "(vii)" insert

"The value of a motor vehicle a person sells in lieu of trade within thirty days after the purchase by such person of another vehicle. At the time the sales and use tax is paid on the motor vehicle purchased by such person, the value of the motor vehicle sold in lieu of trade shall be deducted from the value of the motor vehicle purchased by such person before such tax is applied. If sales and use tax has been paid on the motor vehicle purchased by such person, a refund of the tax in the amount of the tax on the value of the motor vehicle sold in lieu of trade shall be given;

(viii)"; and in line 20 strike "(viii)", show as stricken, and insert "(ix)".

2. On page 29, line 11, strike "or" and show as stricken; in line 12 after "(vii)" insert "The value of a motor vehicle a person sells in lieu of trade within thirty days after the purchase by such person of another vehicle. At the time the sales and use tax is paid on the motor vehicle purchased by said person, the value of the motor vehicle sold in lieu of trade shall be deducted from the value of the motor vehicle purchased by such person before such tax is applied. If sales and use tax has been paid on the motor vehicle purchased by such person, a refund of the tax in the amount of the tax on the value of the motor vehicle sold in lieu of trade shall be given; or

(viii)".

Mr. Will asked unanimous consent to print the following amendment to LB 425 in the Journal. No objections. So ordered.

AM1128

1. Insert the following new section:

"Sec. 8. If any school nurse or school counselor is informed in the course of his or her professional duties by a pregnant woman that such woman (a) is pregnant, (b) does not wish to inform her parents of the pregnancy, and (c) is considering an abortion, such school nurse or school counselor shall inform the pregnant woman of the requirement that a parent be informed under section 2 of this act and of her right to proceed under section 3 of this act if such woman does not wish to notify her parents of the pregnancy.".

2. On page 3, line 1; strike "7" and insert

"8".

3. Renumber the remaining sections accordingly.

Mrs. Labedz asked unanimous consent to print the following amendment to LB 425 in the Journal. No objections. So ordered.

AM1154

(Amendments to AM1125)

1. On page 1, line 2, after the period insert:

"(1) It is the intent of the Legislature in enacting a parental notification provision to further the important and compelling state interests of (a) protecting minors against their own immaturity, (b) fostering the family structure and preserving it as a viable social unit, and (c) protecting the rights of parents to raise their children.

(2) The Legislature finds and declares that (a) immature minors often lack the ability to make fully informed choices that take account of both immediate and long-range consequences, (b) the medical, emotional, and psychological consequences of abortion are serious and can be lasting, particularly when the minor is immature, (c) the capacity to become pregnant and the capacity for mature judgment concerning the wisdom of an abortion are not necessarily related, (d) parents ordinarily possess information essential to a physician's exercise of his or her best medical judgment concerning the child, and (e) parents who are aware that their minor daughters have had an abortion may better ensure that they receive adequate medical attention after the abortion.

(3) The Legislature further finds and declares that parental consultation is usually desirable and in the best interest of the minor.

(4)"; on lines 3 and 12, strike "many" and insert "some"; and in line 13, strike "further".

Mr. Bernard-Stevens asked unanimous consent to print the following amendment to LB 425 in the Journal. No objections. So ordered.

AM0958

1. On page 5, line 17, after the period insert "The cost of the guardian ad litem and

court-appointed counsel shall be paid by the state.".

Mr. Bernard-Stevens asked unanimous consent to print the following amendment to LB 425 in the Journal. No objections. So ordered.

AM1088

1. On page 6, line 18, strike "trial" and insert "hearing".

VISITORS

Visitors to the Chamber were Senator Byars' son, Jon, and 51 students and teachers from Lincoln School, Beatrice; Dr. Paul Lambert from Ord; and Ron Busch and John Wood from Chadron.

The Doctor of the Day was Dr. Barry Hoover from Lincoln.

ADJOURNMENT

At 5:21 p.m., on a motion by Mr. Wehrbein, the Legislature adjourned until 9:00 a.m., Tuesday, March 9, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

FIFTY-EIGHTH DAY - APRIL 9, 1991

LEGISLATIVE JOURNAL

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

FIFTY-EIGHTH DAY

Legislative Chamber, Lincoln, Nebraska
Tuesday, April 9, 1991

Pursuant to adjournment, the Legislature met at 9:00 a.m., Speaker Baack presiding.

PRAYER

The prayer was offered by Rev. Harland Johnson, Chaplain Coordinator.

ROLL CALL

The roll was called and all members were present except Messrs. Ashford, Chizek, and Wesely who were excused; and Messrs. Beutler, Chambers, Conway, Haberman, Hall, Hartnett, R. Johnson, Morrissey, Schmit, Mmes. Pirsch, and Robak who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Fifth-Seventh Day was approved.

SELECT COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 203. Placed on Select File as amended.
E & R amendment to LB 203:
AM5117

1. Insert the following new section:

"Sec. 41. That section 76-2237, Reissue Revised Statutes of Nebraska, 1943, be amended to read

as follows:

76-2237. Each registered, licensed, or certified real estate appraiser shall comply with generally accepted standards of professional appraisal practice and generally accepted ethical rules to be observed by a real estate appraiser. The board shall adopt and promulgate rules and regulations which may conform to the generally accepted standards of professional appraisal practice evidenced by the Uniform Standards of Professional Appraisal Practice promulgated by the Appraisal Foundation. A copy of each such rule or regulation shall be mailed to the business address of each registered, licensed, or certified real estate appraiser.".

2. In the Standing Committee amendments, AM0383:

a. On page 13, line 8, strike "or" and insert an underscored comma and after "licensee" insert an underscored comma;

b. On page 19, line 7, after "including" insert "on"; and in line 22 strike "32" and insert "31".

c. On page 21, line 13, strike "or certified" and insert "certified,"; and in line 23 strike "and" and insert "an"; and

d. On page 22, line 14, after "or" insert "a".

3. On page 1, line 2, after "sections" insert "72-224.03, 76-706, 76-1907,"; strike beginning with "76-2236" in line 4 through the first comma in line 5; in line 5 strike ", and 76-2249" and insert "to 76-2250, 77-1333, 77-1372, and 77-2019"; in line 6 after "1943" insert ", and sections 2-1502 and 49-14,103.01, Revised Statutes Supplement, 1990"; strike beginning with "and" in line 10 through "eliminate" in line 14 and insert "provisions relating to membership on the Real Estate Appraiser Board; to change and provide powers and duties of the board; to transfer funds; to provide for registered real estate appraisers; to provide for a transitional license; to provide, change, and eliminate provisions relating to licensure and certification; to provide and change fees; to eliminate provisions relating to".

4. On page 2, line 1, after the first semicolon insert "to change a penalty provision;".

5. On page 3, strike line 5 and all

amendments thereto and insert "sections 9, 14, 17, 18, 31, 32, 36, 37, and 51 of this act".

6. On page 4, line 7, strike the new matter and all amendments thereto and insert "sections 9, 14, 17, and 18 of this act".

7. On page 13, line 3, strike "the" and show as stricken.

8. On page 18, line 15; page 22, line 7; and page 25, line 22, strike "25" and all amendments thereto and insert "31".

9. On page 23, line 16; and page 26, line 17, strike "as".

10. On page 25, line 22, strike "classroom", show as stricken, and insert "class".

11. On page 26, line 6, strike the period.

12. On page 27, line 2, strike "what is".

13. On page 28, line 2, after "data" insert "involved".

14. On page 30, line 17, strike "licensed", show as stricken, and insert "registered, licensed,".

15. On page 39, line 11, after "evaluation" insert "assignments"; in line 14 after "valuation" insert "assignment"; and in line 15 strike "service", show as stricken, and insert "assignment".

16. On page 49, line 1, after "assignment" insert an underscored comma; and in line 14 after "advocate" insert "consulting".

17. On page 50, strike beginning with "76-2236" in line 23 through the first comma in line 24 and all amendments thereto; and in line 24 strike beginning with the third comma through the last comma and all amendments thereto and insert "to".

LEGISLATIVE BILL 203A. Placed on Select File.

LEGISLATIVE BILL 850. Placed on Select File as amended.
E & R amendment to LB 850:
AM5116

1. On page 2, line 1; page 5, line 2; and page 6, line 4, strike "is" and insert "are".

2. On page 4, line 6, after "4th" insert a comma; and strike line 24.

3. On page 5, line 1, strike "1,511,785.48" and insert "1,511,529.55"; and in line 14 strike "the"

and strike "Fund" and insert "Funds".

4. On page 7, line 2, strike "Genevi" and insert "Genevieve".

5. On page 9, line 8, strike "information" and insert "informational".

6. On page 10, line 8, strike "it" and insert "its"; and in line 9 after "assigns" insert a comma.

(Signed) Eric Will, Chairperson

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the attached report on a Governor appointment.

Natural Resources
Central Interstate Low-Level Radioactive Waste Compact
William R. Hoppner - Compact Commissioner

(Signed) Jerome Warner, Chairperson
Legislative Council
Executive Board

ENROLLED RESOLUTION

LEGISLATIVE RESOLUTION 64. Introduced by Hillman, 48; Baack, 47.

WHEREAS, the consolidation in recent years to automated flight service stations has been controversial; and

WHEREAS, the possibility of an additional manned flight service station may be considered for Nebraska; and

WHEREAS, the criteria regarding future locations of manned flight service stations will be determined by unique weather or operational conditions which are critical to the safety of flight; and

WHEREAS, the manned flight service stations nearest to Nebraska are in Columbus, Nebraska; Pierre, South Dakota; Casper, Wyoming; and Denver, Colorado; and

WHEREAS, a climatological summary of Western Nebraska would show the unique circumstances of projections of upward to 1,000 feet, common wind velocities of thirty to fifty miles per hour, outbreaks of cold polar air, and easterly winds that bring up slope conditions and low cloudiness and precipitation.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature approves of a future location of a manned flight service station in Central or Western Nebraska.

2. That the Legislature encourages Nebraska's congressional delegation to pursue such a station for the safety and well-being of the air carriers and persons of Nebraska.

SELECT COMMITTEE REPORT
Enrollment and Review

Correctly Enrolled

The following resolution was correctly enrolled: LR 64.

(Signed) Eric Will, Chairperson

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following enrolled resolution: LR 64.

BILLS ON FINAL READING

The following bills were read and put upon final passage:

LEGISLATIVE BILL 159.

A BILL FOR AN ACT relating to the Uniform Commercial Code; to amend sections 1-105, 1-201, 9-113, 9-203, and 9-302, Uniform Commercial Code; to redefine a term; to adopt uniform provisions governing leases of goods; to harmonize provisions; to provide duties for the Revisor of Statutes; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 40:

Abboud	Bernard-Stevens	Beutler	Byars	Conway
Baack		Beyer	Chambers	Coordsen

Crosby	Horgan	Lynch	Robinson	Smith
Cudaback	Johnson, L.	Moore	Rogers	Warner
Dierks	Kristensen	Morrissey	Schellpeper	Wehrbein
Elmer	Labedz	Nelson	Schimek	Wickersham
Haberman	Lamb	Peterson	Schmit	Will
Hefner	Landis	Rasmussen	Schrock	Withem
Hillman				

Voting in the negative, 0.

Excused and not voting, 9:

Ashford	Hall	Johnson, R.	Pirsch	Wesely
Chizek	Hartnett	Lindsay	Robak	

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 218.

A BILL FOR AN ACT relating to livestock; to amend sections 54-101, 54-104, 54-114, and 54-137, Reissue Revised Statutes of Nebraska, 1943; to define, redefine, and eliminate terms; to change provisions relating to renewal of brand recordings; to restrict the recording of brands for ribs; to change provisions relating to branding or defacing a brand on another's livestock; to harmonize provisions; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 41:

Abboud	Coordsen	Johnson, L.	Morrissey	Schmit
Baack	Crosby	Johnson, R.	Nelson	Schrock
Bernard-Stevens	Cudaback	Kristensen	Peterson	Smith
	Dierks	Labedz	Rasmussen	Warner
Beutler	Elmer	Lamb	Robinson	Wehrbein
Beyer	Haberman	Landis	Rogers	Wickersham
Byars	Hefner	Lynch	Schellpeper	Will
Chambers	Hillman	Moore	Schimek	Withem
Conway	Horgan			

Voting in the negative, 0.

Excused and not voting, 8:

Ashford	Hall	Lindsay	Robak	Wesely
Chizek	Hartnett	Pirsch		

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

Mr. Kristensen asked unanimous consent to be excused until he returns. No objections. So ordered.

LEGISLATIVE BILL 234.

A BILL FOR AN ACT relating to insurance; to amend sections 44-10,105, 44-1522, 44-1524, 44-1526 to 44-1532, 44-1534, 44-1535, 44-1925, 44-3610, 44-4028, and 44-4031, Reissue Revised Statutes of Nebraska, 1943, sections 44-1523, 44-1525, 44-1533, 44-1803 to 44-1805, 44-32,179, and 44-4607, Revised Statutes Supplement, 1990, section 44-320, Reissue Revised Statutes of Nebraska, 1943, as amended by section 59, Legislative Bill 237, Ninety-second Legislature, First Session, 1991, section 44-4407, Reissue Revised Statutes of Nebraska, 1943, as amended by section 49, Legislative Bill 236, Ninety-second Legislature, First Session, 1991, section 44-1908, Revised Statutes Supplement, 1990, as amended by section 30, Legislative Bill 235, Ninety-second Legislature, First Session, 1991, and section 44-4711, Revised Statutes Supplement, 1990, as amended by section 58, Legislative Bill 236, Ninety-second Legislature, First Session, 1991; to name provisions relating to unfair trade practices as the Unfair Insurance Trade Practices Act; to define and redefine terms; to change provisions relating to unfair trade practices; to change penalty provisions; to adopt the Unfair Insurance Claims Settlement Practices Act; to harmonize provisions; to provide a duty for the Revisor of Statutes; to provide severability; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 36:

Abboud	Baack

Bernard-Stevens	Crosby	Horgan	Morrissey	Schrock
Beutler	Cudaback	Johnson, L.	Nelson	Smith
Beyer	Dierks	Johnson, R.	Peterson	Warner
Chambers	Elmer	Labedz	Rogers	Wehrbein
Conway	Haberman	Lamb	Schellpeper	Wickersham
Coordsen	Hefner	Landis	Schimek	Will
	Hillman	Moore	Schmit	Withem

Voting in the negative, 0.

Present and not voting, 4:

Byars	Lynch	Rasmussen	Robinson

Excused and not voting, 9:

Ashford	Hall	Kristensen	Pirsch	Wesely
Chizek	Hartnett	Lindsay	Robak	

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

Mr. Wehrbein asked unanimous consent to be excused until he returns. No objections. So ordered.

LEGISLATIVE BILL 853. With Emergency.

A BILL FOR AN ACT relating to appropriations; to amend Laws 1989, LB 813, sections 26, 46, 64, and 77; to define terms; to change certain appropriations as prescribed; to provide for deficit appropriations; to appropriate funds for capital construction; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 39:

Abboud	Byars	Cudaback	Hefner	Labedz
Baack	Chambers	Dierks	Hillman	Lamb
Bernard-Stevens	Conway	Elmer	Horgan	Landis
Beyer	Coordsen	Haberman	Johnson, L.	Lynch
	Crosby	Hall	Johnson, R.	Moore

Morrissey	Rasmussen	Schellpeper	Schrock	Wickersham
Nelson	Robinson	Schimek	Smith	Will
Peterson	Rogers	Schmit	Warner	Withem

Voting in the negative, 0.

Present and not voting, 1:

Beutler

Excused and not voting, 9:

Ashford	Hartnett	Lindsay	Robak	Wesely
Chizek	Kristensen	Pirsch	Wehrbein	

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

UNANIMOUS CONSENT - Member Excused

Mr. Moore asked unanimous consent to be excused until he returns. No objections. So ordered.

GENERAL FILE

LEGISLATIVE BILL 425. Mr. Lynch renewed his pending amendment, AM1125, found in the Journal on page 1555.

Mrs. Labedz renewed her pending amendment, AM1154, found in the Journal on page 1572, to the pending Lynch amendment.

Mr. Bernard-Stevens requested a ruling of the Chair on whether the Labedz amendment is germane to the Lynch amendment.

The Chair ruled the Labedz amendment is not germane to the Lynch amendment.

The Lynch amendment was adopted with 27 ayes, 0 nays, 13 present and not voting, and 9 excused and not voting.

Ms. Schimek renewed her pending amendment, FA87, found in the Journal on page 1556.

Mr. Haberman asked unanimous consent to be excused until he returns. No objections. So ordered.

Mrs. Labedz offered the following amendment to the pending Schimek amendment:
FA90
Amendment to FA87
On page 1, line 2, strike "notification" and insert "death", strike "3" and insert "1"; line 3, strike "or" and insert "and"; line 4, strike "minor" and insert "woman".

MR. CONWAY PRESIDING

SPEAKER BAACK PRESIDING

The Labedz amendment was adopted with 18 ayes, 0 nays, 21 present and not voting, and 10 excused and not voting.

The pending Schimek amendment, as amended, was adopted with 27 ayes, 0 nays, 12 present and not voting, and 10 excused and not voting.

Pending.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following bills: 159, 218, 234, and 853.

GENERAL FILE

LEGISLATIVE BILL 425. Mr. Will renewed his pending amendment, AM1128, found in the Journal on page 1571.

Mr. Bernard-Stevens offered the following amendment to the pending Will amendment:
FA91
Amend the Will amendment:
After the word "any" on page 1, insert the word "public", and after the word "or" insert the word "public".

The Bernard-Stevens amendment was adopted with 14 ayes, 0 nays, 27 present and not voting, and 8 excused and not voting.

Mr. Will moved for a call of the house. The motion prevailed with 13 ayes, 0 nays, and 36 not voting.

Mr. Will requested a roll call vote on his amendment, as amended.

Voting in the affirmative, 23:

Abboud	Chambers	Hillman	Rasmussen	Warner
Baack	Conway	Landis	Robinson	Wickersham
Bernard-Stevens	Coordsen	Lynch	Schellpeper	Will
	Elmer	Morrissey	Schimek	Withem
Beutler	Hall	Nelson	Smith	

Voting in the negative, 12:

Byars	Hefner	Lamb	Pirsch	Schmit
Cudaback	Johnson, R.	Lindsay	Rogers	Schrock
Dierks	Labedz			

Present and not voting, 6:

Beyer	Horgan	Johnson, L.	Peterson	Robak
Crosby				

Excused and not voting, 8:

Ashford	Haberman	Kristensen	Wehrbein	Wesely
Chizek	Hartnett	Moore		

The Will amendment, as amended, lost with 23 ayes, 12 nays, 6 present and not voting, and 8 excused and not voting.

The Chair declared the call raised.

Mrs. Labedz renewed her pending amendment, AM1154, found in the Journal on page 1572.

Mr. Morrissey asked unanimous consent to be excused until he returns. No objections. So ordered.

MR. CONWAY PRESIDING

Pending.

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 579A. Introduced by Conway, 17.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 579, Ninety-second Legislature, First Session, 1991; to reduce an appropriation; and to declare an emergency.

PRESENTED TO THE GOVERNOR

Presented to the Governor on April 9, 1991, at 11:15 a.m., were the following bills: 159, 218, 234, and 853.

(Signed) Pam Moravec, Enrolling Clerk

UNANIMOUS CONSENT - Print in Journal

Mr. R. Johnson asked unanimous consent to print the following amendment to LB 754 in the Journal. No objections. So ordered.

AM1166

(Amendments to AM0881)

1. On page 1, line 10, after "percent" insert "weight oxygen".

Messrs. Rogers, Cudaback, and Dierks asked unanimous consent to print the following amendments to LB 583 in the Journal. No objections. So ordered.

(1)

AM1127

(Amendments to AM0640)

1. On page 4, line 22, strike "articles" and insert "initial articles of incorporation".

(2)

AM1148

(Amendments to AM0640)

1. On page 6, line 15, after "and" insert "four"; and in line 18 after "1985" insert "and as of

the operative date of this section shall be deemed to be the Nebraska Cattlemen, the Nebraska Cattlewomen, an organization representing the Nebraska dairy industry, and the Nebraska Farm Bureau".

(3)

AM1126

(Amendments to AM0640)

1. Insert the following new section:

"Sec. 7. The State Treasurer shall transfer any funds remaining in or accruing to the Nebraska Beef Industry Development Fund on or after October 1, 1991, to the private nonprofit corporation described in section 3 of this act. Such transfers shall be in payment of any contract between the Nebraska Beef Industry Development Board and the corporation which provides for the corporation to carry out the responsibilities and programs of the board under the Nebraska Beef Industry Development Act.

The State Treasurer shall make such transfers only if the provisions of sections 2 to 5 of this act have been complied with.";.

2. On page 6, line 7, strike "and"; after line 7 insert:

"(g) A provision that the corporation shall assume all existing and future liabilities of the Nebraska Beef Industry Development Board;

(h) A provision that the expenditure of any funds paid or transferred to the corporation will be used in a manner consistent with the original purposes of the Nebraska Beef Industry Development Act;

(i) A provision that the corporation shall submit quarterly reports to the Auditor of Public Accounts detailing the expenditures of funds received or transferred to it from the State until all such funds are expended; and"; and in line 8 strike "(g)" and insert "(j)".

3. On page 7, line 14, strike "director" and insert "Director of Agriculture"; in line 16 strike "and" and strike "director" and insert "Director of Agriculture"; and in line 21 after "and" insert "(d) provides to the Director of Administrative Services a contractual guarantee that the corporation accepts and agrees to pay out of any funds available to it all

existing and future liabilities of the Nebraska Beef Industry Development Board which have not been extinguished prior to October 1, 1991, including unpaid bills and claims for goods and services, claims for refunds of fees and assessments paid in excess or in error of the true amount owed pursuant to section 54-2113, accrued salaries and benefits, unemployment compensation claims, and claims relating to wrongful actions and".

4. On page 11, line 22, strike "11" and insert "12".

5. On page 12, line 7, strike "8" and insert "9".

6. Renumber remaining sections accordingly.

VISITORS

Visitors to the Chamber were 45 sixth grade students and teacher from Brownell Elementary School, Lincoln; and seven fourth and fifth grade students and teachers from Nebraska School for the Deaf in Omaha.

RECESS

At 11:57 a.m., on a motion by Mrs. Nelson, the Legislature recessed until 1:30 p.m.

AFTER RECESS

The Legislature reconvened at 1:30 p.m., Speaker Baack presiding.

ROLL CALL

The roll was called and all members were present except Messrs. Ashford, Chizek, Lamb, and Wesely who were excused; and Messrs. Beutler, Coordsen, Haberman, R. Johnson, Moore, Morrissey, Robinson, Rogers, Schmit, Warner, and Mrs. Smith who were excused until they arrive.

UNANIMOUS CONSENT - Member Excused

Mr. Kristensen asked unanimous consent to be excused until he returns. No objections. So ordered.

UNANIMOUS CONSENT - Print in Journal

Mrs. Nelson asked unanimous consent to print the following amendment to LB 333 in the Journal. No objections. So ordered.

AM1173

(Amendments to Final Reading second)

1. On page 7, line 4, strike "or", show as stricken, and insert an underscored comma and after "modifying" insert ", repairing, or detailing"; and in line 17 after the last comma insert "repairing, detailing,".

GENERAL FILE

LEGISLATIVE BILL 425. Mrs. Labedz withdrew her pending amendment, AM1154, found in the Journal on page 1572 and considered in this day's Journal.

Mr. Bernard-Stevens renewed his pending amendment, AM1088, found in the Journal on page 1573.

The Bernard-Stevens amendment lost with 15 ayes, 6 nays, 12 present and not voting, and 16 excused and not voting.

Mr. Landis offered the following amendment:
AM1008

1. On page 3, line 22, strike "nineteen" and insert "sixteen".

Mrs. Robak and Mr. Withem asked unanimous consent to be excused until they return. No objections. So ordered.

The Landis amendment lost with 9 ayes, 9 nays, 16 present and not voting, and 15 excused and not voting.

Mr. Bernard-Stevens offered the following amendment:
AM0959

1. On page 5, line 23, strike "three" and insert "seven".

Mr. Lynch asked unanimous consent to be excused. No objections. So ordered.

Mr. Lindsay offered the following amendment to the pending Bernard-Stevens amendment:
FA92

Amend the Bernard-Stevens amendment by striking "seven" and inserting "four"

Mr. Lindsay withdrew his pending amendment.

Mr. Lindsay offered the following amendment to the pending Bernard-Stevens amendment:
FA93

Amend the Bernard-Stevens amendment by striking "seven" and inserting "five"

The Lindsay amendment was adopted with 16 ayes, 4 nays, 19 present and not voting, and 10 excused and not voting.

The Bernard-Stevens amendment, as amended, was adopted with 25 ayes, 3 nays, 13 present and not voting, and 8 excused and not voting.

Mrs. Labedz offered the following amendment:
AM1179

(Amendments to AM1125)

1. On page 1, line 2, strike "Section 1" and insert "Sec. 8"; in lines 3 and 12 strike "many" and insert "some"; and in line 13 strike "further".

2. Renumber the remaining sections accordingly.

The Labedz amendment was adopted with 26 ayes, 0 nays, 15 present and not voting, and 8 excused and not voting.

Mrs. Smith asked unanimous consent to be excused until she returns. No objections. So ordered.

Mr. Peterson moved the previous question. The question is, "Shall the debate now close?"

Mr. Peterson moved for a call of the house. The motion prevailed with 16 ayes, 0 nays, and 33 not voting.

The motion to cease debate prevailed with 25 ayes, 6 nays, and 18 not voting.

Advanced to E & R for review with 30 ayes, 13 nays, 1 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Mr. Haberman asked unanimous consent to be excused until he returns. No objections. So ordered.

UNANIMOUS CONSENT - Print in Journal

Mr. Haberman asked unanimous consent to print the following amendment to LB 332 in the Journal. No objections. So ordered.

AM1172

1. On page 3, strike lines 12 through 25 and insert the following new subsection:

"(4) Every individual shall be allowed to subtract from federal adjusted gross income an amount for each dependent who is attending a public, private, denominational, or parochial elementary or high school in Nebraska. The school shall be nonprofit, shall not discriminate on the basis of race, color, or national origin, and shall meet the school term requirements of section 79-201. A deduction may be claimed by an individual under this section only to the extent a personal exemption is allowed for the dependent on the individual's federal return. The amount which may be subtracted for each such dependent shall be one thousand one hundred dollars for each dependent in grades kindergarten through six and one thousand seven hundred dollars for each dependent in grades seven through twelve.".

2. On page 4, strike lines 1 through 15 and all amendments thereto.

GENERAL FILE

LEGISLATIVE BILL 470. Title read. Considered.

Standing Committee amendment, AM0552, found in the Journal on page 1153, was considered.

Mr. Landis withdrew his pending amendment, AM0980, found in the Journal on page 1372.

Mr. Landis renewed his pending amendment, AM1040, found in the Journal on page 1422, to the Standing Committee amendment.

The Landis amendment was adopted with 19 ayes, 0 nays, 25 present and not voting, and 5 excused and not voting.

The Standing Committee amendment, as amended, was adopted with 25 ayes, 0 nays, 19 present and not voting, and 5 excused and not voting.

Mr. Hall moved to indefinitely postpone LB 470.

Laid over.

Mr. Landis asked unanimous consent to be excused until he returns. No objections. So ordered.

LEGISLATIVE BILL 727. Title read. Considered.

Standing Committee amendment, AM0486, found in the Journal on page 1184, was adopted with 26 ayes, 0 nays, 17 present and not voting, and 6 excused and not voting.

Mmes. Labedz and Pirsch asked unanimous consent to be excused. No objections. So ordered.

Mr. Coordsen withdrew his pending amendment, AM1084, found in the Journal on page 1570.

Advanced to E & R for review with 32 ayes, 1 nay, 8 present and not voting, and 8 excused and not voting.

UNANIMOUS CONSENT - Print in Journal

Messrs. Chambers and Will asked unanimous consent to print the following amendment to LB 425 in the Journal. No objections. So ordered.

AM1128

1. Insert the following new section:

"Sec. 8. If any school nurse or school counselor is informed in the course of his or her professional duties by a pregnant woman that such woman

(a) is pregnant, (b) does not wish to inform her parents of the pregnancy, and (c) is considering an abortion, such school nurse or school counselor shall inform the pregnant woman of the requirement that a parent be informed under section 2 of this act and of her right to proceed under section 3 of this act if such woman does not wish to notify her parents of the pregnancy.".

2. On page 3, line 1; strike "7" and insert "8".

3. Renumber the remaining sections accordingly.

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 715A. Introduced by Beutler, 28.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 715, Ninety-second Legislature, First Session, 1991.

VISITORS

Visitors to the Chamber were 25 fourth grade students and teacher from Lincoln Christian School, Lincoln; John and Helen Ptacek from David City; 25 fourth grade students and teacher from Central School, Plattsmouth; Nick Sands and Perry Pirsch; 30 eighth grade students and sponsor from Our Lady of Lourdes, Omaha; six seniors and sponsor from Loup City; 23 seniors and teacher from Franklin; seven seniors and teacher from Campbell; 28 seniors and teacher from Red Cloud; 17 third and fourth grade students and teachers from Christ is King School, Norfolk; and 22 students and teacher from Hildreth.

ADJOURNMENT

At 4:15 p.m., on a motion by Mr. Hall, the Legislature adjourned until 9:00 a.m., Wednesday, April 10, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

FIFTY-NINTH DAY - APRIL 10, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

FIFTY-NINTH DAY

Legislative Chamber, Lincoln, Nebraska
Wednesday, April 10, 1991

Pursuant to adjournment, the Legislature met at 9:02 a.m., Speaker Baack presiding.

PRAYER

The prayer was offered by Pastor Fredrick Felger, Central Park Congregational Church, Omaha, Nebraska.

ROLL CALL

The roll was called and all members were present except Mr. Wickersham who was excused; and Messrs. Hall and Ms. Schimek who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Fifty-Eighth Day was approved.

UNANIMOUS CONSENT - Member Excused

Mr. Haberman asked unanimous consent to be excused until he returns. No objections. So ordered.

BILL ON FINAL READING

The following bill was read and put upon final passage:

LEGISLATIVE BILL 161.

A BILL FOR AN ACT relating to the Uniform Commercial Code; to amend sections 1-201, 1-207, 2-103, 2-511, 4-101 to 4-108, 4-201 to 4-214, 4-301 to 4-303, 4-401 to 4-403, 4-405 to 4-407, 4-501 to 4-504, 5-103, 9-203, 9-206, 9-302, and 9-312, Uniform Commercial Code; to change and adopt uniform provisions relating to negotiable instruments and bank deposits and collections; to eliminate provisions governing commercial paper; to harmonize provisions; to provide duties for the Revisor of Statutes; to provide an operative date; and to repeal the original sections, and also sections 3-101 to 3-105, 3-107 to 3-122, 3-201 to 3-208, 3-301 to 3-307, 3-401 to 3-419, 3-501 to 3-511, 3-601 to 3-606, 3-701, and 3-801 to 3-805, Uniform Commercial Code, and section 3-106, Uniform Commercial Code, as amended by section 1, Legislative Bill 205, Ninety-second Legislature, First Session, 1991.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 44:

Abboud	Conway	Horgan	Moore	Schellpeper
Ashford	Coordsen	Johnson, L.	Morrissey	Schimek
Baack	Crosby	Johnson, R.	Nelson	Schmit
Bernard-Stevens	Cudaback	Kristensen	Peterson	Schrock
	Dierks	Labedz	Pirsch	Smith
Beyer	Elmer	Lamb	Rasmussen	Warner
Byars	Hartnett	Landis	Robak	Wehrbein
Chambers	Hefner	Lindsay	Robinson	Wesely
Chizek	Hillman	Lynch	Rogers	Withem

Voting in the negative, 0.

Present and not voting, 2:

Beutler Will

Excused and not voting, 3:

Haberman Hall Wickersham

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

RESOLUTION

LEGISLATIVE RESOLUTION 65. Read. Considered.

LR 65 was adopted with 34 ayes, 0 nays, and 15 not voting.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following bill: 161.

GENERAL FILE

LEGISLATIVE BILL 320. Title read. Considered.

Standing Committee amendment, AM0783, found in the Journal on page 1192, was considered.

Mrs. Labedz and Mr. Dierks asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Will moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

The Standing Committee amendment was adopted with 26 ayes, 0 nays, 19 present and not voting, and 4 excused and not voting.

Pending.

UNANIMOUS CONSENT - Print in Journal

Mr. Moore asked unanimous consent to print the following amendment to LB 377 in the Journal. No objections. So ordered.

AM1165

1. Strike the original sections and insert the following new sections:

"Section 1. That section 81-2006, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-2006. (1) The superintendent through his or her subordinate officers or employees in the Nebraska State Patrol shall properly patrol the highways of this

state and cooperate with the sheriffs, police officers, or other peace officers in enforcing the laws regulating the registration, operation, and use of vehicles upon the highway.

(2) Except as provided in subsection (3) of this section, performance ~~Performance~~ of all duties, powers, and exercise of jurisdiction of the Nebraska State Patrol shall extend to all freeways as defined in section ~~39-1369~~ 39-1302 or any part thereof which is located within the jurisdictional limits of local authority, and ~~; PROVIDED, that~~ the patrol ~~will~~ shall cooperate with ~~the~~ sheriffs, police officers, or any other local peace officers, and such officers ~~will~~ shall share concurrent jurisdiction with the patrol, concerning any such freeway ~~roadway~~ within local limits.

(3) Until January 1, 1992, the jurisdiction of the Nebraska State Patrol shall extend to freeways within the jurisdictional limits of a city of the metropolitan class only in cases involving the powers granted to carrier enforcement officers in section 60-1306.

Sec. 2. That original section 81-2006, Reissue Revised Statutes of Nebraska, 1943, is repealed.".

Mr. Moore asked unanimous consent to print the following amendment to LB 698 in the Journal. No objections. So ordered.

AM1164

1. On page 10, line 1, after the period insert "If a governing body discontinues a service provided by the governing body and the state assumes the responsibility of providing the service, the allowable budget statement amount calculated pursuant to this section shall be reduced for the subsequent budget year and each budget year thereafter by an amount equal to the cost to the state to assume the service.".

Mr. Moore asked unanimous consent to print the following amendment to LB 698 in the Journal. No objections. So ordered.

AM1163

1. On page 9, line 4, strike "and" and show as stricken; after line 4 insert the following new

subdivision:

"(6) Local sales tax shall mean any tax imposed by an incorporated municipality pursuant to section 77-27,142; and"; in line 5 strike "(6)", show as stricken, and insert "(7)"; in line 18 before "Except" insert "(1)"; and in line 23 strike "any fiscal year beginning with" and and show as stricken.

2. On page 10, strike line 1, show as stricken, and insert "percent.

(2) Except as provided in sections 77-3439 and 77-3440, no governing body shall adopt a budget statement pursuant to section 13-506 or pursuant to the charter or ordinance of a city with a home rule charter in which the anticipated receipts from local sales tax and property taxes, for any fiscal year beginning with fiscal year 1991-92, exceed the local sales tax and property taxes for the base year compounded annually at the rate of four percent for each fiscal year.

For political subdivisions that have annexed property or have consolidated after the effective date of this act, the percentage increase shall be computed based on the combined local sales tax and property taxes of each subdivision in the fiscal year immediately preceding consolidation."; in line 2 before "For" insert "(3)"; and in line 4 after "combined" insert "local sales tax and".

Mr. Robinson asked unanimous consent to print the following amendment to LB 663 in the Journal. No objections. So ordered.

AM1147

(Amendments to AM5105)

1. On page 60, line 21, strike "and".

2. On page 61, line 2, after the semicolon insert "; and

(d) The number of credit hours which shall be counted by any technical community college area in which a tribally controlled community college is located shall include credit hours awarded by such tribally controlled community college to students for which such institution received no federal reimbursement pursuant to the Tribally Controlled Community College Assistance Act, Public Law 95-471 as reauthorized by Public Law 99-428;"; in line 11 strike the first "and" and show as

stricken; in line 12 after "course" insert ", (d) a factor of two for a tribally controlled community college general academic transfer course or academic support course, (e) a factor of three for a tribally controlled community college Class 1 course, and (f) a factor of three and fifty hundredths for a tribally controlled community college Class 2 course"; in line 16 strike "and"; and in line 20 after "quarters" insert ";

(24) Tribally controlled community college shall mean an educational institution operating and offering programs pursuant to the Tribally Controlled Community College Assistance Act, Public Law 95-471 as reauthorized by Public Law 99-428; and

(25) Tribally controlled community college state aid amount shall mean the quotient of the amount of state aid to be distributed pursuant to sections 79-2651 to 79-2651.06 for the current fiscal year to a technical community college area in which a tribally controlled community college is located divided by the average of the reimbursable educational totals for such area for the immediately preceding three fiscal years, with such quotient then multiplied by the average reimbursable educational units derived pursuant to subdivision (19)(d) of this section for the immediately preceding three fiscal years".

3. On page 68, after line 6 insert the following new subdivision:

"(15) To transfer tribally controlled community college state aid amounts to a tribally controlled community college located within its area;"; in line 7 strike "(15)", show as stricken, and insert "(16)"; in line 13 strike "(16)", show as stricken, and insert "(17)"; in line 17 strike "(17)", show as stricken, and insert "(18)"; and in line 19 strike "(18)", show as stricken, and insert "(19)".

4. On page 69, line 22, strike "in" and insert "or tribally controlled community college by"; and in line 23 strike "located" and insert "served".

GENERAL FILE

LEGISLATIVE BILL 320. Considered.

Mr. Morrissey and Mrs. Hillman asked unanimous consent to be excused until they return. No objections. So ordered.

MR. CONWAY PRESIDING

Mr. Hall offered the following amendment:
AM1197

1. Strike the original sections and all amendments thereto and insert the following new sections:

"Section 1. That section 77-112, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-112. ~~Actual~~ (1) Except as provided in subsection (2) of this section, actual value of property for purposes of taxation shall mean the market value of property in the ordinary course of trade. Actual value may be determined using professionally accepted mass appraisal techniques, including, but not limited to:

~~(1)~~ (a) Comparison with sales of property of known or recognized value, taking into account location, zoning, and current functional use;

~~(2)~~ (b) Earning capacity of the property; and

~~(3)~~ (c) Reproduction cost less depreciation.

(2) Actual value when applied to agricultural land and horticultural land for purposes of taxation for the tax year 1992 shall mean the value determined pursuant to section 77-201.

Sec. 2. That section 77-201, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-201. ~~All~~ (1) Except as provided in subsection (2) of this section, all tangible property and real property in this state, not expressly exempt therefrom, shall be subject to taxation and shall be valued at its actual value. Such actual value shall be taken and considered as the taxable value on which the levy shall be made.

(2) Agricultural land and horticultural land used solely for agricultural or horticultural purposes shall constitute a separate and distinct class of property for purposes of taxation. For tax year 1992 only, such land shall be assessed for taxation at eighty percent of its market value as derived from the

agricultural land valuation manual issued pursuant to section 77-1330 for 1992. For purposes of this subsection, agricultural land and horticultural land shall mean land that either (a) qualifies for and is receiving the special assessment provided for in sections 77-1343 to 77-1348 or (b) is determined by the county assessor to have a market value that does not reflect any current or potential use other than for agricultural or horticultural purposes.

Sec. 3. That original sections 77-112 and 77-201, Reissue Revised Statutes of Nebraska, 1943, are repealed.

Sec. 4. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.".

Mr. Abboud asked unanimous consent to be excused until he returns. No objections. So ordered.

SPEAKER BAACK PRESIDING

Mr. Robinson asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Hall offered the following amendment to the pending Hall amendment:

FA94

Amend the Hall amendment, on pg 2, lines 15 and 16, change 80% to 110%

Mr. Hall withdrew his pending amendment.

Mr. Landis moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 0 nays, and 23 not voting.

Mr. Hall requested a record vote on his amendment.

Voting in the affirmative, 18:

Ashford	Elmer	Horgan	Pirsch	Wesely
Bernard-Stevens	Hall	Kristensen	Rasmussen	Will
Chizek	Hartnett	Lindsay	Schimek	Withem
	Hillman	Lynch	Schmit	

Voting in the negative, 23:

Baack	Crosby	Johnson, R.	Peterson	Schrock
Beyer	Cudaback	Lamb	Robak	Smith
Byars	Dierks	Landis	Rogers	Warner
Conway	Hefner	Moore	Schellpeper	Wehrbein
Coordsen	Johnson, L.	Nelson		

Present and not voting, 2:

Beutler Chambers

Excused and not voting, 6:

Abboud Labedz Morrissey Robinson Wickersham
Haberman

The Hall amendment lost with 18 ayes, 23 nays, 2 present and not voting, and 6 excused and not voting.

Messrs. Ashford and Peterson asked unanimous consent to be excused until they return. No objections. So ordered.

Mrs. Nelson moved the previous question. The question is, "Shall the debate now close?"

Mr. Landis moved for a call of the house. The motion prevailed with 25 ayes, 1 nay, and 23 not voting.

The motion to cease debate prevailed with 25 ayes, 14 nays, and 10 not voting.

Advanced to E & R for review with 30 ayes, 12 nays, 2 present and not voting, and 5 excused and not voting.

PRESENTED TO THE GOVERNOR

Presented to the Governor on April 10, 1991, at 11:10 a.m., was the following bill: 161.

(Signed) Pam Moravec, Enrolling Clerk

BILLS ON FIRST READING

The following bills were read for the first time by title:

LEGISLATIVE BILL 248A. Introduced by Ashford, 6.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 248, Ninety-second Legislature, First Session, 1991.

LEGISLATIVE BILL 503A. Introduced by Moore, 24.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 503, Ninety-second Legislature, First Session, 1991.

VISITORS

Visitors to the Chamber were seven seniors and teacher from Hampton; 30 eighth grade students and sponsors from Tecumseh; 19 fourth grade students and teacher from St. Joseph School, York; and 38 fourth grade students and teachers from Washington Elementary School, Norfolk.

RECESS

At 12:20 p.m., on a motion by Mr. Hall, the Legislature recessed until 1:30 p.m.

AFTER RECESS

The Legislature reconvened at 1:30 p.m., Speaker Baack presiding.

ROLL CALL

The roll was called and all members were present except Mr. Hartnett who was excused; and Messrs. Ashford, Beyer, Dierks, Haberman, R. Johnson, Lynch, Moore, Schellpeper, Schmit, Wesely, Wickersham, Will, Mmes. Labedz, and Rasmussen who were excused until they arrive.

UNANIMOUS CONSENT - Member Excused

Mr. Kristensen asked unanimous consent to be excused until he returns. No objections. So ordered.

UNANIMOUS CONSENT - Print in Journal

Mr. Withem asked unanimous consent to print the following amendment to LB 663A in the Journal. No objections. So ordered.

AM1188

1. Insert the following new section:

"Sec. 2. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.".

UNANIMOUS CONSENT - Member Excused

Mr. Conway asked unanimous consent to be excused until he returns. No objections. So ordered.

MOTION - Place LR 10 on General File

Mr. Hefner renewed his pending motion, found in the Journal on page 1560, to place LR 10 on General File, pursuant to Rule 3, Section 19 (b).

Mr. Chizek asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Abboud moved the previous question. The question is, "Shall the debate now close?"

Mr. Abboud moved for a call of the house. The motion prevailed with 12 ayes, 0 nays, and 37 not voting.

The motion to cease debate prevailed with 25 ayes, 3 nays, and 21 not voting.

Mr. Chambers requested a roll call vote on the Hefner motion to place LR 10 on General File.

Voting in the affirmative, 24:

Abboud	Crosby	Hefner	Lamb	Robak
Beyer	Cudaback	Johnson, L.	Moore	Robinson
Byars	Dierks	Johnson, R.	Peterson	Rogers
Coordsen	Elmer	Labedz	Pirsch	Schmit

Schrock	Smith	Warner	Wehrbein	

Voting in the negative, 17:

Ashford	Beutler	Horgan	Morrissey	Schimek
Baack	Chambers	Kristensen	Nelson	Wesely
Bernard-Stevens	Hall	Landis	Rasmussen	Withem
	Hillman	Lindsay		

Excused and not voting, 8:

Chizek	Haberman	Lynch	Wickersham	Will
Conway	Hartnett	Schellpeper		

The Hefner motion lost with 24 ayes, 17 nays, and 8 excused and not voting.

LR 10 stands indefinitely postponed.

The Chair declared the call raised.

Mrs. Pirsch asked unanimous consent to be excused until she returns. No objections. So ordered.

RESOLUTION

LEGISLATIVE RESOLUTION 66. Introduced by Pirsch, 10.

WHEREAS, criminal violence victimizes over thirty-four million Americans yearly and thousands of Nebraska households suffer the indiscriminate trespass of crime each year; and

WHEREAS, Nebraska crime victims endure the staggering financial, physical, and emotional injuries of crime, as well as the additional costs, indignities, and frustrations of the criminal justice system; and

WHEREAS, our elderly population is especially vulnerable to abuse, intimidation, and victimization; and

WHEREAS, while the criminal justice system must remain sensitive to the rights of the accused, it should also assure that the rights of victims and witnesses are protected; and

WHEREAS, victims and witnesses are entitled to protection, dignity, and information about existing programs available in Nebraska which may provide them with assistance; and

WHEREAS, many of our fellow citizens, through their work and volunteer services, are committed to bringing about the full measure of dignity, compassion, and justice which is due all victims of crime; and

WHEREAS, the Legislature continues to be concerned with and responsive to the rights of Nebraska crime victims.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature declares April 21 through April 27, 1991, Victims' Rights Week in Nebraska.

2. That the Legislature urges all Nebraskans to continue to help crime victims and witnesses and to treat them with respect, compassion, and fairness for the sake of justice and human dignity.

3. That the Legislature expresses its gratitude to those Nebraskans who give so much of themselves in their efforts to lessen the plight of crime victims by bringing justice into balance and making the world a better and safer place.

Laid over.

GENERAL FILE

LEGISLATIVE BILL 754. Title read. Considered.

Standing Committee amendment, AM0785, found in the Journal on page 1195, was considered.

MR. WARNER PRESIDING

Mrs. Smith and Mr. Schrock offered the following amendment to the pending Standing Committee amendment:
AM1206

(Amendments to Standing Committee amendments, AM0785)

1. Strike amendments 2, 6, and 7 and insert the following new amendments:

"2. On page 2, line 17; and page 3, line 11, strike '1999' and insert '1997'.

6. On page 13, strike beginning with the period in line 4 through line 6, show the old matter as stricken, and insert 'through December 31, 1994, and an amount equal to such credit after such date.'; in line 10 strike '1997', show as stricken, and insert '1994'; in line 12 strike 'which', show as stricken, and insert

'and through December 31, 1997, each producer of ethanol shall receive a credit of ten cents per gallon of ethanol produced in Nebraska. The'; in line 17 strike the new matter and reinstate the stricken matter; and in line 22 after the period insert 'Each producer of ethyl tertiary butyl ether shall receive that portion of the ethanol credit given in this section equal to the proportion of ethanol contained in ethyl tertiary butyl ether produced in Nebraska.'.".

2. Renumber the remaining amendments accordingly.

Mr. Hefner and Mrs. Crosby asked unanimous consent to be excused until they return. No objections. So ordered.

The Smith-Schrock amendment was adopted with 18 ayes, 0 nays, 24 present and not voting, and 7 excused and not voting.

Mr. Moore offered the following amendment to the pending Standing Committee amendment:
FA95

In the Standing Committee amendment (AM0785), on page 2, strike beginning with line 2 through the semicolon in line 4.

Mr. Withem asked unanimous consent to be excused until he returns. No objections. So ordered.

The Moore amendment was adopted with 17 ayes, 0 nays, 24 present and not voting, and 8 excused and not voting.

Mr. Morrissey asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Schmit offered the following amendment to the pending Standing Committee amendment:
AM1209

(Amendments to Standing Committee amendments, AM0785)

1. On page 2, line 15, after the semicolon insert "in line 16 after the period insert 'Commencing January 1, 1992, the credit shall be given only for production which was not in existence on the effective date of this act.';".

Mr. Schmit withdrew his pending amendment.

SPEAKER BAACK PRESIDING

The Standing Committee amendment, as amended, was adopted with 25 ayes, 1 nay, 15 present and not voting, and 8 excused and not voting.

Pending.

Mr. Lindsay asked unanimous consent to be excused until he returns. No objections. So ordered.

MESSAGE FROM THE GOVERNOR

April 10, 1991

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 685e, 166, 199e, 284, 303e, 334, 343, 454, 561e, 586, and 700 were received in my office on April 5, 1991; engrossed Legislative Bills 159, 218, 234, and 853e were received in my office on April 9, 1991; and engrossed Legislative Bill 161 was received on April 10, 1991.

These bills were signed by me on April 10, 1991, and delivered to the Secretary of State.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

RESOLUTION

LEGISLATIVE RESOLUTION 67. Introduced by Schimek, 27; Coordsen, 32; Lindsay, 9; Schrock, 39; Smith, 33; Withem, 14; Conway, 17; Robak, 22; Schmit, 23.

PURPOSE: The purpose of this resolution is to review current statutes relating to the use of government property by public officials and state employees. This resolution shall include, but not be limited to the following: (1) The review of the appropriate use of campaign funds by public officials for office supplies, staff, and furnishings or

devices in government offices; and (2) the use of state property for certain nongovernmental purposes.

This review should also include an analysis of current accountability and disclosure statutes that have raised concerns, the appropriateness of such statutes, and the possibilities for improvement of such statutes.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Committee on Government, Military and Veterans Affairs of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

REPORT OF REGISTERED LOBBYISTS

In accordance with LB 987, passed in the 1976 session of the Legislature and amended by LB 4 and LB 41 in the 1977 session of the Legislature, the attached is a list of all Lobbyists who have registered as of April 10, 1991. Further lists listing additional lobbyists who have registered will be filed weekly.

(Signed) Patrick J. O'Donnell
Clerk of the Legislature

Bell, C. R. "Bob" - Omaha	Greater Omaha Chamber of Commerce
Cutshall, Bruce A. - Lincoln	Central Nebraska Public Power & Irrigation District
	Kelley and Lehan P.C.
Harper, Charles M. - Omaha	ConAgra, Inc.
Kelley, Michael A. - Omaha	Bruce A. Cutshall

UNANIMOUS CONSENT - Print in Journal

Mrs. Rasmussen asked unanimous consent to print the following amendment to LB 701 in the Journal. No objections. So ordered.

AM1020

1 1. Strike original sections 12 and 14.

2. On page 2, line 1, strike "15" and insert "13"; and strike lines 4 through 6 and insert "to establish demonstration sites to study the feasibility of implementing selected early intervention services to infants or toddlers with disabilities and their families in accordance with portions of the Early Intervention Program for".

3. On page 3, strike lines 5 through 7 and insert:

"(1) Establish and demonstrate a referral and services coordination system in at least two sites, one in a single district planing region and one in a multidistrict planning region for"; after line 13 insert the following new subdivision:

"(2) Design and demonstrate a billing system for accessing federal medicaid funds under the act at selected sites;"; in line 14 strike "(2)" and insert "(3)"; in line 15 strike "early intervention services" and insert "referral and services coordination"; and in line 18 strike "(3)" and insert "(4)".

4. On page 4, strike lines 4 through 7 and insert:

"(2) Developmental delay shall mean any of the disability classifications or conditions described in section 79-3309;"; and in line 8 strike "shall mean" and insert "may include".

5. On page 5, line 3, strike "Include" and insert "May include, based on the availability of resources for the demonstration sites"; and in line 22 after "younger" insert "residing in the demonstration sites", and strike "early intervention services" and insert "referral or services coordination".

6. On page 6, strike lines 17 through 22 and insert the following new subdivision:

"(7) Nebraska Interagency Coordinating Council shall mean the state council the function of which is to advise and assist the collaborating agencies in carrying out the provisions of the act. The members of the council shall be appointed by the Governor and shall include representatives of school districts, educational service units, Head Start, higher education, parents, physicians, legislative agencies, and the collaborating agencies;".

7. On page 7, line 10, after "act" insert ".

Services coordination under the act shall not duplicate any case management services which an eligible infant or toddler with disabilities and his or her family are already receiving or eligible to receive from other sources"; and strike beginning with "lead" in line 16 through "for" in line 17 and insert "Nebraska Interagency Coordinating Council and collaborating agencies shall make recommendations regarding the following".

8. On page 8, line 19, strike "lead agency" and insert "Nebraska Interagency Coordinating Council"; and in line 23 strike "The statewide provision" and insert "Planning for the implementation".

9. On page 9, line 3, strike "establish and maintain" and insert "design and develop"; and in line 23 strike "adopt" and insert "review and study".

10. On page 10, line 2, strike "developed and implemented" and insert "examined and analyzed"; in line 3 strike "assure" and insert "satisfy" and strike "required" and insert "requirements"; and strike beginning with "It" in line 20 through line 25.

11. On page 11, strike lines 1 through 12; in line 13 strike "(5)" and insert "(4)"; in line 14 strike "early intervention system"; in line 15 strike "statewide" and after "oversight" insert "of the demonstration sites"; and strike lines 19 through 25 and insert "and the Department of Social Services shall jointly develop the criteria and contracting procedures for referral and services coordination at the demonstration sites with the participation of the other collaborating agencies and the Nebraska Interagency Coordinating Council.".

12. On page 12, strike lines 1 through 18; strike beginning with "services" in line 21 through line 25 and insert "referral and coordination services for eligible infants or toddlers with disabilities and their families in the demonstration sites.".

13. On page 13, strike lines 1 through 6 and insert the following new subsection:

"(3) It is the intent of this section that the Department of Social Services shall apply for and implement a Title XIX medicaid waiver as a way to provide referral and services coordination to eligible infants or toddlers with disabilities and their families

in the demonstration sites."; in line 7 strike "(1)"; strike lines 17 through 19; and in line 20 strike "(1)".

14. On page 14, strike lines 3 through 5; in line 6 strike "There is hereby established" and insert "The selected demonstration sites shall implement"; in line 10 strike "verified handicapped" and after "students" insert "verified with disabilities"; in line 15 strike "and" and insert a comma, and before the period insert ", and the demonstration sites"; and strike beginning with "The" in line 15 through line 25.

15. On page 15, strike lines 1 through 13.

16. On page 16, line 9, after "team" insert "for the demonstration sites"; in lines 11 and 12 strike "in each local community or region"; in line 16 strike "(3)" and insert "(13)"; in line 17 after "received" insert "by the demonstration sites"; in lines 17 and 18 strike "Early Intervention Act" and insert "referral and services coordination functions and the administration of the billing system"; and in line 20 strike "This act shall become operative on" and insert "The Department of Social Services and the State Department of Education shall jointly prepare an initial report to the Legislature outlining the programmatic and fiscal effectiveness of the referral and services coordination system and the billing system at the demonstration sites. The report shall be submitted by".

17. Renumber the remaining sections accordingly.

Mr. Beutler asked unanimous consent to print the following amendment to LB 663 in the Journal. No objections. So ordered.

AM1189

(Amendments to AM5105)

1. Insert the following new section:

"Sec. 19. Consistent with the authority granted to the Legislature pursuant to Article XIII, section 1, of the Constitution of Nebraska, the commission shall review and approve or disapprove all capitol construction projects proposed by the Board of Regents of the University of Nebraska and the Board of Trustees of the Nebraska State Colleges pursuant to

sections 85-401 to 85-411. Such boards shall submit all such projects to the commission for review and approval or disapproval. The commission shall take action on projects within ninety days from the date that such projects are submitted for review. Projects requiring Legislative approval under sections 85-404 and 85-408 shall be acted upon by the commission at least sixty days prior to submission to the Legislature. Projects disapproved by the commission shall stand disapproved unless the Legislature, by an affirmative vote of three-fifths of its members, approves the projects.".

2. On page 4, line 6, strike "23" and insert "24".

3. Renumber the remaining sections and correct internal references accordingly.

Mr. Conway asked unanimous consent to print the following amendment to LB 511 in the Journal. No objections. So ordered.

AM1205

1. Strike the original sections and all amendments thereto and insert the following new sections:

"Section 1. The Legislature finds that there are rivers and streams in Nebraska which, with their immediate environments, possess outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values and which should be preserved and protected for the benefit and enjoyment of present and future generations. The Legislature further finds that the Nebraska Natural Resources Commission is the most appropriate agency for providing such protection and that current Nebraska law does not provide the commission with sufficient capability to provide such protection. Current statutory authority needs to be expanded and additional authority needs to be provided to allow the appropriate protective measures.

Sec. 2. (1) The Nebraska Natural Resources Commission may designate as a protected stream all or a portion of any river or stream which possesses one or more of the values recognized in section 1 of this act and for which the commission concludes that protection of those values is in the public interest. The

commission shall make such designation by adopting a resolution specifying the upper and lower ends of the reach or reaches so designated, the reasons and purposes for the designation, and the use restrictions within the protected stream corridor necessary to protect such river or stream.

(2) The designation and the use restrictions shall have the full force and effect of law until changed by the commission or the Legislature.

(3) After the resolution has been adopted, the counties in which all or a part of a protected stream corridor is located shall enforce the use restrictions specified in the resolution. Any city or village which has over zoning jurisdiction all or a part of a protected stream corridor shall, to the extent possible, enforce the use restrictions specified in the resolution.

(4) For purposes of this section, protected stream corridor shall mean all of the portion of the river or stream and all land within one-half mile of each side of the designated reach of the river or stream as measured from the ordinary high-water mark.

Sec. 3. The Nebraska Natural Resources Commission, on its own motion or upon the request of any county presented in the form of a duly adopted resolution by the county, shall investigate all or any portion of a river or stream to determine if it possesses one or more of the values recognized in section 1 of this act.

Prior to adopting a resolution designating a protected stream pursuant to section 2 of this act, the commission shall hold a public hearing. Public notice of the hearing shall be given at least once each week for two consecutive weeks prior to the hearing date in a newspaper of general circulation.

Sec. 4. That section 2-1507, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-1507. In addition to the duties and powers otherwise conferred by law upon the Nebraska Natural Resources Commission, it shall have the following duties and powers: (1) To offer such assistance as may be appropriate to the Water Management Board and to the supervisors or directors of any subdivision of

government with responsibilities in the area of natural resources conservation, development, and use in the carrying out of any of their powers and programs; (2) to keep the supervisors or directors of each such subdivision informed of the activities and experience of all other such subdivisions and to facilitate cooperation and an interchange of advice and experience between such subdivisions; (3) to coordinate the programs of such subdivisions so far as this may be done by advice and consultation; (4) to secure the cooperation and assistance of the United States and any of its agencies, and of agencies of this state, in the work of such subdivisions; (5) to disseminate information throughout the state concerning the activities and programs of such subdivisions; (6) to plan, develop, and promote the implementation of a comprehensive program of resource development, conservation, and utilization for the soil and water resources of this state in cooperation with other local, state, and federal agencies and organizations; (7) when necessary for the proper administration of the functions of the department, to rent or lease space outside the State Capitol; ~~and~~ (8) to assist such local governmental organizations as villages, towns, cities, counties, and natural resources districts in securing, planning, and developing information on flood plains to be used in developing regulations and ordinances on proper use of these flood plains; and (9) to carry out sections 1 to 3 of this act relating to protected streams.

Sec. 5. That original section 2-1507, Reissue Revised Statutes of Nebraska, 1943, is repealed.".

Mr. Dierks asked unanimous consent to print the following amendment to LB 827 in the Journal. No objections. So ordered.

AM1196

(Amendments to Standing Committee amendments, AM0930)

1. On page 22, lines 6 through 24, strike the new matter and reinstate the stricken matter.

2. On page 23, lines 1 through 4, strike the new matter.

RESOLUTION

LEGISLATIVE RESOLUTION 68. Introduced by Moore, 24.

WHEREAS, the Milford Campus of Southeast Community College was the first vocational and technical college in Nebraska; and

WHEREAS, the Milford Campus provides a high quality vocational education to prepare graduates for employment in business and industry; and

WHEREAS, the objective of the Milford Campus is to afford residents of Nebraska the means of acquiring skills and related technical knowledge, other than that taught at state colleges and universities, by training methods necessary to prepare them for advantageous entrance and satisfactory advancement in technical occupations; and

WHEREAS, the Milford Campus recognizes needs for new training programs as they arise; and

WHEREAS, the dedication and hard work of former State Senator Stanley Matzke of Seward and former Milford Campus directors, Jess Jewell and Lowell Welsh, were driving forces behind the college's success; and

WHEREAS, 1991 marks fifty years of vocational and technical education at the Milford Campus.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature acknowledges the significant role the Milford Campus of Southeast Community College has played in developing vocational and technical education in Nebraska.

2. That a copy of this resolution be sent to Southeast Community College in care of Tom Stone in recognition of the celebration of the first fifty years of education provided by the Milford Campus.

Laid over.

SELECT COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 783. Placed on Select File as amended.
E & R amendment to LB 783:
AM5119

1. On page 1, line 7, after "restate" insert "findings and" and strike "and" and insert a comma; and in line 8 after "redefine" insert ", and eliminate".

2. On page 2, line 1, after "fund" insert

"and transfer funds" and after the second "to" insert "provide for expenditure of funds; to provide duties for the state investment officer and the Nebraska Investment Council; to"; in line 3 strike beginning with "to" through the second semicolon; in line 4 after "rail" insert "line"; and in line 5 strike "a bonding restriction" and insert "provisions relating to the issuance of bonds".

3. On page 3, line 23, strike "the" and strike "line is" and insert "lines are".

4. On page 6, line 14, strike the first comma and insert "and" and strike the second comma; and in line 22 after "such" insert "light-density rail".

5. On page 8, line 16, after "services" insert "provided by a light-density rail line".

6. On page 9, line 18, strike "the members of".

7. On page 10, line 11, after the period insert paragraphing.

8. On page 11, line 16, strike "who".

9. On page 13, line 6, after "inspections" insert an underscored comma; in line 12 strike "(f)" and insert "(e)"; in line 16 after "entire" insert "light-density rail" and strike the comma; and in line 21 after "The" insert "inspecting".

10. On page 14, line 10, strike "a".

11. On page 15, line 2, strike "of" and insert "with regard to"; in line 15 after "agency" insert an underscored comma; in line 18 strike "and" and insert "or"; and in line 20 after "all" insert "related" and after "fixtures" insert an underscored comma.

12. On page 16, line 1, after "council" insert an underscored comma; in line 22 strike "the" and insert "light-density rail line"; and in line 23 strike beginning with "of" through "lines".

13. On page 17, line 14, strike "fund" and insert "Light-Density Rail Line Assistance Cash Fund"; in line 17 strike "the" and insert "light-density rail line" and after "acquisition" insert an underscored semicolon; strike line 18; and in line 20 after "line" insert "; and

(d) To carry out the purposes described in section 74-1421".

14. On page 18, line 1, strike "Funds" and

insert "Money"; in line 9 after "approve" insert "or recommend approval of"; in line 10 strike "a", strike the commas, and before "acquisition" insert "or"; in line 11 strike "project" and insert "of a light-density rail line"; in line 20 strike "any project" and insert "the revitalization, acquisition, or operation"; and strike beginning with "The" in line 24 through the colon in line 25 and show as stricken.

15. On page 19, line 7, strike "the" and insert "light-density rail line"; strike beginning with "of" in line 8 through "lines" in line 9; in line 13 strike "cash"; in line 17 after "for" insert "light-density rail line"; and in line 18 strike the comma.

16. On page 20, line 2, after the first "the" insert "proposed"; in lines 7 and 14 before "revitalization" insert "light-density rail line"; in line 14 strike "the" and strike "of" and insert an underscored semicolon; and strike line 15.

17. On page 21, line 12, after "including" insert an underscored comma; in line 15 after "for" insert "light-density rail line"; in line 22 strike "the" and insert "light-density rail line"; strike beginning with "of" in line 22 through "line" in line 23; and in lines 24 and 25 after "the" insert "light-density rail".

18. On page 22, line 9, strike "other"; and in line 17 after "any" insert "light-density rail line".

19. On page 23, line 24, after "each" insert "light-density rail".

20. On page 24, lines 1 and 2, strike "such" and insert "each light-density rail"; in line 4 after "any" insert "light-density rail"; and in line 18 strike the commas.

21. On page 26, line 17, before "The" insert paragraphing and "(2)"; in line 19 strike "the" and insert "light-density rail line"; in line 20 strike beginning with "of" through "lines"; and in line 24 strike "(2)" and insert "(3)".

22. On page 27, line 1, strike the comma; in line 8, strike "to be"; in line 22 strike the commas and before "acquisition" insert "or"; and in line 23 after "operation" insert "of light-density rail lines" and reinstate the stricken "in".

23. On page 28, line 2, after "primary" insert "election".

24. On page 29, line 9, after "27" insert "of this act".

LEGISLATIVE BILL 783A. Placed on Select File.

LEGISLATIVE BILL 90. Placed on Select File as amended.
E & R amendment to LB 90:
AM5118

1. On page 4, line 7, after "dispute" insert "to".

2. On page 5, lines 3 and 7, after "District" insert "Court"; in line 17 after "members" insert "of the council"; and in line 18 strike "to the council".

3. On page 7, line 7, strike "curriculum" and insert "curricula".

LEGISLATIVE BILL 90A. Placed on Select File.

(Signed) Eric Will, Chairperson

GENERAL FILE

LEGISLATIVE BILL 754. Mr. R. Johnson renewed his pending amendment, AM0881, found in the Journal on page 1229.

Mr. R. Johnson renewed his pending amendment, AM1166, found in the Journal on page 1585, to his pending amendment.

The R. Johnson amendment was adopted with 12 ayes, 0 nays, 28 present and not voting, and 9 excused and not voting.

The R. Johnson amendment, as amended, was adopted with 25 ayes, 0 nays, 16 present and not voting, and 8 excused and not voting.

Advanced to E & R for review with 28 ayes, 0 nays, 13 present and not voting, and 8 excused and not voting.

UNANIMOUS CONSENT - Print in Journal

Mr. Kristensen asked unanimous consent to print the following amendment to LB 732 in the Journal. No objections. So ordered.

AM1220

1. Strike original section 3 and all amendments thereto and insert the following new section:

"Sec. 3. (1) The Chief Justice of the Supreme Court may call active judges of the district court to serve on the Court of Appeals in case of incapacity or absence for any reason whatsoever or temporary vacancy in the office of a judge of the Court of Appeals. Any active judge designated to serve on the Court of Appeals shall be reimbursed for his or her actual and necessary expenses as provided in sections 81-1174 to 81-1177.

(2) The number of retired judges assigned to serve pursuant to subdivision (1) of section 24-729 may not at any one time exceed three, and no panel of the Court of Appeals may contain a majority of retired judges so assigned. Payments to a retired judge shall be made in the manner prescribed in sections 24-730 to 24-733.".

VISITORS

Visitors to the Chamber were Senator Hefner's nephew, George Hefner, and Denise Verges from Chicago; 25 fourth grade students and teacher from Lincoln School, Beatrice; 29 fourth grade students and teacher from Axtell; 22 fourth grade students and teacher from Williams Elementary, Columbus; and 15 eighth grade students and teacher from Cedar Canyon School, Gering.

The Doctor of the Day was Dan Halm from Omaha.

ADJOURNMENT

At 4:32 p.m., on a motion by Mr. Hall, the Legislature adjourned until 9:00 a.m., Monday, April 15, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

SIXTIETH DAY - APRIL 15, 1991

LEGISLATIVE JOURNAL

SIXTIETH DAY - APRIL 15, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

SIXTIETH DAY

Legislative Chamber, Lincoln, Nebraska
Monday, April 15, 1991

Pursuant to adjournment, the Legislature met at 9:02 a.m., President Moul presiding.

PRAYER

The prayer was offered by Rev. Harland Johnson, Chaplain Coordinator.

ROLL CALL

The roll was called and all members were present except Messrs. Bernard-Stevens, Hall, Horgan, R. Johnson, Lynch, Morrissey, Schmit, Warner, Wickersham, Mmes. Crosby, and Pirsch who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Fifty-Ninth Day was approved.

SELECT COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 425. Placed on Select File as amended.
(E & R amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM5120.)

LEGISLATIVE BILL 727. Placed on Select File as amended.
E & R amendment to LB 727:
AM5121

1. On page 18, line 19, after "advance" insert an underscored comma.

(Signed) Eric Will, Chairperson

UNANIMOUS CONSENT - Print in Journal

Mr. Dierks asked unanimous consent to print the following amendment to LB 827 in the Journal. No objections. So ordered.

AM1195

(Amendments to Standing Committee amendments, AM0930)

1. On page 3, line 9, after the period insert "The local monitoring committees shall only exist until thirty days after the effective date of this act, at which time such committees shall cease to exist and a new local monitoring committee for the selected site shall begin serving. Such new local monitoring committee shall be appointed within thirty days after the effective date of this act and shall have the powers provided in section 4 of this act.".

2. On page 7, strike line 24.

3. On page 8, strike beginning with "members" in line 1 through the period in line 2.

4. On page 9, lines 18 and 19 and 23 and 24, strike "not representing the preferred site" and insert "existing prior to the effective date of this act".

NOTICE OF COMMITTEE HEARING
Business and Labor

Governor Appointment Monday, April 22, 1991 1:00 p.m.
Karen Flowers - Commission of Industrial Relations

(Signed) George Coordsen, Chairperson

ATTORNEY GENERAL'S OPINION

Opinion No. 91027

DATE: April 11, 1991

SUBJECT: Constitutionality of Various Restitution Options for Commonwealth Depositors in Light of Haman v. Marsh

REQUESTED BY: Governor E. Benjamin Nelson, Senator Don Wesely, Senator David Landis, Senator DiAnna R. Schimek, Senator Chris Beutler, Senator LaVon Crosby, and Senator Jerome Warner

WRITTEN BY: Don Stenberg, Attorney General

This Opinion is in response to your correspondence of April 5, 1991, in which you requested our views as to the constitutionality of various options for the restitution of depositors who suffered losses as a result of the Commonwealth failure. You indicated that your proposals came about as a result of meetings and discussions of possible legislative options to provide restitution to Commonwealth, American Savings, and State Securities depositors following our state supreme court's decision in Haman v. Marsh, No. 90-474, March 29, 1991, which struck down LB 272A. Our responses to your various questions are set out below.

At the outset, we must note that we have no specific legislation in front of us. You have simply requested our Opinion concerning several "options" that generally describe various funding proposals for payment of depositors. As a result, our responses to your questions must necessarily also be general, based upon the broad concepts that you have presented to us.

We must also note that our responses below are based upon the court's decision in Haman. We have reviewed that opinion, and our conclusions regarding your proposals reflect our assessment of the supreme court's likely reaction to your various "options." We have asked for a rehearing in the Haman case. Should the court grant a rehearing, different conclusions may ultimately be warranted based upon any different opinion issued by the court in that case.

Your first suggested option is to amend the Crime Victims Reparation Act, Neb.Rev.Stat. §§ 81-1801 et seq., so as to allow for repayment of depositor claims. In our view there are a number of potential constitutional and other problems which would be encountered with this approach.

Initially, we note the statute of limitations under the Act which limits claims to those filed within 2 years of the alleged crime and also provides that notice of the crime must have been given to the police within 3 days of its occurrence. Neb.Rev.Stat. § 81-1821 (Reissue 1987). It appears that depositor claims would be barred by this

provision. Further, if the statute were amended to extend the limitations period and to apply the extended period retroactively to the depositors, this would likely violate the special legislation provisions of Article III, § 18 of the Nebraska Constitution. In Cox v. State, 134 Neb. 751, 279 N.W. 482 (1938), the Nebraska Supreme Court held that that constitutional provision prohibited the Legislature from enacting a law which extended a statute of limitations which had already run and waived the state's sovereign immunity so as to allow a particular individual to sue the state. Certainly if the statute of limitations were extended it would have to be extended for everyone with a potential claim under the Crime Victims Reparations Act - not just the Commonwealth, American Savings and State Securities depositors.

Similarly, this principle also applies to other provisions in the Act which otherwise would bar or limit depositor recovery. For example, § 81-1823 limits the amount of recovery to $10,000 per claimant per incident; and under §§ 81-1818 and 81-1819 payment is limited to losses incurred as the result of personal injury or death of the victim. Again, such provisions would all have to be changed for all potential claimants. Any attempt to limit the amendments so that only depositors in the three institutions are covered would probably run afoul of the special legislation prohibition in the Nebraska Constitution.

It is clear from the Haman decision that any legislation which, as a practical matter, provides state compensation to these depositors uniquely and without a general law which could realistically cover others within a reasonable classification would be struck down as unconstitutional "class legislation." Such legislation would also be deemed to create an unconstitutional "closed class" because it, in effect, limits the application of the law to a present condition with no room or opportunity for an increase in the numbers of the class by future growth or development.

Another problem with the first option is the fact that the real "victim" of the crimes you list is the financial institution itself - not depositors therein. As established in Weimer v. Amen, 235 Neb. 287, 455 N.W.2d 145 (1990), the institution - and hence, its receiver - owns all claims for wrongs done to the institution and to the depositors and creditors in common. Therefore, the receiver must assert these claims - not the individual depositors. However, as the court noted in Haman, the Commonwealth receiver did proceed with tort claims against the state and settled them for $8.5 million. In return, the receiver, with specific court approval, executed a release which released the state, its officers and employees from any and all claims or causes of action whatsoever arising out of the Commonwealth

debacle. This release is clearly broad enough to encompass claims under the Crime Victims Reparation Act and is binding on individual depositors and creditors of Commonwealth. Any legislative attempt to circumvent that release by making the state liable to individual depositors through retroactive changes in the Crime Victims Reparation Act would constitute the kind of special legislation condemned by the court in Haman and Cox v. State, supra. Likewise, because the successors to American Savings and State Securities did bring legal actions against the state which were ultimately dismissed, the depositors in those institutions are barred by those legal results from proceeding individually with claims against the state.

Also in connection with the first option, we are concerned by the basic legal principle that the Legislature cannot circumvent express provisions of the Constitution by doing indirectly what it cannot do directly. Banner County v. State Board of Equalization, 226 Neb. 236, 411 N.W.2d 35 (1987); Moeller, McPherrin & Judd v. Smith, 127 Neb. 424, 255 N.W. 551 (1934). Haman has made clear that the Legislature cannot simply appropriate sums to pay the depositors for their losses without violating the "special legislation" and "extending the credit of the state" prohibitions of the Nebraska Constitution. Attempting to achieve the exact same result by means of amending the Crime Victims Reparation Act such that funds would still end up being appropriated to reimburse these individuals for their losses as the result of acts which occurred more than 7 years ago might well be seen by the court as merely seeking to do indirectly what cannot be done directly under the Constitution.

Finally, we have serious concerns about attributing all or any particular portion of the depositor losses to crimes. Of course, the losses are ultimately all tied to the collapse of Commonwealth Savings Company. It is unclear, however, whether that collapse was caused by criminal activity or by mismanagement or by underlying economic conditions in the real estate market or by some combination of those three elements. Moreover, it would be extremely difficult, if not impossible, to trace any particular losses or portion of losses to any particular criminal activity. Such an allocation would be extremely complex from a fact point of view and, as a practical matter, we do not know how it could be done. On the other hand, the Legislature could not simply declare that all remaining losses are the result of criminal acts since such a legislative determination would not be based on any rational basis or any logical analysis. The courts would certainly not be bound by such a legislative declaration.

The second question which you have requested us to address concerns the constitutionality of legislation providing a state income

tax credit to depositors to "reimburse" them for losses resulting from the failure of Commonwealth, American Savings, and State Securities Savings. Your initial query in this regard concerns whether the establishment of a state income tax credit, available solely to depositors sustaining financial losses as a result of the failures of these three specific institutions, would be constitutional.

While the Legislature obviously possesses authority to classify and define in the area of income taxation, its power to legislate on this subject is necessarily limited by the provisions of the state and federal constitutions. In this regard, we believe the opinion in Haman reveals our supreme court would find unconstitutional an attempt to "reimburse" depositors of these specific financial institutions in this manner for losses suffered as the result of the failure of these entities.

In Haman, the court declared the provisions of LB 272A to be unconstitutional special legislation in violation of Neb. Const. art. III, § 18. Specifically, the court held the reimbursement provided to depositors in these institutions under the Act violated the constitutional prohibition against special legislation because the classification created was unreasonable and arbitrary, and because the Act created an impermissible "closed" classification. Haman, slip op. at 16-18; 20-21. The court further found LB 272A accomplished an unconstitutional extension of the credit of the state in aid of a private corporation, the NDIGC, by requiring the state to act as the "surety or guarantor of another's debts," contrary to Neb. Const. art. XIII, § 3. Haman, slip op. at 21-27.

The same constitutional infirmities would exist if legislative action were taken to establish a state income tax credit to provide "reimbursement" to depositors of these three institutions. There is no reason to believe the court would alter its opinion as to the "reasonableness" of such a classification in this context, and, in any event, the "closed" nature of such a classification seems self-evident. Thus, we believe the court would reject any attempted legislation of this nature as violative of Article III, § 18, irrespective of its views as to the effect of the prohibition in Art. XIII, § 3.

Alternatively, you ask whether it would be permissible for the Legislature to provide a state income tax credit to reimburse depositors for any losses resulting from the failure of any "financial institution subject to state regulation."

In the event the Legislature were to enact legislation of a general nature, providing for a credit against state income tax liability based on losses suffered by depositors due to the failure of any financial institution regulated by the state, we believe the prohibition against special legislation contained in Article III, Section 18, would not apply. It appears reasonable for the Legislature to provide an income

tax credit to a class consisting of all depositors incurring unrecovered losses as a result of the failure of any state regulated financial institution, and that such would not create an impermissible "closed" classification. Based on the decision in Haman, however, there is some risk that our supreme court may not accept such a classification as reasonable, or that the court may find legislation of this type creates an unconstitutional "closed" classification if it is not "reasonably probable" that others beyond the depositors in the three institutions previously mentioned may benefit from such legislation. We believe it is possible for the Legislature to structure legislation of this nature which may avoid these constitutional concerns.

With regard to the question of whether the establishment of a state income tax credit may run afoul of the prohibition against extending the credit of the state in Article XIII, Section 3, relied upon, in part, by the court in Haman in striking down LB 272A, it is our view that legislation could be enacted which would not contravene this restriction. A distinction should be drawn in this context between a "nonrefundable" credit and a "refundable" credit. In our view, the allowance of a "nonrefundable" credit (available only to offset actual tax liability) should not be construed to violate Article XIII, Section 3, as the "credit of the state" is not being given or loaned in any manner by the provision of an income tax credit of this nature. In Haman, the court noted, "{t}he state's credit is inherently the power to levy taxes and involves the obligation of the general fund." Haman, slip op. at 23. An income tax credit simply does not involve an "obligation of the general fund" in the sense contemplated by Article XIII, Section 3.

If the Legislature were to establish a "refundable" credit (available irrespective of actual tax liability), we believe a different result may apply. In this context, a depositor receiving a refund based on a credit which eliminated any state income tax liability would necessarily be receiving a payment of state funds by virtue of the credit. As noted previously, the court has consistently held the Legislature cannot circumvent an express provision of the Constitution by doing indirectly what it cannot do directly. Banner County v. State Board of Equal., supra; Moeller, McPherrin & Judd v. Smith, supra. The court may find legislation requiring the expenditure of state funds by payment of refunds to depositors in this manner to be an indirect attempt to permit the obligation of state funds in contravention of Article XIII, Section 3, based on the analysis applied by the court in Haman.

Option Three, your final proposal for providing state funds to depositors, involves amending our state Constitution in an attempt to circumvent some of the constitutional difficulties raised by the

Haman case. Specifically, you propose a change in Legislative Resolution 24CA, the proposed state constitutional amendment creating a state lottery, which would authorize the Legislature to reimburse the depositors out of lottery fees or proceeds notwithstanding any other provisions of the state Constitution.

The Haman decision rejected LB 272A on the basis of Article III, Section 18, of our state Constitution, which prohibits special legislation and closed legislative classifications, and on the basis of Article XIII, Section 3, which prohibits extending the state's credit to a private corporation. If the Nebraska Constitution were to be specifically amended so as to suspend those constitutional prohibitions with respect to payments to depositors, such payments could be paid without constitutional difficulty under those sections. As a result, we believe that such an amendment to our state Constitution could apply retroactively and could be limited to this class of citizens. In effect, the state constitutional barriers cited in Haman limiting such provisions would not apply.

We would observe, with respect to Option Three, that it might be possible to argue that such a repayment plan would violate the due process provisions of the federal Constitution. However, such an argument would be based upon antiquated notions of substantive due process, and we do not believe that it would prevail.

In sum, we believe that the proposals outlined in your Option One would run into the same constitutional objections as did LB 272A in the Haman case. On the other hand, broadly defined legislation based on Option Two as discussed above or a constitutional amendment in the form proposed by Option Three could avoid the constitutional infirmities described in Haman. As we noted initially, our conclusions in this Opinion are based upon your general proposals. If we are asked to review specific legislation, we will be in a better position to analyze the constitutionality of a particular repayment plan.

Sincerely yours,
(Signed) DON STENBERG
Attorney General

05-04-14.91
cc: Patrick J. O'Donnell
Clerk of the Legislature

REPORT

Received statement of deposits to the Highway Cash Fund and Roads Operation Cash Fund for March 1991 from the Department of Roads in compliance with section 66-476, R.S. Supp. 1988.

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following resolution: LR 65.

BILLS ON FINAL READING

The following bills were read and put upon final passage:

LEGISLATIVE BILL 240. With Emergency.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-2788, 77-2792, and 77-2794, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to interest on certain taxes and provide the Tax Commissioner with power to waive certain penalties and abate certain interest as prescribed; to change provisions relating to the allowance of interest on overpayment of income tax; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 38:

Abboud	Conway	Hillman	Nelson	Schimek
Ashford	Coordsen	Johnson, L.	Peterson	Schrock
Baack	Cudaback	Kristensen	Rasmussen	Smith
Beutler	Dierks	Labedz	Robak	Wehrbein
Beyer	Elmer	Lamb	Robinson	Wesely
Byars	Haberman	Landis	Rogers	Will
Chambers	Hartnett	Lindsay	Schellpeper	Withem
Chizek	Hefner	Moore		

Voting in the negative, 0.

Excused and not voting, 11:

Bernard-Stevens	Hall	Lynch	Pirsch	Warner
Crosby	Horgan	Morrissey	Schmit	Wickersham
	Johnson, R.			

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

LEGISLATIVE BILL 254.

A BILL FOR AN ACT relating to retirement; to require the Public Employees Retirement Board to provide an educational and planning program for certain state employees as prescribed.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 35:

Abboud	Chizek	Haberman	Landis	Rogers
Ashford	Conway	Hartnett	Lindsay	Schellpeper
Baack	Coordsen	Hefner	Moore	Schimek
Beutler	Crosby	Hillman	Nelson	Smith
Beyer	Cudaback	Johnson, L.	Rasmussen	Wesely
Byars	Dierks	Kristensen	Robak	Will
Chambers	Elmer	Labedz	Robinson	Withem

Voting in the negative, 2:

Lamb Wehrbein

Present and not voting, 2:

Peterson Schrock

Excused and not voting, 10:

Bernard-Stevens	Horgan	Lynch	Pirsch	Warner
Hall	Johnson, R.	Morrissey	Schmit	Wickersham

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 254A.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 254, Ninety-second Legislature, First Session, 1991.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 38:

Abboud	Conway	Hefner	Moore	Schimek
Ashford	Coordsen	Hillman	Nelson	Schrock
Baack	Crosby	Johnson, L.	Rasmussen	Smith
Beutler	Cudaback	Kristensen	Robak	Wehrbein
Beyer	Dierks	Labedz	Robinson	Wesely
Byars	Elmer	Lamb	Rogers	Will
Chambers	Haberman	Landis	Schellpeper	Withem
Chizek	Hartnett	Lindsay		

Voting in the negative, 0.

Present and not voting, 1:

Peterson

Excused and not voting, 10:

Bernard-Stevens	Horgan	Lynch	Pirsch	Warner
Hall	Johnson, R.	Morrissey	Schmit	Wickersham

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

MOTION - Return LB 333 to Select File

Mrs. Nelson moved to return LB 333 to Select File for her specific amendment, AM1173, found in the Journal on page 1588.

The Nelson motion to return prevailed with 37 ayes, 0 nays, 4 present and not voting, and 8 excused and not voting.

Mr. Chizek asked unanimous consent to be excused until he returns. No objections. So ordered.

SELECT FILE

LEGISLATIVE BILL 333. The Nelson specific amendment, AM1173, found in the Journal on page 1588, was adopted with 35 ayes, 0 nays, 6 present and not voting, and 8 excused and not voting.

Advanced to E & R for re-engrossment.

BILLS ON FINAL READING

The following bills were read and put upon final passage:

LEGISLATIVE BILL 648.

A BILL FOR AN ACT relating to the Nebraska Commission on the Status of Women; to amend section 81-8,260, Reissue Revised Statutes of Nebraska, 1943; to change a provision relating to the purpose of the commission; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 41:

Abboud	Conway	Hillman	Moore	Schimek
Ashford	Coordsen	Johnson, L.	Morrissey	Schrock
Baack	Crosby	Johnson, R.	Nelson	Smith
Bernard-Stevens	Cudaback	Kristensen	Rasmussen	Warner
Beutler	Dierks	Labedz	Robak	Wehrbein
Beyer	Elmer	Lamb	Robinson	Wesely
Byars	Haberman	Landis	Rogers	Will
Chambers	Hartnett	Lindsay	Schellpeper	Withem
	Hefner			

Voting in the negative, 0.

Present and not voting, 1:

Peterson

Excused and not voting, 7:

Chizek	Horgan	Pirsch	Schmit	Wickersham
Hall	Lynch			

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 782.

A BILL FOR AN ACT relating to banks and banking; to amend section 8-157, Revised Statutes Supplement, 1990; to change a provision relating to detached auxiliary offices; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 39:

Abboud	Conway	Hefner	Lindsay	Schmit
Ashford	Coordsen	Hillman	Moore	Schrock
Baack	Crosby	Johnson, L.	Morrissey	Smith
Bernard-Stevens	Cudaback	Johnson, R.	Nelson	Warner
Beyer	Dierks	Kristensen	Rasmussen	Wehrbein
Byars	Elmer	Labedz	Robinson	Wesely
Chambers	Haberman	Lamb	Rogers	Will
	Hartnett	Landis	Schellpeper	Withem

Voting in the negative, 1:

Robak

Present and not voting, 3:

Beutler	Peterson	Schimek

Excused and not voting, 6:

Chizek	Horgan	Lynch	Pirsch	Wickersham
Hall				

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

Mr. Warner asked unanimous consent to be excused until he returns. No objections. So ordered.

LEGISLATIVE BILL 789.

A BILL FOR AN ACT relating to elections; to amend sections 23-148, 23-149, 23-150, 23-204, 23-269, and 79-803.07, Reissue Revised Statutes of Nebraska, 1943, and sections 5-108, 5-108.02, 23-151, and 79-426.19, Revised Statutes Supplement, 1990; to change and transfer provisions relating to drawing district boundaries; to provide for seven county commissioners in certain counties; to change provisions relating to the election of county board members; to harmonize provisions; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 36:

Abboud	Conway	Johnson, L.	Moore	Schmit
Ashford	Crosby	Johnson, R.	Morrissey	Schrock
Baack	Cudaback	Kristensen	Nelson	Smith
Bernard-Stevens	Dierks	Labedz	Rasmussen	Wehrbein
	Elmer	Lamb	Robak	Wesely
Beyer	Haberman	Landis	Rogers	Will
Chambers	Hartnett	Lindsay	Schimek	Withem
Chizek	Hillman			

Voting in the negative, 3:

Byars	Hefner	Schellpeper

Present and not voting, 4:

Beutler	Coordsen	Peterson	Robinson

Excused and not voting, 6:

Hall	Lynch	Pirsch	Warner	Wickersham
Horgan				

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

Mr. Ashford asked unanimous consent to be excused until he returns. No objections. So ordered.

SELECT FILE

LEGISLATIVE BILL 732. Mr. Beutler withdrew his pending amendment, FA83, found in the Journal on page 1484.

Ms. Schimek offered the following amendment:
FA96

On page 4, to include immediately prior to line 21 a new paragraph:

(3) Judicial nominating commissions nominating appeals court judges authorized by this act shall be subject to sections 84-1408 to 84-1414.

The existing paragraphs (3) and (4) shall be renumbered.

Mr. Abboud requested a ruling of the Chair on whether the Schimek amendment is germane to the bill.

The Chair ruled the Schimek amendment is not germane to the bill.

Ms. Schimek challenged the ruling of the Chair. The question is, "Shall the Chair be overruled?"

Ms. Schimek moved for a call of the house. The motion prevailed with 27 ayes, 0 nays, and 22 not voting.

Mr. Abboud requested a roll call vote on the Schimek motion to overrule the Chair.

Voting in the affirmative, 22:

Bernard-Stevens	Dierks	Lindsay	Robinson	Wehrbein
Beutler	Haberman	Moore	Schimek	Wesely
Chambers	Hartnett	Morrissey	Schmit	Will
Coordsen	Johnson, R.	Nelson	Smith	Withem
	Landis	Rasmussen		

Voting in the negative, 21:

Abboud	Beyer	Chizek	Crosby	Elmer
Baack	Byars	Conway	Cudaback	Hefner

Hillman	Labedz	Peterson	Robak	Schellpeper
Johnson, L.	Lamb	Pirsch	Rogers	Wickersham
Kristensen				

Present and not voting, 1:

Schrock

Excused and not voting, 5:

Ashford	Hall	Horgan	Lynch	Warner

The Schimek motion to overrule the Chair lost with 22 ayes, 21 nays, 1 present and not voting, and 5 excused and not voting.

The Chair was sustained.

The Chair declared the call raised.

Mr. Kristensen renewed his pending amendment, AM1220, found in the Journal on page 1618.

The Kristensen amendment was adopted with 26 ayes, 1 nay, 17 present and not voting, and 5 excused and not voting.

Mr. Haberman requested a machine vote on the advancement of the bill.

Advanced to E & R for engrossment with 25 ayes, 11 nays, 10 present and not voting, and 3 excused and not voting.

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following bills: 240, 254, 254A, 648, 782, and 789.

SELECT FILE

LEGISLATIVE BILL 732A. Mr. Kristensen renewed his pending amendment, AM1075, found in the Journal on page 1511.

The Kristensen amendment was adopted with 27 ayes, 0 nays, 19 present and not voting, and 3 excused and not voting.

SPEAKER BAACK PRESIDING

Mr. Haberman requested a machine vote on the advancement of the bill.

Advanced to E & R for engrossment with 26 ayes, 8 nays, 13 present and not voting, and 2 excused and not voting.

NOTICE OF COMMITTEE HEARING
Natural Resources

Governor Appointment Wednesday, April 24, 1991 1:00 p.m.
Central Interstate Low-Level Radioactive Waste Compact
William R. Hoppner

(Signed) Rod Johnson, Chairperson

SELECT COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 320. Placed on Select File as amended.
(E & R amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM5123.)

LEGISLATIVE BILL 754. Placed on Select File as amended.
E & R amendment to LB 754:
AM5122

1. In the R. Johnson amendment, AM0881, on page 1, line 2, strike "6" and insert "5".
2. In lieu of the Moore amendment, FA95, strike original section 7 and all amendments thereto.
3. In the Standing Committee amendments, AM0785, on page 1, line 5, strike the second "of" and insert "for".
4. On page 1, strike beginning with "ethanol" in line 1 through "provisions" in line 11 and insert "fuels; to amend sections 66-410, 66-428, 66-467.01, 66-470, 66-1225, 66-1303, 66-1307, and 66-1326, Reissue Revised Statutes of Nebraska, 1943; to extend tax reductions for certain motor fuels; to change the amount of fund transfers as prescribed; to increase per diems; to change requirements for sale of reformulated gasoline; to define a term; to change and create tax

credits".

5. On page 4, line 17, after "81-1177" insert an underscored period; and in line 18 strike "for state employees." and show as stricken.

6. On page 17, line 23, strike "66-1304,".

(Signed) Eric Will, Chairperson

MOTION - Place LB 327 on General File

Mr. Chambers moved to place LB 327 on General File, pursuant to Rule 3, Sec. 19 (b).

Laid over.

STANDING COMMITTEE REPORT
Health and Human Services

The Committee on Health and Human Services desires to report favorably upon the appointments listed below. The Committee suggests the appointments be confirmed by the Legislature and suggests a record vote.

Bruce L. Gilmore - Board of Health

Nancy O'Brien - Child Abuse Prevention Fund Board
Samuel H. Perry, II - Child Abuse Prevention Fund Board

Alva Barnett - Foster Care Review Board
Violet Fickel - Foster Care Review Board
Carol S. Holyoke - Foster Care Review Board
Jo Lamb - Foster Care Review Board
Nancy Thompson - Foster Care Review Board

Max A. Burroughs - Modular Housing Advisory Board
Roger Cross - Modular Housing Advisory Board
Gary Rickett - Modular Housing Advisory Board
Rod Tompkins - Modular Housing Advisory Board

VOTE: Aye: Senators Beyer, Byars, Cudaback, Dierks, Rasmussen, Schellpeper, Wesely. Nay: None. Absent: None.

(Signed) Don Wesely, Chairperson

EXPLANATION OF VOTE

Had I been present, I would have voted aye on LB 425.

(Signed) Jacklyn Smith

UNANIMOUS CONSENT - Member Excused

Mr. Haberman asked unanimous consent to be excused until he returns. No objections. So ordered.

SELECT FILE

LEGISLATIVE BILL 409. E & R amendment, AM5104, found in the Journal on page 1362, was adopted.

Mr. Withem asked unanimous consent to replace his pending amendment, AM0896, found in the Journal on page 1258, with a substitute amendment. No objections. So ordered.

Mr. Withem withdrew his pending amendment, AM0896, found in the Journal on page 1258.

Mr. Withem offered the following substitute amendment:
AM1058
1. Strike the Schmit amendment, AM0838, and
all amendments thereto.

Mr. Hefner asked unanimous consent to be excused until he returns. No objections. So ordered.

Pending.

VISITORS

Visitors to the Chamber were 33 fourth grade students and teachers from St. John School, Lincoln; 60 fourth grade students and teachers from Cottonwood Elementary, Omaha; and a group of foreign exchange students and sponsor.

RECESS

At 11:56 a.m., on a motion by Mr. Withem, the Legislature recessed until 1:30 p.m.

AFTER RECESS

The Legislature reconvened at 1:30 p.m., Speaker Baack presiding.

ROLL CALL

The roll was called and all members were present except Mrs. Hillman who was excused; and Messrs. Ashford, Bernard-Stevens, Conway, Dierks, Haberman, Hall, Horgan, Kristensen, Lamb, Moore, Peterson, Robinson, Schellpeper, Schrock, Mmes. Crosby, Nelson, and Pirsch who were excused until they arrive.

PRESENTED TO THE GOVERNOR

Presented to the Governor on April 15, 1991, at 11:55 a.m., were the following bills: 240, 254, 254A, 648, 782, and 789.

(Signed) Jan Loder, Enrolling Clerk

SELECT FILE

LEGISLATIVE BILL 409. Mr. Withem withdrew his pending amendment, AM1058, found in this day's Journal.

Mr. Beutler withdrew his pending amendments, FA63 and FA64, found in the Journal on page 1258.

Mr. Schmit withdrew his pending amendment, AM0950, found in the Journal on page 1341.

Mr. Schmit and Mrs. Robak offered the following amendment: AM1168

1. Strike original section 14 and all amendments thereto and insert the following new section:

"Sec. 16. That section 66-1523, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

66-1523. (1) The department shall provide reimbursement from the fund in accordance with section 66-1525 to eligible responsible persons in an amount not to exceed nine hundred seventy-five thousand dollars per occurrence for the cost of remedial action ~~to eligible responsible persons~~ for releases reported after July 17,

~~1986~~ 1983, and for the cost of paying third-party claims.

(2) The responsible person shall be responsible for ~~(1)~~ the first ten thousand dollars of the cost of the remedial action or third-party claim, ~~and (2)~~ twenty-five percent of the remaining cost of the remedial action or third-party claim not to exceed fifteen thousand dollars, and the amount of any reduction authorized under subsection (5) of section 66-1525, except that if the department determines that the responsible person sold no less than two thousand gallons of petroleum and no more than two hundred fifty thousand gallons of petroleum during the calendar year immediately preceding the first report of the release or stored less than ten thousand gallons of petroleum in the calendar year immediately preceding the first report of the release, the responsible party shall not be responsible for more than five thousand dollars of the cost of the remedial action and third-party claim.

(3) The department may make partial reimbursement during the time that remedial action is being taken if the department is satisfied that the remedial action being taken is as required by the department.

(4) If the fund is insufficient for any reason to reimburse the amount set forth in this section, the maximum amount that the fund shall be required to reimburse is the amount in the fund. If reimbursements approved by the department exceed the amount in the fund, reimbursements shall be made in the order in which the applications for them were received by the department.

(5) For purposes of this section, occurrence shall mean an accident, including continuous or repeated exposure to conditions, which results in a release from a tank.".

2. On page 18, strike beginning with "(i)" in line 16 through line 20, show the old matter as stricken, and insert "the amount specified in subsection (2) of section 66-1523.".

Mrs. Rasmussen asked unanimous consent to be excused until she returns. No objections. So ordered.

MR. MORRISSEY PRESIDING

Mr. Lynch asked unanimous consent to be excused. No objections. So ordered.

SPEAKER BAACK PRESIDING

Mr. Schmit moved for a call of the house. The motion prevailed with 18 ayes, 0 nays, and 31 not voting.

Mr. R. Johnson requested a roll call vote on the Schmit-Robak amendment.

Voting in the affirmative, 25:

Abboud	Coordsen	Labedz	Robak	Smith
Ashford	Cudaback	Lamb	Rogers	Warner
Baack	Dierks	Moore	Schellpeper	Wehrbein
Chizek	Hefner	Nelson	Schmit	Wesely
Conway	Johnson, L.	Peterson	Schrock	Wickersham

Voting in the negative, 13:

Beutler	Crosby	Johnson, R.	Lindsay	Schimek
Beyer	Hartnett	Kristensen	Morrissey	Will
Byars	Horgan	Landis		

Present and not voting, 5:

Bernard-Stevens	Chambers	Elmer	Robinson	Withem

Excused and not voting, 6:

Haberman	Hillman	Lynch	Pirsch	Rasmussen
Hall				

The Schmit-Robak amendment was adopted with 25 ayes, 13 nays, 5 present and not voting, and 6 excused and not voting.

The Chair declared the call raised.

Mr. R. Johnson renewed his pending amendment, AM1022, found in the Journal on page 1449.

Mr. Landis asked unanimous consent to be excused until he returns. No objections. So ordered.

The R. Johnson amendment was adopted with 29 ayes, 0 nays, 13 present and not voting, and 7 excused and not voting.

Mr. R. Johnson offered the following amendment:
AM1222

1. On page 4, line 8, strike the colon; in line 9 strike the new matter and reinstate the stricken matter; in line 10 strike ", holds", show as stricken, and insert "and otherwise not engaged in petroleum production, refining, and marketing:
(a) Holds".

2. On page 20, line 16, strike the colon; in line 17 strike the new matter and reinstate the stricken matter; in line 18 strike ", holds", show as stricken, and insert "and otherwise not engaged in petroleum production, refining, and marketing:
(i) Holds".

MR. WARNER PRESIDING

The R. Johnson amendment was adopted with 26 ayes, 0 nays, 16 present and not voting, and 7 excused and not voting.

Mr. Beutler offered the following amendment:
AM1255

1. In the Standing Committee amendments, AM0625, on page 2, strike beginning with "of" in line 14 through "dollars" in line 15 and show the old matter as stricken; and in line 16 after the period insert "The fee shall be a percentage of the average estimated annual insurance premium for six tanks or less of average age for insurance coverage similar to the protection provided by the Petroleum Release Remedial Action Act, as determined by the department annually. For fee years 1992 and 1993, the percentage shall be five percent, and for each fee year thereafter the percentage shall be increased by five until fee year 2010 when the fee required by this subsection shall terminate.".

2. On page 14, line 1, after "66-1521" insert

"until January 1, 2010".

3. On page 15, line 4, strike "The", show as stricken, and insert "Until January 1, 2010, the".

4. On page 16, line 9, strike "Any", show as stricken, and insert "Until January 1, 2010, any".

SPEAKER BAACK PRESIDING

The Beutler amendment lost with 5 ayes, 17 nays, 20 present and not voting, and 7 excused and not voting.

Mr. Withem offered the following amendment:
AM1246

1. Insert the following new amendments:

"2. Insert the following new section:

'Sec. 22. That section 81-15,123, Revised Statutes Supplement, 1990, be amended to read as follows:

81-15,123. The State Fire Marshal shall adopt and promulgate rules and regulations governing release, detection, prevention, and correction procedures applicable to all owners and operators as shall be necessary to protect human health, public safety, and the environment. Such rules and regulations may distinguish between types, classes, and ages of tanks. In making such distinctions, the State Fire Marshal shall consider, but not be limited to, location of the tanks, soil and climate conditions, uses of the tanks, history of maintenance, age of the tanks, current industry-recommended practices, national consensus codes, hydrogeology, depth to the ground water, size of the tanks, quantity of regulated substances periodically deposited in or dispensed from the tanks, the technical capability of the owners and operators, and the compatibility of the regulated substance and the materials of which the tank is fabricated. Before adoption, such rules and regulations shall be reviewed and approved by the Director of Environmental Control who shall determine whether the proposed rules and regulations are adequate to protect the environment. Rules and regulations adopted and promulgated pursuant to this section shall include, but not be limited to:

(1) Proper procedures and specifications for the construction, design, installation, replacement, or

repair of tanks;

(2) A permit and registration system for all tanks;

(3) A program to establish an inspection system for all tanks. Such program shall provide for periodic safety inspections and spot checks of monitoring systems by the State Fire Marshal. A fee schedule may also be developed for the inspection of new tank and piping installations and tank closures in the manner prescribed in section 81-505.01. Such inspection fees shall be remitted by the State Fire Marshal to the State Treasurer who shall credit them to the Underground Storage Tank Fund. No fee shall be charged for the periodic safety inspections and spot checks of monitoring systems by the State Fire Marshal;

(4) A monitoring system for all tanks which includes, but is not limited to, the following:

(a) An inventory-control procedure for any tank used to hold petroleum products or hazardous substances for resale;

(b) An inventory-control procedure for any tank used solely for consumptive onsite purposes and not for resale. Such control procedure shall determine the method of inventory measurement giving consideration to the economic burden created by the procedure. The frequency of inventory measurement for such category of tank shall include at least one measurement every thirty days;

(c) Provisions for the prompt reporting of any release of a regulated substance; and

(d) A procedure for the proper method of monitoring tanks;

(5) A procedure for notifying the State Fire Marshal of temporarily or permanently abandoned tanks;

(6) A procedure for removing or making safe any abandoned tanks, except that the State Fire Marshal may dispense with such procedure in special circumstances;

(7) Financial responsibility requirements, taking into account the financial responsibility requirements established pursuant to 42 U.S.C. 6991b(d);

(8) Requirements for maintaining a leak-detection system, an inventory system, and a tank-testing or comparable system or method designed to

identify releases in a manner consistent with the protection of human health, public safety, and the environment; and

(9) Requirements for maintaining records of any monitoring or leak-detection system, inventory-control system, or tank-testing or comparable system.

Nothing in this section shall be construed to require a subcontractor working under the direction of a licensed installation or removal contractor to be licensed.'.

3. On page 24, line 2, strike 'section 81-15,119' and insert 'sections 81-15,119 and 81-15,123'.

4. Renumber the remaining sections accordingly.".

The Withem amendment was adopted with 25 ayes, 0 nays, 17 present and not voting, and 7 excused and not voting.

Mr. R. Johnson offered the following amendment:
FA97

Amend the Schmit amendment, AM1168, by striking "five thousand dollars" and insert "fifteen thousand dollars." on page 2. line 8.

Mr. Hefner asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Morrissey moved for a call of the house. The motion prevailed with 10 ayes, 0 nays, and 39 not voting.

Mr. Morrissey requested a roll call vote on the R. Johnson amendment.

Voting in the affirmative, 26:

Abboud	Chambers	Horgan	Lindsay	Warner
Ashford	Chizek	Johnson, R.	Moore	Wehrbein
Baack	Conway	Kristensen	Morrissey	Wesely
Beutler	Crosby	Lamb	Pirsch	Will
Beyer	Hartnett	Landis	Robinson	Withem
Byars				

Voting in the negative, 12:

Coordsen	Johnson, L.	Robak	Schellpeper	Smith
Cudaback	Labedz	Rogers	Schmit	Wickersham
Dierks	Nelson			

Present and not voting, 5:

Bernard-Stevens	Elmer	Peterson	Schimek	Schrock

Excused and not voting, 6:

Haberman	Hefner	Hillman	Lynch	Rasmussen
Hall				

The R. Johnson amendment was adopted with 26 ayes, 12 nays, 5 present and not voting, and 6 excused and not voting.

The Chair declared the call raised.

Mr. Schmit asked unanimous consent to be excused until he returns. No objections. So ordered.

Advanced to E & R for engrossment.

UNANIMOUS CONSENT - Expedite LB 409

Mr. R. Johnson asked unanimous consent to expedite LB 409. No objections. So ordered.

SELECT FILE

LEGISLATIVE BILL 409A. Mr. R. Johnson renewed his pending amendment, AM1000, found in the Journal on page 1450.

The R. Johnson amendment was adopted with 26 ayes, 0 nays, 16 present and not voting, and 7 excused and not voting.

Advanced to E & R for engrossment.

UNANIMOUS CONSENT - Print in Journal

Mr. Will asked unanimous consent to print the following amendment to LB 203 in the Journal. No objections. So ordered.

AM1149

1. Insert the following new sections:

"Sec. 54. That section 77-422, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-422. Upon the successful completion of the examination by the applicant and, after January 1, 1997, after registration pursuant to the Real Estate Appraiser Act, a county assessor certificate shall be issued to ~~him~~ the applicant.

Sec. 55. That section 77-425, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-425. The Tax Commissioner, subject to proper rules and regulations to be published and furnished to every assessing official, shall have the power to invalidate the certificate of any assessor or deputy assessor who (1) willfully fails or refuses faithfully to perform his or her duties in accordance with the rules, regulations, and instructions adopted, promulgated, and issued by the Tax Commissioner, his or her manuals of assessment, and the laws of the state governing the assessment of property and the duties of each assessor and deputy assessor or (2) fails to register pursuant to the Real Estate Appraiser Act after January 1, 1997. In lieu of invalidating the certificate of an assessor or deputy assessor who fails to register pursuant to the act, the Tax Commissioner may allow the assessor or deputy assessor to continue in office until the next election for assessor in the county. No certificate shall be revoked or suspended except upon a proper hearing before the Tax Commissioner or his or her designee after due notice. If the county assessor certificate of a person serving as assessor or deputy assessor is revoked, such person shall be removed from office by the Tax Commissioner, the office shall be declared vacant, and such person shall not be eligible to hold that office for a period of five years from the date of removal. Any assessor or deputy assessor whose county assessor certificate has been so revoked may appeal the decision of the Tax Commissioner. The ~~, and~~

~~the~~ appeal shall be in accordance with the Administrative Procedure Act.".

2. On page 9, line 13, after the reinstated "estate" insert "other than the office of the county assessor"; in line 15 after "(c)" insert "the office of the county assessor, including the county assessor, until January 1, 1997, (d)"; and in lines 16 and 23 strike "(d)", show as stricken, and insert "(e)".

3. On page 50, line 24, strike "and 76-2249" and insert "76-2249, 77-422, and 77-425".

4. Renumber the remaining sections accordingly.

Mr. Warner asked unanimous consent to print the following amendment to LB 579 in the Journal. No objections. So ordered.

AM1239

(Amendments to AM0868)

1. In the E & R amendments, AM5112:

a. On page 1, line 7, strike "nine" and insert "ten"; in line 9 strike "eight" and insert "nine"; in line 19, strike "and"; and in line 20 after "(d)" insert "One member registered as an independent; and (e)"; and

b. On page 2, after line 2, insert the following new paragraph:

"Each member of the board representing a political party shall have been registered as a member of that political party for at least five years prior to his or her appointment to the board, and the member of the board registered as an independent shall have been so registered for at least five years prior to his or her appointment to the board.".

2. On page 3, line 2, after the underscored period insert "No more than one-half of the members of the staff, including the commissioner and the general counsel, shall at any one time be registered members of the same political party for five years previously."; and in lines 5, 8, and 10 strike "five" and insert "six".

3. On page 6, line 13, strike "The" and insert "After consultation with the Attorney General, the"; in line 16 after "opinions" insert "with which the Attorney General does not disagree"; and in line 22

after "commissioner" insert "with which the Attorney General does not disagree".

RESOLUTION

LEGISLATIVE RESOLUTION 69. Introduced by Conway, 17.

WHEREAS, funding shortages have caused continuous erosion of health care services for veterans throughout the 1980's; and

WHEREAS, these funding shortages have forced administrators of Veterans' Administration medical centers to reduce their staff and services in order to lower costs; and

WHEREAS, in 1986, the Veterans' Administration implemented additional cost saving measures by categorizing veterans according to their assets in order to calculate their ability to pay for services; and

WHEREAS, each year since 1986 the eligibility rules have become more restrictive and there is a growing concern that the next cost saving step will be to deny treatment to veterans who are in lower income brackets; and

WHEREAS, should our veterans who have low incomes and modest assets be prevented from receiving treatment at Veterans' Administration medical centers, they will be forced to apply for medicaid; and

WHEREAS, recent studies have shown that states are now paying a combined annual total approaching thirty billion dollars in medicaid costs, and the State of Nebraska medicaid expenditures have increased from one hundred seventy-nine million dollars in 1986 to two hundred sixty-one million dollars in 1989; and

WHEREAS, veterans have had only limited success in getting Congress to appropriate money needed to insure quality health care for veterans.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature hereby petitions the Congress of the United States to appropriate the funds necessary to adequately staff and equip Veterans' Administration medical centers to insure quality health care for the veterans of this country.

2. That copies of this resolution be sent to the Speaker of the United States House of Representatives, the President of the United States Senate, and to the members of the Nebraska congressional delegation, with the request that it be entered into the Congressional Record.

Laid over.

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 91A. Introduced by Lynch, 13.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 91, Ninety-second Legislature, First Session, 1991.

SELECT FILE

LEGISLATIVE BILL 663. E & R amendment, AM5105, printed separately from the Journal and referred to on page 1475, was adopted.

MR. WARNER PRESIDING

Mr. Baack renewed his pending amendment, AM0854, found in the Journal on page 1528.

The Baack amendment was adopted with 25 ayes, 4 nays, 13 present and not voting, and 7 excused and not voting.

Mr. Robinson renewed his pending amendment, AM1147, found in the Journal on page 1597.

Mr. Abboud asked unanimous consent to be excused until he returns. No objections. So ordered.

SPEAKER BAACK PRESIDING

Mr. Schellpeper asked unanimous consent to be excused until he returns. No objections. So ordered.

Mrs. Crosby moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 27 ayes, 0 nays, and 22 not voting.

The Robinson amendment was adopted with 28 ayes, 0 nays, 13 present and not voting, and 8 excused and not voting.

Mr. Beutler renewed his pending amendment, AM1189, found in the Journal on page 1611.

The Beutler amendment was adopted with 26 ayes, 1 nay, 15 present and not voting, and 7 excused and not voting.

Messrs. Withem and Warner offered the following amendment: (Amendment on file in the Clerk's Office - Room 2018 - AM1241.)

Messrs. Abboud, Schmit, and Wesely asked unanimous consent to be excused until they return. No objections. So ordered.

The Withem-Warner amendment was adopted with 26 ayes, 0 nays. 13 present and not voting, and 10 excused and not voting.

Mr. R. Johnson offered the following amendment:
AM1233

(Amendments to AM5105)

1. On page 31, line 1, after the period insert "Nothing in this subsection shall prohibit the commission from including items specified in such subdivisions if sufficient data already exists and is readily available to the commission.".

The R. Johnson amendment was adopted with 26 ayes, 0 nays. 13 present and not voting, and 10 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 663A. Mr. Withem renewed his pending amendment, AM1188, found in the Journal on page 1603.

The Withem amendment was adopted with 25 ayes, 0 nays, 14 present and not voting, and 10 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 123. E & R amendment, AM5106, found in the Journal on page 1475, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 583. E & R amendment, AM5108, found in the Journal on page 1476, was adopted.

Messrs. Rogers, Cudaback, and Dierks renewed their pending amendment (1), AM1127, found in the Journal on page 1585.

The Rogers-Cudaback-Dierks amendment was adopted with 25 ayes, 0 nays, 15 present and not voting, and 9 excused and not voting.

Messrs. Rogers, Cudaback, and Dierks renewed their pending amendment (2), AM1148, found in the Journal on page 1585.

The Rogers-Cudaback-Dierks amendment was adopted with 25 ayes, 0 nays, 15 present and not voting, and 9 excused and not voting.

Messrs. Rogers, Cudaback, and Dierks renewed their pending amendment (3), AM1126, found in the Journal on page 1586.

Mr. Haberman asked unanimous consent to be excused. No objections. So ordered.

The Rogers-Cudaback-Dierks amendment was adopted with 25 ayes, 0 nays, 15 present and not voting, and 9 excused and not voting.

Mr. Schmit requested a machine vote on the advancement of the bill.

Advanced to E & R for engrossment with 27 ayes, 2 nays, 11 present and not voting, and 9 excused and not voting.

LEGISLATIVE BILL 528. E & R amendment, AM5111, found in the Journal on page 1485, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 742. E & R amendment, AM5113, found in the Journal on page 1485, was adopted.

Advanced to E & R for engrossment.

UNANIMOUS CONSENT - Add Co-Introducer

Mrs. Crosby asked unanimous consent to have her name added as co-introducer to LB 396. No objections. So ordered.

UNANIMOUS CONSENT - Print in Journal

Mr. Moore asked unanimous consent to print the following amendment to LB 503 in the Journal. No objections. So ordered.

AM1250

(Amendments to Standing Committee amendments, AM0764)

1. Strike amendment 1 and all amendments thereto and insert the following new amendments:

"1. Insert the following new sections:

'Section 1. That section 71-101, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-101. Sections 71-101 to 71-1,107.30, 71-1,133 to 71-1,294, 71-1325 to 71-1354, and 71-2801 to 71-2822 and section 4 of this act shall be known and may be cited as the Uniform Licensing Law.

For purposes of the Uniform Licensing Law, unless the context otherwise requires:

(1) Board of examiners or board shall mean one of the boards appointed by the State Board of Health;

(2) Licensed, when applied to any licensee in any of the professions named in section 71-102, shall mean a person licensed under the Uniform Licensing Law;

(3) Profession or health profession shall mean and refer to any of the several groups named in section 71-102;

(4) Department shall mean the Department of Health;

(5) Whenever the masculine gender is used, it shall be construed to include the feminine, and the singular number shall include the plural when consistent with the intent of the Uniform Licensing Law;

(6) License, licensing, or licensure shall mean permission to engage in a health profession which would otherwise be unlawful in this state in the absence of such permission and which is granted to individuals who meet prerequisite qualifications and allows them to perform prescribed health professional tasks and use a particular title;

(7) Certificate, certify, or certification, with respect to professions, shall mean a voluntary process by which a statutory, regulatory entity grants recognition to an individual who has met certain

prerequisite qualifications specified by such regulatory entity and who may assume or use certified in the title or designation to perform prescribed health professional tasks. When appropriate, certificate shall also mean a document issued by the department which designates particular credentials for an individual; and

(8) Lapse shall mean the termination of the right or privilege to represent oneself as a licensed or certified person and to practice the profession when a license is required to do so.

Sec. 4. (1) If an optometrist is licensed in this state and is consulting and collaborating with an ophthalmologist licensed to practice medicine in this state and such consultation and collaboration is approved by the board of examiners, the optometrist may, after the effective date of this act, prescribe oral and topical ocular pharmaceutical agents for the treatment of glaucoma.

(2) For purposes of this section, board of examiners shall mean the Board of Examiners in Optometry and consultation and collaboration shall mean communication between the optometrist and the consulting ophthalmologist in which information and advice is exchanged concerning the best plan of treatment for the patient.

(3) Contact with the consulting ophthalmologist by telecommunication shall be sufficient to meet the requirements of consultation and collaboration. The optometrist's responsibilities for consulting and collaborating shall be the same as standard practice by other community health care providers when consulting with a specialist.

(4) Each optometrist shall obtain from the board of examiners approval of consulting relationships with individual ophthalmologists. Such approval shall require arrangements for consultation and collaboration with the consulting ophthalmologist which are sufficient to provide quality care.

(5) The board of examiners shall adopt and promulgate the rules and regulations for the consideration and approval of applications by an optometrist for establishing consulting relationships.

Sec. 8. The Revisor of Statutes shall assign section 4 of this act within sections 71-1,133 to

71-1,136.09.

Sec. 9. If any section in this act or any part of any section shall be declared invalid or unconstitutional, such declaration shall not affect the validity or constitutionality of the remaining portions thereof.'.

2. On page 2, strike beginning with the comma in line 16 through 'ophthalmologist' in line 20.

3. On page 9, line 21, strike 'anesthetics' and insert 'analgesics' and strike 'antieffective' and insert 'anti-infective'.

4. On page 11, lines 14 and 15, reinstate the stricken matter and strike the new matter.

5. On page 12, line 9, after 'sections' insert '71-101,'.

6. Renumber the remaining sections accordingly.".

Mrs. Smith asked unanimous consent to print the following amendment to LR 24CA in the Journal. No objections. So ordered.

AM1204

1. On page 2, line 19, after the period insert "Nothing in this subsection shall be construed to allow a lottery game which permits or requires player interaction with a mechanical, electro-mechanical, electronic, or video device which has the capability of awarding something of value or free games or credits redeemable for something of value, except that a lottery game may utilize such a device to be used for the purpose of purchasing a lottery ticket, ascertaining whether a winning preprinted ticket was purchased, or the on-site validation of winning tickets.".

2. On page 3, line 15, after "lottery" insert ", other than a mechanical, electro-mechanical, electronic, or video lottery,".

STANDING COMMITTEE REPORT
Health and Human Services

LEGISLATIVE BILL 256. Placed on General File as amended. (Standing Committee amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM1207.)

(Signed) Don Wesely, Chairperson

VISITORS

Visitors to the Chamber were 19 seniors and sponsor from Loomis; and 28 eighth and twelfth grade students and teachers from Clarks.

The Doctor of the Day was Dr. David Johnson from Stamford.

ADJOURNMENT

At 5:02 p.m., on a motion by Mr. Will, the Legislature adjourned until 9:00 a.m., Tuesday, April 16, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

SIXTY-FIRST DAY - APRIL 16, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

SIXTY-FIRST DAY

Legislative Chamber, Lincoln, Nebraska
Tuesday, April 16, 1991

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Moul presiding.

PRAYER

The prayer was offered by Wendall Conover, Executive Director, Fellowship of Christian Athletes of Nebraska from Milford, Nebraska.

ROLL CALL

The roll was called and all members were present except Mr. Hall, Mmes. Labedz, and Pirsch who were excused; and Messrs. Abboud, Ashford, Bernard-Stevens, Beutler, Chambers, Haberman, Horgan, R. Johnson, Landis, Lindsay, Moore, Morrissey, Robinson, Schmit, Wesely, and Mrs. Robak who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Sixtieth Day was approved.

SELECT COMMITTEE REPORTS
Enrollment and Review

Correctly Re-Engrossed

The following bill was correctly re-engrossed: 333.

(Signed) Eric Will, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 69. Read. Considered.

LR 69 was adopted with 23 ayes, 0 nays, and 26 not voting.

MOTION - Approve Appointments

Mr. Schellpeper moved the adoption of the report of the Health and Human Services Committee for the following Governor appointments found in the Journal on page 1637: Board of Health - Bruce L. Gilmore; Child Abuse Prevention Fund Board - Nancy O'Brien and Samuel H. Perry, II; Foster Care Review Board - Alva Barnett, Violet Fickel, Carol S. Holyoke, Jo Lamb, and Nancy Thompson; and Modular Housing Advisory Board - Max A. Burroughs, Roger Cross, Gary Rickett, and Rod Tompkins.

Voting in the affirmative, 25:

Baack	Coordsen	Johnson, L.	Rasmussen	Schrock
Beutler	Crosby	Kristensen	Robinson	Smith
Beyer	Hartnett	Lamb	Rogers	Warner
Byars	Hefner	Nelson	Schellpeper	Wickersham
Conway	Hillman	Peterson	Schimek	Withem

Voting in the negative, 0.

Present and not voting, 7:

Chizek	Dierks	Lynch	Wehrbein	Will
Cudaback	Elmer			

Excused and not voting, 17:

Abboud	Chambers	Johnson, R.	Moore	Robak
Ashford	Haberman	Labedz	Morrissey	Schmit
Bernard-Stevens	Hall	Landis	Pirsch	Wesely
	Horgan	Lindsay		

These appointments were confirmed with 25 ayes, 0 nays, 7 present and not voting, and 17 excused and not voting.

UNANIMOUS CONSENT - Members Excused

Messrs. Will and Chizek asked unanimous consent to be excused until they return. No objections. So ordered.

GENERAL FILE

LEGISLATIVE BILL 457. Title read. Considered.

Standing Committee amendment, AM0670, found in the Journal on page 1136, was adopted with 25 ayes, 0 nays, 5 present and not voting, and 19 excused and not voting.

Mrs. Smith offered the following amendment:
(Amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM1178.)

Mrs. Smith offered the following amendment to her pending amendment:
FA98
Amend AM1178 to LB 457
On p. 15, line 10 before "The" insert (1).
On line 12 strike (1) and insert (a).
On line 13 after "Services" insert "as described in subsection (2)".
On line 22 strike (2) and insert (b).
On page 16, line 2 strike (3) and insert (c).
On line 6 strike (4) and insert (d).
At the end of that section insert:
"(2) The Department of Social Services may periodically review cases of individuals receiving enforcement services and make referrals to the county or authorized attorney."

The Smith amendment was adopted with 23 ayes, 0 nays, 11 present and not voting, and 15 excused and not voting.

The Smith amendment, as amended, was adopted with 25 ayes, 0 nays, 10 present and not voting, and 14 excused and not voting.

Advanced to E & R for review with 25 ayes, 0 nays, 14 present and not voting, and 10 excused and not voting.

LEGISLATIVE BILL 457A. Title read. Considered.

Advanced to E & R for review with 25 ayes, 0 nays, 14 present and not voting, and 10 excused and not voting.

LEGISLATIVE BILL 715. Title read. Considered.

Standing Committee amendment, AM0549, found in the Journal on page 1140, was considered.

Messrs. Haberman and Withem asked unanimous consent to be excused until they return. No objections. So ordered.

The Standing Committee amendment was adopted with 25 ayes, 0 nays, 12 present and not voting, and 12 excused and not voting.

Mrs. Robak and Mr. Coordsen asked unanimous consent to be excused until they return. No objections. So ordered.

Advanced to E & R for review with 25 ayes, 0 nays, 15 present and not voting, and 9 excused and not voting.

LEGISLATIVE BILL 715A. Title read. Considered.

Advanced to E & R for review with 26 ayes, 0 nays, 14 present and not voting, and 9 excused and not voting.

Mr. Schmit asked unanimous consent to be excused until he returns. No objections. So ordered.

UNANIMOUS CONSENT - Print in Journal

Mr. Withem asked unanimous consent to print the following amendment to LB 852 in the Journal. No objections. So ordered.

AM1257

1. Insert the following new section:

"Sec. 2. (1) In recognition of the doctrine of separation of powers established in the Constitution of Nebraska, no member of the Legislature shall be appointed or serve on any commission or board which exercises primarily executive or administrative functions.

(2) For purposes of this section a commission or board shall be considered as exercising primarily executive or administrative functions when the board or commission (a) has rule-making or regulation-making authority, (b) is charged with the implementation and

administration of previous state or federal legislation, and (c) is primarily responsible for the distribution or expenditure of funds to carry out an ongoing public program.

(3) Nothing in this section shall be construed to prohibit members of the Legislature from appointment to or service on a board or commission which is primarily charged with a study, advisory, or policy formation role and function.".

2. Renumber the remaining sections accordingly.

Mr. Conway asked unanimous consent to print the following amendment to LB 579 in the Journal. No objections. So ordered.

AM1231

1. In the E & R amendment, AM5112:

a. On page 1, strike beginning with the period in line 8 through "members" in line 9 and insert "and eight members appointed by the Governor with the approval of a majority of the Legislature. The Governor shall appoint the eight members as follows"; in line 11 strike ". The Governor shall appoint"; and in line 20 after "commissioner" insert ", deputy election commissioner,";

b. On page 2, line 13, after the period insert "A member of the board shall serve until a successor is appointed and qualified.

(4)"; in line 14 after "the" insert "initial"; and in line 21 after "Governor" insert "for a four-year term";

c. Strike sections 3 and 4 and insert the following new section:

"Sec. 3. (1) No appointed member of the State Election Board shall engage in any activity or hold any position or office which is related to the functions of the board such as (a) lobbying, (b) being a public official, a public employee, or a state elective official, (c) campaigning for the election or appointment of himself or herself to an elective office, or (d) holding an office in any political party or committee, except that an election commissioner, deputy election commissioner, or county clerk shall not be prohibited from holding or campaigning for such office.

(2) An appointed member shall withdraw from the prohibited activity and shall resign from the prohibited position or office prior to beginning his or her term on the board.

(3) Nothing in this section shall be construed to limit an appointed member's right to vote in any election or to limit his or her right to make political contributions.

(4) For purposes of this section, the definitions found in sections 49-1413 to 49-1444 shall be used.";

d. On page 12, line 12, after the fourth comma insert "32-203," and after the last comma insert "32-217,"; and in line 17 strike "32-4,111,"; and

e. On page 13, line 4, after the fourth comma insert "70-612,".

2. In the Conway amendment, AM0868:

a. Strike original section 50 and insert the following new sections:

"Sec. 27. That section 32-203, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

32-203. The election commissioner shall be a legal voter and a resident of such county for at least five years and be of good moral character and of approved integrity and capacity. No person who is a candidate for any office or who is a deputy, clerk, or employee of any office or person who is a candidate for election shall be eligible for the office of election commissioner. Except for appointment to the State Election Board, the election commissioner ~~He~~ shall hold no other office and shall be ineligible to any elective or appointive office or to become a candidate therefor during his or her term of office or within three months after the term for which he or she has been appointed has expired whether he or she will ~~shall~~ serve the full term or not.

Sec. 29. That section 32-217, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

32-217. The election commissioner shall verify the registration in each election district, through the various inspectors, within the ten days next preceding each and every general state election and at

such other times as he or she may deem necessary. He or she shall thereupon enter or cause to be entered the word challenge opposite the name of any voter reported by any inspector as unlawfully registered. Such entry shall not be canceled nor the person so challenged permitted to vote without evidence being produced in writing and filed with the commissioner or inspector showing the correctness of ~~his~~ the person's registration, which evidence shall be in the form of an affidavit. The affidavit shall be signed by the person challenged and by two regularly registered voters of the district~~,~~ and shall state facts sufficient to show the correctness of ~~his~~ the registration. The filing of the affidavit shall be shown by writing the word affidavit opposite the name of the voter challenged. Upon the filing of such affidavit, the commissioner or inspector shall make an entry challenge withdrawn, opposite the name of such voter. Whenever an inspector recognizes that he or she has challenged a voter in error, he or she shall, if due investigation discloses that he or she has made an error, make entry challenge withdrawn, error, and place his or her initials within the challenge stamp. Upon the entry of any challenge against a person whose name appears upon the registration records, the commissioner shall send a notice over his or her signature, through the mail, duly stamped, to all such persons against whose names a challenge has been entered, at the address given upon the registration records, requiring such person to appear before the ~~election~~ commissioner or inspector, to verify ~~his~~ the registration under oath. The commissioner shall include within the notice a registration form that allows such person to register through the mail as set out in section 32-221. Upon failure of the person challenged to appear within ~~one year~~ ninety days thereafter~~,~~ or to file with the commissioner an affidavit setting forth a good and sufficient reason for not appearing in person~~,~~ and ~~setting forth~~ facts showing the correctness of such registration~~,~~ and verified by two registered voters of the same district as such voter, the registration shall be canceled.

Sec. 135. That section 70-612, Reissue Revised Statutes of Nebraska, 1943, be amended to read

as follows:

70-612. Subject to the provisions of Chapter 70, article 6, and subject to the approval of the Nebraska Power Review Board, the board of directors of a district may amend the petition for its creation to provide for the division of the territory of such district into two or more subdivisions for the nomination and election of some or all of the directors. Each subdivision shall be composed of one or more voting precincts, or divided voting precincts, and the total population of each such subdivision shall be approximately the same. Two or more subdivisions may be combined for election purposes, and members of the board of directors to be elected from such combined subdivisions may be nominated and elected at large when not less than seventy-five percent of the population of the combined subdivisions is within the corporate limits of any city. In the event a district formed ~~comprises three~~ includes all or part of two or more counties and is (1) engaged in furnishing electric light and power and more than fifty percent of its customers are rural customers or (2) engaged in furnishing electric light and power and in the business of owning and operating irrigation works, then and in that event such subdivisions may be formed by following precinct or county boundary lines without regard to population if in the judgment of the Nebraska Power Review Board the interests of the rural users of electricity or of users of irrigation water service in such district will not be prejudiced thereby.";

b. On page 3, line 2, after the period insert "Before entering upon his or her duties, the commissioner shall take and subscribe an oath in the form provided by law and shall give bond to the State of Nebraska in the sum of one hundred thousand dollars to be approved by the Governor conditioned for the faithful and honest performance of the duties of the office and the care and preservation of the property thereof. The oath of office and bond shall be filed in the office of the Secretary of State."; and in line 16 after "32" insert "and any other statutes relating to elections";

c. On page 5, line 8, strike "6" and all amendments thereto and insert "7"; and in lines 12 and 24 strike "its" and insert "the board's";

d. On page 6, line 9, strike "an established" and insert "a legally recognized"; and after line 10 insert:

"The instructions, forms, notices, supplies, and information furnished or prescribed by the Secretary of State prior to the effective date of this act shall be considered the instructions, forms, notices, supplies, and information furnished or prescribed by the State Election Board until modified or replaced by the board.";

e. On page 42, line 1, reinstate the stricken matter and strike "forms"; strike beginning with the comma in line 2 through "clerk" in line 5, show the old matter as stricken, and insert "prescribed by the State Election Board";

f. On page 76, line 1, strike "26" and all amendments thereto and insert "32";

g. On page 77, lines 2 and 3, strike the new matter and reinstate the stricken matter; and in line 9 reinstate the stricken matter and after the reinstated "State" insert "shall transmit the abstract of votes from the respective counties to the State Election Board. The";

h. On page 81, line 18; and page 82, line 15, after "affixed" insert "by the Secretary of State";

i. On page 82, line 17, strike the period and reinstate the stricken "of the"; and in line 18 reinstate the stricken matter and after the reinstated "State" insert "Election Board";

j. On page 144, after line 7; and on page 146, after line 7, insert:

"The Secretary of State shall transmit any petitions filed with him or her to the State Election Board, and the date of filing a petition with the Secretary of State shall be deemed to be the date of filing with the State Election Board.";

k. On page 180, line 11, after "The" insert "office of the";

l. On page 219, line 23, after the fourth comma insert "32-203,"; and after the last comma insert "32-217,";

m. On page 220, line 4, strike "32-4,111,"; and in line 16 after the third comma insert "70-612,"; and

n. Renumber the remaining sections accordingly.

Mr. Lindsay asked unanimous consent to print the following amendment to LB 457 in the Journal. No objections. So ordered.

AM1260

1. Insert the following new section:

"Sec. 2. That section 42-358.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

42-358.02. (1) All delinquent child support payments shall draw interest at the rate specified in section ~~45-104.01, as such rate may from time to time be adjusted by the Legislature~~ 45-103 in effect on the date of the most recent order or decree. Such interest shall be computed as simple interest.

(2) All child support payments shall become delinquent the day after they are due and owing. Interest shall not accrue until thirty days after such payments are delinquent.

(3) The court shall order the determination of the amount of interest due, and such interest shall be payable in the same manner as the support payments upon which the interest accrues subject to subsection (2) of this section or unless it is waived by agreement of the parties. It shall be the duty of the clerk of the district court to compute interest and identify delinquencies pursuant to this section and to report such information to the court and to the county attorney or authorized attorney.

(4) Interest which may have accrued prior to the effective date of this act shall not be affected or altered by changes to this section which take effect on such date. All delinquent child support payments and all decrees entered prior to such date shall draw interest at the effective rate as prescribed by this act commencing as of such date.".

2. On page 5, line 12 and page 6, line 11, strike "4" and insert "5".

3. On page 9, line 3, after the comma insert "42-358.02,".

4. Renumber the remaining sections accordingly.

ANNOUNCEMENT

The Chair announced today is Senator Will's birthday.

GENERAL FILE

LEGISLATIVE BILL 186. Title read. Considered.

Standing Committee amendment, AM0849, found in the Journal on page 1211, was adopted with 25 ayes, 0 nays, 14 present and not voting, and 10 excused and not voting.

Mr. Landis asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Lynch asked unanimous consent to be excused. No objections. So ordered.

Advanced to E & R for review with 25 ayes, 0 nays, 12 present and not voting, and 12 excused and not voting.

Mr. Hartnett asked unanimous consent to be excused until he returns. No objections. So ordered.

LEGISLATIVE BILL 186A. Title read. Considered.

Advanced to E & R for review with 25 ayes, 0 nays, 11 present and not voting, and 13 excused and not voting.

LEGISLATIVE BILL 227. Title read. Considered.

Standing Committee amendment, AM0623, found in the Journal on page 1227, was adopted with 26 ayes, 0 nays, 12 present and not voting, and 11 excused and not voting.

Mr. Schmit asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Wesely renewed his pending amendment, AM1146, found in the Journal on page 1570.

Mrs. Hillman and Mr. Moore asked unanimous consent to be excused until they return. No objections. So ordered.

The Wesely amendment was adopted with 25 ayes, 0 nays, 10 present and not voting, and 14 excused and not voting.

SPEAKER BAACK PRESIDING

Mr. R. Johnson asked unanimous consent to be excused until he returns. No objections. So ordered.

Advanced to E & R for review with 26 ayes, 0 nays, 8 present and not voting, and 15 excused and not voting.

LEGISLATIVE BILL 701. Title read. Considered.

Standing Committee amendment, AM0879, found in the Journal on page 1235, lost with 1 aye, 16 nays, 17 present and not voting, and 15 excused and not voting.

Pending.

MOTION - Raise LR 27 From Committee

Messrs. Elmer, Schrock, Schmit, Haberman, Kristensen, and Mrs. Smith moved to raise LR 27, which is being held in the Natural Resources Committee, to the Floor of the Legislature for consideration by the Members.

Laid over.

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 701A. Introduced by Rasmussen, 20.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 701, Ninety-second Legislature, First Session, 1991; and to provide for a transfer of funds.

VISITORS

Visitors to the Chamber were 150 seniors and teachers from Millard South High School; Sheryl Sheen, Fran Madsen, Sheree Bacus, Jens

Dunning, Maurine Echloft, Marion Hitchcock, Cindy Houlden, and Vincent Ryan from Minden; 45 fourth grade students and teacher from Wakonda, Omaha; Jerry Wilson from North Platte; and 63 fourth grade students, parents, and teachers from Golden Hills School, Omaha.

RECESS

At 11:56 a.m., on a motion by Mr. Wesely, the Legislature recessed until 1:30 p.m.

AFTER RECESS

The Legislature reconvened at 1:30 p.m., Speaker Baack presiding.

ROLL CALL

The roll was called and all members were present except Messrs. Hall, Hartnett, Lynch, Mmes. Labedz, and Pirsch who were excused; and Messrs. Abboud, Ashford, Byars, Chizek, Coordsen, Haberman, Landis, Schmit, Schrock, Warner, Will, Mmes. Robak, and Smith who were excused until they arrive.

UNANIMOUS CONSENT - Print in Journal

Mr. R. Johnson asked unanimous consent to print the following amendment to LB 827 in the Journal. No objections. So ordered.

AM1117
(Amendments to Standing Committee amendments, AM0930)
1. On page 15, line 8, strike " bills and that" and insert "outstanding debts and obligations incurred prior to the effective date of this act and debts and obligations incurred after such date. Total".

GENERAL FILE

LEGISLATIVE BILL 701. Mrs. Rasmussen renewed her pending amendment, AM1020, found in the Journal on page 1608.

Mrs. Rasmussen moved for a call of the house. The motion prevailed with 12 ayes, 0 nays, and 37 not voting.

The Rasmussen amendment was adopted with 25 ayes, 0 nays, 5 present and not voting, and 19 excused and not voting.

The Chair declared the call raised.

Mrs. Hillman asked unanimous consent to be excused until she returns. No objections. So ordered.

Mrs. Rasmussen moved for a call of the house. The motion prevailed with 12 ayes, 0 nays, and 37 not voting.

Advanced to E & R for review with 26 ayes, 0 nays, 8 present and not voting, and 15 excused and not voting.

The Chair declared the call raised.

LEGISLATIVE BILL 714. Title read. Considered.

Mr. Wesely moved to indefinitely postpone LB 714.

Laid over.

Mr. Lindsay asked unanimous consent to be excused until he returns. No objections. So ordered.

LEGISLATIVE BILL 91. Title read. Considered.

Mr. Horgan asked unanimous consent to bracket LB 91 until Tuesday, April 23, 1991. No objections. So ordered.

LEGISLATIVE BILL 503. Title read. Considered.

Standing Committee amendment, AM0764, found in the Journal on page 1300, was considered.

Pending.

MESSAGES FROM THE GOVERNOR

April 16, 1991

Madam President, Mr. Speaker
and Members of the Legislature

State Capitol Building
Lincoln, Nebraska 68509

Dear Madam President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Nebraska Research and Development Authority requiring legislative approval.

Appointee: Gerald L. Schleich, 6412 Chesterfield Ctr., Lincoln, NE 68510-2361, 402-488-4663.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:fc

April 16, 1991

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Madam President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Nebraska Foster Care Review Board requiring legislative approval.

Appointee: Dennis Carlson, 2124 Park Ave., Lincoln, NE 68502, 402-475-7091.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:fc

April 16, 1991

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Madam President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Games and Parks Commission requiring legislative approval.

Appointee: Charles E. Wright, 6300 Old Cheney Rd., Lincoln, NE 68516, 402-474-6900.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:fc

April 16, 1991

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Madam President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to The Board of Trustees of Nebraska State Colleges requiring legislative approval.

Appointee: Kathi J. Swanson, RR 2, Box 57, Alliance, NE 69301, 308-632-5650.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:fc

UNANIMOUS CONSENT - Print in Journal

Mr. Conway asked unanimous consent to print the following amendment to LB 91 in the Journal. No objections. So ordered.

AM1268

1. On page 2, lines 19 through 21, strike the new matter; in line 21 reinstate the stricken "paid less than the" and after the reinstated "the" insert "amount"; and in lines 22 through 24 reinstate the stricken matter.

2. On page 3, after line 6 insert:

"(b) For school years 1991-92 and 1992-93, a full-time"; and in lines 7 through 17 strike the new matter and reinstate the stricken matter.

Messrs. Withem and Bernard-Stevens asked unanimous consent to print the following amendment to LB 91 in the Journal. No objections. So ordered.

AM1271

1. On page 4, line 4, strike "Any amounts distributed under this subsection", show as stricken, and insert

"(5) Two-thirds of the amounts available for distribution pursuant to the Help Education Lead to Prosperity Act"; and after line 10 insert the following new subsections:

"(6) One-third of the amount available for distribution pursuant to the act shall be used only for purposes of providing performance-based salary increases. The State Treasurer shall distribute each year an amount to providers in the same proportion as their weighted number of full-time equivalent teachers bears to the weighted number of full-time equivalent teachers in the state as a whole employed by providers which have submitted the information as required by this section. The State Treasurer shall not distribute any money to a provider under this section until the department has certified that a performance-based salary plan has been agreed to by the teachers and provider and the plan has been approved by the department based on criteria established by the department. The plan shall be submitted to the department by January 1 of each

year.

(7) The State Treasurer shall not distribute any money to a provider under this section until the department has certified that the provider and local teacher association or local bargaining group if there is no local teacher association have mutually agreed to each element of the plan which involves a mandatory subject of bargaining.".

Mr. Wesely asked unanimous consent to print the following amendment to LB 678 in the Journal. No objections. So ordered.

AM1175

(Amendments to Standing Committee amendments, AM 0515)

1. On page 1, line 1, after "4" insert "and insert the following new section:

'Section 1. That section 83-380.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-380.01. ~~Upon the discharge from a treatment facility, an~~ (1) An indigent person who has received mental health board-ordered treatment may file an affidavit with the Department of Public Institutions or the mental health board requesting that prescription medicine which the regional center treating psychiatrist or the patient's treating physician has prescribed as necessary for the patient's mental health treatment be provided to him or her. Such affidavit shall include the following: ~~(1)~~ (a) That the patient qualifies as an indigent person who is unable to pay under the same standards of ability to pay as set forth in sections 83-363 to 83-380; and ~~(2)~~ (b) that such prescription medicine has been prescribed by the regional ~~center's treatment~~ center treating psychiatrist or the patient's treating physician as necessary for the patient's mental health treatment. The mental health board shall refer such requests it receives to the ~~Department of Public Institutions~~ department, and the department shall provide such prescription medicine as may be necessary for such former patient's mental health treatment so long as he or she remains an outpatient and his or her treating physician continues to prescribe and certify that such prescription medicine is necessary for the patient's mental health treatment and he or she

continues to be an indigent person as determined under the same standards of ability to pay as set forth in sections 83-363 to 83-380. ~~The Department of Public Institutions~~ For persons otherwise eligible under this subsection who have medicare, medicaid, or private insurance coverage which pays for prescription medicine, the department shall be the secondary payor and shall not pay for prescription medicine covered by such forms of coverage. The department may adopt and promulgate rules and regulations to carry out ~~the provisions of~~ this section in accordance with the Administrative Procedure Act, including, but not limited to, providing for hearings necessary to determine whether such person is qualified to receive such ~~medications~~ prescription medicine and whether such ~~medication~~ prescription medicine is necessary for the patient's mental health treatment.

(2) An indigent person who is substantially disabled by severe and persistent mental illness may file an affidavit with the department or the mental health center requesting that prescription medicine which the regional center treating psychiatrist or the patient's treating physician has prescribed as necessary for the patient's mental health treatment be provided to him or her. Such affidavit shall include the following: (a) That the patient qualifies as an indigent person who is unable to pay under the same standards of ability to pay as set forth in sections 83-363 to 83-380; and (b) that such prescription medicine has been prescribed by the regional center treating psychiatrist or the patient's treating physician as necessary for the patient's mental health treatment. The mental health center shall refer such requests it receives to the department, and the department may provide such prescription medicine as may be necessary for such patient's mental health treatment so long as he or she remains an outpatient and his or her treating physician continues to prescribe and certify that such prescription medicine is necessary for the patient's mental health treatment and he or she continues to be an indigent person as determined under the same standards of ability to pay as set forth in sections 83-363 to 83-380. For persons otherwise eligible under this subsection who have medicare, medicaid, or private

insurance coverage which pays for prescription medicine, the department shall be the secondary payor and shall not pay for prescription medicine covered by such forms of coverage. The department may adopt and promulgate rules and regulations to carry out this section in accordance with the Administrative Procedure Act, including, but not limited to, providing for hearings necessary to determine whether such person is qualified to receive such prescription medicine and whether such prescription medicine is necessary for the patient's mental health treatment.' "; and in line 2 strike "9," and insert "7, strike '2'and insert '3'; and in line 9".

2. Strike amendment 3 and insert the following new amendments:

"3. On page 3, line 23, after the period insert 'The department shall consult with consumer and family advocacy groups in the development and presentation of the training.'.

4. On page 7, line 14, strike 'jail,' and strike the second comma.

5. On page 9, line 20, strike '2 and 4 to' and insert '3, 5, and'.".

3. Renumber the remaining amendment accordingly.

Mr. Coordsen asked unanimous consent to print the following amendment to LB 850 in the Journal. No objections. So ordered.

AM1272

1. On page 8, line 25, strike "Candace Hall" and insert "Barbara Noel".

2. On page 9. after line 6, insert:

"Sheryl Connolly 1,317.71";

in line 7 strike "156,123.31" and insert "157,441.02"; and in line 10 strike "$156,123.31" and insert "$157,441.02".

Mr. Wesely asked unanimous consent to print the following amendment to LB 503 in the Journal. No objections. So ordered.

AM1276

(Amendments to Standing Committee amendments, AM0764)

1. On page 4, line 8, after "prescribe" insert "and employ"; and in line 23 after "require"

insert "periodic".

2. On page 6, strike beginning with "performs" in line 2 through "services" in line 3 and insert "prescribes and employs the agents set forth in subsection (1) of this section"; and in line 6 after "examiners" insert "while undertaking such actions".

VISITORS

Visitors to the Chamber were 49 fourth and sixth grade students and teacher from Nelson.

MOTION - Adjournment

Mr. Moore moved to adjourn until 9:00 a.m., Wednesday, April 17, 1991.

Mr. Moore moved for a call of the house. The motion prevailed with 20 ayes, 0 nays, and 29 not voting.

Mr. Lamb requested a roll call vote on the Moore motion to adjourn.

Voting in the affirmative, 21:

Baack	Cudaback	Hefner	Moore	Schimek
Beutler	Dierks	Horgan	Morrissey	Schrock
Beyer	Elmer	Johnson, L.	Rasmussen	Wehrbein
Conway	Haberman	Kristensen	Robinson	Wickersham
Coordsen				

Voting in the negative, 15:

Abboud	Crosby	Landis	Peterson	Smith
Bernard-Stevens	Johnson, R.	Lindsay	Robak	Warner
Byars	Lamb	Nelson	Rogers	Withem

Present and not voting, 1:

Wesely

Absent and not voting, 2:

Chambers Schellpeper

Excused and not voting, 10:

Ashford	Hall	Hillman	Lynch	Schmit
Chizek	Hartnett	Labedz	Pirsch	Will

The Moore motion to adjourn prevailed with 21 ayes, 15 nays, 1 present and not voting, 2 absent and not voting, and 10 excused and not voting, and at 2:52 p.m., the Legislature adjourned until 9:00 a.m., Wednesday, April 17, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

SIXTY-SECOND DAY - APRIL 17, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

SIXTY-SECOND DAY

Legislative Chamber, Lincoln, Nebraska
Wednesday, April 17, 1991

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Moul presiding.

PRAYER

The prayer was offered by Pastor James Hardy, Florence Christian Church, Omaha, Nebraska.

ROLL CALL

The roll was called and all members were present except Mr. Haberman who was excused; and Messrs. Abboud, Chambers, Hall, Horgan, R. Johnson, Kristensen, Lamb, Lindsay, Morrissey, Rogers, Schmit, Wesely, Mmes. Hillman, Labedz, and Smith who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Sixty-First Day was approved.

UNANIMOUS CONSENT - Print in Journal

Mr. Wickersham asked unanimous consent to print the following amendment to LB 715 in the Journal. No objections. So ordered.

AM0911

1. Insert the following new section:

"Sec. 19. A court may use any available technology that would allow the parties to communicate

with each other to conduct a hearing or any proceeding required pursuant to sections 13 to 18 of this act.".

2. On page 4, line 16; page 7, line 16; page 11, lines 6 and 16; page 12, line 5; page 16, line 7; page 17, line 15; page 18, line 3; page 19, lines 9 and 23; page 20, line 9; page 21, line 6; page 24, line 15; and page 25, line 11, strike "18" and insert "19".

3. Renumber the remaining sections accordingly.

RESOLUTION

LEGISLATIVE RESOLUTION 70. Introduced by Robinson, 16.

WHEREAS, on April 18, 1921, both Houses of the United States Congress passed a resolution declaring John G. Neihardt Poet Laureate of Nebraska; and

WHEREAS, Congress recognized that John G. Neihardt inspired in Americans the idea that a love of the land and its heroes can serve to build and carry on great traditions; and

WHEREAS, John G. Neihardt is remembered by Nebraskans as a philosopher, an adventurer, a teacher, and an epic poet whose works continue to inspire all people; and

WHEREAS, the works and ideals of John G. Neihardt have been studied and preserved at the John G. Neihardt Center in Bancroft, Nebraska; and

WHEREAS, the Legislature should recognize and salute the seventieth anniversary of the adoption by the United States Congress of the Poet Laureate resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. The Legislature recognizes and salutes the seventieth anniversary of the United States Congress naming John G. Neihardt Poet Laureate of Nebraska.

2. That a copy of this resolution be sent to the John G. Neihardt Center in Bancroft, Nebraska.

Laid over.

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following resolution: LR 69.

GENERAL FILE

LEGISLATIVE BILL 852. Title read. Considered.

Standing Committee amendment, AM0983, found in the Journal on page 1448, was adopted with 25 ayes, 0 nays, 8 present and not voting, and 16 excused and not voting.

Mr. Withem renewed his pending amendment, AM1257, found in the Journal on page 1660.

Mr. Withem withdrew his pending amendment.

Advanced to E & R for review with 32 ayes, 0 nays, 7 present and not voting, and 10 excused and not voting.

LEGISLATIVE BILL 825. Title read. Considered.

Standing Committee amendment, AM0656, found in the Journal on page 1141, was adopted with 27 ayes, 0 nays, 15 present and not voting, and 7 excused and not voting.

Advanced to E & R for review with 30 ayes, 0 nays, 12 present and not voting, and 7 excused and not voting.

MOTION - Place LB 327 on General File

Mr. Chambers renewed his pending motion, found in the Journal on page 1637, to place LB 327 on General File, pursuant to Rule 3, Sec. 19 (b).

Mr. Chambers moved for a call of the house. The motion prevailed with 28 ayes, 0 nays, and 21 not voting.

The Chambers motion to place LB 327 on General File prevailed with 25 ayes, 20 nays, 2 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

Messrs. Lynch and Rogers asked unanimous consent to be excused until they return. No objections. So ordered.

GENERAL FILE

LEGISLATIVE BILL 714. Mr. Wesely withdrew his pending motion, found in the Journal on page 1670, to indefinitely postpone.

Mrs. Smith asked unanimous consent to be excused until she returns. No objections. So ordered.

Mr. Lamb offered the following amendment:
FA99
Strike Sec 7

SPEAKER BAACK PRESIDING

Mrs. Robak asked unanimous consent to be excused until she returns. No objections. So ordered.

Pending.

UNANIMOUS CONSENT - Add Co-Introducer

Mrs. Robak asked unanimous consent to have her name added as co-introducer to LB 396. No objections. So ordered.

STANDING COMMITTEE REPORT
Government, Military and Veterans Affairs

The Committee on Government, Military and Veterans Affairs desires to report favorably upon the appointment listed below. The Committee suggests the appointment be confirmed by the Legislature and suggests a record vote. This appointment will be effective May 1, 1991.

Jonathan F. Sweet - Director, Department of Veterans Affairs

VOTE: Aye: Senators Conway, Coordsen, Lindsay, Robak, Schimek, and Schrock. Absent: Senators Smith and Withem.

(Signed) Gerald Conway, Chairperson

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 830A. Introduced by Wesely, 26.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 830, Ninety-second Legislature, First Session, 1991.

VISITORS

Visitors to the Chamber were 37 fourth grade students and teachers from Meadows Elementary, Ralston; 60 first grade students and sponsors from Lincoln Air Park; nine students and teachers from Prescott Elementary, Lincoln; 140 students and sponsors from Stromsburg, Centennial, McCool Junction, York, and Benedict; 60 fourth grade students and sponsors from Ashland Park, Omaha; and Senator Rogers' wife, Alice, daughter, Roxanne Rogers Meyer, and Nancy Cormaci from Omaha.

RECESS

At 12:03 p.m., on a motion by Mr. Moore, the Legislature recessed until 1:30 p.m.

AFTER RECESS

The Legislature reconvened at 1:30 p.m., President Moul presiding.

ROLL CALL

The roll was called and all members were present except Mr. Haberman and Mrs. Rasmussen who were excused; and Messrs. Bernard-Stevens, Chambers, Dierks, Hall, Horgan, Landis, Moore, Robinson, Rogers, Schrock, Wesely, Will, Mmes. Robak, and Smith who were excused until they arrive.

MOTION - Return LB 409 to Select File

Mr. R. Johnson moved to return LB 409 to Select File for the following specific amendment:
AM1278

1. In the Withem amendment, AM1246:
   a. On page 1, strike beginning with "Insert" in line 1 through "Insert" in line 2 and insert "In the Schmit amendment, AM0838, strike section 23 and insert"; and in line 3 strike "22" and insert "23"; and

b. On page 4, strike lines 19 through 23.

2. In the R. Johnson amendment, AM1022:

a. Renumber sections 21 and 22 as sections 20 and 21;

b. On page 1, line 9, strike "22" and insert "21"; and

c. Strike amendment 3 and renumber the remaining amendments accordingly.

3. In the Schmit-Robak amendment, AM1168, strike section 16 and all amendments thereto and insert the following new section:

"Sec. 16. That section 66-1523, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

66-1523. (1) The department shall provide reimbursement from the fund in accordance with section 66-1525 to eligible responsible persons in an amount not to exceed nine hundred seventy-five thousand dollars per occurrence for the cost of remedial action ~~to eligible responsible persons~~ for releases reported after July 17, ~~1986~~ 1983, and for the cost of paying third-party claims.

(2)(a) Except as provided in subdivision (b) of this subsection, the ~~The~~ responsible person shall be responsible for ~~(1)~~ the first ten thousand dollars of the cost of the remedial action or third-party claim, ~~and (2)~~ twenty-five percent of the remaining cost of the remedial action or third-party claim not to exceed fifteen thousand dollars, and the amount of any reduction authorized under subsection (5) of section 66-1525.

(b) Upon the determination by the department that the responsible person sold no less than two thousand gallons of petroleum and no more than two hundred fifty thousand gallons of petroleum during the calendar year immediately preceding the first report of the release or stored less than ten thousand gallons of petroleum in the calendar year immediately preceding the first report of the release, the responsible person shall be responsible for the first five thousand dollars of the cost of the remedial action and third-party claim, twenty-five percent of the remaining cost of the remedial action or third-party claim not to exceed ten thousand dollars, and the amount of any reduction

authorized under subsection (5) of section 66-1525.

(3) The department may make partial reimbursement during the time that remedial action is being taken if the department is satisfied that the remedial action being taken is as required by the department.

(4) If the fund is insufficient for any reason to reimburse the amount set forth in this section, the maximum amount that the fund shall be required to reimburse is the amount in the fund. If reimbursements approved by the department exceed the amount in the fund, reimbursements shall be made in the order in which the applications for them were received by the department.

(5) For purposes of this section, occurrence shall mean an accident, including continuous or repeated exposure to conditions, which results in a release from a tank.".

4. In the Standing Committee amendments, AM0625:

a. Strike section 21 and all amendments thereto; and

b. On page 8, strike beginning with "on" in line 9 through "month" in line 10.

5. On page 3, line 5, strike "8 and 16" and all amendments thereto and insert "8, 18, and 19".

6. On page 10, line 21, after "for" insert "the costs of"; and in line 23 before the semicolon insert ", including reimbursement for damages caused by the department or a person acting at the department's direction while investigating or inspecting or during remedial action on property other than property on which a release or suspected release has occurred".

7. On page 19, after line 14, insert:

"Reimbursement for any damages caused by the department or a person acting at the department's direction while investigating or inspecting or during remedial action on property other than property on which a release or suspected release has occurred shall be considered as part of the cost of remedial action involving the site where the release or suspected release occurred. The costs shall be reimbursed from money available in the fund. If such reimbursement is deemed inadequate by the party claiming the damages, the

party's claim for damages caused by the department shall be filed as provided in section 76-705.".

8. Renumber the remaining sections accordingly.

The R. Johnson motion to return to Select File prevailed with 26 ayes, 0 nays, 15 present and not voting, and 8 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 409. The R. Johnson specific amendment, AM1278, found in this day's Journal, was adopted with 31 ayes, 0 nays, 10 present and not voting, and 8 excused and not voting.

Advanced to E & R for engrossment.

Mr. Will asked unanimous consent to be excused until he returns. No objections. So ordered.

MOTION - Return LB 409 to Select File

Mr. Schmit moved to return LB 409 to Select File for the following specific amendment:
AM1299

(Amendments to AM1278)

1. On page 2, strike line 24 and insert "shall be responsible for no more than five thousand dollars of the cost of the remedial action and third-party claim and shall be responsible for".

2. On page 3, strike beginning with "of" in line 1 through "and" in line 4.

SPEAKER BAACK PRESIDING

Mr. Schmit withdrew his motion to return.

UNANIMOUS CONSENT - Bracket LB 409 and LB 409A

Mr. Warner asked unanimous consent to bracket LB 409 and LB 409A on E & R Final. No objections. So ordered.

STANDING COMMITTEE REPORT
Education

The Committee on Education desires to report favorably upon the appointment listed below. The Committee suggests the appointment be confirmed by the Legislature and suggests a record vote.

Marshall Faith - School Restructuring Commission

VOTE: Aye: Senators Withem, Dierks, Warner, Schrock, Chizek, Lamb. Nay: none. Absent: Senators Nelson, Beutler.

(Signed) Ron Withem, Chairperson

UNANIMOUS CONSENT - Print in Journal

Mr. Baack asked unanimous consent to print the following amendment to LB 207 in the Journal. No objections. So ordered.

AM1289

(Amendments to AM5107)

1. On page 5, lines 20 and 21, strike "subsection (2) of".

2. On page 8, line 16, after the comma insert "or"; and strike beginning with the first comma in line 20 through line 24.

3. On page 9, lines 1 through 22, strike the new matter.

Mrs. Smith asked unanimous consent to print the following amendment to LB 57 in the Journal. No objections. So ordered.

AM0928

(Amendments to Final Reading copy)

1. On page 2, line 3, strike "forty-five" and insert "forty".

Mr. Dierks asked unanimous consent to print the following amendment to LB 91 in the Journal. No objections. So ordered.

AM1282

1. Strike original section 4 and insert the following new sections:

"Sec. 3. That section 79-3511, Revised Statutes Supplement, 1990, be amended to read as follows:

79-3511. The Help Education Lead to

Prosperity Act shall terminate on June 30, ~~1991~~ 1993, unless reenacted or reestablished by the Legislature.

Sec. 6. That original sections 79-3501, 79-3505, and 79-3511, Revised Statutes Supplement, 1990, are repealed.".

2. On page 2, line 5, strike "section 3" and insert "sections 4 and 5".

3. In the Standing Committee amendments, AM0945, strike amendment 2 and renumber the remaining amendments accordingly.

4. Renumber the remaining sections accordingly.

MESSAGE FROM THE GOVERNOR

April 17, 1991

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 240e, 254, 254A, 648, and 789 were received in my office on April 15, 1991.

These bills were signed by me on April 17, 1991, and delivered to the Secretary of State.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

ATTORNEY GENERAL'S OPINION

Opinion No. 91029

DATE: April 16, 1991

SUBJECT: Constitutionality of LB 585, a Proposal to Add Requirements for Conducting the Initiative Process

REQUESTED BY: Senator Loran Schmit,

Nebraska State Legislature

WRITTEN BY: Don Stenberg, Attorney General
Dale A. Comer, Assistant Attorney General

LB 585 is a bill which would add requirements to the procedures involving the initiative process in Nebraska. Specifically, Section 1 of the bill would require the sponsor of record of an initiative which has been placed on the general election ballot to hold one hearing in each congressional district in the state prior to the general election. The sponsor would present the initiative at those hearings and receive public comments in support of or in opposition to the measure. Those hearings would be transcribed at the State's expense. Section 2 of LB 585 would require the sponsor of record of an initiative to submit the initiative petition to the Attorney General for review prior to filing it with the Secretary of State. The Attorney General would review the petition for possible ambiguity, confusing or misleading language, for conflicts with other laws, and other technical irregularities. The Attorney General would then issue a written opinion detailing his or her findings, and the Attorney General could make recommendations for change. The sponsors of record could amend the petition in conformance with the Attorney General's suggestions, although such an amendment would not be required.

You are concerned with the constitutionality of LB 585, and you have posed several questions for our review. We believe that the bulk of the bill is constitutional, and our analysis of your questions is set out below.

You first ask whether, under LB 585, the Legislature is trying to take over the initiative process "in violation of U.S. Supreme Court decisions on the subject." Although you have cited no specific cases to us, we assume that you refer to Meyer v. Grant, 486 U.S. 414 (1988).[1] That case dealt with the constitutionality of forbidding paid circulators for initiative measures. We do not believe that either the mandated hearing or the submission to the Attorney General envisioned by LB 585 is impermissible under Meyer.

In the Meyer case, the Supreme Court considered the constitutionality of a Colorado statute which contained an absolute ban on the compensation of petition circulators. The Court indicated that circulation of a petition involves core political speech which is protected by the First Amendment. The Court went on to state that the refusal to permit the sponsors of the petition to pay petition circulators impinged on political expression in two ways:

> First, it limits the number of voices who will convey appellees' message and the hours they can speak and, therefore, limits the

size of the audience they can reach. Second, it makes it less likely that appellees will garner the number of signatures necessary to place the matter on the ballot, thus limiting their ability to make the matter the focus of statewide discussion.

Meyer v. Grant, 486 U.S. at 422, 423. The Court held the Colorado statute unconstitutional.

In our view, neither the mandated hearing under LB 585 nor the review of initiative petitions by the Attorney General impinges upon free political expression. The hearing procedures under the bill would actually appear to increase the size of the audience that petition circulators could reach. The review by the Attorney General does not impact in any way on the contacts between petition circulators or sponsors and members of the public. Therefore, we believe that those aspects of the bill would be acceptable under Meyer.

We assume that your next question involves the propriety of the proposed regulation of the initiative process by LB 585 under our state Constitution. In other words, does the bill impermissibly burden the initiative process or impermissibly involve the Legislature in that process under pertinent state constitutional provisions. We believe that the main operative portions of LB 585 are constitutional.

Article III, Section 4, of the Nebraska Constitution provides, in pertinent part, "{t}he provisions with respect to the initiative and referendum shall be self-executing, but legislation may be enacted to facilitate their operation." This constitutional provision means that the Legislature can enact reasonable statutes to prevent fraud or to render intelligible the purpose of a proposed law or constitutional amendment. State v. Swanson, 138 Neb. 597, 294 N.W. 200 (1940). Any statute which tends to ensure a fair, intelligent, and impartial result on the part of the electorate can be said to facilitate the exercise of the initiative power. Id. Legislation which would hamper, unnecessarily obstruct, or impede the initiative process, on the other hand, would be unconstitutional. State ex rel. Ayres v. Amsberry, 104 Neb. 273, 177 N.W. 179 (1920).

It appears to us that the mandated hearings and petition review by the Attorney General under LB 585 would help disseminate information on initiative petitions. Those procedures would further help to make the purpose of the proposed initiative more understandable. On this basis, we believe that the mandated hearings and petition review would help render intelligible the purpose of the proposed law or constitutional amendment. As a result, they would facilitate the initiative process, and they would be constitutional under Article III, Section 4, of the Nebraska Constitution.

We should note that Section 1, subsection (2) of LB 585 appears to require that petition sponsors must publish notice of the initiative

hearings at their own expense. To the extent that requiring this expenditure might impede the initiative process, this provision could be unconstitutional.[2] This problem could be alleviated if the State were to pay publication costs in the same manner as transcription costs under LB 585.

Your final question involves a separation of powers problem. You are concerned that the language in subsection (3) of Section 1 of LB 585 stating that courts "shall" declare an initiative invalid if it does not meet the requirements of LB 585 would constitute an invasion of the powers of the judicial branch of government.

There is a presumption that the Legislature does not intend to do unconstitutional acts or to pass a law in an unconstitutional manner, and, where to construe a statute as mandatory would make it unconstitutional, such a construction will not be placed on the statute. Reed v. Wellman, 110 Neb. 166, 193 N.W. 261 (1923). Under such circumstances, "shall" will be construed as permissive rather than mandatory to avoid an unconstitutional result. Id.

In the present instance, we believe that courts would construe the apparent mandatory language of subsection (3) of Section 1 of LB 585 as permissive to the extent that it might otherwise be an unconstitutional violation of the separation of powers doctrine.[3] Consequently, this language would not create a constitutional problem for LB 585 under Article II, Section 1, of the Nebraska Constitution. On the other hand, we should note that we do have some concern regarding the constitutional validity of those portions of LB 585 which would allow a court to invalidate a petition after it was enacted by the people purely on the basis of a failure to comply with certain technical procedural requirements established by the Legislature.

[1] The reasoning and holding in Meyer were also adopted by the Nebraska Supreme Court in State v. Radcliffe, 228 Neb. 868, 424 N.W.2d 608 (1988).

[2] It also might present a problem under the Meyer case with respect to First Amendment concerns.

[3] This same rule would apply to apparent mandatory language directed at discretionary functions of executive agencies.

Sincerely,
DON STENBERG
Attorney General
(Signed) Dale A. Comer

Assistant Attorney General

05-05-14.91
cc: Patrick J. O'Donnell
Clerk of the Legislature

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the attached report on Governor appointments.

Education
Kathi J. Swanson - Board of Trustees of Nebraska State Colleges

Natural Resources
Charles E. Wright - Game and Parks Commission

Health and Human Services
Dennis Carlson - Nebraska Foster Care Review Board

Banking, Commerce and Insurance
Gerald L. Schleich - Nebraska Research and Development Authority

(Signed) Jerome Warner, Chairperson
Legislative Council
Executive Board

GENERAL FILE

LEGISLATIVE BILL 714. Mr. Lamb withdrew his pending amendment, FA99, found in this day's Journal.

Mr. Wehrbein moved to indefinitely postpone LB 714.

Mr. Landis and Mrs. Hillman asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Lamb moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

Mr. Wehrbein moved for a call of the house. The motion prevailed with 20 ayes, 0 nays, and 29 not voting.

Mr. Wehrbein requested a roll call vote on his motion to indefinitely postpone.

Voting in the affirmative, 15:

Baack	Byars	Hefner	Peterson	Warner
Bernard-Stevens	Coordsen	Johnson, L.	Schellpeper	Wehrbein
Beyer	Elmer	Lamb	Schmit	Wickersham

Voting in the negative, 21:

Abboud	Hartnett	Landis	Nelson	Smith
Beutler	Johnson, R.	Lindsay	Robinson	Wesely
Chizek	Kristensen	Moore	Schimek	Will
Conway	Labedz	Morrissey	Schrock	Withem
Crosby				

Present and not voting, 3:

Cudaback	Dierks	Pirsch

Absent and not voting, 2:

Chambers	Lynch

Excused and not voting, 8:

Ashford	Hall	Horgan	Robak	Rogers
Haberman	Hillman	Rasmussen		

The Wehrbein motion to indefinitely postpone lost with 15 ayes, 21 nays, 3 present and not voting, 2 absent and not voting, and 8 excused and not voting.

The Chair declared the call raised.

Mr. Lamb offered the following amendment:
FA100
Strike Sec 7

Mrs. Labedz, Messrs. Lynch, and Wickersham asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Lamb moved for a call of the house. The motion prevailed with 14 ayes, 0 nays, and 35 not voting.

The Lamb amendment was adopted with 25 ayes, 4 nays, 10 present and not voting, and 10 excused and not voting.

The Chair declared the call raised.

Mr. Coordsen offered the following amendment:
FA101

On page 2, strike beginning with "the" on line 3 through "develop" on line 5.

On page 2, line 11: strike "abandoned railroad rights-of-way" and insert "recreational trails".

Mr. Wesely moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 1 nay, and 23 not voting.

Mr. Coordsen moved for a call of the house. The motion prevailed with 13 ayes, 0 nays, and 36 not voting.

Mr. Coordsen requested a roll call vote on his amendment.

Voting in the affirmative, 21:

Baack	Coordsen	Hillman	Lamb	Schrock
Bernard-Stevens	Cudaback	Johnson, L.	Peterson	Smith
Beyer	Dierks	Kristensen	Schellpeper	Wehrbein
Byars	Elmer	Labedz	Schmit	Withem
	Hefner			

Voting in the negative, 19:

Abboud	Chizek	Johnson, R.	Morrissey	Warner
Ashford	Conway	Landis	Nelson	Wesely
Beutler	Crosby	Lindsay	Pirsch	Will
Chambers	Hartnett	Moore	Schimek	

Present and not voting, 2:

Hall	Robinson

Excused and not voting, 7:

Haberman	Lynch	Robak	Rogers	Wickersham
Horgan	Rasmussen			

The Coordsen amendment lost with 21 ayes, 19 nays, 2 present and not voting, and 7 excused and not voting.

The Chair declared the call raised.

Messrs. Kristensen and Hefner asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Wesely moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 1 nay, and 23 not voting.

Advanced to E & R for review with 25 ayes, 14 nays, 2 present and not voting, and 8 excused and not voting.

Mrs. Hillman and Mr. R. Johnson asked unanimous consent to be excused. No objections. So ordered.

LEGISLATIVE BILL 714A. Title read. Considered.

Mr. Lamb offered the following amendment:
FA102
Strike Section 1.

Mr. Lamb moved for a call of the house. The motion prevailed with 18 ayes, 0 nays, and 31 not voting.

Mr. Lamb requested a roll call vote on his amendment.

Voting in the affirmative, 18:

Baack	Byars	Elmer	Peterson	Warner
Bernard-Stevens	Coordsen	Hefner	Schellpeper	Wehrbein
Beyer	Cudaback	Johnson, L.	Schmit	Will
	Dierks	Lamb	Smith	

Voting in the negative, 15:

Abboud	Beutler	Chizek	Hall	Labedz
Ashford	Chambers	Conway	Hartnett	Landis

Lindsay	Morrissey	Pirsch	Schimek	Wesely

Present and not voting, 7:

Crosby	Moore	Robinson	Schrock	Withem
Lynch	Nelson			

Excused and not voting, 9:

Haberman	Horgan	Kristensen	Robak	Wickersham
Hillman	Johnson, R.	Rasmussen	Rogers	

The Lamb amendment lost with 18 ayes, 15 nays, 7 present and not voting, and 9 excused and not voting.

Pending.

UNANIMOUS CONSENT - Print in Journal

Mr. Baack asked unanimous consent to print the following amendment to LB 719 in the Journal. No objections. So ordered.

AM1306
(Amendments to Standing Committee amendments, AM0873)

1. Strike section 25 and insert the following new sections:

"Sec. 24. That section 79-3415, Revised Statutes Supplement, 1990, be amended to read as follows:

79-3415. ~~Except as provided in section 79-3403,~~ (1) For school years 1990-91 and 1991-92, the State Department of Education shall pay the option school district the statewide average per pupil cost for the preceding year, as determined by the department, or the option school district's per pupil cost for the preceding year as reported in the district's approved annual ~~finance~~ financial report, whichever is less, in two approximately equal payments on or before January 30 and on or before June 30, for expenses incurred during the current school year for each option student, including option students who are handicapped. (2) For school years 1992-93 and thereafter, the provisions of the Tax Equity and Educational Opportunities Support Act shall apply to the enrollment option program as provided

in this subsection. For purposes of the ~~School Foundation and Equalization Act and any successor state aid program~~ Tax Equity and Educational Opportunities Support Act, ~~(1)~~ (a) option students shall not be counted as formula students by the resident school district and shall be counted by the option school district~~, (2) the option school district's computation of insured financial support rate pursuant to section 79-1336 or similar computation pursuant to any successor state aid program for any option student shall be equal to the revenue received from the state pursuant to this section,~~ and ~~(3)~~ (b) the option school district shall include the funds received pursuant to this section in the calculation of other actual receipts as required by ~~subdivisions (1) through (9) of~~ section ~~79-1338 or similar calculation pursuant to any successor state aid program~~ 79-3811.

If an option student relocates in a different school district during the school year, the department shall prorate the amount remitted to the option school district pursuant to this section according to the proportionate amount of time the student was enrolled in the option school district.

If sufficient funds are not appropriated to fully fund the provisions of this section, the department shall make a proportionate reduction in each payment made pursuant to this section.

Sec. 26. That section 79-3806, Revised Statutes Supplement, 1990, be amended to read as follows:

79-3806. (1) Except as provided in subsections (2) through (6) ~~and (3)~~ of this section, each district shall receive ~~state~~ equalization aid in the amount that the total formula need of each such district, as determined pursuant to subsection (4) of this section and sections 79-3805 and 79-3807, exceeds its total formula resources as determined pursuant to subsection (4) of this section and sections 79-3808 to 79-3811. ~~The department shall annually compute state aid entitlements and notify all districts of such state aid entitlements within fifteen working days following the adjournment sine die of the regular session of the Legislature.~~

(2) A district shall not receive state aid for

each of the school years 1990-91, 1991-92, and 1992-93 which is less than one hundred percent of the amount of aid received pursuant to the School Foundation and Equalization Act for school year 1989-90, except that this subsection shall not apply to the nonresident high school tuition fund of each county for calculation of state aid to be paid in school year 1991-92 and each school year thereafter.

(3) No district shall receive ~~state~~ equalization aid in an amount ~~which~~ such that total state aid received would result in such district having a general fund tax levy of less than sixty percent of the local effort rate as computed pursuant to section 79-3808. The calculation shall be based on valuation, state aid, and levy data from the current school year and, for the calculation of state aid in school year 1991-92 and each school year thereafter, shall also take into consideration the amounts of nonresident high school tuition certified by the department pursuant to section 79-4,102 for the current school year and for the school year in which such state aid is to be paid.

(4) For school districts in affiliated school systems as defined in section 79-101.01, equalization aid shall be computed as follows:

(a) For affiliated Class I districts, the total formula need and total formula resources shall be allocated to each affiliated school system based upon the proportion of such Class I district's adjusted valuation contained in each system with which it is affiliated;

(b) For the high school district and each Class I district or portion thereof allocated pursuant to subdivision (a) of this subsection, the total formula resources shall be subtracted from the total formula need, except that the difference shall never be less than zero;

(c) Each district's total formula need, total formula resources, and difference calculated pursuant to subdivision (b) of this subsection shall be added to arrive at system formula need, system formula resources, and system total difference;

(d) System equalization aid shall equal the amount by which the system formula need exceeds system formula resources; and

(e) Each district's share of the system equalization aid shall be calculated by dividing the district's difference calculated pursuant to subdivision (b) of this subsection by the system total difference and multiplying the result by the system equalization aid.

(5) Beginning with school year 1994-95, a district which does not generate equalization aid pursuant to subsection (1) of this section and in which were actually enrolled in the most recently available complete data year option students as defined in section 79-3402 shall receive additional state aid for each such student in an amount equal to the statewide weighted average state aid per student. Such weighted average state aid per student shall be calculated by dividing the total state aid funds appropriated to the School District Income Tax Fund and the Tax Equity and Educational Opportunities Fund by the statewide total formula students, with each grade group adjusted to reflect the weights specified in subsection (2) of section 79-3805.

(6) For school years 1992-93 and 1993-94, a district which does not generate equalization aid pursuant to subsection (1) of this section and in which were actually enrolled in the most recently available complete data year option students as defined in section 79-3402 shall receive additional state aid as follows: The number of such option students, by grade group, shall be multiplied by the district's tiered cost per student for each grade group and the results summed for all grade groups in the district. The district shall receive additional state aid equal to the amount by which this calculation exceeds the district's actual receipts pursuant to section 79-3415 in the most recently available complete data year.".

2. On page 54, line 24, after "79-4,224," insert "79-3415,".

3. Renumber the remaining sections accordingly.

Messrs. Wesely and Moore asked unanimous consent to print the following amendment to LB 503 in the Journal. No objections. So ordered.

AM1324

(Amendments to Standing Committee amendments, AM0764)

1. Strike amendment 1 and all amendments thereto and insert the following new amendments:

"1. Insert the following new sections:

'Section 1. That section 71-101, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-101. Sections 71-101 to 71-1,107.30, 71-1,133 to 71-1,294, 71-1325 to 71-1354, and 71-2801 to 71-2822 and section 4 of this act shall be known and may be cited as the Uniform Licensing Law.

For purposes of the Uniform Licensing Law, unless the context otherwise requires:

(1) Board of examiners or board shall mean one of the boards appointed by the State Board of Health;

(2) Licensed, when applied to any licensee in any of the professions named in section 71-102, shall mean a person licensed under the Uniform Licensing Law;

(3) Profession or health profession shall mean and refer to any of the several groups named in section 71-102;

(4) Department shall mean the Department of Health;

(5) Whenever the masculine gender is used, it shall be construed to include the feminine, and the singular number shall include the plural when consistent with the intent of the Uniform Licensing Law;

(6) License, licensing, or licensure shall mean permission to engage in a health profession which would otherwise be unlawful in this state in the absence of such permission and which is granted to individuals who meet prerequisite qualifications and allows them to perform prescribed health professional tasks and use a particular title;

(7) Certificate, certify, or certification, with respect to professions, shall mean a voluntary process by which a statutory, regulatory entity grants recognition to an individual who has met certain prerequisite qualifications specified by such regulatory entity and who may assume or use certified in the title or designation to perform prescribed health professional tasks. When appropriate, certificate shall also mean a document issued by the department which designates

particular credentials for an individual; and

(8) Lapse shall mean the termination of the right or privilege to represent oneself as a licensed or certified person and to practice the profession when a license is required to do so.

Sec. 4. (1) If an optometrist is licensed in this state and is under the supervision of an ophthalmologist residing in this state and licensed to practice medicine in this state and such supervision is approved by the board of examiners, the optometrist may, after the effective date of this act, prescribe and employ (a) oral ocular pharmaceutical agents except that supervision shall not be required for analgesics and anti-infective pharmaceutical agents and (b) topical ocular pharmaceutical agents for the treatment of glaucoma.

(2) For purposes of this section, board of examiners shall mean the Board of Examiners in Optometry and supervision shall mean the ready availability of the supervising ophthalmologist for consultation and direction of the activities of the optometrist. Contact with the supervising ophthalmologist by telecommunication shall be sufficient to show ready availability if the board of examiners finds that such contact is sufficient to provide quality medical care.

(3) Approval by the board of examiners shall be on an individual basis. Any such approval shall require periodic site visits by the supervising ophthalmologist, regular reporting to the supervising ophthalmologist by the optometrist, and arrangements for supervision at all times by the supervising ophthalmologist which are sufficient to provide quality medical care.

(4) The board of examiners shall formulate guidelines for the consideration and approval of applications by an ophthalmologist or optometrist for the ophthalmologist to supervise an optometrist. Any application made by an ophthalmologist or optometrist shall include all of the following:

(a) The qualifications, including related experience, of the optometrist;

(b) The professional background of the ophthalmologist; and

(c) A description by the ophthalmologist and

optometrist of their practice and the way in which the optometrist shall be used.

(5) The board of examiners, with the concurrence of the department, shall approve an application of an ophthalmologist to supervise an optometrist when the board of examiners is satisfied that the optometrist is fully qualified to prescribe the agents set forth in subsection (1) of this section under the responsible supervision of an ophthalmologist and that the public will be adequately protected by the arrangement proposed in the application.

(6) The board of examiners shall adopt and promulgate rules and regulations to carry out this section.

Sec. 8. The Revisor of Statutes shall assign section 4 of this act within sections 71-1,133 to 71-1,136.09.

Sec. 9. If any section in this act or any part of any section shall be declared invalid or unconstitutional, such declaration shall not affect the validity or constitutionality of the remaining portions thereof.'.

2. On page 2, strike beginning with the comma in line 16 through 'ophthalmologist' in line 20.

3. On page 9, line 21, strike 'anesthetics' and insert 'analgesics' and strike 'antieffective' and insert 'anti-infective'.

4. On page 11, lines 14 and 15, reinstate the stricken matter and strike the new matter.

5. On page 12, line 9, after 'sections' insert '71-101,'.

6. Renumber the remaining sections accordingly.".

VISITORS

Visitors to the Chamber were 75 fourth grade students and sponsor from Pawnee Elementary, Omaha; 35 kindergarten through sixth grade students and teachers from Dodge County District 88, Fremont; Senator Schrock's wife, Judith, and parents, Sam and Eileen Schrock; and Senator Kristensen's sister-in-law and niece, Deb and Katerina Kristensen.

The Doctor of the Day was Dr. Richard Hanisch from St. Paul.

MOTION - Adjournment

Mr. Beutler moved to adjourn until 9:00 a.m., Thursday, April 18, 1991. The motion prevailed with 23 ayes, 13 nays, 4 present and not voting, and 9 excused and not voting, and at 4:54 p.m., the Legislature adjourned until 9:00 a.m., Thursday, April 18, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

SIXTY-THIRD DAY - APRIL 18, 1991

LEGISLATIVE JOURNAL

SIXTY-THIRD DAY - APRIL 18, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

SIXTY-THIRD DAY

Legislative Chamber, Lincoln, Nebraska
Thursday, April 18, 1991

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Moul presiding.

PRAYER

The prayer was offered by Pastor Bill Allender, Countryside Community Church, Omaha, Nebraska.

ROLL CALL

The roll was called and all members were present except Messrs. Conway and Haberman who were excused; and Messrs. Abboud, Ashford, Chambers, Hall, Hartnett, Hefner, R. Johnson, Landis, Lindsay, Moore, Morrissey, Schmit, Wehrbein, Wesely, Mmes. Labedz, and Pirsch who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Sixty-Second Day was approved.

REPORT OF REGISTERED LOBBYISTS

In accordance with LB 987, passed in the 1976 session of the Legislature and amended by LB 4 and LB 41 in the 1977 session of the Legislature, the attached is a list of all Lobbyists who have registered as of April 18, 1991. Further lists listing additional lobbyists who have registered will be filed weekly.

(Signed) Patrick J. O'Donnell

Clerk of the Legislature

Baird, Holm Law Offices
Bredthauer, Trudy Saunders - Omaha Ruth Jeanerett

RESOLUTION

LEGISLATIVE RESOLUTION 70. Read. Considered.

LR 70 was adopted with 27 ayes, 0 nays, and 22 not voting.

UNANIMOUS CONSENT - Member Excused

Mr. Chizek asked unanimous consent to be excused until he returns. No objections. So ordered.

GENERAL FILE

LEGISLATIVE BILL 549. Title read. Considered.

Standing Committee amendment, AM0599, found in the Journal on page 1358, was adopted with 25 ayes, 0 nays, 8 present and not voting, and 16 excused and not voting.

Mrs. Nelson offered the following amendment:
FA103
Amend LB 549 by adding the following new section:
Since an emergency exists, this act shall be in full force and take effect from and after its passage and approval, according to law.

The Nelson amendment was adopted with 25 ayes, 0 nays, 11 present and not voting, and 13 excused and not voting.

Advanced to E & R for review with 25 ayes, 0 nays, 12 present and not voting, and 12 excused and not voting.

LEGISLATIVE BILL 337. Title read. Considered.

Standing Committee amendment, AM0258, found in the Journal on page 670, was adopted with 25 ayes, 0 nays, 12 present and not voting, and 12 excused and not voting.

Mr. Dierks asked unanimous consent to be excused until he returns. No objections. So ordered.

Advanced to E & R for review with 26 ayes, 0 nays, 10 present and not voting, and 13 excused and not voting.

Mr. Baack asked unanimous consent to be excused until he returns. No objections. So ordered.

LEGISLATIVE BILL 456. Title read. Considered.

Standing Committee amendment, AM0514, found in the Journal on page 950, was adopted with 26 ayes, 0 nays, 10 present and not voting, and 13 excused and not voting.

Mr. Wesely offered the following amendment:
(Amendment on file in the Clerk's Office - Room 2018 - AM1296.)

The Wesely amendment was adopted with 25 ayes, 2 nays, 11 present and not voting, and 11 excused and not voting.

Advanced to E & R for review with 26 ayes, 0 nays, 15 present and not voting, and 8 excused and not voting.

LEGISLATIVE BILL 456A. Title read. Considered.

Advanced to E & R for review with 25 ayes, 0 nays, 17 present and not voting, and 7 excused and not voting.

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 849A. Introduced by Will, 8.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 849, Ninety-second Legislature, First Session, 1991.

UNANIMOUS CONSENT - Print in Journal

Messrs. Schrock and Schellpeper asked unanimous consent to print the following amendment to LB 719 in the Journal. No objections. So ordered.

AM1259

(Amendments to Standing Committee amendments, AM0873)

1. Insert the following new sections:

"Section 1. That section 10-716.01, Revised Statutes Supplement, 1990, be amended to read as follows:

10-716.01. Following the affiliation of two or more school districts, bonds may be issued pursuant to sections 10-701 to 10-716 for purposes of capital additions to or improvements or replacement of high school, middle school, or junior high school facilities which will be used by Class I district students residing in an affiliating district ~~facilities~~ upon the approval of a majority of all the legal voters of the high school district and affiliated Class I district or districts or portions thereof voting on the issue as a combined voting unit. The bond levy necessary to redeem the bonds issued pursuant to this section shall be prorated to reflect projected student utilization of planned facilities based on criteria established by the State Department of Education if the facility will be used by elementary as well as high school students. The pro rata share of the costs of the facility to be assigned to the high school program shall be included in the statement required to be filed pursuant to section 10-707.

Sec. 7. That section 79-402.11, Revised Statutes Supplement, 1990, be amended to read as follows:

79-402.11. (1) Bonded indebtedness incurred prior to any change in school district boundary lines pursuant to sections 79-402 and 79-402.03 to 79-402.10 shall remain the obligation of the school district voting such bonds unless otherwise specified in the petitions. When a district is dissolved by petitions and the area is attached to two or more districts, the petitions shall specify the disposition of assets and unbonded obligations of the original district.

(2) Bonded indebtedness incurred for high school, middle school, or junior high school facilities which will be used by Class I district students residing in an affiliating district ~~facilities~~ prior to the establishment of an affiliation shall remain the

obligation of the high school district unless otherwise specified in the petitions.

Sec. 15. That section 79-426.17, Revised Statutes Supplement, 1990, be amended to read as follows:

79-426.17. Whenever two or more school districts are involved in a reorganization plan, the old districts shall continue to be responsible for any indebtedness incurred before the reorganization takes place unless a different arrangement is included in the plan voted upon by the people. Bonded indebtedness incurred for high school, middle school, or junior high school facilities which will be used by Class I district students residing in an affiliating district ~~facilities~~ prior to the adoption of any affiliation plan shall remain the obligation of the high school district unless otherwise specified in the petitions.".

2. On page 54, line 13, strike "18 and 19" and insert "21 and 22"; in line 20 after "sections" insert "10-716.01,"; in line 21 after the fourth comma insert "79-402.11,"; and in line 22 after the third comma insert "79-426.17,".

3. Renumber the remaining sections accordingly.

Mr. Beutler asked unanimous consent to print the following amendment to LB 698 in the Journal. No objections. So ordered.

AM1092

1. Insert the following new section:

"Sec. 56. That section 79-3805, Revised Statutes Supplement, 1990, be amended to read as follows:

79-3805. (1) Using data from the annual financial reports and the annual statistical summary reports for the most recently available complete data year, the department shall calculate the tiered cost per student for grades kindergarten, one through six, including full-day kindergarten, seven and eight, and nine through twelve for each district as described in subsections (2) through (8) of this section.

(2) Each district's general fund operating expenditures for grades kindergarten, one through six, including full-day kindergarten, seven and eight, and

nine through twelve shall be computed as follows: (a) The weighted average daily membership for kindergarten shall equal the average daily membership for kindergarten multiplied by five-tenths; (b) the weighted average daily membership for grades one through six, including full-day kindergarten, shall equal the average daily membership for such grades multiplied by one; (c) the weighted average daily membership for grades seven and eight shall equal the average daily membership for such grades multiplied by one and two-tenths; (d) the weighted average daily membership for grades nine through twelve shall equal the average daily membership for such grades multiplied by one and four-tenths; and (e) the total weighted average daily membership shall equal the sum of grades kindergarten, one through six, including full-day kindergarten, seven and eight, and nine through twelve weighted average daily membership values. Each district's general fund operating expenditures for each grade group shall be calculated by dividing that grade group's weighted average daily membership by the total weighted average daily membership in the district and multiplying the result by the district's total general fund operating expenditures.

(3) Each district with general fund operating expenditures in grades one through six, including full-day kindergarten, shall be placed into a tier based on the following schedule.

Tier	Tier midpoint	Average daily membership range	
1	50.50	.01 -	101.00
2	143.00	101.01 -	185.00
3	280.00	185.01 -	375.00
4	687.50	375.01 -	1,000.00
5	1,450.00	1,000.01 -	1,900.00
~~6~~	~~8,450.00~~	~~1,900.01 -~~	~~15,000.00~~
~~7 Median average daily membership of tier~~		~~15,000.01 and over~~	
6	7,700.00	1,900.01 -	13,500.00
7 Median average daily membership of tier		13,500.01	and over

The average general fund operating expenditures per student for grades one through six, including full-day kindergarten, shall be calculated for

each tier by adding the total general fund operating expenditures for such grades for all districts in the tier and dividing by the total average daily membership for such grades for all districts in the tier.

(4) Each district with general fund operating expenditures in grades nine through twelve shall be placed in a tier based on the following schedule.

Tier	Tier midpoint	Average daily membership range	
1	25.00	.01 -	50.00
2	62.50	50.01 -	75.00
3	87.50	75.01 -	100.00
4	125.00	100.01 -	150.00
5	200.00	150.01 -	250.00
6	375.00	250.01 -	500.00
7	750.00	500.01 -	1,000.00
~~8~~	~~5,500.00~~	~~1,000.01 -~~	~~10,000.00~~
~~9 Median average daily membership of tier~~		~~10,000.01 and over~~	
8	4,750.00	1,000.01 -	8,500.00
9 Median average daily membership of tier		8,500.01	and over

The average general fund operating expenditures per student for grades nine through twelve shall be calculated for each tier by adding the total general fund operating expenditures for such grades for all districts in the tier and dividing such sum by the total average daily membership for such grades for all districts in the tier.

(5) Tiered cost per student values shall be computed for grades one through six, including full-day kindergarten, for each district as follows:

(a) For districts with average daily memberships for grades one through six, including full-day kindergarten, which are less than the midpoint of tier 1 for such grades, the tiered cost per student shall equal the average general fund operating expenditures per student for tier 1;

(b) For districts with average daily memberships for grades one through six, including full-day kindergarten, which are greater than the midpoint of tier 7 for such grades, the tiered cost per student for such grades shall equal the average general fund operating expenditures per student for tier 7; and

(c) For districts with average daily memberships for grades one through six, including full-day kindergarten, which fall on or between the midpoints of any two tiers, the tiered cost per student for such grades shall be calculated by means of a linear transition between the average general fund operating expenditures per student of the two tiers between whose midpoints the districts' average daily memberships for such grades fall.

(6) Tiered cost per student values shall be computed for grades nine through twelve for each district as follows:

(a) For districts with average daily memberships for grades nine through twelve which are less than the midpoint of tier 1 for such grades, the tiered cost per student shall equal the average general fund operating expenditures per student for tier 1;

(b) For districts with average daily memberships for grades nine through twelve which are greater than the midpoint of tier 9 for such grades, the tiered cost per student for such grades shall equal the average general fund operating expenditures per student for tier 9; and

(c) For districts with average daily memberships for grades nine through twelve which fall on or between the midpoints of any two tiers, the tiered cost per student for such grades shall be calculated by means of a linear transition between the average general fund operating expenditures per student of the two tiers between whose midpoints the districts' average daily memberships for such grades fall.

(7) The tiered cost per student for kindergarten shall be calculated by multiplying each district's tiered cost per student for grades one through six, including full-day kindergarten, by five-tenths.

(8) The tiered cost per student for grades seven and eight shall be calculated as follows: For Class II, Class III, Class IV, and Class V districts, the tiered cost per student shall be the calculated mean of the district's tiered cost per student for grades one through six, including full-day kindergarten, and for grades nine through twelve; for Class I districts, the tiered cost per student shall be the district's tiered

cost per student for grades one through six, including full-day kindergarten, multiplied by one and two-tenths; and for Class VI districts providing instruction in grades seven and eight as authorized by section 79-1109, the tiered cost per student shall be the district's tiered cost per student for grades nine through twelve multiplied by one and two-tenths and the result divided by one and four-tenths.

(9) The tiered cost per student for nonresident high school tuition funds shall be the average general fund operating expenditures per student for grades nine through twelve for all districts included in subsection (4) of this section.

(10) In districts where more than seventy-five percent of the students enrolled reside on Indian land, as defined under regulations of the United States Department of Education in effect on July 10, 1990, promulgated pursuant to Public Law 81-874, the tiered cost per student for each grade level, as calculated pursuant to subsections (5) through (8) of this section, shall be increased by a factor of twenty-five percent.".

2. On page 112, line 8, after "79-3804," insert "79-3805,".

3. Renumber the remaining sections accordingly.

GENERAL FILE

LEGISLATIVE BILL 503. Standing Committee amendment, AM0764, found in the Journal on page 1300 and considered on page 1670, was renewed.

Mr. Moore withdrew his pending amendment, AM1250, found in the Journal on page 1653.

Mr. Wesely withdrew his pending amendment, AM1276, found in the Journal on page 1676.

Messrs. Wesely and Moore renewed their pending amendment, AM1324, found in the Journal on page 1699, to the Standing Committee amendment.

Mr. Lindsay asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Schellpeper moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 1 nay, and 23 not voting.

Mr. Moore moved for a call of the house. The motion prevailed with 28 ayes, 0 nays, and 21 not voting.

Mr. Moore requested a roll call vote on the Wesely-Moore amendment.

Voting in the affirmative, 17:

Beyer	Hillman	Moore	Schrock	Wehrbein
Dierks	Johnson, R.	Morrissey	Smith	Wesely
Elmer	Labedz	Rogers	Warner	Wickersham
Hefner	Lamb			

Voting in the negative, 21:

Abboud	Byars	Johnson, L.	Lynch	Robak
Baack	Coordsen	Kristensen	Nelson	Schellpeper
Bernard-Stevens	Cudaback	Landis	Peterson	Will
	Hall	Lindsay	Rasmussen	Withem
Beutler	Horgan			

Present and not voting, 6:

Chambers	Hartnett	Pirsch	Robinson	Schimek
Crosby				

Excused and not voting, 5:

Ashford	Chizek	Conway	Haberman	Schmit

The Wesely-Moore amendment lost with 17 ayes, 21 nays, 6 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Mrs. Nelson asked unanimous consent to be excused until she returns. No objections. So ordered.

Mr. Schellpeper reoffered the amendment, AM1276, found in the Journal on page 1676, to the Standing Committee amendment.

Mr. Lynch asked unanimous consent to be excused until he returns. No objections. So ordered.

The Schellpeper amendment was adopted with 32 ayes, 0 nays, 11 present and not voting, and 6 excused and not voting.

Mrs. Pirsch asked unanimous consent to be excused until she returns. No objections. So ordered.

The Standing Committee amendment, as amended, was adopted with 30 ayes, 0 nays, 13 present and not voting, and 6 excused and not voting.

Advanced to E & R for review with 30 ayes, 0 nays, 13 present and not voting, and 6 excused and not voting.

LEGISLATIVE BILL 503A. Title read. Considered.

Advanced to E & R for review with 29 ayes, 0 nays, 14 present and not voting, and 6 excused and not voting.

UNANIMOUS CONSENT - Print in Journal

Mr. Lynch asked unanimous consent to print the following amendment to LB 698 in the Journal. No objections. So ordered.

AM1273

1. Insert the following new section:

"Sec. 41. That section 79-1254.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-1254.01. (1) Pursuant to subsection (2) of this section, at ~~At~~ any regular meeting~~,~~ a board of education may elect for employment an administrator ~~such administrators as the board may deem necessary~~ for the proper conduct of the affairs of the school district at such ~~salaries~~ salary as the board ~~may deem~~ deems reasonable. It may contract with such ~~administrators~~ administrator for a term not to exceed three years. No person shall be declared elected unless he or she receives the vote of a majority of all the members of

the board. The contract of employment shall be reduced to writing.

(2)(a) The board of education of a school district with an average daily membership of two hundred students may employ one full-time administrator. Districts having an average daily membership of less than two hundred students shall pro rate the position of administrator to the nearest one-tenth.

(b) The board of education of a school district with an average daily membership of more than two hundred students may employ such administrators as the board deems necessary for the proper conduct of the affairs of the district.

(c) For purposes of this subsection, average daily membership shall mean the average daily membership provided in the annual financial report and annual statistical summary of a school district.".

2. On page 112, line 1, after "79-1247.07," insert "79-1254.01,".

3. Renumber the remaining sections and correct internal references accordingly.

Mr. Morrissey asked unanimous consent to print the following amendment to LB 577 in the Journal. No objections. So ordered.

AM1284

1. Strike the original sections and all amendments thereto and insert the following new sections:

"Section 1. That section 69-1901, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

69-1901. The Legislature hereby finds and declares that tobacco products are health hazards and physically and psychologically addictive and, though the sale of tobacco products to minors is prohibited, the use of such products by minors is increasing.

The Legislature further finds and declares that efforts to keep tobacco products out of the hands of minors is impractical and ineffective. Therefor, it is the intent of the Legislature to control the distribution of tobacco products and discourage illegal activity by prohibiting all promotional distribution of such products. ~~that the state prohibits the use of~~

~~smokeless tobacco products by minors and the furnishing of smokeless tobacco products to minors and that the enforcement of an age-related restriction on the promotional distribution of smokeless tobacco products is impractical and ineffective. It is the intent of the Legislature to control the distribution of these products and discourage illegal activity by prohibiting all promotional distribution.~~

Sec. 2. That section 69-1902, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

69-1902. For purposes of sections 69-1901 to 69-1904, distribute :

~~(1) Distribute~~ shall mean to give ~~smokeless~~ tobacco products to the general public at no cost or at nominal cost or to give coupons or rebate offers with the products. ~~; and~~

~~(2) Smokeless tobacco product shall mean (a) loose tobacco or a flat compressed cake of tobacco that may be chewed or held in the mouth or (b) a small amount of shredded, powdered, or pulverized tobacco that may be inhaled through the nostrils, chewed, or held in the mouth.~~

Sec. 3. That section 69-1903, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

69-1903. (1) Manufacturers, wholesalers, or retailers, or their representatives, of ~~smokeless~~ tobacco products shall not distribute for promotional purposes.

(2) Evidence of distribution of ~~smokeless~~ tobacco products to the general public shall be prima facie evidence of distribution for promotional purposes.

Sec. 4. That original sections 69-1901 to 69-1903, Reissue Revised Statutes of Nebraska, 1943, are repealed.".

VISITORS

Visitors to the Chamber were Senator Hillman's husband, Ken, and Jean and Hazel Nagey from Hebron; 75 fourth grade students and teachers from Newell Elementary, Grand Island; members of the extension club from Syracuse; 90 sixth, seventh, and eighth grade students and teacher from North Platte; seven ninth and tenth grade

students and teacher from Mt. Zion Christian High School, North Platte; 38 seventh grade students and teachers from Aquinas, David City; 65 fourth grade students and teachers from Howard Elementary, Grand Island; and 39 fifth and sixth grade students and teachers from Kenesaw.

RECESS

At 12:00 noon, on a motion by Mr. Baack, the Legislature recessed until 1:30 p.m.

AFTER RECESS

The Legislature reconvened at 1:30 p.m., Speaker Baack presiding.

ROLL CALL

The roll was called and all members were present except Messrs. Conway and Haberman who were excused.

MOTION - Raise LR 27 From Committee

Messrs. Elmer, Schrock, Schmit, Haberman, Kristensen, and Mrs. Smith renewed their pending motion, found in the Journal on page 1668, to raise LR 27, which is being held in the Natural Resources Committee, to the Floor of the Legislature for consideration by the Members.

Messrs. Hefner and Lynch asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Withem moved the previous question. The question is, "Shall the debate now close?" The motion lost with 9 ayes, 10 nays, and 30 not voting.

Mr. R. Johnson moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

Mr. Chambers asked unanimous consent to be excused until he returns. No objections. So ordered.

The Elmer et al. motion to raise LR 27 from Committee prevailed with 30 ayes, 9 nays, 6 present and not voting, and 4 excused and not voting.

GENERAL FILE

LEGISLATIVE BILL 827. Title read. Considered.

Standing Committee amendment, AM0930, printed separately from the Journal and referred to on page 1332, was considered.

MR. WARNER PRESIDING

Mr. R. Johnson renewed his pending amendment, AM1117, found in the Journal on page 1669, to the pending Standing Committee amendment.

The R. Johnson amendment was adopted with 12 ayes, 0 nays, 33 present and not voting, and 4 excused and not voting.

SPEAKER BAACK PRESIDING

Mr. Dierks renewed his pending amendment, AM1196, found in the Journal on page 1614, to the pending Standing Committee amendment.

The Dierks amendment lost with 4 ayes, 15 nays, 26 present and not voting, and 4 excused and not voting.

Mr. Dierks renewed his pending amendment, AM1195, found in the Journal on page 1621, to the pending Standing Committee amendment.

Mr. Dierks moved for a call of the house. The motion prevailed with 13 ayes, 0 nays, and 36 not voting.

Mr. R. Johnson requested a roll call vote on the Dierks amendment.

Voting in the affirmative, 21:

Abboud	Dierks	Morrissey	Robak	Schimek
Byars	Horgan	Nelson	Robinson	Smith
Coordsen	Labedz	Pirsch	Rogers	Wehrbein
Cudaback	Landis	Rasmussen	Schellpeper	Wesely

Wickersham

Voting in the negative, 19:

Ashford	Beutler	Hall	Johnson, R.	Peterson
Baack	Beyer	Hartnett	Kristensen	Schmit
Bernard-Stevens	Chizek	Hillman	Lamb	Warner
	Elmer	Johnson, L.	Lindsay	Will

Present and not voting, 4:

Crosby	Hefner	Schrock	Withem

Absent and not voting, 1:

Moore

Excused and not voting, 4:

Chambers	Conway	Haberman	Lynch

The Dierks amendment was adopted with 21 ayes, 19 nays, 4 present and not voting, 1 absent and not voting, and 4 excused and not voting.

The Chair declared the call raised.

Mr. R. Johnson offered the following amendment to the pending Standing Committee amendment:
FA104

Amend the Committee amendment, p. 23 line 3, by striking the word "advance" and add the word "expedite" after the word "shall," and strike the language after the word "appeal".

Strike "cases" on line 4, p. 23.

The R. Johnson amendment was adopted with 17 ayes, 0 nays, 28 present and not voting, and 4 excused and not voting.

Mr. Morrissey offered the following amendment to the pending Standing Committee amendment:
FA105

On page 22, strike beginning with "The" in line 13 through "Court" in line 24, and insert "The review shall be conducted by the court by trial de novo"

Mr. Morrissey withdrew his pending amendment.

The Standing Committee amendment, as amended, was adopted with 34 ayes, 0 nays, 12 present and not voting, and 3 excused and not voting.

Pending.

UNANIMOUS CONSENT - Print in Journal

Mr. Dierks asked unanimous consent to print the following amendment to LB 719 in the Journal. No objections. So ordered.

AM1350

(Amendments to Standing Committee amendments, AM0873)

1. On page 11, line 21, strike "shall", show as stricken, and insert "may".

Messrs. Ashford, Horgan, and Mrs. Rasmussen asked unanimous consent to print the following amendment to LB 719 in the Journal. No objections. So ordered.

AM1341

(Amendments to AM1306)

1. On page 6, strike beginning with "weighted" in line 5 through line 13 and insert "average tiered cost per student or the option district's tiered cost per student, whichever is less.".

Mr. Hefner asked unanimous consent to print the following amendment to LB 719 in the Journal. No objections. So ordered.

AM1342

(Amendments to Standing Committee amendments, AM0837)

1. Insert the following new section:

"Sec. 24. That section 79-3803, Revised Statutes Supplement, 1990, be amended to read as follows:

79-3803. For purposes of the Tax Equity and Educational Opportunities Support Act:

(1) Adjusted valuation shall mean the assessed valuation of taxable property of each district in the state adjusted pursuant to the adjustment factors

described in section 79-3809, except that for purposes of determining the local effort rate yield pursuant to section 79-3808, adjusted valuation shall not include the value of any property which a court, by a final judgment from which no appeal is taken, has declared to be nontaxable or exempt from taxation;

(2) Average daily membership shall mean the average daily membership as provided in each district's annual financial report and annual statistical summary and shall include the proportionate share of students enrolled in a public school instructional program on less than a full-time basis;

(3) Average daily membership tiers shall mean groupings of districts by the number of students comprising a district's average daily membership in a specified grade range;

(4) Board shall mean the school board or board of education of each district;

(5) Categorical federal funds shall mean federal funds limited to a specific purpose by federal law, including. ~~. Such funds shall include,~~ but not ~~be~~ limited to, Chapter 1 funds, Chapter 2 funds, Title VI funds, federal vocational education funds, federal school lunch funds, Indian education funds, and Head Start funds;

(6) Current school year shall mean the current school fiscal year;

(7) Department shall mean the State Department of Education;

(8) District shall mean any Class I, II, III, IV, V, or VI district, and, for purposes of sections 79-3801 to 79-3813, the nonresident high school tuition fund of each county;

(9) Ensuing school year shall mean the school year following the current school year;

(10) Fiscal year shall mean the state fiscal year which is the period from July 1 to the following June 30;

(11) Formula students shall mean the sum of average daily membership and tuitioned resident students;

(12) Full-day kindergarten shall mean kindergarten offered by a district for at least one thousand thirty-two instructional hours;

(13) General fund budget of expenditures shall mean the total budgeted expenditures for general fund purposes as certified in the budget statement adopted pursuant to the Nebraska Budget Act, except that for purposes of the limitation imposed in section 79-3814, the general fund budget of expenditures shall not include any special grant funds received by a district subject to the approval of the department;

(14) General fund expenditures shall mean all expenditures from the general fund;

(15) General fund operating expenditures shall mean the total general fund expenditures minus categorical federal funds, tuition paid, transportation fees paid to other districts, adult education, summer school, school lunch pass-through, community services, redemption of the principal portion of general fund debt service, and transfers from other funds into the general fund;

(16) Income tax liability shall mean the amount of the reported income tax liability for resident individuals pursuant to the Nebraska Revenue Act of 1967 less all nonrefundable credits earned and refunds made;

(17) Income tax receipts shall mean the amount of income tax collected pursuant to the Nebraska Revenue Act of 1967 less all nonrefundable credits earned and refunds made;

(18) Most recently available complete data year shall mean the most recent single school fiscal year for which the annual financial report, fall school district membership report, annual statistical summary, ~~report,~~ Nebraska income tax liability by school district, and adjusted valuation data are available;

(19) State aid shall mean the amount of assistance paid to a district pursuant to sections 79-3806 to 79-3813;

(20) State board shall mean the State Board of Education;

(21) State support shall mean all funds provided to districts by the State of Nebraska for the general fund support of elementary and secondary education; and

(22) Tuitioned resident students shall mean resident students of the district whose tuition is paid by the district to some other district or education

agency.".

2. On page 54, line 24, after "79-4,224," insert "79-3803,".

3. Renumber the remaining sections accordingly.

Mr. Lynch asked unanimous consent to print the following amendment to LB 719 in the Journal. No objections. So ordered.

AM1345

(Amendments to Standing Committee amendments, AM0873)

1. Insert the following new section:

"Sec. 24. That section 79-1254.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-1254.01. (1) Pursuant to subsection (2) of this section, at ~~At~~ any regular meeting, a board of education may elect for employment an administrator ~~such administrators as the board may deem necessary~~ for the proper conduct of the affairs of the school district at such ~~salaries~~ salary as the board ~~may deem~~ deems reasonable. It may contract with such ~~administrators~~ administrator for a term not to exceed three years. No person shall be declared elected unless he or she receives the vote of a majority of all the members of the board. The contract of employment shall be reduced to writing.

(2)(a) The board of education of a school district with an average daily membership of two hundred students may employ one full-time administrator. Districts having an average daily membership of less than two hundred students shall pro rate the position of administrator to the nearest one-tenth.

(b) The board of education of a school district with an average daily membership of more than two hundred students may employ such administrators as the board deems necessary for the proper conduct of the affairs of the district.

(c) For purposes of this subsection, average daily membership shall mean the average daily membership provided in the annual financial report and annual statistical summary of a school district.".

2. On page 54, line 20, after "original" insert "section 79-1254.01, Reissue Revised Statutes of

Nebraska, 1943, and".

3. Renumber the remaining sections accordingly.

Mr. Hartnett asked unanimous consent to print the following amendment to LB 773 in the Journal. No objections. So ordered.

AM1293

1. On page 70, line 9, after "Sections" insert "2,".

Mr. Withem asked unanimous consent to print the following amendment to LB 719 in the Journal. No objections. So ordered.

AM1346

(Amendments to Standing Committee amendments, AM0873)

1. On page 8, line 5, strike the new matter and reinstate the stricken matter.

2. On page 9, line 21, strike the new matter and reinstate the stricken matter; in line 22 reinstate the stricken "in part with a Class II, III, IV, V", before the reinstate "V" insert "or", and reinstate the stricken "district and"; and in lines 23 and 24 reinstate the stricken matter.

3. On page 10, lines 1 through 11, reinstate the stricken matter.

4. On page 21, line 2, strike "On and after July 1," and show the old matter as stricken; and in line 3 strike "1993" and insert "Whenever the affiliation of a Class I district or portion thereof becomes final".

Mr. Hartnett asked unanimous consent to print the following amendment to LB 773 in the Journal. No objections. So ordered.

AM1251

(Amendments to the E & R amendment, AM5115)

1. On page 2, strike lines 12 through 15, show as stricken, and insert the following new subdivision:

"(d) Any periodical, including a newspaper, published at stated intervals. For purposes of this subdivision, periodical shall not include handbills, circulars, flyers, or any publication in which

advertising or product publicity exceeds eighty percent of the printed area in more than one-half of the issues in a year;".

Messrs. Lynch and Withem asked unanimous consent to print the following amendment to LB 719 in the Journal. No objections. So ordered.

AM1339

(Amendments to Standing Committee amendments, AM0873)

1. Insert the following new section:

"Sec. 17. That section 79-445, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-445. The school board or board of education may admit nonresident pupils to the district school, may determine the rate of tuition of the pupils, and shall collect such tuition in advance. When the pupil has, as a ward of the state or as a ward of any court, been placed in a public school district other than the district in which he or she resided at the time he or she became a ward or been placed in ~~an~~ any institution which maintains a special education program which has been approved by the State Department of Education, ~~and such institution is outside of the pupil's resident school district,~~ the cost of his or her education and the required transportation costs associated with the child's education shall be paid by the state to the receiving school district or approved institution or paid to the county nonresident high school tuition fund under rules and regulations prescribed by the Department of Social Services. In the case of any individual eighteen years of age or younger who is a ward of the state or any court and who is placed in a county detention home as established under section 43-2,110, the cost of his or her education shall be paid by the state, regardless of such individual's district of residency, to the agency or institution which: (1) Is selected by the county board with jurisdiction over such detention home; (2) has agreed or contracted with such county board to provide educational services; and (3) has been approved by the State Department of Education pursuant to rules and regulations prescribed by the State Board of Education.

No tuition shall be charged for children who may be by law allowed to attend the school without charge. The public school district in which the parent or guardian of any nonresident pupil maintains his or her legal residence shall not be liable for the payment of tuition fees and the children of school age of such parent or guardian shall be entitled to free common school privileges the same as any child who is a bona fide resident of such school district whenever the parent or guardian of such nonresident pupil, having entered the public service of the State of Nebraska, has removed from the school district in which he or she maintains legal residence into another school district for temporary purposes incidental to serving the state, without the intention of making the school district to which the parent or guardian has removed his or her legal residence. No tuition shall be charged for a child whose parents are divorced if such child attends school in a district in which either parent resides. The burden of proof as to legal residence shall rest with the person claiming legal residence in any district. The school district may allow a pupil whose residency in the district ceases during a school year to continue attending school for the remainder of that school year without payment of tuition.

The school board or board of education may admit nonresident pupils to the district school without requiring the payment of tuition if such pupils are in the actual physical custody of a resident of the school district and are not residents of an adjoining school district and the school board or board of education determines that the pupils would otherwise be denied guaranteed free common school privileges.".

2. On page 54, line 20, after "original" insert "section 79-445, Reissue Revised Statutes of Nebraska, 1943, and".

3. Renumber the remaining sections and correct internal references accordingly.

Mrs. Smith asked unanimous consent to print the following amendment to LB 849 in the Journal. No objections. So ordered.

AM1338

(Amendments to Standing Committee amendments, AM1071)

1. On page 10, line 1, strike "Any" and insert "Ninety percent of the"; in line 3 after the period insert "Ten percent of the money remaining after the payment of prizes and operating expenses shall be transferred to the Community-Based Aging Services Fund.

(2) The Community-Based Aging Services Fund is hereby created. The fund shall be administered by the Director on Aging and distributed to area agencies on aging in accordance with the intrastate funding formula established by the Department on Aging. The fund shall be used to support community-based aging services to older individuals, including, but not limited to (a) home-delivered services, (b) chore and housekeeping services, (c) transportation services, (d) escort services, (e) personal care aide services, (f) respite care services, and (g) senior center services and maintenance."; and in line 4 strike "(2)" and insert "(3)".

2. On page 14, strike "(3)" and insert "(4)"; in line 7 strike "(4)" and insert "(5)"; in line 8 after the second comma insert "the Community-Based Aging Services Fund,"; and in line 12 strike "(5)" and insert "(6)".

GENERAL FILE

LEGISLATIVE BILL 827. Mr. Morrissey offered the following amendment:

AM1334

(Amendments to Standing Committee amendments, AM0930)

1. On page 21, line 22, strike "and" and show as stricken.

2. On page 22, line 5, after "reclamation" insert "; and

(e) Consideration of sociocultural characteristics including (i) social structure and significant institutions of major communities within the region of each alternate site, (ii) identification and evaluation of significant community problems, and (iii) results of any survey of local attitudes, life style indicators, cultural values, and community cohesion".

Pending.

UNANIMOUS CONSENT - Withdraw Co-Introducer

Mr. Robinson asked unanimous consent to have his name withdrawn as co-introducer to LR 27. No objections. So ordered.

VISITORS

Visitors to the Chamber were 17 seniors and teachers from Litchfield; 47 fourth grade students and teachers from Tara Heights, Papillion; and Craig Gundersen from Omaha and Kevin Dasher from Plattsmouth.

The Doctor of the Day was Dr. Mark Ptacek from O'Neill.

MOTION - Adjournment

Mr. R. Johnson moved to adjourn until 9:00 a.m., Monday, April 22, 1991.

Mr. Abboud moved for a call of the house. The motion prevailed with 15 ayes, 0 nays, and 34 not voting.

Mr. R. Johnson requested a roll call vote on the motion to adjourn.

Voting in the affirmative, 29:

Ashford	Coordsen	Hillman	Lynch	Schellpeper
Baack	Crosby	Johnson, L.	Moore	Schmit
Bernard-Stevens	Dierks	Johnson, R.	Peterson	Smith
Beutler	Elmer	Kristensen	Pirsch	Warner
Byars	Hall	Labedz	Robinson	Wehrbein
	Hefner	Landis	Rogers	Wickersham

Voting in the negative, 17:

Abboud	Hartnett	Morrissey	Robak	Wesely
Beyer	Horgan	Nelson	Schimek	Will
Chizek	Lamb	Rasmussen	Schrock	Withem
Cudaback	Lindsay			

Excused and not voting, 3:

Chambers	Conway	Haberman

The motion to adjourn prevailed with 29 ayes, 17 nays, and 3 excused and not voting, and at 4:21 p.m., the Legislature adjourned until 9:00 a.m., Monday, April 22, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

SIXTY-FOURTH DAY - APRIL 22, 1991

LEGISLATIVE JOURNAL

SIXTY-FOURTH DAY - APRIL 22, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

SIXTY-FOURTH DAY

Legislative Chamber, Lincoln, Nebraska
Monday, April 22, 1991

Pursuant to adjournment, the Legislature met at 9:02 a.m., President Moul presiding.

PRAYER

The prayer was offered by Pastor Gale Prentice, Presbyterian Minister Retired, Omaha, Nebraska.

ROLL CALL

The roll was called and all members were present except Mr. Haberman who was excused; and Messrs. Abboud, Ashford, Bernard-Stevens, Byars, Chambers, Conway, Hall, R. Johnson, Landis, Moore, Morrissey, Schmit, Wesely, Mmes. Labedz, Nelson, and Ms. Schimek who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Sixty-Third Day was approved.

MESSAGE FROM THE GOVERNOR

April 19, 1991

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bill 782 was received in my office on April 15, 1991.

This bill was signed by me on April 19, 1991, and delivered to the Secretary of State.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

REPORT

Received maps of the State Highway System of Nebraska as of January 1, 1991, in accordance with Section 39-1311, Revised Statutes of 1943, Reissue of 1984, and the Quarterly Report as of March 31, 1991, from the Nebraska Department of Roads.

ATTORNEY GENERAL'S OPINION

Opinion No. 91031

DATE: April 19, 1991

SUBJECT: State Election Board, Amendment #0868 to LB 579

REQUESTED BY: Senator Jerome Warner
25th Legislative District

WRITTEN BY: Don Stenberg, Attorney General
Linda L. Willard, Assistant Attorney General

You have inquired whether Amendment #0868 to LB 579 (1) unconstitutionally restricts the Governor's appointment of certain members of the Election Board or (2) unconstitutionally infringes on the duties given the Secretary of State in Article III, §§ 2 and 3 of the Constitution of the State of Nebraska. It is our opinion that LB 579, as amended, is constitutionally suspect in its restriction on the Governor's appointment and unconstitutionally infringes on the duties given the Secretary of State in the State Constitution. Amendment #0868 provides in part:

(1) The State Election Board is hereby created. The board shall be composed of nine members, including the Secretary of State. The Governor shall appoint the members in the following manner:
(a) One member at large who shall be designated as the chairperson;
(b) Two members from a list of at least five individuals submitted by the state chairperson of the Democratic Party;
(c) Two members from a list of at least five individuals submitted by the state chairperson of the Republican Party; and
(d) One election commissioner or county clerk from each congressional district, and no more than two of such appointees shall be from the same political party.

Article IV, § 10 of the Constitution of the State of Nebraska grants to the Governor the power to make appointments to state offices, and provides in pertinent part:

The Governor shall appoint with the approval of a majority of the Legislature, all persons whose offices are established by the Constitution, or which may be created by law, and whose appointment or election is not otherwise by law or herein provided for; and no such person shall be appointed or elected by the Legislature. . . ."

In Wittler v. Baumgartner, 180 Neb. 446, 457-458, 144 N.W.2d 62, 70 (1966), overruled on other grounds, State ex rel. Douglas v. Nebraska Mortgage Finance Fund, 204 Neb. 445, 283 N.W. 12 (1979), the Nebraska Supreme Court held unconstitutional a manner of selecting directors of a public power district. The court said:

It is contended that the Act is in violation of the Constitution in that the Act constitutes an encroachment by the Legislature upon the exclusive prerogatives of the Governor in violation of the distribution of powers section of the Constitution. Art. II, sec. 1, Constitution of Nebraska. This contention is based on the limitations imposed on the Governor in the appointment of directors to the grid system board of directors on the establishment of the grid system. The pertinent part of section 6 of the Act provides: "In the first instance the directors of the grid system shall be appointed by the Governor from among the directors of member districts whose management it assumes under the provisions of this act; . . ."

Under the Constitution of Nebraska the supreme executive power is vested in the Governor. . . . The Constitution further provides that the Governor, with the advice and consent of the Legislature shall appoint all officers whose offices are established by the Constitution, or which may be created by law, and that no

such officer shall be appointed or elected by the Legislature. Art. IV, sec. 10, Constitution of Nebraska. . . .

In the Wittler case the Governor's selection was restricted in certain districts to a single individual. The court went on to hold that:

> . . . The right of the Legislature to prescribe reasonable qualifications of one to be appointed to office is not disputed. But the Legislature is prohibited by constitutional provision from appointing officers whose offices are created by law, either directly or indirectly. The provisions of the Act which limit the appointment of grid system directors by the Governor to a certain unnamed individual or to a limited few, is an encroachment by the Legislature upon the powers of the Governor and is void as violative of Article IV, section 10, of the Constitution of Nebraska." (Emphasis added.)

180 Neb. at 460, 144 N.W.2d at 71.

Thus, the language in Amendment #0868 restricting the Governor's appointment of two of the members from a list of at least five submitted by the state chairperson of the Democratic Party and an additional two members from a list of at least five individuals submitted by the state chairperson of the Republican Party raises a question as to the constitutionality of this method of selecting members of the State Election Board. While we cannot say with certainty that this method is per se unconstitutional, limiting the Governor's selection to two members from a group of five submitted by the chairperson of a state political party is, at least, constitutionally suspect. This opinion is in accord with several prior opinions by this office. Most recently opinions Numbered 90026 and 87045 reached the same conclusion on similar issues.

You next ask whether the duties given to the State Election Board unconstitutionally infringe on the duties of the Secretary of State. Article III, § 2 of the Constitution of the State of Nebraska, as it relates to the Secretary of State, provides,

> In all cases the registered voters signing such petition shall be so distributed as to include five per cent of the registered voters each of two-fifths of the counties of the state, and when thus signed, the petition shall be filed with the Secretary of State who shall submit the measure thus proposed to the electors of the state. . .

Article III, § 3 similarly provides:

> Petitions invoking the referendums shall be signed by not less than five percent of the registered voters of the state, distributed as required for initiative petitions, and filed in the office of the Secretary of State . . .
>
> When the referendum is thus invoked, the Secretary of State shall refer the same to the electors for approval or rejection . . .

Amendment #0868 does not effect Neb.Rev.Stat. § 32-704.02 (1990 Cum Supp.) which requires filing of initiative and referendum petitions with the Secretary of State. It does significantly amend § 32-704 (1990 Cum. Supp.) by replacing the Secretary of State with the State Election Board as in § 32-704(5) where the Board instead of the Secretary of State would determine if constitutional and statutory requirements have been met and, subsequently place the petition on the general election ballot.

The Constitution explicitly states that the petitions are to be submitted to the Secretary of State and that he/she, in turn, is to submit the petition to the electors. Implied in the Constitution is the duty of the Secretary of State to see that all petitions "thus signed" or "thus invoked" meet the requirements set out in the Constitution. Generally,

> {T}he duty of the secretary of state to file a petition received from the proper official or person properly prepared and when all the statutory requirements have been fulfilled, is mandatory. His action must be based on the face of the petition as it is received in his office, it being his duty to ascertain whether it complies with the required form . . .

82 CJS Statutes § 129.

The Constitution does not spell out the precise duties of the Secretary of State as far as assuring that petitions meet the requirements of the Constitution. However, in State v. Babcock, 19 Neb. 230, 239, 27 N.W. 98, 102 (1886) the Nebraska Supreme Court stated "This rule seems to be fairly deducible from the authorities: that if the constitutional provision either directly or by implication imposes a duty upon an officer or officers no legislation is necessary to require the performance of such duty..."

Inherent in the duties of the Secretary of State is the duty to accept initiative and referendum petitions, to determine if they meet the statutory requirements and, if statutory requirements have been met, to present the petition to the electors of the state. These are duties which the people of the state have vested in the elected position of Secretary of State and these duties may not be taken from the Secretary of State except by constitutional amendment. Nor may the Legislature seek to have the State Election Board perform these in addition to Secretary of State. In State ex rel. State Railway Commission v. Ramsey, 151 Neb. 333, 37 N.W.2d 502 (1949) the Nebraska Supreme Court held that the Legislature had no power to divest the State Railway Commission of its constitutional jurisdiction by transferring it to another body or jurisdiction.

Similarly, in Ex parte Corliss, 114 N.W. 962 (N. Dak. 1907), the North Dakota Supreme Court held that the Legislature could not

vest powers of the State Attorney and Sheriff in an enforcement commission. In the Corliss case, the court distinguished between offices which were set out in the constitution and those which were created by the Legislature. The court determined that the Legislature could abolish those offices which it had created by creating other offices to take their place but the constitutional offices could only be altered through constitutional amendment.

> A constitution being the paramount law of the state, designed to separate the powers of government and to define their extent and limit their exercise by the several departments, as well as to secure and protect private rights, no other instrument is of equal significance. It has been very properly defined to be a legislative act of the people themselves in their sovereign capacity; and when the people have declared by it that certain powers shall be possessed and duties performed by a particular officer or department, their exercise and discharge by any other officer or department are forbidden by unnecessary and unavoidable implication. Every positive delegation of power to one officer or department implies a negation of its exercise by any other officer, department, or person. If it did not, the whole constitutional fabric might be undermined and destroyed. This result could be as effectively accomplished by the creation of new officers and departments exercising the same power and jurisdiction as by the direct and formal abrogation of those now existing. And, although the exercise of this power by the Legislature is no where expressly prohibited, nevertheless they cannot do so. . . .

Ex parte Corliss, 114 N.W. at 969-971 quoting from State v. Hastings, 10 Wis. 525 (which held unconstitutional an act providing for the appointment and prescribing the duties of a State Comptroller, upon the ground that this official would have some of the same duties as were vested in the Secretary of State).

> The act, taken altogether, looks like a studied effort to attain indirectly what it was evident to the framers could not be accomplished directly. . . .the functions of that officer cannot in whole or in part, be transferred to, or be exercised concurrently or otherwise by, any other person or officer. It falls directly within the rule that the express mention of one thing implies the exclusion of another. Expressio unius est exclusio alterius. This rule applies as forcibly to the construction of written constitutions as to other instruments. . . .

Id. at 969.

> It seems too obvious for discussion that the framers of the Constitution, in providing for the election of these officers by the people, thereby reserved unto themselves the right to have the

> inherent functions theretofore pertaining to said offices discharged only by persons elected as therein provided. Naming of these officers amounted to an implied restriction upon legislative authority to create other and appointive offices for the discharge of such functions. If this is not true, then of what avail are the provisions of the Constitution above referred to? These constitutional offices can be stripped of a portion of the inherent functions thereof, they can be stripped of all such functions, and the same can be vested in newly created appointive officers, and the will of the framers of the Constitution thereby thwarted. The fact that these appointive officers might or would discharge the duties better than the officers provided for in the Constitution is not material. If these latter officers fail to discharge their duties. and it is desirable to provide for other officers to perform such duties, the remedy is with the people. They may amend the Constitution or, through the power delegated to the legislative assembly, provide for their removal of office which has been done.
>
> . . .

Id. at 964.

The Constitution of the State of Nebraska is clear that all initiative or referendum petitions are to be filed with the Secretary of State. When said petitions are filed according to the Constitution, and the Secretary of State has determined that they are in conformance with the requirements set out in the Constitution, then it is the duty of the Secretary of State to present these issues to the electors. The people of the State of Nebraska have determined that the Secretary of State shall have the duty of accepting the filing of the petition, and presenting it to the electors. The Legislature may not abrogate the duties of the Secretary of State by giving constitutionally prescribed duties to another elected official or, as with the proposed State Election Board, to an appointive body for which the people do not vote.

Based on the above discussion, it is our determination that any attempt by the Legislature to give the State Election Board the duty to place initiative or referendum petitions on the ballot is clearly unconstitutional. Such action on the part of the Legislature would unconstitutionally infringe on the duties of the Secretary of State as set out in Article III, §§ 2 and 3 of the Constitution of the State of Nebraska. It is less clear whether vesting the Election Board with the power to determine the validity and sufficiency of petition signatures would be unconstitutional but it is our determination that such action would be, at least, constitutionally suspect.

Please be advised that this opinion addresses only the questions you have asked regarding the constitutionality of Amendment 0868.

We have not attempted to make a comprehensive review of the constitutionality of the entire amendment.

Very truly yours,
DON STENBERG
Attorney General
(Signed) Linda L. Willard
Assistant Attorney General

cc: Patrick O'Donnell
28-1-7.1

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following resolution: LR 70.

GENERAL FILE

LEGISLATIVE BILL 840. Title read. Considered.

Standing Committee amendment, AM0468, found in the Journal on page 879, was considered.

Mr. Wickersham offered the following amendment to the pending Standing Committee amendment:
AM1385
(Amendments to Standing Committee amendments, AM0468)

1. On page 1, strike beginning with the comma in line 7 through "and" in line 10 and insert "or"; and in line 11 strike "relate" and insert "related" and after "expenses" insert "or both, without regard to whether that business is identified at the time the project or program is initiated or is to be determined by specified means at some time in the future.".

The Wickersham amendment was adopted with 20 ayes, 0 nays, 14 present and not voting, and 15 excused and not voting.

Mr. Wickersham offered the following amendment to the pending Standing Committee amendment:
AM1320
(Amendments to Standing Committee amendments, AM0468)

1. On page 2, line 11, after the comma insert "transport,".

The Wickersham amendment was adopted with 18 ayes, 0 nays, 16 present and not voting, and 15 excused and not voting.

Mr. Wickersham offered the following amendment to the pending Standing Committee amendment:
AM1319
(Amendments to Standing Committee amendments, AM0468)

1. On page 3, line 5, strike "the" and insert "its".

The Wickersham amendment was adopted with 23 ayes, 0 nays, 12 present and not voting, and 14 excused and not voting.

The Standing Committee amendment, as amended, was adopted with 25 ayes, 0 nays, 15 present and not voting, and 9 excused and not voting.

Mr. Wickersham offered the following amendment:
AM1316

1. On page 9, line 15, strike "levy"; in line 16 after "the" insert "present" and after "cost" insert "of the economic development program"; and in line 17 before the period insert "based upon the most recent valuation of the city certified to the Tax Commissioner pursuant to section 77-1613.01".

The Wickersham amendment was adopted with 28 ayes, 0 nays, 13 present and not voting, and 8 excused and not voting.

Mr. Wickersham offered the following amendment:
AM1317

1. On page 12, line 10, after "appointed" insert "city"; and in line 12 after "business" insert "receiving financial assistance under the economic development program".

The Wickersham amendment was adopted with 27 ayes, 0 nays, 15 present and not voting, and 7 excused and not voting.

Mr. Hartnett offered the following amendment:
AM1315

1. Insert the following new section:

"Sec. 3. Appropriations and expenditures made by a city which are authorized by section 13-315 and

made according to its provisions shall not be subject to the provisions of the Local Option Municipal Economic Development Act, and shall be exempt from its requirements.".

2. On page 2, line 1; and page 16, line 25, strike "22" and insert "23".

3. On page 3, line 5, strike "4 to 9" and insert "5 to 10".

4. On page 8, line 18; and page 10, line 24, strike "13" and insert "14".

5. On page 14, line 21, strike "14" and insert "15" and strike "22" and insert "23".

6. On page 15, line 10, strike "14" and insert "15"; in line 11 strike "22" and insert "23"; and in line 24 strike "21" and insert "22".

7. Renumber the remaining sections accordingly.

The Hartnett amendment was adopted with 25 ayes, 0 nays, 17 present and not voting, and 7 excused and not voting.

Mr. Beutler offered the following amendment:
FA106

On line 15, page 4 after the word "a" add the words "federally insured"

The Beutler amendment was adopted with 26 ayes, 0 nays, 16 present and not voting, and 7 excused and not voting.

Mr. Beutler offered the following amendment:
FA107

On line 1 page 10 delete the period and add the following language "and shall not hold another election to establish an economic development program for a period of three years."

The Beutler amendment lost with 9 ayes, 9 nays, 24 present and not voting, and 7 excused and not voting.

Mr. Beutler offered the following amendment:
FA108

On page 14 delete all language beginning with the word "except" on line 1 through the word "year" on line 5.

The Beutler amendment lost with 3 ayes, 19 nays, 21 present and not voting, and 6 excused and not voting.

Advanced to E & R for review with 25 ayes, 9 nays, 13 present and not voting, and 2 excused and not voting.

LEGISLATIVE BILL 719. Title read. Considered.

Standing Committee amendment, AM0873, printed separately from the Journal and referred to on page 1340, was considered.

Mr. Withem asked unanimous consent to replace his pending amendment, AM1346, found in the Journal on page 1724, with a substitute amendment. No objections. So ordered.

Mr. Withem withdrew his pending amendment, AM1346, found in the Journal on page 1724.

Mr. Withem offered the following substitute amendment to the pending Standing Committee amendment:
AM1381
(Amendments to Standing Committee amendments, AM0873)

1. On page 8, line 5, strike the new matter and reinstate the stricken matter.

2. On page 9, line 21, reinstate the stricken "affiliate"; in line 22 reinstate the stricken "in part with a Class II, III, IV, V", before the reinstated "V" insert "or", and reinstate the stricken "district and"; and in lines 23 and 24 reinstate the stricken matter.

3. On page 10, lines 1 through 11, reinstate the stricken matter.

4. On page 21, line 2, strike "On and after July 1," and show the old matter as stricken; and in line 3 strike "1993" and insert "Whenever the affiliation of a Class I district or portion thereof becomes final".

The Withem amendment was adopted with 26 ayes, 0 nays, 21 present and not voting, and 2 excused and not voting.

Mr. Withem offered the following amendment to the pending Standing Committee amendment:
(Amendment on file in the Clerk's Office - Room 2018 - AM1322.)

The Withem amendment was adopted with 32 ayes, 0 nays, 15 present and not voting, and 2 excused and not voting.

Mr. Withem offered the following amendment to the pending Standing Committee amendment:
AM1373

(Amendments to AM1322)

1. Strike section 24.

2. On page 81, line 11, strike "79-438.09,";
and in line 22 after "sections" insert "79-438.09".

3. Renumber the remaining sections and correct internal references accordingly.

The Withem amendment was adopted with 27 ayes, 0 nays, 20 present and not voting, and 2 excused and not voting.

Mr. Baack renewed his pending amendment, AM1306, found in the Journal on page 1696, to the pending Standing Committee amendment.

The Baack amendment was adopted with 30 ayes, 0 nays, 17 present and not voting, and 2 excused and not voting.

Messrs. Schrock and Schellpeper renewed their pending amendment, AM1259, found in the Journal on page 1706, to the pending Standing Committee amendment.

Mr. Hall asked unanimous consent to be excused until he returns. No objections. So ordered.

The Schrock-Schellpeper amendment was adopted with 24 ayes, 0 nays, 22 present and not voting, and 3 excused and not voting.

Mr. Dierks renewed his pending amendment, AM1350, found in the Journal on page 1720, to the pending Standing Committee amendment.

The Dierks amendment was adopted with 24 ayes, 0 nays, 22 present and not voting, and 3 excused and not voting.

Messrs. Ashford, Horgan, and Mrs. Rasmussen renewed their pending amendment, AM1341, found in the Journal on page 1720, to the pending Standing Committee amendment.

The Ashford-Horgan-Rasmussen amendment was adopted with 26 ayes, 0 nays, 20 present and not voting, and 3 excused and not voting.

Mr. Hefner renewed his pending amendment, AM1342, found in the Journal on page 1720, to the pending Standing Committee amendment.

The Hefner amendment was adopted with 25 ayes, 0 nays, 21 present and not voting, and 3 excused and not voting.

Mr. Wesely asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Lynch renewed his pending amendment, AM1345, found in the Journal on page 1723, to the pending Standing Committee amendment.

Mr. Schmit asked unanimous consent to be excused until he returns. No objections. So ordered.

SPEAKER BAACK PRESIDING

Pending.

UNANIMOUS CONSENT - Print in Journal

Messrs. Beutler, Landis, Warner, Wesely, and Ms. Schimek asked unanimous consent to print the following amendment to LR 24CA in the Journal. No objections. So ordered.

AM1226

1. On page 2, strike lines 11 through 19 and insert the following new subsection:

"(3) The Legislature may establish a lottery to be operated and regulated by the State of Nebraska. The proceeds of the lottery shall be appropriated by the Legislature:

(a) For the costs of establishing and maintaining the lottery;

(b) For payments to depositors of industrial loan and investment companies for any certificate of indebtedness or any other evidence of indebtedness of an industrial loan and investment company which was unpaid when an industrial loan and investment company that

filed bankruptcy pursuant to Chapter 11 of the United States Bankruptcy Code after November 1, 1983, filed bankruptcy or when an industrial loan and investment company in receivership entered receivership, until such time as all such indebtedness is paid; and

(c) After all the indebtedness described in subdivision (3)(b) of this section is paid, for other purposes as directed by the Legislature.

The proceeds of the lottery shall be used for the purpose described in subdivision (3)(b) of this section notwithstanding any other provision of this Constitution to the contrary. The Legislature may enact laws to provide for the manner of making the payments described in such subdivision.

No lottery game shall be conducted as part of the lottery unless the game has been approved by a majority of the members of the Legislature.".

2. On page 3, line 16, after "state" insert "and to provide for the use of the proceeds of the lottery, including for payments to depositors of industrial loan and investment companies".

Mr. Moore asked unanimous consent to print the following amendment to LB 849 in the Journal. No objections. So ordered.

AM1351

(Amendments to Standing Committee amendments, AM1071)

1. Strike original section 22.

2. On page 1, line 3; page 4, line 18; and page 17, line 20, strike "43" and insert "42".

3. Renumber the remaining sections accordingly.

Mr. Lindsay asked unanimous consent to print the following amendment to LB 798 in the Journal. No objections. So ordered.

AM0876

1. Insert the following new sections:

"Sec. 3. That section 23-1401, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

23-1401. In any county in this state having a population in excess of ~~two~~ three hundred thousand inhabitants, there is hereby created the office of

county comptroller for ~~said~~ such county, and the county clerk of such county shall be the ex officio county comptroller for ~~said~~ the county. The county comptroller shall act as the general accountant, chief auditing officer, internal auditor, and fiscal agent of the county and shall exercise a general supervision over all officers of the county charged in any manner with the receipt, collection, or disbursement of the county revenue. ~~He~~ The county comptroller shall be a competent bookkeeper and accountant, and it shall be his or her duty to keep a complete set of books ~~wherein shall be stated~~ where, among other things, the amount of the appropriation that has been made on the fund that has been expended on account of such appropriation fund shall be stated. It shall be ~~his~~ the duty of the county comptroller to audit all claims filed against the county, and prepare a report thereon to the county board of such county. ~~He~~ The county comptroller shall also keep accurate and separate accounts between the county and officers of the county, and between the county and all contractors or other persons doing work or furnishing material for the county. ~~He~~ The county comptroller shall also examine and check the reports of all officers of the county. The county comptroller shall prepare and file the required annual inventory statement of county personal property in his or her custody or possession, as provided in sections 23-346 to 23-350.

Sec. 4. That section 23-1405, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

23-1405. In counties having a county comptroller, as provided for in section 23-1401, such comptroller shall receive a salary of one thousand dollars per ~~year, for his services~~ month in addition to any salary he or she may receive as county clerk, which shall be paid monthly out of the general fund of the county.".

2. On page 6, line 8, strike "and" and insert a comma; and in line 9 after the first comma insert "23-1401, and 23-1405,".

3. Renumber the remaining section accordingly.

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 825A. Introduced by Wesely, 26.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 825, Ninety-second Legislature, First Session, 1991.

VISITORS

Visitors to the Chamber were 50 fourth grade students and sponsors from Morley Elementary, Lincoln.

RECESS

At 12:01 p.m., on a motion by Mr. Moore, the Legislature recessed until 1:30 p.m.

AFTER RECESS

The Legislature reconvened at 1:30 p.m., Speaker Baack presiding.

ROLL CALL

The roll was called and all members were present except Mr. Haberman who was excused; and Messrs. Ashford, Lamb, Schmit, Wickersham, and Mrs. Pirsch who were excused until they arrive.

UNANIMOUS CONSENT - Unbracket LB 409 and LB 409A

Mr. Warner asked unanimous consent to unbracket LB 409 and LB 409A. No objections. So ordered.

UNANIMOUS CONSENT - Print in Journal

Mr. Kristensen asked unanimous consent to print the following amendment to LB 754 in the Journal. No objections. So ordered.

AM1378
(Amendments to Standing Committee amendments, AM0785)
1. On page 1, line 10, after the period
insert "The credit shall be reduced by the amount of any
credit claimed pursuant to section 66-1326 for the

production of ethyl tertiary butyl ether.".

Mr. Baack asked unanimous consent to print the following amendment to LB 852 in the Journal. No objections. So ordered.

AM1337

1. On page 3, after line 7, insert the following new subsection:

"(4) For purposes of this section, member of his or her family shall mean any individual related to the employee by blood, marriage, or adoption as the employee's spouse, child, parent, brother, sister, grandchild, or grandparent or any individual so related to the employee's spouse.".

GENERAL FILE

LEGISLATIVE BILL 719. Mr. Lynch renewed his pending amendment, AM1345, found in the Journal on page 1723 and considered in this day's Journal, to the pending Standing Committee amendment.

Mr. Lynch requested a record vote on his amendment.

Voting in the affirmative, 20:

Baack	Chizek	Hefner	Nelson	Warner
Bernard-Stevens	Conway	Labedz	Robinson	Wesely
Beutler	Coordsen	Lindsay	Rogers	Will
Beyer	Hall	Lynch	Schellpeper	Withem

Voting in the negative, 19:

Byars	Elmer	Johnson, R.	Peterson	Schrock
Crosby	Hillman	Kristensen	Rasmussen	Smith
Cudaback	Horgan	Landis	Robak	Wehrbein
Dierks	Johnson, L.	Moore	Schimek	

Present and not voting, 4:

Abboud	Chambers	Hartnett	Morrissey

Excused and not voting, 6:

Ashford Lamb Pirsch Schmit Wickersham
Haberman

The Lynch amendment was adopted with 20 ayes, 19 nays, 4 present and not voting, and 6 excused and not voting.

Messrs. Lynch and Withem renewed their pending amendment, AM1339, found in the Journal on page 1725, to the pending Standing Committee amendment.

The Lynch-Withem amendment was adopted with 24 ayes, 0 nays, 19 present and not voting, and 6 excused and not voting.

Mr. Wesely asked unanimous consent to be excused. No objections. So ordered.

Messrs. Schrock and Dierks offered the following amendment to the pending Standing Committee amendment:
AM1354
(Amendments to Standing Committee amendments, AM0873)

1. Insert the following new section:

"Sec. 24. That section 79-701, Revised Statutes Supplement, 1990, be amended to read as follows:

79-701. (1) A Class II school district shall be created whenever a Class I school district determines by a majority vote of the electors to establish a high school.

(2) The members of the school board serving when it is decided to establish a high school shall continue in office until the first Tuesday in June following the next statewide primary election at which election a six-member board shall be elected. The three receiving the highest number of votes shall be elected for terms of four years, and the three receiving the next highest number of votes shall be elected for terms of two years.

(3) If a Class II school district, by a vote of fifty-five percent of the legal voters voting at an annual or special meeting, decides to discontinue the high school and close the same, the school district shall thereupon become a Class I school district on the date designated by such voters. At such meeting a

decision shall be made as to when the new school board shall be elected and whether the board shall consist of three members or six members. No new Class I school district shall establish a six-member board unless the school district contains a minimum of one hundred fifty children who are five through twenty years of age. ~~pursuant to section 79-601.~~ The school board of the existing Class II school district shall remain in office until the effective date for the formation of the new Class I school district.

If the new school board is to consist of three members, such members shall be elected at the time the electors vote to change from a Class II school district to a Class I school district or at any annual or special meeting held not less than thirty days prior to the effective date of the change from a Class II school district to a Class I school district. At the annual or special meeting, a treasurer shall be elected for a term of one year, a secretary for a term of two years, and a president for a term of three years, and regularly thereafter their successors shall be elected for terms of three years each. All officers so elected shall hold their offices until successors are elected and qualified. After such change becomes effective, the school district and its officers shall have the powers and be governed by the provisions of law applicable to Class I school districts.

If the new school board is to consist of six members, such members shall be elected after school district electors have voted to change from a Class II school district to a Class I school district. The procedure for electing board members shall be as prescribed in subsection (3) of section 79-601, except that such election may be held at any annual meeting or at a special meeting called for the purpose of electing school district officers.

(4) No school district may change from Class I to Class II unless that school district has an enrollment of not less than one hundred pupils in grades nine through twelve. This subsection shall not apply to any school district located on an Indian reservation and substantially or totally financed by the federal government.

(5) If for three consecutive years the average

daily membership of an existing Class II school district is less than twenty-five pupils in grades nine through twelve or if for one year an existing Class II school district contracts with a neighboring school district or districts to provide educational services for all of its pupils in grades nine through twelve, such school district shall, except as provided in subsection (6) of this section, become a Class I school district through the order of the county superintendent if the high school is within fifteen miles on a reasonably improved highway of another high school. ~~A~~ When calculating average daily membership for purposes of this subsection: (a) A resident school district as defined in section 79-3402 shall not count students attending an option school district as defined in section 79-3402; (b) ~~and~~ a Class II school district shall not count foreign exchange students; and (c) a school district shall count all students attending one or more classes in such district pursuant to a cooperative agreement between such district and the district in which such students reside. ~~when calculating average daily membership for purposes of this subsection.~~ This subsection shall not apply to any school district located on an Indian reservation and substantially or totally financed by the federal government.

(6) Any Class II school district maintaining a four-year high school which has an average daily membership of less than twenty-five students in grades nine through twelve for three consecutive years may contract with another school district to provide educational services for its pupils in grades nine through twelve. Such contract may continue for a period not to exceed three years. At the end of such three-year period the school district may resume educational services for grades nine through twelve if the average daily membership in grades nine through twelve for such school district has reached at least fifty students, except that a Class II school district may contract pursuant to this subsection for a period of only one year and at the end of such one-year period the school district may resume educational services for grades nine through twelve if the average daily membership in grades nine through twelve for such school district has reached at least fifty students. If the

school district has not achieved such average daily membership, it shall become a Class I school district as prescribed in subsection (5) of this section.".

2. On page 54, line 24, after "79-4,224," insert "79-701,".

3. Renumber the remaining sections accordingly.

Mr. Chizek asked unanimous consent to be excused until he returns. No objections. So ordered.

MR. WARNER PRESIDING

SPEAKER BAACK PRESIDING

Mr. Schrock moved for a call of the house. The motion prevailed with 14 ayes, 0 nays, and 35 not voting.

Mr. Schrock requested a roll call vote on the Schrock-Dierks amendment.

Voting in the affirmative, 13:

Byars	Cudaback	Hefner	Peterson	Rogers
Coordsen	Dierks	Johnson, R.	Robak	Schrock
Crosby	Elmer	Labedz		

Voting in the negative, 29:

Abboud	Beyer	Horgan	Moore	Schimek
Ashford	Chambers	Johnson, L.	Morrissey	Smith
Baack	Conway	Kristensen	Nelson	Warner
Bernard-Stevens	Hall	Landis	Rasmussen	Wehrbein
	Hartnett	Lindsay	Robinson	Will
Beutler	Hillman	Lynch	Schellpeper	Withem

Excused and not voting, 7:

Chizek	Lamb	Schmit	Wesely	Wickersham
Haberman	Pirsch			

The Schrock-Dierks amendment lost with 13 ayes, 29 nays, and 7 excused and not voting.

The Chair declared the call raised.

Mr. Withem offered the following Wickersham amendment to the pending Standing Committee amendment:

AM1370

(Amendments to Standing Committee amendments, AM0873)

1. On page 1, line 16, after the first "district" insert "or portion thereof".

2. On page 4, line 8, after "entirely" insert "or partially".

3. On page 5, line 10, strike "or"; in line 11 after "system" insert ", or to affiliate a Class I district in part and to join such district in part with a Class VI district"; in line 15 strike "affiliation" and insert "a petition for affiliation or a petition to affiliate in part and in part to join a Class VI district"; and in line 21 after "petition" insert "or a petition to affiliate in part and in part to join a Class VI district".

4. On page 6, line 11, after "petition" insert "or a petition to affiliate in part and in part to join a Class VI district".

5. On page 8, line 5, strike the new matter and reinstate the stricken matter.

6. On page 9, line 21, strike "or", show as stricken, and insert an underscored comma; and in line 23 after "district" insert ", or to become affiliated in part with one or more Class II, III, IV, or V districts and in part to become part of a Class VI district".

7. On page 14, line 17, after "district" insert "or portion thereof"; in line 20 after "merging" insert "or affiliating"; and in line 22 after "of" insert "or a plan to affiliate in part and in part to become a part of".

8. On page 15, line 5, after "district" insert "or portion thereof"; and in line 9 after "(b)" insert "approved a plan to" and after "of" insert "or to affiliate in part with one or more Class II, III, IV, or V districts and in part become a part of".

9. On page 16, strike beginning with "a" in line 13 through "district" in line 15 and insert "one or more Class II, III, IV, or V districts, become part of a Class VI district, or affiliate in part with one or more Class II, III, IV, or V districts and in part become a

part of a Class VI district".

10. On page 17, line 10, after "Class" insert "I,"; and in line 24 strike "and (6)", show as stricken, and insert "(6) the changing of boundaries of a Class VI district, and (7)".

11. On page 18, line 10, after "district" insert "or portion thereof"; in line 11 after "and" insert "a"; and in line 12 strike "districts", show as stricken, and insert "district or portion thereof".

12. On page 21, line 18, strike the new matter and insert "districts or portion thereof affiliates"; and in lines 21 and 24 after "districts" insert "or portion thereof".

13. On page 22, line 11, after "district" insert "or portion thereof"; and in line 18 strike "the entire", show as stricken, and insert "all affiliated portions of the".

14. On page 24, line 17, after "affiliated" insert "in whole or in part"; in line 19 after "not" insert "in whole or in part"; and in line 21 after "affiliated" insert "in whole or in part".

15. On page 39, strike beginning with "an" in line 12 through "district" in line 13 and insert "in a district on land which is affiliated".

The Wickersham amendment was adopted with 22 ayes, 0 nays, 20 present and not voting, and 7 excused and not voting.

Ms. Schimek offered the following amendment to the pending Standing Committee amendment:
AM1379

(Amendments to AM1322)

1. Insert the following new section:

"Sec. 2. That section 43-2007, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

43-2007. (1) Upon notification by the patrol of a missing person, any school in which such missing person is currently or was previously enrolled shall flag the school records of such person in such school's possession. The school shall report immediately any request concerning a flagged record or any knowledge of the whereabouts of such missing person.

(2) Upon enrollment of a student for the first

time in a public school district or private school system, the school of enrollment shall notify in writing the person enrolling the student that within thirty days he or she must provide either (a) a certified copy of the student's birth certificate or (b) other reliable proof of the student's identity and age accompanied by an affidavit explaining the inability to produce a copy of the birth certificate.

(3) The parent or guardian of a child who is receiving his or her education in a home school subject to sections 79-1701 to 79-1707 shall, not later than October 1 of the first year of the child's attendance at the home school, provide to the Commissioner of Education either (a) a certified copy of the child's birth certificate or (b) other reliable proof of the child's identity and age accompanied by an affidavit explaining the inability to produce a copy of the birth certificate.

~~(3)~~ (4) Upon failure of the person, parent, or guardian to comply with subsection (2) or (3) of this section, the school or Commissioner of Education shall notify such person, parent, or guardian in writing that unless he or she complies within ten days the matter shall be referred to the local law enforcement agency for investigation. If compliance is not obtained within such ten-day period, the school or the commissioner shall immediately report such matter. Any affidavit received pursuant to subsection (2) or (3) of this section that appears inaccurate or suspicious in form or content shall be reported immediately to the local law enforcement agency by the school or the commissioner.

~~(4)~~ (5) Any school requested to forward a copy of a transferred student's record shall not forward a copy of such record to the requesting school if the record has been flagged pursuant to subsection (1) of this section. If such record has been flagged, the school to whom such request is made shall notify the local law enforcement agency of the request and that such student is a reported missing person.".

2. On page 81, line 3, before "77-3437" insert "43-2007,"; and in line 7 before the second "and" insert "Reissue Revised Statutes of Nebraska, 1943,".

3. Renumber the remaining sections and correct internal references accordingly.

Mr. Conway asked unanimous consent to be excused until he returns. No objections. So ordered.

The Schimek amendment was adopted with 16 ayes, 0 nays, 26 present and not voting, and 7 excused and not voting.

Mr. Lamb offered the following amendment to the pending Standing Committee amendment:
AM1393

(Amendments to AM1322)

1. Insert the following new sections:

"Sec. 64. That section 79-3801, Revised Statutes Supplement, 1990, be amended to read as follows:

79-3801. Sections 79-3801 to 79-3824 and section 65 of this act shall be known and may be cited as the Tax Equity and Educational Opportunities Support Act.

Sec. 65. (1) The tiered cost per student for each grade level, as calculated pursuant to subsections (5) through (8) of section 79-3805, shall be increased by a percentage based on the population density of children of school age per square mile as determined by the county superintendent's annual school district census report as follows: (a) If the population density is fifteen-hundredths or less, the tiered cost per student for each grade level shall be increased by ten percent; (b) if the population density is at least sixteen-hundredths but not more than forty-hundredths, the tiered cost per student for each grade level shall be increased by seven and one-half percent; and (c) if the population density is at least forty-one-hundredths but not more than seventy-hundredths, the tiered cost per student for each grade level shall be increased by five percent.

(2) For purposes of this section, children of school age shall mean children who are five through eighteen years of age.".

2. On page 81, line 15, before "79-3803" insert "79-3801,".

3. Renumber the remaining sections accordingly.

PRESIDENT MOUL PRESIDING

Mr. Lamb moved for a call of the house. The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

Mr. Lamb requested a roll call vote on his amendment.

Voting in the affirmative, 11:

Crosby	Lamb	Peterson	Rogers	Schrock
Dierks	Nelson	Robak	Schmit	Warner
Hefner				

Voting in the negative, 29:

Abboud	Chambers	Horgan	Lynch	Schellpeper
Ashford	Conway	Johnson, L.	Moore	Schimek
Baack	Elmer	Johnson, R.	Morrissey	Smith
Bernard-Stevens	Hall	Labedz	Pirsch	Wehrbein
	Hartnett	Landis	Rasmussen	Will
Beutler	Hillman	Lindsay	Robinson	Withem

Present and not voting, 5:

Beyer	Byars	Coordsen	Cudaback	Kristensen

Excused and not voting, 4:

Chizek	Haberman	Wesely	Wickersham

The Lamb amendment lost with 11 ayes, 29 nays, 5 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

Mr. Dierks offered the following amendment to the pending Standing Committee amendment:
FA109
Amend Lynch amendment AM1345 as follows:
Strike period at the end of Subsection (2)(a), and insert:
", except that one administrator shared by two or more school districts may be employed full-time regardless of the combined average daily membership of the school districts."

The Dierks amendment was adopted with 18 ayes, 11 nays, 16 present and not voting, and 4 excused and not voting.

Mr. Rogers asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Moore offered the following amendment to the pending Standing Committee amendment:
FA110
Amend the Lynch amendment to LB 719, AM1345, as follows:
The provisions of AM1345 shall become effective on July 1, 1992.

The Moore amendment was adopted with 24 ayes, 1 nay, 20 present and not voting, and 4 excused and not voting.

Mr. Conway offered the following amendment to the pending Standing Committee amendment:
FA111
Amend AM1345 to read: Strike 2(b) and insert the following
Districts having an average daily membership of two hundred students or more may employ one full-time administrator for increment of two hundred students.

Mr. Conway withdrew his pending amendment.

The Standing Committee amendment, as amended, was adopted with 25 ayes, 0 nays, 20 present and not voting, and 4 excused and not voting.

Mr. Withem withdrew his pending amendments, AM0574 and AM0575, printed separately from the Journal and referred to on page 943.

Advanced to E & R for review with 30 ayes, 0 nays, 15 present and not voting, and 4 excused and not voting.

UNANIMOUS CONSENT - Print in Journal

Mr. Warner asked unanimous consent to print the following amendment to LB 714A in the Journal. No objections. So ordered.

AM1352
1. On page 2, strike beginning with "(1)" in line 1 through "(2)" in line 2.

Mr. Beutler asked unanimous consent to print the following amendment to LB 719 in the Journal. No objections. So ordered.

AM1302

(Amendments to Standing Committee amendments, AM0873)

1. Insert the following new section:

"Sec. 25. That section 79-3805, Revised Statutes Supplement, 1990, be amended to read as follows:

79-3805. (1) Using data from the annual financial reports and the annual statistical summary reports for the most recently available complete data year, the department shall calculate the tiered cost per student for grades kindergarten, one through six, including full-day kindergarten, seven and eight, and nine through twelve for each district as described in subsections (2) through (8) of this section.

(2) Each district's general fund operating expenditures for grades kindergarten, one through six, including full-day kindergarten, seven and eight, and nine through twelve shall be computed as follows: (a) The weighted average daily membership for kindergarten shall equal the average daily membership for kindergarten multiplied by five-tenths; (b) the weighted average daily membership for grades one through six, including full-day kindergarten, shall equal the average daily membership for such grades multiplied by one; (c) the weighted average daily membership for grades seven and eight shall equal the average daily membership for such grades multiplied by one and two-tenths; (d) the weighted average daily membership for grades nine through twelve shall equal the average daily membership for such grades multiplied by one and four-tenths; and (e) the total weighted average daily membership shall equal the sum of grades kindergarten, one through six, including full-day kindergarten, seven and eight, and nine through twelve weighted average daily membership values. Each district's general fund operating expenditures for each grade group shall be calculated by dividing that grade group's weighted average daily membership by the total weighted average daily membership in the district and multiplying the result by the district's total general fund operating

expenditures.

(3) Each district with general fund operating expenditures in grades one through six, including full-day kindergarten, shall be placed into a tier based on the following schedule.

Tier	Tier midpoint	Average daily membership range	
1	50.50	.01 -	101.00
2	143.00	101.01 -	185.00
3	280.00	185.01 -	375.00
4	687.50	375.01 -	1,000.00
5	1,450.00	1,000.01 -	1,900.00
~~6~~	~~8,450.00~~	~~1,900.01 -~~	~~15,000.00~~
~~7 Median average daily membership of tier~~		~~15,000.01 and over~~	
6	7,700.00	1,900.01 -	13,500.00
7 Median average daily membership of tier		13,500.01	and over

The average general fund operating expenditures per student for grades one through six, including full-day kindergarten, shall be calculated for each tier by adding the total general fund operating expenditures for such grades for all districts in the tier and dividing by the total average daily membership for such grades for all districts in the tier.

(4) Each district with general fund operating expenditures in grades nine through twelve shall be placed in a tier based on the following schedule.

Tier	Tier midpoint	Average daily membership range	
1	25.00	.01 -	50.00
2	62.50	50.01 -	75.00
3	87.50	75.01 -	100.00
4	125.00	100.01 -	150.00
5	200.00	150.01 -	250.00
6	375.00	250.01 -	500.00
7	750.00	500.01 -	1,000.00
~~8~~	~~5,500.00~~	~~1,000.01 -~~	~~10,000.00~~
~~9 Median average daily membership of tier~~		~~10,000.01 and over~~	
8	4,750.00	1,000.01 -	8,500.00
9 Median average daily membership of tier		8,500.01	and over

The average general fund operating

expenditures per student for grades nine through twelve shall be calculated for each tier by adding the total general fund operating expenditures for such grades for all districts in the tier and dividing such sum by the total average daily membership for such grades for all districts in the tier.

(5) Tiered cost per student values shall be computed for grades one through six, including full-day kindergarten, for each district as follows:

(a) For districts with average daily memberships for grades one through six, including full-day kindergarten, which are less than the midpoint of tier 1 for such grades, the tiered cost per student shall equal the average general fund operating expenditures per student for tier 1;

(b) For districts with average daily memberships for grades one through six, including full-day kindergarten, which are greater than the midpoint of tier 7 for such grades, the tiered cost per student for such grades shall equal the average general fund operating expenditures per student for tier 7; and

(c) For districts with average daily memberships for grades one through six, including full-day kindergarten, which fall on or between the midpoints of any two tiers, the tiered cost per student for such grades shall be calculated by means of a linear transition between the average general fund operating expenditures per student of the two tiers between whose midpoints the districts' average daily memberships for such grades fall.

(6) Tiered cost per student values shall be computed for grades nine through twelve for each district as follows:

(a) For districts with average daily memberships for grades nine through twelve which are less than the midpoint of tier 1 for such grades, the tiered cost per student shall equal the average general fund operating expenditures per student for tier 1;

(b) For districts with average daily memberships for grades nine through twelve which are greater than the midpoint of tier 9 for such grades, the tiered cost per student for such grades shall equal the average general fund operating expenditures per student for tier 9; and

(c) For districts with average daily memberships for grades nine through twelve which fall on or between the midpoints of any two tiers, the tiered cost per student for such grades shall be calculated by means of a linear transition between the average general fund operating expenditures per student of the two tiers between whose midpoints the districts' average daily memberships for such grades fall.

(7) The tiered cost per student for kindergarten shall be calculated by multiplying each district's tiered cost per student for grades one through six, including full-day kindergarten, by five-tenths.

(8) The tiered cost per student for grades seven and eight shall be calculated as follows: For Class II, Class III, Class IV, and Class V districts, the tiered cost per student shall be the calculated mean of the district's tiered cost per student for grades one through six, including full-day kindergarten, and for grades nine through twelve; for Class I districts, the tiered cost per student shall be the district's tiered cost per student for grades one through six, including full-day kindergarten, multiplied by one and two-tenths; and for Class VI districts providing instruction in grades seven and eight as authorized by section 79-1109, the tiered cost per student shall be the district's tiered cost per student for grades nine through twelve multiplied by one and two-tenths and the result divided by one and four-tenths.

(9) The tiered cost per student for nonresident high school tuition funds shall be the average general fund operating expenditures per student for grades nine through twelve for all districts included in subsection (4) of this section.

(10) In districts where more than seventy-five percent of the students enrolled reside on Indian land, as defined under regulations of the United States Department of Education in effect on July 10, 1990, promulgated pursuant to Public Law 81-874, the tiered cost per student for each grade level, as calculated pursuant to subsections (5) through (8) of this section, shall be increased by a factor of twenty-five percent.".

2. On page 54, line 24, strike the last comma.

3. On page 55, line 1, strike "79-3806".

4. Renumber the remaining sections accordingly.

Mr. Beutler asked unanimous consent to print the following amendment to LB 719 in the Journal. No objections. So ordered.

AM1406

(Amendments to Standing Committee amendments, AM0873)

1. Insert the following new section:

"Sec. 24. In error proceedings to reverse, vacate, or modify a final order by a school board made pursuant to sections 79-12,107 to 79-12,121, the school district, school board, or both may be named as defendants in error in such proceedings. Such proceedings shall not be defeated nor shall the court be deprived of subject matter jurisdiction because the petitioner named the school board rather than the school district or the school district rather than the school board as the defendant in error.

This section shall apply to all error proceedings currently pending in the district court or the Supreme Court on the effective date of this act and to error proceedings commenced after such date.".

2. Renumber the remaining sections accordingly.

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 256A. Introduced by Schimek, 27.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 256, Ninety-second Legislature, First Session, 1991.

UNANIMOUS CONSENT - Print in Journal

Mr. Beutler asked unanimous consent to print the following amendment to LB 203 in the Journal. No objections. So ordered.

AM1374

1. In the Standing Committee amendments,

AM0383, on page 19, strike beginning with "in" in line 8 through the semicolon in line 9; and strike beginning with "in" in line 13 through the semicolon in line 14.

2. On page 5, line 19, after "valid" insert "general".

3. On page 5, line 20; page 11, line 25; page 19, line 24; page 35, line 14; page 36, line 4; page 37, line 14; page 44, lines 11, 13, 17, 19, 21, and 24; page 45, line 1; and page 46, line 6, strike "general".

4. On page 18, line 21, reinstate the stricken matter and strike "General certified".

5. On page 21, line 13, strike "Appropriate knowledge" and insert "Knowledge"; and in line 16 strike "Adequate knowledge" and insert "Knowledge".

6. On page 24, line 2, strike "Appropriate knowledge", show as stricken, and insert "Knowledge"; in line 5 strike "Adequate knowledge", show as stricken, and insert "Knowledge"; and in line 8 strike "A thorough", show as stricken, and insert "An".

7. On page 28, line 11, strike "that are appropriate for certification;", show as stricken, and insert an underscored semicolon.

Mr. Beutler asked unanimous consent to print the following amendment to LB 203 in the Journal. No objections. So ordered.

AM1181

1. In the Standing Committee amendment, AM0383, on page 22, strike beginning with "an" in line 3 through "board" in line 4 and insert "fees as established in section 76-2241".

2. On page 44, after line 10 insert the following new subdivisions:

"(15) A transitional license application fee of one hundred dollars;

(16) A transitional license examination fee of no more than two hundred dollars. The board may direct applicants to pay the fee directly to a third party who has contracted to administer the examination;

(17) An initial transitional license fee of no more than two hundred dollars;"; in line 11 strike "(15)" and insert "(18)"; in line 13 strike "(16)" and insert "(19)"; in line 17 strike "(17)" and insert "(20)"; in line 19 strike "(18)" and insert "(21)"; in

line 21 strike "(19)" and insert "(22)"; and in line 24 strike "(20)" and insert "(23)".

3. On page 45, line 1, strike "(21)" and insert "(24)"; and in line 4 strike "at" and strike "rate".

SELECT FILE

LEGISLATIVE BILL 207. E & R amendment, AM5107, printed separately from the Journal and referred to on page 1476, was adopted.

Mr. Baack renewed his pending amendment, AM1289, found in the Journal on page 1687.

Mr. Hefner asked unanimous consent to be excused until he returns. No objections. So ordered.

The Baack amendment was adopted with 26 ayes, 0 nays, 18 present and not voting, and 5 excused and not voting.

Mr. Horgan offered the following amendment:
AM1404

(Amendments to AM5107)

1. On page 13, line 1, after "capacity" insert "or that the resident district has not approved the student's transfer to the option district".

Mr. Coordsen asked unanimous consent to be excused until he returns. No objections. So ordered.

The Horgan amendment was adopted with 25 ayes, 0 nays, 18 present and not voting, and 6 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 427. E & R amendment, AM5110, found in the Journal on page 1477, was adopted.

Mrs. Labedz and Mr. Hall renewed their pending amendment, AM0858, found in the Journal on page 1367.

SPEAKER BAACK PRESIDING

Mr. Schmit asked unanimous consent to be excused until he returns. No objections. So ordered.

The Labedz-Hall amendment was adopted with 27 ayes, 0 nays, 18 present and not voting, and 4 excused and not voting.

Mr. L. Johnson renewed his pending amendment, AM0823, found in the Journal on page 1385.

Mr. Peterson asked unanimous consent to be excused until he returns. No objections. So ordered.

The L. Johnson amendment was adopted with 25 ayes, 0 nays, 19 present and not voting, and 5 excused and not voting.

Mrs. Smith offered the following amendment:
(Amendment on file in the Clerk's Office - Room 2018 - AM0978.)

Mr. R. Johnson asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Hall offered the following amendment to the pending Smith amendment:
FA112
Amend AM0978
p. 8 Sec. 6 strike the new matter

The Hall amendment lost with 7 ayes, 16 nays, 21 present and not voting, and 5 excused and not voting.

Mr. Morrissey and Mrs. Pirsch asked unanimous consent to be excused. No objections. So ordered.

Mr. Hall offered the following amendment to the pending Smith amendment:
FA113
Amend AM0978
p. 65 line 23 strike "one" & insert "ten"

Messrs. Beutler and Wickersham asked unanimous consent to be excused. No objections. So ordered.

Mr. Hall withdrew his pending amendment.

The pending Smith amendment was adopted with 30 ayes, 0 nays, 10 present and not voting, and 9 excused and not voting.

Advanced to E & R for engrossment.

STANDING COMMITTEE REPORT
Business and Labor

The Committee on Business and Labor desires to report favorably upon the appointment listed below. The Committee suggests the appointment be confirmed by the Legislature and suggests a record vote.

Karen Flowers - Nebraska Commission of Industrial Relations

Vote: Aye: Senators Coordsen, Elmer, Morrissey, and Schimek. Nay: None. Absent: Senators Chambers, Hefner, and Schellpeper.

(Signed) George Coordsen, Chairperson

UNANIMOUS CONSENT - Print in Journal

Mr. R. Johnson asked unanimous consent to print the following amendment to LB 409 in the Journal. No objections. So ordered.

AM1415

1. In the R. Johnson amendment, AM1022, on page 2, strike beginning with "Any" in line 7 through the period in line 9.

2. In the Standing Committee amendment, AM0625, on page 8, line 7, strike "one" and insert "two"; and in line 15 strike "three" and insert "four".

3. Strike original section 14 and all amendments thereto and insert the following new section:

"Sec. 16. That section 66-1523, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

66-1523. (1) Except as provided in subsection (2) of this section, the ~~The~~ department shall provide reimbursement from the fund in accordance with section 66-1525 to eligible responsible persons in an amount not to exceed nine hundred seventy-five thousand dollars per occurrence for the cost of remedial action ~~to eligible responsible persons~~ for releases reported after July 17,

~~1986~~ 1983, and for the cost of paying third-party claims. The responsible person shall be responsible for ~~(1)~~ the first ten thousand dollars of the cost of the remedial action or third-party claim, ~~and (2)~~ twenty-five percent of the remaining cost of the remedial action or third-party claim not to exceed fifteen thousand dollars, and the amount of any reduction authorized under subsection (5) of section 66-1525. In no event shall reimbursements or payments from the fund exceed the annual aggregate of one million nine hundred seventy-five thousand dollars per responsible person.

(2) Upon the determination by the department that the responsible person sold no less than two thousand gallons of petroleum and no more than two hundred fifty thousand gallons of petroleum during the calendar year immediately preceding the first report of the release or stored less than ten thousand gallons of petroleum in the calendar year immediately preceding the first report of the release, the department shall provide reimbursement from the fund in accordance with section 66-1525 to such an eligible person in an amount not to exceed nine hundred eighty-five thousand dollars per occurrence for the cost of remedial action for releases reported after July 17, 1983, and for the cost of paying third-party claims. The responsible person shall be responsible for the first five thousand dollars of the cost of the remedial action and third-party claim, twenty-five percent of the remaining cost of the remedial action or third-party claim not to exceed ten thousand dollars, and the amount of any reduction authorized under subsection (5) of section 66-1525. In no event shall reimbursements or payments from the fund exceed the annual aggregate of one million nine hundred eight-five thousand dollars per responsible person.

(3) The department may make partial reimbursement during the time that remedial action is being taken if the department is satisfied that the remedial action being taken is as required by the department.

(4) If the fund is insufficient for any reason to reimburse the amount set forth in this section, the maximum amount that the fund shall be required to reimburse is the amount in the fund. If reimbursements

approved by the department exceed the amount in the fund, reimbursements shall be made in the order in which the applications for them were received by the department.

(5) For purposes of this section, occurrence shall mean an accident, including continuous or repeated exposure to conditions, which results in a release from a tank.".

4. On page 18, line 12, after "act" insert ", the cause of action for the third-party claim was filed on or before June 30, 1993,".

5. On page 19, line 5, before "The" insert "(1)"; in line 7 strike "(1)" and insert "(a)"; in line 9 strike "(2)" and insert "(b)"; in line 12 strike "(3)" and insert "(c)"; after line 14 insert:

"(2) The department may pay the costs of a third-party claim meeting the requirements of subdivision (2)(f) of section 66-1525 with money available in the fund if the responsible person cannot or will not pay the third-party claim.

(3)"; and in line 15 before "All" insert "(4)".

Mr. Beutler asked unanimous consent to print the following amendment to LB 714 in the Journal. No objections. So ordered.

AM0723

1. On page 2, line 21, after the period insert "Any money in the fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1276.".

Mr. Hall asked unanimous consent to print the following amendment to LB 719 in the Journal. No objections. So ordered.

AM1395

(Amendments to Standing Committee amendments, AM0873)

1. Insert the following new section:

"Sec. 28. That section 79-3809, Revised Statutes Supplement, 1990, be amended to read as follows:

79-3809. Commencing in 1994, on ~~On~~ or before March 1 of each year the Department of Revenue shall compute and certify to the State Department of Education

the adjusted valuation of each district for the second preceding tax year by application of an adjustment factor for each class of property in each such district so that the valuation of property for each district, for purposes of determining state aid pursuant to the Tax Equity and Educational Opportunities Support Act, shall reflect as nearly as possible actual value as required by law and the Constitution of Nebraska. Establishment of the adjustment factors shall be based on the best available assessment practices.".

2. On page 55, line 1, strike "79-3808" and insert "79-3809".

3. Renumber the remaining sections accordingly.

Mr. Withem asked unanimous consent to print the following amendment to LB 849 in the Journal. No objections. So ordered.

AM1362
(Amendments to Standing Committee amendments, AM1071)

1. On page 10, lines 3 and 4, after "Innovation" insert "Trust"; in line 5 after the period insert "Each year fifty percent of the revenue transferred to the Education Innovation Trust Fund shall be available for disbursement. When the balance in the fund reaches one hundred million dollars only the income from investment of the funds by the state investment officer shall be available for investment." and after "Innovation" insert "Trust"; and in line 8 after "learning" insert ", to encourage the development of collaborative projects between university or college teacher training programs, schools, and staff development networks for the restructuring and improvement of preservice and inservice teacher and administrator preparation and professional development,".

3. On page 11, strike lines 16 through 19 and insert the following new subdivision:

"(c) Support of collaborative projects of college or university teacher training programs, schools, and staff development networks for the restructuring and improvement of preservice teacher and administrator training and inservice training and professional staff development of teachers and

administrators based on sound research models demonstrating methods for the improvement of teaching and learning;".

4. On page 13, line 13, after "Innovation" insert "Trust".

5. On page 14, lines 4 and 9, after "Innovation" insert "Trust".

6. On page 29, line 24, after "Innovation" insert "Trusts".

7. On page 30, line 6, after "Innovation" insert "Trust".

Mr. Conway asked unanimous consent to print the following amendment to LB 579 in the Journal. No objections. So ordered.

FA114

Amendment to AM0868

1. Page 152, line 3, strike "board" and reinstate the stricken matter.

VISITORS

Visitors to the Chamber were 25 seventh and eighth grade students and sponsor from Butte; 35 fourth grade students and sponsors from Oakland-Craig School in Oakland; and 25 kindergarten through eighth grade students and teacher from District 18, Crete.

ADJOURNMENT

At 5:04 p.m., on a motion by Mr. Hall, the Legislature adjourned until 9:00 a.m., Tuesday, April 23, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

SIXTY-FIFTH DAY - APRIL 23, 1991

LEGISLATIVE JOURNAL

SIXTY-FIFTH DAY - APRIL 23, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

SIXTY-FIFTH DAY

Legislative Chamber, Lincoln, Nebraska
Tuesday, April 23, 1991

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Moul presiding.

PRAYER

The prayer was offered by Rev. Harland Johnson, Chaplain Coordinator.

ROLL CALL

The roll was called and all members were present except Messrs. Hall and Wesely who were excused; and Messrs. Ashford, Bernard-Stevens, Coordsen, Haberman, Hartnett, Lindsay, Moore, Schmit, Schrock, Wehrbein, Mmes. Labedz, Nelson, Rasmussen, and Robak who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

Page 1745, lines 19 and 20, after "409" insert "and LB 409A".
The Journal for the Sixty-Fourth Day was approved as corrected.

SELECT COMMITTEE REPORTS
Enrollment and Review

Correctly Engrossed

The following bills were correctly engrossed: 732 and 732A.

(Signed) Eric Will, Chairperson

Enrollment and Review Change to LB 732

The following changes, required to be reported for publication in the Journal, have been made:
ER7055

1. Because of the Kristensen amendment, FA82, in the Kristensen amendment, AM1220, on page 1, line 13, "three" has been struck and "two" inserted.

2. In the Kristensen amendment, FA82, on page 1, line 2, "(2)" has been struck and "The" inserted.

3. On page 1, line 5, "24-211," has been inserted after the last comma.

4. On page 2, line 5, "32-1040," has been inserted after the second comma; and in line 25 "to change provisions relating to the Clerk of the Supreme Court and the Reporter of the Supreme Court;" has been inserted after the semicolon.

5. On page 3, line 1, "to change provisions relating to standards of review and to courts;" has been inserted after the semicolon.

6. On page 65, lines 12, 19, 20 and 21, and 23; and page 89, lines 17 and 18, the matter beginning with "Court" through "Court" has been struck, the old matter shown as stricken, and "appellate court" inserted.

7. On page 68, line 11, "and" has been inserted after the semicolon.

8. On page 74, line 17, the first comma has been struck and shown as stricken.

9. On page 103, line 2, the new matter has been struck and "Representative in Congress" inserted.

10. On page 105, line 10, the stricken comma has been reinstated.

11. On page 153, line 5, the second "security" has been struck, shown as stricken, and "the appeal" inserted.

12. On page 176, line 9, the comma has been struck and shown as stricken.

(Signed) Mary E. Sommermeyer
E & R Attorney

RESOLUTION

LEGISLATIVE RESOLUTION 66. Read. Considered.

LR 66 was adopted with 26 ayes, 0 nays, and 23 not voting.

MOTION - Approve Appointments

Mr. Conway moved the adoption of the report of the Government, Military and Veterans Affairs Committee for the following Governor appointment found in the Journal on page 1682: Jonathan F. Sweet - Director, Department of Veterans Affairs.

Voting in the affirmative, 26:

Baack	Conway	Horgan	Nelson	Smith
Bernard-Stevens	Crosby	Johnson, L.	Pirsch	Warner
Beyer	Dierks	Kristensen	Robinson	Wehrbein
Byars	Elmer	Landis	Schellpeper	Wickersham
Chizek	Hefner	Lynch	Schrock	Withem
	Hillman			

Voting in the negative, 0.

Present and not voting, 12:

Abboud	Cudaback	Lamb	Peterson	Schimek
Beutler	Johnson, R.	Morrissey	Rogers	Will
Chambers	Labedz			

Excused and not voting, 11:

Ashford	Hall	Lindsay	Rasmussen	Schmit
Coordsen	Hartnett	Moore	Robak	Wesely
Haberman				

The appointment was confirmed with 26 ayes, 0 nays, 12 present and not voting, and 11 excused and not voting.

Mr. Withem moved the adoption of the report of the Education Committee for the following Governor appointment found in the Journal on page 1686: Marshall Faith - School Restructuring Commission.

Voting in the affirmative, 27:

Abboud	Conway	Elmer	Johnson, L.	Nelson
Baack	Crosby	Hefner	Johnson, R.	Rasmussen
Beutler	Cudaback	Hillman	Kristensen	Robinson
Beyer	Dierks	Horgan	Lynch	Schellpeper

Schrock	Warner	Wickersham	Will	Withem
Smith	Wehrbein			

Voting in the negative, 0.

Present and not voting, 12:

Bernard-Stevens	Chambers	Lamb	Peterson	Rogers
Byars	Chizek	Landis	Pirsch	Schimek
	Labedz	Morrissey		

Excused and not voting, 10:

Ashford	Haberman	Hartnett	Moore	Schmit
Coordsen	Hall	Lindsay	Robak	Wesely

The appointment was confirmed with 27 ayes, 0 nays, 12 present and not voting, and 10 excused and not voting.

UNANIMOUS CONSENT - Members Excused

Mr. Bernard-Stevens asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Haberman asked unanimous consent to be excused. No objections. So ordered.

MOTION - Return LB 409 to Select File

Mr. R. Johnson moved to return LB 409 to Select File for his specific amendment, AM1415, found in the Journal on page 1765.

The R. Johnson motion to return prevailed with 27 ayes, 0 nays, 14 present and not voting, and 8 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 409. The R. Johnson specific amendment, AM1415, found in the Journal on page 1765, was adopted with 31 ayes, 0 nays, 12 present and not voting, and 6 excused and not voting.

Advanced to E & R for engrossment.

MOTION - Return LB 57 to Select File

Mrs. Smith moved to return LB 57 to Select File for her specific amendment, AM0928, found in the Journal on page 1687.

The Smith motion to return prevailed with 31 ayes, 0 nays, 13 present and not voting, and 5 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 57. The Smith specific amendment, AM0928, found in the Journal on page 1687, was adopted with 36 ayes, 0 nays, 8 present and not voting, and 5 excused and not voting.

Advanced to E & R for re-engrossment.

UNANIMOUS CONSENT - Member Excused

Mr. Lynch asked unanimous consent to be excused until he returns. No objections. So ordered.

BILL ON FINAL READING

The following bill was read and put upon final passage:

LEGISLATIVE BILL 333. With Emergency.

A BILL FOR AN ACT relating to motor vehicles; to amend sections 60-315, 60-320.01, 60-1417.01, and 77-1240.03, Reissue Revised Statutes of Nebraska, 1943; to provide for the refund of registration fees and taxes when the tax situs is changed to a location outside of the state; to provide for a certificate and license plate for motor vehicles which are not registered as prescribed; to provide fees; to change provisions relating to buyer's information forms; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 42:

Abboud	Beutler	Chambers	Coordsen	Dierks
Ashford	Beyer	Chizek	Crosby	Elmer
Baack	Byars	Conway	Cudaback	Hefner

Hillman	Lamb	Pirsch	Schellpeper	Warner
Horgan	Landis	Rasmussen	Schimek	Wehrbein
Johnson, L.	Lindsay	Robak	Schmit	Wickersham
Johnson, R.	Morrissey	Robinson	Schrock	Will
Kristensen	Nelson	Rogers	Smith	Withem
Labedz	Peterson			

Voting in the negative, 0.

Present and not voting, 1:

Moore

Excused and not voting, 6:

Bernard-Stevens	Haberman	Hartnett	Lynch	Wesely
	Hall			

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

GENERAL FILE

LEGISLATIVE BILL 720. Title read. Considered.

Standing Committee amendment, AM0997, found in the Journal on page 1427, was considered.

Mr. Horgan offered the following amendment to the pending Standing Committee amendment:
AM1307
(Amendments to Standing Committee amendments, AM0997)

1. On page 1, strike beginning with "Strike" in line 1 through "sections" in line 2 and insert "Insert the following new section"; and in line 3 strike "Section 1" and insert "Sec. 2".

2. On page 4, strike lines 20 and 21.

3. Insert the following new amendments:

"2. On page 3, line 11, strike '1' and insert '2'; and in line 16 strike 'is' and insert 'and section 80-401.01, Revised Statutes Supplement, 1990, are'.

3. Renumber the remaining section accordingly.".

Mr. Chambers asked unanimous consent to be excused until he returns. No objections. So ordered.

The Horgan amendment lost with 8 ayes, 13 nays, 21 present and not voting, and 7 excused and not voting.

Mr. Horgan asked unanimous consent to be excused until he returns. No objections. So ordered.

The Standing Committee amendment was adopted with 25 ayes, 0 nays, 16 present and not voting, and 8 excused and not voting.

Mrs. Smith offered the following amendment:
FA115
Add the following new section:
Since an emergency exists, this act shall be in full force and take effect from and after its passage and approval, according to law.

The Smith amendment was adopted with 25 ayes, 0 nays, 17 present and not voting, and 7 excused and not voting.

Advanced to E & R for review with 26 ayes, 0 nays, 16 present and not voting, and 7 excused and not voting.

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following bill: 333.

SELECT FILE

LEGISLATIVE BILL 798. E & R amendment, AM5109, found in the Journal on page 1477, was adopted.

Mr. Kristensen withdrew his pending amendment, AM0915, found in the Journal on page 1306.

Mr. Kristensen renewed his pending amendment, AM1099, found in the Journal on page 1546.

Mr. Lynch asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Kristensen moved for a call of the house. The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

Mr. Kristensen requested a roll call vote on his amendment.

Voting in the affirmative, 26:

Baack	Elmer	Kristensen	Nelson	Schrock
Beyer	Hefner	Labedz	Robak	Smith
Byars	Hillman	Lamb	Robinson	Warner
Crosby	Johnson, L.	Landis	Rogers	Wehrbein
Cudaback	Johnson, R.	Morrissey	Schimek	Wickersham
Dierks				

Voting in the negative, 14:

Abboud	Beutler	Coordsen	Rasmussen	Will
Ashford	Chizek	Lindsay	Schellpeper	Withem
Bernard-Stevens	Conway	Pirsch	Schmit	

Present and not voting, 2:

Moore	Peterson

Excused and not voting, 7:

Chambers	Hall	Horgan	Lynch	Wesely
Haberman	Hartnett			

The Kristensen amendment was adopted with 26 ayes, 14 nays, 2 present and not voting, and 7 excused and not voting.

The Chair declared the call raised.

Mr. Lindsay renewed his pending amendment, AM0876, found in the Journal on page 1743.

The Lindsay amendment was adopted with 25 ayes, 0 nays, 17 present and not voting, and 7 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 579. E & R amendment, AM5112, printed separately from the Journal and referred to on page 1485, was adopted.

Ms. Schimek and Mr. Chambers withdrew their pending amendment, FA74, found in the Journal on page 1341.

Mr. Warner renewed his pending amendment, AM1239, found in the Journal on page 1648.

SPEAKER BAACK PRESIDING

Mr. Conway requested a division of the question on the Warner amendment.

The Chair sustained the division of the question.

The first Warner amendment is as follows:
FA116

(Amendments to AM0868)

1. In the E & R amendments, AM5112:

a. On page 1, line 7, strike "nine" and insert "ten"; in line 9 strike "eight" and insert "nine"; in line 19, strike "and"; and in line 20 after "(d)" insert "One member registered as an independent; and

(e)"; and

The first Warner amendment lost with 11 ayes, 11 nays, 20 present and not voting, and 7 excused and not voting.

The second Warner amendment is as follows:
FA117

(Amendments to AM0868)

b. On page 2, after line 2, insert the following new paragraph:

"Each member of the board representing a political party shall have been registered as a member of that political party for at least five years prior to his or her appointment to the board, and the member of the board registered as an independent shall have been so registered for at least five years prior to his or her appointment to the board.".

2. On page 3, line 2, after the underscored period insert "No more than one-half of the members of the staff, including the commissioner and the general

counsel, shall at any one time be registered members of the same political party for five years previously.";
and in lines 5, 8, and 10 strike "five" and insert "six".

Mr. Conway offered the following amendment to the pending Warner amendment:
FA119
Amend the Warner amendment, FA117
1. Page 1, line 11 change "five" to "two."
2. Strike on page 1, after "board" in line 12, through line 15.
3. Page 1, line 20 change "five" to "two."
4. Page 2, strike lines 1 and 2.

The Conway amendment was adopted with 25 ayes, 0 nays, 20 present and not voting, and 4 excused and not voting.

Ms. Schimek offered the following amendment to the pending Warner amendment:
FA120
Amend the Warner amendment, FA117, by striking lines 16-20 on page 1.

Ms. Schimek withdrew her pending amendment.

The second Warner amendment, as amended, was adopted with 25 ayes, 0 nays, 20 present and not voting, and 4 excused and not voting.

Pending.

UNANIMOUS CONSENT - Print in Journal

Messrs. R. Johnson and Dierks asked unanimous consent to print the following amendment to LB 827 in the Journal. No objections. So ordered.

(Amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM1214.)

Mr. Baack asked unanimous consent to print the following amendment to LB 719 in the Journal. No objections. So ordered.

(Amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM1304.)

PRESENTED TO THE GOVERNOR

Presented to the Governor on April 23, 1991, at 11:07 a.m., was the following bill: 333.

(Signed) Jan Loder, Enrolling Clerk

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 406A. Introduced by Lamb, 43.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 406, Ninety-second Legislature, First Session, 1991.

VISITORS

Visitors to the Chamber were 23 juniors, seniors, and teacher from Ralston; Sherry Morrow from Kearney State; 26 third grade students and teachers from West Fall Elementary, Malcolm; 16 students and teachers from Shelton High School; 25 ninth grade students and teacher from Friend; 44 eighth grade students and teacher from St. Columbille, Papillion; and 26 fourth grade students from St. John's Lutheran, Seward.

RECESS

At 11:54 a.m., on a motion by Mr. Byars, the Legislature recessed until 1:30 p.m.

AFTER RECESS

The Legislature reconvened at 1:31 p.m., Speaker Baack presiding.

ROLL CALL

The roll was called and all members were present except Messrs. Haberman, Hall, Horgan, and Wesely who were excused; and Messrs. Ashford, Beyer, Dierks, Landis, Moore, Robinson, Rogers, Schmit, Mmes. Labedz, Pirsch, and Ms. Schimek who were excused until they arrive.

UNANIMOUS CONSENT - Print in Journal

Mr. Hartnett asked unanimous consent to print the following amendment to LB 773 in the Journal. No objections. So ordered.

AM1375

1. On page 33, line 1, reinstate the stricken matter.

2. On page 34, lines 13 through 24, strike the new matter and all amendments thereto.

Mr. Beutler asked unanimous consent to print the following amendment to LB 663 in the Journal. No objections. So ordered.

(Amendment on file in the Clerk's Office - Room 2018 - AM1394.)

SELECT FILE

LEGISLATIVE BILL 579. The third Warner amendment is as follows:

FA118

(Amendments to AM0868)

3. On page 6, line 13, strike "The" and insert "After consultation with the Attorney General, the"; in line 16 after "opinions" insert "with which the Attorney General does not disagree"; and in line 22 after "commissioner" insert "with which the Attorney General does not disagree".

The third Warner amendment lost with 8 ayes, 13 nays, 15 present and not voting, and 13 excused and not voting.

Mr. Conway renewed his pending amendment, AM1231, found in the Journal on page 1661.

The Conway amendment was adopted with 26 ayes, 0 nays, 14 present and not voting, and 9 excused and not voting.

Mr. Conway renewed his pending amendment, FA114, found in the Journal on page 1769.

The Conway amendment was adopted with 26 ayes, 0 nays, 14 present and not voting, and 9 excused and not voting.

Mr. Chambers reoffered the Schimek-Chambers amendment, FA74, found in the Journal on page 1341 and considered in this day's Journal.

Mr. Lynch asked unanimous consent to be excused until he returns. No objections. So ordered.

The Schimek-Chambers amendment was adopted with 25 ayes, 0 nays, 14 present and not voting, and 10 excused and not voting.

Mr. Will asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Warner offered the following amendment:
AM1423

(Amendments to E & R amendments, AM5112)

1. On page 1, line 11, after "party" insert "and to assure that at least one member is registered as an independent and that such person has been registered as an independent for at least two years prior to his or her appointment".

Mr. Dierks asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Warner moved for a call of the house. The motion prevailed with 9 ayes, 0 nays, and 40 not voting.

Mr. Warner requested a roll call vote on his amendment.

Voting in the affirmative, 21:

Baack	Chambers	Hefner	Lamb	Rasmussen
Bernard-Stevens	Crosby	Hillman	Landis	Smith
Beutler	Cudaback	Johnson, L.	Morrissey	Warner
Byars	Elmer	Kristensen	Pirsch	Wickersham
	Hartnett			

Voting in the negative, 5:

Abboud	Labedz	Robinson	Wehrbein	Will

Present and not voting, 13:

Ashford	Conway	Lindsay	Peterson	Schrock
Beyer	Coordsen	Moore	Robak	Withem
Chizek	Johnson, R.	Nelson		

Absent and not voting, 1:

Schellpeper

Excused and not voting, 9:

Dierks	Hall	Lynch	Schimek	Wesely
Haberman	Horgan	Rogers	Schmit	

The Warner amendment lost with 21 ayes, 5 nays, 13 present and not voting, 1 absent and not voting, and 9 excused and not voting.

The Chair declared the call raised.

Mr. Warner offered the following amendment:
FA121
Amend AM0868
(1) P. 2, l. 21, after the underscored period insert
"The general counsel and the State Election Commissioner shall not be registered members of the same political party at any time in the 2 years prior to and during his or her employment by the board."
(2) Strike Warner amendment #2 adopted 4-23-91

The Warner amendment was adopted with 25 ayes, 0 nays, 16 present and not voting, and 8 excused and not voting.

Mr. Abboud asked unanimous consent to be excused until he returns. No objections. So ordered.

Mrs. Robak moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

Mrs. Labedz and Mr. Ashford asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Lamb requested a machine vote on the advancement of the bill.

Mr. Conway moved for a call of the house. The motion prevailed with 15 ayes, 0 nays, and 34 not voting.

Mr. Conway requested a roll call vote on the advancement of the bill.

Voting in the affirmative, 27:

Abboud	Chizek	Johnson, R.	Morrissey	Schellpeper
Baack	Conway	Kristensen	Nelson	Wehrbein
Bernard-Stevens	Coordsen	Labedz	Rasmussen	Wickersham
Byars	Crosby	Landis	Robak	Will
Chambers	Hartnett	Lindsay	Robinson	Withem
	Hillman	Moore		

Voting in the negative, 11:

Beutler	Elmer	Johnson, L.	Peterson	Schrock
Beyer	Hefner	Lamb	Pirsch	Warner
Cudaback				

Present and not voting, 1:

Dierks

Absent and not voting, 1:

Smith

Excused and not voting, 9:

Ashford	Hall	Lynch	Schimek	Wesely
Haberman	Horgan	Rogers	Schmit	

Advanced to E & R for engrossment with 27 ayes, 11 nays, 1 present and not voting, 1 absent and not voting, and 9 excused and not voting.

The Chair declared the call raised.

Mrs. Rasmussen asked unanimous consent to be excused. No objections. So ordered.

LEGISLATIVE BILL 181. Mr. Lindsay moved to indefinitely postpone.

Laid over.

SELECT COMMITTEE REPORTS
Enrollment and Review

Correctly Engrossed

The following bills were correctly engrossed: 409 and 409A.

(Signed) Eric Will, Chairperson

Enrollment and Review Change to LB 409

The following changes, required to be reported for publication in the Journal, have been made:
ER7056

1. In the R. Johnson amendment, AM1415, on page 3, line 1, "and" has been struck and "or" inserted.
2. In the Withem amendment, AM1246, on page 4, line 6, "inventory" has been struck, shown as stricken, and "inventory-control" inserted; and
3. In the E & R amendment, AM5104, on page 2, line 3, "81-15,117," has been inserted after "sections" and a comma has been inserted after "81-15,119"; in line 4 "11" has been struck and "12" inserted and "first" has been inserted after "the"; the matter beginning with the quotation marks in line 6 through the quotation marks in line 7 has been struck; in line 8 "to authorize remedial actions;" has been inserted after the semicolon and "reimbursement for damages," has been inserted after "for"; and in line 9 ", and the construction of certain provisions" has been inserted after "property".

(Signed) Mary E. Sommermeyer
E & R Attorney

SELECT FILE

LEGISLATIVE BILL 773. E & R amendment, AM5115, printed separately from the Journal and referred to on page 1526, was adopted.

Mr. Hartnett renewed his pending amendment, AM1293, found in the Journal on page 1724.

The Hartnett amendment was adopted with 26 ayes, 0 nays, 13 present and not voting, and 10 excused and not voting.

Mr. Abboud asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Hartnett renewed his pending amendment, AM1251, found in the Journal on page 1724.

Messrs. Warner and Wehrbein asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Hartnett moved for a call of the house. The motion prevailed with 9 ayes, 0 nays, and 40 not voting.

Mr. Hartnett requested a roll call vote on his amendment.

Voting in the affirmative, 16:

Abboud	Crosby	Hefner	Labedz	Robinson
Beyer	Elmer	Hillman	Peterson	Rogers
Byars	Hartnett	Johnson, L.	Robak	Schmit
Chizek				

Voting in the negative, 13:

Bernard-Stevens	Johnson, R.	Landis	Morrissey	Smith
	Kristensen	Lindsay	Pirsch	Will
Conway	Lamb	Moore	Schrock	

Present and not voting, 10:

Baack	Chambers	Cudaback	Nelson	Wickersham
Beutler	Coordsen	Dierks	Schellpeper	Withem

Excused and not voting, 10:

Ashford	Hall	Lynch	Schimek	Wehrbein
Haberman	Horgan	Rasmussen	Warner	Wesely

The Hartnett amendment lost with 16 ayes, 13 nays, 10 present and not voting, and 10 excused and not voting.

The Chair declared the call raised.

Mr. Conway offered the following amendment:
(Amendment on file in the Clerk's Office - Room 2018 - AM1303.)

Mr. Abboud asked unanimous consent to be excused. No objections. So ordered.

Mr. Conway offered the following amendment to his pending amendment:
FA122
Amendments to AM1303
1. On page 12, strike beginning with "Fifty" in line 17 through "(b)" in line 20.
2. On page 13, line 9 after "resides" insert "; and (b) All remaining funds, including that which did not originate in a county, shall be credited to the Nebraska State Patrol Drug Control and Education Cash Fund".
3. On page 21, line 7 strike "8,9,10, and 35" and insert "1 through 5, 8 through 10, 21 through 33 and 35".

The Conway amendment was adopted with 25 ayes, 0 nays, 13 present and not voting, and 11 excused and not voting.

Mr. Dierks asked unanimous consent to be excused until he returns. No objections. So ordered.

The Conway amendment, as amended, was adopted with 25 ayes, 0 nays, 12 present and not voting, and 12 excused and not voting.

Mr. Morrissey asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Hartnett renewed his pending amendment, AM1375, found in the Journal on page 1781.

The Hartnett amendment was adopted with 25 ayes, 0 nays, 11 present and not voting, and 13 excused and not voting.

Mr. Will moved to indefinitely postpone LB 773.

Laid over.

LEGISLATIVE BILL 795. E & R amendment, AM5114, found in the Journal on page 1526, was adopted.

Mr. Conway moved to indefinitely postpone LB 795.

Laid over.

MOTION - Suspend Rules

Mr. R. Johnson moved to suspend the rules, Rule 3, Section 13 and cancel the Natural Resources Committee hearing schedule for 1:00 p.m. to confirm Bill Hoppner as Nebraska's Compact Commissioner.

The R. Johnson motion to suspend the rules prevailed with 31 ayes, 0 nays, 6 present and not voting, and 12 excused and not voting.

STANDING COMMITTEE REPORT
Natural Resources

LEGISLATIVE BILL 72. Placed on General File as amended.
Standing Committee amendment to LB 72:
AM1411

1. Strike the original sections and insert the following new sections:

"Section 1. That section 81-1578, Revised Statutes Supplement, 1990, be amended to read as follows:

81-1578. Sections 81-1578 to 81-15,116 and section 2 of this act shall be known and may be cited as the Low-Level Radioactive Waste Disposal Act.

Sec. 2. (1) It is the intent of the Legislature that for purposes of the Low-Level Radioactive Waste Disposal Act, the county within which a proposed site for a facility is located shall be the area used to determine community support for the facility pursuant to subsection (3) of section 81-1579.

(2) To ensure that the citizens residing in the county in which the proposed site is located are actively and voluntarily involved in the siting process, the developer shall, prior to licensure of a facility, provide written notification to the Governor, Legislature, department, and county board of

commissioners or supervisors of the county in which the proposed site is located and publish a prominent notice in at least one newspaper with general circulation in the county identifying the proposed site.

(3) At least thirty days but not more than ninety days after the county board receives the required notice, a special election shall be held in the county for the purpose of determining whether a facility should be built on the proposed site. The special election shall be called by the count board, and the date for such election shall be publicly announced within thirty days after the public identification of the site prescribed in subsection (2) of this section. If the date chosen for the special election is less than thirty days before a general or primary election, the special election shall be held on the same date as the general or primary election. If more than one site is proposed within a county, a separate ballot shall be used for each site and the ballot questions shall distinguish specifically between the sites. The county clerk of the county shall have the necessary ballots printed and distributed to the designated polling places.

(4) Any registered voter who is a resident of the county may vote on the question. If less than a majority of such registered voters voting on the question for a given site vote to approve the facility, the application for a license for a facility at such site shall be denied. The county clerk of the county shall forward to the Secretary of State pursuant to law the official canvass of the votes cast in his or her county on the question. The state canvassing board shall canvass the results of the election, and certify the results to the county board.

The costs of the special election shall be paid from the Low-Level Radioactive Waste Cash Fund.

(5) Voter approval for any facility site shall not alter or compromise any scientific requirements of licensure.

Sec. 3. That original section 81-1578, Revised Statutes Supplement, 1990, is repealed.".

(Signed) Rod Johnson, Chairperson

UNANIMOUS CONSENT - Print in Journal

Mr. Schmit asked unanimous consent to print the following amendment to LB 850 in the Journal. No objections. So ordered.

AM1424

1. Insert the following new sections:

"Sec. 4. The Legislature finds that the tort claim against the Department of Banking and Finance filed on January 25, 1991, pursuant to the State Tort Claims Act documents theft, waste of assets, and violations of fiduciary duty by the state through receivership employees and that the actions documented give rise to liability of the state under the act. The Legislature further finds that the state is clearly liable for acknowledged thefts and embezzlements, is probably liable in many instances involving waste and the handling of property, and is possibly liable in instances involving insider transactions. Therefor, the Legislature, pursuant to section 81-8,211, as amended by this legislative bill, hereby approves $30,000,000 of such tort claim.

There is hereby appropriated $30,000,000 from the General Fund for FY1991-92 to the Department of Banking and Finance, for the payment of the tort claim.

Sec. 7. That section 81-8,211, Revised Statutes Supplement, 1990, be amended to read as follows:

81-8,211. Authority is hereby conferred upon the State Claims Board, acting on behalf of the State of Nebraska, to consider, ascertain, adjust, compromise, settle, determine, and allow any tort claim, except that any tort claim of five million dollars or more shall be considered, ascertained, adjusted, compromised, settled, determined, and allowed directly by the Legislature after filing with the Risk Manager. If any tort claim is compromised, settled, or allowed in an amount of more than five thousand dollars, the unanimous approval of all members of the State Claims Board shall be required and such claims also shall be submitted for approval by the district court for Lancaster County. When approval of the district court is required, the Attorney General shall make application for such approval and shall file with the application a complete record of the action of the State Claims Board on such claim. The claimant may

join in such application, and if the claimant does so, the court may proceed to act on the application without further notice to either party. If the claimant does not join in the application, the court shall require actual notice to all parties before acting on the application. The court may deny the application for any legal and sufficient reason or may direct the State Claims Board to conduct further hearings on any material issues. The fees of the clerk of the district court for filing, docketing, and indexing such application shall be five dollars.

Sec. 8. That original section 81-8,211, Revised Statutes Supplement, 1990, is repealed.".

2. On page 9, lines 20, 21, and 24; and page 10, lines 7 and 14, before "this" insert "sections 1 to 6 of".

3. Insert underscoring in the original sections.

4. Renumber the remaining sections accordingly.

VISITORS

Visitors to the Chamber were Forrest (Frosty) and Violet Morrison and daughter, Nancy, from Loomis; three guests from Burt County; 82 fourth grade students and sponsors from Schuyler; 25 eighth grade students and sponsor from Elkhorn Valley, Tilden; and Professor Valery Nefedov from Leningrad.

The Doctor of the Day was Dr. James Carlson from Lincoln.

ADJOURNMENT

At 4:08 p.m., on a motion by Mr. Lamb, the Legislature adjourned until 9:00 a.m., Wednesday, April 24, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

SIXTY-SIXTH DAY - APRIL 24, 1991

LEGISLATIVE JOURNAL

SIXTY-SIXTH DAY - APRIL 24, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

SIXTY-SIXTH DAY

Legislative Chamber, Lincoln, Nebraska
Wednesday, April 24, 1991

Pursuant to adjournment, the Legislature met at 9:00 a.m., Speaker Baack presiding.

PRAYER

The prayer was offered by Pastor Bob Bretch, College View Seventh-Day Adventist Church, Lincoln, Nebraska.

ROLL CALL

The roll was called and all members were present except Messrs. Haberman and Wesely who were excused; and Messrs. Abboud, Ashford, Bernard-Stevens, Conway, Hartnett, R. Johnson, Kristensen, Landis, Moore, Schmit, Mmes. Pirsch, Robak, Smith, and Ms. Schimek who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Sixty-Fifth Day was approved.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following resolution: LR 66.

MOTION - Approve Appointment

Mr. Coordsen moved the adoption of the report of the Business and Labor Committee for the following Governor appointment found in

the Journal on page 1765: Karen Flowers - Nebraska Commission of Industrial Relations.

Voting in the affirmative, 26:

Baack	Dierks	Horgan	Peterson	Schrock
Beyer	Elmer	Johnson, L.	Rasmussen	Warner
Byars	Hall	Lindsay	Robinson	Wickersham
Chizek	Hefner	Lynch	Rogers	Will
Coordsen	Hillman	Morrissey	Schellpeper	Withem
Crosby				

Voting in the negative, 0.

Present and not voting, 7:

Beutler	Cudaback	Lamb	Nelson	Wehrbein
Chambers	Labedz			

Excused and not voting, 16:

Abboud	Conway	Kristensen	Pirsch	Schmit
Ashford	Haberman	Landis	Robak	Smith
Bernard-Stevens	Hartnett	Moore	Schimek	Wesely
	Johnson, R.			

The appointment was confirmed with 26 ayes, 0 nays, 7 present and not voting, and 16 excused and not voting.

WITHDRAW - Amendment to LB 663

Mr. Beutler withdrew his pending amendment, AM1394, on file in the Clerk's Office and referred to on page 1781, to LB 663.

MOTION - Return LB 663 to Select File

Mr. Beutler moved to return LB 663 to Select File for the following specific amendment:
(Amendment on file in the Clerk's Office - Room 2018 - AM1443.)

The Beutler motion to return prevailed with 26 ayes, 0 nays, 7 present and not voting, and 16 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 663. The Beutler specific amendment, AM1443, on file in the Clerk's Office and referred to in this day's Journal, was adopted with 27 ayes, 0 nays, 7 present and not voting, and 15 excused and not voting.

Advanced to E & R for engrossment.

GENERAL FILE

LEGISLATIVE BILL 579A. Title read. Considered.

Advanced to E & R for review with 26 ayes, 2 nays, 9 present and not voting, and 12 excused and not voting.

LEGISLATIVE BILL 701A. Title read. Considered.

Mrs. Rasmussen offered the following amendment:
AM1441

1. Insert the following new section:

"Sec. 4. The General Fund appropriation to the State Department of Education, for Program 440, shall decrease by $63,750 in FY1992-93.".

The Rasmussen amendment was adopted with 25 ayes, 0 nays, 12 present and not voting, and 12 excused and not voting.

Advanced to E & R for review with 25 ayes, 0 nays, 13 present and not voting, and 11 excused and not voting.

LEGISLATIVE BILL 714A. Title read. Considered.

Mr. Wehrbein moved to indefinitely postpone LB 714A.

Laid over.

LEGISLATIVE BILL 825A. Title read. Considered.

Advanced to E & R for review with 25 ayes, 4 nays, 11 present and not voting, and 9 excused and not voting.

SELECT COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 457. Placed on Select File as amended. (E & R amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM5124.)

LEGISLATIVE BILL 457A. Placed on Select File.

LEGISLATIVE BILL 715. Placed on Select File as amended.
E & R amendment to LB 715:
AM5129

1. To aid potential correlation with section 34, LB 457, strike original section 19 and insert the following new section:

"Sec. 19. That section 43-1727, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

43-1727. An income withholding notice may be modified or revoked by a court of competent jurisdiction or by the county attorney or authorized attorney as a result of a review conducted pursuant to sections 13 to 18 of this act. An income withholding notice may also be modified or revoked by a court of competent jurisdiction or by the county attorney or authorized attorney, for other good cause shown, after notice and a hearing on the issue.".

2. On page 1, line 10, after "provide" insert "powers and"; and in line 11 strike "and" and insert a comma and after the second "attorneys" insert ", and the Department of Social Services".

3. On page 13, lines 7 and 8, strike the comma and show as stricken; and in line 8 after "such" insert "a".

4. On page 20, line 20, strike "initiation" and insert "initiative".

5. On page 21, line 1, strike "under" and insert "pursuant to"; and in line 6 strike "sections 13 to 18 of this act" and insert "modification of child support".

6. On page 23, line 1, strike "in accordance with" and insert "for purposes of".

LEGISLATIVE BILL 715A. Placed on Select File.

LEGISLATIVE BILL 186. Placed on Select File as amended.
E & R amendment to LB 186:

AM5125

1. On page 1, lines 1 and 3, after "victims" insert "and witnesses".

LEGISLATIVE BILL 186A. Placed on Select File as amended.
E & R amendment to LB 186A:
AM5126

1. On page 2, line 4, strike "Pardons" and insert "Parole".

LEGISLATIVE BILL 227. Placed on Select File as amended.
E & R amendment to LB 227:
AM5127

1. In the Wesely amendment, AM1146, on page 1, line 4, strike "(3)" and insert "(4)".

2. On page 1, line 4, strike "redefine a term" and insert "define and redefine terms".

LEGISLATIVE BILL 701. Placed on Select File as amended.
E & R amendment to LB 701:
AM5128

1. In the Rasmussen amendment, AM1020:

a. On page 2, line 10, strike "the" and insert "a"; and in line 11 strike "sites" and insert "site"; and

b. On page 4, line 11, strike "coordination services" and insert "services coordination".

2. On page 1, strike beginning with the semicolon in line 2 through "date" in line 3.

3. On page 4, line 20; page 7, line 13; and page 9, line 19, strike the comma.

4. On page 6, line 25, strike "serves" and insert "serve".

5. On page 9, line 25, strike "act" and insert "Early Intervention Act".

6. On page 14, line 13, after "Catastrophic" insert "Coverage".

LEGISLATIVE BILL 852. Placed on Select File.

Correctly Engrossed

The following bills were correctly engrossed: 123, 528, 583, and 742.

(Signed) Eric Will, Chairperson

Enrollment and Review Change to LB 123

The following changes, required to be reported for publication in the Journal, have been made:
ER7058

1. Because of the repeal of sections 6-101 to 6-105 and 6-107 to 6-111, Uniform Commercial Code, by section 4, Legislative Bill 162, Ninety-second Legislature, First Session, 1991:

a. On page 11, line 5, "and" has been inserted after the semicolon; and the matter beginning with "A" in line 6 through "(l)" in line 9 and all amendments thereto has been struck; and

b. On page 15, the matter beginning with "Any" in line 6 through the period in line 8 and all amendment thereto has been struck.

Enrollment and Review Change to LB 583

The following changes, required to be reported for publication in the Journal, have been made:
ER7057

1. In the E & R amendments, AM5108, on page 2, line 5, "8" has been struck and "9" inserted.

2. In the Rogers et al. amendment, AM0640:

a. On page 4, line 8, "federal" has been struck; and

b. On page 4, line 20; and page 7, line 20, "act" has been struck and "Beef Promotion and Research Act of 1985" inserted.

3. On page 1, line 6, "the State Treasurer," has been inserted before "and"; and in line 9 "duties" has been struck and "funds, liabilities, duties," inserted.

(Signed) Mary E. Sommermeyer
E & R Attorney

STANDING COMMITTEE REPORT
Revenue

LEGISLATIVE BILL 829. Placed on General File as amended.
(Standing Committee amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM1372.)

(Signed) Tim Hall, Chairperson

SELECT FILE

LEGISLATIVE BILL 773. Mr. Will withdrew his pending motion, found in the Journal on page 1784, to indefinitely postpone.

Mr. Hall renewed his pending amendment, AM1037, found in the Journal on page 1450.

Messrs. Wehrbein and Chizek asked unanimous consent to be excused until they return. No objections. So ordered.

The Hall amendment was adopted with 25 ayes, 1 nay, 13 present and not voting, and 10 excused and not voting.

Mr. Hall renewed his pending amendment, AM1013, found in the Journal on page 1450.

PRESIDENT MOUL PRESIDING

Mr. Morrissey asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Chambers offered the following amendment to the pending Hall amendment:
FA123
Amend Hall Amendment (AM1013):
On page 1452 of Journal, line 5 at top of page, after "origin", insert, "or permit the infliction of corporal punishment,"

Mr. Wickersham asked unanimous consent to be excused until he returns. No objections. So ordered.

The Chambers amendment was adopted with 25 ayes, 0 nays, 16 present and not voting, and 8 excused and not voting.

Mr. Hartnett moved the previous question. The question is, "Shall the debate now close?" The motion lost with 13 ayes, 8 nays, and 28 not voting.

Mr. Dierks moved the previous question. The question is, "Shall the debate now close?"

Mr. Dierks moved for a call of the house. The motion prevailed with 18 ayes, 0 nays, and 31 not voting.

The motion to cease debate prevailed with 25 ayes, 4 nays, and 20 not voting.

The Chair declared the call raised.

Mr. Hall moved for a call of the house. The motion prevailed with 30 ayes, 0 nays, and 19 not voting.

Mr. Hall requested a roll call vote on his amendment.

Voting in the affirmative, 24:

Abboud	Chambers	Hall	Labedz	Rogers
Ashford	Chizek	Hartnett	Lindsay	Schellpeper
Bernard-Stevens	Conway	Hefner	Lynch	Schmit
	Crosby	Horgan	Peterson	Will
Beutler	Dierks	Kristensen	Robak	Withem

Voting in the negative, 18:

Baack	Elmer	Lamb	Rasmussen	Smith
Beyer	Hillman	Landis	Robinson	Warner
Byars	Johnson, L.	Moore	Schimek	Wehrbein
Coordsen	Johnson, R.	Nelson		

Present and not voting, 2:

Cudaback Schrock

Excused and not voting, 5:

Haberman	Morrissey	Pirsch	Wesely	Wickersham

The Hall amendment, as amended, lost with 24 ayes, 18 nays, 2 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Messrs. Lamb, Withem, Bernard-Stevens, and Kristensen asked unanimous consent to be excused until they return. No objections. So ordered.

Messrs. Hartnett and Will offered the following amendment:

FA124

Amend AM5115 (E & R Amendments) to LB 773 as follows:

On page 9, in lines 6 to 8, reinstate the stricken matter.

On page 9, in lines 8 to 12, strike the new matter.

On page 10, in line 22, strike the word "and".

On page 11, in line 4, strike the period (".") and

i) insert "; and"; and

ii) insert the following new subdivision (the new matter stricken on page 9, in lines 8 to 12):

(t) Purchases made by the Nebraska Investment Finance Authority, the Research and Development Authority, the Small Business Development Authority, and licensees of the State Racing Commission.

The Hartnett-Will amendment was adopted with 25 ayes, 0 nays, 15 present and not voting, and 9 excused and not voting.

Mr. Lindsay offered the following amendment:

AM1460

1. On page 11, line 24, strike "or".

2. On page 12, line 2, after "vehicle" insert "; or

(vii) Fees, dues, or the cost of membership paid to any organization holding a certificate of exemption under section 501(c)(3) of the Internal Revenue Code of 1986, as amended, notwithstanding that such membership also includes access to and use of facilities, places, or locations owned by the organization free of charge".

3. On page 19, line 22, after "include" insert "(i)" and strike "(i)" and show as stricken; in line 23 strike the last "or" and show as stricken; and in line 24 after "(ii)" insert "fees charged by".

4. On page 20, line 4, after "school" insert ", or (iii) fees, dues, or the cost of membership paid to any organization holding a certificate of exemption under section 501(c)(3) of the Internal Revenue Code of 1986, as amended, notwithstanding that such membership also includes access to and use of facilities, places, or locations owned by the organization free of charge".

Messrs. Hartnett, Baack, and Peterson asked unanimous consent to be excused until they return. No objections. So ordered.

Pending.

UNANIMOUS CONSENT - Print in Journal

Mr. Withem asked unanimous consent to print the following amendment to LB 91 in the Journal. No objections. So ordered.

AM1439

1. On page 4, strike line 4, show as stricken, and insert "All of the first fifteen million dollars appropriated and two-thirds of the amount in excess of twenty million dollars appropriated for distribution pursuant to the Help Education Lead to Prosperity Act shall be"; and after line 10 insert the following new subsections:

"(5) After the fifteen million dollars have been appropriated for general salary increases, the next five million dollars appropriated and one-third of the amount appropriated in excess of twenty million dollars for distribution pursuant to the act shall be used only for purposes of providing performance-based salary increases. The State Treasurer shall distribute each year an amount to providers in the same proportion as their weighted number of full-time equivalent teachers in the state as a whole employed by providers which have submitted the information as required by this section. The State Treasurer shall not distribute any money to a provider under this section until the department has certified that a performance-based salary plan has been agreed to by the teachers and the provider and the plan has been agreed to by the teachers and the provider and the plan has been approved by the department based on criteria established by the department. The plan shall be submitted to the department by January 1 of each year.

(6) The State Treasurer shall not distribute any money to a provider under this section until the department has certified that the provider and local teacher association, or local bargaining group if there is no local teacher association, have agreed to each element of the plan which involves a mandatory subject of bargaining.".

VISITORS

Visitors to the Chamber were 24 fourth grade students and teachers from Lincoln Elementary, Beatrice; 30 fourth grade students and teacher from Adams; 27 first through sixth grade students and teachers from Howells; 32 seniors and teacher from Fort Calhoun; 90 fourth grade students and teachers from Aurora; 13 students and teachers from Paddock-Lane, Beatrice; China-USA Teacher Education Consortium delegates from China; Senator Wehrbein's father, Ralph Wehrbein, from Plattsmouth; and 50 fourth grade students and teachers from Robert Ackerman Elementary, Omaha.

RECESS

At 11:56 a.m., on a motion by Mr. Will, the Legislature recessed until 1:30 p.m.

AFTER RECESS

The Legislature reconvened at 1:30 p.m., Speaker Baack presiding.

ROLL CALL

The roll was called and all members were present except Messrs. Haberman and Wesely who were excused; and Messrs. Beutler, Chizek, Conway, Hartnett, Withem, Mmes. Nelson, Pirsch, Robak, and Ms. Schimek who were excused until they arrive.

UNANIMOUS CONSENT - Members Excused

Messrs. Kristensen and Lynch asked unanimous consent to be excused until they return. No objections. So ordered.

SELECT FILE

LEGISLATIVE BILL 773. Mr. Lindsay withdrew his pending amendment, AM1460, found in this day's Journal.

Mrs. Labedz requested a machine vote on the advancement of the bill.

Mr. Hefner moved for a call of the house. The motion prevailed with 9 ayes, 0 nays, and 40 not voting.

Mr. Moore requested a roll call vote on the advancement of the bill.

Voting in the affirmative, 21:

Baack	Cudaback	Johnson, R.	Morrissey	Smith
Bernard-Stevens	Elmer	Lamb	Peterson	Warner
Beyer	Hefner	Landis	Rasmussen	Wehrbein
Coordsen	Hillman	Moore	Robinson	Wickersham
	Johnson, L.			

Voting in the negative, 15:

Abboud	Chambers	Hall	Lindsay	Schmit
Ashford	Crosby	Horgan	Rogers	Schrock
Byars	Dierks	Labedz	Schellpeper	Will

Excused and not voting, 13:

Beutler	Haberman	Lynch	Robak	Wesely
Chizek	Hartnett	Nelson	Schimek	Withem
Conway	Kristensen	Pirsch		

Failed to advance to E & R for engrossment with 21 ayes, 15 nays, and 13 excused and not voting.

The Chair declared the call raised.

LEGISLATIVE BILL 795. Mr. Conway withdrew his pending motion, found in the Journal on page 1788, to indefinitely postpone.

Mr. Hall offered the following amendment:
AM1468

1. Strike the original sections and all amendments thereto and insert the following new sections:

"Section 1. That section 9-607, Revised Statutes Supplement, 1990, be amended to read as follows:

9-607. (1) Lottery shall mean a gambling scheme in which (a) the players pay or agree to pay something of value for an opportunity to win, (b) winning opportunities are represented by tickets, (c) winners are solely determined by one of the following three methods: (i) By a random drawing of tickets differentiated by sequential enumeration from a

receptacle by hand whereby each ticket has an equal chance of being chosen in the drawing; (ii) by rubbing or scraping a spot or spots on a disposable instant game ticket to reveal numbers, letters, symbols, or configurations, or any combination thereof, previously specified as winning numbers, letters, symbols, or configurations or a winning combination; or (iii) by use of a game known as keno in which a player selects up to twenty numbers from a total of eighty numbers on a ticket, except that no ticket shall be distributed by a computer, other electronic selection device, or other machine which is activated by the player, and a computer, other electronic selection device, or electrically operated blower machine which is not player activated randomly selects up to twenty numbers from the same pool of eighty numbers and the winning players are determined by the correct matching of the numbers selected by the players with the numbers randomly selected by the computer, other electronic selection device, or electrically operated blower machine, and (d) the holders of the winning tickets are to receive cash or prizes redeemable for cash. Selection of a winner or winners shall be predicated solely on chance.

(2) Lottery shall not include (a) any gambling scheme which uses any mechanical gaming device, computer gaming device, electronic gaming device, or video gaming device, including any machine or device which can automatically distribute keno tickets, which has the capability of awarding something of value, free games redeemable for something of value, or tickets or stubs redeemable for something of value, (b) any activity authorized or regulated under the Nebraska Bingo Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act, section 9-701, or Chapter 2, article 12, or (c) any activity prohibited under Chapter 28, article 11.

(3) Notwithstanding subsections (1) and (2) of this section, any county, city, or village lottery operation in existence and operating on March 1, 1989, which would not meet the requirements of subsection (1) of this section or the requirement in section 9-625 that only one scheme or type of lottery be conducted may continue in operation until January 1, 1991. Such operation shall be restricted to operation upon the same

terms as existed on March 1, 1989, and the operation of the lottery shall comply with the other provisions of the Nebraska County and City Lottery Act.

Sec. 2. That original section 9-607, Revised Statutes Supplement, 1990, is repealed.".

Mr. Will asked unanimous consent to bracket LB 795 until April 29, 1991. No objections. So ordered.

Mr. Abboud asked unanimous consent to be excused until he returns. No objections. So ordered.

MESSAGE FROM THE GOVERNOR

April 22, 1991

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Madam President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Nebraska Arts Council, requiring legislative approval.

Appointee: Janet K. Korell, PO Box 190, Hayes Center, NE 69032, 308-286-3612.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:fc

RESOLUTION

LEGISLATIVE RESOLUTION 71. Introduced by Hall, 7.

WHEREAS, Joyce E. Christensen was one of five principals nationwide to receive the Administrator Award from the Kennedy Center for the Performing Arts; and

WHEREAS, Joyce E. Christensen has made an outstanding commitment for the Omaha South High School and the South Omaha community to excel in the fine arts; and

WHEREAS, Joyce E. Christensen's commitment is evident in such projects as Adopt-A-School, Nebraska Theatre Caravan, Opera Omaha, art shows, and the planning for the "Evolution of the Multicultural Community of South Omaha" mural, as well as many other art projects.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature commend and applaud Joyce E. Christensen on receiving this honor and for her commitment and accomplishments for the Omaha South High School, its students, and the South Omaha community.

2. That a copy of this resolution be sent to Joyce E. Christensen.

Laid over.

UNANIMOUS CONSENT - Print in Journal

Mr. R. Johnson asked unanimous consent to print the following amendment to LB 718 in the Journal. No objections. So ordered.

AM1454

1. Insert the following new section:

"Sec. 14. Notwithstanding the provisions of sections 8 and 13 of this act, the races of a licensee may not be used by or at a teleracing facility or for telephonic wagering for the purposes of parimutuel wagering during the time such licensee is conducting a live race meeting unless the owner or owners of the teleracing facility have:

(1) Obtained the written permission and consent of the licensee conducting such live race meeting;

(2) Obtained the written consent of the organization representing a majority of the owners and trainers at the racetrack of the licensee conducting the live race meeting; and

(3) Conferred with the organization which represents a majority of the thoroughbred breeders in Nebraska as to what effect the use of such teleracing facility would have upon horse breeding and horseracing

in this state.".

2. On page 1, line 10; page 2, line 23; page 6, lines 4 and 16; page 8, lines 18 and 19; and page 10, lines 8 and 23, strike "15" and insert "16".

3. Renumber the remaining sections accordingly.

NOTICE OF COMMITTEE HEARING
Natural Resources

Governor Appointments Wednesday, May 1, 1991 1:00 p.m.
Natural Resources Commission
Glen L. Kroese
Wilbur L. Nelson
Michael Shaughnessy
Game and Parks Commission
Charles Wright

(Signed) Rod Johnson, Chairperson

SELECT FILE

LEGISLATIVE BILL 203. E & R amendment, AM5117, found in the Journal on page 1574, was adopted.

Mr. Will asked unanimous consent to replace his pending amendment, AM1149, found in the Journal on page 1647, with a substitute amendment. No objections. So ordered.

Mr. Will withdrew his pending amendment, AM1149, found in the Journal on page 1647.

Mr. Will offered the following substitute amendment:
AM1419

1. Insert the following new sections:

"Sec. 54. That section 77-422, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-422. Upon the successful completion of the examination by the applicant and, after January 1, 1997, after certification pursuant to the Real Estate Appraiser Act, a county assessor certificate shall be issued to ~~him~~ the applicant.

Sec. 55. That section 77-425, Reissue Revised

Statutes of Nebraska, 1943, be amended to read as follows:

77-425. The Tax Commissioner, subject to proper rules and regulations to be published and furnished to every assessing official, shall have the power to invalidate the certificate of any assessor or deputy assessor who (1) willfully fails or refuses faithfully to perform his or her duties in accordance with the rules, regulations, and instructions adopted, promulgated, and issued by the Tax Commissioner, his or her manuals of assessment, and the laws of the state governing the assessment of property and the duties of each assessor and deputy assessor or (2) fails to become and remain a certified real estate appraiser pursuant to the Real Estate Appraiser Act after January 1, 1997. In lieu of invalidating the certificate of an assessor or deputy assessor who fails to become and remain a certified real estate appraiser pursuant to the act, the Tax Commissioner may allow the assessor or deputy assessor to continue in office until the next election for assessor in the county. No certificate shall be revoked or suspended except upon a proper hearing before the Tax Commissioner or his or her designee after due notice. If the county assessor certificate of a person serving as assessor or deputy assessor is revoked, such person shall be removed from office by the Tax Commissioner, the office shall be declared vacant, and such person shall not be eligible to hold that office for a period of five years from the date of removal. Any assessor or deputy assessor whose county assessor certificate has been so revoked may appeal the decision of the Tax Commissioner. The ~~, and the~~ appeal shall be in accordance with the Administrative Procedure Act.".

2. On page 9, line 13, after the reinstated "estate" insert "other than the office of the county assessor"; in line 15 after "(c)" insert "the office of the county assessor, including the county assessor, until January 1, 1997, (d)"; and in lines 16 and 23 strike "(d)", show as stricken, and insert "(e)".

3. On page 10, line 23, after "person" insert "other than a county assessor or an employee of a county assessor".

4. On page 50, line 24, strike "and 76-2249" and insert "76-2249, 77-422, and 77-425".

5. Renumber the remaining sections accordingly.

Mr. Ashford asked unanimous consent to be excused. No objections. So ordered.

Mr. Lamb moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

Mr. Will withdrew his pending amendment.

Mr. Beutler renewed his pending amendment, AM1374, found in the Journal on page 1761.

The Beutler amendment was adopted with 27 ayes, 0 nays, 14 present and not voting, and 8 excused and not voting.

Mr. Beutler renewed his pending amendment, AM1181, found in the Journal on page 1762.

The Beutler amendment was adopted with 25 ayes, 0 nays, 16 present and not voting, and 8 excused and not voting.

Mr. Schmit offered the following amendment:
AM1445

1. Insert the following new section:

"Sec. 3. That section 58-253, Reissue Revised Statutes of Nebraska, 1943, as amended by section 53, Legislative Bill 253, Ninety-second Legislature, First Session, 1991, be amended to read as follows:

58-253. ~~The~~ Other than the one-hundred-million-dollar bond issue, Series 1986A, for agricultural loans which is due November 1, 1993, the authority may issue from time to time bonds to renew or to pay bonds, including the interest on such bonds, and whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured and whether or not the project as originally financed with the bonds would at the time of the refunding qualify as a project, and to issue bonds partly to refund outstanding bonds and partly for any other of its corporate purposes. The refunding bonds may be sold and the proceeds applied to

the purchase, redemption, or payment of the bonds to be refunded or exchanged for the bonds to be refunded.".

2. On page 50, line 25, before "and" insert "and section 58-253, Reissue Revised Statutes of Nebraska, 1943, as amended by section 53, Legislative Bill 253, Ninety-second Legislature, First Session, 1991,".

3. Renumber the remaining sections and correct internal references accordingly.

Messrs. Wickersham, Chizek, and Mrs. Robak asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Beutler requested a ruling of the Chair on whether the Schmit amendment is germane to the bill.

The Chair ruled the Schmit amendment is not germane to the bill.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 203A. Advanced to E & R for engrossment.

LEGISLATIVE BILL 850. E & R amendment, AM5116, found in the Journal on page 1576, was adopted.

Messrs. Beutler and Schellpeper asked unanimous consent to be excused. No objections. So ordered.

Mr. Morrissey reoffered his amendment, AM1111, found in the Journal on page 1510.

MR. WARNER PRESIDING

Pending.

UNANIMOUS CONSENT - Print in Journal

Mr. Lynch asked unanimous consent to print the following amendment to LB 91A in the Journal. No objections. So ordered.

AM1466

1. On page 2, lines 2 and 3, strike "$20,000,000" and insert "$15,000,000".

Mr. Beutler asked unanimous consent to print the following amendment to LB 425 in the Journal. No objections. So ordered.

AM1449

(Amendments to E & R amendments, AM5120)

1. On page 4, line 9, after the period insert "If the court fails to rule within the required time period, the petition to waive the notification requirement shall be deemed granted. The court shall document such fact in the minor's records."; and in line 13 after the period insert "The court shall issue a written order which shall be provided immediately to the minor, the minor's guardian ad litem, the minor's attorney, or any other person designated by the minor to receive the order.".

Mr. Landis asked unanimous consent to print the following amendment to LB 90 in the Journal. No objections. So ordered.

AM1435

1. On page 9, strike lines 7 through 9 and insert:

"(a) Civil claims and disputes, including, but not limited to, consumer and commercial complaints, disputes between neighbors, disputes between business associates, disputes between landlords and tenants, and disputes within communities;"; and strike beginning with "All" in line 21 through line 25 and insert "In order for a referral to be effective, all parties involved must consent to such referral. If a court refers a case to an approved center, the center shall provide information to the court as to whether an agreement was reached. If the court requests a copy of the agreement, the center shall provide it.".

2. On page 10, strike line 1.

UNANIMOUS CONSENT - Add Co-Introducer

Mr. Abboud asked unanimous consent to have his name added as co-introducer to LB 720. No objections. So ordered.

VISITORS

Visitors to the Chamber were 18 eighth grade students and teacher from Lewiston; Jerry Stolz from South Sioux City; 75 fourth grade students and teachers from Robert Ackerman Elementary, Omaha; and 20 sixth grade students and sponsor from Henderson.

ADJOURNMENT

At 3:34 p.m., on a motion by Mr. Morrissey, the Legislature adjourned until 9:00 a.m., Thursday, April 25, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

SIXTY-SEVENTH DAY - APRIL 25, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

SIXTY-SEVENTH DAY

Legislative Chamber, Lincoln, Nebraska
Thursday, April 25, 1991

Pursuant to adjournment, the Legislature met at 9:00 a.m., Speaker Baack presiding.

PRAYER

The prayer was offered by Father Joe Walsch, St. Joseph's Church, Lincoln, Nebraska.

ROLL CALL

The roll was called and all members were present except Mr. Haberman and Ms. Schimek who were excused; and Messrs. Ashford, Bernard-Stevens, Beutler, Beyer, Byars, Hall, Hartnett, Landis, Lindsay, Morrissey, and Schmit who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Sixty-Sixth Day was approved.

REPORT OF REGISTERED LOBBYISTS

In accordance with LB 987, passed in the 1976 session of the Legislature and amended by LB 4 and LB 41 in the 1977 session of the Legislature, the attached is a list of all Lobbyists who have registered as of April 24, 1991. Further lists listing additional lobbyists who have registered will be filed weekly.

(Signed) Patrick J. O'Donnell
Clerk of the Legislature

D'Angelo, Gregory R. - New York, NY (Withdrawn 91/04/18)	Forest Laboratories, Inc.
Hansen, John K. - Lincoln	Nebraska Farmers Union
McCarville, Denis D. - Omaha	Uta Halee Girls Village
Odvody, Marilyn - Morse Bluff	Saunders County Livestock Association
Pappas, James E. - Lincoln (Withdrawn 91/04/11)	Friends of SAC Museum
Schizas, Jennifer - Lincoln	Nebraska Citizens for the Arts
Whitted Jr., Warren R. - Omaha	Enrollment Option Group

UNANIMOUS CONSENT - Print in Journal

Mr. Warner asked unanimous consent to print the following amendment to LB 773 in the Journal. No objections. So ordered.

AM1470

1. Insert the following new section:

"Sec. 14. That section 77-2716.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-2716.01. (1) Every individual shall be allowed to subtract from federal adjusted gross income an amount for personal exemptions. For tax year 1987, the amount allowed to be subtracted shall be one thousand one hundred dollars multiplied by the number of exemptions allowed on the federal return. For tax year 1988, the amount allowed to be subtracted shall be one thousand one hundred thirty dollars multiplied by the number of exemptions allowed on the federal return. For tax year 1989, the amount allowed to be subtracted shall be one thousand one hundred eighty dollars multiplied by the number of exemptions allowed on the federal return. For tax year 1990, the amount allowed to be subtracted shall be one thousand two hundred thirty dollars multiplied by the number of exemptions allowed on the federal return. For tax year 1991, the amount allowed to be subtracted shall be one thousand five hundred thirty dollars multiplied by the number of exemptions allowed on the federal return. For tax year ~~1990~~ 1992 and each tax year thereafter, the amount to be subtracted shall be adjusted for inflation by the method provided in section 151 of the Internal Revenue Code. If any amount to be subtracted is not a multiple of ten

dollars, the amount shall be rounded to the next lowest multiple of ten dollars. The amount shall then be multiplied by the number of exemptions allowed on the federal return.

(2) Every individual who did not itemize deductions on his or her federal return shall be allowed to subtract from federal adjusted gross income a standard deduction equal to the federal standard deduction for the filing status used on the federal return.

(3) Every individual who itemized deductions on his or her federal return shall be allowed to subtract from federal adjusted gross income the greater of either the standard deduction allowed in subsection (2) of this section or all of his or her federal itemized deductions, except for the amount deducted on the federal return for state or local income taxes paid.".

2. Change repealer and internal references accordingly.

3. Renumber the remaining sections accordingly.

MOTION - Suspend Rules

Mr. Lynch moved to suspend the rules, Rule 6, Section 7(b), to permit consideration of LB 409 and LB 409A on Final Reading.

The Lynch motion to suspend the rules prevailed with 32 ayes, 0 nays, 4 present and not voting, and 13 excused and not voting.

BILLS ON FINAL READING

The following bills were read and put upon final passage:

LEGISLATIVE BILL 409. With Emergency.

A BILL FOR AN ACT relating to environmental protection; to amend sections 66-1501, 66-1503, 66-1508, 66-1509, 66-1512, 66-1513, 66-1514, 66-1516, 66-1517, 66-1518, 66-1519, 66-1520, 66-1521, 66-1522, 66-1523, and 66-1525, Reissue Revised Statutes of Nebraska, 1943, and sections 81-15,117, 81-15,119, and 81-15,123, Revised Statutes Supplement, 1990; to define and redefine terms; to change provisions relating to fees for and reimbursements from the

Petroleum Release Remedial Action Cash Fund; to provide for a state interest in certain litigation; to change provisions relating to rules and regulations; to require a report; to provide for the disposition of tangible personal property; to authorize remedial actions; to provide for reimbursement for damages, access to certain property, and the construction of certain provisions; to harmonize provisions; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 39:

Abboud	Crosby	Johnson, L.	Nelson	Smith
Ashford	Cudaback	Johnson, R.	Peterson	Warner
Baack	Dierks	Kristensen	Pirsch	Wehrbein
Beutler	Elmer	Labedz	Rasmussen	Wesely
Chambers	Hartnett	Lamb	Robinson	Wickersham
Chizek	Hefner	Lynch	Rogers	Will
Conway	Hillman	Moore	Schellpeper	Withem
Coordsen	Horgan	Morrissey	Schrock	

Voting in the negative, 0.

Present and not voting, 1:

Robak

Excused and not voting, 9:

Bernard-Stevens	Beyer	Haberman	Landis	Schimek
	Byars	Hall	Lindsay	Schmit

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

LEGISLATIVE BILL 409A. With Emergency.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 409.

Ninety-second Legislature, First Session, 1991; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 40:

Abboud	Crosby	Johnson, L.	Morrissey	Schellpeper
Ashford	Cudaback	Johnson, R.	Nelson	Schrock
Baack	Dierks	Kristensen	Peterson	Smith
Beutler	Elmer	Labedz	Pirsch	Wehrbein
Chambers	Hartnett	Lamb	Rasmussen	Wesely
Chizek	Hefner	Landis	Robak	Wickersham
Conway	Hillman	Lynch	Robinson	Will
Coordsen	Horgan	Moore	Rogers	Withem

Voting in the negative, 0.

Present and not voting, 1:

Warner

Excused and not voting, 8:

Bernard-Stevens	Beyer	Haberman	Lindsay	Schmit
	Byars	Hall	Schimek	

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following bills: 409 and 409A.

GENERAL FILE

LEGISLATIVE BILL 91. Considered.

Standing Committee amendment, AM0945, found in the Journal on page 1300, was considered.

Mr. Hefner withdrew his pending amendment, AM1085, found in the Journal on page 1455.

The Standing Committee amendment was adopted with 26 ayes, 0 nays, 16 present and not voting, and 7 excused and not voting.

Messrs. Ashford, Wickersham, and Mrs. Labedz asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Withem asked unanimous consent to replace his pending amendment, AM0421, found in the Journal on page 1565, with a substitute amendment. No objections. So ordered.

Mr. Withem withdrew his pending amendment, AM0421, found in the Journal on page 1565.

Mr. Withem renewed his substitute amendment, AM1439, found in the Journal on page 1801.

Mr. Robinson moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 27 ayes, 0 nays, and 22 not voting.

The Withem amendment was adopted with 30 ayes, 2 nays, 11 present and not voting, and 6 excused and not voting.

Mr. Hefner asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Conway renewed his pending amendment, AM1268, found in the Journal on page 1673.

MR. WARNER PRESIDING

Messrs. Wickersham and Dierks asked unanimous consent to be excused until they return. No objections. So ordered.

The Conway amendment lost with 11 ayes, 17 nays, 14 present and not voting, and 7 excused and not voting.

Messrs. Withem and Bernard-Stevens withdrew their pending amendment, AM1271, found in the Journal on page 1673.

Mr. Conway offered the following amendment:
FA125

1. On page 4, strike lines 4 through 7 and insert, "All amounts available for distribution pursuant to this act shall be divided equally among all full and part-time teachers employed by the provider"; after the period in line 10 insert, "The proportion of full-time employment held by a part-time teacher shall be included in the total number of teachers employed by the provider and the amount available shall be distributed on that basis."

2. On page 4, line 18, strike "section" and insert "sections 79-3506 and".

SPEAKER BAACK PRESIDING

Mr. Coordsen asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Bernard-Stevens offered the following amendment to the pending Conway amendment:
FA126

Amend Conway amendment, FA125:

After on line 2 the word "available" add "not part of performance based monies"

The Bernard-Stevens amendment was adopted with 16 ayes, 0 nays, 25 present and not voting, and 8 excused and not voting.

Mr. Abboud requested a record vote on the Conway amendment, as amended.

Voting in the affirmative, 10:

Abboud	Conway	Hefner	Lamb	Pirsch
Baack	Cudaback	Johnson, R.	Peterson	Schellpeper

Voting in the negative, 19:

Ashford	Crosby	Kristensen	Rasmussen	Warner
Bernard-Stevens	Hillman	Lynch	Robinson	Wehrbein
	Horgan	Moore	Schrock	Will
Byars	Johnson, L.	Nelson	Smith	Withem

Present and not voting, 13:

Beutler	Chizek	Hartnett	Morrissey	Rogers
Beyer	Elmer	Landis	Robak	Wesely
Chambers	Hall	Lindsay		

Excused and not voting, 7:

Coordsen	Haberman	Schimek	Schmit	Wickersham
Dierks	Labedz			

The Conway amendment, as amended, lost with 10 ayes, 19 nays, 13 present and not voting, and 7 excused and not voting.

Mr. Abboud offered the following amendment:
AM1474

(Amendments to AM1439)

1. On page 1, strike beginning with "All" in line 2 through "act" in line 12 and insert " 'Until the effective date of this act, any'; and in line 10 after the period insert 'After such date, any amounts appropriated for distribution pursuant to the Help Eduction Lead to Prosperity Act' ".

2. On page 2, line 7, strike "(6)" and insert "(5)".

Messrs. Chizek, Moore, Mmes. Smith, and Robak asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Abboud moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

Mr. Abboud moved for a call of the house. The motion prevailed with 20 ayes, 0 nays, and 29 not voting.

Mr. Abboud requested a roll call vote on his amendment.

Voting in the affirmative, 13:

Abboud	Hall	Johnson, L.	Landis	Peterson
Baack	Hefner	Labedz	Nelson	Rogers
Elmer	Hillman	Lamb		

Voting in the negative, 26:

Ashford	Conway	Horgan	Morrissey	Warner
Bernard-Stevens	Coordsen	Johnson, R.	Rasmussen	Wehrbein
Beutler	Crosby	Kristensen	Robinson	Wesely
Byars	Cudaback	Lindsay	Schellpeper	Will
Chambers	Dierks	Lynch	Schrock	Withem
	Hartnett			

Present and not voting, 3:

Beyer	Pirsch	Wickersham

Excused and not voting, 7:

Chizek	Moore	Schimek	Schmit	Smith
Haberman	Robak			

The Abboud amendment lost with 13 ayes, 26 nays, 3 present and not voting, and 7 excused and not voting.

The Chair declared the call raised.

Mr. Peterson asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Dierks renewed his pending amendment, AM1282, found in the Journal on page 1687.

MR. WARNER PRESIDING

Mr. Lynch moved the previous question. The question is, "Shall the debate now close?" The motion lost with 12 ayes, 11 nays, and 26 not voting.

Mr. Landis asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Moore moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 27 ayes, 0 nays, and 22 not voting.

The Dierks amendment lost with 15 ayes, 20 nays, 7 present and not voting, and 7 excused and not voting.

Pending.

UNANIMOUS CONSENT - Print in Journal

Mr. Baack asked unanimous consent to print the following amendment to LB 549 in the Journal. No objections. So ordered.

AM0840

1. Insert the following new section:

"Sec. 32. That section 79-1515, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-1515. Under such rules and regulations as the retirement board ~~shall adopt~~ adopts and promulgates, each person who was a school employee at any time prior to the establishment of ~~this~~ the retirement system and who becomes a member of the retirement system shall, within two years after becoming a member, file a detailed statement of all service as a school employee rendered by him or her prior to the date of establishment of the retirement system. In ~~; PROVIDED, that in~~ order to qualify for prior service credit toward a service annuity, a school employee, unless temporarily out of service for further professional education, for service in the armed forces, or for temporary disability, must have completed four years of service on a ~~part-~~ part-time or full-time basis during the five calendar years immediately preceding July 1, 1945, or ~~who has~~ have completed eighteen years out of the last twenty-five years prior to July 1, 1945, full time or part time, and two years out of the five years immediately preceding July 1, 1945, full time or part time, or such school employee must complete, unless temporarily out of service for further professional education, for service in the armed forces, or for temporary disability, four years of service within the five calendar years immediately following July 1, 1945. In ~~; PROVIDED FURTHER, that in~~ order to qualify for prior service credit toward a service annuity, a school employee ~~shall become~~ who becomes a member of the School Retirement System of the State of Nebraska on or before September 30, 1951, or from July 1, 1945, to the date of becoming a member~~, such person~~ shall have been continuously employed in a public school in Nebraska operating under any other regularly established

retirement or pension system.

Any ~~; AND PROVIDED FURTHER, any~~ person who, after having served or signing a contract to serve as a school employee, entered into and served~~,~~ or ~~shall enter into and serve,~~ enters into and serves in the armed forces of the United States during a declared emergency or was drafted under a federal mandatory draft law into the armed forces of the United States during a time of peace, as described and prescribed under such rules and regulations as the retirement board ~~may adopt~~ adopts and promulgates, and who, within three calendar years after honorable discharge or honorable separation from active duty~~,~~ or within one year from the date of completion of training provided in the Servicemen's Readjustment Act of 1944 or Veterans Readjustment Assistance Act of 1952, became or becomes a school employee~~,~~ shall be credited, in determining benefits due such ~~members~~ member from the school retirement system, for ~~all~~ a maximum of two years of the time actually served in the armed forces as if such person had been a school employee throughout such ~~declared emergency service in the armed forces~~ time.

Retirement benefits for persons who have retired prior to the effective date of this act shall not be affected by changes made to this section which become effective on such date.".

2. On page 121, line 5, strike "64" and insert "65".

3. On page 124, line 19, before "79-1516" insert "79-1515,".

4. Renumber the remaining sections accordingly.

Mrs. Labedz asked unanimous consent to print the following amendment to LB 849 in the Journal. No objections. So ordered.

AM1465

(Amendments to Standing Committee amendments, AM1071)

1. On page 10, line 3, strike "Education Innovation" and insert "General"; and strike lines 4 through 24.

2. On page 11, strike lines 1 through 24.

3. On page 12, strike lines 1 through 24.

4. On page 13, strike lines 1 through 24.

5. On page 14, strike lines 1 through 6; in

line 7 strike "(4)" and insert "(2)"; in line 8 strike the first comma and insert "or"; strike beginning with the second comma in line 8 through "Fund" in line 9; and in line 12 strike "(5)" and insert "(3)".

6. On page 29, line 22, after the comma insert "and" and after the first "the" insert "General Fund, including the"; and strike line 24 and insert "Operation Fund;".

7. On page 30, strike lines 1 through 7.

Mr. Withem asked unanimous consent to print the following amendment to LB 849 in the Journal. No objections. So ordered.

AM1463

(Amendment to Standing Committee amendments, AM1071)

1. On page 10, lines 3 and 4, after "Innovation" insert "Trust"; in line 5 after the period insert "Each year fifty percent of the revenue transferred to the Education Innovation Trust Fund shall be available for disbursement. When the balance in the fund reaches one hundred million dollars only the income from investment of the funds by the state investment officer shall be available for disbursement." and after "Innovation" insert "Trust"; and in line 8 after "learning" insert ", to encourage the development of collaborative projects between university or college teacher training programs, schools, and staff development networks for the restructuring and improvement of preservice and inservice teacher and administrator preparation and professional development,".

2. On page 11, strike lines 16 through 19 and insert the following new subdivision:

"(c) Support of collaborative projects of college or university teacher training programs, schools, and staff development networks for the restructuring and improvement of preservice teacher and administrator training and inservice training and professional staff development of teachers and administrators based on sound research models demonstrating methods for the improvement of teaching and learning;".

3. On page 13, line 13, after "Innovation" insert "Trust".

4. On page 14, lines 4 and 9, after "Innovation" insert "Trust".

5. On page 29, line 24, after "Innovation" insert "Trust".

6. On page 30, line 6, after "Innovation" insert "Trust".

Mr. Withem asked unanimous consent to print the following amendment to LB 425 in the Journal. No objections. So ordered.

AM1476

(Amendments to AM5120)

1. On page 7, line 23, after the period insert "The provisions of this section shall be narrowly construed to require a school district to provide only the information specified in this section. The provisions of this section shall not be construed to require a school district to provide specific information regarding how students may implement the judicial bypass provisions of section 3 of this act.".

2. On page 8, line 2, after the period insert "The standardized information form shall be approved by the State Board of Education following opportunity for public testimony at a public hearing of the board.".

Messrs. R. Johnson, Baack, Bernard-Stevens, Lindsay, Hall, Chizek, Ashford, Will, Withem, Schellpeper, Mmes. Labedz, and Smith asked unanimous consent to print the following amendment to LB 718 in the Journal. No objections. So ordered.

AM1455

1. On page 5, line 11, after "(3)" insert "The licensee or any operator at a licensed racetrack shall not operate or permit any other form of gaming activity unless it has first obtained the written consent of the Horsemen's Benevolent and Protective Association or the organization representing a majority of the licensed owners and trainers at all the licensed racetracks in the State of Nebraska and conferred with the organization which represents the majority of the thoroughbred horse breeders in Nebraska.

(4)".

PRESENTED TO THE GOVERNOR

Presented to the Governor on April 25, 1991, at 10:25 a.m., were the following bills: 409 and 409A.

(Signed) Jan Loder, Enrolling Clerk

EXPLANATION OF VOTE

Had I been present, I would have voted "yes" on LBs 409e and 409Ae.

(Signed) John Lindsay

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the attached report on a Governor appointment.

General Affairs
Janet K. Korell - Nebraska Arts Council

(Signed) Jerome Warner, Chairperson
Legislative Council
Executive Board

GENERAL FILE

LEGISLATIVE BILL 91. Considered.

Mr. Wickersham asked unanimous consent to be excused until he returns. No objections. So ordered.

SPEAKER BAACK PRESIDING

Mr. Horgan moved the previous question. The question is, "Shall the debate now close?"

Mr. Horgan moved for a call of the house. The motion prevailed with 17 ayes, 0 nays, and 32 not voting.

The motion to cease debate prevailed with 25 ayes, 6 nays, and 18 not voting.

Advanced to E & R for review with 39 ayes, 2 nays, 2 present and not voting, and 6 excused and not voting.

The Chair declared the call raised.

Mr. Byars asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Coordsen asked unanimous consent to be excused. No objections. So ordered.

LEGISLATIVE BILL 91A. Title read. Considered.

Mr. Lynch renewed his pending amendment, AM1466, found in the Journal on page 1810.

The Lynch amendment was adopted with 25 ayes, 0 nays, 16 present and not voting, and 8 excused and not voting.

Advanced to E & R for review with 25 ayes, 0 nays, 16 present and not voting, and 8 excused and not voting.

LEGISLATIVE BILL 827. Mr. Morrissey renewed his pending amendment, AM1334, considered in the Journal on page 1727.

Mrs. Pirsch, Messrs. Ashford, Wickersham, Cudaback, Lynch, Chizek, Beutler, and Schmit asked unanimous consent to be excused until they return. No objections. So ordered.

Pending.

RESOLUTION

LEGISLATIVE RESOLUTION 72. Introduced by Robak, 22.

WHEREAS, Camille Schafer, an eighth grade student at Christ Lutheran School near Columbus, Nebraska, correctly spelled the word "zeugma" to become the 1991 Midwest Spelling Bee Champion; and

WHEREAS, Camille Schafer defeated ninety-six other competitors from both Nebraska and Iowa to achieve this honor; and

WHEREAS, Camille Schafer will represent the Midwest region at the National Championship Spelling Bee to be held in Washington, D.C. May 26 through June 1, 1991; and

WHEREAS, we should continue to recognize the academic, athletic, and artistic achievements of the youth of our state.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That Camille Schafer be congratulated for her accomplishments.

2. That Camille Schafer be wished the best of luck at the National Championship Spelling Bee.

3. That a copy of this resolution be sent to Camille Schafer.

Laid over.

UNANIMOUS CONSENT - Add Co-Introducers

Messrs. Horgan and Hartnett asked unanimous consent to have their names added as co-introducers to LB 576. No objections. So ordered.

MOTION - Adjournment

Mr. Dierks moved to adjourn until 9:00 a.m., Monday, April 29, 1991.

Mr. R. Johnson requested a machine vote on the motion to adjourn.

Mr. Chambers moved for a call of the house. The motion prevailed with 12 ayes, 1 nay, and 36 not voting.

Mr. Dierks requested a roll call vote on the motion to adjourn.

Voting in the affirmative, 17:

Abboud	Beyer	Labedz	Robinson	Wesely
Baack	Chambers	Landis	Rogers	Will
Bernard-Stevens	Dierks	Morrissey	Schellpeper	Withem
	Horgan	Rasmussen		

Voting in the negative, 19:

Conway	Hartnett	Johnson, R.	Moore	Schrock
Crosby	Hefner	Kristensen	Nelson	Warner
Elmer	Hillman	Lamb	Peterson	Wehrbein
Hall	Johnson, L.	Lindsay	Robak	

Excused and not voting, 13:

Ashford	Chizek	Haberman	Schimek	Smith
Beutler	Coordsen	Lynch	Schmit	Wickersham
Byars	Cudaback	Pirsch		

The motion to adjourn lost with 17 ayes, 19 nays, and 13 excused and not voting.

The Chair declared the call raised.

UNANIMOUS CONSENT - Members Excused

Mrs. Labedz, Messrs. Landis, Robinson, and Bernard-Stevens asked unanimous consent to be excused. No objections. So ordered.

GENERAL FILE

LEGISLATIVE BILL 827. Mr. Morrissey asked unanimous consent to bracket LB 827 until Wednesday, May 1, 1991.

Mr. R. Johnson objected.

Mr. Morrissey moved to bracket LB 827 until Wednesday, May 1, 1991.

Mr. Lamb moved the previous question. The question is, "Shall the debate now close?"

Mr. Chambers moved for a call of the house. The motion prevailed with 15 ayes, 1 nay, and 33 not voting.

The motion to cease debate prevailed with 26 ayes, 2 nays, and 21 not voting.

Mr. Morrissey requested a record vote on his motion to bracket.

Voting in the affirmative, 13:

Abboud	Dierks	Kristensen	Schellpeper	Will
Chambers	Hillman	Morrissey	Wesely	Withem
Cudaback	Horgan	Rasmussen		

Voting in the negative, 16:

Baack	Elmer	Johnson, L.	Moore	Schrock
Beyer	Hall	Johnson, R.	Nelson	Warner
Byars	Hartnett	Lamb	Peterson	Wehrbein
Conway				

Present and not voting, 6:

Crosby	Lindsay	Lynch	Robak	Rogers
Hefner				

Excused and not voting, 14:

Ashford	Beutler	Haberman	Pirsch	Schmit
Bernard-Stevens	Chizek	Labedz	Robinson	Smith
	Coordsen	Landis	Schimek	Wickersham

The Morrissey motion to bracket lost with 13 ayes, 16 nays, 6 present and not voting, and 14 excused and not voting.

Pending.

CORRECTED SELECT COMMITTEE REPORT
Enrollment and Review

Enrollment and Review Change to LB 732

(CORRECTED)

The following changes, required to be reported for publication in the Journal, have been made:
ER7055

1. In the Kristensen amendment, FA82, on page 1, line 2, "(2)" has been struck and "The" inserted.

2. On page 1, line 5, "24-211," has been inserted after the last comma.

3. On page 2, line 5, "32-1040," has been inserted after the second comma; and in line 25 "to change provisions relating to the Clerk of the Supreme Court and the Reporter of the Supreme Court;" has been inserted after the semicolon.

4. On page 3, line 1, "to change provisions relating to standards of review and to courts;" has been inserted after the semicolon.

5. On page 65, lines 12, 19, 20 and 21, and 23; and page 89, lines 17 and 18, the matter beginning with "Court" through "Court" has

been struck, the old matter shown as stricken, and "appellate court" inserted.

6. On page 68, line 11, "and" has been inserted after the semicolon.

7. On page 74, line 17, the first comma has been struck and shown as stricken.

8. On page 103, line 2, the new matter has been struck and "Representative in Congress" inserted.

9. On page 105, line 10, the stricken comma has been reinstated.

10. On page 153, line 5, the second "security" has been struck, shown as stricken, and "the appeal" inserted.

11. On page 176, line 9, the comma has been struck and shown as stricken.

(Signed) Mary E. Sommermeyer
E & R Attorney

UNANIMOUS CONSENT - Print in Journal

Mr. Elmer asked unanimous consent to print the following amendment to LR 27 in the Journal. No objections. So ordered.

AM1491

1. Strike the original provisions and insert the following:

WHEREAS, a study of beneficial uses of Nebraska's waterways and water resources was undertaken by the Nebraska Constitutional Convention in 1919-20 and as a result in November 1920 the convention adopted a plan which appears as Article XV, sections 4 to 7, of the Constitution of Nebraska; and

WHEREAS, on January 18, 1967, the Legislature adopted a resolution directing the Nebraska Soil and Water Conservation Commission to submit to the Governor and the Legislature a State Water Plan, and as directed, the commission, on May 26, 1971, submitted to the Governor and the Legislature its Report on the Framework Study of Nebraska's State Water Plan; and

WHEREAS, on February 17, 1972, the Legislature's Interim Study Committee on State Water Planning introduced Legislative Resolution 42 to adopt the Framework Study of Nebraska's State Water Plan as shown on pages 766 and 767 of the Legislative Journal, and on February 22, 1972, the resolution was adopted;

and

WHEREAS, in 1975 the Legislature carried out the State Water Plan by enacting the Nongame and Endangered Species Conservation Act, section 37-430 et seq.; and

WHEREAS, in 1984 the Legislature further carried out the plan for waterways and water resources in Nebraska by enacting section 46-2,107 et seq., authorizing instream appropriations for both natural flow and reservoir releases for fish, recreation, and wildlife purposes; and

WHEREAS, the plan for waterways and water resources in Nebraska has been further implemented by enactments by the Legislature as follows:

(1) In Chapter 2: Establishing the Small Watersheds Flood Control Fund, section 2-1502 et seq.; granting authority to the Nebraska Natural Resources Commission to assist the Water Management Board and subdivisions of government with responsibilities for natural resources conservation, section 2-1507 et seq.; establishing the Nebraska Resources Development Fund to assist the development, preservation, and maintenance of Nebraska's water and related land resources, section 2-1586 et seq.; authorizing the Nebraska Natural Resources Commission to coordinate state water planning and review process, section 2-1599 et seq.; establishing the Water Management Board to resolve conflicts regarding and expedite water development projects, section 2-15,107 et seq.; creating natural resources districts with broad authorities to develop and manage ground water, surface water, and fish and wildlife habitat, section 2-3201 et seq.; and authorizing the Water Management Board to issue bonds for construction of water retention and impoundment structures, section 2-4501 et seq.;

(2) In Chapter 31: Establishing provisions for flood plain management, section 31-1001 et seq.;

(3) In Chapter 37: Regarding the Game and Parks Commission and fish and wildlife;

(4) In Chapter 46: Regarding the irrigation districts, section 46-101 et seq.; appropriation of water from waterways, section 46-201 et seq.; creation of the Department of Water Resources, section 46-208 et seq.; adjudication of water rights by the Department of

Water Resources, section 46-226 et seq.; interbasin transfers from waterways, sections 46-288 and 46-289; and recognition of incidental and intentional underground water storage, sections 46-295 et seq.; and

(5) In Chapter 70: Article 6 on public power and irrigation districts, including provisions on irrigation works, section 70-627 and provisions regarding water rights in streams, sections 70-668 to 70-672.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature urges recognition of Nebraska statutes, the Constitution of Nebraska, and approved plans for improving and developing all waterways and water resources in Nebraska for the use and benefit of the citizens of Nebraska and the citizens of other states, including the adequate protection, mitigation of impacts on, and enhancement of fish, wildlife, and related spawning grounds and habitat, and for other beneficial uses, including irrigation, flood control, water supply, recreation, and improvement and utilization of water power development, in order to provide clear direction to state and federal agencies which may take actions affecting such waterways.

2. That the Legislature affirms and readopts this legislative framework for waterways, water resources, and use and development thereof in Nebraska as described in this resolution.

3. That this resolution be updated by the Department of Water Resources as legislative changes are made.

Morrissey asked unanimous consent to print the following amendment to LB 827 in the Journal. No objections. So ordered.

AM1483

(Amendments to Standing Committee amendments, AM0930)

1. On page 22, line 9, after "application" insert ", closing a facility, or modifying, suspending, or revoking a license"; and in line 13 after "application" insert ", closing a facility, or

modifying, suspending, or revoking a license. No supersedeas bond shall be required to stay the final decision or order of the department pending review in the Supreme Court".

2. On page 23, line 3, after "appeal" insert ". The Supreme Court shall determine whether the decision or order of the department was made in conformity with the procedures set forth in this section and whether the preponderance of evidence demonstrates that grant or denial of a license application, the closing of a facility, or the revocation of a license is in accordance with the legislative objectives established by section 81-1580. The Supreme Court may remand the matter to the department to conduct further proceedings if the record is insufficient to make such determination.".

VISITORS

Visitors to the Chamber were Fritz Von Meijenfeldt from the Netherlands; 57 fourth grade students and teachers from St. Gerald, Ralston; group from Tokyo, Japan; Father Don Cleary, Ann Marie Petrylke, and Father Robert English; extension club members from Syracuse; 20 seniors and teachers from Coleridge; 72 fourth grade students and teachers from Dodge Elementary, Grand Island; 54 fourth grade students and teachers from Hillside Elementary, Omaha; Dr. Boetcher and eight university students from Malasia; and 45 students and sponsors from Amherst.

MOTION - Adjournment

Mr. Chambers moved to adjourn until 9:00 a.m., Monday, April 29, 1991. The motion prevailed, and at 3:14 p.m., the Legislature adjourned until 9:00 a.m., Monday, April 29, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

SIXTY-EIGHTH DAY - APRIL 29, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

SIXTY-EIGHTH DAY

Legislative Chamber, Lincoln, Nebraska
Monday, April 29, 1991

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Moul presiding.

PRAYER

The prayer was offered by Pastor Michael McMurtry, St. James United Methodist, Lincoln, Nebraska.

ROLL CALL

The roll was called and all members were present except Messrs. Abboud, Ashford, Bernard-Stevens, Beutler, Beyer, Chambers, Conway, Haberman, Hall, Horgan, Landis, Moore, Rogers, Schmit, Schrock, Wesely, Will, and Mrs. Pirsch who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

Page 1813, line 16, strike "was" and insert "were".
The Journal for the Sixty-Seventh Day was approved as corrected.

MESSAGE FROM THE GOVERNOR

April 25, 1991

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bill 333 was received in my office on April 23, 1991, and Engrossed Legislative Bills 409e and 409Ae were received in my office on April 25, 1991.

These bills were signed by me on April 25, 1991, and delivered to the Secretary of State.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

RESOLUTION

LEGISLATIVE RESOLUTION 72. Read. Considered.

LR 72 was adopted with 23 ayes, 0 nays, and 26 not voting.

MOTION - Return LB 798 to Select File

Mr. L. Johnson moved to return LB 798 to Select File for the following specific Kristensen amendment:
FA127

Add the following new section:

Since an emergency exists, this act shall be in full force and take effect from and after its passage and approval, according to law.

The L. Johnson motion to return prevailed with 25 ayes, 0 nays, 8 present and not voting, and 16 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 798. The Kristensen specific amendment, FA127, found in this day's Journal, was adopted with 26 ayes, 0 nays, 8 present and not voting, and 15 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 850. Mr. Morrissey renewed his pending amendment, AM1111, found in the Journal on page 1510 and reoffered on page 1810.

Mr. Kristensen asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Morrissey moved for a call of the house. The motion prevailed with 23 ayes, 0 nays, and 26 not voting.

Mr. Morrissey requested a roll call vote on his amendment.

Voting in the affirmative, 22:

Beutler	Hall	Lynch	Robinson	Wesely
Chambers	Hartnett	Morrissey	Rogers	Wickersham
Chizek	Kristensen	Rasmussen	Schimek	Will
Crosby	Labedz	Robak	Schmit	Withem
Dierks	Landis			

Voting in the negative, 19:

Baack	Coordsen	Hefner	Lindsay	Smith
Beyer	Cudaback	Hillman	Peterson	Warner
Byars	Elmer	Johnson, L.	Schellpeper	Wehrbein
Conway	Haberman	Lamb	Schrock	

Present and not voting, 3:

Johnson, R.	Nelson	Pirsch

Excused and not voting, 5:

Abboud	Ashford	Bernard-Stevens	Horgan	Moore

The Morrissey amendment lost with 22 ayes, 19 nays, 3 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Mr. Coordsen renewed his pending amendment, AM1272, found in the Journal on page 1676.

SPEAKER BAACK PRESIDING

The Coordsen amendment was adopted with 29 ayes, 0 nays, 15 present and not voting, and 5 excused and not voting.

Mr. Schmit withdrew his pending amendment, AM1424, found in the Journal on page 1790.

Mr. Schmit offered the following amendment:
AM1447

1. Insert the following new sections:

"Sec. 4. The Legislature finds that the tort claim against the Department of Banking and Finance filed on January 25, 1991, pursuant to the State Tort Claims Act documents theft, waste of assets, and violations of fiduciary duty by the state through receivership employees and that the actions documented give rise to liability of the state under the act. The Legislature further finds that the state is clearly liable for acknowledged thefts and embezzlements, is probably liable in many instances involving waste and the handling of property, and is possibly liable in instances involving insider transactions. Therefor, the Legislature, pursuant to section 81-8,211, as amended by this legislative bill, hereby approves $30,000,000 of such tort claim.

There is hereby appropriated $30,000,000 from the General Fund for FY1991-92 to the Department of Banking and Finance, for the payment of the tort claim.

Sec. 7. That section 81-8,211, Revised Statutes Supplement, 1990, be amended to read as follows:

81-8,211. Authority is hereby conferred upon the State Claims Board, acting on behalf of the State of Nebraska, to consider, ascertain, adjust, compromise, settle, determine, and allow any tort claim, except that any tort claim of five million dollars or more shall be considered, ascertained, adjusted, compromised, settled, determined, and allowed directly by the Legislature after filing with the Risk Manager, and the State Claims Board shall have no authority regarding such claims. The Legislature may utilize any legislative procedure or the procedures of the State Claims Board for considering any such tort claim. If any tort claim for less than five million dollars is compromised, settled, or allowed in an amount of more than five thousand dollars, the unanimous approval of all members of the State Claims Board shall be required ~~and such~~ for the claim. All

claims, including tort claims of five million dollars or more, ~~also~~ shall be submitted for approval by the district court for Lancaster County. When approval of the district court is required, the Attorney General shall make application for such approval and shall file with the application a complete record of the action of the State Claims Board on such claim. The claimant may join in such application, and if the claimant does so, the court may proceed to act on the application without further notice to either party. If the claimant does not join in the application, the court shall require actual notice to all parties before acting on the application. The court may deny the application for any legal and sufficient reason or may direct the State Claims Board to conduct further hearings on any material issues. The fees of the clerk of the district court for filing, docketing, and indexing such application shall be five dollars.

Sec. 8. That section 81-8,213, Revised Statutes Supplement, 1990, be amended to read as follows:

81-8,213. No suit shall be permitted under the State Tort Claims Act unless the State Claims Board, or the Legislature for claims of five million dollars or more, has made final disposition of the claim, except that if the board does not make final disposition of a claim within six months after the claim is made in writing to the board or if the Legislature does not make final disposition of the claim during the next regular session following the filing of the claim, the claimant may, by notice in writing, withdraw the claim from consideration ~~of the board~~ and begin suit under such act.

Sec. 9. That original sections 81-8,211 and 81-8,213, Revised Statutes Supplement, 1990, are repealed.".

2. On page 9, lines 20, 21, and 24; and page 10, lines 7 and 14, before "this" insert "sections 1 to 6 of".

3. Insert underscoring in the original sections.

4. Renumber the remaining sections accordingly.

Mr. Coordsen requested a division of the question on the Schmit amendment.

The Chair sustained the division of the question.

The first Schmit amendment is as follows:
FA128

1. Insert the following new sections:

"Sec. 4. The Legislature finds that the tort claim against the Department of Banking and Finance filed on January 25, 1991, pursuant to the State Tort Claims Act documents theft, waste of assets, and violations of fiduciary duty by the state through receivership employees and that the actions documented give rise to liability of the state under the act. The Legislature further finds that the state is clearly liable for acknowledged thefts and embezzlements, is probably liable in many instances involving waste and the handling of property, and is possibly liable in instances involving insider transactions. Therefor, the Legislature, pursuant to section 81-8,211, as amended by this legislative bill, hereby approves $30,000,000 of such tort claim.

There is hereby appropriated $30,000,000 from the General Fund for FY1991-92 to the Department of Banking and Finance, for the payment of the tort claim.

MR. CONWAY PRESIDING

SPEAKER BAACK PRESIDING

Messrs. R. Johnson and Haberman asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Lamb moved the previous question. The question is, "Shall the debate now close?"

Mr. Lamb moved for a call of the house. The motion prevailed with 15 ayes, 0 nays, and 34 not voting.

The motion to cease debate prevailed with 25 ayes, 10 nays, and 14 not voting.

Mr. Schmit requested a roll call vote on his amendment.

Voting in the affirmative, 23:

Ashford	Crosby	Johnson, R.	Morrissey	Warner
Beutler	Dierks	Labedz	Robak	Wehrbein
Byars	Hall	Landis	Schimek	Wesely
Chambers	Hartnett	Lynch	Schmit	Will
Chizek	Horgan	Moore		

Voting in the negative, 25:

Abboud	Coordsen	Johnson, L.	Peterson	Schellpeper
Baack	Cudaback	Kristensen	Pirsch	Schrock
Bernard-Stevens	Elmer	Lamb	Rasmussen	Smith
	Hefner	Lindsay	Robinson	Wickersham
Beyer	Hillman	Nelson	Rogers	Withem
Conway				

Excused and not voting, 1:

Haberman

The first Schmit amendment lost with 23 ayes, 25 nays, and 1 excused and not voting.

The second Schmit amendment is as follows:
FA129

Sec. 7. That section 81-8,211, Revised Statutes Supplement, 1990, be amended to read as follows:

81-8,211. Authority is hereby conferred upon the State Claims Board, acting on behalf of the State of Nebraska, to consider, ascertain, adjust, compromise, settle, determine, and allow any tort claim, except that any tort claim of five million dollars or more shall be considered, ascertained, adjusted, compromised, settled, determined, and allowed directly by the Legislature after filing with the Risk Manager, and the State Claims Board shall have no authority regarding such claims. The Legislature may utilize any legislative procedure or the procedures of the State Claims Board for considering any such tort claim. If any tort claim for less than five million dollars is compromised, settled, or allowed in an amount of more than five thousand dollars, the

unanimous approval of all members of the State Claims Board shall be required ~~and such~~ for the claim. All claims, including tort claims of five million dollars or more, ~~also~~ shall be submitted for approval by the district court for Lancaster County. When approval of the district court is required, the Attorney General shall make application for such approval and shall file with the application a complete record of the action of the State Claims Board on such claim. The claimant may join in such application, and if the claimant does so, the court may proceed to act on the application without further notice to either party. If the claimant does not join in the application, the court shall require actual notice to all parties before acting on the application. The court may deny the application for any legal and sufficient reason or may direct the State Claims Board to conduct further hearings on any material issues. The fees of the clerk of the district court for filing, docketing, and indexing such application shall be five dollars.

Sec. 8. That section 81-8,213, Revised Statutes Supplement, 1990, be amended to read as follows:

81-8,213. No suit shall be permitted under the State Tort Claims Act unless the State Claims Board, or the Legislature for claims of five million dollars or more, has made final disposition of the claim, except that if the board does not make final disposition of a claim within six months after the claim is made in writing to the board or if the Legislature does not make final disposition of the claim during the next regular session following the filing of the claim, the claimant may, by notice in writing, withdraw the claim from consideration ~~of the board~~ and begin suit under such act.

Sec. 9. That original sections 81-8,211 and 81-8,213, Revised Statutes Supplement, 1990, are repealed.".

2. On page 9, lines 20, 21, and 24; and page 10, lines 7 and 14, before "this" insert "sections 1 to 6 of".

3. Insert underscoring in the original sections.

4. Renumber the remaining sections

12 accordingly.

Mr. Schmit withdrew his second pending amendment.

The Chair declared the call raised.

Mr. Lindsay moved to reconsider the Morrissey amendment, AM1111, found in the Journal on page 1510, and considered on page 1810 and in this day's Journal.

Mr. Withem asked unanimous consent to be excused until he returns. No objections. So ordered.

The Lindsay motion to reconsider prevailed with 25 ayes, 13 nays, 9 present and not voting, and 2 excused and not voting.

The Morrissey amendment, AM1111, found in the Journal on page 1510, and considered on page 1810 and in this day's Journal, was reconsidered.

Mr. Morrissey moved for a call of the house. The motion prevailed with 14 ayes, 0 nays, and 35 not voting.

Mr. Morrissey requested a roll call vote on his amendment.

Voting in the affirmative, 26:

Abboud	Dierks	Labedz	Rasmussen	Smith
Ashford	Hall	Landis	Robak	Wehrbein
Beutler	Hartnett	Lindsay	Robinson	Wesely
Chambers	Horgan	Lynch	Rogers	Wickersham
Chizek	Kristensen	Morrissey	Schmit	Will
Crosby				

Voting in the negative, 17:

Baack	Byars	Elmer	Lamb	Schellpeper
Bernard-Stevens	Conway	Hefner	Moore	Schrock
Beyer	Coordsen	Hillman	Peterson	Warner
	Cudaback	Johnson, L.		

Present and not voting, 4:

Johnson, R.	Nelson	Pirsch	Schimek

Excused and not voting, 2:

Haberman Withem

The Morrissey amendment was adopted with 26 ayes, 17 nays, 4 present and not voting, and 2 excused and not voting.

Advanced to E & R for engrossment.

The Chair declared the call raised.

LEGISLATIVE BILL 783. Mr. Lamb asked unanimous consent to bracket until May 13, 1991. No objections. So ordered.

UNANIMOUS CONSENT - Print in Journal

Mrs. Robak asked unanimous consent to print the following amendment to LB 336 in the Journal. No objections. So ordered.

AM1494

1. Strike the original sections and all amendments thereto and insert the following new sections:

"Section 1. Each school district with high school grades as defined in section 79-101 shall provide a driver education program for its students. Minimum requirements for the curriculum of the driver education program shall be established by the State Board of Education. Enrollment may be open to any student between the ages of fourteen and eighteen years.

Sec. 2. The Tax Equity and Educational Opportunities Fund shall be used to fund the driver education program authorized in section 1 of this act. Funds appropriated for the program shall be apportioned on September 1 of each year to the school districts of the state on the basis of the lesser of the actual cost of the driver education program or eighty dollars for each student having satisfactorily completed a driver education course in the immediately preceding twelve-month period as certified by the Commissioner of Education. Such apportionment shall be made on the basis of an application and certification by the local school superintendents to the Commissioner of Education.

Any money available for investment shall be invested by the state investment officer pursuant to the provisions of sections 72-1237 to 72-1276.

Sec. 3. In order for a school district to qualify for funds as provided in section 2 of this act, (1) driver education teachers shall have a valid Nebraska teaching certificate to teach in the secondary schools, three hours of driver education, three hours of general safety education, and a course in first aid, and (2) the driver education program shall provide a minimum of thirty hours of classroom instruction and the equivalent of six hours of behind-the-wheel instruction.

Sec. 4. The State Board of Education shall establish minimum requirements to be met for certification as a driver education teacher. No school district shall be eligible for the apportionment of funds unless its driver education program is taught by a certified driver education teacher.

Sec. 5. The provisions of sections 60-4,173 to 60-4,179 shall not apply to any person teaching a driver education course in the public schools under sections 1 to 4 of this act.

Sec. 6. That section 79-3812, Revised Statutes Supplement, 1990, be amended to read as follows:

79-3812. There are hereby created the School District Income Tax Fund and the Tax Equity and Educational Opportunities Fund, each of which shall consist of such sums as the Legislature may appropriate and be administered by the state board. The School District Income Tax Fund shall receive resident individual income tax appropriations made by the Legislature to make payments to districts of allocable income tax funds. The Tax Equity and Educational Opportunities Fund shall receive dedicated income tax appropriations and appropriations made by the Legislature to fund sections 79-3806 to 79-3811 and to fund the driver education program authorized in section 1 of this act. Any money in such funds available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1276.

Sec. 7. That original section 79-3812, Revised Statutes Supplement, 1990, is repealed.".

NOTICE OF COMMITTEE HEARING
Banking, Commerce and Insurance

Governor Appointment Thursday, May 9, 1991 1:15 p.m.
Gerald L. Schleich - NE Research and Development Authority

(Signed) David Landis, Chairperson

VISITORS

Visitors to the Chamber were 55 eighth grade students and teachers from St. Thomas Moore, Omaha; 18 seniors and teacher from Clarkson; 35 fourth grade students and teachers from Watson Elementary, Hastings; ten sixth grade students and teacher from Cody-Kilgore in Kilgore; 15 seniors and sponsor from Adams; 14 students, teacher, and sponsors from Hampton Lutheran School; and 41 fourth grade students and teachers from Jefferson Elementary, Norfolk.

RECESS

At 11:56 a.m., on a motion by Mr. Schrock, the Legislature recessed until 1:30 p.m.

AFTER RECESS

The Legislature reconvened at 1:30 p.m., Speaker Baack presiding.

ROLL CALL

The roll was called and all members were present except Mr. Withem who was excused; and Messrs. Ashford, Chambers, Haberman, R. Johnson, Lamb, Lindsay, Peterson, Schellpeper, Schmit, Wesely, Mmes. Pirsch, and Robak who were excused until they arrive.

STANDING COMMITTEE REPORT
Banking, Commerce and Insurance

LEGISLATIVE BILL 167. Placed on General File as amended.
(Standing Committee amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM1486.)

(Signed) David Landis, Chairperson

SELECT FILE

LEGISLATIVE BILL 90. E & R amendment, AM5118, found in the Journal on page 1618, was adopted.

Mr. Landis renewed his pending amendment, AM1435, found in the Journal on page 1811.

Mr. Abboud asked unanimous consent to be excused until he returns. No objections. So ordered.

The Landis amendment was adopted with 26 ayes, 0 nays, 9 present and not voting, and 14 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 90A. Advanced to E & R for engrossment.

LEGISLATIVE BILL 425. E & R amendment, AM5120, printed separately from the Journal and referred to on page 1620, was adopted.

Mr. Lynch asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Bernard-Stevens renewed his pending amendment, AM0958, found in the Journal on page 1572.

Mr. Bernard-Stevens moved for a call of the house. The motion prevailed with 14 ayes, 0 nays, and 35 not voting.

Mr. Bernard-Stevens requested a roll call vote on his amendment.

Voting in the affirmative, 17:

Ashford	Beutler	Kristensen	Nelson	Wesely
Baack	Chambers	Landis	Rasmussen	Wickersham
Bernard-Stevens	Haberman	Moore	Schimek	Will
	Hillman	Morrissey		

Voting in the negative, 18:

Abboud	Byars	Cudaback	Hefner	Labedz
Beyer	Chizek	Dierks	Johnson, L.	Lamb

Peterson	Robak	Rogers	Smith	Warner
Pirsch	Robinson	Schrock		

Present and not voting, 9:

Conway	Crosby	Hall	Horgan	Wehrbein
Coordsen	Elmer	Hartnett	Johnson, R.	

Excused and not voting, 5:

Lindsay	Lynch	Schellpeper	Schmit	Withem

The Bernard-Stevens amendment lost with 17 ayes, 18 nays, 9 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Mr. Chambers asked unanimous consent to replace the pending Chambers-Will amendment, AM1128, found in the Journal on page 1591, with a substitute amendment. No objections. So ordered.

Messrs. Chambers and Will withdrew their pending amendment, AM1128, found in the Journal on page 1591.

Messrs. Chambers and Will offered the following substitute amendment:
AM1225

(Amendments to AM5120)

1. Insert the following new section:

"Sec. 9. If any school nurse or school counselor is informed in the course of his or her professional duties by a pregnant woman that such woman (1) is pregnant, (2) does not wish to inform her parents of the pregnancy, and (3) is considering an abortion, such school nurse or school counselor shall inform the pregnant woman of the requirement that a parent be informed under section 2 of this act and of her right to proceed under section 3 of this act if such woman does not wish to notify her parents of the pregnancy.".

2. On page 1, line 4; strike "8" and insert "9".

3. Renumber the remaining sections accordingly.

MR. MORRISSEY PRESIDING

Mr. Beyer asked unanimous consent to be excused. No objections. So ordered.

Mrs. Smith offered the following amendment to the pending Chambers-Will amendment:
FA130
Amend amendment AM1225 by adding the following:
Insert "s" to the word section and "and 6" before "of" on line 10. of the E & R copy (AM5120)

Mr. R. Johnson asked unanimous consent to be excused until he returns. No objections. So ordered.

SPEAKER BAACK PRESIDING

The Smith amendment was adopted with 25 ayes, 0 nays, 18 present and not voting, and 6 excused and not voting.

Mr. Kristensen asked unanimous consent to be excused. No objections. So ordered.

Mr. Peterson asked unanimous consent to be excused until he returns. No objections. So ordered.

Mrs. Labedz moved the previous question. The question is, "Shall the debate now close?"

Mrs. Labedz moved for a call of the house. The motion prevailed with 11 ayes, 0 nays, and 38 not voting.

The motion to cease debate prevailed with 25 ayes, 0 nays, and 24 not voting.

Mr. Chambers requested a roll call vote on the Chambers-Will amendment.

Voting in the affirmative, 19:

Ashford	Beutler	Hall	Nelson	Warner
Baack	Chambers	Hillman	Rasmussen	Wesely
Bernard-Stevens	Elmer	Landis	Schimek	Wickersham
	Haberman	Morrissey	Smith	Will

Voting in the negative, 19:

Byars	Crosby	Hefner	Lamb	Schellpeper
Chizek	Cudaback	Horgan	Pirsch	Schmit
Conway	Dierks	Johnson, L.	Robak	Schrock
Coordsen	Hartnett	Labedz	Rogers	

Present and not voting, 3:

Moore	Robinson	Wehrbein

Absent and not voting, 1:

Abboud

Excused and not voting, 7:

Beyer	Kristensen	Lynch	Peterson	Withem
Johnson, R.	Lindsay			

The Chambers-Will amendment, as amended, lost with 19 ayes, 19 nays, 3 present and not voting, 1 absent and not voting, and 7 excused and not voting.

The Chair declared the call raised.

Mr. Abboud asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Landis offered the following amendment:
FA131
To amend E & R amendments
to strike on pg 2, line 4, the word nineteen and insert eighteen.

Pending.

UNANIMOUS CONSENT - Print in Journal

Mr. Hall asked unanimous consent to print the following amendment to LB 320 in the Journal. No objections. So ordered.

AM1482

(Amendments to AM5123)

1. On page 7, line 10, after "acre" insert ", which shall include price support programs, the Acreage Conservation Reserve Program, the Conserving Uses Program, wetlands and wildlife programs, and the Conservation Reserve Program,".

Mr. Hall asked unanimous consent to print the following amendment to LB 320 in the Journal. No objections. So ordered.

AM1469

1. Strike the original sections and all amendments thereto and insert the following new sections:

"Section 1. That section 77-112, Reissue Revised Statutes of Nebraska, 1943, as amended by section 1, Legislative Bill 404, Ninety-second Legislature, First Session, 1991, be amended to read as follows:

77-112. (1) Except as provided in ~~subsection~~ subsections (2) and (3) of this section, actual value of property for purposes of taxation shall mean the market value of property in the ordinary course of trade. Actual value may be determined using professionally accepted mass appraisal techniques, including, but not limited to:

(a) Comparison with sales of property of known or recognized value, taking into account location, zoning, and current functional use;

(b) Earning capacity of the property; and

(c) Reproduction cost less depreciation.

(2) Actual value ~~when applied to~~ of agricultural land and horticultural land for purposes of taxation for tax year 1991 shall mean the value determined pursuant to subsection (2) of section 77-201.

(3) Actual value of agricultural land and horticultural land for purposes of taxation for tax year 1992 shall mean the value determined pursuant to subsection (3) of section 77-201.

Sec. 2. That section 77-201, Reissue Revised Statutes of Nebraska, 1943, as amended by section 2, Legislative Bill 404, Ninety-second Legislature, First Session, 1991, be amended to read as follows:

77-201. (1) Except as provided in ~~subsection~~

subsections (2) and (3) of this section, all tangible property and real property in this state, not expressly exempt therefrom, shall be subject to taxation and shall be valued at its actual value. Such actual value shall be taken and considered as the taxable value on which the levy shall be made.

(2) Agricultural land and horticultural land used solely for agricultural or horticultural purposes shall constitute a separate and distinct class of property for purposes of property taxation. For tax year 1991, agricultural land and horticultural land shall be valued using the agricultural land valuation manual issued pursuant to section 77-1330 for use in tax year 1990. Land values contained in such manual shall be correlated to the assessed values established by counties in tax year 1990. For purposes of this subsection, agricultural land and horticultural land shall mean any parcel of land valued by the county assessor as agricultural land or horticultural land in tax year 1990 unless the principal use, zoning, or ownership of the land changes, at which time the classification of the land shall be reviewed by the county assessor. This section shall not be construed as eliminating the requirement that county assessors utilize and implement soil surveys completed for tax year 1991.

(3) Agricultural land and horticultural land used solely for agricultural or horticultural purposes shall constitute a separate and distinct class of property for purposes of property taxation. For tax year 1992, agricultural land and horticultural land shall be assessed for property taxation at eighty percent of its market value as derived from the agricultural land valuation manual issued pursuant to section 77-1330 for 1992. For purposes of this subsection, agricultural land and horticultural land shall mean land that either (a) qualifies for and is receiving the special assessment provided for in sections 77-1343 to 77-1348 or (b) is determined by the county assessor to have a market value that does not reflect any current or potential use other than for agricultural or horticultural purposes.

Sec. 3. That original sections 77-112 and 77-201, Reissue Revised Statutes of Nebraska, 1943, as

amended by sections 1 and 2, respectively, Legislative Bill 404, Ninety-second Legislature, First Session, 1991, are repealed.

Sec. 4. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.".

SELECT COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 825. Placed on Select File as amended.
E & R amendment to LB 825:
AM5131

1. In the Standing Committee amendments, AM0656, on page 1, line 11, before "A" insert "(5)".

2. On page 2, line 1, strike "transfer" and insert "change"; and in line 7 after the second semicolon insert "to provide severability;".

3. On page 6, line 21, strike "(a)" and insert "(1)"; and in line 23 strike "(b)" and insert "(2)".

4. On page 25, line 5, strike the second "filing" and insert "issuance".

5. On page 33, lines 5 and 17; and page 35, lines 8 and 18, strike "filed" and insert "issued".

6. On page 34, line 24, strike "commenced".

7. On page 36, lines 14 and 19, strike "filing" and insert "issuance".

8. On page 40, line 25, strike "(4)" and insert "(2)".

9. On page 51, line 2, strike "it", show as stricken, and insert "the club".

LEGISLATIVE BILL 714. Placed on Select File.

LEGISLATIVE BILL 549. Placed on Select File as amended.
E & R amendment to LB 549:
AM5133

1. Insert the following new section:

"Sec. 52. That section 81-2020, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-2020. The State Treasurer shall transmit monthly to the ~~Public Employees Retirement Board~~ board a

detailed statement showing all credits to and disbursements from ~~said fund. He~~ the State Patrol Retirement Fund. The State Treasurer shall disburse money from such fund only on warrants issued by the Director of Administrative Services upon vouchers signed by the person designated for such purpose by resolution of the board.".

2. In the Nelson amendment, FA103, number the new section as section 75.

3. In the Standing Committee amendment, AM0599, on page 5, line 17, strike "the"; and in line 18 strike "him or her" and insert "board".

4. On page 1, line 5, after the first comma insert "72-1237, 72-1243,"; and in line 8 strike "81-2021" and insert "81-2020, 81-2021, 81-2022".

5. On page 2, line 2, after the fourth comma insert "79-1556,"; in line 6 after "Board" insert ", the Nebraska Investment Council, and the state investment officer"; in line 9 after the comma insert "investment of funds of certain retirement systems,"; in line 15 after the second semicolon insert "to restrict the personal liability of members of the council;"; and in line 25 strike the first "and".

6. On page 3, line 2, after "1943" insert "; and to declare an emergency".

7. On page 7, line 16, strike "and section 23-2332"; and strike beginning with "and" in line 18 through "section" in line 19.

8. On page 10, line 21, strike "salary", show as stricken, and insert "compensation".

9. On page 26, line 19; and page 27, lines 5 and 15, strike "director", show as stricken, and insert "Director of Administrative Services".

10. On page 30, line 11, strike "liabilities", show as stricken, and insert "liability".

11. On page 33, line 24, strike "of the system" and show as stricken.

12. On page 68, line 22, strike "shall notify", show as stricken, and insert "notifies".

13. On page 82, line 25, after the stricken comma insert "who".

14. On page 91, line 5; and page 92, line 8, strike "81-2034", show as stricken, and insert "81-2036".

15. On page 92, line 14, strike "officers", show as stricken, and insert "board".

16. On page 114, lines 24 and 25, strike "Public Employees Retirement Board", show as stricken, and insert "board".

17. On page 121, line 5, strike "64" and all amendments thereto and insert "69".

18. On page 124, line 20, after the last comma insert "81-2020,".

19. Renumber remaining sections accordingly.

LEGISLATIVE BILL 337. Placed on Select File as amended.
E & R amendment to LB 337:
AM5132

1. In the Standing Committee amendments, AM0258, on page 2, line 9, after "licensure" insert an underscored comma.

2. On page 3, line 24, strike the comma, show as stricken, and insert "of the".

3. On page 4, line 20, after "75-358" insert an underscored comma.

4. On page 6, line 23, after "or" insert an underscored comma; and in line 24 after "carriers" insert an underscored comma.

5. On page 8, line 16, strike "75-352" and insert "75-354".

(Signed) Eric Will, Chairperson

UNANIMOUS CONSENT - Print in Journal

Mr. Beutler asked unanimous consent to print the following amendment to LB 715 in the Journal. No objections. So ordered.

AM1203

1. Insert the following new sections:

"Sec. 19. That section 43-1608, Revised Statutes Supplement, 1990, be amended to read as follows:

43-1608. The Legislature finds that matters relating to the establishment, modification, and enforcement of child, ~~or~~ spousal, or medical support should be handled by the district courts in an expeditious manner so that parties may obtain needed

orders and other action as quickly as possible.

Sec. 20. That section 43-1609, Revised Statutes Supplement, 1990, be amended to read as follows:

43-1609. (1) The Supreme Court shall direct the district courts to appoint one or more child support referees if the Supreme Court determines that child support referees are necessary in order for the district courts to meet the requirements of federal law relating to expediting the establishment, enforcement, collection, and modification of child, spousal, or medical support.

(2) Child support referees ~~A child support referee~~ shall be appointed by order of the district court if it is determined by the ~~district court~~ Supreme Court that a child support referee is necessary. ~~to aid the court in meeting the requirements relating to case progression standards established by Public Law 98-378.~~ The ~~district courts in two or more judicial districts may agree to~~ Supreme Court shall appoint ~~a child support referee~~ child support referees to serve more than one judicial district if the Supreme Court determines it is necessary. ~~In order to be appointed as a child support referee,~~

(3) To be qualified for appointment as a child support referee, a person shall be an attorney in good standing admitted to the practice of law in the State of Nebraska and shall meet any other requirements imposed by the Supreme Court. A child support referee shall be sworn or affirmed to well and faithfully hear and examine the cause and to make a just and true report according to the best of his or her understanding. The oath or affirmation may be administered by a district court judge. A child support referee may be removed at any time by the ~~district court~~ appointing court.

(4) The Supreme Court may contract with an attorney to perform the duties of a referee for a specific case or for a specific amount of time or may direct a judge of the county court to perform such duties.

Sec. 21. That section 43-1610, Revised Statutes Supplement, 1990, be amended to read as follows:

43-1610. ~~Offices~~ Salaries, offices, support

staff, equipment, furnishings, and supplies shall be provided by the county ~~in the budget of the district court of the county or counties in which the child support referee serves. Salaries and expenses of child support referees and staff shall be paid by funds appropriated by the county or counties to the district court~~ through funds appropriated by the county to the district court. If the Supreme Court determines that a referee shall be appointed to serve in more than one judicial district pursuant to section 43-1609, the salary and expenses of the referee shall be paid by funds appropriated by the State of Nebraska from funds appropriated to the Supreme Court.

Sec. 22. That section 43-1611, Revised Statutes Supplement, 1990, be amended to read as follows:

43-1611. A district court may by rule or order refer or assign any and all matters regarding the establishment, enforcement, modification, and collection of child, ~~or~~ spousal, or medical support and paternity matters to a child support referee for findings and recommendations.".

2. On page 25, line 16, strike "section" and insert "sections"; and in line 17 after the first comma insert "43-1608, 43-1609, 43-1610, and 43-1611,".

3. Renumber the remaining sections accordingly.

Mrs. Pirsch asked unanimous consent to print the following amendment to LB 186 in the Journal. No objections. So ordered.

(Amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM1425.)

UNANIMOUS CONSENT - Unbracket LB 355

Mr. Ashford asked unanimous consent to unbracket LB 355. No objections. So ordered.

UNANIMOUS CONSENT - Add Co-Introducer

Mr. Chambers asked unanimous consent to have his name added as co-introducer to LB 701. No objections. So ordered.

VISITORS

Visitors to the Chamber were 50 sixth grade students and teachers from Syracuse; Albert and Pauline Benson from Pender and Marvin Benne from West Point; and 48 fourth grade students and teachers from Springfield.

MOTION - Adjournment

Mr. Landis moved to adjourn until 9:00 a.m., Tuesday, April 30, 1991. The motion prevailed with 13 ayes, 2 nays, and 34 not voting, and at 4:29 p.m., the Legislature adjourned until 9:00 a.m., Tuesday, April 30, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

LEGISLATIVE JOURNAL

OF THE

STATE OF NEBRASKA

Volume 2

NINETY-SECOND LEGISLATURE
FIRST SESSION

1991

Convened January 9, 1991 Adjourned June 5, 1991

LINCOLN, NEBRASKA

Compiled

Under Authority of the Legislature

by

PATRICK J. O'DONNELL, CLERK

SIXTY-NINTH DAY - APRIL 30, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

SIXTY-NINTH DAY

Legislative Chamber, Lincoln, Nebraska
Tuesday, April 30, 1991

Pursuant to adjournment, the Legislature met at 9:00 a.m., Speaker Baack presiding.

PRAYER

The prayer was offered by Pastor James Melang, All Saints Lutheran Church, Lincoln, Nebraska.

ROLL CALL

The roll was called and all members were present except Mr. Ashford who was excused; and Messrs. Bernard-Stevens, Beyer, Conway, Haberman, Lamb, Landis, Lindsay, Lynch, Peterson, Schmit, Warner, Wesely, Will, Mmes. Nelson, Pirsch, and Ms. Schimek who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Sixty-Eighth Day was approved.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following resolution: LR 72.

RESOLUTIONS

LEGISLATIVE RESOLUTION 68. Read. Considered.

LR 68 was adopted with 25 ayes, 0 nays, and 24 not voting.

LEGISLATIVE RESOLUTION 71. Read. Considered.

LR 71 was adopted with 27 ayes, 0 nays, and 22 not voting.

BILLS ON FINAL READING

The following bills were read and put upon final passage:

LEGISLATIVE BILL 123. With Emergency.

A BILL FOR AN ACT relating to business relationships; to amend sections 69-1501 and 69-1503, Reissue Revised Statutes of Nebraska, 1943; to adopt the Equipment Business Regulation Act; to harmonize provisions; to provide severability; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 43:

Abboud	Cudaback	Johnson, L.	Peterson	Schrock
Baack	Dierks	Johnson, R.	Rasmussen	Smith
Beutler	Elmer	Kristensen	Robak	Warner
Beyer	Haberman	Labedz	Robinson	Wehrbein
Byars	Hall	Lamb	Rogers	Wesely
Chambers	Hartnett	Landis	Schellpeper	Wickersham
Chizek	Hefner	Moore	Schimek	Will
Conway	Hillman	Morrissey	Schmit	Withem
Coordsen	Horgan	Nelson		

Voting in the negative, 0.

Present and not voting, 1:

Crosby

Excused and not voting, 5:

Ashford	Bernard-Stevens	Lindsay	Lynch	Pirsch

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

LEGISLATIVE BILL 528.

A BILL FOR AN ACT relating to the Department of Environmental Control; to amend section 81-1532, Reissue Revised Statutes of Nebraska, 1943; to require a report regarding fees and funding as prescribed; to harmonize provisions; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 44:

Abboud	Crosby	Horgan	Nelson	Schrock
Baack	Cudaback	Johnson, L.	Peterson	Smith
Beutler	Dierks	Johnson, R.	Rasmussen	Warner
Beyer	Elmer	Kristensen	Robak	Wehrbein
Byars	Haberman	Labedz	Robinson	Wesely
Chambers	Hall	Lamb	Rogers	Wickersham
Chizek	Hartnett	Landis	Schellpeper	Will
Conway	Hefner	Moore	Schimek	Withem
Coordsen	Hillman	Morrissey	Schmit	

Voting in the negative, 0.

Excused and not voting, 5:

Ashford	Bernard-Stevens	Lindsay	Lynch	Pirsch

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

MOTION - Return LB 583 to Select File

Mr. Schmit moved to return LB 583 to Select File for the following specific amendment:
FA132

Strike the enacting clause.

Mr. Schmit withdrew his motion to return.

BILLS ON FINAL READING

The following bills were read and put upon final passage:

LEGISLATIVE BILL 583. With Emergency.

A BILL FOR AN ACT relating to livestock; to amend sections 54-137.01 and 54-2112, Reissue Revised Statutes of Nebraska, 1943; to state findings; to state intent; to provide for a qualified state beef council; to provide duties for the Director of Agriculture, the Nebraska Beef Industry Development Board, the State Treasurer, and the Auditor of Public Accounts; to provide for transfer of funds, liabilities, duties, and property as prescribed; to change provisions relating to the remittance of fees; to eliminate the Nebraska Beef Industry Development Act, the Nebraska Beef Industry Development Board, and the Nebraska Beef Industry Development Fund; to provide operative dates; to repeal the original sections, and also sections 54-2101 to 54-2111, 54-2112.01, and 54-2114 to 54-2119, Reissue Revised Statutes of Nebraska, 1943, section 54-2113, Revised Statutes Supplement, 1990, and section 54-2112, Reissue Revised Statutes of Nebraska, 1943, as amended by section 9, Legislative Bill 583, Ninety-second Legislature, First Session, 1991; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 37:

Abboud	Coordsen	Horgan	Peterson	Schrock
Baack	Crosby	Johnson, L.	Rasmussen	Smith
Bernard-Stevens	Cudaback	Johnson, R.	Robak	Warner
Beyer	Dierks	Kristensen	Robinson	Wehrbein
Byars	Elmer	Labedz	Rogers	Wickersham
Chizek	Hall	Lamb	Schellpeper	Will
Conway	Hefner	Landis	Schimek	Withem
	Hillman	Morrissey		

Voting in the negative, 6:

Chambers	Moore	Nelson	Schmit	Wesely
Haberman				

Present and not voting, 2:

Beutler	Hartnett

Excused and not voting, 4:

Ashford	Lindsay	Lynch	Pirsch

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

LEGISLATIVE BILL 742.

A BILL FOR AN ACT relating to the Uniform Controlled Substances Act; to amend section 28-416, Reissue Revised Statutes of Nebraska, 1943, and section 29-2262, Revised Statutes Supplement, 1990; to prohibit delivery of certain controlled substances to minors as prescribed; to prohibit use of minors to perform certain acts related to certain controlled substances as prescribed; to provide penalties; to harmonize provisions; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 41:

Abboud	Coordsen	Horgan	Peterson	Schrock
Baack	Crosby	Johnson, L.	Rasmussen	Smith
Bernard-Stevens	Cudaback	Kristensen	Robak	Warner
	Dierks	Labedz	Robinson	Wehrbein
Beutler	Elmer	Lamb	Rogers	Wesely
Beyer	Haberman	Landis	Schellpeper	Wickersham
Byars	Hall	Morrissey	Schimek	Will
Chizek	Hartnett	Nelson	Schmit	Withem
Conway	Hefner			

Voting in the negative, 0.

Present and not voting, 4:

Chambers	Hillman	Johnson, R.	Moore

Excused and not voting, 4:

Ashford	Lindsay	Lynch	Pirsch

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

GENERAL FILE

LEGISLATIVE BILL 714A. Mr. Wehrbein renewed his pending motion, found in the Journal on page 1794, to indefinitely postpone.

Mrs. Labedz, Messrs. Schmit, and Withem asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Wehrbein moved for a call of the house. The motion prevailed with 16 ayes, 0 nays, and 33 not voting.

Mr. Wehrbein requested a roll call vote on his motion to indefinitely postpone.

Voting in the affirmative, 16:

Bernard-Stevens	Coordsen	Hefner	Peterson	Schellpeper
Beyer	Cudaback	Johnson, L.	Robak	Wehrbein
Byars	Dierks	Lamb	Rogers	Wickersham
	Haberman			

Voting in the negative, 23:

Abboud	Conway	Horgan	Morrissey	Smith
Baack	Crosby	Kristensen	Rasmussen	Warner
Beutler	Hall	Landis	Schimek	Wesely
Chambers	Hartnett	Lindsay	Schrock	Will
Chizek	Hillman	Moore		

Present and not voting, 4:

Elmer	Johnson, R.	Nelson	Robinson

Excused and not voting, 6:

Ashford Lynch Pirsch Schmit Withem
Labedz

The Wehrbein motion to indefinitely postpone lost with 16 ayes, 23 nays, 4 present and not voting, and 6 excused and not voting.

The Chair declared the call raised.

Pending.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following bills: 123, 528, 583, and 742.

GENERAL FILE

LEGISLATIVE BILL 714A. Mr. Warner renewed his pending amendment, AM1352, found in the Journal on page 1756.

Mr. Warner moved for a call of the house. The motion prevailed with 10 ayes, 0 nays, and 39 not voting.

The Warner amendment was adopted with 27 ayes, 0 nays, 16 present and not voting, and 6 excused and not voting.

The Chair declared the call raised.

Mr. Beutler offered the following amendment:
FA133

1. Insert the following new section:

"Section 1. There is hereby appropriated (1) $50,000 from the Nebraska Habitat Fund for FY1991-92 and (2) $50,000 from the Nebraska Habitat Fund for FY1992-93 to the Game and Parks Commission, for Program 330, to aid in the development and maintenance of wildlife habitat and related improvements on recreational trails."

2. Renumber the remaining sections.

Mr. Kristensen asked unanimous consent to be excused until he returns. No objections. So ordered.

The Beutler amendment was adopted with 27 ayes, 0 nays, 17 present and not voting, and 5 excused and not voting.

Mr. Lamb requested a record vote on the advancement of the bill.

Voting in the affirmative, 25:

Abboud	Hall	Labedz	Nelson	Smith
Baack	Hartnett	Landis	Rasmussen	Warner
Beutler	Hillman	Lindsay	Robinson	Wesely
Conway	Horgan	Moore	Schimek	Will
Crosby	Johnson, R.	Morrissey	Schrock	Withem

Voting in the negative, 12:

Bernard-Stevens	Byars	Haberman	Lamb	Wehrbein
	Coordsen	Hefner	Robak	Wickersham
Beyer	Cudaback	Johnson, L.		

Present and not voting, 7:

Chambers	Dierks	Peterson	Rogers	Schellpeper
Chizek	Elmer			

Excused and not voting, 5:

Ashford	Kristensen	Lynch	Pirsch	Schmit

Advanced to E & R for review with 25 ayes, 12 nays, 7 present and not voting, and 5 excused and not voting.

NOTICE OF COMMITTEE HEARING
Education

Governor Appointment Thursday, May 9, 1991 1:25 p.m.
Board of Trustees - State College System
Kathi Jordan Swanson

(Signed) Ron Withem, Chairperson

PRESENTED TO THE GOVERNOR

Presented to the Governor on April 30, 1991, at 10:55 a.m., were the following bills: 123, 528, 583, and 742.

(Signed) Pam Moravec, Enrolling Clerk

UNANIMOUS CONSENT - Print in Journal

Mr. R. Johnson asked unanimous consent to print the following amendment to LB 718 in the Journal. No objections. So ordered.

AM1519

(Amendments to Standing Committee amendments, AM0425)

1. On page 10, line 16, strike "in the" and insert "outside its"; in line 17 strike beginning with "or" through "racetrack"; in line 18 strike "such" and insert "all"; and in line 19 strike "racetrack" and insert "racetracks running the same breed of horse. Each licensed racetrack may choose whether or not to participate in the ownership and operation of teleracing facilities outside the primary territory of a licensed racetrack".

2. On page 13, line 14, strike "and"; and in line 17 after "wagers" insert ";

(4) No licensed racetrack shall conduct a telephonic wagering system outside its primary territory without the permission and consent of all licensed racetracks running the same breed of horse. Each licensed racetrack may choose whether or not to participate in the ownership and operation of a telephonic wagering system outside the primary territory of a licensed racetrack;

(5) The licensed racetrack has obtained the written consent of the organization representing a majority of the owners and trainers at the racetrack of the licensee conducting the live race meeting; and

(6) The licensed racetrack has conferred with the organization which represents a majority of the thoroughbred breeders in Nebraska as to what effect the use of such teleracing facility would have upon horse breeding and horseracing in this state".

Mr. Schellpeper asked unanimous consent to print the following amendment to LB 355 in the Journal. No objections. So ordered.

AM1530

1. Strike the original sections and all amendments thereto and insert the following new sections:

"Section 1. No importer, manufacturer, or dealer licensed pursuant to 18 U.S.C. 923 shall sell or deliver any handgun to another person other than a licensed importer, manufacturer, dealer, or collector until he or she has:

(1) Obtained a completed consent form from the potential buyer or transferee, which form shall be established by the Nebraska State Patrol and provided by the licensed importer, manufacturer, or dealer. The form shall include only the name, date of birth, gender, race, and social security number or other identification number of such potential buyer or transferee;

(2) Inspected an identification containing a photograph of the potential buyer or transferee which appropriately and completely identifies such person;

(3) Requested by toll-free telephone call or other electromagnetic communication that the Nebraska State Patrol conduct a criminal history record check; and

(4) Received a unique approval number for such inquiry from the Nebraska State Patrol indicating the date and number on the consent form.

Sec. 2. (1) Upon receipt of a request for a criminal history record check, the Nebraska State Patrol shall as soon as possible during the licensee's telephone call or by return telephone call:

(a) Review its criminal history records to determine if the potential buyer or transferee is prohibited from receipt or possession of a handgun pursuant to state or federal law; and

(b) Inform the licensee either (i) that its records demonstrate that the potential buyer or transferee is prohibited from receipt or possession of a handgun or (ii) provide the licensee with a unique approval number.

(2) In the event of electronic failure or similar emergency beyond the control of the Nebraska State Patrol, the patrol shall immediately notify a requesting licensee of the reason for and estimated

length of such delay. In any event, no later than the end of the next business day the Nebraska State Patrol shall either (a) inform the licensee that its records demonstrate that the potential buyer of transferee is prohibited from receipt or possession of a handgun or (b) provide the licensee with a unique approval number. If the licensee is not informed by the end of the next business day that the potential buyer is prohibited from receipt or possession of a handgun, and regardless of whether the unique approval number has been received, the licensee may complete the sale or delivery and shall not be deemed to be in violation of this act with respect to such sale or delivery.

(3) A fee of three dollars shall be charged for each request of a criminal history record check required pursuant to section 1 of this act, which amount shall be transmitted monthly to the Nebraska State Patrol. Such amount shall be for the purpose of covering the costs of the criminal history record check.

Sec. 3. (1) Any records which are created by the Nebraska State Patrol to conduct the criminal history check containing any of the information set forth in subdivision (1) of section 1 of this act pertaining to a potential buyer or transferee who is not prohibited from receipt or transfer of a handgun by reason of state or federal law shall be confidential and may not be disclosed by the patrol or any officer or employee thereof to any person. The Nebraska State Patrol shall destroy any such records as soon as possible after communicating the unique approval number and, in any event, such records shall be destroyed within forty-eight hours after the date of receipt of the licensee's request.

(2) Notwithstanding the provisions of this section, the Nebraska State Patrol shall only maintain a log of dates of requests for criminal history record checks and unique approval numbers corresponding to such dates for not to exceed one year.

(3) Nothing in this section shall be construed to allow the state to maintain records containing the names of licensees who receive unique approval numbers or to maintain records of handgun transactions, including the names or other identification of licensees and potential buyers or transferees including persons

not otherwise prohibited by law from the receipt or possession of handguns.

Sec. 4. The Nebraska State Patrol shall establish a toll-free telephone number which shall be operational seven days a week between 8 a.m. and 10 p.m. for purposes of responding to requests under section 1 of this act. The Nebraska State Patrol shall employ and train such personnel as is necessary to expeditiously administer the provisions of this act. The Nebraska State Patrol shall notify all licensed importers, manufacturers, and dealers in writing prior to January 1, 1993, that the procedures and toll-free telephone number described in this act will be operational on such date.

Sec. 5. Any person who is denied the right to purchase or receive a handgun as a result of procedures established by this act may request amendment of the record pertaining to him or her by petitioning the Nebraska State Patrol. If the Nebraska State Patrol fails to amend the record within seven days, the person requesting the amendment may petition the district court of the county in which he or she resides for an order directing the patrol to amend the record. If the person proves by a preponderance of the evidence that the record should be amended, the court shall order the record be amended. If the record demonstrates that such person is not prohibited from receipt or possession of a handgun by state or federal law, the Nebraska State Patrol shall destroy any records it maintains which contain any information derived from the criminal history record check.

Sec. 6. The Nebraska State Patrol shall adopt and promulgate rules and regulations to ensure the identity, confidentiality, and security of all records and data provided pursuant to this act.

Sec. 7. A licensed importer, manufacturer, or dealer shall not be required to comply with the provisions of this act in the event of:

(1) Unavailability of telephone service at the licensed premises due to (a) the failure of the entity which provides telephone service in the state, region, or other geographical area in which the licensee is located to provide telephone service to the premises due to the location of such premises or (b) the interruption

of telephone service by reason of hurricane, flood, natural disaster, other act of God, war, riot, or other bona fide emergency or reason beyond the control of the licensee; or

(b) Failure of the Nebraska State Patrol to comply reasonably with the requirements of this act.

Sec. 8. Compliance with this act shall be a defense by the Nebraska State Patrol and the licensee transferring a handgun in any cause of action under the laws of this state for liability for damages arising from the importation or manufacture, or the subsequent sale or transfer, of any handgun which has been shipped or transported in interstate or foreign commerce to any person who has been convicted in any court of any crime punishable by a term of more than one year.

Sec. 9. This act shall not apply to:

(1) Any handgun, including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system, manufactured in or before 1898;

(2) Any replica of any firearm described in subdivision (1) of this section if such replica is not designed or redesigned to use rimfire or conventional centerfire fixed ammunition and uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade; and

(3) Any firearm which is a curio or relic as defined by 27 C.F.R. 178.11.

Sec. 10. Any licensed importer, manufacturer, or dealer who knowingly and intentionally requests a criminal history record check from the Nebraska State Patrol for any purpose other than compliance with this act or knowingly and intentionally disseminates any criminal history record information to any person other than the subject of such information shall be guilty of a Class I misdemeanor.

Sec. 11. Any person who, in connection with the purchase, transfer, or attempted purchase of a handgun pursuant to this act, knowingly and intentionally makes any materially false oral or written statement or knowingly and intentionally furnishes any false identification intended or likely to deceive the licensee shall be guilty of a Class I misdemeanor.

Sec. 12. Any licensed importer, manufacturer, or dealer who knowingly and intentionally sells or delivers a handgun in violation of this act shall be guilty of a Class I misdemeanor.

Sec. 13. Any person who knowingly and intentionally obtains a handgun for the purposes of transferring it to a person who is prohibited from receipt or possession of a handgun by state or federal law shall be guilty of a Class IV felony.

Sec. 14. The Nebraska State Patrol shall provide an annual report to the Judiciary Committee of the Legislature which includes the number of inquiries made pursuant to this act for the prior calendar year, the number of such inquiries resulting in a determination that the potential buyer or transferee was prohibited from receipt or possession of a handgun pursuant to state or federal law, the estimated costs of administering this act, the number of instances in which a person requested amendment of the record pertaining to such person pursuant to section 5 of this act, and the number of instances in which a district court issued an order directing the patrol to amend a record.

Sec. 15. Sections 4 and 6 of this act shall become operative on September 15, 1992. The other sections of this act shall become operative on January 1, 1993.".

Mr. Schellpeper asked unanimous consent to print the following amendment to LB 503 in the Journal. No objections. So ordered.

AM1471
(Amendments to Standing Committee amendments, AM0764)

1. On page 4, line 6, after "state" insert "or residing in an adjoining state and licensed to practice medicine in this state".

RESOLUTION

LEGISLATIVE RESOLUTION 27. Read. Considered.

Mr. Elmer renewed his pending amendment, AM1491, found in the Journal on page 1831.

MR. WARNER PRESIDING

Mr. Will asked unanimous consent to be excused until he returns. No objections. So ordered.

Messrs. Hartnett and Horgan offered the following amendment to the pending Elmer amendment:
AM1543

(Amendments to AM1491)

1. On page 4, line 5, after "70-672" insert "; and

WHEREAS, the development and elaboration of the Legislature's statutory framework for waterways, water resources, and their use and development in Nebraska is an ongoing process in which the Legislature continually reviews and revises the basic statutory provisions and in this First Session of the Ninety-second Legislature, the following legislation has been the subject of consideration:

(1) The Legislature has adopted and the Governor has signed LB 772 which eliminates the Water Management Board, eliminates the Nebraska Water Project Revenue Bonding Act, and transfers funds to the General Fund;

(2) The Legislature has adopted and the Governor has signed LB 277 which allows an application to be made for a permit to appropriate water from a storage reservoir or an intentional underground water storage facility for the instream use of water for recreation or fish and wildlife so long as the appropriation does not prejudice any prior right for beneficial use;

(3) The following bills have been advanced to General File by the Natural Resources Committee and will be considered by the full Legislature:

(a) LB 308 which recognizes that a hydrogeologic relationship exists between surface water and ground water, and calls for a careful balancing of surface water and ground water rights;

(b) LB 212 which mandates that the Nebraska Natural Resources Commission conduct a study and present findings to the Legislature by July 1, 1992, regarding conjunctive use and integrated management of surface water and ground water in the state, with an emphasis on providing information on surface water use and its

effect on ground water and the effect on the relationship of ground water use on the base flow of streams;

(c) LB 49 which would allow the Department of Water resources to protect water introduced into a stream from a nonreservoir source to its point of use or throughout a designated reach where flows are required; and

(d) LB 497 which would place the issue of the quality of both surface water and ground water sources within the responsibility of the Nebraska Soil and Water Conservation Fund and would allow access to the fund for water quality protection programs;

(4) LB 511 is currently on General File. It had originally been indefinitely postponed by the Government, Military and Veterans Affairs Committee but was revived and placed on General File by a vote of the full Legislature. This legislation's purpose is to grant broad authority to county boards to exercise special zoning authority to protect river and stream corridors when they are designated as protected due to their scenic, geologic, recreational, fish and wildlife, historic, cultural, or other similar values; and

(5) The Natural Resources Committee of the Legislature is currently holding the following bills for additional consideration:

(a) LB 730 which would specify that any party located within the basin of origin would be deemed a party in interest in any proceeding involving an interbasin transfer of water; and

(b) LR 17CA a proposal for a constitutional amendment to Article XV, section 6, which would establish in the Constitution of Nebraska a municipal preference in the priority of appropriation of water in natural streams."; and in line 22 strike "and readopts".

2. On page 5, line 1, after "resolution" insert "and as such framework may be revised or amended following the passage of this resolution"; and strike lines 2 through 4 and insert

"3. That following this and future legislative sessions the Department of Water Resources shall report to the Legislature upon changes made in this legislative framework to permit the Legislature from time to time to update this resolution.".

Messrs. Hartnett and Horgan withdrew their pending amendment.

SPEAKER BAACK PRESIDING

Messrs. Hartnett, Horgan, and Elmer offered the following amendment to the pending Elmer amendment:
AM1547

(Amendments to AM1491)

1. On page 4, line 5, after "70-672" insert "; and

WHEREAS, the development and elaboration of the Legislature's statutory framework for waterways, water resources, and their use and development in Nebraska is an ongoing process in which the Legislature continually reviews and revises the basic statutory provisions and in this First Session of the Ninety-second Legislature, the following legislation has been the subject of consideration:

(1) The Legislature has adopted and the Governor has signed LB 772 which eliminates the Water Management Board, eliminates the Nebraska Water Project Revenue Bonding Act, and transfers funds to the General Fund; and

(2) The Legislature has adopted and the Governor has signed LB 277 which allows an application to be made for a permit to appropriate water from a storage reservoir or an intentional underground water storage facility for the instream use of water for recreation or fish and wildlife so long as the appropriation does not prejudice any prior right for beneficial use"; and in line 22 strike "and readopts".

2. On page 5, line 1, after "resolution" insert "and as such framework may be revised or amended following the passage of this resolution"; and strike lines 2 through 4 and insert

"3. That following this and future legislative sessions the Department of Water Resources shall report to the Legislature upon changes made in this legislative framework to permit the Legislature from time to time to update this resolution.".

The Hartnett-Horgan-Elmer amendment was adopted with 25 ayes, 0 nays, 19 present and not voting, and 5 excused and not voting.

The Elmer amendment, as amended, was adopted with 26 ayes, 0 nays, 18 present and not voting, and 5 excused and not voting.

LR 27, as amended, was adopted with 32 ayes, 2 nays, 11 present and not voting, and 4 excused and not voting.

UNANIMOUS CONSENT - Print in Journal

Mr. Rogers asked unanimous consent to print the following amendment to LB 312 in the Journal. No objections. So ordered.

AM1097

(Amendments to Standing Committee amendments, AM0791)

1. Insert the following new section:

"Sec. 4. Sections 1 to 3 of this act shall not apply to lawful activities of any governmental agency or employees or agents of such agency carrying out their duties prescribed by law.".

2. On page 1, line 3, after "who" insert "intentionally, willfully, and"; in line 5 after the second comma insert "agriculture,"; in line 14 after "intentionally" insert ", willfully,"; and in line 16 after the third comma insert "agriculture,".

3. On page 2, line 7, strike "and 3" and insert "3, and 4".

4. Renumber the remaining sections accordingly.

VISITORS

Visitors to the Chamber were 65 fourth grade students and sponsors from Skyline Elementary, Elkhorn; 65 fourth, fifth, and sixth grade students and sponsors from Shelby; and 46 fourth grade students and sponsors from Westside Elementary, Norfolk.

RECESS

At 11:48 a.m., on a motion by Mr. Morrissey, the Legislature recessed until 1:30 p.m.

AFTER RECESS

The Legislature reconvened at 1:30 p.m.. Speaker Baack presiding.

ROLL CALL

The roll was called and all members were present except Mr. Ashford who was excused; and Messrs. Bernard-Stevens, Beyer, Conway, Haberman, Rogers, Schmit, Mmes. Pirsch, and Smith who were excused until they arrive.

SELECT COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 456. Placed on Select File as amended.
E & R amendment to LB 456:
AM5134

1. In the Wesely amendment, AM1296:

a. On page 2, lines 10 and 11, strike the comma and show as stricken;

b. On page 7, line 5, after "certified" insert an underscored comma;

c. On page 9, line 7, strike the commas;

d. On page 11, line 14, strike the comma;

e. On page 12, line 16, strike "records"; and in line 19 strike "reports" and insert "records, reports,"; and

f. On page 20, line 12, reinstate the stricken comma.

2. In the Standing Committee amendment, AM0514, on page 1, lines 18 and 19, strike "Licensee Assistance Program" and insert "program".

2. On page 1, strike the matter beginning with "the" in line 1 through the semicolon in line 12 and insert "public health and welfare; to amend sections 28-409, 33-150, 44-2851, 71-101, 71-108, 71-147, 71-147.02, 71-148, 71-150, 71-154, 71-155, 71-161.02, 71-161.03, 71-161.07, 71-161.12, 71-161.13, 71-161.16, 71-161.18, 71-168, 71-171, 71-171.01, 71-1,132.29, 71-1,194, 71-1,195.03, 71-1,200, 71-1,202, 71-1,209, 71-3,171, 71-2803.01, 71-3711, 71-4708, 71-4712, 71-6054, and 71-6111, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to actions against a registration under the Uniform Controlled Substances Act; to provide an exemption relating to credit of fees to the General Fund; to redefine a term; to provide for a Licensee Assistance Program; to create

a fund; to change provisions relating to disciplinary actions under the Uniform Licensing Law; to change, provide, and eliminate duties for the Department of Health, the Director of Health, the Bureau of Examining Boards, the Attorney General, the Commission on Medical Qualifications, and county attorneys; to provide for an assurance of compliance; to change provisions relating to certain reports by insurers;".

3. On page 17, line 22, strike "terms" and insert "term".

4. On page 21, line 21, strike "or", show as stricken, and insert an underscored comma and after "director" insert an underscored comma.

5. On page 23, line 9, strike "taken" and show as stricken.

6. On page 24, line 6, after "Constitution" insert "of Nebraska" and strike "this state", show as stricken, and insert "Nebraska"; and in line 18 strike the new matter and reinstate the stricken matter.

LEGISLATIVE BILL 456A. Placed on Select File.

(Signed) Eric Will, Chairperson

GENERAL FILE

LEGISLATIVE BILL 827. Mr. Morrissey renewed his pending amendment, AM1334, found in the Journal on page 1727 and considered on page 1827.

Mr. Coordsen asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Peterson moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

Mr. Byars asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Morrissey moved for a call of the house. The motion prevailed with 20 ayes, 0 nays, and 29 not voting.

Mr. Morrissey requested a roll call vote on his amendment.

Voting in the affirmative, 16:

Abboud	Hall	Morrissey	Schellpeper	Wickersham
Chambers	Kristensen	Rasmussen	Schimek	Will
Chizek	Landis	Rogers	Wesely	Withem
Dierks				

Voting in the negative, 21:

Baack	Hartnett	Johnson, L.	Lindsay	Schrock
Beutler	Hefner	Johnson, R.	Moore	Smith
Beyer	Hillman	Labedz	Nelson	Warner
Cudaback	Horgan	Lamb	Peterson	Wehrbein
Elmer				

Present and not voting, 4:

Crosby	Lynch	Robak	Robinson

Excused and not voting, 8:

Ashford	Bernard-Stevens	Byars	Coordsen	Pirsch
		Conway	Haberman	Schmit

The Morrissey amendment lost with 16 ayes, 21 nays, 4 present and not voting, and 8 excused and not voting.

The Chair declared the call raised.

Mr. Morrissey offered the following amendment:
AM1528

1. In the Standing Committee amendments, AM0930:

a. Strike sections 1, 2, 4, and 6;

b. On page 4, line 5, strike the new matter; reinstate the stricken matter beginning with "Each" in line 7 through line 19; and in line 7 before the reinstated "Each" insert "(d)";

c. On page 7, lines 1 through 3, strike the new matter and reinstate the stricken matter;

d. On page 11, lines 1 through 3 and 5 through 17, strike the new matter and reinstate the stricken matter;

e. On page 12, lines 5 through 8, strike the new matter and reinstate the stricken matter; in line 8 after the reinstated "to" insert "subdivision (1)(d) of this section"; and reinstate the stricken matter beginning with "the" in line 9 through line 11;

f. On page 21, line 18, reinstate "waterways", after the reinstated "waterways" insert an underscored comma, and after "water" insert an underscored comma; and in lines 21 and 22 strike the new matter and reinstate the stricken matter; lines 18 and 19, strike the new matter and reinstate the stricken matter;

g. On page 22, lines 6 through 8, reinstate the stricken matter; and in lines 8 through 24 strike the new matter and all amendments thereto;

h. On page 23, lines 1 through 4, strike the new matter and all amendments thereto;

i. On page 26, line 22, strike "81-1578,"; and in line 23 strike "81-15,106,"; and

j. Renumber the remaining sections accordingly.

2. In AM1195, on page 1, line 6, strike "begin serving" and insert "be appointed"; and strike beginning with the first "the" in line 8 through "act" in line 9 and insert "the termination of the committees pursuant to this section".

Messrs. Horgan and Warner asked unanimous consent to be excused until they return. No objections. So ordered.

PRESIDENT MOUL PRESIDING

Mr. Kristensen moved the previous question. The question is, "Shall the debate now close?"

Mr. Morrissey moved for a call of the house. The motion prevailed with 12 ayes, 0 nays, and 37 not voting.

The motion to cease debate prevailed with 32 ayes, 1 nay, and 16 not voting.

Mr. Morrissey requested a roll call vote on his amendment.

Voting in the affirmative, 18:

Abboud	Chizek	Labedz	Rogers	Smith
Beutler	Crosby	Landis	Schellpeper	Wesely
Byars	Dierks	Moore	Schimek	Wickersham
Chambers	Hall	Morrissey		

Voting in the negative, 11:

Baack	Beyer	Johnson, L.	Kristensen	Peterson
Bernard-Stevens	Elmer	Johnson, R.	Lamb	Schrock
	Hillman			

Present and not voting, 12:

Cudaback	Lindsay	Rasmussen	Robinson	Will
Hartnett	Lynch	Robak	Wehrbein	Withem
Hefner	Nelson			

Excused and not voting, 8:

Ashford	Coordsen	Horgan	Schmit	Warner
Conway	Haberman	Pirsch		

The Morrissey amendment lost with 18 ayes, 11 nays, 12 present and not voting, and 8 excused and not voting.

The Chair declared the call raised.

Mr. Morrissey offered the following amendment:
AM1326
(Amendments to Standing Committee amendments, AM0930)
1. On page 18, line 24, reinstate the stricken matter and strike the new matter.
2. On page 19, line 1, strike the new matter.

Mr. Abboud asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Morrissey moved for a call of the house. The motion prevailed with 14 ayes, 0 nays, and 35 not voting.

Mr. Morrissey requested a roll call vote on his amendment.

Voting in the affirmative, 14:

Chambers	Kristensen	Lynch	Schellpeper	Wickersham
Dierks	Labedz	Morrissey	Schimek	Will
Hall	Landis	Rogers	Wesely	

Voting in the negative, 24:

Baack	Byars	Hefner	Moore	Schmit
Bernard-Stevens	Crosby	Hillman	Nelson	Schrock
Beutler	Cudaback	Johnson, L.	Rasmussen	Smith
Beyer	Elmer	Johnson, R.	Robak	Warner
	Hartnett	Lamb	Robinson	Wehrbein

Present and not voting, 4:

Chizek	Lindsay	Peterson	Withem

Excused and not voting, 7:

Abboud	Conway	Haberman	Horgan	Pirsch
Ashford	Coordsen			

The Morrissey amendment lost with 14 ayes, 24 nays, 4 present and not voting, and 7 excused and not voting.

The Chair declared the call raised.

Pending.

UNANIMOUS CONSENT - Print in Journal

Messrs. Beutler, Warner, Wesely, Landis, and Ms. Schimek asked unanimous consent to print the following amendment to LR 24CA in the Journal. No objections. So ordered.

AM1551

1. On page 2, strike lines 11 through 19 and insert the following new subsection:

"(3) The Legislature may establish a lottery to be operated and regulated by the State of Nebraska. The proceeds of the lottery shall be appropriated by the Legislature:

(a) For the costs of establishing and maintaining the lottery; and

(b) After all the costs described in subdivision (3)(a) of this section are paid, for other purposes as directed by the Legislature, including, but not limited to:

(i) Tax relief and tax reduction for property owners through direct payments to taxpayers or payments to political subdivisions;

(ii) Support of elementary, secondary, and postsecondary education, including additional funding for books, supplies, facilities, and salaries;

(iii) Reimbursements to political subdivisions for losses resulting from decisions of the Nebraska Supreme Court finding laws unconstitutional; and

(iv) Compensation to depositors of industrial loan and investment companies for unreimbursed losses of guaranteed deposits held by industrial loan and investment companies which filed for bankruptcy or entered receivership after November 1, 1983, notwithstanding any other provision of this Constitution to the contrary.

The Legislature may enact laws to provide for the manner of making the payments for the purposes described in this subsection.

No lottery game shall be conducted as part of the lottery unless the game has been approved by a majority of the members of the Legislature.".

2. On page 3, line 16, after "state" insert "and to provide for the use of the proceeds of the lottery".

Messrs. Baack, Haberman, Wickersham, Will, Bernard-Stevens, Abboud, R. Johnson, Lindsay, Kristensen, Lynch, Elmer, Moore, Conway, Chizek, Hall, and Mrs. Pirsch asked unanimous consent to print the following amendment to LB 577 in the Journal. No objections. So ordered.

AM1279

(Amendments to Standing Committee amendments, AM0449)

1. Insert the following new sections:

"Sec. 5. (1) No person shall engage in sampling without a permit obtained from the Secretary of State.

(2) The Secretary of State shall issue a permit to a person engaged in sampling upon written

request of the manufacturer of smokeless tobacco products responsible for the sampling activity. Such written request shall be delivered to the Secretary of State on forms provided for the purpose.

(3) A permit shall be issued for a period of not more than one year and shall be renewed by the Secretary of State upon request of the original permittee. The Secretary of State may establish a reasonable fee of not to exceed one hundred dollars for each permit.

(4) A person engaged in sampling shall have in his or her possession the original or a copy of the permit at all times while he or she is engaged in sampling activities.

(5) A permit to engage in sampling issued to any manufacturer of smokeless tobacco products shall only permit sampling by employees of the company or by agents of the company for whom the company is responsible.

Sec. 8. If two or more judgments are entered against any manufacturer of smokeless tobacco products, its employees, or its sole agents for a violation of section 2, 3, 4, or 5 of this act, the Attorney General shall notify the Secretary of State that such judgments have been entered. Upon receipt of such notice, the Secretary of State shall revoke the permit issued to such manufacturer. Upon the request of such manufacturer, the Secretary of State shall issue a new permit under section 5 of this act if the judgments are overturned on appeal. If the judgments are not overturned on appeal, the Secretary of State may not issue a new permit to such manufacturer until one year has elapsed from the date when the Secretary of State received notice of the entry of the initial judgments against the manufacturer.".

2. On page 1, line 5, strike "person" and insert "manufacturer of smokeless tobacco products, its employees, or its sole agents"; and strike lines 13 and 14 and insert "(c) Areas to which minors are denied admission;".

3. On page 2, line 6, strike "4" and insert "5"; in line 18 strike "and" and before the period insert "; and strike beginning with the comma in line 21 through 'representatives' in line 24"; in line 20 strike

"and"; and in line 21 before the period insert "; and in lines 9 and 17 strike 'or 4' and insert '4, or 5' ".

4. Insert the following new amendments and renumber the remaining amendment accordingly:

"3. On page 3, line 10, strike 'a coupon redeemable for a sample,'.

4. On page 5, line 15, strike '(1)'; and strike lines 17 through 25.".

5. Renumber the remaining sections accordingly.

Mr. Abboud asked unanimous consent to print the following amendment to LB 827 in the Journal. No objections. So ordered.

AM1500

(Amendments to Standing Committee amendments, AM0930)

1. Insert the following new section:

"Sec. 8. That section 81-15,112.01, Revised Statutes Supplement, 1990, be amended to read as follows:

81-15,112.01. (1) The limitations contained in subsection (2) of section 25-224 shall not apply to actions for property damage, bodily injury, or death arising out of the disposal of low-level radioactive waste.

(2) Any person engaged in the disposal of low-level radioactive waste shall be subject to strict liability in tort for property damage, bodily injury, or death resulting from such disposal.".

2. On page 26, line 23, after the last comma insert "81-15,112.01,".

3. Renumber the remaining sections accordingly.

Mr. Hall asked unanimous consent to print the following amendment to LB 773 in the Journal. No objections. So ordered.

AM1540

1. Insert the following new section:

"Sec. 14. That section 77-2716.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-2716.01. (1) Every individual shall be allowed to subtract from federal adjusted gross income

an amount for personal exemptions. For tax year 1987, the amount allowed to be subtracted shall be one thousand one hundred dollars multiplied by the number of exemptions allowed on the federal return. For tax year 1988, the amount allowed to be subtracted shall be one thousand one hundred thirty dollars multiplied by the number of exemptions allowed on the federal return. For tax year 1989, the amount allowed to be subtracted shall be one thousand one hundred eighty dollars multiplied by the number of exemptions allowed on the federal return. For tax year 1990 and each tax year thereafter, the amount to be subtracted shall be adjusted for inflation by the method provided in section 151 of the Internal Revenue Code. If any amount to be subtracted is not a multiple of ten dollars, the amount shall be rounded to the next lowest multiple of ten dollars. The amount shall then be multiplied by the number of exemptions allowed on the federal return.

(2) Every individual who did not itemize deductions on his or her federal return shall be allowed to subtract from federal adjusted gross income a standard deduction equal to the federal standard deduction for the filing status used on the federal return.

(3) Every individual who itemized deductions on his or her federal return shall be allowed to subtract from federal adjusted gross income the greater of either the standard deduction allowed in subsection (2) of this section or all of his or her federal itemized deductions~~,~~ except for the amount deducted on the federal return for state or local income taxes paid.

(4)(a) Every resident individual shall be allowed to subtract from federal adjusted gross income the actual amount paid to others for tuition, textbooks, and transportation during the tax year not in excess of one thousand one hundred dollars for each dependent in grades kindergarten through six and one thousand seven hundred dollars for each dependent in grades seven through twelve attending a public or nonpublic elementary or secondary school. No deduction shall be allowed under this subsection unless the school is located in the state or within twenty-five miles of the students' residence, is not operated for profit, does not discriminate on the basis of race, color, or

national origin, does not permit the infliction of corporal punishment, and fulfills the school term requirements prescribed in section 79-201 or a comparable state requirement.

(b) For purposes of this subsection:

(i) Dependent shall mean a person for whom the individual claims a dependency exemption on his or her federal income tax return;

(ii) Textbooks shall mean and include books, instructional materials, and equipment used in teaching the elementary or secondary instructional program prescribed by the rules and regulations of the State Board of Education. Textbooks shall not include books, instructional materials, or equipment used in the teaching of religious tenets, doctrines, or worship or for extracurricular activities;

(iii) Transportation shall not include transportation to and from extracurricular activities; and

(iv) Tuition shall mean any amount charged for the opportunity to be enrolled in an instructional program by a public or nonpublic elementary or secondary school approved or accredited under rules and regulations established by the State Board of Education pursuant to subdivision (5)(c) of section 79-328.".

2. On page 70, line 19, after the third comma insert "77-2716.01,".

3. Renumber the remaining sections and change incorrect internal references accordingly.

Mr. Wesely and Mrs. Rasmussen asked unanimous consent to print the following amendment to LB 836 in the Journal. No objections. So ordered.

AM1559

1. On page 16, line 20, strike "care" and insert "development"; in line 21 strike "The office may:" and after line 21 insert:

"Sec. 20. The Department of Social Services and the office for child development and early childhood education services shall collaborate in their activities and may:".

2. On page 3, line 1, strike "24" and insert "25".

3. On page 8, line 19, after "from" insert "any state or federal"; and in line 20 strike "received under the Title XX program".

4. On page 14, strike beginning with "Perform" in line 3 through "funding" in line 6 and insert "Review and provide input toward the improvement of the quantity and quality of child care in the state, including advice to state agencies in their implementation of existing federal law and regulations as well as planning for future available federal funding"; and strike beginning with "Facilitate" in line 24 through "assistance" in line 25 and insert "Review and provide advice concerning the availability of employment-related child care".

5. On page 16, line 16, strike "thirty" and insert "sixty"; in line 17 strike "annually" and insert "at least every two years"; and in line 18 after the period insert "It is the intent of the Legislature that such day care homes be inspected annually if sufficient funds are made available under the Child Care and Development Block Grant Act for such purposes.".

6. On page 17, line 19, strike "37-3703" and insert "79-3703".

7. On page 19, lines 13 and 14 and lines 19 and 20, strike "Commission on the Status of Women" and insert "Department of Social Services"; and in line 15 strike "23" and insert "24".

8. On page 20, line 9, strike "Title XX" and insert "any state or federal"; in lines 11 and 12 strike "Commission on the Status of Women" and insert "Department of Social Services"; and in line 15 strike "23" and insert "24".

9. On page 32, line 6, strike "32" and insert "33".

10. Renumber the remaining sections accordingly.

RESOLUTIONS

LEGISLATIVE RESOLUTION 73. Introduced by Hefner, 19; Crosby, 29.

WHEREAS, Joan Burney of Hartington, Nebraska, has been selected as the 1991 National Mother of the Year by the American Mothers Association Convention held in St. Louis, Missouri; and

WHEREAS, Mrs. Burney represented the State of Nebraska at the American Mothers Association Convention as the 1991 Nebraska Mother of the Year; and

WHEREAS, Mrs. Burney is an award-winning author, a psychological counselor, a humorist, and the mother of six children.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates Joan Burney on receiving this award.

2. That a copy of this resolution be sent to Joan Burney.

Laid over.

LEGISLATIVE RESOLUTION 74. Introduced by Crosby, 29; Schimek, 27.

WHEREAS, Pat Hofeditz of Lincoln, Nebraska, was selected as the 1990 National Young Mother of the Year at the 1990 American Mothers Association Convention; and

WHEREAS, Mrs. Hofeditz represented the State of Nebraska at the 1990 American Mothers Association Convention; and

WHEREAS, Mrs. Hofeditz is a part-time high school teacher and the mother of two children.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates Pat Hofeditz on receiving this award.

2. That a copy of this resolution be sent to Pat Hofeditz.

Laid over.

STANDING COMMITTEE REPORT
Banking, Commerce and Insurance

The Committee on Banking, Commerce and Insurance desires to report favorably upon the appointment listed below. The Committee suggests the appointment be confirmed by the Legislature and suggests a record vote.

L.H. "Rick" Kolkman - Nebraska Investment Council

VOTE: Aye: Senators Landis, Abboud, Conway, Hall, and Wesely. Absent: Senators Schmit, Haberman, and Lindsay.

(Signed) David Landis, Chairperson

SPEAKER BAACK PRESIDING

GENERAL FILE

LEGISLATIVE BILL 827. Mr. Morrissey offered the following amendment:
AM1333
(Amendments to Standing Committee amendments, AM0930)

1. On page 13, line 11, strike "its" and insert "quarterly"; in line 12 strike "review" and insert "reviews"; in line 20 after "meetings" insert "at least quarterly"; and in line 24 after "developer" insert ", facility operator,".

2. On page 14, line 16, strike "and"; and in line 23 after "person" insert "; and

(k) File quarterly reports with the department verifying all expenditures made pursuant to this section".

Mr. Hall asked unanimous consent to be excused until he returns. No objections. So ordered.

The Morrissey amendment was adopted with 26 ayes, 0 nays, 17 present and not voting, and 6 excused and not voting.

Mr. Morrissey renewed his pending amendment, AM1483, found in the Journal on page 1833.

Mrs. Robak and Mr. Schmit asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Landis requested a division of the question on the Morrissey amendment.

The Chair sustained the division of the question.

The first Morrissey amendment is as follows:

FA134

(Amendments to Standing Committee amendments, AM0930)

1. On page 22, line 9, after "application" insert ", closing a facility, or modifying, suspending, or revoking a license"; and in line 13 after "application" insert ", closing a facility, or modifying, suspending, or revoking a license. No supersedeas bond shall be required to stay the final decision or order of the department pending review in the Supreme Court".

Mmes. Robak and Labedz asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Morrissey moved for a call of the house. The motion prevailed with 10 ayes, 0 nays, and 39 not voting.

The first Morrissey amendment was adopted with 26 ayes, 0 nays, 15 present and not voting, and 8 excused and not voting.

The second Morrissey amendment is as follows:

FA135

(Amendments to Standing Committee amendments, AM0930)

2. On page 23, line 3, after "appeal" insert ". The Supreme Court shall determine whether the decision or order of the department was made in conformity with the procedures set forth in this section and whether the preponderance of evidence demonstrates that grant or denial of a license application, the closing of a facility, or the revocation of a license is in accordance with the legislative objectives established by section 81-1580. The Supreme Court may remand the matter to the department to conduct further proceedings if the record is insufficient to make such determination.".

PRESIDENT MOUL PRESIDING

Mr. Morrissey withdrew his pending amendment.

The Chair declared the call raised.

Mr. Morrissey offered the following amendment:

AM1330

(Amendments to Standing Committee amendments, AM0930)

1. On page 3, line 21, after "site" insert "characterization and".

2. On page 12, line 17, strike "may" and insert "shall"; in line 18 after "Review" insert "all data including"; in line 19 strike "associated with the site" and insert "collected at each site during the site characterization and selection process"; in line 20 after "committee" insert "(1)"; and in line 22 after "data" insert ", (2) may hire or contract with a professional geologist, hydrologist, or other technical expert who shall participate in the developer's onsite characterization and selection process, (3) may hire or contract with professional hydrologists, geologists, meteorologists, sociologists, or other appropriate technical experts for the purpose of providing advice to the committee relating to the developer's site characterization and selection process".

3. On page 13, line 22; and page 14, line 2, after "the" insert "site characterization and selection process and the".

Mr. Hartnett asked unanimous consent to be excused until he returns. No objections. So ordered.

The Morrissey amendment lost with 14 ayes, 12 nays, 15 present and not voting, and 8 excused and not voting.

Mmes. Rasmussen and Labedz asked unanimous consent to be excused. No objections. So ordered.

Mr. Morrissey requested a record vote on the advancement of the bill.

Voting in the affirmative, 30:

Baack	Coordsen	Johnson, L.	Lynch	Schellpeper
Bernard-Stevens	Crosby	Johnson, R.	Moore	Schrock
Beutler	Cudaback	Kristensen	Nelson	Smith
Beyer	Elmer	Lamb	Peterson	Warner
Byars	Hall	Landis	Robak	Wehrbein
Chizek	Hillman	Lindsay	Robinson	Will

Voting in the negative, 1:

Morrissey

Present and not voting, 10:

Chambers	Dierks	Horgan	Schimek	Wickersham
Conway	Hefner	Rogers	Wesely	Withem

Excused and not voting, 8:

Abboud	Haberman	Labedz	Rasmussen	Schmit
Ashford	Hartnett	Pirsch		

Advanced to E & R for review with 30 ayes, 1 nay, 10 present and not voting, and 8 excused and not voting.

LEGISLATIVE BILL 827A. Title read. Considered.

Advanced to E & R for review with 27 ayes, 0 nays, 14 present and not voting, and 8 excused and not voting.

UNANIMOUS CONSENT - Withdraw Co-Introducer

Mr. Schellpeper asked unanimous consent to have his name withdrawn as co-introducer of AM1455 to LB 718. No objections. So ordered.

UNANIMOUS CONSENT - Print in Journal

Messrs. Wesely, Dierks, Schellpeper, Beyer, Bernard-Stevens, Byars, and Mrs. Rasmussen asked unanimous consent to print the following amendment to LB 830 in the Journal. No objections. So ordered.

AM1554

(Amendments to Standing Committee amendments, AM0923)

1. Insert the following new sections:

"Sec. 15. The Department of Social Services shall enter into an interagency agreement with the Department of Public Institutions for assistance in the development of rules and regulations for specialized developmental disability services pursuant to the medical assistance program and for assistance to administer medical assistance funds designated for

specialized developmental disability services pursuant to sections 68-1018 to 68-1035.

Sec. 18. The State Department of Education shall enter into an interagency agreement with the Department of Public Institutions for assistance in the development of rules and regulations for services to persons with developmental disabilities through the Division of Rehabilitation Services and for assistance to administer vocational rehabilitation funds designated for persons with developmental disabilities.".

2. On page 1, line 1, strike "and 8" and insert ", 8, 13, 14, 32, 35, and 36".

3. On page 2, strike lines 11 through 24.

4. On page 3, strike lines 1 through 13; strike beginning with "line" in line 19 through "in" in line 20; in line 21 strike the second "and"; in line 22 before the period insert "; and in lines 11, 14, 18, and 24 strike 'should' and insert 'shall' "; and in line 23 after the first comma insert "lines 3 and 7, strike 'should' and insert 'shall'; and in".

5. On page 4, strike beginning with "after" in line 20 through the second quotation mark in line 21 and insert "strike 'ensuring the' and insert 'developing a written policy which ensures the adequate and' ": and in line 23 after the semicolon insert "in line 8 after 'change' insert 'and which also includes a plan for funding shortfalls';".

6. Strike amendment 8 and renumber the remaining amendments accordingly.

7. On page 6, line 2 after the last semicolon insert "in line 21 strike 'mental retardation' and insert 'developmental disabilities';"; in line 9 strike "section 9 of this act" and insert "the Developmental Disabilities Services Act"; strike beginning with "in" in line 15 through the semicolon in line 17 and insert "strike lines 11 through 14 and insert the following new subsections:

'(3) On or after July 1, 1993, the department shall provide directly or by contract service coordination to each person found to be eligible for services.

(4) On the effective date of this act, the department shall begin to implement and provide either directly or by contract service coordination to persons

with developmental disabilities and their families.'; in line 15 strike '(4)' and insert '(5)'; in line 18 strike '(5) By' and insert '(6) It is the intent of the Legislature that by'; in line 20 after the period insert 'The department shall prepare a report to the Legislature and to the Governor as to the number of persons anticipated to be served, what services would be needed, how the services would be developed, and the cost of serving all eligible persons. The report shall be completed on or before December 1, 1991.';".

8. On page 8, line 12, after the semicolon insert "in line 14 strike '68-1021,';"; and strike beginning with the first quotation mark in line 13 through the second quotation mark in line 14 and insert " '79-1448, and 79-1449' and insert 'and 83-1,143.06' ".

9. Renumber the remaining sections and correct internal references accordingly.

Mr. Hall asked unanimous consent to print the following amendment to LR 24CA in the Journal. No objections. So ordered.

AM1558

(Amendments to AM1226)

1. On page 1, strike beginning with the colon in line 6 through line 21 and insert "for the costs of establishing and maintaining the lottery and shall be used for the purposes described in this section notwithstanding any other provision of this Constitution to the contrary.".

2. On page 2, strike beginning with "The" in line 1 through the period in line 4.

3. Strike amendment 2.

VISITORS

Visitors to the Chamber were 32 third grade students and sponsors from Tecumseh; 50 fourth grade students and sponsors from Centenniel Elementary, Utica; 24 fifth grade students from Henderson; and 12 seventh and eighth grade students and teacher from Funk.

ADJOURNMENT

At 5:32 p.m., on a motion by Mr. Baack, the Legislature adjourned until 9:00 a.m., Wednesday, May 1, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

SEVENTIETH DAY - MAY 1, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

SEVENTIETH DAY

Legislative Chamber, Lincoln, Nebraska
Wednesday, May 1, 1991

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Moul presiding.

PRAYER

The prayer was offered by Pastor John Harrington, New Covenant Baptist Church, Lincoln, Nebraska.

ROLL CALL

The roll was called and all members were present except Messrs. Abboud, Ashford, Bernard-Stevens, Byars, Chambers, Conway, Hall, Hartnett, Horgan, R. Johnson, Kristensen, Lindsay, Schmit, Schrock, Mmes. Hillman, Labedz, Nelson, Robak, and Ms. Schimek who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Sixty-Ninth Day was approved.

ENROLLED RESOLUTION

LEGISLATIVE RESOLUTION 27. Introduced by Elmer, 38; Haberman, 44; Schrock, 39; Kristensen, 37; Crosby, 29; Lamb, 43; Beyer, 3; Schmit, 23; Rogers, 41; R. Johnson, 34; Peterson, 21; Hefner, 19; Dierks, 40; Cudaback, 36; Hillman, 48; Bernard-Stevens, 42; Warner, 25; Lynch, 13; Nelson, 35; Coordsen, 32; Smith, 33.

WHEREAS, a study of beneficial uses of Nebraska's waterways and water resources was undertaken by the Nebraska Constitutional Convention in 1919-20 and as a result in November 1920 the convention adopted a plan which appears as Article XV, sections 4 to 7, of the Constitution of Nebraska; and

WHEREAS, on January 18, 1967, the Legislature adopted a resolution directing the Nebraska Soil and Water Conservation Commission to submit to the Governor and the Legislature a State Water Plan, and as directed, the commission, on May 26, 1971, submitted to the Governor and the Legislature its Report on the Framework Study of Nebraska's State Water Plan; and

WHEREAS, on February 17, 1972, the Legislature's Interim Study Committee on State Water Planning introduced Legislative Resolution 42 to adopt the Framework Study of Nebraska's State Water Plan as shown on pages 766 and 767 of the Legislative Journal, and on February 22, 1972, the resolution was adopted; and

WHEREAS, in 1975 the Legislature carried out the State Water Plan by enacting the Nongame and Endangered Species Conservation Act, section 37-430 et seq.; and

WHEREAS, in 1984 the Legislature further carried out the plan for waterways and water resources in Nebraska by enacting section 46-2,107 et seq., authorizing instream appropriations for both natural flow and reservoir releases for fish, recreation, and wildlife purposes; and

WHEREAS, the plan for waterways and water resources in Nebraska has been further implemented by enactments by the Legislature as follows:

(1) In Chapter 2: Establishing the Small Watersheds Flood Control Fund, section 2-1502 et seq.; granting authority to the Nebraska Natural Resources Commission to assist the Water Management Board and subdivisions of government with responsibilities for natural resources conservation, section 2-1507 et seq.; establishing the Nebraska Resources Development Fund to assist the development, preservation, and maintenance of Nebraska's water and related land resources, section 2-1586 et seq.; authorizing the Nebraska Natural Resources Commission to coordinate the state water planning and review process, section 2-1599 et seq.; establishing the Water Management Board to resolve conflicts regarding and expedite water development projects, section 2-15,107 et seq.; creating natural resources districts with broad authorities to develop and manage ground water, surface water, and fish and wildlife habitat, section 2-3201 et seq.; and authorizing the Water Management Board to issue bonds for construction of water retention and impoundment structures, section 2-4501 et seq.;

(2) In Chapter 31: Establishing provisions for flood plain management, section 31-1001 et seq.;

(3) In Chapter 37: Regarding the Game and Parks Commission and fish and wildlife;

(4) In Chapter 46: Regarding the irrigation districts, section 46-101 et seq.; appropriation of water from waterways, section 46-201 et seq.; creation of the Department of Water Resources, section 46-208 et seq.; adjudication of water rights by the Department of Water Resources, section 46-226 et seq.; interbasin transfers from waterways, sections 46-288 and 46-289; and recognition of incidental and intentional underground water storage, sections 46-295 et seq.; and

(5) In Chapter 70: Article 6 on public power and irrigation districts, including provisions on irrigation works, section 70-627, and provisions regarding water rights in streams, sections 70-668 to 70-672; and

WHEREAS, the development and elaboration of the Legislature's statutory framework for waterways, water resources, and their use and development in Nebraska is an ongoing process in which the Legislature continually reviews and revises the basic statutory provisions and in this First Session of the Ninety-second Legislature, the following legislation has been the subject of consideration:

(1) The Legislature has adopted and the Governor has signed LB 772 which eliminates the Water Management Board, eliminates the Nebraska Water Project Revenue Bonding Act, and transfers funds to the General Fund; and

(2) The Legislature has adopted and the Governor has signed LB 277 which allows an application to be made for a permit to appropriate water from a storage reservoir or an intentional underground water storage facility for the instream use of water for recreation or fish and wildlife so long as the appropriation does not prejudice any prior right for beneficial use.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature urges recognition of Nebraska statutes, the Constitution of Nebraska, and approved plans for improving and developing all waterways and water resources in Nebraska for the use and benefit of the citizens of Nebraska and the citizens of other states, including the adequate protection of, mitigation of impacts on, and enhancement of fish, wildlife, and related spawning grounds and habitat, and for other beneficial uses, including irrigation, flood control, water supply, recreation, and improvement and utilization of water power development, in order to provide clear direction to

state and federal agencies which may take actions affecting such waterways.

2. That the Legislature affirms this legislative framework for waterways, water resources, and use and development thereof in Nebraska as described in this resolution and as such framework may be revised or amended following the passage of this resolution.

3. That following this and future legislative sessions the Department of Water Resources shall report to the Legislature upon changes made in this legislative framework to permit the Legislature from time to time to update this resolution.

SELECT COMMITTEE REPORT
Enrollment and Review

Correctly Enrolled

The following resolution was correctly enrolled: LR 27.

(Signed) Eric Will, Chairperson

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following enrolled resolution: LR 27.

While the Legislature was in session and capable of transacting business, the President signed the following resolutions: LRs 68 and 71.

MOTION - Approve Appointment

Mr. Landis moved the adoption of the report of the Banking, Commerce and Insurance Committee for the following Governor appointment found in the Journal on page 1889: L.H. "Rick" Kolkman - Nebraska Investment Council.

Voting in the affirmative, 26:

Beutler	Cudaback	Johnson, L.	Pirsch	Smith
Beyer	Dierks	Landis	Rasmussen	Warner
Chizek	Elmer	Lynch	Robinson	Wehrbein
Coordsen	Haberman	Morrissey	Rogers	Wesely
Crosby	Hefner	Peterson	Schellpeper	Will

Withem

Voting in the negative, 0.

Present and not voting, 4:

Baack	Lamb	Moore	Wickersham

Excused and not voting, 19:

Abboud	Byars	Hartnett	Kristensen	Robak
Ashford	Chambers	Hillman	Labedz	Schimek
Bernard-Stevens	Conway	Horgan	Lindsay	Schmit
	Hall	Johnson, R.	Nelson	Schrock

The appointment was confirmed with 26 ayes, 0 nays, 4 present and not voting, and 19 excused and not voting.

GENERAL FILE

LEGISLATIVE BILL 836. Title read. Considered.

Standing Committee amendment, AM0433, found in the Journal on page 920, was adopted with 25 ayes, 0 nays, 8 present and not voting, and 16 excused and not voting.

Mr. Haberman asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Wesely and Mrs. Rasmussen renewed their pending amendment, AM1559, found in the Journal on page 1887.

The Wesely-Rasmussen amendment was adopted with 25 ayes, 0 nays, 13 present and not voting, and 11 excused and not voting.

Mr. Hall asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Warner offered the following amendment:
FA136
Strike Section 30.

The Warner amendment was adopted with 26 ayes, 0 nays, 12 present and not voting, and 11 excused and not voting.

Mr. Lamb offered the following amendment:
FA137
Amend Committee amendment page 1 line 7 strike "different families" and insert (families other than that of the provider)

Messrs. Beutler, Landis, and Mrs. Crosby asked unanimous consent to be excused until they return. No objections. So ordered.

The Lamb amendment was adopted with 25 ayes, 0 nays, 10 present and not voting, and 14 excused and not voting.

Messrs. Warner, Lynch, Withem, Kristensen, and Ms. Schimek asked unanimous consent to be excused until they return. No objections. So ordered.

Advanced to E & R for review with 26 ayes, 0 nays, 6 present and not voting, and 17 excused and not voting.

LEGISLATIVE BILL 836A. Title read. Considered.

Mr. Wesely offered the following amendment:
AM1560
1. Strike original section 2.
2. On page 2, line 3, strike "$1,600,965" and insert "$1,850,965"; and strike lines 11 through 18.
3. Renumber the remaining section accordingly.

The Wesely amendment was adopted with 25 ayes, 0 nays, 8 present and not voting, and 16 excused and not voting.

Advanced to E & R for review with 25 ayes, 0 nays, 9 present and not voting, and 15 excused and not voting.

UNANIMOUS CONSENT - Expedite LB 836 and LB 836A

Mr. Wesely asked unanimous consent to expedite LB 836 and 836A. No objections. So ordered.

UNANIMOUS CONSENT - Print in Journal

Mr. Hall asked unanimous consent to print the following amendment to LB 727 in the Journal. No objections. So ordered.

AM1497
(Amendments to Standing Committee amendments, AM0486)
1. On page 1, strike beginning with the first "as" in line 10 through "transaction" in line 12 and insert "if the seller or seller's predecessor in a sale described in subdivision (6)(a) of this section directly or indirectly has previously paid a sales or use tax thereon".

SELECT COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 503. Placed on Select File as amended.
E & R amendment to LB 503:
AM5135
1. In the Schellpeper amendment, AM1276, on page 1, line 7, strike "6" and insert "5".
2. In the Standing Committee amendments, AM0764, on page 5, line 21, after "prescribe" insert "and employ".
3. On page 1, line 1, after "sections" insert "71-101 and"; strike beginning with "71-1,135.01" in line 2 through the last comma in line 3; in line 4 after the semicolon insert "to redefine the practice of optometry;"; and in line 6 strike "certification requirements" and insert "for supervision by ophthalmologists; to provide duties for the Board of Examiners in Medicine and Surgery; to harmonize provisions".

LEGISLATIVE BILL 503A. Placed on Select File.

(Signed) Eric Will, Chairperson

GENERAL FILE

LEGISLATIVE BILL 413. Title read. Considered.

Standing Committee amendment, AM0852, found in the Journal on page 1215, was adopted with 26 ayes, 0 nays, 12 present and not voting, and 11 excused and not voting.

Advanced to E & R for review with 27 ayes, 0 nays, 13 present and not voting, and 9 excused and not voting.

LEGISLATIVE BILL 638. Title read. Considered.

Standing Committee amendment, AM0946, found in the Journal on page 1334, was considered.

Messrs. Wehrbein and Hall offered the following amendment to the pending Standing Committee amendment:
AM1533
(Amendments to Standing Committee amendments, AM0946)

1. Insert the following new sections:

"Sec. 11. The Nebraska School for the Deaf may lease or otherwise contract for the use of property and facilities controlled by the school which are not needed for programs of the school.

Sec. 12. The Nebraska School for the Visually Handicapped may lease or otherwise contract for the use of property and facilities controlled by the school which are not needed for programs of the school.".

2. Renumber the remaining section accordingly.

Mr. Withem requested a ruling of the Chair on whether the Wehrbein-Hall amendment is germane to the Standing Committee amendment.

The Chair ruled the Wehrbein-Hall amendment is not germane to the Standing Committee amendment.

The Standing Committee amendment was adopted with 27 ayes, 0 nays, 16 present and not voting, and 6 excused and not voting.

Mr. Chambers asked unanimous consent to be excused. No objections. So ordered.

Messrs. Kristensen and Rogers asked unanimous consent to be excused until they return. No objections. So ordered.

Advanced to E & R for review with 28 ayes, 0 nays, 14 present and not voting, and 7 excused and not voting.

LEGISLATIVE BILL 638A. Title read. Considered.

Advanced to E & R for review with 27 ayes, 0 nays, 15 present and not voting, and 7 excused and not voting.

STANDING COMMITTEE REPORTS
Appropriations

LEGISLATIVE BILL 843. Placed on General File as amended. (Standing Committee amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM1508.)

LEGISLATIVE BILL 845. Placed on General File as amended. (Standing Committee amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM1367.)

LEGISLATIVE BILL 846. Placed on General File as amended. Standing Committee amendment to LB 846:
AM1397

1. Strike original section 1 and insert the following new section:

"Section 1. That section 84-1611, Revised Statutes Supplement, 1990, be amended to read as follows:

84-1611. In order to continue to provide the current health insurance program to state employees who are subject to sections 84-1601 to 84-1615, the state shall contribute the following sums from the various funds toward payment of a health insurance program which may include coverage for dependents, except as provided in section 84-1606: (1) For the first contract period beginning on or after July 1, ~~1989~~ 1991, for single coverage, the monthly sum of ~~seventy-two~~ one hundred dollars and ~~thirteen~~ fifty-seven cents, for two-party or four-party coverage, the monthly sum of ~~one~~ two hundred ~~eighty~~ fifty-one dollars and ~~twenty-nine~~ forty-two cents, and for family coverage, the monthly sum of ~~two~~ three hundred ~~fifty-five~~ fifty-six dollars and ~~ninety-six~~ ninety-two cents; and (2) for any contract period beginning on or after July 1, ~~1990~~ 1992, for single coverage, not more than the monthly sum of ~~eighty-five~~ one hundred seventeen dollars and twenty-seven cents, for two-party or four-party coverage, not more than the monthly sum of two hundred ~~twelve~~ ninety-three dollars and ~~forty-six~~ seventeen

cents, and for family coverage, not more than the monthly sum of ~~three~~ four hundred ~~one~~ sixteen dollars and ~~sixty-three~~ eighteen cents.".

LEGISLATIVE BILL 846A. Placed on General File as amended. (Standing Committee amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM1368.)

LEGISLATIVE BILL 847. Placed on General File as amended. (Standing Committee amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM1473.)

LEGISLATIVE BILL 842. Placed on General File as amended. Standing Committee amendment to LB 842:
AM1503

1. Strike original section 1 and insert the following new section:

"Section 1. There is hereby appropriated out of any money in the General Fund, not otherwise appropriated, for FY1991-92 and FY1992-93, the sums specified in this section, or so much as may be necessary, for the salaries and benefits of officers of the Nebraska state government.

APPROPRIATIONS FROM GENERAL FUND

	FY1991-92	FY1992-93
JUDICIARY		
Seven Supreme Court Judges	626,222	666,796
Fifty-three district and juvenile court judges	4,427,374	4,711,530
Fifty-seven county court judges	4,411,436	4,692,260
EXECUTIVE		
Governor	76,250	76,250
Lieutenant Governor	56,449	56,449
Secretary of State	63,312	63,312
Auditor of Public Accounts	59,184	59,184
Attorney General	77,040	77,747
State Treasurer	59,373	59,373
PUBLIC SERVICE COMMISSION		
Five Public Service Commissioners	250,095	250,095
ADMINISTRATIVE DEPARTMENTS		
Tax Commissioner	83,779	83,779".

LEGISLATIVE BILL 841. Placed on General File.

LEGISLATIVE BILL 844. Placed on General File as amended. (Standing Committee amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM1506.)

LEGISLATIVE BILL 647. Placed on General File as amended.
Standing Committee amendment to LB 647:
AM1355

1. Strike original sections 23, 24, and 25 and insert the following new section:

"Sec. 23. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.".

2. Remove underscoring from sections 1 to 22.

LEGISLATIVE BILL 760. Placed on General File as amended.
Standing Committee amendment to LB 760:
AM1504

1. Strike the original sections and insert the following new sections:

"Section 1. Program 912. The Board of Trustees of the Nebraska State Colleges is hereby authorized to construct a classroom and laboratory facility to house the Division of Business at Wayne State College. There is hereby appropriated $74,480 from the Nebraska Capital Construction Fund for FY1992-93 for Wayne State College to continue planning for the facility through the design development phase. There is hereby appropriated $1,962,760 from the Nebraska Capital Construction Fund for FY1993-94 for Wayne State College to complete planning and initiate construction of the project. There is hereby appropriated $1,962,760 from the Nebraska Capital Construction Fund for FY1994-95 to complete this project.

Sec. 2. Program 916. The Board of Regents of the University of Nebraska is hereby authorized to construct a Headquarters/Outreach Building at the Agriculture Research and Development Center at Mead, Nebraska. The total project cost shall not exceed $2,665,000 from state funds. Nonstate funds may be added to this project in an amount not to exceed

$225,000. There is hereby appropriated $49,622 from the Nebraska Capital Construction Fund for FY1992-93 to continue planning for the facility through the design development phase. There is hereby appropriated $1,307,689 from the Nebraska Capital Construction Fund for FY1993-94 to complete planning and initiate construction. There is hereby appropriated $1,307,689 from the Nebraska Capital Construction Fund for FY1994-95 to complete this project.

Sec. 3. Program 917. The Board of Regents of the University of Nebraska is hereby authorized to update the mechanical systems and provide for handicapped accessible restrooms at the Elliott Building at the Panhandle Research and Extension Center in Scottsbluff, Nebraska. There is hereby appropriated $8,193 from the Nebraska Capital Construction Fund for FY1992-93 to continue planning. There is hereby appropriated $-0- from the Nebraska Capital Construction Fund for FY1993-94. There is hereby appropriated $431,807 from the Nebraska Capital Construction for FY1994-95 to complete this project.

Sec. 4. Program 919. The Board of Regents of the University of Nebraska is hereby authorized to construct a Swine Research Growing and Finishing Facility at the West Central Research and Extension Center in North Platte, Nebraska. There is hereby appropriated $6,051 from the Nebraska Capital Construction Fund for FY1992-93 to continue planning. There is hereby appropriated $-0- from the Nebraska Capital Construction Fund for FY1993-94. There is hereby appropriated $318,949 from the Nebraska Capital Construction Fund for FY1994-95 to complete this project.

Sec. 5. Program 920. The Board of Regents of the University of Nebraska is hereby authorized to construct a Research and Extension Support Building at the West Central Research and Extension Center in North Platte, Nebraska. There is hereby appropriated $5,400 from the Nebraska Capital Construction Fund for FY1992-93 to continue planning. There is hereby appropriated $-0- from the Nebraska Capital Construction Fund for FY1993-94. There is hereby appropriated $284,600 from the Nebraska Capital Construction Fund for FY1994-95 to complete this project.

Sec. 6. Program 921. The Board of Regents of the University of Nebraska is hereby authorized to construct a Staff/Laboratory/Conference Center at the Gudmundsen Sandhills Laboratory in Whitman, Nebraska. There is hereby appropriated $5,251 from the Nebraska Capital Construction Fund for FY1992-93 to continue planning. There is hereby appropriated $-0- from the Nebraska Capital Construction Fund for FY1993-94. There is hereby appropriated $276,749 from the Nebraska Capital Construction Fund for FY1994-95 to complete this project.

Sec. 7. Program 925. The Board of Regents of the University of Nebraska is hereby authorized to construct a Swine Research Growing and Finishing Facility at the Northeast Research and Extension Center in Concord, Nebraska. The total project cost shall not exceed $97,000 from state funds. Nonstate funds may be added to this project in an amount not to exceed $66,000. There is hereby appropriated $1,806 from the Nebraska Capital Construction Fund for FY1992-93 to continue planning. There is hereby appropriated $-0- from the Nebraska Capital Construction Fund for FY1993-94. There is hereby appropriated $95,194 from the Nebraska Capital Construction Fund for FY1994-95 to complete this project.

Sec. 8. Program 955. The Board of Regents of the University of Nebraska is hereby authorized to construct a Greenhouse and Plant Research Facility, a utility extension, and additional chilling capacity associated with the proposed George W. Beadle Center for Genetics and Biomaterials Research. The total cost of such projects shall not exceed $6,500,000 from state funds. Nonstate funds may be added to the projects. There is hereby appropriated $5,000,000 from the Nebraska Capital Construction Fund for FY1992-93 and $1,500,000 from the State Building Fund for FY1993-94.

Nothing in this section shall be construed to be an endorsement by the Legislature of the specific site for or minimum scope of the proposed George W. Beadle Center for Genetics and Biomaterials Research.

The state funds appropriated in this section may be used as a match for any available federal or other funds. Nothing in this section shall be construed so as to prohibit the use of any private, local, or

internally reallocated funds as a match for any available federal or other funds.

Sec. 9. Program 971. The Board of Regents of the University of Nebraska is hereby authorized to initiate planning for a Health Sciences and Education Facility at the University of Nebraska Medical Center. There is hereby appropriated $225,000 from the Nebraska Capital Construction Fund for FY1992-93 for such plans.

Sec. 10. Program 980. The Board of Regents of the University of Nebraska is hereby authorized to construct an addition to Copeland Hall at the University of Nebraska at Kearney. There is hereby appropriated $42,826 from the Nebraska Capital Construction Fund for FY1992-93 to continue planning for the facility through the design development phase. There is hereby appropriated $1,128,587 from the Nebraska Capital Construction Fund for FY1993-94 to continue planning and initiate construction. There is hereby appropriated $1,128,587 from the Nebraska Capital Construction Fund for FY1994-95 to complete this project.

Sec. 11. Program 998. The Board of Regents of the University of Nebraska is hereby authorized to continue the renovation of the Arts and Sciences Hall at the University of Nebraska at Omaha. There is hereby appropriated $53,998 from the Nebraska Capital Construction Fund for FY1992-93 to continue planning for the facility through the design development phase. There is hereby appropriated $1,423,001 from the Nebraska Capital Construction Fund for FY1993-94 to complete planning and initiate renovation. There is hereby appropriated $1,423,001 from the Nebraska Capital Construction Fund for FY1994-95 to complete the second phase of renovation.".

2. On page 1, strike beginning with "revenue" in line 1 through "emergency" in line 6 and insert "appropriations; to appropriate funds for capital construction; and to state intent".

(Signed) Scott Moore, Chairperson

VISITORS

Visitors to the Chamber were 16 eighth grade students and sponsor from St. Mary's, Ord; 21 fourth grade students and teachers from

Bradshaw; Cliff Welsh from Brule; 15 fourth grade students and teachers from McCool Junction; 26 fourth grade students and sponsors from Grant Elementary, Fremont; Matt Larsen, Nick Dunsmore, and their families from Hampton; and Kylie and Cheryl Smith.

RECESS

At 11:58 a.m., on a motion by Mr. Baack, the Legislature recessed until 1:30 p.m.

AFTER RECESS

The Legislature reconvened at 1:30 p.m., Speaker Baack presiding.

ROLL CALL

The roll was called and all members were present except Mr. Ashford who was excused; and Messrs. Abboud, Bernard-Stevens, Chambers, Haberman, Horgan, R. Johnson, Kristensen, Morrissey, Schmit, Warner, Mmes. Pirsch, and Smith who were excused until they arrive.

MOTION - Introduce New Bill

Mr. Moore moved for the introduction of a new bill by the Appropriations Committee, Req. 1261.

The Moore motion prevailed with 31 ayes, 1 nay, 5 present and not voting, and 12 excused and not voting.

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 854. Introduced by Appropriations Committee: Moore, 24, Chairperson; Ashford, 6; Bernard-Stevens, 42; Crosby, 29; Hillman, 48; L. Johnson, 15; Lynch, 13; Robinson, 16; Wehrbein, 2.

A BILL FOR AN ACT relating to motor vehicle operators' licenses; to amend section 60-4,148, Revised Statutes Supplement, 1990; to change commercial drivers' license fees; to repeal the original section; and to declare an emergency.

MOTION - Introduce New Bill

Mr. Moore moved for the introduction of a new bill by the Appropriations Committee, Req. 1239.

The Moore motion prevailed with 30 ayes, 0 nays, 9 present and not voting, and 10 excused and not voting.

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 855. Introduced by Appropriations Committee: Moore, 24, Chairperson; Ashford, 6; Bernard-Stevens, 42; Crosby, 29; Hillman, 48; L. Johnson, 15; Lynch, 13; Robinson, 16; Wehrbein, 2.

A BILL FOR AN ACT relating to teacher's certificates or permits; to amend section 79-1247.07, Reissue Revised Statutes of Nebraska, 1943; to change certificate and permit fees; and to repeal the original section.

MOTION - Introduce New Bill

Mr. Moore moved for the introduction of a new bill by the Appropriations Committee, Req. 1271.

The Moore motion prevailed with 30 ayes, 0 nays, 9 present and not voting, and 10 excused and not voting.

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 856. Introduced by Appropriations Committee: Moore, 24, Chairperson; Ashford, 6; Bernard-Stevens, 42; Crosby, 29; Hillman, 48; L. Johnson, 15; Lynch, 13; Robinson, 16; Wehrbein, 2.

A BILL FOR AN ACT relating to the Commission of Industrial Relations; to amend section 48-806, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to compensation of judges of the Commission of Industrial Relations; to repeal the original section; and to declare an emergency.

MOTION - Introduce New Bill

Mr. Moore moved for the introduction of a new bill by the Appropriations Committee, Req. 1186.

Mr. Moore moved for a call of the house. The motion prevailed with 11 ayes, 0 nays, and 38 not voting.

The Moore motion prevailed with 30 ayes, 1 nay, 8 present and not voting, and 10 excused and not voting.

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 857. Introduced by Appropriations Committee: Moore, 24, Chairperson; Ashford, 6; Bernard-Stevens, 42; Crosby, 29; Hillman, 48; L. Johnson, 15; Lynch, 13; Robinson, 16; Wehrbein, 2.

A BILL FOR AN ACT relating to the Cash Reserve Fund; to amend section 84-612, Revised Statutes Supplement, 1990; to provide duties relating to the transfer of funds; and to repeal the original section.

MOTION - Suspend Rules

Mr. Moore moved to suspend the Rules, Rule 3, Section 4(e), and 13 and Rule 6, Sections 1 and 2, to place LB 854 and LB 855 on General File.

Mr. Moore requested a roll call vote on his motion to suspend the rules.

Voting in the affirmative, 25:

Baack	Cudaback	Johnson, L.	Moore	Schrock
Bernard-Stevens	Hall	Johnson, R.	Nelson	Smith
Chizek	Hartnett	Labedz	Rasmussen	Wehrbein
Conway	Hillman	Landis	Robak	Wesely
Crosby	Horgan	Lynch	Robinson	Will

Voting in the negative, 14:

Beutler	Coordsen	Haberman	Rogers	Wickersham
Beyer	Dierks	Lamb	Schellpeper	Withem
Byars	Elmer	Peterson	Schimek	

Present and not voting, 2:

Hefner	Lindsay

Excused and not voting, 8:

Abboud	Chambers	Morrissey	Schmit	Warner
Ashford	Kristensen	Pirsch		

The Moore motion to suspend the rules lost with 25 ayes, 14 nays, 2 present and not voting, and 8 excused and not voting.

Mr. Moore moved to suspend the Rules, Rule 3, Section 4(e), and 13 and Rule 6, Sections 1 and 2, to place LB 856 and LB 857 on General File.

The Moore motion to suspend the rules prevailed with 31 ayes, 5 nays, 6 present and not voting, and 7 excused and not voting.

The Chair declared the call raised.

STANDING COMMITTEE REPORTS
Appropriations

LEGISLATIVE BILL 651. Placed on General File.
LEGISLATIVE BILL 653. Placed on General File.

LEGISLATIVE BILL 652. Placed on General File as amended.
(Standing Committee amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM1507.)

(Signed) Scott Moore, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 75. Introduced by Beyer, 3.

WHEREAS, former State Senator Orval A. Keyes was first elected to serve in the Nebraska Legislature on November 5, 1968, and was re-elected in 1972 and 1976; and

WHEREAS, Senator Keyes was also a farmer and cattle feeder, a former director of school districts 8 and 21, and a father of nine children; and

WHEREAS, Senator Keyes served this state and its citizens with integrity and devotion during his political career; and

WHEREAS, on Tuesday, April 30, 1991, Senator Orval A. Keyes passed away at the Bethesda Care Center.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature extends its deepest sympathy to the family of Senator Keyes.

2. That a copy of this resolution be presented to the family of Senator Keyes as an expression of sorrow.

Laid over.

UNANIMOUS CONSENT - Print in Journal

Mr. Will asked unanimous consent to print the following amendment to LB 849 in the Journal. No objections. So ordered.

AM1565

(Amendments to Standing Committee amendments, AM1071)

1. On page 26, line 11, strike "(1)(b)" and insert "(1)(a)".

GENERAL FILE

LEGISLATIVE BILL 830. Title read. Considered.

Standing Committee amendment, AM0923, found in the Journal on page 1379, was considered.

Messrs. Withem, Lynch, Haberman, and Coordsen asked unanimous consent to be excused until they return. No objections. So ordered.

Messrs. Wesely, Dierks, Schellpeper, Beyer, Bernard-Stevens, Byars, and Mrs. Rasmussen renewed their pending amendment, AM1554, found in the Journal on page 1893, to the pending Standing Committee amendment.

Mr. R. Johnson asked unanimous consent to be excused until he returns. No objections. So ordered.

The Wesely et al. amendment was adopted with 16 ayes, 0 nays, 22 present and not voting, and 11 excused and not voting.

Messrs. Wesely and Byars offered the following amendment to the pending Standing Committee amendment:
AM1567

(Amendments to AM1554)

1. On page 3, strike beginning with "On" in line 6 through "families" in line 9 and insert "By January 1, 1992, the department shall, in conjunction with individuals with developmental disabilities, their families or designated advocates, service providers, state and local officials, and the general public, develop and implement a system of service coordination for persons with developmental disabilities and their families".

The Wesely-Byars amendment was adopted with 15 ayes, 0 nays, 23 present and not voting, and 11 excused and not voting.

The Standing Committee amendment, as amended, was adopted with 25 ayes, 0 nays, 13 present and not voting, and 11 excused and not voting.

Mr. Kristensen asked unanimous consent to be excused. No objections. So ordered.

Advanced to E & R for review with 25 ayes, 0 nays, 13 present and not voting, and 11 excused and not voting.

LEGISLATIVE BILL 830A. Title read. Considered.

Advanced to E & R for review with 26 ayes, 0 nays, 12 present and not voting, and 11 excused and not voting.

LEGISLATIVE RESOLUTION 24CA. Read. Considered.

Mrs. Smith renewed her pending amendment, AM1204, found in the Journal on page 1655.

Mrs. Labedz asked unanimous consent to be excused. No objections. So ordered.

MR. LANDIS PRESIDING

Mrs. Smith withdrew her pending amendment.

Pending.

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 647A. Introduced by Moore, 24.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 647, Ninety-second Legislature, First Session, 1991; and to declare an emergency.

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the attached report on the referral of legislative bills 854 and 855.

LB	Committee
854	Transportation
855	Education

(Signed) Jerome Warner, Chairperson
Legislative Council
Executive Board

MESSAGE FROM THE GOVERNOR

May 1, 1991

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 123e, 528, 583e, and 742 were received in my office on April 30, 1991.

These bills were signed by me on May 1, 1991, and delivered to the Secretary of State.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

NOTICE OF COMMITTEE HEARINGS
Education

LB 855 Wednesday, May 8, 1991 Upon adjournment

(Signed) Ron Withem, Chairperson

Transportation

LB 854 Wednesday, May 8, 1991 12:00

(Signed) Doug Kristensen, Chairperson

UNANIMOUS CONSENT - Print in Journal

Mr. Hall asked unanimous consent to print the following amendment to LB 849 in the Journal. No objections. So ordered.

AM1570
(Amendments to Standing Committee amendments, AM1071)

1. On page 10, strike beginning with "Any" in line 1 through line 3 and insert "Of the money remaining after the payment of prizes and operating expenses, fifty percent of such money shall be transferred to the Education Innovation Fund and fifty percent of such money shall be transferred to the Legislative Assistance Fund to be used as provided in subsection (4) of this section.".

2. On page 14, after line 6, insert the following new subsection:

"(4) The Legislative Assistance Fund is hereby created. The fund shall be distributed as directed by the Legislature, except that money in the fund shall not be used to finance programs which require more than a one-time expenditure, to supplement an existing budget,

or to finance long-term or ongoing projects."; in line 7 strike "(4)" and insert "(5)"; in line 8 strike "or"; in line 9 after "Fund" insert ", or the Legislative Assistance Fund"; and in line 12 strike "(5)" and insert "(6)".

3. On page 29, line 24, strike "and (d)" and insert "(d) the Legislative Assistance Fund, and (e)".

Mr. Moore asked unanimous consent to print the following amendment to LB 647 in the Journal. No objections. So ordered.

AM1502

(Amendments to Standing Committee amendments, AM1355)

1. Insert the following new sections:

"Sec. 9. Full-time student shall mean an individual who is carrying at least twenty-four semester credit hours or thirty-six quarter credit hours during the award year.

Sec. 10. Substantial financial need shall mean the need required by a student who is eligible for a Pell Grant with a Pell Grant Index of one thousand or less. Only students who have an unmet need of one hundred dollars or more as determined by the following formula shall be considered to have substantial financial need: Educational expenses less family contribution, less Pell Grant, less Supplemental Educational Opportunity Grants and college work study, if awarded.".

2. On page 1, line 1, after "sections" insert "9, 10,".

3. Insert the following new amendments:

"3. On page 2, line 17, strike 'As a result' and insert 'Because' and after the second 'of' insert 'state-provided'; and in line 18 after 'incentives' insert 'to attend Nebraska nonpublic institutions'.

4. On page 3, line 1, after 'for' insert 'many Nebraska'; in line 14 strike 'independent' and insert 'a'; in line 15 strike 'institutions' and insert 'institution not controlled or administered by any state agency or any political subdivision of the state which is'; in line 20 strike 'approval, licensure, and' and insert 'regional'; and in line 23 after 'instruction' insert 'leading to an associate or baccalaureate degree'.

5. On page 6, line 3, strike 'The' and insert 'In order to reduce the costs of administering the act, the'; in line 5 strike 'for distribution' and insert 'which shall act as the agents of the commission in the distribution of funds'; strike beginning with 'adjusted' in line 10 through 'commission' in line 11; in line 12 strike 'student-aid' and insert 'Pell Grant'; and strike beginning with 'Pell' in line 16 through 'dependents' in line 17 and insert 'average educational expenses for all full-time undergraduate students'.

6. On page 8, line 15, strike 'notarized affidavit stating' and insert 'statement'.

7. On page 10, strike lines 14 through 16; in line 17 strike '(4)' and insert '(3)'; and in line 19 strike '(5)' and insert '(4)'.".

GENERAL FILE

LEGISLATIVE RESOLUTION 24CA. Messrs. Beutler, Landis, Warner, Wesely, and Ms. Schimek withdrew their pending amendments, AM1226, found in the Journal on page 1742 and AM1551, found in the Journal on page 1882.

Messrs. Beutler, Landis, Warner, Wesely, and Ms. Schimek offered the following amendment:
AM1571

1. On page 2, line 16, after "Legislature" insert ", which purposes may include, notwithstanding any other provision of this Constitution, compensation to depositors of industrial loan and investment companies for unreimbursed losses of guaranteed deposits held by industrial loan and investment companies which filed for bankruptcy or entered receivership after November 1, 1983,".

Messrs. Lindsay, Haberman, Beyer, and Mrs. Rasmussen asked unanimous consent to be excused. No objections. So ordered.

The Beutler et al. amendment was withdrawn.

Pending.

UNANIMOUS CONSENT - Add Co-Introducers

Mr. Will asked unanimous consent to have his name added as co-introducer to LB 836. No objections. So ordered.

Mr. Morrissey asked unanimous consent to have his name added as co-introducer to LB 576. No objections. So ordered.

VISITORS

Visitors to the Chamber were 36 fourth grade students and teachers from Stoddard School, Beatrice; 12 sixth grade students and teacher from Sumner-Eddyville-Miller School; 13 seniors and teacher from Beemer; and Senator Schimek's aunt and uncle, Mr. and Mrs. Roland Rebman from California.

The Doctor of the Day was Dr. Ron Klutman from Columbus.

ADJOURNMENT

At 5:03 p.m., on a motion by Mr. Hall, the Legislature adjourned until 9:00 a.m., Thursday, May 2, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

SEVENTY-FIRST DAY - MAY 2, 1991

LEGISLATIVE JOURNAL

SEVENTY-FIRST DAY - MAY 2, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

SEVENTY-FIRST DAY

Legislative Chamber, Lincoln, Nebraska
Thursday, May 2, 1991

Pursuant to adjournment, the Legislature met at 9:00 a.m., Speaker Baack presiding.

PRAYER

The prayer was offered by Pastor Rod Wilmouth, St. Paul United Methodist Church, Omaha, Nebraska.

ROLL CALL

The roll was called and all members were present except Messrs. Chambers, Cudaback, R. Johnson, Kristensen, Lamb, Lindsay, Wesely, and Mrs. Nelson who were excused; and Messrs. Abboud, Ashford, Conway, Coordsen, Hartnett, Lynch, Schmit, Mmes. Pirsch, and Robak who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Seventieth Day was approved.

ATTORNEY GENERAL'S OPINION

Opinion No. 91034

DATE: May 1, 1991

SUBJECT: LB 72--New "Community Consent" Requirement for Licensing Low-Level Radioactive Waste Regional Facility

REQUESTED BY: Senator Chris Beutler,
Nebraska State Legislature

WRITTEN BY: Don Stenberg, Attorney General
Linda L. Willard, Assistant Attorney General

You have inquired regarding the legality of LB 72 which would impose a new form of community consent as a prerequisite for licensing of a low-level radioactive waste facility. You ask whether the new form of community consent is consistent with the State's obligations under the statutes of the State of Nebraska, the Constitutions of the State and United States, and the Central Interstate Low-Level Radioactive Waste Compact. You have also inquired whether any legal liability would be created for the State if LB 72 is passed and results in a negative vote by the "local community."

Your letter indicates no specific statutes which you wish this office to address directly. Therefore, we have limited our statutory review to the Nebraska Low-Level Radioactive Waste Act, Neb.Rev.Stat. §§ 81-1578 et seq. (Reissue 1987 and 1990 Cum.Supp.). Section 81-1759(3) (1990 Cum.Supp.) states in relevant part:

> It is the intent of the Legislature that potential host communities be actively and voluntarily involved in the siting process. To the extent possible, consistent with the highest level of protection for the health and safety of the citizens of the state and protection of the environment, the developer shall make every effort to locate the facility where community support is evident.

This part of the statute was enacted in 1988 as part of LB 1092. LB 1092 originally contained a provision requiring community consent prior to construction of a facility. After considerable debate, the requirement for community consent was amended as reflected above. We find no conflict between the requirement for community consent in LB 72 and the State's obligations under the Low-Level Radioactive Waste Act.

The Central Interstate Low-Level Radioactive Waste Compact was passed by the Legislature in 1983 and was subsequently ratified by the United States Congress. As indicated in the attachments to your question, the members of the Compact Commission passed a resolution in December, 1987, adopting ten conditions, including community consent, as generic conditions that would apply in the event of any state selection as a host state. Dr. Norm Thorson, on behalf of the State of Nebraska, presented the ten conditions to the

Commission. In discussing the concept of community consent, Dr. Thorson stated:

> We feel that the precise mechanism that would be used to determine when you had community consent is a matter which is properly left to the host state, whichever state that might be.
>
> I think it is necessary that there be some finality in the process; that a point in time be set when a community must indicate whether they're willing to be considered or not, and that then becomes their decision. You obviously can't have a situation where people are opting in and opting out of the process.

(Minutes of December 8, 1987, Compact Commission meeting, p. 64).

At the beginning of the siting process US Ecology sought letters of interest from communities and counties throughout the state who were interested in hosting the facility. In line with Neb.Rev.Stat. § 81-1579(3), a letter of interest would "not constitute a commitment to host the facility" but merely focus the developer's efforts on those regions of the state "willing to objectively consider the project" (US Ecology Press Release, March 15, 1988).

As a result of this request, US Ecology received letters of interest from numerous cities and counties throughout the state, including letters from the Boyd County Board of Supervisors and the communities of Butte and Lynch. Approximately eight days prior to selection of a preferred site, the Boyd County Supervisors withdrew their "invitation" to US Ecology.

We have reviewed the Compact and the above history and find no conflict between LB 72 and the Central Interstate Low-Level Radioactive Waste Compact. Additionally, since the Compact Commission passed a resolution requiring community consent, it would appear that the Commission supported the concept of community consent.

In Lenstrom v. Thone, 209 Neb. 783, 789, 311 N.W.2d 884, 888 (1981), the Nebraska Supreme Court stated:

> Certain fundamental constitutional principles must guide, and always have guided, us when the constitutional bounds of legislative power are questioned. The first principle is the Legislature has plenary legislative authority limited only by the state and federal Constitutions. . . . The Nebraska Constitution is not a grant but, rather, a restriction on legislative power, and the Legislature may legislate on any subject not inhibited by the Constitution. . . . Unless restricted by some provision of the state or federal Constitution, the Legislature may enact laws and appropriate funds for the accomplishment of any public purpose. (Citations omitted.)

With this principle in mind, we have reviewed LB 72 as it relates to the restrictions set out in the state and federal Constitutions. As stated previously, the Compact Commission passed a resolution in December, 1988 calling for community consent prior to siting of a facility and leaving the definition of community consent to the host state. In January, 1988, when the developer entered into his contract with the Compact Commission, the resolution regarding community consent had already been passed by the Compact Commission. The developer was well aware that the Compact Commission required community consent and that the host state could determine how community consent would be defined. Arguably, LB 72 does not alter the contract but merely provides the host state's definition of community consent pursuant to the resolution passed by the Compact Commission.

Additionally, in City of El Paso v. Simmons, 379 U.S. 497, 506 (1965), the United States Supreme Court stated:

> For it is not every modification of a contractual promise that impairs the obligation of contract under federal law, any more than it is every alteration of existing remedies that violates the Contract Clause. (Citations omitted.) * * *
>
> The decisions "put it beyond question that the prohibition is not an absolute one and is not to be read with literal exactness like a mathematical formula," as Chief Justice Hughes said in Home Building & Loan Assn. v. Blaisdell, 290 U.S. 398, 428, 54 S.Ct. 231, 236. The Blaisdell opinion, which amounted to a comprehensive restatement of the principles underlying the application of the Contract Clause, makes it quite clear that "{n}ot only is the constitutional provision qualified by the measure of control which the state retains over remedial processes, but the state also continues to possess authority to safeguard the vital interests of its people. It does not matter that legislation appropriate to that end 'has the result of modifying or abrogating contracts already in effect.' Stephenson v. Binford, 287 U.S. 251, 276, 53 S.Ct. 181, 189, 77 L.Ed. 288. Not only are existing laws read into contracts in order to fix obligations as between the parties, but the reservation of essential attributes of sovereign power is also read into contracts as a postulate of the legal order. * * * This principle of harmonizing the constitutional prohibition with the necessary residuum of state power has had progressive recognition in the decisions of this Court." 290 U.S., at 434-435, 54 S.Ct., at 238-239. Moreover, the "economic interests of the state may justify the exercise of its continuing and dominant protective power notwithstanding interference with contracts." Id., at 437, 54 S.Ct., at 239. The State has the "sovereign right * * to

protect the * * * general welfare of the people * * *. Once we are in this domain of the reserve power of a State we must respect the 'wide discretion on the part of the legislature in determining what is and what is not necessary.'" East New York Savings Bank v. Hahn, 326 U.S. 230, 232-233, 66 S.Ct. 69,71. As Mr. Justice Johnson said in Ogden v. Saunders, "{i}t is the motive, the policy, the object, that must characterize the legislative act, to affect it with the imputation of violating the obligation of contracts." 12 Wheat 213, 291, 6 L.Ed. 606.

The passage of LB 72 may well have no affect on the contract between the Compact Commission and the developers since it provides for a timely vote to determine community consent. If the vote reflects that there is no community consent, the current contract contains clauses that provide for amendment of the work plan to carry out the intent of the parties if future events demand changes. The contract also contains a termination clause that should the Compact states, local government of the host state, or federal government prevent or make it impossible for the developer or the Compact to perform its duties or obligations under the contract that the contract can be terminated.

While we are concerned with the timeliness of LB 72 in relation to the contract, it is our determination that community consent was in the contemplation of the parties at the time they entered into the contract and that the state's inherent powers to protect the general welfare of the people justify the requirement of community consent. Therefore, we determine that LB 72 does not violate the Constitution of the United States or the State of Nebraska.

In response to your question regarding the affect of failure to obtain community consent under LB 72, we refer you to our earlier Opinion No. 89045, a copy of which is attached hereto.

Sincerely,
DON STENBERG
Attorney General
(Signed) Linda L. Willard
Assistant Attorney General

28-03-14.91
cc: Patrick J. O'Donnell
Clerk of the Legislature
Senator Rod Johnson
Senator Cap Dierks

RESOLUTIONS

LEGISLATIVE RESOLUTION 73. Read. Considered.

LR 73 was adopted with 25 ayes, 0 nays, and 24 not voting.

LEGISLATIVE RESOLUTION 74. Read. Considered.

LR 74 was adopted with 25 ayes, 0 nays, and 24 not voting.

LEGISLATIVE RESOLUTION 75. Read. Considered.

LR 75 was adopted with 25 ayes, 0 nays, and 24 not voting.

GENERAL FILE

LEGISLATIVE BILL 813. Title read. Considered.

Standing Committee amendment, AM0749, printed separately from the Journal and referred to on page 1114, was considered.

Mr. Beutler offered the following amendment to the pending Standing Committee amendment:
AM1578
(Amendments to Standing Committee amendments, AM0749)

1. On page 1, after line 4, insert the following new subdivisions:

"(1) Applicant shall mean any person as defined in section 81-1502 who is required to obtain a permit from the Department of Environmental Control for a solid waste disposal area or a solid waste processing facility but shall not include any person as defined in such section who proposes to dispose of waste which he or she generates on property which he or she owns as of January 1, 1991;"; in line 5 strike "(1)" and insert "(2)"; in line 7 strike "(2)" and insert "(3)"; and in line 12 strike "(3)" and insert "(4)".

The Beutler amendment was adopted with 23 ayes, 0 nays, 12 present and not voting, and 14 excused and not voting.

The Standing Committee amendment, as amended, was adopted with 26 ayes, 0 nays, 9 present and not voting, and 14 excused and not voting.

Advanced to E & R for review with 26 ayes, 0 nays, 10 present and not voting, and 13 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 727. E & R amendment, AM5121, found in the Journal on page 1620, was adopted.

Mr. Coordsen offered the following amendment:
(Amendment on file in the Clerk's Office - Room 2018 - AM1359.)

The Coordsen amendment lost with 7 ayes, 13 nays, 16 present and not voting, and 13 excused and not voting.

Mr. Hall renewed his pending amendment, AM1497, found in the Journal on page 1902.

The Hall amendment was adopted with 26 ayes, 0 nays, 10 present and not voting, and 13 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 457. E & R amendment, AM5124, printed separately from the Journal and referred to on page 1795, was adopted.

Mr. Wickersham renewed the pending Lindsay amendment, AM1260, found in the Journal on page 1666.

MR. MORRISSEY PRESIDING

The Lindsay amendment was adopted with 26 ayes, 0 nays, 10 present and not voting, and 13 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 457A. Mrs. Smith offered the following amendment:
AM1524

1. On page 2, line 2, strike "$24,171" and insert "$27,171"; and in line 3 strike "$25,693" and insert "$28,843".

The Smith amendment was adopted with 25 ayes, 0 nays, 11 present and not voting, and 13 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 186. E & R amendment, AM5125, found in the Journal on page 1795, was adopted.

Mrs. Pirsch renewed her pending amendment, AM1425, printed separately from the Journal and referred to on page 1857.

Messrs. Haberman and Dierks asked unanimous consent to be excused until they return. No objections. So ordered.

SPEAKER BAACK PRESIDING

Mrs. Pirsch withdrew her pending amendment.

Passed over.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following resolutions: LRs 73, 74, and 75.

SELECT FILE

LEGISLATIVE BILL 227. E & R amendment, AM5127, found in the Journal on page 1796, was adopted.

Messrs. Bernard-Stevens and Wesely offered the following amendment:
AM1579

1. Insert the following new section:

"Sec. 9. Any county utilizing a community service program for employable general assistance recipients as outlined in sections 68-151 to 68-155 and sections 5 to 7 of this act shall file an annual written report which shall include the number of persons placed through the community service program, the numbers of hours of experience provided, the duration and location of each placement including the name and address of the business or agency accepting the placement, and the

specific skills learned in the placement.

The report shall be filed with the Department of Social Services by October 1, 1992, for the fiscal year ending June 30, 1992, and on each subsequent October 1.

The department shall compile the written reports from each county and summarize the findings in a written report to the Legislature by December 31, 1992, and on each subsequent December 31. The report shall include the status of the number and use of community service placements, the locations of the placements, and the number of hours and work skills addressed in the placements.".

2. On page 3, line 6, after "7" insert "and 9".

3. Renumber the remaining section accordingly.

The Bernard-Stevens-Wesely amendment was adopted with 25 ayes, 2 nays, 7 present and not voting, and 15 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 701. E & R amendment, AM5128, found in the Journal on page 1796, was adopted.

Advanced to E & R for engrossment.

MR. MORRISSEY PRESIDING

LEGISLATIVE BILL 852. Mr. Baack renewed his pending amendment, AM1337, found in the Journal on page 1746.

The Baack amendment was adopted with 25 ayes, 0 nays, 9 present and not voting, and 15 excused and not voting.

Advanced to E & R for engrossment.

SPEAKER BAACK PRESIDING

LEGISLATIVE BILL 825. E & R amendment, AM5131, found in the Journal on page 1853, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 337. E & R amendment, AM5132, found in the Journal on page 1855, was adopted.

Advanced to E & R for engrossment.

UNANIMOUS CONSENT - Print in Journal

Mr. Landis asked unanimous consent to print the following amendment to LB 167 in the Journal. No objections. So ordered.

AM1573
(Amendments to Standing Committee amendments, AM1486)

1. Insert the following new section:
"Sec. 31. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.".
2. On page 3, line 20, strike "(2) or (5)" and insert "(4)".
3. On page 8, line 20, strike "subsections (2) and (5)" and insert "subsection (4)".
4. On page 9, strike beginning with "If" in line 2 through "(3)" in line 11; strike lines 20 and 21 and insert
"(3) An insurer shall pay claims for which it is obligated under excess insurance within three months"; and in line 23 strike "(5)" and insert "(4)".
5. On page 13, strike beginning with "All" in line 5 through "1992" in line 7 and insert "Any political subdivision using self-funding to provide hospitalization, medical, surgical, and sickness and accident coverage or any one or more of such coverages for its employees or its employees and their dependents immediately prior to the effective date of this act shall comply with the Political Subdivisions Self-Funding Benefits Act no later than December 31, 1991".

Mr. Wehrbein asked unanimous consent to print the following amendment to LB 577 in the Journal. No objections. So ordered.

AM1569

1. Insert the following new sections:
"Sec. 7. The Legislature finds that smoking

has been shown to cause illness and death, resulting in high health care costs and lost productivity in the workplace. The Legislature reaffirms the goal of the Nebraska Clean Indoor Air Act to provide the citizens of Nebraska with a healthy, smoke-free environment. In addition, the Legislature supports education in our schools on dangers of using tobacco products. The Legislature recognizes that tobacco-related deaths are preventable and that educational intervention targeting youth could greatly reduce the chances of a lifelong addiction to tobacco products.

Sec. 8. The Department of Health shall develop educational materials and provide instructional assistance on the health hazards of smoking. The department shall also assist groups providing treatment, information, or other assistance in the prevention of smoking-related diseases. The department shall adopt and promulgate rules and regulations to carry out this section. The department shall use money in the Smoking Disease Prevention Fund to defray any expenses incurred in carrying out this section.

Sec. 9. The Smoking Disease Prevention Fund is hereby created. Ten percent of the funds remitted annually to the Nebraska Cancer Research Fund, which remittance shall not include any amount appropriated from the Nebraska Cancer Research Fund specifically to the University of Nebraska Eppley Institute for Research in Cancer and Allied Diseases, shall be transferred to the Smoking Disease Prevention Fund. Any money in the fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1276.

Sec. 10. That section 71-5701, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-5701. Sections 71-5701 to ~~71-5713~~ 71-5712 shall be known and may be cited as the Nebraska Clean Indoor Air Act.

Sec. 11. That section 71-5702, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-5702. The purpose of ~~sections 71-5701 to 71-5713~~ the Nebraska Clean Indoor Air Act is to protect the public health, comfort, and environment by

prohibiting smoking in public places and at public meetings except in designated smoking areas.

Sec. 12. That section 71-5703, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-5703. For purposes of ~~sections 71-5701 to 71-5713~~ the Nebraska Clean Indoor Air Act, unless the context otherwise requires, the definitions found in sections 71-5704 to 71-5706 shall be used.

Sec. 13. That section 71-5709, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-5709. (1) The proprietor or other person in charge of a public place shall make reasonable efforts to prevent smoking in the public place by:

~~(1)~~ (a) Posting appropriate signs;

~~(2)~~ (b) Arranging seating to provide a smoke-free area;

~~(3)~~ (c) Asking smokers to refrain from smoking upon request of a client or employee suffering discomfort from the smoke; or

~~(4)~~ (d) Any other means which may be appropriate.

(2) Any proprietor or other person in charge of a public place who fails to perform any duty imposed by subsection (1) of this section shall be subject to a civil penalty of one hundred dollars, and each day the violation or failure to perform continues after seven days following the initial violation or failure to perform shall be considered a separate offense. The cumulative civil penalty for separate offenses by any such proprietor or person shall not exceed five hundred dollars. The Attorney General or any county attorney upon request of the Department of Health and any county attorney upon request of any local board of health shall assist without delay in the prosecution of any such violation or failure to perform in order to assure compliance with the Nebraska Clean Indoor Air Act. The department may use no more than one-half of the money placed each year in the Nebraska Smoking Disease Prevention Fund for enforcement of the act.

Sec. 14. That section 71-5710, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-5710. The Department of Health shall, ~~not later than January 1, 1980,~~ adopt and promulgate rules and regulations necessary and reasonable to implement the ~~provisions of sections 71-5701 to 71-5713~~ Nebraska Clean Indoor Air Act. The ~~Department of Health~~ department shall consult with interested persons and professional organizations before promulgating such rules and regulations.

Sec. 15. That section 81-638, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-638. The Nebraska Cancer Research Fund is hereby created. The Legislature shall appropriate for each year from the Nebraska Cancer Research Fund to the Department of Health an amount derived from one cent of the cigarette tax imposed by Chapter 77, article 26, less any amount appropriated from the Nebraska Cancer Research Fund specifically to the University of Nebraska Eppley Institute for Research in Cancer and Allied Diseases and less the amount specified in section 9 of this act. Any money in the Nebraska Cancer Research Fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to ~~72-1269~~ 72-1276. The director shall, after deducting expenses incurred in the administration of such funds, distribute such funds exclusively for grants and contracts for research of cancer and smoking diseases, for funding the cancer registry prescribed in sections 81-642 to 81-650, for funding the transfer required by section 9 of this act, and for associated expenses of the Department of Health due to the establishment and maintenance of such cancer registry. ~~Not more than ten percent of the~~ The remainder of the amount generated by one cent of the cigarette tax imposed by Chapter 77, article 26, reduced by the amount appropriated from such amount for the University of Nebraska Eppley Institute for Research in Cancer and Allied Diseases, shall be divided in the following manner: Not more than ten percent of such remainder shall be used for funding the cancer registry and associated expenses and ten percent of such remainder shall be remitted to the Smoking Disease Prevention Fund. The University of Nebraska may receive such grants and contracts and other postsecondary institutions having colleges of medicine

located in the State of Nebraska may receive such contracts.

Sec. 16. Sections 7 to 15 and 17 of this act shall become operative on January 1, 1992. The other sections of this act shall become operative on their effective date.

Sec. 17. That original sections 71-5701 to 71-5703, 71-5709, 71-5710, and 81-638, Reissue Revised Statutes of Nebraska, 1943, and also sections 71-5711 and 71-5713, Reissue Revised Statutes of Nebraska, 1943, are repealed.".

2. Insert underscoring in the original sections and all amendments thereto.

3. Renumber the remaining section accordingly.

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 856A. Introduced by Moore, 24.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 856, Ninety-second Legislature, First Session, 1991; and to declare an emergency.

REPORT OF REGISTERED LOBBYISTS

In accordance with LB 987, passed in the 1976 session of the Legislature and amended by LB 4 and LB 41 in the 1977 session of the Legislature, the attached is a list of all Lobbyists who have registered as of May 2, 1991. Further lists listing additional lobbyists who have registered will be filed weekly.

(Signed) Patrick J. O'Donnell
Clerk of the Legislature

DeCamp Legal Services, P.C.
DeCamp, John - Lincoln

(CSALC) Commonwealth State Securities American Savings Legal Committee

Crosby, Guenzel, Davis, Kessner & Kuester

Moody, Randall - Lincoln	Real Estate Owners and Managers Association (REOMA)
Pappas, James E. - Lincoln (Withdrawn 91/04/29)	Citizens for Preserving the Platte River
Philbin, Robert - Omaha (Withdrawn 91/05/01)	First Data Resources Inc.
Radcliffe and Associates Radcliffe, Walter H. - Lincoln	Electronic Data Technologies

UNANIMOUS CONSENT - Unbracket LB 795

Mr. Hall asked unanimous consent to unbracket LB 795. No objections. So ordered.

EASE

The Legislature was at ease from 11:20 a.m. until 11:31 a.m.

SELECT FILE

LEGISLATIVE BILL 186. Mrs. Pirsch offered the following amendment:
AM1584
(Amendments to Standing Committee amendments, AM0849)

1. Strike section 4 and insert the following new sections:

"Section 1. That section 81-1801, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-1801. ~~As used in~~ For purposes of the Nebraska Crime Victim's Reparations Act, unless the context otherwise requires:

(1) Commission shall mean the Nebraska Commission on Law Enforcement and Criminal Justice;

(2) Committee shall mean the Crime Victim's Reparations Committee;

~~(2)~~ (3) Dependent shall mean a relative of a deceased victim~~,~~ who was dependent upon the victim's income at the time of death, including ~~children~~ a child of a victim born after a victim's death;

(4) Executive director shall mean the executive director of the commission;

~~(3)~~ (5) Personal injury shall mean actual bodily harm;

~~(4)~~ (6) Relative shall mean spouse, parent, grandparent, stepparent, natural born child, stepchild, adopted child, grandchild, brother, sister, half brother, half sister, or spouse's parents; and

~~(5)~~ (7) Victim shall mean a person who is injured or killed as a result of conduct specified in section 81-1818. ~~; and~~

~~(6) Commission shall mean the Nebraska Commission on Law Enforcement and Criminal Justice.~~

Sec. 2. That section 81-1806, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-1806. The executive director may serve as a hearing officer pursuant to this section and in addition the committee, with the approval of the commission, shall appoint one or more additional hearing officers, who shall be licensed to practice law in the state, to conduct hearings, take testimony in proceedings under the Nebraska Crime Victim's Reparations Act, and make determinations of any matter subject to such act.".

2. Correct internal references and repealer accordingly.

The Pirsch amendment was adopted with 26 ayes, 0 nays, 11 present and not voting, and 12 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 186A. E & R amendment, AM5126, found in the Journal on page 1796, was adopted.

Advanced to E & R for engrossment.

SELECT COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 836. Placed on Select File as amended.
E & R amendment to LB 836:
AM5136

1. In the Wesely-Rasmussen amendment, AM1559, on page 2, line 9, after "Act" insert "of 1990".

2. On page 1, line 2, after the fourth comma insert "71-1911, and"; in line 3 strike "and 77-202,";

and in line 11 strike "provide a tax exemption" and insert "change requirements for licensure of certain programs".

3. On page 3, line 13, strike "also".

4. On page 4, line 5, strike "service" and insert "child care services".

5. On page 8, line 24, strike "provider of a" and after "home" insert "provider".

6. On page 11, line 1, after the semicolon insert paragraphing and "(4)"; in line 10 after "health" insert "care"; and in line 13 strike "technical".

7. On page 13, line 9, after "Act" insert "of 1990".

8. On page 18, line 5, after "childhood" insert "education".

9. On page 20, line 21, strike "department", show as stricken, and insert "Department of Social Services".

10. On page 21, line 5, strike "4" and insert "5"; in line 9 strike "who" and insert "which"; and in line 16 strike "technology" and insert "technological".

11. On page 22, line 17, reinstate the stricken matter and strike the new matter.

12. On page 25, line 14, reinstate the stricken matter.

13. On page 32, line 6, strike "and 32" and all amendments thereto and insert ", 33, 34, and 36"; and in line 16 before "71-1913" insert "and" and strike "and 77-202,".

LEGISLATIVE BILL 836A. Placed on Select File.

(Signed) Eric Will, Chairperson

VISITORS

Visitors to the Chamber were 45 fourth grade students and teachers from Seymour Elementary, Ralston; 12 students and teacher from Sterling High School; former Senator Harold Stryker; seven fifth and sixth grade students and teachers from Beaver Valley School, Danbury and Wilsonville; 50 fourth grade students and teachers from Willard School, York; and 48 fourth grade students and teachers from Sunset/Oakdale, Omaha.

The Doctor of the Day was Dr. Mike Sullivan from Aurora.

ADJOURNMENT

At 11:37 a.m., on a motion by Mr. Byars, the Legislature adjourned until 9:00 a.m., Tuesday, May 7, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

SEVENTY-SECOND DAY - MAY 7, 1991

LEGISLATIVE JOURNAL

SEVENTY-SECOND DAY - MAY 7, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

SEVENTY-SECOND DAY

Legislative Chamber, Lincoln, Nebraska
Tuesday, May 7, 1991

Pursuant to adjournment, the Legislature met at 9:00 a.m., Speaker Baack presiding.

PRAYER

The prayer was offered by Brent Blackwood, Director of Prison Fellowship, Lincoln and Omaha, Nebraska.

ROLL CALL

The roll was called and all members were present except Messrs. Abboud, Ashford, Bernard-Stevens, Beutler, Chambers, Conway, Dierks, Haberman, Hall, R. Johnson, Morrissey, Rogers, Schmit, Wesely, Wickersham, Withem, Mmes. Labedz, Pirsch, and Rasmussen who were excused until they arrive.

PRESIDENT MOUL PRESIDING

CORRECTIONS FOR THE JOURNAL

The Journal for the Seventy-First Day was approved.

SELECT COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 840. Placed on Select File as amended.
(E & R amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM5137.)

LEGISLATIVE BILL 719. Placed on Select File as amended.
(E & R amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM5130.)

LEGISLATIVE BILL 720. Placed on Select File as amended.
E & R amendment to LB 720:
AM5139

1. On page 1, strike lines 2 through 6 and insert "section 80-401.01, Revised Statutes Supplement, 1990; to define veteran of the Persian Gulf War; to repeal the original section; and to declare an emergency.".

LEGISLATIVE BILL 579A. Placed on Select File.
LEGISLATIVE BILL 701A. Placed on Select File.
LEGISLATIVE BILL 825A. Placed on Select File.

Correctly Re-Engrossed

The following bill was correctly re-engrossed: 57.

Correctly Engrossed

The following bills were correctly engrossed: 207, 427, 663, and 663A.

(Signed) Eric Will, Chairperson

Enrollment and Review Change to LB 427

The following changes, required to be reported for publication in the Journal, have been made:
ER7060

1. In the Smith amendment, AM0978:

a. The following new amendment has been inserted:

"2. Renumber remaining sections accordingly.";

b. On page 7, line 13, "section 8" has been struck and "sections 7 and 11" inserted;

c. On page 31, line 24; and page 32, line 11, "at which" has been struck;

d. On page 75, line 24, "restitution or" has been inserted after "with" and the new matter has been struck;

e. On page 79, line 22, "41 and 42" has been struck and "46 and 47" inserted;

f. On page 95, line 18, "59" has been struck and "64" inserted;

g. On page 115, line 4, "licensed" has been struck;

h. On page 121, line 23, the first comma has been struck and an underscored semicolon inserted;

i. On page 122, line 1, the comma has been struck and an underscored semicolon inserted; and

j. On page 125, line 4, ", 9-203" has been inserted after "9-201" and "9-216," has been inserted before "9-226"; and in line 5 "9-235.01," has been inserted after the second comma and "9-236," has been inserted after the fourth comma.

2. In the L. Johnson amendment, AM0823:

a. Sections 1 and 6 have been struck and in the Smith amendment, AM0978, on page 29, lines 19 and 23, "on an excursion or dinner train or" has been inserted before "outside";

b. On page 1, line 13, "3" has been struck and "7" inserted; and in line 18 "purpose" has been struck and "purposes" inserted; and

c. Amendment 2 has been struck and the remaining amendment renumbered accordingly.

3. In the Labedz-Hall amendment, AM0858:

a. Section 1 has been struck and in the Smith amendment, AM0978:

i. On page 19, line 23, an underscored comma has been inserted after "organization"; and in line 24 an underscored comma has been inserted after "department";

ii. On page 20, line 3, an underscored colon has been inserted after "licenses" and "for licensed" has been struck and shown as stricken; the matter in line 4 has been struck and shown as stricken; in line 7 "not exceeding" has been struck, shown as stricken, and "which are less than" inserted; in lines 7 and 11 "fifty" has been inserted after "hundred"; and in line 20 an underscored comma has been inserted after "license" and "to conduct bingo," has been struck and shown as stricken; and

iii. On page 21, line 4, "licensed organization" has been struck, shown as stricken, and "license issued" inserted; and

b. Amendment 2 has been struck and the remaining amendment renumbered accordingly.

4. The E & R amendment, AM5110, has been struck.

5. On page 1, the matter beginning with the semicolon in line 1 through line 6 has been struck and "and other gambling; to amend sections 9-235, 9-264, 9-330, 9-350, 9-354, 9-401, 9-418, 9-419, 9-420, 9-429, 9-436, 9-509, 9-604, and 9-701, Reissue Revised Statutes of Nebraska, 1943, and sections 9-1,101, 9-1,104, 9-1,105, 9-201, 9-203, 9-207.01, 9-214.01, 9-216, 9-226, 9-227, 9-228, 9-233, 9-233.01, 9-235.01, 9-235.02, 9-235.03, 9-236, 9-239, 9-247, 9-250, 9-253, 9-258, 9-261, 9-266, 9-306.01, 9-322, 9-323, 9-324, 9-328, 9-329, 9-329.02,

9-332, 9-340.02, 9-344, 9-345.03, 9-356, 9-421, 9-601, 9-620, 9-623, 9-630, 9-631, 9-632, 9-639, 9-640, 9-642, 9-646, 9-649, 9-650, and 9-653, Revised Statutes Supplement, 1990; to authorize fees for certain publications; to require personal history reports; to change provisions relating to the disposition of prizes won by investigators, fingerprinting requirements, and criminal history record checks; to define and redefine terms; to provide for and change powers and duties of the Department of Revenue; to provide for and change provisions relating to administrative fines; to provide for personal service for certain notices; to change provisions relating to certain proceedings; to require license and permit renewal applications to be submitted by certain dates; to change provisions relating to participation in and the conduct of bingo; to provide for a permit to conduct bingo on an excursion or dinner train; to provide for the confidentiality of personal history reports; to prohibit imposition of certain occupation taxes; to change provisions relating to pickle card units, pickle card dispensing devices, lotteries and raffles, the conduct of a county or city lottery, and gift enterprises; to harmonize provisions; to repeal the original sections; and to declare an emergency." inserted.

Enrollment and Review Change to LB 663

The following changes, required to be reported for publication in the Journal, have been made:
ER7059

1. Because of adoption of the Warner-Withem amendment, AM1241, the following new section has been inserted:

"Sec. 24. That section 2-954, Revised Statutes Supplement, 1990, be amended to read as follows:

2-954. (1)(a) The duty of enforcing and carrying out the Noxious Weed Control Act shall be vested in the director and the control authorities as designated in the act. The director shall determine what weeds are noxious for purposes of the act. A list of such noxious weeds shall be included in the rules and regulations adopted and promulgated by the director. The director shall prepare, publish, and revise as necessary a list of noxious weeds. The list shall be distributed to the public by the director, the ~~state agricultural extension service~~ Cooperative Extension Service, the control authorities, and any other body the director deems appropriate. The director shall, from time to time, adopt and promulgate rules and regulations on methods for control of noxious weeds and adopt and promulgate such rules and regulations as are necessary to carry out the act. Whenever special weed control problems exist in a county

involving weeds not included in the rules and regulations, the control authority may petition the director to bring such weeds under the county control program. The petition shall contain the approval of the county board. Prior to petitioning the director, the control authority, in cooperation with the county board, shall hold a public hearing and take testimony upon the petition. Such hearing and the notice thereof shall be in the manner prescribed by the Administrative Procedure Act. A copy of the transcript of the public hearing shall accompany the petition filed with the director. The director may approve or disapprove the request. If approval is granted, the control authority may proceed under the forced control provisions of sections 2-953 to 2-955 and 2-958.

(b) The director shall (i) investigate the subject of noxious weeds, (ii) require information and reports from any control authority as to the presence of noxious weeds and other information relative to noxious weeds and the control thereof in localities where such control authority has jurisdiction, (iii) cooperate with control authorities in carrying out other laws administered by him or her, (iv) cooperate with agencies of federal and state governments and other persons in carrying out his or her duties under the Noxious Weed Control Act, (v) with the consent of the Governor, conduct investigations outside this state to protect the interest of the agricultural industry of this state from noxious weeds not generally distributed therein, (vi) with the consent of the federal agency involved, control noxious weeds on federal lands within this state, with reimbursement, when deemed by the director to be necessary to an effective weed control program, (vii) advise and confer as to the extent of noxious weed infestations and the methods determined best suited to the control thereof, (viii) call and attend meetings and conferences dealing with the subject of noxious weeds, (ix) disseminate information and conduct educational campaigns with respect to control of noxious weeds, (x) procure materials and equipment and employ personnel necessary to carry out the director's duties and responsibilities, and (xi) perform such other acts as may be necessary or appropriate to the administration of the act.

(c) When ~~determined by~~ the director determines that a control authority has substantively failed to carry out its duties and responsibilities as a control authority or has substantively failed to implement a county weed control program, ~~the director~~ he or she shall instruct the control authority regarding the measures necessary to fulfill such duties and responsibilities. The director shall establish a reasonable date by which the control authority shall fulfill such duties and responsibilities. If the control authority fails or refuses to comply with instructions by such date, the Attorney General shall file

an action as provided by law against the control authority for such failure or refusal.

(2)(a) Each control authority shall carry out the duties and responsibilities vested in it under the act with respect to land under its jurisdiction in accordance with rules and regulations adopted and promulgated by the director. Such duties shall include the establishment of a coordinated program for control of noxious weeds within the county.

(b) A control authority may cooperate with any person in carrying out its duties and responsibilities under the act.

(3)(a) Each county board shall employ one or more weed control superintendents. Each such superintendent shall, as a condition precedent to employment, be certified in writing by the federal Environmental Protection Agency as a commercial applicator under the Federal Insecticide, Fungicide, and Rodenticide Act. Each superintendent shall be bonded for such sum as the county board shall prescribe. The same person may be a weed control superintendent for more than one county. Such employment may be for such tenure and at such rates of compensation and reimbursement for travel expenses as the county board may prescribe. Such superintendent shall be reimbursed for mileage at a rate equal to or greater than the rate provided in section 23-1112.

(b) Under the direction of the control authority, it shall be the duty of every weed control superintendent to examine all land under the jurisdiction of the control authority for the purpose of determining whether the Noxious Weed Control Act and the rules and regulations adopted and promulgated by the director have been complied with. The weed control superintendent shall: (i) Compile such data on infested areas and controlled areas and such other reports as the director or the control authority may require; (ii) consult and advise upon matters pertaining to the best and most practical methods of noxious weed control and render assistance and direction for the most effective control; (iii) investigate or aid in the investigation and prosecution of any violation of the act; and (iv) perform such other duties as required by the control authority in the performance of its duties. Weed control superintendents shall cooperate and assist one another to the extent practicable and shall supervise the carrying out of the coordinated control program within the county.

(c) In cases involving counties in which municipalities have ordinances for weed control, the control authority may enter into agreements with municipal authorities for the enforcement of local weed ordinances and may follow collection procedures established by such ordinances. All money received shall be deposited in the weed control authority fund.".

2. In the Beutler amendment, AM1443:

a. On page 1, line 9, "persons" has been struck, shown as stricken, and "person" inserted;

b. On page 2, in lines 13 and 14 the new matter has been struck and the stricken matter reinstated; and in line 17 "for" has been inserted after the first comma;

c. On page 8, the matter beginning with "and" in line 22 through "act" in line 23 has been struck;

d. On page 9, line 5, the comma has been struck and shown as stricken; and

e. On page 10, line 4, "effective date of this act" has been struck and "operative date of this section" inserted.

3. In the Warner-Withem amendment, AM1241:

a. On page 12, line 9, "station" has been struck, shown as stricken, and "center" inserted;

b. On page 17, line 15, "of" has been inserted after "or"; and in line 16 "board" has been struck and "body" inserted; and

c. On page 22, line 8, "'College'" has been struck and "the comma" inserted; and in line 23 "Heads" has been struck and "heads" inserted.

4. In the Beutler amendment, AM1189, on page 1, line 6, "capitol" has been struck and "capital" inserted.

5. In the Robinson amendment, AM1147:

a. On page 1, line 3, the semicolon has been struck; and in line 5 "technical" has been struck; and

b. On page 2, line 10, "technical" has been struck; and in line 12 "unit" has been inserted after "educational".

6. In the Baack amendment, AM0854:

a. On page 3, line 24, "79-1334," has been struck;

b. On page 4, line 6, "85-948," has been struck; and

c. On page 6, line 5, "and the University of Nebraska" has been inserted after "colleges" and "a duty" has been struck "and eliminate duties" has been inserted.

7. In the E & R amendments, AM5105:

a. On page 13, line 18, the first comma has been struck;

b. On page 14, line 16, "prescribed in sections 85-968 to 85-979" has been inserted after "system"; and the matter beginning with "prescribed" in line 17 through "85-979" in line 18 has been struck;

c. On page 22, line 16, the comma has been struck;

d. On page 29, line 22, the semicolon has been struck and an underscored period inserted;

e. On page 48, line 17, the colon has been struck and shown as stricken and an underscored comma inserted and the paragraphing has been struck;

f. On page 73, line 12, "The" has been struck and "On and after January 1, 1992, the" inserted;

g. On page 78, line 24, "or which" has been inserted before "issues";

h. On page 97, line 24, "17 and 18" has been struck and "16 and 17" inserted;

i. On page 98, line 18, "a" has been inserted after the stricken "Institute";

j. On page 101, line 24, "laboratory" has been struck and shown as stricken and "center" inserted;

k. On page 128, line 1, "A" has been struck and shown as stricken and "One" inserted;

l. On page 133, lines 22 and 23, "1 to 3, 41, 43 to 47, and 114" and all amendments thereto have been struck and "3, 42, 45, 47 to 52, 133, and 136" inserted; and in line 24 "section 117" and all amendments thereto have been struck and "sections 1, 2, 135, and 139" inserted;

m. On page 134, line 22; and page 136, line 8, "2-954," has been inserted after "sections";

n. On page 134, line 1, "116" and all amendments thereto has been struck and "138" inserted;

o. On page 135, line 12, the matter beginning with "97" through "101" has been struck and "117 and 119 to 121" inserted: in line 15 "98" has been struck and "118" inserted; in line 22 "2-1504.02," has been inserted after the last comma; and in line 23 "2-2601," has been inserted after the first comma;

p. On page 136, line 2, "85-201, 85-202, 85-206 to 85-211, 85-214, 85-215," has been inserted after the last comma; and in line 21 "financing for" has been struck; in line 22 "to" has been struck and "tribally controlled community colleges," inserted; and in line 23 "to" has been struck; and

q. On page 137, line 6, "a power of the Board of Regents of the University of Nebraska," has been inserted after the comma; in line 7 "to provide severability;" has been inserted after the second semicolon; in line 8 "85-107.01, 85-181," has been inserted after the second "sections"; in line 16 the matter beginning with "97" through "101" has been struck and "117 and 119 to 121" inserted; and in line 20 "98" has been struck and "118" inserted.

8. The remaining sections have been renumbered and internal references corrected accordingly.

(Signed) Mary E. Sommermeyer
E & R Attorney

REPORT

Received the Natural Gas Revolving Load Fund quarterly report from the Governor's Policy Research Office required by Section 010 of the Municipal Natural Gas Regulation Act (Sec. 19-4617, R.R.S. 1943).

ATTORNEY GENERAL'S OPINIONS

Opinion No. 91035

DATE: May 2, 1991

SUBJECT: LB 818 - Amendments to Neb.Rev.Stat. §§28-1317 and 1318 relating to offenses of unlawful and mass picketing.

REQUESTED BY: Senator Bernice Labedz

WRITTEN BY: Don Stenberg, Attorney General
Steve Grasz, Deputy Attorney General

You have requested an opinion on the constitutionality of LB 818, a proposal to change provisions relating to the offenses of unlawful and mass picketing. You have specifically expressed concern that LB 818 may violate the right of free speech and may be unconstitutionally vague.

Section one of LB 818 ("the bill"), as amended by AMO 302, amends Neb.Rev.Stat. §§28-1317 and 1318 by expanding the coverage of the unlawful and mass picketing laws from labor and employment situations to also prohibit picketing which interferes with a person's entry and exit of premises for any lawful purpose. Section two of the bill eliminates distance and spacing requirements previously held to violate the United States Constitution. See United Food and Commercial Workers, International Union v. IBP, Inc., 857 F.2d 422 (8th Cir. 1988); Committee Statement on LB 818.

Whereas this office may be called upon to defend the constitutionality of existing legislation, as was the case with this same statute in IBP, this opinion is necessarily limited to those provisions of the bill which expand the scope of activity constituting the offenses of unlawful and mass picketing. This opinion does not apply to labor and employment situations under the existing statutory language. Since the existing statute regulates "private issue" (i.e. labor related) picketing, while the bill provides for regulation of "public issue"

picketing as well, the constitutional analysis necessarily differs somewhat as between the existing and proposed language in any event. See Medrano v. Allee, 347 F.Supp. 605, 623 (S.D. Tex. 1972) ("{P}eaceful 'public issue' picketing is protected under the first amendment as 'symbolic speech' so long as it is in a location generally open to the public.") (Decision vacated in light of repeal of three statutes in question and remanded for determination whether prosecutions were actually pending under the remaining two statutes, 416 U.S. 802 (1974)). LB 818 regulates "public issue" picketing since it expands the coverage of §§28-1317 and 1318 to restrict political and religious expression on matters of public interest, in addition to the existing restrictions on organized picketing related to labor disputes.

LB 818 Is Unconstitutionally Vague and Overbroad

Section one of the bill prohibits "unlawful picketing." Section two of the bill creates the offense of Mass picketing and defines "Mass picketing" as "any form of picketing which constitutes an obstacle to the free ingress and egress to and from the premises being picketed, any other premises, or the public roads, streets, or highways, either by obstructing by their persons or by placing of vehicles or other physical obstructions." The bill, however, does not define "picketing" or "unlawful picketing". As we have noted previously, "the word picket is a word of 'vague contours' (citation omitted), and . . . the term may include a wide range of action." Opinion of the Attorney General, February 14, 1950.

Vagueness

A fundamental requirement of a statute is that it not be vague and uncertain. See Neeman v. Nebraska Natural Resources Commission, 191 Neb. 672, 217 N.W.2d 166 (1974). The void for vagueness doctrine is based on the due process requirements contained in the Fifth and Fourteenth Amendments to the federal constitution, and contained in Article I, section 3 of our Nebraska Constitution. U.S. v. Articles of Drug, 825 F.2d 1238 (8th Cir. 1987); In Interest of D.L.H., 198 Neb. 444, 253 N.W.2d 283 (1977). In order to pass constitutional muster, a statute must be sufficiently specific so that persons of ordinary intelligence must not have to guess at its meaning, and the statute must contain ascertainable standards by which it may be applied. Id.

The constitutional requirement of reasonable certainty in statutory language is satisfied by the use of ordinary terms which find adequate interpretation in common usage and understanding. Fulmer v. Jensen, 221 Neb. 582, 379 N.W.2d 736 (1986). Statutes are sufficiently definite when they use language which is commonly grasped. In Re Interest of Metteer, 203 Neb. 515, 279 N.W.2d 374 (1979). In State ex rel. Douglas v. Herrington, 206 Neb. 516, 294

N.W.2d 330 (1980), the court said that the established test for vagueness in a statute is whether it either forbids or requires the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application. See also State v. Hamilton, 215 Neb. 694, 340 N.W.2d 397 (1983).

The dividing line between what is lawful and unlawful cannot be left to conjecture, and a citizen cannot be held to answer to charges based upon penal statutes whose mandates are so uncertain that they will reasonably admit of different constructions. A penal statute must express the crime and the elements constituting it so clearly that an ordinary person can intelligently choose in advance what course is lawful for him to pursue. Id. See also State, Dept. of Roads v. Mayhew Products Corp., 211 Neb. 300, 304-05, 318 N.W.2d 280 (1982).

The constitutional prohibition against undue vagueness does not invalidate every statute which a reviewing court might believe could have been drafted which greater precision; all that due process requires is that a statute give sufficient warning that men may conform their conduct so as to avoid that which is forbidden. State v. Robinson, 202 Neb. 210, 274 N.W.2d 553 (1979), cert. denied, 444 U.S. 865.

In applying the due process test to LB 818, we must determine whether "picketing" is a term of common understanding such that persons of ordinary intelligence would not have to guess at its meaning in terms of complying with the prohibitions in the bill. Bridgeford v. U-Haul Co., 195 Neb. 308, 238 N.W.2d 443 (1976).[1]

Webster's New Collegiate Dictionary (1974) defines "picket" as "a person posted by a labor organization at a place of work affected by a strike; also; a person posted for a demonstration or protest." The latter portion of the above definition is relevant to non-labor "public issue" picketing.

Considering "picketing" in the context of LB 818 it appears that persons of ordinary intelligence could differ concerning the meaning of the word. Further, without a more precise definition, we fail to find an ascertainable standard for the application of the act. This indefiniteness is constitutionally impermissible. Under the bill, it is unclear whether "unlawful picketing" (a criminal offense) encompasses only individuals parading in front of a "premises" with signs and shouting "threats", or whether the bill also covers a wide range of other activity. Are individuals who pray near a civil rights demonstration site "picketing"? Are Nebraska citizens guilty of unlawful "picketing" if they "conspire with others" at their house of worship to "induce or influence" persons not to enter certain premises by means of "intercepting" such persons on their way "from or to his

or her home" or by "picketing or patrolling . . . any street, alley, road, highway, or other place where such person may be. . . ."? These are not far fetched hypothetical situations, but are real situations to which the bill could apply and, perhaps, is intended to apply.

Under section two of the bill any person who shall legally "picket" is required to "visibly display on his or her person a sign showing the name of the protesting organization he or she represents." This sign "shall be uppercase lettering of not less than two and one-half inches in height."

This provision may be permissible as to labor-related picketing under the current statute. However, its application under the bill to public issue picketing is abhorrent to the Constitutions of the United States and Nebraska. This provision is unconstitutionally vague for the reasons set forth above. Also, under the common definition of "picketing" the bill would apparently require, for example, a person peacefully praying near a civil rights demonstration site to wear a sign showing the name of his protesting organization; perhaps the name of his or her church. Article I, §4 of the Constitution of Nebraska guarantees religious liberty to all Nebraskans and prohibits "any interference with the rights of conscience." Requiring civil rights demonstrators or other public issue picketers to wear identification signs wherever they "legally picket" brings visions of oppression. A court would likely find such a requirement violates Article I, §4, as well as the First Amendment.

Overbreadth

To the extent section two prohibits "mass picketing" which constitutes any character of obstruction to free ingress and egress, rather than only unreasonable obstructions, it is constitutionally suspect as being overbroad. As the court stated in Medrano v. Allee, "This is not the precise and narrowly drawn statute contemplated by the Supreme Court. It commands the {removal of} . . . any mode of free expression which presents any character of obstruction and this is impermissible." Medrano v. Allee, 347 F.Supp. at 625. See also Nash v. Chandler, 848 F.2d 567, 569 (5th Cir. 1988) (Section of Texas picketing law prohibiting "any character of obstacle to the free ingress to and egress from any entrance to any premises being picketed . . . " is "unconstitutionally broad and cannot stand.")

LB 818 Violates the Constitutional Guarantee of Free Speech

Article I, §5 of the Constitution of the State of Nebraska provides, "Every person may freely speak . . . on all subjects. . . ." Similarly, the first amendment to the Constitution of the United States, as applied to the states through the fourteenth amendment, provides:

"Congress shall make no law . . . abridging the freedom of speech. . . ."

As the United States Supreme Court stated in Boos v. Barry, 485 U.S. 312, 108 S.Ct. 1157, 99 L.Ed.2d 333 (1988),

> {T}he First Amendment reflects a 'profound national commitment' to the principle that 'debate on public issues should be uninhibited, robust, and wide-open.' (citation omitted), and {we} have consistently commented on the central importance of protecting speech on public issues . . . This has led us to scrutinize carefully any restrictions on public issue picketing.

Id. at 343 (emphasis added). Where such picketing occurs on public streets and sidewalks, "the government's ability to restrict expressive activity 'is very limited.' " Id. (quoting United States v. Grace, 461 U.S. at 177).

Analysis of the bill must take into account that some "picketing is not pure speech, because it involves conduct and need not include spoken words." Pursley v. City of Fayettville, Ark., 820 F.2d 951, 954 (8th Cir. 1987). "Nevertheless, there is no doubt that as a general matter peaceful picketing and leafletting are expressive activities involving 'speech' protected by the First Amendment." Id. Further, some provisions of the bill attempt to punish "pure speech", or speech without any accompanying conduct.

The Threatening Language Clause

Section one of the bill creates a Class III misdemeanor for anyone who commits the offense of unlawful picketing by "interfering" with any person in the exercise of his or her lawful right to enter and exit a premises for any lawful purpose by using "threatening language" in such person's presence of hearing for the purpose of influencing such person not to enter or exit the premises. Section one similarly creates this offense for anyone who engages in "menacing, threatening, coercing, intimidating, or frightening in any manner" such person for the above purpose. This section also prohibits picketing the place of residence of such person or any street, alley, road, highway, or other place such person may be for such purpose.

Whereas section one creates a criminal offense for speech protected by the First Amendment, it must be narrowly tailored to serve a significant governmental interest. United Food & Commercial Workers International v. IBP, Inc., 857 F.2d at 433 Pursley, 820 F.2d at 955. We conclude that LB 818, section one, fails this test. "Because the First Amendment freedoms need breathing space to survive, government may regulate in the area only with narrow specificity." Id. at 956 (quoting NAACP v. Button, 371 U.S. 415, 433 (1963)). See also Northeast Women's Center, Inc. v. McMonagle, 670 F.Supp. 1300, 1308 (E.D.Pa. 1987) ("The fact that the defendants' speech was

intended to persuade patients to forgo their abortions or employees to leave their employment at an abortion-providing clinic does not, in itself, corrupt the speech nor diminish its protection under the Constitution.").

Assuming that protecting lawful ingress and egress to a premises is a significant government interest, a court would likely find there are less restrictive means available of addressing this interest than by outlawing otherwise protected speech aimed at persuading or influencing a person not to enter such premises.

The bill does not define "threatening language" nor "menacing, threatening, coercing, intimidating, or frightening." Only if such terms were defined or judicially construed as including only unprotected speech, such as obscene language and fighting words, could this portion of the bill pass constitutional challenge. United Food & Commercial International v. IBP, Inc., 857 F.2d at 435; Howard Gault Co. v. Texas Rural Legal Aid, Inc., 848 F.2d 544, 561 (5th Cir. 1988) (limiting Texas picketing statute containing similar language to apply only to fighting words). However, as the bill is now written, using the usual or ordinary definitions of the above terms, these provisions of the bill are clearly unconstitutional.

As the Supreme Court has stated, "in public debate our citizens must tolerate insulting and even outrageous speech in order to provide "adequate 'breathing space' for the freedoms protected by the First Amendment." " Boos v. Barry, 99 L.Ed.2d at 345.

> The Fourteenth Amendment does not permit a State to make criminal the peaceful expression of unpopular views. "{A} function of free speech under our system of government is to invite dispute. It may indeed best serve its high purpose when it induces a condition of unrest, creates dissatisfaction with conditions as they are, or even stirs people to anger. Speech is often provocative and challenging. It may strike at prejudices and preconceptions and have profound unsettling effects as it presses for acceptance of an idea. . . ."

Edwards v. South Carolina, 372 U.S. 229, 83 S.Ct. 680, 9 L.Ed.2d 697, 703 (1963) (quoting Terminiello v. Chicago, 337 U.S. 1, 4 (1949)).

The prohibition of "threatening language" and "menacing, threatening, coercing, intimidating and frightening" is unconstitutionally overbroad. "The existence of such a statute, which readily lends itself to harsh and discriminatory enforcement by local prosecuting officials, against particular groups deemed to merit their displeasure, results in a continuous and pervasive restraint on all freedom of discussion that might reasonably be regarded as within its purview." Thornhill v. State of Alabama, 310 U.S. 88, 97-98 (1939)

(invalidating Alabama picketing statute). See also Gooding v. Wilson, 405 U.S. 518, 92 S.Ct. 1103, 31 L.Ed.2d 405, 413 (1972) ("{P}ersons whose expression is constitutionally protected may well refrain from exercising their rights for fear of criminal sanctions provided by a statute susceptible of application to protected expression.").

The bill is not narrowly drawn to punish only unprotected speech and is susceptible of application to protected expression. Id. at 414. Thus, these provisions of the bill are unconstitutional. See Members of City Council of City of Los Angeles v. Taxpayers For Vincent, 466 U.S. 789, 801 (1984).[2]

[1] We again note that our review of LB 818 applies only to the proposed amendments to §§28-1317 and 1318. "Picketing" under the current statute may be quite clear in terms of organized labor disputes (private issue picketing), but may be subject to different constitutional analysis in the context of public issue picketing.

[2] The language in LB 818 is similar to that addressed by the court in Nash v. State of Texas, 632 F.Supp. 951, 973 (E.D. Tex. 1986) (holding the "intimidating language provision" of the Texas mass picketing statute to be overbroad and unconstitutionally vague.) The court in Nash noted that a violation of the picketing statute occurred "even when a person seeks only by language to interfere with, hinder, obstruct, or intimidate another in any of the activities to which the statute refers." Id. at 973. The court also noted, "Speech does not lose its protected character, simply because it may embarrass others or coerce them into action." Id. at 974 (quoting NAACP v. Claiborne Hardware, 458 U.S. 886, 102 S.Ct. 3409, 3424 (1982)). Here, as in Nash, "a statute is deemed unconstitutionally overbroad, if it abstracts protected as well as unprotected speech." Id. at 975. The court specifically addressed the terms "threatening," "intimidate" and "interferes with" and held that a statute punishing such language is overbroad. Likewise, the terms "threaten," "interfere with," "hinder," "obstruct," and "intimidate" were held to be unconstitutionally vague as proscribed under the picketing statute in the context of speech. "As presently drawn, the statute manifestly could have a chilling effect on those who are unclear regarding what is unlawful, and these individuals, on that account, well might restrict "their conduct to that which is unquestionably safe." Id. at 980 (quoting Baggett v. Bullitt, 377 U.S. 360, 372 (1964)).

On appeal the court found the statute was "subject to a narrowing construction" by the Texas state courts such that it could withstand

an overbreadth challenge. Nash v. Chandler, 848 F.2d 567, 569 (5th Cir. 1988) (limiting application of the statute to fighting words only).

Sincerely yours,
DON STENBERG
Attorney General
(Signed) Steve Grasz
Deputy Attorney General

3-107-3

Opinion No. 91036

DATE: May 6, 1991

SUBJECT: Amendment to LR 24CA Which Would Require the Proceeds of a State Lottery to be Used to Repay Depositors of Failed Industrial Savings Institutions

REQUESTED BY: Senator Chris Beutler,
Nebraska State Legislature

WRITTEN BY: Don Stenberg, Attorney General
Dale A. Comer, Assistant Attorney General

Legislative Resolution 24CA is a proposed constitutional amendment which, if passed by the voters of Nebraska, would establish a lottery to be operated and regulated by the state. You have proposed an amendment to LR 24CA which is apparently intended to allow reimbursement of the losses of certain depositors of failed industrial institutions out of state lottery proceeds. You have asked us whether the amendment in question "will result in the depositors of failed industrial banks, including Commonwealth, American Savings, and State Securities, being paid in full should the people approve this proposition." You have also asked us for drafting suggestions. Our opinion on the issue you have raised is set out below.

The amendment to LR 24CA at issue provides that proceeds of a state lottery shall be appropriated by the Legislature:

(b) For payments to depositors of industrial loan and investment companies for any certificate of indebtedness or any other evidence of indebtedness of an industrial loan and investment company

which was unpaid when an industrial loan and investment company that filed bankruptcy pursuant to Chapter 11 of the United States Bankruptcy Code after November 1, 1983, filed bankruptcy or when an industrial loan and investment company in receivership entered receivership, until such time as all such indebtedness is paid;

The amendment also provides that the proceeds of a lottery shall be used for repayment of depositors "notwithstanding any other provision of this Constitution to the contrary."

In our Opinion No. 91027, dated April 11, 1991, we considered several proposals for reimbursement of the depositors of failed industrial savings institutions in light of our supreme court's decision in Haman v. Marsh, 237 Neb. 699, ____ N.W.2d ____ (1991). One such proposal was an amendment to LR 24CA which would authorize the Legislature to reimburse the depositors out of state lottery fees or proceeds notwithstanding any other provisions of the Nebraska Constitution. We concluded that such a constitutional amendment would be sufficient to circumvent the constitutional difficulties noted in Haman. For the reasons detailed in our Opinion No. 91027, we believe that your current proposal would similarly avoid the constitutional problems discussed in that case.

While we believe that your proposed amendment to LR 24CA would avoid the constitutional difficulties set out in Haman, we would also make several comments concerning the language you have proposed.

First of all, you ask if your amendment would be sufficient to ensure that depositors are "paid in full should the people approve this proposition." We are not entirely sure what you mean by "paid in full." For example, some individuals have taken the position that depositors of the institutions in question are entitled to interest on the monies deposited and lost over the period of time from the failure of the institutions. If your reference to "payment in full" includes interest, you may wish to state that specifically in the proposed constitutional language.

Your method for designating the depositors who will receive lottery proceeds is greatly dependent on facts. For example, in your draft, the only institutions covered by the proposed constitutional amendment are those industrial loan and investment companies which filed bankruptcy pursuant to Chapter 11 of the United States Bankruptcy Code after November 1, 1983, or which entered receivership. We are concerned that some depositors might inadvertently be omitted because their institution is somehow left out of the ones described. Is there some way to designate the institutions involved more broadly without being so fact specific? In that regard,

you should draft the language describing the institutions covered in such a way that changes in the status of any institution between passage of the constitutional amendment and full payment to depositors or changes in status in any other way do not result in excluding that institution from those covered.

In a similar fashion, we are concerned that your references to "certificate of indebtedness" or "other evidence of indebtedness" might not be broad enough to cover all the types of accounts held by the depositors in the various failed institutions. Is there some way to broaden that language so that all forms of accounts are clearly covered?

We also believe that your proposed language could be read to require payments of the total sums deposited by depositors irrespective of any monies they may have received subsequently from the state or from the receiver. We assume that you wish depositors to receive only the unpaid portion of their original investment which was lost. If so, you may wish to alter the amendment language to clearly require a setoff.

Finally, we would suggest that your proposed language requiring expenditure of lottery funds for repayment of depositors "notwithstanding any other provision of this Constitution to the contrary" may not be entirely clear since there are no other constitutional provisions which contain language specifically referencing either such a repayment or a lottery. Perhaps it might be better to provide that the proceeds of the lottery will be used for the purposes of subdivision (3)(b) notwithstanding any other provision of the Constitution "which might otherwise prevent payments to depositors as described in said subdivision."

Sincerely yours,
DON STENBERG
Attorney General
(Signed) Dale A. Comer
Assistant Attorney General

05-06-14.91
cc: Patrick J. O'Donnell
Clerk of the Legislature

UNANIMOUS CONSENT - Print in Journal

Mrs. Nelson asked unanimous consent to print the following amendment to LB 719 in the Journal. No objections. So ordered.

AM1518

(Amendments to AM5130)

1. On page 140, line 6, strike "1992" and insert "1993".

GENERAL FILE

LEGISLATIVE RESOLUTION 24CA. Considered.

Messrs. Schmit and Rogers asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Lamb moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

Mr. Hefner requested a record vote on the advancement of the resolution.

Voting in the affirmative, 28:

Abboud	Byars	Haberman	Lynch	Smith
Ashford	Chizek	Hartnett	Pirsch	Wesely
Baack	Coordsen	Hillman	Rasmussen	Wickersham
Bernard-Stevens	Cudaback	Horgan	Robak	Will
Beutler	Dierks	Labedz	Robinson	Withem
	Elmer	Lindsay	Schellpeper	

Voting in the negative, 11:

Crosby	Kristensen	Landis	Peterson	Warner
Hefner	Lamb	Nelson	Schimek	Wehrbein
Johnson, L.				

Present and not voting, 4:

Beyer	Conway	Moore	Schrock

Excused and not voting, 6:

Chambers	Johnson, R.	Morrissey	Rogers	Schmit
Hall				

Advanced to E & R for review with 28 ayes, 11 nays, 4 present and not voting, and 6 excused and not voting.

LEGISLATIVE BILL 849. Title read. Considered.

Standing Committee amendment, AM1071, printed separately from the Journal and referred to on page 1488, was considered.

Mr. Lynch renewed his pending amendment, AM0956, found in the Journal on page 1531, to the pending Standing Committee amendment.

Mr. Lamb moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

Mr. Lynch moved for a call of the house. The motion prevailed with 28 ayes, 0 nays, and 21 not voting.

Mr. Lynch requested a roll call vote on his amendment.

Voting in the affirmative, 19:

Abboud	Cudaback	Labedz	Robak	Schmit
Byars	Hartnett	Lamb	Robinson	Warner
Chizek	Hefner	Lynch	Rogers	Wesely
Crosby	Johnson, L.	Peterson	Schimek	

Voting in the negative, 21:

Ashford	Elmer	Landis	Pirsch	Wehrbein
Baack	Haberman	Lindsay	Rasmussen	Wickersham
Bernard-Stevens	Hall	Moore	Schellpeper	Will
	Hillman	Nelson	Schrock	Withem
Conway	Kristensen			

Present and not voting, 7:

Beutler	Coordsen	Horgan	Johnson, R.	Smith
Beyer	Dierks			

Excused and not voting, 2:

Chambers	Morrissey

The Lynch amendment lost with 19 ayes, 21 nays, 7 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

Mr. Lynch renewed his pending amendment, AM0994, found in the Journal on page 1532, to the pending Standing Committee amendment.

Mr. Hefner moved the previous question. The question is, "Shall the debate now close?" The motion lost with 21 ayes, 7 nays, and 21 not voting.

Mr. Haberman and Mrs. Labedz asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Hall requested a division of the question on the Lynch amendment.

The Chair sustained the division of the question.

The first Lynch amendment, to the pending Standing Committee amendment, is as follows:
FA138

(Amendments to AM1071)

1. On page 4, after line 24, insert the following new subdivision:

"All contracts for goods or services essential to the operation of a lottery shall require that the person awarded the contract establish a permanent office in this state;".

2. On page 5, line 1, strike "(4)" and insert "(5)"; and in line 4 strike "(5)" and insert "(6)".

Messrs. Beutler, Dierks, and Robinson asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Hall moved for a call of the house. The motion prevailed with 17 ayes, 0 nays, and 32 not voting.

Mr. Lynch requested a roll call vote on his amendment.

Voting in the affirmative, 19:

Abboud	Crosby	Horgan	Lynch	Smith
Ashford	Cudaback	Johnson, L.	Peterson	Wesely
Byars	Elmer	Kristensen	Pirsch	Withem
Coordsen	Hefner	Lamb	Schellpeper	

Voting in the negative, 16:

Baack	Hall	Lindsay	Schimek	Warner
Bernard-Stevens	Hillman	Moore	Schmit	Wehrbein
Conway	Johnson, R.	Rasmussen	Schrock	Will
	Landis			

Present and not voting, 7:

Beyer	Hartnett	Robak	Rogers	Wickersham
Chizek	Nelson			

Excused and not voting, 7:

Beutler	Dierks	Labedz	Morrissey	Robinson
Chambers	Haberman			

The first Lynch amendment was adopted with 19 ayes, 16 nays, 7 present and not voting, and 7 excused and not voting.

The Chair declared the call raised.

The second Lynch amendment, to the pending Standing Committee amendment, is as follows:
FA139

(Amendments to AM1071)

1. On page 4, after line 24, insert the following new subdivision:
"(4) Preference shall be given to bidders and applicants for contracts based in Nebraska if the costs and benefits are equal or superior to those available from competing persons.

Messrs. Beyer and Schmit asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Lynch requested a record vote on his amendment.

Voting in the affirmative, 16:

Chizek	Horgan	Labedz	Pirsch	Smith
Cudaback	Johnson, L.	Lindsay	Schimek	Wesely
Hall	Kristensen	Lynch	Schrock	Will
Hefner				

Voting in the negative, 10:

Ashford	Bernard-Stevens	Byars	Hillman	Landis
Baack		Conway	Lamb	Warner
				Wehrbein

Present and not voting, 15:

Abboud	Elmer	Moore	Rasmussen	Schellpeper
Coordsen	Hartnett	Nelson	Robak	Wickersham
Crosby	Johnson, R.	Peterson	Rogers	Withem

Excused and not voting, 8:

Beutler	Chambers	Haberman	Robinson	Schmit
Beyer	Dierks	Morrissey		

The Lynch amendment was adopted with 16 ayes, 10 nays, 15 present and not voting, and 8 excused and not voting.

Pending.

SELECT COMMITTEE REPORTS
Enrollment and Review

Correctly Engrossed

The following bills were correctly engrossed: 90, 90A, 203, 203A, 579, 727, 798, and 850.

(Signed) Eric Will, Chairperson

Enrollment and Review Change to LB 203

The following changes, required to be reported for publication in the Journal, have been made:
ER7067
1. In the E and R amendment, AM5117:

a. On page 2, line 16, "provisions relating to" has been struck and "provide for" inserted; and

b. On page 4, line 9, "beginning with" has been struck; and the matter beginning with "through" in line 9 through the last quotation mark in line 10 has been struck.

2. In the Standing Committee amendment, AM0383:

a. Amendment 4 has been struck and the following new amendment inserted:

"4. On page 5, line 19, strike 'either'; and in line 20 strike beginning with 'residential' through 'a' and show the old matter as stricken."; and

b. On page 26, line 15, "76-2249," has been struck and "to" inserted.

3. On page 1, line 9, "change" has been struck.

Enrollment and Review Change to LB 579

The following changes, required to be reported for publication in the Journal, have been made:

ER7062

1. Because of the passage and approval of LB 583:

a. The following new sections have been inserted:

"Sec. 142. Section 143 of this act shall become operative on October 1, 1991. The other sections of this act shall become operative on their effective date.

Sec. 143. That sections 54-2106 and 54-2117, Reissue Revised Statutes of Nebraska, 1943, as amended by sections 130 and 131, respectively, Legislative Bill 579, Ninety-second Legislature, First Session, 1991, are repealed."; and

b. The remaining sections have been renumbered accordingly.

2. In the Warner amendment, FA121, on page 1, line 1, "21" has been struck and "22" inserted; in line 2 "State Election Commissioner" has been struck and "commissioner" inserted; and in line 4 "his or her" has been struck and "their" inserted.

3. In the Conway amendment, AM1231:

a. On page 3, line 19, "will" has been struck and "serves" inserted and "serve" has been struck and shown as stricken;

b. On page 7, line 6, "paragraphing and" has been inserted after "insert"; and

c. On page 8, line 1, "or otherwise used" has been inserted after "State".

4. In the E and R amendment, AM5112:

a. On page 7, line 4, "chairman" has been struck, shown as stricken, and "chairperson" inserted;

b. On page 8, line 20, "60" has been struck and "2" inserted; and

c. On page 14, line 2, "to change the membership of the board of state canvassers; to change provisions relating to elections in multiple-county public power districts;" has been inserted after the first semicolon; in line 3 "to provide operative dates;" has been inserted after the first semicolon; and in line 5 ", and sections 54-2106 and 54-2117, Reissue Revised Statutes of Nebraska, 1943, as amended by sections 130 and 131, respectively, Legislative Bill 579, Ninety-second Legislature, First Session, 1991" has been inserted after "1943".

5. In the Conway amendment, AM0868:

a. On page 23, line 12, "of directors" has been inserted after "board";

b. On page 24, line 18, "governing" has been inserted before "board";

c. On page 28, line 6, "the Governor" has been struck, shown as stricken, and "he or she" inserted;

d. On page 41, line 22; and page 100, line 18, the new matter has been struck and the stricken matter reinstated;

e. On page 58, line 24, "State" has been reinstated and "board" has been struck and "Election Board" inserted;

f. On page 74, line 4, "percentage" has been struck and shown as stricken; and in line 5 "section" has been struck, shown as stricken, and "subsection" inserted;

g. On page 80, lines 17 and 18, the new matter has been struck and the stricken matter reinstated; in line 19 "Secretary of State" has been reinstated; and in line 20 "board" has been struck and "shall notify the State Election Board which" inserted;

h. On page 81, line 10, the new matter has been struck and the stricken matter reinstated;

i. On page 110, line 4, an underscored comma has been inserted after "subsection";

j. On page 122, line 22, the second "the" has been struck and shown as stricken;

k. On page 156, line 1, "who" has been struck, shown as stricken, and "which" inserted;

l. On page 196, line 1, the comma has been struck and shown as stricken;

m. On page 197, line 18, "board" has been struck and "State Election Board" inserted; and

n. On page 216, line 2, "educational service unit" has been inserted after "the".

Enrollment and Review Change to LB 798

The following changes, required to be reported for publication in the Journal, have been made:
ER7061

1. In the Lindsay amendment, AM0876:

a. Sections 3 and 4 have been renumbered as sections 6 and 7 respectively;

b. On page 1, line 19, "where" has been struck and "in which" inserted; and

c. On page 2, line 20, an underscored comma has been inserted after "month".

2. In the Kristensen amendment, AM1099, on page 3, line 11, "and" has been struck.

3. In the E & R amendment, AM5109, on page 1, line 2, the second "and" has been struck.

4. In the Standing Committee amendments, AM0576, on page 2, line 19, the second "and" has been struck.

5. On page 1, line 1, "county medical facilities" has been struck and "counties" inserted; in line 2 "23-343.11, 23-343.19," has been inserted after the last comma; in line 3 "23-1401, and 23-1405," has been inserted before "Reissue"; in line 5 "for medical facilities; to exempt tax levies for medical facilities from certain levy limitations; to change provisions relating to county comptrollers" has been inserted after "equipment"; in line 6 "and" has been struck and "to provide severability;" inserted; and in line 7 "; and to declare an emergency" has been inserted after "sections".

6. On page 5, lines 21 and 22, ", except intangible property," has been struck and shown as stricken.

Enrollment and Review Change to LB 850

The following changes, required to be reported for publication in the Journal, have been made:
ER7064

1. In the Morrissey amendment, AM1111, on page 1, line 12 "and all amendments thereto" has been inserted after the last quotation mark; and in line 13 "1,545,850.35" has been struck and "1,545,594.42" inserted.

2. On page 4, line 24 and all amendments thereto have been struck and "Federal Funds 34,064.87" inserted.

(Signed) Mary E. Sommermeyer
E & R Attorney

LEGISLATIVE BILL 91. Placed on Select File as amended.
E & R amendment to LB 91:
AM5138

1. Strike the original sections and all amendments thereto and insert the following new sections:

"Section 1. That section 79-3501, Revised Statutes Supplement, 1990, be amended to read as follows:

79-3501. Sections 79-3501 to ~~79-3511~~ 79-3510 and sections 3 and 4 of this act shall be known and may be cited as the Help Education Lead to Prosperity Act.

Sec. 2. That section 79-3505, Revised Statutes Supplement, 1990, be amended to read as follows:

79-3505. (1) Each provider shall certify to the department each year (a) the number of full-time equivalent teachers employed by the provider for the school year and (b) the weighted number of full-time equivalent teachers based on the weighted values found in subsection (2) of this section.

(2) In calculating the weighted number of full-time equivalent teachers, the following values shall be used:

(a) A full-time equivalent teacher with a bachelor's degree shall be counted as one full-time equivalent teacher; and ~~paid less than the amounts prescribed in subdivision (b) of this subsection as regular compensation shall not be counted in the calculation;~~

~~(b)(i) For school year 1989-90, a full-time equivalent teacher paid at least sixteen thousand dollars but less than nineteen thousand dollars as regular compensation shall be counted as sixty-hundredths of one full-time equivalent teacher; and~~

~~(ii) For school year 1990-91, a full-time equivalent teacher paid at least seventeen thousand dollars but less than nineteen thousand dollars as regular compensation shall be counted as sixty-hundredths of one full-time equivalent teacher;~~

~~(c) A full-time equivalent teacher paid nineteen thousand dollars or more as regular compensation shall be counted as one full-time~~

~~equivalent teacher; and~~

(b) ~~(d)~~ A full-time equivalent teacher with a master's degree~~, regardless of his or her regular compensation,~~ shall be counted as one and one-fifth full-time equivalent teachers.

(3) The department shall compute each provider's dollar share of program funds using the formula provided in subsection (4) of this section and shall provide such information to the State Treasurer.

(4) The State Treasurer shall distribute an amount to providers in the same proportion as their weighted number of full-time equivalent teachers bears to the weighted number of full-time equivalent teachers in the state as a whole employed by providers which have submitted the information as required by this section. ~~Any amounts distributed under this subsection shall be~~ All of the first fifteen million dollars appropriated and two-thirds of the amount in excess of twenty million dollars appropriated for distribution pursuant to the Help Education Lead to Prosperity Act shall be used only for purposes of providing general salary increases which are bargained for together with other salary increases and benefit changes at the local level and for paying the employer's share of federal social security and retirement benefit payments on such salary increases.

(5) After the fifteen million dollars have been appropriated for general salary increases, the next five million dollars appropriated and one-third of the amount appropriated in excess of twenty million dollars for distribution pursuant to the act shall be used only for purposes of providing performance-based salary increases. The State Treasurer shall distribute each year an amount to providers in the same proportion as their weighted number of full-time equivalent teachers bears to the weighted number of full-time equivalent teachers in the state as a whole employed by providers which have submitted the information as required by this section. The State Treasurer shall not distribute any money to a provider under this section until the department has certified that a performance-based salary plan has been agreed to by the teachers and the provider and the plan has been approved by the department based on criteria established by the department. The plan shall be submitted to the department by January 1 of

each year.

(6) The State Treasurer shall not distribute any money to a provider under this section until the department has certified that the provider and local teacher association, or local bargaining group if there is no local teacher association, have agreed to each element of the plan which involves a mandatory subject of bargaining.

Sec. 3. For purposes of subdivision (13) of section 79-3803, funds received to carry out the Help Education Lead to Prosperity Act in excess of amounts received in school year 1990-91 shall be considered special grant funds.

Sec. 4. No revenue raised pursuant to the increases in the income tax rate and sales tax rate provided in Laws 1990, LB 1059, shall be appropriated by the Legislature in support of the Help Education Lead to Prosperity Act.

Sec. 5. That original sections 79-3501 and 79-3505, Revised Statutes Supplement, 1990, and also section 79-3511, Revised Statutes Supplement, 1990, are repealed.".

2. On page 1, after line 5 insert "change provisions relating to distribution of funds; to"; and in line 6 after the semicolon insert "to provide a limitation on appropriation of revenue;".

LEGISLATIVE BILL 91A. Placed on Select File.
LEGISLATIVE BILL 714A. Placed on Select File.

LEGISLATIVE BILL 827. Placed on Select File as amended.
(E & R amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM5140.)

LEGISLATIVE BILL 827A. Placed on Select File.

LEGISLATIVE BILL 413. Placed on Select File as amended.
E & R amendment to LB 413:
AM5141

1. On page 2, line 22, strike the comma and show as stricken, after "or" insert an underscored comma, and reinstate the stricken comma; and in line 23 strike the comma and show as stricken.

LEGISLATIVE BILL 638. Placed on Select File as amended.
E & R amendment to LB 638:
AM5142

1. In the Standing Committee amendments, AM0946:

a. On page 2, line 1, strike "and youth"; in line 9 strike "for" and insert "of"; and in line 10 strike "is not" and insert "not be";

b. On page 3, line 1, strike "support systems" and insert "needs"; and in line 16 after "appropriate" insert a comma;

c. On page 4, line 1, strike "and"; in line 3 after "department" insert "and team"; in line 4 after "act" insert "; and

(4) Team shall mean the Children with Disabilities and Family Service System Planning Team created in section 7 of this act"; and strike beginning with "Children" in line 6 through "act" in line 7 and insert "team";

d. On page 5, line 5, strike "students" and insert "children"; in line 22 strike "planning"; and strike beginning with "prepared" in line 23 through line 24;

e. On page 6, line 1, strike "Service System Planning Team"; in line 5 strike "for" and insert "of"; strike beginning with "prepared" in line 9 through "Team" in line 11; in line 17 strike "(1)"; in line 18 strike "representing" and insert "and shall represent"; in line 22 strike "planning"; and in line 24 strike "(2)" and strike "department" and insert "State Department of Education"; and

f. On page 7, line 4, strike "(3)"; and strike beginning with "Children" in line 16 through "act" in line 17 and insert "team".

2. On page 1, strike beginning with the second "to" in line 1 through the semicolon in line 5; and strike beginning with "to" in line 7 through line 14 and insert "and to declare an emergency.".

3. On page 2, strike lines 1 through 7.

LEGISLATIVE BILL 638A. Placed on Select File.

(Signed) Eric Will, Chairperson

STANDING COMMITTEE REPORTS
Natural Resources

The Committee on Natural Resources desires to report favorably upon the appointments listed below. The Committee suggests the appointments be confirmed by the Legislature and suggests a record vote.

Glen L. Kroese - Natural Resources Commission
Wilbur L. Nelson - Natural Resources Commission
Michael Shaughnessy - Natural Resources Commission
Charles Wright - Game and Parks Commission

VOTE: Aye: Senators Beutler, Elmer, Hartnett, Horgan, R. Johnson, Lamb, Morrissey, and Schmit.

LEGISLATIVE BILL 301. Placed on General File as amended.
Standing Committee amendment to LB 301:
AM1575

1. Strike the original sections and insert the following new sections:

"Section 1. The Auditor of Public Accounts shall require that any privately owned utility selling natural gas in this state shall file an annual statement certifying that no part of such utility's rate base is utilized to subsidize or cross-subsidize the sales or service divisions of the utility, whether such division is an affiliate or subsidiary of the utility. Additionally, such privately owned utility shall file with the Auditor of Public Accounts an annual statement of the utility, sworn and signed by an officer of the utility. The Auditor of Public Accounts may adopt and promulgate rules and regulations to carry out the provisions of this section.

Sec. 2. Any person violating section 1 of this act shall be guilty of a Class IV misdemeanor and shall, in addition, be subject to a civil penalty not to exceed twenty-five thousand dollars per violation.".

(Signed) Rod Johnson, Chairperson

NOTICE OF COMMITTEE HEARINGS
Government, Military and Veterans Affairs

LB 615	Tuesday, May 14, 1991	3:00 p.m.
LB 616	Tuesday, May 14, 1991	3:00 p.m.
LB 617	Tuesday, May 14, 1991	3:00 p.m.
LB 618	Tuesday, May 14, 1991	3:00 p.m.
LB 619	Tuesday, May 14, 1991	3:00 p.m.
LB 18	Tuesday, May 14, 1991 (Rehearing)	3:00 p.m.
LB 614	Thursday, May 16, 1991	3:00 p.m.

(Signed) Gerald Conway, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 76. Introduced by Haberman, 44.

WHEREAS, on Monday, April 29, 1991, the University of Nebraska-Lincoln student newspaper Daily Nebraskan issued a "joke supplement" to its regular issue; and

WHEREAS, the "joke supplement" to the Daily Nebraskan has been issued near the end of the second semester every year for the last eighteen years; and

WHEREAS, the "joke supplement" to the Daily Nebraskan is intended as a satire on certain aspects of our society; and

WHEREAS, on Tuesday, April 30, 1991, Mr. Lawrence S. Primeau, Director of Administrative Services, prohibited the further distribution of the Daily Nebraskan, as well as all other free newspapers, on state property; and

WHEREAS, the first amendment to the Constitution of the United States and Article I, section 5 of the Constitution of the State of Nebraska guarantee the right to exercise freedom of speech in this country and in this state; and

WHEREAS, the state, in this circumstance, has infringed upon that right.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Daily Nebraskan and all other free newspapers shall continue to be distributed in their usual places in the State Capitol and other state buildings.

2. That copies of this resolution be sent to the Daily Nebraskan and Mr. Lawrence S. Primeau.

Laid over.

UNANIMOUS CONSENT - Print in Journal

Mr. Wesely asked unanimous consent to print the following amendment to LB 703 in the Journal. No objections. So ordered.

(Amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM0916.)

VISITORS

Visitors to the Chamber were 40 fifth grade students and teachers from Milford; Denise Taylor Croshaw; Bruce and Carol Hendrickson from Holdrege; 50 fourth grade students and sponsors from Bel Air, Norfolk; and Larry Johnson, Principle Legal Officer from the office of Legal Counsel at the United Nations, and his daughter.

RECESS

At 11:59 a.m., on a motion by Mr. Baack, the Legislature recessed until 1:30 p.m.

AFTER RECESS

The Legislature reconvened at 1:30 p.m., Speaker Baack presiding.

ROLL CALL

The roll was called and all members were present except Messrs. Beyer, Chambers, Conway, Haberman, Kristensen, and Landis who were excused until they arrive.

UNANIMOUS CONSENT - Print in Journal

Mr. Will asked unanimous consent to print the following amendment to LB 719 in the Journal. No objections. So ordered.

AM1577

(Amendments to E&R amendments, AM5130)

1. Insert the following new sections:

"Sec. 60. That section 79-12,116, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-12,116. Hearings involving the question of

the nonrenewal of a probationary certificated employee's contract or the nonrenewal of a superintendent shall not be due process hearings and shall not be required to meet the requirements of section 79-12,115, but shall be informal hearings ~~before the school board~~ at which the probationary certificated employee or superintendent involved or his or her representative shall be afforded the opportunity to discuss and explain ~~to the school board~~ his or her position with regard to continued employment, to present information, and to ask questions of those appearing on behalf of the school district. Such hearings shall be held in closed session at the request of the certificated employee or superintendent involved, or his or her representative, and upon affirmative vote of a majority of the board members present and voting, but the formal action of the school board for nonrenewal shall be in open session.

Sec. 61. That section 79-12,117, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-12,117. The hearing for a probationary certificated employee, except a superintendent, provided in section 79-12,116, may be held before a committee of the school board consisting of not less than three of the board's total members. Notice of such a hearing shall be sent to all board members five days prior to such hearing. If a hearing is held before such a committee, the majority opinion of the committee shall constitute a recommendation to the ~~school~~ board with the final determination being made by a majority vote of the members of the board without additional hearing. The hearing for a superintendent, provided in section 79-12,116, shall not be held before a committee of the ~~school~~ board. Notice shall be given to all parties at least five days prior to such a hearing. A vote of the majority of the members of the board shall determine final action relative to the contract of the superintendent.

Sec. 62. Any school board may require that hearings held pursuant to sections 79-12,107 to 79-12,121 and such other hearings as designated by the board, be conducted by a hearing officer as specified in sections 63 to 65 of this act. If a hearing is held before a hearing officer as specified in this act, the

requirements of section 79-12,114 that final action must be taken by the school board on or before May 15 of each year and that a hearing must be held within thirty days of the date of the request for a hearing shall not apply.

Sec. 63. The parties to the hearing or their representatives may agree to select any person qualified under section 65 of this act as the hearing officer. If the parties cannot agree on the selection of a hearing officer within seven days of the filing of the request for a hearing, the secretary of the school board shall immediately request a list of hearing officers from the State Department of Education. The department shall at all times maintain a list of at least five qualified hearing officers and shall provide a copy of the list within five days of receipt of a written request from the secretary of the board. The parties or their representatives shall select the hearing officer by alternately removing a name from the list until only one name remains. The person whose name remains shall be the hearing officer. The parties shall determine by lot which party shall remove the first name from the list. Such selection shall be completed within seven days of receipt of the list from the department. The secretary of the board shall inform the department of the name of the hearing officer selected.

Sec. 64. Any person selected as a hearing officer pursuant to section 63 of this act shall be an attorney admitted to practice in Nebraska and shall be knowledgeable in the rules of civil procedure and evidence applicable to the district courts.

Sec. 65. The hearing officer selected pursuant to section 63 of this act shall conduct the hearing, hear evidence, and make recommended findings of fact and conclusions of law. The hearing shall be held in private if the employee so requests, otherwise the hearing shall be conducted in public. Within thirty days following the hearing, the hearing officer shall transmit to the school board the original or a certified copy of the record of the hearing, including the recommended findings of fact and conclusions of law. The record certified and filed by the hearing officer shall be the record upon which the board shall make its decision and no additional evidence shall be heard by

the board. The board shall give each party an opportunity for oral argument prior to making its decision. In making its decision, the board shall give weight to the findings of fact of the hearing officer, but shall not be bound by them. The board shall make its decision within twenty days of receipt of the record from the hearing officer. All expenses and fees of the hearing officer in connection with the hearing shall be paid for by the board.".

2. On page 140, line 5, strike "92" and insert "98", and in line 16 after the fourth comma insert "79-12,116, 79-12,117,".

3. Renumber the remaining sections accordingly.

GENERAL FILE

LEGISLATIVE BILL 849. Mrs. Smith renewed her pending amendment, AM1338, found in the Journal on page 1726, to the pending Standing Committee amendment.

Mrs. Smith withdrew her pending amendment.

Mr. Moore renewed his pending amendment, AM1351, found in the Journal on page 1743, to the pending Standing Committee amendment.

Mr. Lamb moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

Mr. Schmit asked unanimous consent to be excused until he returns. No objections. So ordered.

The Moore amendment was adopted with 19 ayes, 0 nays, 23 present and not voting, and 7 excused and not voting.

Mr. Withem asked unanimous consent to replace his pending amendment, AM1362, found in the Journal on page 1768, with a substitute amendment. No objections. So ordered.

Mr. Withem withdrew his pending amendment, AM1362, found in the Journal on page 1768.

Mr. Withem renewed the substitute Hall amendment, AM1570, found in the Journal on page 1918, to the pending Standing Committee amendment.

Mr. R. Johnson asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Withem moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 0 nays, and 23 not voting.

The Hall-Withem amendment was adopted with 23 ayes, 8 nays, 11 present and not voting, and 7 excused and not voting.

Mrs. Labedz withdrew her pending amendment, AM1465, found in the Journal on page 1823.

Mr. Withem withdrew his pending amendment, AM1463, found in the Journal on page 1824.

Mr. Will asked unanimous consent to replace his pending amendment, AM1565, found in the Journal on page 1915, with a substitute amendment. No objections. So ordered.

Mr. Will withdrew his pending amendment, AM1565, found in the Journal on page 1915.

Mr. Will offered the following substitute amendment to the pending Standing Committee amendment:
AM1626
1. On page 26, line 10, strike "except"; and
in line 11 strike "(1)(b)" and insert "(1)(a)".

The Will amendment was adopted with 15 ayes, 0 nays, 27 present and not voting, and 7 excused and not voting.

Mr. Conway asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Abboud offered the following amendment to the pending Standing Committee amendment:
FA140
(Amendments to Standing Committee amendments, AM1071)
1. On page 10, strike beginning with "Any" in

line 1 through line 24 and insert "Of the money remaining after the payment of prizes and operating expenses, one percent of such money credited to the Legislative Assistance Fund shall be transferred to the Gamblers Assistance Fund and the remaining money shall be used as the Legislature shall direct.

(2) The Gamblers Assistance Fund is hereby created. The fund shall be administered by the Director of Social Services and shall be used to provide assistance and counseling to individuals and families experiencing difficulty as a result of gambling losses and to promote awareness of other gamblers assistance programs.".

2. On page 11, strike lines 1 through 24.

3. On page 12, strike lines 1 through 24.

4. On page 13, strike lines 1 through 24.

5. On page 14, strike lines 1 through 6; in line 7 strike "(4)" and insert "(3)"; in lines 8 and 9 strike "Education Innovation" and insert "Gamblers Assistance"; and in line 12 strike "(5)" and insert "(4)".

6. On page 29, line 24, strike "Education Innovation" and insert "Gamblers Assistance".

7. On page 30, strike beginning with "for" in line 1 through "disbursement" in line 7.

MR. WARNER PRESIDING

Mr. Abboud withdrew his pending amendment.

Mr. Schmit offered the following amendment to the pending Standing Committee amendment:
AM1639

(Amendments to AM1071)

1. Insert the following new sections:

"Sec. 47. That section 9-301, Revised Statutes Supplement, 1990, be amended to read as follows:

9-301. Sections 9-301 to 9-356 and section 48 of this act shall be known and may be cited as the Nebraska Pickle Card Lottery Act.

Sec. 48. The department shall contract with a manufacturer for pickle cards to be used pursuant to the Nebraska Pickle Card Act. The department shall

establish the terms and conditions of the contract, which may include security requirements, reporting requirements, and inspection requirements. In developing the contract, the department shall consider terms, conditions, and requirements utilized by other states for similar contracts. The department shall distribute pickle cards to licensed organizations to be used pursuant to the act.".

2. On page 121, line 10, after "9-226," insert "9-301,"; and in line 12 after the comma insert "and also sections 9-307, 9-313, and 9-330, Reissue Revised Statutes of Nebraska, 1943, and sections 9-331, 9-332, and 9-333, Revised Statutes Supplement, 1990,".

3. Renumber the remaining sections, correct internal references, and harmonize other sections accordingly.

Messrs. Chizek and Byars asked unanimous consent to be excused until they return. No objections. So ordered.

The Schmit amendment was adopted with 16 ayes, 9 nays, 17 present and not voting, and 7 excused and not voting.

SPEAKER BAACK PRESIDING

Mr. Ashford asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Abboud offered the following amendment to the pending Standing Committee amendment:
AM1654

(Amendments to AM1570)

1. On page 1, line 8, after the underscored period insert "Of the money transferred to the Education Innovation Fund and the Legislative Assistance Fund, one-half percent of the money in each such fund shall be transferred to the Gamblers Assistance Fund to be used as provided in subsection (5) of this section."; in line 16 after the underscored period insert:

"(5) The Gamblers Assistance Fund is hereby created. The fund shall be administered by the Director of Social Services and shall be used to provide assistance and counseling to individuals and families experiencing difficulty as a result of gambling losses

and to promote awareness of other gamblers assistance programs."; in line 17 strike "(5)" and insert "(6)"; in line 18 strike "or"; in line 19 after "Fund" insert ", or the Gamblers Assistance Fund"; and in line 20 strike "(6)" and insert "(7)".

2. On page 2, line 2, strike "and (e)" and insert "(e) the Gamblers Assistance Fund, and (f)".

The Abboud amendment was adopted with 25 ayes, 0 nays, 18 present and not voting, and 6 excused and not voting.

The Standing Committee amendment, as amended, was adopted with 25 ayes, 0 nays, 18 present and not voting, and 6 excused and not voting.

Mr. Will moved for a call of the house. The motion prevailed with 24 ayes, 0 nays, and 25 not voting.

Mr. Will requested a roll call vote on the advancement of the bill.

Voting in the affirmative, 26:

Abboud	Cudaback	Lindsay	Robak	Smith
Baack	Dierks	Lynch	Schellpeper	Wesely
Bernard-Stevens	Elmer	Moore	Schimek	Wickersham
Byars	Hall	Morrissey	Schmit	Will
Conway	Hartnett	Rasmussen	Schrock	Withem
	Horgan			

Voting in the negative, 16:

Coordsen	Johnson, L.	Labedz	Nelson	Rogers
Crosby	Johnson, R.	Lamb	Peterson	Warner
Hefner	Kristensen	Landis	Pirsch	Wehrbein
Hillman				

Present and not voting, 2:

Beutler Robinson

Excused and not voting, 5:

Ashford	Beyer	Chambers	Chizek	Haberman

Advanced to E & R for review with 26 ayes, 16 nays, 2 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Mrs. Pirsch asked unanimous consent to be excused. No objections. So ordered.

LEGISLATIVE BILL 849A. Title read. Considered.

Mr. Will moved for a call of the house. The motion prevailed with 12 ayes, 0 nays, and 37 not voting.

Mr. Will requested a roll call vote on the advancement of the bill.

Voting in the affirmative, 21:

Abboud	Hall	Lindsay	Robak	Wesely
Baack	Hartnett	Lynch	Schellpeper	Wickersham
Conway	Horgan	Morrissey	Schmit	Will
Dierks	Landis	Rasmussen	Smith	Withem
Elmer				

Voting in the negative, 18:

Bernard-Stevens	Crosby	Johnson, R.	Moore	Rogers
	Hefner	Kristensen	Nelson	Warner
Byars	Hillman	Labedz	Peterson	Wehrbein
Coordsen	Johnson, L.	Lamb	Robinson	

Present and not voting, 4:

Beutler	Cudaback	Schimek	Schrock

Excused and not voting, 6:

Ashford	Chambers	Chizek	Haberman	Pirsch
Beyer				

Failed to advance to E & R for review with 21 ayes, 18 nays, 4 present and not voting, and 6 excused and not voting.

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 522A. Introduced by Dierks, 40.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 522, Ninety-second Legislature, First Session, 1991.

UNANIMOUS CONSENT - Print in Journal

Mr. Hefner asked unanimous consent to print the following amendment to LB 91 in the Journal. No objections. So ordered.

AM1541

(Amendments to AM5138)

1. On page 3, lines 13 and 22, strike "fifteen" and insert "ten"; and in line 24 strike "five" and insert "ten".

Mr. Wesely asked unanimous consent to print the following amendment to LB 836 in the Journal. No objections. So ordered.

AM1582

1. Insert the following new section:

"Sec. 32. That section 79-439, Revised Statutes Supplement, 1990, be amended to read as follows:

79-439. In all meetings of any school board or board of education a majority of the members shall constitute a quorum for the transaction of business. Regular meetings shall be held on or before the third Monday of every month. All meetings of the board shall be subject to sections 84-1408 to 84-1414. Special meetings may be called by the president or any two members, but all members shall have notice of the time and place of meeting. Sections 79-439 to ~~79-444~~ 79-443 shall not apply to Class IV or V school districts.".

2. On page 32, line 17, strike "section" and insert "sections 79-439 and".

3. Renumber remaining sections and correct internal references accordingly.

Messrs. R. Johnson, Baack, and Mrs. Nelson asked unanimous consent to print the following amendment to LB 849 in the Journal. No objections. So ordered.

AM1511
(Amendments to Standing Committee amendments, AM1071)

1. On page 10, line 1, strike "Any" and insert "Two percent of any"; and in line 2 after "to" insert "the Thoroughbred Racing Assistance Fund and the balance to".

2. On page 14, after line 7, insert the following new subsection:

"(4) The Thoroughbred Racing Assistance Fund is hereby created. The fund shall consist of the money to be transferred to such fund pursuant to subsection (1) of this section. The Thoroughbred Racing Assistance Fund shall be for the purpose of supplementing purses for live thoroughbred racing in Nebraska and shall be distributed by the State Racing Commission to the licensed race tracks based proportionately on the percentage of the live race handle of the prior year.";

in line 7, strike "(4)" and insert "(5)"; in line 8 strike "or"; in line 9 after "Fund" insert ", or the Thoroughbred Racing Assistance Fund"; and in line 12 strike "(5)" and insert "(6)".

Mr. Beutler asked unanimous consent to print the following amendment to LB 849 in the Journal. No objections. So ordered.

AM1647
(Amendments to Standing Committee amendments, AM1071)

1. On page 10, line 6, strike "Governor" and insert "State Department of Education".

2. On page 13, line 7, strike "Governor" and insert "State Department of Education"; and in line 21 after "Governor" insert ", the Legislature, and the State Department of Education".

3. On page 30, line 1, strike "Governor" and insert "State Department of Education".

VISITORS

Visitors to the Chamber were 15 seniors and teacher from Walthill; 22 fourth grade students and sponsor from Pawnee; Karen Leacock

and Nicki Lester from Pound Junior High, Lincoln; and 14 eighth grade students and teacher from St. Marys, Bellevue.

ADJOURNMENT

At 4:35 p.m., on a motion by Mr. Moore, the Legislature adjourned until 9:00 a.m., Wednesday, May 8, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

SEVENTY-THIRD DAY - MAY 8, 1991

LEGISLATIVE JOURNAL

SEVENTY-THIRD DAY - MAY 8, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

SEVENTY-THIRD DAY

Legislative Chamber, Lincoln, Nebraska
Wednesday, May 8, 1991

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Moul presiding.

PRAYER

The prayer was offered by Rev. Harland Johnson, Chaplain Coordinator.

ROLL CALL

The roll was called and all members were present except Messrs. Ashford, Bernard-Stevens, Beutler, Chambers, Conway, Dierks, Haberman, Hartnett, Hefner, Lamb, Landis, Moore, Morrissey, Rogers, Schellpeper, Schmit, Warner, Mmes. Pirsch, and Robak who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Seventy-Second Day was approved.

UNANIMOUS CONSENT - Print in Journal

Mr. Conway, Chairman of the Government, Military and Veterans Affairs Committee, asked unanimous consent to print the following in the Journal. No objections. So ordered.

The Government, Military and Veterans Affairs Committee has recently adopted Substantive and Procedural Guidelines pertaining to the redistricting of Nebraska.

PROCEDURAL GUIDELINES
1991 REDISTRICTING

Submitted by the Committee on Government, Military & Veterans' Affairs

The following procedural guidelines have been developed to guide the Legislature during the 1991 redistricting process:

1. The Committee on Government, Military & Veterans' Affairs shall develop, introduce and conduct public hearings on seven separate bills that will contain redistricting proposals for: the United States House of Representatives, the Nebraska Legislature, the Nebraska Supreme Court, the Public Service Commission, the Board of Regents, the State Board of Education and the Coordinating Commission for Postsecondary Education. If individual senators wish to introduce redistricting plans, they are encouraged to do so by way of offering them as amendments to the Government Committee bills.

2. All plans submitted for consideration by the Government Committee must be sponsored by an individual senator or senators.

3. The Government Committee will accept for consideration from individual senators only those plans which have been created on or converted to the Legislature's computerized redistricting system (the GIS system).

4. The Legislature will provide computer staff to operate the GIS system. The GIS computer staff will be under the sole jurisdiction of the Government Committee. This temporary reassignment of personnel shall continue until the completion of the redistricting process. The GIS computer staff and equipment shall be located in offices adjoining the office of the Chairperson of the Government Committee.

5. The Government Committee will be responsible for developing an equitable plan for allocating computer and computer staff time among individual senators and the Government Committee.

6. The Government Committee shall determine the point at which Government Committee maps will be available for distribution.

7. Any plan generated on the GIS computer shall be confidential unless the chief sponsor of each plan shall authorize its release in writing.

8. No public hearing shall be held on any redistricting bill until after the PL 94-171 population data are released by the United States Bureau of the Census.

9. The Government Committee shall do everything possible to encourage the participation of members of the public in the redistricting process. However, the precise nature and extent of that participation shall be subject to regulation by the Committee, and may be limited in a reasonable manner based on factors such as time constraints.

10. The Government Committee shall seek especially to involve members of minority groups in the redistricting process.

11. The Government Committee shall be authorized to establish, by a majority vote of the members of the committee, any policies and procedures not inconsistent with these guidelines that will facilitate the redistricting process.

12. Census population data shall be available to members of the public through the Nebraska State Data Center. The Government Committee may establish procedures under which committee and computer staff members may also disseminate population data to the public, time permitting.

SUBSTANTIVE GUIDELINES
1991 REDISTRICTING
Submitted by the Committee on Government, Military & Veterans' Affairs

The following minimum criteria are set forth to guide the Nebraska Legislature during the 1991 redistricting process. They are designed to help ensure that the plans developed are constitutionally acceptable.

1. All redistricting by the Nebraska Legislature in 1991 shall be based on population figures gathered by the United States Bureau of the Census during the 1990 Decennial Census.

2. District boundaries established by the Legislature during the 1991 redistricting process shall be based on census geography.

3. District boundary lines shall follow county lines whenever practicable, and shall define districts that are compact and contiguous, except that should adherence to any of the foregoing requirements cause a redistricting plan, or any aspect thereof, to be in violation of standards set forth by the United States Supreme Court in interpreting the United States Constitution, such requirement may be waived to the extent necessary to bring the plan or aspect of the plan into compliance with Supreme Court standards.

4. Insofar as possible, and within the context of the Supreme Court standards described in Guideline #3, above, district boundary lines shall define districts that are easily identifiable and understandable to voters, and that reflect unity of character or socio-economic interest.

5. District boundaries shall not be established with the intention of protecting or defeating any incumbent, or with the intention of discriminating against any political party that is legally recognized by the State of Nebraska and qualified to nominate candidates for public office at the time the redistricting plan in question is adopted by the Legislature.

6. The general goal of the redistricting process shall be the creation of districts that are substantially equal in population. The specific criteria under which redistricting plans shall be judged with regard to the issue of population equality are described below.

7. Any proposed redistricting plan that has as a consequence the dilution of the voting impact of any minority population shall not be considered.

8. The following criteria shall be specifically applicable to the public bodies for which the Legislature will create new district boundaries in 1991:

UNITED STATES HOUSE OF REPRESENTATIVES

1. Three single member districts.

2. Population among districts shall be as nearly equal as practicable, that is, with an overall range* of deviation approaching 0%. No plan

will be considered which results in an overall range of deviation in excess of 1%, or a relative deviation** in excess of +/-.5% from the ideal district population.

3. Any deviation from mathematical equality of population must be necessary to the achievement of a "legitimate state objective" or objectives as that concept has been articulated by the United States Supreme Court. To the extent that such objectives are relied on, they shall be applied consistently, and shall include, but not be limited to, the creation of compact districts, the preservation of municipal boundaries, and the preservation of the cores of prior districts. Whenever there is presented to the Legislature more than one plan that will substantially vindicate the above objectives, preference shall be given to the plan that provides the greatest degree of population equality.

SOURCES: United States Constitution, Art. I, Sec. 2
United States Constitution, Art. 14
(Equal Protection Clause)
Karcher v. Daggett, 462 U.S. 725 (1983)
Neb.Rev.Stat. Sec. 5-101.01

LEGISLATURE

1. Forty-nine single member districts.

2. The goal of equality of population from district to district shall guide the Legislature in establishing legislative district boundaries, although minor deviations in population shall be permitted. No plan shall be considered which results in an overall range of deviation in excess of 4%, or a relative deviation in excess of +/- 2% from the ideal district population.

3. Any deviation in excess of the above must be justifiable as necessary for the realization of a "rational state policy".

SOURCES: Nebraska Constitution, Art. III, Sec. 5
Neb.Rev.Stat. Sec. 5-103.01
Brown v. Thompson, 462 U.S. 835 (1983)

NEBRASKA SUPREME COURT

1. Six single member districts.

2. Equality of population shall be achieved in accordance with the standards established above for redistricting the Nebraska Legislature.

SOURCES: Nebraska Constitution, Art. V, Sec. 5
Neb.Rev.Stat. Sec. 5-109

BOARD OF REGENTS

1. Eight single member districts.

2. Equality of population shall be achieved in accordance with the standards established above for redistricting the Nebraska Legislature.

SOURCES: Nebraska Constitution, Art VII, Sec. 10
Neb.Rev.Stat. Sec. 85-103.01

PUBLIC SERVICE COMMISSION

1. Five single member districts.

2. Equality of population shall be achieved in accordance with the standards established above for redistricting the Nebraska Legislature.

SOURCES: Nebraska Constitution, Art. IV, Sec. 20
Neb.Rev.Stat. Sec. 5-107

STATE BOARD OF EDUCATION

1. Eight single member districts.

2. Equality of population shall be achieved in accordance with the standards established above for redistricting the Nebraska Legislature.

SOURCES: Nebraska Constitution, Art. VII, Sec. 3
Neb.Rev.Stat. Sec. 79-322.01

COORDINATING COMMISSION FOR POSTSECONDARY EDUCATION

1. Six single member districts.

2. Equality of population shall be achieved in accordance with the standards established above for redistricting the Nebraska Legislature.

SOURCE: Nebraska Constitution, Art. VII, Sec. 14

*Overall range is a figure arrived at as follows: First, determine what the "ideal" district population is by dividing the total population base (the population of the state) by the number of districts that need to be created. Once district boundaries are drawn, one can determine the "overall range" by adding together the amounts by which the most populous and the least populous districts deviate from the "ideal" (disregarding the "+" or "-" signs); then dividing that figure by the "ideal" district population figure. For example, if the "ideal" district population is 100,000, the largest district has a population of 102,000, and the smallest district has a population of 99,000, then the overall range is 2,000 plus 1,000 divided by 100,000 or 3%.

**Relative deviation is a figure that is arrived at by subtracting the "ideal" district population from the population of the district in question, then dividing that figure by the "ideal" population. Therefore, if the "ideal" population is 100,000, and a given district's population is 98,000, the relative deviation is -2%.

MOTION - Approve Appointments

Mr. R. Johnson moved the adoption of the report of the Natural Resources Committee for the following Governor appointments found in the Journal on page 1970: Glen L. Kroese, Wilbur L. Nelson, Michael Shaughnessy - Natural Resources Commission, and Charles Wright - Game and Parks Commission.

Voting in the affirmative, 25:

Abboud	Coordsen	Horgan	Nelson	Smith
Baack	Crosby	Johnson, L.	Rasmussen	Wehrbein
Beyer	Cudaback	Johnson, R.	Robinson	Wesely
Byars	Elmer	Labedz	Schimek	Will
Chizek	Hillman	Lindsay	Schrock	Withem

Voting in the negative, 0.

Present and not voting, 5:

Hall	Kristensen	Lynch	Peterson	Wickersham

Excused and not voting, 19:

Ashford	Chambers	Hartnett	Moore	Rogers
Bernard-Stevens	Conway	Hefner	Morrissey	Schellpeper
Beutler	Dierks	Lamb	Pirsch	Schmit
	Haberman	Landis	Robak	Warner

These appointments were confirmed with 25 ayes, 0 nays, 5 present and not voting, and 19 excused and not voting.

GENERAL FILE

LEGISLATIVE BILL 256. Title read. Considered.

Standing Committee amendment, AM1207, printed separately from the Journal and referred to on page 1655, was adopted with 26 ayes, 0 nays, 7 present and not voting, and 16 excused and not voting.

Advanced to E & R for review with 28 ayes, 0 nays, 11 present and not voting, and 10 excused and not voting.

LEGISLATIVE BILL 256A. Title read. Considered.

Advanced to E & R for review with 26 ayes, 0 nays, 14 present and not voting, and 9 excused and not voting.

LEGISLATIVE BILL 577. Title read. Considered.

Standing Committee amendment, AM0449, found in the Journal on page 1139, was considered.

Messrs. Baack, Haberman, Wickersham, Will, Bernard-Stevens, Abboud, R. Johnson, Lindsay, Kristensen, Lynch, Elmer, Moore, Conway, Chizek, Hall, Horgan, and Mrs. Pirsch renewed the pending amendment, AM1279, found in the Journal on page 1883, to the pending Standing Committee amendment.

MR. LANDIS PRESIDING

PRESIDENT MOUL PRESIDING

The Baack et al. amendment was adopted with 19 ayes, 2 nays, 24 present and not voting, and 4 excused and not voting.

Mrs. Robak asked unanimous consent to be excused until she returns. No objections. So ordered.

Mr. Chambers offered the following amendment to the pending Standing Committee amendment:
FA141
Amend Baack Amendment, AM1279
Page 2, first line of Sec. 8.
Strike: "two or more judgments are" and insert "a judgment is" and conform related language to this amendment.

Messrs. R. Johnson, Warner, and Schellpeper asked unanimous consent to be excused until they return. No objections. So ordered.

The Chambers amendment was adopted with 22 ayes, 0 nays, 19 present and not voting, and 8 excused and not voting.

Mr. Chambers offered the following amendment to the pending Standing Committee amendment:
FA142
Amend Committee Amendment AM0449
P. 1, Strike lines 15, 16

Mr. Chambers withdrew his pending amendment.

Mr. Chambers offered the following amendment to the pending Standing Committee amendment:
FA143
Amend: Committee Amendment, AM0449
P. 1 Strike lines 17, 18.

Mr. Beutler asked unanimous consent to be excused until he returns. No objections. So ordered.

The Chambers amendment was adopted with 15 ayes, 0 nays, 26 present and not voting, and 8 excused and not voting.

Mr. Chambers offered the following amendment to the pending Standing Committee amendment:
FA144
Amend Committee Amendment AM0449

P. 1 line 15 after "outlet" insert: "from which minors are excluded by law, or otherwise are denied access".

The Chambers amendment was adopted with 14 ayes, 0 nays, 27 present and not voting, and 8 excused and not voting.

Mr. Chambers offered the following amendment to the pending Standing Committee amendment:
FA145
Amend Baack amendment AM1279
On pg 2 line 18 strike "one year" and insert "five years"

The Chambers amendment was adopted with 17 ayes, 2 nays, 22 present and not voting, and 8 excused and not voting.

The Standing Committee amendment, as amended, was adopted with 25 ayes, 3 nays, 13 present and not voting, and 8 excused and not voting.

Mr. Dierks moved to indefinitely postpone LB 577.

Mr. Withem asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Wesely moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

Mr. Baack moved for a call of the house. The motion prevailed with 26 ayes, 0 nays, and 23 not voting.

Mr. Baack requested a roll call vote on the Dierks motion to indefinitely postpone.

Voting in the affirmative, 19:

Beyer	Dierks	Lamb	Robinson	Smith
Byars	Hefner	Nelson	Rogers	Wehrbein
Chambers	Horgan	Peterson	Schimek	Wesely
Crosby	Johnson, L.	Robak	Schrock	

Voting in the negative, 21:

Abboud	Baack

Bernard-Stevens	Conway	Haberman	Johnson, R.	Lynch
Beutler	Coordsen	Hall	Kristensen	Moore
Chizek	Cudaback	Hartnett	Landis	Wickersham
	Elmer	Hillman	Lindsay	Will

Present and not voting, 2:

Labedz Rasmussen

Excused and not voting, 7:

Ashford	Pirsch	Schmit	Warner	Withem
Morrissey	Schellpeper			

The Dierks motion to indefinitely postpone lost with 19 ayes, 21 nays, 2 present and not voting, and 7 excused and not voting.

Pending.

UNANIMOUS CONSENT - Print in Journal

Messrs. Lindsay, Moore, Horgan, Withem, Will, Chizek, Baack, Hartnett, Abboud, R. Johnson, Hall, Lynch, Mmes. Rasmussen, and Labedz asked unanimous consent to print the following amendment to LB 795 in the Journal. No objections. So ordered.

AM1444

1. Insert the following new sections:

"Sec. 3. Pursuant to section 2 of this act and as authorized in section 5 of this act, a city of the metropolitan class which conducts a lottery pursuant to the Nebraska County and City Lottery Act may use a portion of the gross proceeds from such lottery for the acquisition, purchase, and maintenance of a professional baseball organization.

Sec. 5. A city of the metropolitan or primary class may acquire, purchase, and operate a professional baseball organization.".

2. In AM0586, on page 1, line 5, strike "section 2" and insert "sections 2 and 3".

3. Renumber the remaining sections accordingly.

Mr. Schrock asked unanimous consent to print the following amendment to LB 719 in the Journal. No objections. So ordered.

AM1641

(Amendments to E & R amendments, AM5130)

1. On page 22, line 20, after the comma insert "except that if more than one legal residence is located on such real property, the petition or plan may provide for the affiliation of each legal residence and all property contiguous thereto to a different Class II, III, IV, or V district,".

VISITORS

Visitors to the Chamber were Abbas Bello from Nigeria; 22 fourth grade students and teachers from Stanton; ten seventh and eighth grade students and sponsors from Farwell; and fifteen eighth grade students and sponsors from Holy Family School, Lindsay.

RECESS

At 12:08 p.m., on a motion by Mr. Kristensen, the Legislature recessed until 1:30 p.m.

AFTER RECESS

The Legislature reconvened at 1:30 p.m., President Moul presiding.

ROLL CALL

The roll was called and all members were present except Messrs. Beutler, Schellpeper, Schmit, Warner, Mmes. Pirsch, and Robak who were excused until they arrive.

GENERAL FILE

LEGISLATIVE BILL 577. Mr. Bernard-Stevens offered the following amendment:

AM1666

1. Insert the following new section:

"Sec. 7. That section 28-1418, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

28-1418. ~~Whoever, being a~~ Any minor under the

age of eighteen years who smokes, uses, or possesses ~~,~~ ~~shall smoke cigarettes or cigars, or use~~ tobacco in any form whatever~~,~~ in this state~~,~~ shall be guilty of a Class V misdemeanor. Any minor ~~so~~ charged with the violation of this section may be free from prosecution when he or she shall have furnished evidence for the conviction of the person ~~or persons~~ selling or giving him or her the ~~cigarettes, cigars or~~ tobacco.".

2. On page 7, line 4, after "That" insert "original section 28-1418, Reissue Revised Statutes of Nebraska, 1943, and also".

3. Insert underscoring in the original sections and all amendments thereto.

4. Renumber the remaining section accordingly.

Mr. Bernard-Stevens moved for a call of the house. The motion prevailed with 20 ayes, 0 nays, and 29 not voting.

Mr. Hall requested a roll call vote on the Bernard-Stevens amendment.

Voting in the affirmative, 27:

Abboud	Chizek	Haberman	Lindsay	Smith
Ashford	Conway	Hillman	Morrissey	Wehrbein
Baack	Coordsen	Horgan	Robinson	Wesely
Bernard-Stevens	Crosby	Johnson, R.	Rogers	Wickersham
	Cudaback	Kristensen	Schimek	Withem
Beyer	Elmer	Landis		

Voting in the negative, 10:

Dierks	Hefner	Labedz	Lynch	Nelson
Hall	Johnson, L.	Lamb	Moore	Will

Present and not voting, 6:

Byars	Hartnett	Peterson	Rasmussen	Schrock
Chambers				

Excused and not voting, 6:

Beutler	Pirsch	Robak	Schellpeper	Schmit

Warner

The Bernard-Stevens amendment was adopted with 27 ayes, 10 nays, 6 present and not voting, and 6 excused and not voting.

The Chair declared the call raised.

Mr. Morrissey renewed his pending amendment, AM1284, found in the Journal on page 1715.

Mr. Hartnett asked unanimous consent to be excused. No objections. So ordered.

Mr. Morrissey moved for a call of the house. The motion prevailed with 17 ayes, 0 nays, and 32 not voting.

Mr. Dierks requested a roll call vote on the Morrissey amendment.

Voting in the affirmative, 16:

Byars	Hefner	Lamb	Nelson	Schimek
Chambers	Horgan	Lindsay	Peterson	Smith
Cudaback	Johnson, L.	Morrissey	Robinson	Wesely
Dierks				

Voting in the negative, 24:

Abboud	Beyer	Elmer	Kristensen	Schellpeper
Ashford	Chizek	Haberman	Labedz	Warner
Baack	Conway	Hall	Landis	Wickersham
Bernard-Stevens	Coordsen	Hillman	Lynch	Will
	Crosby	Johnson, R.	Moore	Withem

Present and not voting, 6:

Beutler	Robak	Rogers	Schrock	Wehrbein
Rasmussen				

Excused and not voting, 3:

Hartnett	Pirsch	Schmit

The Morrissey amendment lost with 16 ayes, 24 nays, 6 present and not voting, and 3 excused and not voting.

Mr. Baack asked unanimous consent to bracket LB 577 until May 15, 1991. No objections. So ordered.

The Chair declared the call raised.

UNANIMOUS CONSENT - Print in Journal

Mrs. Nelson asked unanimous consent to print the following amendment to LB 843 in the Journal. No objections. So ordered.

AM1629
(Amendments to Standing Committee amendments, AM1508)

1. On page 2, after line 11, insert the following new paragraph:

"No funds shall be utilized from the appropriation to this program for the operation of the Youth Leadership Academy.".

SELECT COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 830. Placed on Select File as amended.
(E & R amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM5144.)

LEGISLATIVE BILL 830A. Placed on Select File.

LEGISLATIVE BILL 813. Placed on Select File as amended.
E & R amendment to LB 813:
AM5143

1. In the Beutler amendment, AM1578, on page 1, line 5, strike "Department of Environmental Control" and insert "department".

2. In the Standing Committee amendments, AM0749:

a. On page 1, line 13, insert "a" after the first and second commas;

b. On page 4, line 4, strike "Any" and insert "If a"; in line 6 strike "who" and insert "applying for approval"; in line 8 after "filed" insert ", site approval" and strike "site"; in line 9 strike "approval"; in lines 20, 22, and 23, strike the comma; and in line 22 after the second "or" insert "on the

owners of all property";

c. On page 6, line 24, strike "the";

d. On page 8, line 4, strike "a"; in line 14 strike "the"; and in line 17 strike the first "of" and insert "after";

e. On page 9, line 5, after "the" insert "office of the"; in line 7 after "and" insert "may be"; in line 14 after "act" insert a comma; and in line 17 strike the first "of" and insert "after the"; and

f. On page 10, line 1, strike the first "the"; in line 5 strike "the"; in line 9 after "petition" insert "with the district court"; and in line 12 strike "with the district court".

3. On page 1, line 1, after the semicolon insert "to define terms;"; and strike lines 3 through 6 and insert "prior to the submission of an application to the Department of Environmental Control for a solid waste disposal area or solid waste processing facility; to provide for an application, service and publication of notice, hearings, appeals, fees, time limits on construction of such areas or facilities, and duties for the district court as".

LEGISLATIVE RESOLUTION 24CA. Placed on Select File.

Correctly Engrossed

The following bills were correctly engrossed: 186, 186A, 227, 337, 457, 457A, 701, 825, and 852.

(Signed) Eric Will, Chairperson

Enrollment and Review Change to LB 186

The following changes, required to be reported for publication in the Journal, have been made:
ER7065

1. In the Pirsch amendment, AM1584, on page 2, line 4, "parents" has been struck, shown as stricken, and "parent" inserted.

2. On page 1, the matter beginning with "section" in line 1 through "1990" in line 2 has been struck and "sections 81-1801 and 81-1806, Reissue Revised Statutes of Nebraska, 1943, and section 81-1848, Revised Statutes Supplement, 1990; to define a term; to authorize service as a hearing officer by an executive director"

inserted; and in line 11 "section" has been struck and "sections" inserted.

Enrollment and Review Change to LB 227

The following changes, required to be reported for publication in the Journal, have been made:
ER7066

1. In the Bernard-Stevens-Wesely amendment, AM1579:

a. On page 1, line 3, "general assistance" has been struck; lines 12 through 15 have been struck and the following new paragraph inserted:

"Commencing in 1992, the report shall be filed with the Department of Social Services by October 1 of each year for the fiscal year ending the preceding June 30."; in line 16 "annually" has been inserted after "shall"; the matter beginning with "December" in line 18 through "subsequent" in line 19 has been struck; and in line 21 "and" has been struck; and

b. On page 2, line 1, "and" has been struck and "worked, and the".

2. On page 1, line 6, "to require reports;" has been inserted after the semicolon.

3. On page 3, line 12; "program of" has been struck and shown as stricken; and in line 13 "program" has been inserted after "service".

4. On page 4, lines 9 and 24 and 25, "program of" has been struck; and in lines 10 and 25 "program" has been inserted after "training".

Enrollment and Review Change to LB 457

The following changes, required to be reported for publication in the Journal, have been made:
ER7063

1. In lieu of the Lindsay amendment, AM1260, in the Smith amendment, AM1178:

a. On page 1, the matter beginning with "45-104.01" in line 7 through "Legislature" in line 8 has been struck, shown as stricken, and "45-103 in effect on the date of the most recent order or decree" inserted; and

b. On page 2, after line 6, the following new subsection has been inserted:

"(5) Interest which may have accrued prior to the effective date of this act shall not be affected or altered by changes to this section which take effect on such date. All delinquent child support

payments and all decrees entered prior to such date shall draw interest at the effective rate as prescribed by this section commencing as of such date.".

2. In the E & R amendment, AM5124, on page 8, line 15, "interest on delinquencies in," has been inserted after the first comma.

Enrollment and Review Change to LB 701

The following changes, required to be reported for publication in the Journal, have been made:
ER7068

1. In the Rasmussen amendment, AM1020, on page 1, line 14, a comma has been inserted after "region".

2. On page 10, line 5, "early intervention" has been struck and "statewide" inserted.

(Signed) Mary E. Sommermeyer
E & R Attorney

GENERAL FILE

LEGISLATIVE BILL 72. Title read. Considered.

Standing Committee amendment, AM1411, found in the Journal on page 1788, was considered.

Mr. Beutler offered the following amendment to the pending Standing Committee amendment:
AM1676

(Amendments to Standing Committee amendments, AM1411)

1. On page 2, line 8, after "site" insert ", except that such special election shall not be required for any proposed site identified after the effective date of this act".

Messrs. Conway and Haberman asked unanimous consent to be excused until they return. No objections. So ordered.

SPEAKER BAACK PRESIDING

Messrs. Schmit and Hall asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Elmer moved the previous question. The question is, "Shall the debate now close?"

Mr. Elmer moved for a call of the house. The motion prevailed with 14 ayes, 0 nays, and 35 not voting.

Mr. Landis requested a roll call vote on the motion to cease debate.

Voting in the affirmative, 24:

Abboud	Coordsen	Johnson, L.	Moore	Smith
Beutler	Crosby	Johnson, R.	Peterson	Warner
Beyer	Dierks	Labedz	Robak	Wehrbein
Byars	Elmer	Lamb	Schmit	Wesely
Chizek	Hefner	Lynch	Schrock	

Voting in the negative, 13:

Ashford	Horgan	Lindsay	Rogers	Schimek
Chambers	Kristensen	Morrissey	Schellpeper	Wickersham
Cudaback	Landis	Rasmussen		

Present and not voting, 7:

Baack	Bernard-Stevens	Hillman	Robinson	Withem
		Nelson	Will	

Excused and not voting, 5:

Conway	Haberman	Hall	Hartnett	Pirsch

The Elmer motion to cease debate lost with 24 ayes, 13 nays, 7 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Messrs. Schmit, Rogers, and Mrs. Labedz asked unanimous consent to be excused until they return. No objections. So ordered.

The Beutler amendment lost with 8 ayes, 14 nays, 20 present and not voting, and 7 excused and not voting.

The Standing Committee amendment was adopted with 26 ayes, 0 nays, 16 present and not voting, and 7 excused and not voting.

Pending.

UNANIMOUS CONSENT - Print in Journal

Mrs. Robak asked unanimous consent to print the following amendment to LB 652 in the Journal. No objections. So ordered.

AM1622

(Amendments to Standing Committee amendments, AM1507)

1. Insert the following new section:

"Sec. 28. There is hereby appropriated (1) $200,000 from the General Fund for FY1991-92 and (2) $200,000 from the General Fund for FY1992-93 to the Nebraska Library Commission, for Program 302, to establish a program of library automation system grants to support acquisition and implementation of such systems by Public Resource Library Group members.

It is the intent of the Legislature that the Nebraska Library Commission administer this grant program such that: (a) No library is awarded more than twenty-five percent of its total cost to acquire and implement a proposed library automation system; (b) grants are awarded only to applicants which have secured the balance of funds they require to meet acquisition and implementation costs; and (c) grants are awarded only to applicants which demonstrate logistical preparedness to acquire and implement a library automation system. It is also the intent of the Legislature that the commission award such grants only to the extent of funds appropriated in this section.".

2. Renumber remaining sections accordingly.

Mr. R. Johnson asked unanimous consent to print the following amendment to LB 754 in the Journal. No objections. So ordered.

AM1472

1. In the Smith-Schrock amendment, AM1206, on page 1, strike beginning with "in" in line 8 through the semicolon in line 13; and strike beginning with "Each" in line 15 through the first period in line 19 and insert "A producer of ethyl tertiary butyl ether shall not receive any ethanol credit pursuant to this section for production of ethyl tertiary butyl ether.".

2. Insert the following new section:

"Sec. 7. That section 66-1320, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

66-1320. Any application made under section 66-1319 shall be filed with the board. The board shall establish application review procedures.

No new investment may be made or letters of commitment given to an applicant that has not received approval of its final application by April 1, 1991.".

3. On page 17, line 24, after the first comma insert "66-1320,".

4. Renumber the remaining sections accordingly.

Mr. Wesely asked unanimous consent to print the following amendment to LB 703 in the Journal. No objections. So ordered.

(Amendment on file in the Clerk's Office - Room 2018 - AM1611.)

Mr. Ashford asked unanimous consent to print the following amendment to LB 703 in the Journal. No objections. So ordered.

AM0807

1. Insert the following new sections:

"Section 1. That section 71-1,142, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,142. As used in the Uniform Licensing Law, unless the context otherwise requires:

(1) Practice of pharmacy shall mean: (a) ~~the~~ The interpretation and evaluation of prescription orders; (b) the compounding, dispensing, and labeling of drugs and devices, except labeling by a manufacturer, packer, or distributor of nonprescription drugs and commercially packaged legend drugs and devices; (c) the participation in drug selection, drug utilization review, drug source selection, and drug administration; (d) the proper and safe storage of drugs and devices and the maintenance of proper records therefor; (e) the responsibility for advising, when necessary or when regulated, of therapeutic values, content, hazards, and use of drugs and devices; and (f) the offering or performing of those acts, services, operations, or

transactions necessary in the conduct, operation, management, and control of pharmacy. The dispensing of methadone pursuant to federal law or regulation by a licensed registered nurse or licensed practical nurse designated by and pursuant to a lawful order countersigned by a medical practitioner shall not be deemed to be the practice of pharmacy;

(2) Administration shall mean giving a dosage unit of a drug to a patient;

(3) Board of pharmacy or board shall mean the Board of Examiners in Pharmacy;

(4) Deliver or delivery shall mean the actual, constructive, or attempted transfer of a drug or device from one person to another, whether or not for consideration;

(5) Department shall mean the Department of Health;

(6) Device shall mean an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, including any component part or accessory, which is required under federal or state law to be prescribed by a medical practitioner and dispensed by a pharmacist;

(7) Dispense or dispensing shall mean the preparation and delivery of a prescription drug pursuant to a lawful order of a medical practitioner in a suitable container appropriately labeled for subsequent administration to or use by a patient or other individual entitled to receive the prescription drug;

(8) Distribute shall mean the delivery of a drug other than by administering or dispensing;

(9) Person shall mean an individual, corporation, partnership, association, or other legal entity;

(10) Labeling shall mean the process of preparing and affixing of a label to any drug container, exclusive of the labeling by a manufacturer, packer, or distributor of a nonprescription drug or commercially packaged legend drug or device. Any such label shall include all information required by federal and state law or regulation;

(11) Pharmacist shall mean any person who (a) is licensed by the State of Nebraska to practice pharmacy, ; (b) compounds or dispenses drugs and

medicines, or fills the prescriptions of medical practitioners, ; or (c) advertises drugs, drug store, pharmacy, apothecary, hospital pharmacy, dispensary, or any combination of such titles, or any title or description of like import;

(12) Pharmacy shall mean (a) any establishment, place, or location~~,~~ which is advertised as a pharmacy, drug store, or apothecary~~,~~ or any establishment where the practice of pharmacy is carried on except as exempted in section 71-1,143, and (b) any establishment, place, or location which is used as a pick-up point~~,~~ or drop point, including kiosks, for prescriptions to be filled or where prescription medication is made ready for delivery to the patient;

(13) Drugs, medicines, and medicinal substances shall mean all poisonous, dangerous, or deleterious substances and preparations for external or internal use, and (a) articles recognized in the official United States Pharmacopoeia, the Homeopathic Pharmacopoeia of the United States, the official National Formulary, or any supplement to any of them, ; (b) articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of diseases in humans, ; (c) articles, except food, intended to affect the structure or any function of the human body, ; and (d) articles intended for use as a component of any articles specified in subdivision (a), (b), or (c) of this subdivision, except any device or its components, parts, or accessories, and except patent and proprietary medicines;

(14) Medical practitioner shall mean any licensed physician, surgeon, podiatrist, dentist, or other person licensed to write prescriptions intended for treatment or prevention of disease or body function in humans;

(15) Pharmacist in charge shall mean a pharmacist licensed by the State of Nebraska to practice pharmacy who has been designated on a pharmacy permit or designated by a public or private hospital licensed by the Department of Health as being responsible for the practice of pharmacy in the pharmacy for which such permit is issued or such hospital's inpatient pharmacy;

(16) Pharmacy intern shall mean a student currently enrolled in, or a graduate of, an accredited

college or school of pharmacy serving his or her internship. Such pharmacy intern may compound and dispense drugs and medicines and fill prescriptions only in the presence of and under the immediate personal supervision of a licensed pharmacist who must either be the person to whom the pharmacy permit is issued or in the actual employ of the permittee;

(17) Prescription drug or legend drug shall mean (a) a drug which under federal law is required, prior to being dispensed or delivered, to be labeled with either of the following statements: (i) Caution: Federal law prohibits dispensing without prescription; or (ii) Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian or (b) a drug which is required by any applicable federal or state law or regulation to be dispensed on prescription only or is restricted to use by medical practitioners only;

(18) Prescription drug order or prescription shall mean a lawful written or verbal order of a medical practitioner for a drug;

(19) Nonprescription drugs shall mean nonnarcotic medicines or drugs which may be sold without a prescription and which are prepackaged for use by the consumer and labeled in accordance with the requirements of the laws and regulations of this state and the federal government; and

(20) Supportive pharmacy personnel shall mean any individual who is trained and qualified, according to the written standards of the employing hospital inpatient pharmacy, to perform routine pharmacy functions, under the supervision of a licensed pharmacist, which do not require the use of professional judgment, in connection with the preparation and distribution of medications.

Sec. 2. That original section 71-1,142, Reissue Revised Statutes of Nebraska, 1943, is repealed.".

2. Renumber the remaining sections accordingly.

VISITORS

Visitors to the Chamber were 15 high school students and sponsor from Milligan; 79 fourth grade students and sponsors from Field Club Elementary, Omaha; 55 fourth grade students and teachers from Arbor Park Middle Elementary, Blair; and 25 fourth grade students and parents from Washington, Kansas.

ADJOURNMENT

At 4:05 p.m., on a motion by Mr. Moore, the Legislature adjourned until 9:00 a.m., Thursday, May 9, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

SEVENTY-FOURTH DAY - MAY 9, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

SEVENTY-FOURTH DAY

Legislative Chamber, Lincoln, Nebraska
Thursday, May 9, 1991

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Moul presiding.

PRAYER

The prayer was offered by Dr. Everett Reynolds, Clair Memorial United Methodist Church, Omaha, Nebraska.

ROLL CALL

The roll was called and all members were present except Mr. Byars and Mrs. Pirsch who were excused; and Messrs. Beutler, Chambers, Haberman, Hartnett, Lamb, Moore, Schmit, and Withem who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Seventy-Third Day was approved.

ATTORNEY GENERAL'S OPINION

Opinion No. 91037

DATE: May 8, 1991

SUBJECT: Constitutionality of Postsecondary Education Award Program Act

REQUESTED BY: Senator Douglas A. Kristensen

WRITTEN BY: Don Stenberg, Attorney General
Steve Grasz, Deputy Attorney General

You have requested an opinion as to the constitutionality of LB 647, the Postsecondary Education Award Program Act (the "Act"). Specifically, you have expressed concern regarding the constitutionality of the Act under Article III, section 18 and Article VII, section 11 of the Constitution of the State of Nebraska.

For the reasons set forth below, we conclude the Postsecondary Education Award Program Act does not violate the Constitutions of Nebraska or the United States.

The Act

The Postsecondary Education Award Program Act authorizes scholarships to be made directly to eligible students demonstrating substantial financial need, under the administration of the Coordinating Commission for Postsecondary Education. The Act is to be funded from cigarette tax revenue.

Section twelve of the Act provides: "The . . . Act shall provide for awards made directly to eligible students demonstrating substantial financial need and shall be administered by the commission in conjunction with eligible postsecondary educational institutions." (Emphasis added.)

Section 13 provides: "An award may be given to an eligible student for attendance at an eligible postsecondary educational institution if: (1) The award is made directly to the eligible student rather than to the . . . institution."

Section 14(1) provides that any unused funds are to be remitted to the commission by the student.

For purposes of the Act, "Eligible postsecondary educational institution" is defined in section six as:

> independent, not-for-profit institutions (1) Located in Nebraska; (2) Primarily engaged in instruction of students; (3) Satisfying the provisions of Nebraska law relating to the approval, licensure, and accreditation of colleges and universities; and (4) Offering courses and programs of instruction to regularly enrolled undergraduate students who reside in Nebraska and have received high school diplomas or their equivalent.

Section 13(6) provides that an award may not be given to an otherwise eligible student if the student is "pursing a course of study which is pervasively sectarian and creditable toward a theological or divinity degree. . . ."

Article III, Section 18

Article III, section 18 of the Constitution of Nebraska prohibits the Legislature from passing special laws granting "to any corporation, association or individual any special or exclusive privileges. . . ."

Although the Nebraska Supreme Court once held that statute similar to the Act violated Article III, §18, see State ex rel. Rogers v. Swanson, 192 Neb. 125, 219 N.W.2d 726 (1974), more recent decisions do not support this view. See State ex rel. Bouc v. School Dist. of City of Lincoln, 211 Neb. 731, 320 N.W.2d 472 (1982).

A test for determining compliance with Article III, §18 was set out by the Nebraska Supreme Court as follows:

> The Legislature may make a reasonable classification of persons, corporations, and property for purposes of legislation concerning them, but the classification must rest upon real differences of situation and circumstances surrounding the members of the class relative to the subject of legislation which render appropriate its enactment.

United Community Services v. The Omaha Nat. Bank, 162 Neb. 786, 77 N.W.2d 576 (1956). Applying this test to the present facts, it is clear the Act utilizes a reasonable classification based on real differences of situation and circumstances surrounding the members of the class.

> While the statute in question establishes a class of students limited to those attending private colleges, the statute in no way discriminates against the class of students attending state colleges and universities. Any student attending a state institution of higher learning automatically receives state aid at least equal to the amount a student may receive under the tuition grant program.

State ex rel. Rogers v. Swanson, 192 Neb. at 143 (Clinton, J. and McCown, J.J., dissenting) (quoting Americans United for Separation of Church and State v. Bubb, 379 F.Supp. at 885). See State ex rel. Bouc v. School Dist. of City of Lincoln, 211 Neb. at 737, 741 (1982) (rejecting contention that statute providing transportation to private school students violated Article III, §18).

As the Court stated in Bubb, "Admittedly two classes of college students exist, but both are treated similarly and thus the Statute creates no discrimination between the two classes." Americans United for Separation of Church and State v. Bubb, 379 F.Supp 872, 885 (D.Kan. 1974). Thus, the Act does not violate Article III, section 18.

Article VII, Section 11

Article VII, section 11 of the Constitution of the State of Nebraska prohibits the appropriation of public funds "to any school or institution of learning not owned or exclusively controlled by the state or a political subdivision thereof; . . ." (Emphasis added).

The Act does not provide for appropriation of funds to any school or institution. The Act authorizes scholarship awards directly to eligible students. This distinction is constitutionally significant.

The question of whether the Act violates Article VII, Section 11 is controlled by a series of Nebraska Supreme Court decisions subsequent to Rogers v. Swanson.

In Lenstrom v. Thone, 209 Neb. 783, 311 N.W.2d 884 (1981), the Nebraska Supreme Court upheld the constitutionality of the Scholarship Award Program. This statute is very similar to the present Act, but covers students attending both public and private educational institutions. The court expressly rejected the contention that the statute violated Article VII, §11. Id. at 788. Article VII, §11 prohibits appropriations to a nonpublic school. It does not prohibit such aid to individual students attending nonpublic schools. See Cunningham v. Lutjeharms, 231 Neb. 756, 759, 437 N.W.2d 806 (1989) (textbooks for children in private schools); State ex rel. Creighton University v. Smith, 217 Neb. 682, 353 N.W.2d 267 (1984); State ex rel. Bouc v. School Dist. of City of Lincoln, 211 Neb. 731, 320 N.W.2d 472 (1982) (bus transportation for children in private schools).

Since the Act does not authorize appropriations to private schools, it does not violate Article VII, §11.

The Establishment Clause

Although not specifically addressed in your opinion request, an analysis of the Act under the Establishment Clause of the First Amendment is also appropriate. A review of the decisions in this area leads to the conclusion the Act does not violate the Establishment Clause.

In Americans United for Separation of Church and State v. Bubb, 379 F.Supp. 872 (D.Kan. 1974), the court upheld a Kansas program called Tuition Grants for Private Institutions which provides for tuition grants to qualified students enrolled at private Kansas colleges and universities. Under the Kansas law (as under the Act) "only those students choosing an independent college . . . are eligible to receive tuition grants under the statute." Id. at 875. Also, under the Kansas statute (as under the Act) the tuition grants are paid to the student by the accredited independent institution. Id. at 876. In other words, the private school acts as a conduit for distributing the scholarship funds to the students. Based on the similarity of the Act to the Kansas statute, as well as the underlying constitutional principles, we conclude the Act does not violate the Establishment Clause.[1] See Americans United for Separation of Church and State v. Blanton, 433 F.Supp. 97 (M.D.Tenn. 1977), aff'd, 434 U.S. 803 (upholding Tennessee's Student Assistance Program). See also

d'Errico v. Lesmeister, 570 F.Supp. 158 (D.N.D. 1983); Smith v. Board of Governors of University of North Carolina, 429 F.Supp. 871 (W.D.N.C. 1977), aff'd, 434 U.S. 803 (North Carolina program providing tuition grants "to private colleges in the state, including those with church relations"); 1978 Report of the Attorney General 232 at page 355 (concluding LB 743, the scholarship loan program which was the subject of Lenstrom v. Thone did not violate the Establishment Clause.)

[1] While it is clear the Act would survive an Establishment Clause challenge, it is less clear what analysis would be applied by a court. It is likely a court would find, as stated in Bubb that:

> It is time to paint with a broad brush and hold that a tuition grant to permit study at a religiously oriented college is not fostering religion. It is merely giving a grown man or woman the right to study secular and/or sectarian ideas as the individual sees fit. Only by such a policy will we have both academic and religious freedom.

Bubb, 379 F.Supp. at 896 (Brown, Chief District Judge, concurring). This result is especially likely in light of Witters v. Washington Dept. of Serv. for the Blind, 474 U.S. 481, 106 S.Ct. 748 (1986). In Witters, the United States Supreme Court (Justice Marshall writing for the majority) held the State of Washington could extend assistance to a student studying at a Christian college and seeking to become a pastor, missionary, or youth director, without violating the Establishment Clause.

It is significant that a majority of the Justices (in concurring opinions) indicated that they would apparently go even further than the holding of the majority opinion, but that it was unnecessary to do so in this case. Id. at 753-55. Three concurring justices sharply criticized the Washington Supreme Court, stating, "Under the Washington Supreme Court's approach, the government could never provide aid of any sort to one who would use it for religious purposes, no matter what the characteristics of the challenged program. This Court has never taken such an approach." Id. at 754 (Powell, J.; Burger, C.J.; Rehnquist, J., concurring).

Furthermore, under the majority opinion in Witters, it is clear a state may make education grants to students pursing religious studies and degrees. Id. at 751. See also Phan v. Commonwealth of Virginia, 806 F.2d 516, 522 n.9 (4th Cir. 1986). Thus, it is unnecessary, under the constitution, to include the restrictions contained in Section 13(6) of the Act. Although there appears to be no clear consensus at this time, section 13(6) may be subject to constitutional challenge on Equal Protection or Free Exercise grounds. A review of decisions in this area indicates confusion on the

part of some courts and legislatures. Some courts apply the same "pervasively sectarian" analysis to statutes authorizing aid to individuals as they do to statutes authorizing aid to religious institutions. It is clear under Witters this is not appropriate when the aid in question is to individuals. Similarly, it appears some statutes, such as the Act, contain restrictions on the use of aid which would be necessary for programs distributing aid directly to religious institutions, but unnecessary where the aid goes to the individual. See Witters, 106 S.Ct. at 751.

Sincerely yours,
DON STENBERG
Attorney General
(Signed) Steve Grasz
Deputy Attorney General

3-126-3

GENERAL FILE

LEGISLATIVE BILL 72. Considered.

Mr. R. Johnson moved the previous question. The question is, "Shall the debate now close?" The motion lost with 16 ayes, 7 nays, and 26 not voting.

Mr. Hartnett moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 5 nays, and 19 not voting.

Mr. Dierks moved for a call of the house. The motion prevailed with 19 ayes, 0 nays, and 30 not voting.

Mr. Dierks requested a roll call vote on the advancement of the bill.

Voting in the affirmative, 26:

Abboud	Hall	Landis	Rasmussen	Wehrbein
Ashford	Hartnett	Lindsay	Rogers	Wesely
Chambers	Horgan	Lynch	Schellpeper	Wickersham
Coordsen	Kristensen	Morrissey	Schimek	Will
Cudaback	Labedz	Nelson	Smith	Withem
Dierks				

Voting in the negative, 17:

Baack	Conway	Hillman	Moore	Robinson
Bernard-Stevens	Elmer	Johnson, L.	Peterson	Schrock
Beyer	Haberman	Johnson, R.	Robak	Warner
	Hefner	Lamb		

Present and not voting, 3:

Beutler	Chizek	Crosby

Excused and not voting, 3:

Byars	Pirsch	Schmit

Advanced to E & R for review with 26 ayes, 17 nays, 3 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

UNANIMOUS CONSENT - Print in Journal

Mrs. Rasmussen, Messrs. Lindsay, and Beutler asked unanimous consent to print the following amendment to LB 425 in the Journal. No objections. So ordered.

AM1682

(Amendments to E & R amendments, AM5120)

1. On page 1, after line 15, insert the following new subdivision:

"(2) Facsimile copy shall mean a copy generated by a system that encodes a document or photograph into electrical signals, transmits those signals over telecommunications lines, and then reconstructs the signals to create an exact duplicate of the original document at the receiving end;"; in line 16 strike "(2)" and insert "(3)"; and in line 21 strike "(3)" and insert "(4)".

2. On page 2, line 3, strike "(4)" and insert "(5)".

3. On page 3, after line 18 insert the following new subsections:

"(2) A facsimile copy of the petition or motion may be transmitted directly to the court for filing. If a facsimile copy is filed in lieu of the

original document, the party filing the facsimile copy shall retain the original document for production to the court if requested to do so.

(3) A court shall not be required to have a facsimile machine nor shall the court be required to transmit orders or other material to attorneys or parties via facsimile transmission.

(4) An action for waiver of notification shall be commenced by the filing of a petition or motion personally, by mail, or by facsimile on a form provided by the State Court Administrator. The State Court Administrator shall develop the petition form and accompanying instructions on the procedure for petitioning the court for a waiver to notification, including the name, address, telephone number, and facsimile number of each court in the state. A sufficient number of petition forms and instructions shall be made available in each courthouse in such place that members of the general public may obtain a form and instructions without requesting such form and instructions from the clerk or other court personnel. The clerk shall, upon request, assist in completing and filing the petition for waiver to notification.

(5) Proceedings in court pursuant to this section shall be confidential. Proceedings shall be held in camera. Only the pregnant woman, the pregnant woman's guardian ad litem, the pregnant woman's attorney, and a person whose presence is specifically requested by the pregnant woman, the pregnant woman's guardian ad litem, or the pregnant woman's attorney may attend the hearing on the petition. All testimony, documents, other evidence presented to the court, the petition and any order entered, and all records of nature and kind relating to the matter shall be sealed by the clerk and shall not be open to any person except upon order of the court for good cause shown. A separate docket for the purposes of this section shall be maintained by the clerk and shall likewise be sealed and not opened to inspection by any person except upon order of the court for good cause shown."; and in line 19 strike "(2)" and insert "(6)".

4. On page 4, line 1, after the period insert "Such counsel shall receive a fee to be fixed by the court and to be paid out of the treasury of the county

in which the proceeding was held."; in line 2 strike "(3)" and insert "(7)"; in line 3 strike "anonymous and confidential and shall be"; strike beginning with "In" in line 7 through line 13 and insert "In no case shall the court fail to rule within seven calendar days from the time the petition is filed. If the court fails to rule within the required time period, the pregnant woman may file an application for a writ of mandamus with the Supreme Court. If cause for a writ of mandamus exists, the writ shall issue within three days. If the judge issues a ruling adverse to the pregnant woman, the judge shall issue written findings of fact and conclusions of law.

(8) The court shall issue a written order which shall be provided immediately to the pregnant woman, the pregnant woman's guardian ad litem, the pregnant woman's attorney, or any other person designated by the pregnant woman to receive the order."; in line 14 before "An" insert "(1)"; and strike beginning with "All" in line 18 through line 24 and insert

"(2) An adverse ruling by the court may be appealed to the Supreme Court.

(3) A pregnant woman may file a notice of appeal of any final order to the Supreme Court. The State Court Administrator shall develop the form for notice of appeal and accompanying instructions on the procedure for an appeal. A sufficient number of forms for notice of appeal and instructions shall be made available in each courthouse in such place that members of the general public can obtain a form and instructions without requesting such form and instructions from the clerk or other court personnel.

(4) The clerk of the court shall cause the court transcript and bill of exceptions to be filed with the Supreme Court within four business days, but in no event later than seven calendar days, from the date of the filing of the notice of appeal.

(5) In all appeals under this section the pregnant woman shall have the right of a confidential and expedited appeal and the right to counsel at the appellate level if not already represented. Such counsel shall be appointed by the court and shall receive a fee to be fixed by the court and to be paid

out of the treasury of the county in which the proceeding was held. The pregnant woman shall not be required to appear.

(6) The Supreme Court shall hear the appeal de novo on the record and issue a written decision which shall be provided immediately to the pregnant woman, the pregnant woman's guardian ad litem, the pregnant woman's attorney, or any other person designated by the pregnant woman to receive the order.

(7) The Supreme Court shall rule within seven calendar days from the time of the docketing of the appeal in the Supreme Court.

(8) The Supreme Court shall adopt and promulgate rules to ensure that proceedings under this section are handled in a confidential and expeditious manner.".

5. On page 5, strike line 1; and in line 2 after "fees" insert "or costs".

6. On page 6, line 16, strike "or" and insert an underscored comma; and in line 19 after "so" insert ", or (c) if the person has performed an abortion authorized by a court order issued pursuant of section 3 or 4 of this act".

Messrs. Hall, Will, and Landis asked unanimous consent to print the following amendment to LB 320 in the Journal. No objections. So ordered.

(Amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM1653.)

Mr. Hall asked unanimous consent to print the following amendment to LB 320 in the Journal. No objections. So ordered.

AM1689

(Amendments to AM1653)

1. On page 3, lines 11 and 12, strike "for a property tax" and insert "regarding property taxes".

2. On page 7, line 10, strike "tangible" and insert "taxable".

3. On page 69, after line 18 insert the following new subsection:

"(8) For tax year 1992 and each tax year thereafter motor vehicles subject to or specifically

exempt from the motor vehicle fee pursuant to section 6 of this act shall be exempt from property taxation.".

4. On page 139, line 10, strike "and"; in lines 11 through 13 reinstate the stricken matter; in line 14 after "due" insert "(a) to the taxation of property which would have been exempt from taxation in tax year 1990, (b)"; and in line 15 strike the second "or", show as stricken, and insert ", or (c)".

Mr. Hall asked unanimous consent to print the following amendment to LB 320 in the Journal. No objections. So ordered.

AM1690

(Amendments to AM1653)

1. Strike sections 5 to 30, 36 to 43, 56, and 94.

2. On page 1, strike beginning with "and" in line 17 through "1990" in line 19.

3. On page 145, lines 11 and 12, strike "5 to 30, 36 to 56, and 94" and insert "10 to 21".

4. Renumber the remaining sections and correct internal references accordingly.

5. In AM1689, strike amendment 3 and renumber the remaining amendment accordingly.

Mr. Hall asked unanimous consent to print the following amendment to LB 320 in the Journal. No objections. So ordered.

AM1674

(Amendments to AM1653)

1. Insert the following new sections:

"Sec. 86. That section 77-4105, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-4105. (1) A taxpayer who has signed an agreement under section 77-4104 may elect to determine taxable income for purposes of the Nebraska income tax using the sales factor only. The election may be made for the year during which the application was filed and for each year thereafter through the eighth year after the end of the entitlement period. The election shall be made for the year of the election by computing taxable income using the sales factor only on the tax return.

~~(2) A taxpayer who has signed an agreement under section 77-4104 shall receive the incentive provided in this subsection if the agreement contains one or more projects which together will result in the investment in qualified property of at least ten million dollars and the hiring of at least one hundred new employees. Such ten-million-dollar investment and hiring of at least one hundred new employees shall be considered a required level of investment and employment for this subsection and for the recapture of personal property tax only.~~

~~The following property used in connection with such project or projects and acquired by the taxpayer, whether by lease or purchase, after the date the application was filed shall constitute separate classes of personal property:~~

~~(a) Turbine-powered aircraft, including turboprop, turbojet, and turbofan aircraft, except when any such aircraft is used for fundraising for or for the transportation of an elected official;~~

~~(b) Mainframe business computers used for business information processing which require environmental controls of temperature and power and which are capable of simultaneously supporting more than one transaction and more than one user plus peripheral components which require environmental controls of temperature and power connected to such computers. Computer peripheral components shall be limited to additional memory units, tape drives, disk drives, power supplies, cooling units, and communication controllers; and~~

~~(c) Personal property which is business equipment located in a single project if (i) the business equipment is involved directly in the manufacture or processing of agricultural products, (ii) the investment in the single project exceeds ten million dollars, and (iii) the use, value, and proper classification of the business equipment has been certified by the Tax Commissioner.~~

~~Such property shall be exempt from the tax on personal property from the first January 1 following the date of acquisition for property in subdivision (2)(a) of this section, or from the first January 1 following the end of the year during which the required levels~~

~~were exceeded for property in subdivisions (2)(b) and (2)(c) of this section, through the sixteenth December 31 after the filing of the application.~~

~~(3)~~ (2) When the taxpayer has met the required levels of employment and investment contained in the agreement, the taxpayer shall also be entitled to the following incentives:

(a) A refund of all sales and use taxes paid under the Nebraska Revenue Act of 1967 and the Local Option Revenue Act from the date of the application through the meeting of the required levels of employment and investment for all purchases, including rentals, of:

(i) Qualified property used as a part of the project;

(ii) Property, excluding motor vehicles, based in this state and used in both this state and another state in connection with the project except when any such property is to be used for fundraising for or for the transportation of an elected official;

(iii) Tangible personal property by the owner of the improvement to real estate that is incorporated into real estate as a part of a project; and

(iv) Tangible personal property by a contractor or repairperson after appointment as a purchasing agent of the owner of the improvement to real estate. The refund shall be based on fifty percent of the contract price, excluding any land, as the cost of materials subject to the sales and use tax; and

(b) A refund of the sales and use taxes paid under the Nebraska Revenue Act of 1967 and the Local Option Revenue Act on the types of purchases, including rentals, listed in subdivision (a) of this subsection for such taxes paid during each year of the entitlement period in which the taxpayer is at or above the required levels of employment and investment.

~~(4)~~ (3) Any taxpayer who qualifies for the incentives contained in subsections (1) and ~~(3)~~ (2) of this section and who has added at least thirty new employees at the project shall also be entitled to:

(a) A credit equal to five percent of the amount by which the total compensation paid during the year to employees who are either Nebraska employees or base-year employees while employed at the project exceeds the average compensation paid at the project

multiplied by the number of equivalent base-year employees.

For the computation of such credit, average compensation shall mean the total compensation paid at the project divided by the total number of equivalent employees at the project; and

(b) A credit equal to ten percent of the investment made in qualified property at the project.

The credits prescribed in subdivisions (a) and (b) of this subsection shall be allowable for compensation paid and investments made during each year of the entitlement period that the taxpayer is at or above the required levels of employment and investment.

The credit prescribed in subdivision (b) of this subsection shall also be allowable during the first year of the entitlement period for investment in qualified property at the project after the date of the application and before the required levels of employment and investment were met.

Sec. 87. That section 77-4107, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-4107. (1) If the taxpayer fails either to meet the required levels of employment or investment for the applicable project by the end of the sixth year after the end of the year the application was submitted for such project or to utilize such project in a qualified business at employment and investment levels at or above those required in the agreement for the entire entitlement period, all or a portion of the incentives set forth in the Employment and Investment Growth Act shall be recaptured or disallowed.

(2) The recapture or disallowance shall be as follows:

(a) In the case of a taxpayer who failed to meet the required levels within the required time period, all reduction in the personal property tax because of the Employment and Investment Growth Act shall be recaptured and any reduction in the corporate income tax arising solely because of an election under subsection (1) of section 77-4105 shall be deemed an underpayment of the income tax for the year in which the election was exercised and shall be immediately due and payable; and

(b) In the case of a taxpayer who has failed to maintain the project at the required levels of employment and investment for the entire entitlement period, any reduction in the personal property tax, any refunds in tax allowed under subdivision ~~(3)~~ (2)(a) of section 77-4105, and any refunds or reduction in tax allowed because of the use of a credit allowed under subsection ~~(4)~~ (3) of section 77-4105 shall be partially recaptured from either the taxpayer or the owner of the improvement to real estate and any carryovers of credits shall be partially disallowed. One-seventh of the refunds, one-seventh of the reduction in personal property tax, and one-seventh of the credits used shall be recaptured and one-seventh of the remaining carryovers and the last remaining year of personal property tax exemption shall be disallowed for each year the taxpayer did not maintain such project at or above the required levels of employment or investment.

(3) Any refunds or reduction in tax due, to the extent required to be recaptured, shall be deemed to be an underpayment of the tax and shall be immediately due and payable.

When tax benefits were received in more than one year, the tax benefits received in the most recent year shall be recovered first and then the benefits received in earlier years up to the extent of the required recapture.

(4) Any personal property tax that would have been due except for the exemption allowed under the Employment and Investment Growth Act, to the extent it becomes due under this section, shall be considered an underpayment of such tax and shall be immediately due and payable to the county or counties in which the property was located when exempted. All amounts received by a county under this section shall be allocated to each taxing unit levying taxes on tangible personal property in the county in the same proportion that the levy on tangible personal property of such taxing unit bears to the total levy of all of such taxing units.

(5) Notwithstanding any other limitations contained in the laws of this state, collections of any taxes deemed to be underpayments by this section shall be allowed for a period of ten years after the signing

of the agreement or three years after the end of the entitlement period, whichever is later.

(6) Any amounts due under this section shall be recaptured notwithstanding other allowable credits and shall not be subsequently refunded under any provision of the Employment and Investment Growth Act unless the recapture was in error.

(7) The recapture required by this section shall not occur if the failure to maintain the required levels of employment or investment was caused by an act of God or national emergency.".

2. On page 69, strike lines 15 through 18 and show the old matter as stricken.

3. On page 145, line 5, after the second comma insert "86, 87,"; in line 20 strike "section 77-2701" and insert "sections 77-2701, 77-4105, and 77-4107"; and in line 21 strike "is" and insert "are".

4. Renumber the remaining sections and correct internal references accordingly.

GENERAL FILE

LEGISLATIVE BILL 167. Title read. Considered.

Mr. Wesely moved to bracket LB 167 to January 1992.

Ms. Schimek asked unanimous consent to be excused until she returns. No objections. So ordered.

Mr. Wehrbein moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

Mr. Wesely moved for a call of the house. The motion prevailed with 19 ayes, 1 nay, and 29 not voting.

Mr. Wesely requested a roll call vote on his motion to bracket.

Voting in the affirmative, 6:

Hall Schimek Schmit Wesely Will Horgan

Voting in the negative, 35:

Abboud	Crosby	Johnson, L.	Morrissey	Schellpeper
Ashford	Cudaback	Kristensen	Nelson	Schrock
Beutler	Dierks	Labedz	Peterson	Smith
Beyer	Elmer	Lamb	Rasmussen	Warner
Chizek	Haberman	Landis	Robak	Wehrbein
Conway	Hefner	Lindsay	Robinson	Wickersham
Coordsen	Hillman	Moore	Rogers	Withem

Present and not voting, 5:

Baack	Chambers	Hartnett	Johnson, R.	Lynch

Absent and not voting, 1:

Bernard-Stevens

Excused and not voting, 2:

Byars Pirsch

The Wesely motion to bracket lost with 6 ayes, 35 nays, 5 present and not voting, 1 absent and not voting, and 2 excused and not voting.

The Chair declared the call raised.

Mrs. Labedz and Mr. Dierks asked unanimous consent to be excused until they return. No objections. So ordered.

Standing Committee amendment, AM1486, printed separately from the Journal and referred to on page 1846, was considered.

SPEAKER BAACK PRESIDING

Mr. Landis renewed his pending amendment, AM1573, found in the Journal on page 1931, to the pending Standing Committee amendment.

Mr. Peterson moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 2 nays, and 22 not voting.

The Landis amendment was adopted with 23 ayes, 0 nays, 22 present and not voting, and 4 excused and not voting.

The Standing Committee amendment, as amended, was adopted with 27 ayes, 0 nays, 18 present and not voting, and 4 excused and not voting.

Mr. Peterson moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 2 nays, and 21 not voting.

Messrs. R. Johnson and Moore asked unanimous consent to be excused until they return. No objections. So ordered.

Advanced to E & R for review with 28 ayes, 3 nays, 13 present and not voting, and 5 excused and not voting.

MOTION - Reconsider Action on LB 577

Mr. Chambers moved to reconsider the Bernard-Stevens amendment, (AM1666), to LB 577, adopted May 8, 1991.

Laid over.

NOTICE OF COMMITTEE HEARING
Health and Human Services

Governor Appointments Thursday, May 16, 1991 1:15 p.m.
Dr. Duane E. Polzien - Board of Health
Dr. Charles W. Wempe - Board of Health
Patricia Q. Lanphier
Nebraska Child Abuse Prevention Fund Board
Dennis Carlson - Nebraska Foster Care Review Board

(Signed) Don Wesely, Chairperson

STANDING COMMITTEE REPORT
Transportation

LEGISLATIVE BILL 854. Placed on General File as amended.
Standing Committee amendment to LB 854:
AM1686
1. Strike original section 2 and insert the
following new sections:

"Section 1. That section 60-4,135, Revised Statutes Supplement, 1990, be amended to read as follows:

60-4,135. Any resident of this state operating a commercial motor vehicle pursuant to section 60-4,133 or 60-4,134 and possessing a Nebraska operator's license issued prior to September 1, 1990, which expires on or after ~~April 1, 1992~~ September 1, 1991, may, after ~~June 30~~ May 31, 1991, appear before an examiner of the Department of Motor Vehicles and apply for early renewal of his or her license and make application for the issuance of a commercial driver's license. The department in issuing any commercial driver's license pursuant to this section shall provide that the expiration date of such license shall be the second succeeding birthday in which the applicant's age is divisible by four.

Sec. 3. Sections 2 and 5 of this act shall become operative on September 1, 1991. The other sections of this act shall become operative on their effective date.

Sec. 4. That original section 60-4,135, Revised Statutes Supplement, 1990, is repealed.

Sec. 5. That original section 60-4,148, Revised Statutes Supplement, 1990, is repealed.".

2. Renumber the remaining section accordingly.

(Signed) Doug Kristensen, Chairperson

UNANIMOUS CONSENT - Print in Journal

Mr. Lamb asked unanimous consent to print the following amendment to LB 320 in the Journal. No objections. So ordered.

AM1684

(Amendments to AM1653)

1. On page 68, line 19, strike "For tax year 1991 all" and insert "All".

2. On page 69, lines 15 and 16, strike the new matter and insert "(7) Any".

Messrs. Beutler and Conway asked unanimous consent to print the following amendment to LB 813 in the Journal. No objections. So ordered.

AM1640

1. In AM1578, on page 1, strike beginning with "waste" in line 8 through "1991" in line 10 and insert ", on property which he or she owns as of January 1, 1991, waste which he or she generates or will generate on such property".

Mr. Beutler asked unanimous consent to print the following amendment to LB 181 in the Journal. No objections. So ordered.

(Amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM1426.)

VISITORS

Visitors to the Chamber were 30 fourth grade students and teachers from Woodriver; 27 seventh and eighth grade students and teacher from Silver Creek; 64 fifth grade students and teachers from Sacred Heart, Norfolk; and ten fourth grade students and teachers from Bethany Christian, Omaha.

RECESS

At 12:13 p.m., on a motion by Mr. Baack, the Legislature recessed until 1:30 p.m.

AFTER RECESS

The Legislature reconvened at 1:30 p.m., President Moul presiding.

ROLL CALL

The roll was called and all members were present except Mr. Byars and Mrs. Pirsch who were excused; and Messrs. Ashford, Haberman, R. Johnson, and Schmit who were excused until they arrive.

GENERAL FILE

LEGISLATIVE BILL 843. Title read. Considered.

Standing Committee amendment, AM1508, printed separately from the Journal and referred to on page 1905, was considered.

Mrs. Nelson renewed her pending amendment, AM1629, found in the Journal on page 1998, to the pending Standing Committee amendment.

Mr. Conway asked unanimous consent to be excused until he returns. No objections. So ordered.

SPEAKER BAACK PRESIDING

Mrs. Robak moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

Mrs. Nelson moved for a call of the house. The motion prevailed with 8 ayes, 0 nays, and 41 not voting.

Mrs. Nelson requested a roll call vote on her amendment.

Voting in the affirmative, 27:

Baack	Elmer	Kristensen	Moore	Schellpeper
Chizek	Haberman	Labedz	Nelson	Schmit
Coordsen	Hartnett	Lamb	Peterson	Schrock
Crosby	Hillman	Lindsay	Robak	Smith
Cudaback	Horgan	Lynch	Rogers	Warner
Dierks	Johnson, L.			

Voting in the negative, 15:

Bernard-Stevens	Chambers	Landis	Robinson	Wesely
	Hall	Morrissey	Schimek	Will
Beutler	Hefner	Rasmussen	Wehrbein	Withem
Beyer				

Present and not voting, 1:

Wickersham

Absent and not voting, 1:

Abboud

Excused and not voting, 5:

Ashford Byars Conway Johnson, R. Pirsch

The Nelson amendment was adopted with 27 ayes, 15 nays, 1 present and not voting, 1 absent and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Messrs. Coordsen, Schrock, Dierks, Lindsay, and Ms. Schimek asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Schmit offered the following amendment to the pending Standing Committee amendment:
FA146
Amendment to Standing Committee Amendments to LB 843: on page 73, strike line 2 and insert:
"General Fund 100,000 100,000
strike line 3 and insert:
Program Total 100,000 100,000
strike line 4

Mrs. Labedz, Messrs. Haberman, Chambers, and Conway asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Robinson moved the previous question. The question is, "Shall the debate now close?"

Mr. Robinson moved for a call of the house. The motion prevailed with 12 ayes, 0 nays, and 37 not voting.

The motion to cease debate prevailed with 25 ayes, 0 nays, and 24 not voting.

The Chair declared the call raised.

Mr. Withem asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Schmit moved for a call of the house. The motion prevailed with 21 ayes, 0 nays, and 28 not voting.

Mr. Moore requested a roll call vote on the Schmit amendment.

Voting in the affirmative, 15:

Beyer	Elmer	Lamb	Rasmussen	Schmit
Chizek	Hall	Morrissey	Robak	Wesely
Dierks	Hillman	Peterson	Rogers	Will

Voting in the negative, 19:

Abboud	Beutler	Hefner	Landis	Smith
Baack	Crosby	Horgan	Moore	Warner
Bernard-Stevens	Cudaback	Johnson, L.	Robinson	Wehrbein
	Hartnett	Kristensen	Schellpeper	Wickersham

Present and not voting, 2:

Lynch	Nelson

Excused and not voting, 13:

Ashford	Conway	Johnson, R.	Pirsch	Schrock
Byars	Coordsen	Labedz	Schimek	Withem
Chambers	Haberman	Lindsay		

The Schmit amendment lost with 15 ayes, 19 nays, 2 present and not voting, and 13 excused and not voting.

Pending.

The Chair declared the call raised.

Mrs. Robak asked unanimous consent to be excused until she returns. No objections. So ordered.

UNANIMOUS CONSENT - Print in Journal

Mr. Moore asked unanimous consent to print the following amendment to LB 502 in the Journal. No objections. So ordered.

AM1706

1. Insert the following new section:

"Sec. 4. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.".

Mr. Withem asked unanimous consent to print the following amendment to LB 843 in the Journal. No objections. So ordered.

AM1702

(Amendments to Standing Committee amendments, AM1508)

1. On page 20, after line 3, insert the following new paragraphs:

"It is the intent of the Legislature that the revenue raised pursuant to the increases in the income tax rate and sales tax rate provided in Laws 1990, LB 1059, shall be appropriated to school districts as state aid in FY1991-92 and FY1992-93 for purposes of the Tax Equity and Educational Opportunities Support Act.

The Department of Revenue and the Legislative Fiscal Analyst shall annually prepare a joint report showing the revenue collected from such tax rate increases for the preceding fiscal year. A copy of the report shall be provided to the Clerk of the Legislature by December 1 of each year.

Beginning in FY1991-92, if the proceeds from such tax rate increases according to the joint report are greater than the amount appropriated by the Legislature to correspond to such tax rate increases, the difference between such amounts shall be appropriated for purposes of the Tax Equity and Educational Opportunities Support Act in the following fiscal year. Such appropriation shall be in addition to other state general funds allocated as aid for purposes of the act.".

Mr. Hall asked unanimous consent to print the following amendment to LB 843 in the Journal. No objections. So ordered.

AM1700

(Amendments to Standing Committee amendments, AM1508)

1. On page 11, strike lines 16 and 17 and insert:

"GENERAL FUND	1,432,258	1,442,037
PROGRAM TOTAL	1,432,258	1,442,037".

2. On page 12, strike line 10 and insert:

"GENERAL FUND	1,432,258	1,442,037"

and strike line 12 and insert:

"AGENCY TOTAL	2,236,905	2,246,684".

Mr. Coordsen asked unanimous consent to print the following amendment to LB 843 in the Journal. No objections. So ordered.

AM1687

(Amendments to Standing Committee amendments, AM1508)

1. On page 59, strike line 24 and insert:

"GENERAL FUND	34,369,375	35,577,914".

2. On page 60, strike lines 2 and 3 and insert:

"FEDERAL FUND est.	52,447,382	52,290,282
PROGRAM TOTAL	87,066,757	88,068,196".

3. On page 61, strike line 12 and insert:

"GENERAL FUND	71,187,364	78,441,869"

strike lines 14 and 15 and insert:

"FEDERAL FUND est.	76,348,669	80,234,783
PROGRAM TOTAL	147,576,033	158,716,652"

in line 18 strike "$71,307,364" and insert "$71,187,364"; in line 19 strike "$76,378,669" and insert "$76,348,669"; in line 22 strike "$78,567,861" and insert "$78,441,869"; and in line 23 strike "$80,266,283" and insert "$80,234,783".

4. On page 67, strike lines 11 through 13 and insert:

"GENERAL FUND	124,750,406	147,513,521
FEDERAL FUND est.	274,973,533	305,290,869
PROGRAM TOTAL	399,723,939	452,804,390"

in line 15 strike "$124,658,030" and insert "$124,493,936"; in line 16 strike "$274,583,686" and insert "$274,327,780"; and strike line 19 and insert "$147,257,051 General Funds and $304,645,116 Federal".

5. On page 69, strike lines 8 through 11 and insert:

"GENERAL FUND	230,307,145	261,533,304
CASH FUND	540,000	490,000
FEDERAL FUND est.	403,769,584	437,815,934
AGENCY TOTAL	634,616,729	699,839,238".

Mrs. Smith asked unanimous consent to print the following amendment to LR 24CA in the Journal. No objections. So ordered.

AM1717

1. On page 2, line 16, after "No" insert "type of".

STANDING COMMITTEE REPORT
Education

The Committee on Education desires to report favorably upon the appointment listed below. The Committee suggests the appointment be confirmed by the Legislature and suggests a record vote.

Kathi Jordan Swanson - Board of Trustees State College System

VOTE: Aye: Senators Withem, Nelson, Schrock, Beutler, and Lamb. Nay: None. Absent: Senators Dierks, Warner, and Chizek.

(Signed) Ron Withem, Chairperson

GENERAL FILE

LEGISLATIVE BILL 843. The pending Standing Committee amendment, as amended, was renewed.

Messrs. Schmit and Abboud asked unanimous consent to be excused until they return. No objections. So ordered.

MR. WARNER PRESIDING

The Standing Committee amendment, as amended, was adopted with 25 ayes, 0 nays, 9 present and not voting, and 15 excused and not voting.

Advanced to E & R for review with 26 ayes, 0 nays, 8 present and not voting, and 15 excused and not voting.

SPEAKER BAACK PRESIDING

LEGISLATIVE BILL 845. Title read. Considered.

Standing Committee amendment, AM1367, printed separately from the Journal and referred to on page 1905, was adopted with 27 ayes, 0 nays, 8 present and not voting, and 14 excused and not voting.

Advanced to E & R for review with 25 ayes, 0 nays, 11 present and not voting, and 13 excused and not voting.

LEGISLATIVE BILL 846. Title read. Considered.

Standing Committee amendment, AM1397, found in the Journal on page 1905, was adopted with 27 ayes, 0 nays, 9 present and not voting, and 13 excused and not voting.

Advanced to E & R for review with 25 ayes, 0 nays, 11 present and not voting, and 13 excused and not voting.

LEGISLATIVE BILL 846A. Title read. Considered.

Standing Committee amendment, AM1368, printed separately from the Journal and referred to on page 1905, was adopted with 25 ayes, 0 nays, 11 present and not voting, and 13 excused and not voting.

Advanced to E & R for review with 25 ayes, 0 nays, 11 present and not voting, and 13 excused and not voting.

LEGISLATIVE BILL 847. Title read. Considered.

Standing Committee amendment, AM1473, printed separately from the Journal and referred to on page 1906, was adopted with 25 ayes, 0 nays, 11 present and not voting and 13 excused and not voting.

Advanced to E & R for review with 26 ayes, 0 nays, 10 present and not voting, and 13 excused and not voting.

LEGISLATIVE BILL 842. Title read. Considered.

Standing Committee amendment, AM1503, found in the Journal on page 1906, was adopted with 25 ayes, 0 nays, 11 present and not voting, and 13 excused and not voting.

Advanced to E & R for review with 26 ayes, 0 nays, 10 present and not voting, and 13 excused and not voting.

LEGISLATIVE BILL 841. Title read. Considered.

Advanced to E & R for review with 27 ayes, 0 nays, 10 present and not voting, and 12 excused and not voting.

LEGISLATIVE BILL 844. Title read. Considered.

Standing Committee amendment, AM1506, printed separately from the Journal and referred to on page 1907, was adopted with 25 ayes, 0 nays, 12 present and not voting, and 12 excused and not voting.

Advanced to E & R for review with 25 ayes, 0 nays, 12 present and not voting, and 12 excused and not voting.

LEGISLATIVE BILL 647. Title read. Considered.

Standing Committee amendment, AM1355, found in the Journal on page 1907, was considered.

Mr. Moore renewed his pending amendment, AM1502, found in the Journal on page 1919, to the pending Standing Committee amendment.

The Moore amendment was adopted with 25 ayes, 0 nays, 12 present and not voting and 12 excused and not voting.

The Standing Committee amendment, as amended, was adopted with 25 ayes, 0 nays, 13 present and not voting, and 11 excused and not voting.

Mr. Warner offered the following amendment:
FA147
Page 2 line 21 (5), strike all language thru line 1 on page 3.

PRESIDENT MOUL PRESIDING

The Warner amendment was adopted with 25 ayes, 0 nays, 16 present and not voting, and 8 excused and not voting.

MR. MORRISSEY PRESIDING

SPEAKER BAACK PRESIDING

Mr. Lynch moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 0 nays, and 23 not voting.

Mr. Schmit asked unanimous consent to be excused until he returns. No objections. So ordered.

Advanced to E & R for review with 26 ayes, 8 nays, 9 present and not voting, and 6 excused and not voting.

LEGISLATIVE BILL 647A. Title read. Considered.

Advanced to E & R for review with 25 ayes, 9 nays, 9 present and not voting, and 6 excused and not voting.

Mr. Abboud asked unanimous consent to be excused until he returns. No objections. So ordered.

LEGISLATIVE BILL 760. Title read. Considered.

Standing Committee amendment, AM1504, found in the Journal on page 1907, was considered.

Mr. Abboud asked unanimous consent to be excused. No objections. So ordered.

Mr. Landis asked unanimous consent to be excused until he returns. No objections. So ordered.

The Standing Committee amendment was adopted with 25 ayes, 0 nays, 16 present and not voting, and 8 excused and not voting.

Advanced to E & R for review with 27 ayes, 1 nay, 13 present and not voting, and 8 excused and not voting.

LEGISLATIVE BILL 856. Title read. Considered.

Mr. Horgan asked unanimous consent to be excused until he returns. No objections. So ordered.

Advanced to E & R for review with 25 ayes, 0 nays, 16 present and not voting, and 8 excused and not voting.

LEGISLATIVE BILL 856A. Title read. Considered.

Advanced to E & R for review with 25 ayes, 0 nays, 16 present and not voting, and 8 excused and not voting.

STANDING COMMITTEE REPORT
Education

LEGISLATIVE BILL 855. Placed on General File as amended.
Standing Committee amendment to LB 855:
AM1704
1. On page 2, line 9, strike "fifty" and

insert "forty"; and in line 21 strike "thirty-two" and insert "thirty".

2. On page 3, line 9, strike "eighteen dollars of the fifty-dollar" and insert "ten dollars of the forty-dollar"; and in line 10 strike "as provided for", show as stricken, and insert "specified".

3. On page 4, lines 2 and 12, strike "thirty-two" and insert "thirty".

(Signed) Ron Withem, Chairperson

UNANIMOUS CONSENT - Print in Journal

Mr. Elmer asked unanimous consent to print the following amendment to LB 748 in the Journal. No objections. So ordered.

AM1712

1. Strike the original section and all amendments thereto and insert the following new sections:

"Section 1. That section 81-15,101, Revised Statutes Supplement, 1990, be amended to read as follows:

81-15,101. (1) Each application for a license shall be in writing and shall state such information as the department may determine to be necessary to decide the technical and financial qualifications or any other qualifications of the applicant deemed reasonable and necessary to protect the public health and environment with an adequate margin of safety. The applicant shall also describe the funding arrangements such applicant will make to provide for custodial care. The department may at any time after the filing of the application and before the expiration of the license require further written statements and may make such inspections as the department may deem necessary in order to determine whether the license should be modified, suspended, or revoked. All applications and statements shall be signed by the applicant or licensee.

(2) No license issued under the Low-Level Radioactive Waste Disposal Act shall be assigned or in any manner disposed of unless the department, after securing full information, finds that the transfer is in accordance with the act and gives its consent in

writing.

(3) If any person becomes the legal or beneficial owner of more than fifty percent of any class of the issued and outstanding equity securities of an applicant or licensee at any time after the application has been made and before the expiration of the license, the department shall conduct a review which shall include, but not be limited to, the environmental compliance record and financial responsibility of such person. At the conclusion of the review, the department shall issue a report of its findings, including its conclusions regarding the adequacy of such person to fulfill the provisions of the application or license and all laws, rules, and regulations. Copies of the report shall be sent to the Governor, Legislature, and local monitoring committee.

~~(4) The department shall not approve any application for a license to receive radioactive waste from any person for disposal on land not owned by the state or federal government.~~

Sec. 2. That section 81-15,102, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-15,102. ~~(1) The state may accept or acquire, by gift, transfer, or purchase, from another governmental agency or private person, suitable sites including land and appurtenances for the disposal of low-level radioactive waste. Sites received by gift or transfer shall be subject to approval and acceptance by the Legislature on behalf of the state.~~

~~(2)~~ (1) The applicant shall notify the Governor and the Legislature before beginning any onsite geological activity, such as soil core sampling, to determine the suitability of a site in the State of Nebraska for use as a facility.

~~(3)~~ (2) Lands and appurtenances which are used for the disposal of low-level radioactive waste shall be acquired in fee simple absolute and used exclusively for such purpose until the department determines that such exclusive use is not required to protect the public health, safety, welfare, or environment. Before such a site is leased for other use, the department shall require and assure that the radioactive waste history of the site be recorded in the permanent land records of

the site. All radioactive material accepted for disposal at a radioactive waste disposal site shall become the property of the state, except that remedial cleanup costs which become necessary during the period of custodial care shall be assessed first to the facility operator, then proportionately against the generators of the radioactive waste.

~~(4)~~ (3) The state may contract for the operation of a disposal site owned by the state. ~~or acquired pursuant to subsection (1) of this section.~~ The contract operator shall be subject to licensing by the department and shall be subject to the surety and custodial care funding provisions of section 81-15,103.

Sec. 3. That original section 81-15,102, Reissue Revised Statutes of Nebraska, 1943, and section 81-15,101, Revised Statutes Supplement, 1990, are repealed.".

Mr. Warner asked unanimous consent to print the following amendment to LB 647A in the Journal. No objections. So ordered.

AM1628

1. On page 2, line 1, before "There" insert "(1)" and strike "(1)" and insert "(a)"; in line 2 strike "$250,000" and insert "$614,380" and strike "(2)" and insert "(b)"; in line 3 strike "$500,000" and insert "$866,422"; after line 7 insert:

"(2) There is hereby appropriated (a) $521,297 from the General Fund for FY1991-92 and (b) $519,255 from the General Fund for FY1992-93 to the Coordinating Commission for Postsecondary Education, for Program 499, to aid in carrying out the provisions of Legislative Bill 647, Ninety-second Legislature, First Session, 1991.

If Legislative Bill 647A, Ninety-second Legislature, First Session, 1991, becomes law, the General Fund appropriation to the Coordinating Commission for Postsecondary Education, for Program 500, is hereby reduced by $885,677 for FY-1991-92 and is hereby reduced by $885,677 for FY1992-93."; and strike lines 11 through 15 and insert "All funds appropriated in this section are for state aid and".

GENERAL FILE

LEGISLATIVE BILL 857. Title read. Considered.

Advanced to E & R for review with 25 ayes, 0 nays, 16 present and not voting, and 8 excused and not voting.

LEGISLATIVE BILL 502. Title read. Considered.

PRESIDENT MOUL PRESIDING

Standing Committee amendment, AM0594, found in the Journal on page 990, was adopted with 26 ayes, 0 nays, 15 present and not voting, and 8 excused and not voting.

Mr. Moore renewed his pending amendment, AM1706, found in the Journal on page 2031.

The Moore amendment was adopted with 26 ayes, 0 nays, 15 present and not voting, and 8 excused and not voting.

Advanced to E & R for review with 26 ayes, 0 nays, 15 present and not voting, and 8 excused and not voting.

Mr. Beyer asked unanimous consent to be excused. No objections. So ordered.

LEGISLATIVE BILL 651. Title read. Considered.

Advanced to E & R for review with 26 ayes, 0 nays, 14 present and not voting, and 9 excused and not voting.

LEGISLATIVE BILL 653. Title read. Considered.

Advanced to E & R for review with 27 ayes, 0 nays, 13 present and not voting, and 9 excused and not voting.

LEGISLATIVE BILL 652. Title read. Considered.

Standing Committee amendment, AM1507, printed separately from the Journal and referred to on page 1914, was considered.

Mrs. Robak renewed her pending amendment, AM1622, found in the Journal on page 2003, to the pending Standing Committee amendment.

Messrs. Wickersham and Lindsay asked unanimous consent to be excused. No objections. So ordered.

Mrs. Robak moved for a call of the house. The motion prevailed with 20 ayes, 0 nays, and 29 not voting.

Mrs. Robak requested a roll call vote on her amendment.

Voting in the affirmative, 14:

Baack	Cudaback	Hartnett	Kristensen	Smith
Chizek	Dierks	Johnson, L.	Labedz	Will
Crosby	Hall	Johnson, R.	Robak	

Voting in the negative, 16:

Beutler	Lynch	Peterson	Rogers	Warner
Hefner	Moore	Rasmussen	Schellpeper	Wehrbein
Hillman	Morrissey	Robinson	Schimek	Wesely
Lamb				

Present and not voting, 7:

Bernard-Stevens	Conway	Elmer	Schrock	Withem
	Coordsen	Nelson		

Absent and not voting, 1:

Schmit

Excused and not voting, 11:

Abboud	Byars	Haberman	Landis	Pirsch
Ashford	Chambers	Horgan	Lindsay	Wickersham
Beyer				

The Robak amendment lost with 14 ayes, 16 nays, 7 present and not voting, 1 absent and not voting, and 11 excused and not voting.

The Chair declared the call raised.

Mr. Coordsen requested a division of the question on the Standing Committee amendment.

The Chair sustained the division of the question.

The first Standing Committee amendment is FA148, which is all of AM1507, excluding Section 25.

The first Standing Committee amendment was adopted with 26 ayes, 0 nays, 12 present and not voting, and 11 excused and not voting.

The second Standing Committee amendment is as follows:
FA149

Sec. 25. There is hereby appropriated $225,000 from the State Building Fund for FY1991-92 to the Department of Administrative Services, for Program 905, for the acquisition of and improvements to the property known as Lots 4 and 5 of Block 1, Kennard's Addition, Lincoln, Nebraska, for the purpose of assisting in implementing restoration and promotion of the State Capitol environs. The total acquisition cost shall not exceed $205,000. Any amount remaining after acquisition may be used for improvements to the property to conform to the East Capitol Environs Plan. Any amount remaining after the completion of improvements may be used for improvements to other property to assist in effectuating the plan.

Mrs. Nelson moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 0 nays, and 23 not voting.

The second Standing Committee amendment was adopted with 25 ayes, 7 nays, 6 present and not voting, and 11 excused and not voting.

Advanced to E & R for review with 33 ayes, 1 nay, 4 present and not voting, and 11 excused and not voting.

UNANIMOUS CONSENT - Print in Journal

Mr. Beutler asked unanimous consent to print the following amendment to LB 715 in the Journal. No objections. So ordered.

AM1614

1. Insert the following new sections:

"Section 1. That section 42-363, Revised Statutes Supplement, 1990, be amended to read as

follows:

42-363. No suit for divorce shall be heard or tried until ~~sixty~~ one hundred fifty days after perfection of service of process, at which time the suit may be heard or tried and a decree may be entered.

Sec. 5. That section 42-372, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

42-372. ~~(1)~~ A decree dissolving a marriage shall become final and operative, except for the purpose of review by appeal, when rendered. A decree rendered pursuant to this section prior to October 1, 1991, which has not become final and operative shall become final and operative, except for the purpose of review by appeal, on such date. ~~without any further action of the court on (a) the date of death of one of the parties to the dissolution or (b) six months after the decree is rendered, whichever occurs first. If the decree becomes final and operative upon the date of death of one of the parties to the dissolution, the decree shall be treated as if it became final and operative the date it was rendered.~~

~~(2) For the purpose of review by appeal, the decree shall be treated as a final order as soon as it is rendered.~~ If an appeal is instituted within thirty days of the date the decree is rendered, such decree shall not become final until such proceedings are finally determined. ~~If no such proceedings have been instituted within such thirty-day period, the court may, at any time within such six months, vacate or modify its decree.~~".

2. On page 4, line 16; page 7, line 16; page 11, lines 6 and 16; page 12, line 5; page 16, line 7; page 17, line 15; page 18, line 3; page 19, lines 9 and 23; page 20, line 9; page 24, line 15; and page 25, lines 10 and 11, strike "13 to 18" and insert "15 to 20".

3. On page 21, lines 11 and 21; page 23, line 1; and page 24, line 7, strike "13" and insert "15".

4. On page 21, line 18, strike "15 and 18" and insert "17 and 20".

5. On page 22, line 19, strike "18" and insert "20".

6. On page 25, line 14, after "42-371,"

insert "42-372,"; and in line 16 strike "section" and insert "sections 42-363 and".

7. Renumber the remaining sections accordingly.

Mr. Warner asked unanimous consent to print the following amendment to LB 849 in the Journal. No objections. So ordered.

AM1680

(Amendments to Standing Committee amendments, AM1071)

1. Insert the following new section:

"Sec. 69. This act shall be considered a complete act and its provisions inseverable. If any provision of this act is declared unconstitutional, the entire act shall be invalid.".

2. Renumber the remaining sections accordingly.

Mr. Warner asked unanimous consent to print the following amendment to LB 849 in the Journal. No objections. So ordered.

AM1679

(Amendments to Standing Committee amendments, AM1071)

1. On page 2, strike beginning with the period in line 21 through "game" in line 23.

2. On page 25, line 3, strike "except for a video lottery game".

Mr. Warner asked unanimous consent to print the following amendment to LB 849A in the Journal. No objections. So ordered.

AM1681

1. Insert the following new section:

"Sec. 2. The appropriation prescribed in section 1 of this act shall be made when a constitutional amendment authorizing a state lottery is adopted subsequent to the passage of Legislative Bill 849, Ninety-second Legislature, First Session, 1991, and this legislative bill.".

VISITORS

Visitors to the Chamber were Joe Rayford from North Platte; 90 fourth grade students and teachers from Jefferson School, Fairbury;

Ward Schrack from Kearney; 55 fourth grade students and teachers from Arbor Park, Blair; 40 eighth grade students from Holt County Rural Schools; and 45 fourth grade students and teachers from York.

The Doctor of the Day was Dr. Luke Lemke from Columbus.

ADJOURNMENT

At 8:18 p.m., on a motion by Mr. Baack, the Legislature adjourned until 9:00 a.m., Friday, May 10, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

SEVENTY-FIFTH DAY - MAY 10, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

SEVENTY-FIFTH DAY

Legislative Chamber, Lincoln, Nebraska
Friday, May 10, 1991

Pursuant to adjournment, the Legislature met at 9:03 a.m., President Moul presiding.

PRAYER

The prayer was offered by Pastor Robert Nowak, Faith Lutheran Church, Lincoln, Nebraska.

ROLL CALL

The roll was called and all members were present except Mr. Byars who was excused; and Messrs. Ashford, Bernard-Stevens, Beutler, Chambers, Conway, Haberman, Hall, Hartnett, R. Johnson, Lindsay, Lynch, Schellpeper, Schmit, Wehrbein, Will, Mmes. Labedz, and Pirsch who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Seventy-Fourth Day was approved.

UNANIMOUS CONSENT - Print in Journal

Mr. Hefner asked unanimous consent to print the following amendment to LB 843 in the Journal. No objections. So ordered.

AM1730
(Amendments to Standing Committee amendments, AM1508)
1. Strike the Nelson amendment, AM1629.
2. On page 2, after line 11, insert the

following new paragraph:

"Of the appropriation to this program, no more than $15,000 shall be expended for the operation of the Youth Leadership Academy.".

REPORT OF REGISTERED LOBBYISTS

In accordance with LB 987, passed in the 1976 session of the Legislature and amended by LB 4 and LB 41 in the 1977 session of the Legislature, the attached is a list of all Lobbyists who have registered as of May 10, 1991. Further lists listing additional lobbyists who have registered will be filed weekly.

(Signed) Patrick J. O'Donnell
Clerk of the Legislature

Ayres, Joseph Warren - Lincoln	DeCamp Legal Services
Carney, Patrick P. - Kearney	Associated Students of Kearney State College (Withdrawn 91/05/10)
Sigerson, Andrew - Lincoln	Andy Massey

RESOLUTION

LEGISLATIVE RESOLUTION 77. Introduced by Crosby, 29.

WHEREAS, quilts are an important part of American heritage; and

WHEREAS, Lincoln, Nebraska, has earned a national reputation in quilting circles because of its number of prominent quilters and because it hosted the National Quilting Symposium in 1977; and

WHEREAS, Nebraska and Lincoln are prominently featured in two current issues of Lady's Patchwork Quilts magazine; and

WHEREAS, the National Quilting Association's Twenty-second Annual Quilt Show will be held in Lincoln June 19 through 23, 1991, as well as many other quilt shows throughout Lincoln and Nebraska.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature recognizes the historical development of as well as the current interest in quilts and quilting.

2. That a copy of this resolution be sent to the National Quilting Association, Jean Davie, Chairperson, c/o the Lincoln Quilters Guild.

Laid over.

UNANIMOUS CONSENT - Print in Journal

Mr. Coordsen asked unanimous consent to print the following amendment to LB 714 in the Journal. No objections. So ordered.

AM1672

1. Insert the following new section:

"Sec. 7. Whenever trails are developed pursuant to the Trail Development Assistance Act, boundary fences shall be constructed and maintained as required for railroads in sections 74-601 to 74-609 unless such construction and maintenance is waived in writing by all the adjoining property owners. Such fences shall be deemed to be manifestly designed to exclude intruders for the purposes of subdivision (1)(c) of section 28-521.".

2. Renumber the remaining sections accordingly.

Mr. Wickersham asked unanimous consent to print the following amendment to LB 714 in the Journal. No objections. So ordered.

AM1726

1. Insert the following new section:

"Sec. 7. Landowners adjoining a trail or their tenants, licensees, or invitees shall not be liable for injuries to persons or the property of persons owning, leasing, occupying, utilizing, or otherwise on a trail developed under the Trail Development Assistance Act if such injuries result from the conduct of ordinary and necessary agricultural or horticultural practices, unless such injuries are the result of an intentional disregard for the safety of persons or property.".

2. Renumber the remaining sections accordingly.

MOTION - Approve Appointment

Mr. Withem moved the adoption of the report of the Education Committee for the following Governor appointment found in the Journal on page 2034: Kathi Jordan Swanson - Board of Trustees State College System.

Voting in the affirmative, 25:

Abboud	Cudaback	Horgan	Moore	Smith
Beyer	Dierks	Johnson, L.	Robak	Warner
Chizek	Elmer	Kristensen	Robinson	Wesely
Coordsen	Hefner	Lamb	Rogers	Wickersham
Crosby	Hillman	Landis	Schimek	Withem

Voting in the negative, 0.

Present and not voting, 6:

Baack	Nelson	Peterson	Rasmussen	Schrock
Morrissey				

Excused and not voting, 18:

Ashford	Byars	Hall	Lindsay	Schmit
Bernard-Stevens	Chambers	Hartnett	Lynch	Wehrbein
Beutler	Conway	Johnson, R.	Pirsch	Will
	Haberman	Labedz	Schellpeper	

The appointment was confirmed with 25 ayes, 0 nays, 6 present and not voting, and 18 excused and not voting.

BILLS ON FINAL READING

The following bills were read and put upon final passage:

LEGISLATIVE BILL 255. With Emergency.

A BILL FOR AN ACT relating to motor vehicle fuels; to amend section 66-476, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to the excise tax rate set by the State Board of Equalization and Assessment; to repeal the original section; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 35:

Abboud	Crosby	Horgan	Moore	Schimek
Ashford	Cudaback	Johnson, L.	Morrissey	Schrock
Baack	Dierks	Kristensen	Peterson	Smith
Beutler	Elmer	Labedz	Rasmussen	Warner
Beyer	Haberman	Lamb	Robak	Wesely
Chizek	Hefner	Landis	Robinson	Wickersham
Coordsen	Hillman	Lynch	Rogers	Withem

Voting in the negative, 0.

Present and not voting, 1:

Nelson

Excused and not voting, 13:

Bernard-Stevens	Chambers	Hartnett	Pirsch	Wehrbein
Byars	Conway	Johnson, R.	Schellpeper	Will
	Hall	Lindsay	Schmit	

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

Mrs. Nelson asked unanimous consent to be excused until she returns. No objections. So ordered.

LEGISLATIVE BILL 798. With Emergency.

A BILL FOR AN ACT relating to counties; to amend sections 23-343.03, 23-343.07, 23-343.11, 23-343.19, 23-343.48, 23-1401, and 23-1405, Reissue Revised Statutes of Nebraska, 1943; to change a cost limitation on improvements, additions, and equipment for medical facilities; to exempt tax levies for medical facilities from certain levy limitations; to change provisions relating to county comptrollers; to harmonize provisions; to provide severability; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 37:

Abboud	Cudaback	Johnson, R.	Morrissey	Schimek
Ashford	Dierks	Kristensen	Peterson	Schrock
Baack	Elmer	Labedz	Pirsch	Smith
Beyer	Haberman	Lamb	Rasmussen	Warner
Chizek	Hefner	Landis	Robak	Wesely
Conway	Hillman	Lynch	Robinson	Wickersham
Coordsen	Horgan	Moore	Rogers	Withem
Crosby	Johnson, L.			

Voting in the negative, 0.

Present and not voting, 1:

Beutler

Excused and not voting, 11:

Bernard-Stevens	Chambers	Lindsay	Schellpeper	Wehrbein
Byars	Hall	Nelson	Schmit	Will
	Hartnett			

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

GENERAL FILE

LEGISLATIVE BILL 855. Title read. Considered.

Standing Committee amendment, AM1704, found in the Journal on page 2037, was adopted with 28 ayes, 0 nays, 14 present and not voting, and 7 excused and not voting.

Advanced to E & R for review with 30 ayes, 0 nays, 12 present and not voting, and 7 excused and not voting.

LEGISLATIVE BILL 854. Title read. Considered.

Standing Committee amendment, AM1686, found in the Journal on page 2026, was considered.

Mr. Schmit asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Lamb offered the following amendment to the pending Standing Committee amendment:

AM1735

(Amendments to Standing Committee amendments, AM1686)

1. Insert the following new amendment:

"On page 2, line 6, strike 'Successful', show as stricken, and insert 'Except as provided in this section, successful'; and in line 16 after the period insert 'Any person who has applied for a commercial driver's license before September 1, 1991, but has not completed the application process as of such date shall, upon successful completion of the application, pay to the county treasurer a fee in the amount imposed by this section on the date the applicant first began the application process.'.".

2. Renumber the remaining amendment accordingly.

Messrs. Hefner, Conway, Schellpeper, Mmes. Hillman, and Crosby asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Lamb moved for a call of the house. The motion prevailed with 18 ayes, 0 nays, and 31 not voting.

Mr. Lamb requested a roll call vote on his amendment.

Voting in the affirmative, 13:

Coordsen	Johnson, R.	Nelson	Robak	Smith
Haberman	Lamb	Peterson	Rogers	Wesely
Hefner	Landis	Pirsch		

Voting in the negative, 25:

Abboud	Chambers	Horgan	Moore	Warner
Ashford	Chizek	Johnson, L.	Morrissey	Wehrbein
Baack	Cudaback	Kristensen	Rasmussen	Wickersham
Beutler	Hartnett	Lindsay	Robinson	Will
Beyer	Hillman	Lynch	Schimek	Withem

Present and not voting, 4:

Dierks	Elmer	Labedz	Schrock

Excused and not voting, 7:

Bernard-Stevens	Byars	Crosby	Schellpeper	Schmit
	Conway	Hall		

The Lamb amendment lost with 13 ayes, 25 nays, 4 present and not voting, and 7 excused and not voting.

Pending.

The Chair declared the call raised.

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following bills: 255 and 798.

GENERAL FILE

LEGISLATIVE BILL 854. The pending Standing Committee amendment was adopted with 28 ayes, 0 nays, 14 present and not voting, and 7 excused and not voting.

Mr. Dierks and Mrs. Robak asked unanimous consent to be excused until they return. No objections. So ordered.

SPEAKER BAACK PRESIDING

Advanced to E & R for review with 28 ayes, 0 nays, 12 present and not voting, and 9 excused and not voting.

UNANIMOUS CONSENT - Print in Journal

Mr. R. Johnson asked unanimous consent to print the following amendment to LB 827 in the Journal. No objections. So ordered.

AM1716

(Amendments to E & R amendments, AM5140)

1. On page 3, strike beginning with "Pursuant" in line 2 through line 6; and strike beginning with "The" in line 15 through "act" in line 22 and insert "In addition to the powers described in section 4 of this act, such local monitoring committee

or committees may review data collected at each site and may hold public informational meetings at least quarterly to disseminate information and to solicit input from the public regarding the site characterization and selection process".

2. On page 10, strike lines 7 through 22 and insert

"(7) Within thirty days after receipt of the notice prescribed in subdivision (6) of this section, the local monitoring committees not representing the preferred site shall cease to exist. During such thirty-day period, such local monitoring committees shall pay all outstanding debts and obligations and remit any remaining funds appropriated to the use of such committees to the State Treasurer for credit to the Local Site Selection Cash Fund. Such local monitoring committees shall not incur any additional expenses except as necessary to fulfill obligations prescribed in this subsection.

At the end of such thirty-day period, the State Treasurer shall transfer all money in the Local Site Selection Cash Fund to the Local Monitoring Committee Cash Fund.

(8) Within forty-five days after receipt of the notice prescribed in subdivision (6) of this section, the local monitoring committee representing the preferred site shall cease to exist. During such forty-five-day period, the local monitoring committee shall pay all outstanding debts and obligations and shall have access to the Local Monitoring Committee Cash Fund for payment of its outstanding debts and obligations incurred prior to the effective date of this act. The local monitoring committee shall not incur any additional debts and obligations after such date except as necessary to fulfill obligations prescribed in this subsection.

(9) Within fifteen days after the local monitoring committee for the preferred site ceases to exist pursuant to subsection (8) of this section, a new local monitoring committee for the preferred site shall be appointed pursuant to this section and shall have the powers provided in section 4 of this act. The local monitoring committee shall represent the citizens of the preferred site area and shall maintain communication

with the developer and the department to assure protection of public health and safety and the protection of the air, land, and water resources of the area. It is the intent of the Legislature that the committee provide significant input concerning local needs and resources regarding all relevant aspects of the licensure, construction, operation, monitoring, closure, and custodial care of the facility."; and in line 23 strike "(8)" and insert "(10)".

3. On page 11, line 4, strike "(9)" and insert "(11)".

4. On page 12, line 4, strike "(10)" and insert "(12)"; and in line 22 strike "(11)" and insert "(13)".

5. On page 18, line 3, strike "(10)" and insert "(12)".

Mr. Chambers asked unanimous consent to print the following amendment to LB 652 in the Journal. No objections. So ordered.

AM1715

(Amendments to Standing Committee amendments, AM1507)

1. On page 15, line 24, strike "$500,000" and insert "$1,000,000".

2. On page 16, line 5, strike "$500,000" and insert "$1,000,000".

RESOLUTIONS

LEGISLATIVE RESOLUTION 78. Introduced by Conway, 17.

PURPOSE: The purpose of this resolution is to review uniform compensation, per diems, and expenses for members of boards and commissions and to generally review how the state compensates persons serving on such boards, commissions, and other such bodies.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Government, Military and Veterans Affairs Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 79. Introduced by Conway, 17.

PURPOSE: The purpose of this resolution is to study the feasibility of a uniform publication law for legal notices in the state.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Government, Military and Veterans Affairs Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 80. Introduced by Conway, 17.

PURPOSE: The purpose of this resolution is to review election laws in conjunction with the new State Election Board created by Legislative Bill 579, Ninety-second Legislature, First Session, 1991, complete the rewrite of Legislative Bill 572, Ninety-second Legislature, First Session, 1991, and the recodification of Chapter 32 and other election laws.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Government, Military and Veterans Affairs Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 81. Introduced by Conway, 17.

PURPOSE: The purpose of this resolution is to examine the Iowa study on the merger or consolidation of county and city governments,

to study and review current forms of such governments, and to consider alternative forms of government for counties and cities.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Government, Military and Veterans Affairs Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 82. Introduced by Conway, 17; Robak, 22; Lindsay, 9; Schrock, 39; Schimek, 27; Smith, 33; Coordsen, 32; Withem, 14.

WHEREAS, members of the Nebraska National Guard, Nebraska Reservists, as well as many Nebraskans serving in the United States Army, Navy, Air Force, Marines, and Coast Guard, were called to service in harms way in the Persian Gulf for Operation Desert Storm; and

WHEREAS, those men and women, because of their great personal sacrifice, deserve our appreciation for their service to their state and country; and

WHEREAS, we especially remember those who did not return from Operation Desert Storm and extend sympathy to their loved ones.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature commends and thanks those people serving our state and nation during Operation Desert Storm.

2. That copies of this resolution be sent to Adjutant General Stanley M. Heng and to Jonathan Sweet, Director of Veterans' Affairs, for appropriate display.

Laid over.

LEGISLATIVE RESOLUTION 83. Introduced by Nelson, 35.

PURPOSE: The purpose of this resolution is to study all aspects of the firefighters retirement system of cities of the first class and the

changes to the system implemented by LB 531 in 1983. The study shall include, but not be limited to, an evaluation of the effectiveness of the current legislation with regard to the administration, costs of administration, overall supervision, funding, benefits, investment policies, accountability, and other such issues as may be brought before the committee during the study.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Nebraska Retirement Systems Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

GENERAL FILE

LEGISLATIVE BILL 170. Mr. Coordsen offered the following amendment:

FA150

Amend the committee amendment to LB 170:

On pg 1, line 6, strike "seventy", & insert "forty"

The Coordsen amendment was adopted with 26 ayes, 0 nays, 14 present and not voting, and 9 excused and not voting.

PRESIDENT MOUL PRESIDING

Mrs. Smith and Mr. Beutler asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Haberman moved the previous question. The question is, "Shall the debate now close?"

Mr. Coordsen moved for a call of the house. The motion prevailed with 15 ayes, 0 nays, and 34 not voting.

The motion to crease debate prevailed with 26 ayes, 1 nay, and 22 not voting.

Mr. Coordsen requested a roll call vote on the advancement of the bill.

Voting in the affirmative, 28:

Abboud	Dierks	Johnson, L.	Nelson	Schellpeper
Ashford	Elmer	Labedz	Peterson	Schmit
Baack	Haberman	Lamb	Robak	Schrock
Chizek	Hefner	Landis	Robinson	Wehrbein
Coordsen	Hillman	Lindsay	Rogers	Wickersham
Cudaback	Horgan	Morrissey		

Voting in the negative, 6:

Johnson, R.	Warner	Wesely	Will	Withem
Schimek				

Present and not voting, 7:

Beyer	Hartnett	Lynch	Pirsch	Rasmussen
Chambers	Kristensen			

Absent and not voting, 1:

Moore

Excused and not voting, 7:

Bernard-Stevens	Beutler	Conway	Hall	Smith
	Byars	Crosby		

Advanced to E & R for review with 28 ayes, 6 nays, 7 present and not voting, 1 absent and not voting, and 7 excused and not voting.

The Chair declared the call raised.

Messrs. Peterson and Schmit asked unanimous consent to be excused until they return. No objections. So ordered.

PRESENTED TO THE GOVERNOR

Presented to the Governor on May 10, 1991, at 11:05 a.m., were the following bills: 255 and 798.

(Signed) Pam Moravec, Enrolling Clerk

UNANIMOUS CONSENT - Print in Journal

Mr. Withem asked unanimous consent to print the following amendment to LB 91 in the Journal. No objections. So ordered.

AM1658

(Amendments to E & R amendments, AM5138)

1. Insert the following new section:

"Sec. 3. (1) The Legislature hereby finds and declares that there is a need to enhance the quality, effectiveness, and performance of teaching and learning in the public schools. The Legislature further finds that school-based, locally negotiated performance-based or supplemental salary enhancement plans are an effective means to address the specific learning needs of students. The purpose of this section is to create an incentive to encourage improvements in learning through locally negotiated performance-based or supplemental salary enhancement plans. Money distributed under this section shall be used for the purpose of providing performance-based or supplemental salary increases for existing employees. Salary increases may be paid to individual teachers, groups of teachers assigned to specific disciplines, multidisciplinary groups, or school faculty who voluntarily participate in such a plan.

It is the intent of the Legislature that providers incorporate into performance-based or supplemental salary enhancement plans the implementation of recommendations from recently issued national and state reports relating to national, state, and local educational goals.

(2) After fifteen million dollars have annually been appropriated for general salary increases pursuant to the Help Education Lead to Prosperity Act, the next five million dollars appropriated and one-third of the amount in excess of twenty million dollars for distribution pursuant to the act shall be used only for purposes of providing performance-based or supplemental salary increases as provided in this section. The State Treasurer shall distribute each year an amount to providers meeting the eligibility requirements of this section in the same proportion as their weighted number of full-time equivalent teachers bears to the weighted number of full-time equivalent teachers in the state as

a whole employed by providers meeting the eligibility requirements of this section which have submitted the information required by section 79-3505. Providers shall be eligible to receive funds under this section when the department, pursuant to rules and regulations established to implement this section, has approved a provider's performance-based or supplemental salary enhancement plan and has certified to the State Treasurer the existence of an approved plan. Such rules and regulations shall include provisions to assure that each essential element of a performance-based or supplemental salary enhancement plan, including any provision for performance evaluation, has been agreed to by the local governing board or responsible agency official of the provider and the local teacher association or local bargaining group if there is no local teacher association. The plan shall be reduced to writing and signed by both parties.

(3) Performance-based or supplemental salary enhancement plans may include, but shall not be limited to, such criteria as:

(a) Superior teaching performance in completing assigned duties, including assessment of effective teaching, student performance, or a combination of these criteria;

(b) Participating in curriculum planning and development, including vertical or horizontal articulation and leadership, educational assessment practices, attendance at workshops or summer staff development programs, or development and presentation of staff development programs for other teachers to be presented during the school year;

(c) Mentoring new teachers or student teachers for professional growth;

(d) Peer coaching for professional growth;

(e) Providing additional instruction to students for purposes of decreasing the dropout rate and at-risk populations of students, providing multicultural experiences, increasing the attendance rate, or accelerating the achievement growth of students;

(f) Participating differentiated staffing assignments, including additional work assignments, specialized training during the regular school day or during an extended school day, week, or year, or

sabbatical leave;

(g) Participating on district or school improvement teams, including strategic planning teams, site-based decisionmaking teams, and comprehensive school transformation or restructuring teams;

(h) Participating in specifically approved staff development programs during the school year; and

(i) Participating in comprehensive school transformation or restructuring, including educational programs focusing on student outcomes, student assessment, accountability for organization success, or community or business collaborative efforts.

(4) Performance-based or supplemental salary enhancement plans shall be submitted to the department by September 1 of each year. The department shall certify approval of plans to the State Treasurer by November 1 of each year.".

2. On page 1, line 8, strike "and 4" and insert "to 5".

3. On page 3, line 4, after "section" insert "and data certified by the provider for the preceding school year"; and strike lines 22 through 24.

4. On page 4, strike lines 1 through 24.

5. On page 5, strike beginning with "in" in line 3 through "1990-91" in line 4.

6. Renumber the remaining sections accordingly.

Mr. Moore asked unanimous consent to print the following amendment to LB 503A in the Journal. No objections. So ordered.

AM1637

1. Strike the original section and all amendments thereto and insert the following new section:

"Section 1. There is hereby appropriated (1) $12,293 from the Bureau of Examining Boards' Cash Fund for FY1991-92 and (2) $4,764 from the Bureau of Examining Boards' Cash Fund for FY1992-93 to the Department of Health, for Program 178, to aid in carrying out the provisions of Legislative Bill 503, Ninety-second Legislature, First Session, 1991.

Total expenditures for permanent and temporary salaries and per diems from funds appropriated in this section shall not exceed $6,423 for FY1991-92 or $3,970

for FY1992-93.".

Mr. Moore asked unanimous consent to print the following amendment to LB 703 in the Journal. No objections. So ordered.

AM1593

1. Insert the following new section:

"Sec. 9. That section 81-638, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-638. The Nebraska Cancer Research Fund is hereby created. The Legislature shall appropriate for each year from the Nebraska Cancer Research Fund to the Department of Health an amount derived from one cent of the cigarette tax imposed by Chapter 77, article 26, less any amount appropriated from the Nebraska Cancer Research Fund specifically to the University of Nebraska Eppley Institute for Research in Cancer and Allied Diseases. Any money in the Nebraska Cancer Research Fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to ~~72-1269~~ 72-1276. The director shall, after deducting expenses incurred in the administration of such funds, distribute such funds exclusively for grants and contracts for research of cancer and smoking diseases, for funding the cancer registry prescribed in sections 81-642 to 81-650, and for associated expenses of the Department of Health due to the establishment and maintenance of such cancer registry. Not more than ~~ten~~ twenty percent of the remainder of the amount generated by one cent of the cigarette tax imposed by Chapter 77, article 26, reduced by the amount appropriated from such amount for the University of Nebraska Eppley Institute for Research in Cancer and Allied Diseases, shall be used for funding the cancer registry and associated expenses. The University of Nebraska may receive such grants and contracts and other postsecondary institutions having colleges of medicine located in the State of Nebraska may receive such contracts.".

2. On page 17, line 23, strike "and" and after the last comma insert "and 81-638,".

3. Renumber the remaining section accordingly.

Messrs. Kristensen, Cudaback, Withem, and Moore asked unanimous consent to print the following amendment to LB 693 in the Journal. No objections. So ordered.

AM1703

1. Strike the original sections and all amendments thereto and insert the following new sections:

"Section 1. That section 85-322, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

85-322. (1) There is hereby created a State College Buildings Renovation and Land Acquisition Fund. All money accruing to this fund is hereby appropriated to the Board of Trustees of the Nebraska State Colleges and shall be used exclusively for those projects of repair, remodeling, and renovation of buildings belonging to the state colleges and for those land acquisition projects of the state colleges pursuant to this section; as long as no such repair, remodeling, or renovation ~~shall provide~~ project specified in subsection (2) of this section provides for construction of an addition to any building, unless required by any federal law or law of this state relating to building safety or relating to building access for handicapped persons. No expenditure may be made from such fund without prior approval by a resolution of the Board of Trustees of the Nebraska State Colleges.

(2) The ~~board of trustees~~ Board of Trustees of the Nebraska State Colleges is authorized to make expenditures from the State College Buildings Renovation and Land Acquisition Fund for the following projects and associated expenses: ~~(1)~~ (a) Repair, remodel, and renovate the east wing of the West Center Main Building at Kearney State College, one million one hundred three thousand one hundred four dollars; ~~(2)~~ (b) repair, remodel, and renovate the Fine Arts Building at Chadron State College, nine hundred ninety thousand dollars; ~~and~~ ~~(3)~~ (c) acquire certain real property for public use by Kearney State College, three hundred ~~fifty~~ seventy thousand dollars; and (d) administrative and financing costs associated with any contract which the board of trustees may enter into pursuant to this section to implement any of the projects listed in subdivisions (a)

through (c) of this subsection, not to exceed eighteen thousand dollars.

(3) In addition to those building repair, remodeling, or renovation projects and land acquisition projects specifically listed in this section, the Board of Trustees of the Nebraska State Colleges is further authorized to make expenditures from the State College Buildings Renovation and Land Acquisition Fund, which shall include any investment income received from the investment of such fund, for other building repair, remodeling, or renovation project or land acquisition project which shall be specifically approved by the Legislature.

Sec. 2. That section 85-323, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

85-323. (1) In order to accomplish any projects authorized by section 85-322, the Board of Trustees of the Nebraska State Colleges may enter into contracts with any person, firm, or corporation providing for the implementation of any such project of the state colleges and providing for the long-term payment of the cost of such project from the State College Buildings Renovation and Land Acquisition Fund. In no case shall any such contract for the projects specified in subsection (2) of section 85-322 run for a period longer than ten years or exceed two million four hundred ~~forty thousand~~ eighty-one thousand one hundred four dollars. The board of trustees shall not pledge the credit of the State of Nebraska for the payment of any sum owing on account of such contract, except that there may be pledged for the payment of any such contract any appropriations specifically made by the Legislature for such purpose. No contract shall be entered into pursuant to this section without prior approval by a resolution of the board of trustees.

(2) The board of trustees may also convey or lease and lease back all or any part of the projects authorized by section 85-322 and the land on which such projects are situated to such person, firm, or corporation as the board of trustees may contract with pursuant to this section to facilitate the long-term payment of the costs of such projects. Any such conveyance or lease shall provide that when the cost of

such projects has been paid, together with interest and other costs thereon, such projects and the land on which such projects are located shall become the property of the board of trustees.

Sec. 3. That original sections 85-322 and 85-323, Reissue Revised Statutes of Nebraska, 1943, are repealed.".

GENERAL FILE

LEGISLATIVE BILL 748. Mr. Elmer renewed his pending amendment, AM1712, found in the Journal on page 2038.

Messrs. Haberman, Schellpeper, and Ms. Schimek asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Morrissey offered the following amendment to the pending Elmer amendment:
FA151
Amend Elmer Amendment, AM1712
On page three, strike beginning with "All" in line 3 through "that" in line 5.

Messrs. Lamb, Dierks, and Hefner asked unanimous consent to be excused. No objections. So ordered.

SPEAKER BAACK PRESIDING

Messrs. Landis, Ashford, Coordsen, and Mrs. Robak asked unanimous consent to be excused until they return. No objections. So ordered.

The Morrissey amendment was adopted with 16 ayes, 0 nays, 18 present and not voting, and 15 excused and not voting.

The Elmer amendment, as amended, was adopted with 25 ayes, 0 nays, 10 present and not voting, and 14 excused and not voting.

Advanced to E & R for review with 25 ayes, 0 nays, 10 present and not voting, and 14 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 836. E & R amendment, AM5136, found in the Journal on page 1937, was adopted.

Mr. Wesely renewed his pending amendment, AM1582, found in the Journal on page 1981.

The Wesely amendment was adopted with 25 ayes, 0 nays, 10 present and not voting, and 14 excused and not voting.

Mr. Wickersham offered the following amendment:
AM1568

1. On page 8, strike beginning with "The" in line 3 through the period in line 8; in line 9 strike "also" and strike "such"; in line 12 strike "and" and insert ", for eligibility to receive funds under the Title XX program, for support and assistance to unlicensed day care home providers,"; and strike beginning with "designed" in line 17 through "homes" in line 18.

2. In the Standing Committee amendment, AM0433, on page 1, line 6, after "children" insert "under his or her direct supervision, care, and control".

The Wickersham amendment was adopted with 25 ayes, 0 nays, 10 present and not voting, and 14 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 836A. Advanced to E & R for engrossment.

Mr. Wickersham asked unanimous consent to be excused. No objections. So ordered.

Mr. Schmit asked unanimous consent to be excused until he returns. No objections. So ordered.

LEGISLATIVE BILL 703. E & R amendment, AM5057, found in the Journal on page 979, was adopted.

Mr. Wesely withdrew his pending amendment, AM0461, found in the Journal on page 958.

Mr. Wesely renewed his pending amendment, AM0770, found in the Journal on page 1110.

The Wesely amendment was adopted with 25 ayes, 0 nays, 9 present and not voting, and 15 excused and not voting.

Messrs. Lindsay, Byars, Wesely, and Mrs. Rasmussen renewed their pending amendment, AM0708, found in the Journal on page 1278.

The Lindsay et al. amendment was adopted with 25 ayes, 0 nays, 11 present and not voting, and 13 excused and not voting.

Mr. Wesely renewed his pending amendment, AM0916, printed separately from the Journal and referred to on page 1972.

The Wesely amendment was adopted with 25 ayes, 0 nays, 11 present and not voting, and 13 excused and not voting.

Mr. Wesely renewed his pending amendment, AM1611, on file in the Clerk's Office and referred to on page 2004.

The Wesely amendment was adopted with 25 ayes, 0 nays, 11 present and not voting, and 13 present and not voting.

Mr. Wesely withdrew the pending Ashford amendment, AM0807, found in the Journal on page 2004.

Mr. Moore renewed his pending amendment, AM1593, found in the Journal on page 2064.

The Moore amendment was adopted with 25 ayes, 0 nays, 11 present and not voting, and 13 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 703A. E & R amendment, AM5058, found in the Journal on page 979, was adopted.

Mr. Wesely offered the following amendment:
AM1693

1. Insert the following new section:

"Section 1. There is hereby appropriated (1) $45,534 from the Bureau of Examining Boards Cash Fund for FY1991-92 and (2) $30,876 from the Bureau of Examining Boards Cash Fund for FY1992-93 to the Department of Health, for Program 178, to aid in carrying out the provisions of Legislative Bill 703,

Ninety-second Legislature, First Session, 1991.

Total expenditures for permanent and temporary salaries and per diems from funds appropriated in this section shall not exceed $20,387 for FY1991-92 or $21,406 for FY1992-93.".

2. Renumber the remaining sections accordingly.

The Wesely amendment was adopted with 26 ayes, 0 nays, 11 present and not voting, and 12 excused and not voting.

Advanced to E & R for engrossment.

NOTICE OF COMMITTEE HEARING
Revenue

Governor Appointments Wednesday, May 22, 1991 1:00 p.m.
Nebraska Agricultural Land Valuation Advisory Board
Robert J. Broomfield
Jack Ostergard
Paul Phelps
Ivan J. Schmedding

(Signed) Tim Hall, Chairperson

UNANIMOUS CONSENT - Print in Journal

Mr. Wehrbein asked unanimous consent to print the following amendment to LB 714 in the Journal. No objections. So ordered.

AM1728

1. Insert the following new section:

"Sec. 7. Owners or operators of a trail developed pursuant to the Trail Development Assistance Act shall, at one-half-mile intervals along such trail, place signs warning that departures from the boundaries of the trail as marked by fences or otherwise may result in prosecution for trespass and that adjoining landowners are not liable for injuries to persons or property resulting from the conduct of ordinary and necessary agricultural or horticultural practices unless such practices are conducted intentionally without regard to the safety of persons or property.".

2. Renumber the remaining sections

accordingly.

Mr. Hefner asked unanimous consent to print the following amendment to LB 320 in the Journal. No objections. So ordered.

(Amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM1731.)

Mr. Hall asked unanimous consent to print the following amendment to LB 320 in the Journal. No objections. So ordered.

AM1737

(Amendments to AM1653)

1. On page 3, lines 11 and 12, strike "for a property tax" and insert "regarding property taxes".

2. On page 7, line 10, strike "tangible" and insert "taxable".

3. On page 69, after line 18 insert the following new subsection:

"(8) For tax year 1992 and each tax year thereafter motor vehicles subject to or specifically exempt from the motor vehicle fee pursuant to section 6 of this act shall be exempt from property taxation.".

4. On page 139, line 10, strike "and"; in lines 11 through 13 reinstate the stricken matter; in line 14 after "due" insert "(a) to the taxation of property which would have been exempt from taxation in tax year 1990, (b)"; and in line 15 strike the second "or", show as stricken, and insert ", or (c)".

5. On page 140, line 21, after the period insert "Such increase shall not exceed the amount of the reimbursement.".

6. On page 141, lines 9 and 10, reinstate the stricken matter.

Mr. Hall asked unanimous consent to print the following amendment to LB 320 in the Journal. No objections. So ordered.

AM1738

(Amendments to AM1653)

1. On page 98, line 9, strike "seventy-five-hundredths" and insert "sixty-hundredths".

2. On page 100, strike beginning with the second "in" in line 1 through line 2 and insert "through

the use of the property factor contained in section 77-2734.12; and"; in line 7 strike "and payroll factors" and insert "factor"; and in line 8 strike "sections 77-2734.12 and 77-2734.13" and insert "section 77-2734.12".

Mr. Withem asked unanimous consent to print the following amendment to LB 843 in the Journal. No objections. So ordered.

AM1724

(Amendments to AM1508)

PURPOSE: Reduce the budget of the Professional Practices Commission by $49,734 in FY1991-92 and $54,714 in FY1992-93.

1. On page 23, lines 14 and 15, strike "139,313" and insert "89,579" and strike "141,999" and insert "87,285".

2. On page 24, line 2, strike "1,927,035" and insert "1,877,301" and strike "1,995,211" and insert "1,940,497"; in line 6 strike "563,960,798" and insert "563,911,064" and strike "590,119,455" and insert "590,064,741".

Mr. Withem asked unanimous consent to print the following amendment to LB 719 in the Journal. No objections. So ordered.

AM1719

(Amendments to E & R amendments, AM5130)

1. Strike sections 58, 89, and 92 and insert the following new section:

"Sec. 54. That section 79-701, Revised Statutes Supplement, 1990, be amended to read as follows:

79-701. (1) A Class II school district shall be created whenever a Class I school district determines by a majority vote of the electors to establish a high school.

(2) The members of the school board serving when it is decided to establish a high school shall continue in office until the first Tuesday in June following the next statewide primary election at which election a six-member board shall be elected. The three receiving the highest number of votes shall be elected for terms of four years, and the three receiving the

next highest number of votes shall be elected for terms of two years.

(3) If a Class II school district, by a vote of fifty-five percent of the legal voters voting at an annual or special meeting, decides to discontinue the high school and close the same, the school district shall thereupon become a Class I school district on the date designated by such voters. At such meeting a decision shall be made as to when the new school board shall be elected and whether the board shall consist of three members or six members. No new Class I school district shall establish a six-member board unless the school district contains a minimum of one hundred fifty children who are five through twenty years of age pursuant to section 79-601. The school board of the existing Class II school district shall remain in office until the effective date for the formation of the new Class I school district.

If the new school board is to consist of three members, such members shall be elected at the time the electors vote to change from a Class II school district to a Class I school district or at any annual or special meeting held not less than thirty days prior to the effective date of the change from a Class II school district to a Class I school district. At the annual or special meeting, a treasurer shall be elected for a term of one year, a secretary for a term of two years, and a president for a term of three years, and regularly thereafter their successors shall be elected for terms of three years each. All officers so elected shall hold their offices until successors are elected and qualified. After such change becomes effective, the school district and its officers shall have the powers and be governed by the provisions of law applicable to Class I school districts.

If the new school board is to consist of six members, such members shall be elected after school district electors have voted to change from a Class II school district to a Class I school district. The procedure for electing board members shall be as prescribed in subsection (3) of section 79-601, except that such election may be held at any annual meeting or at a special meeting called for the purpose of electing school district officers.

(4) No school district may change from Class I to Class II unless that school district has an enrollment of not less than one hundred pupils in grades nine through twelve. This subsection shall not apply to any school district located on an Indian reservation and substantially or totally financed by the federal government.

(5) If for ~~three consecutive years~~ one school year the average daily membership of an existing Class II school district is less than ~~twenty-five~~ fifty pupils in grades nine through twelve or if for one year an existing Class II school district contracts with a neighboring school district or districts to provide educational services for all of its pupils in grades nine through twelve, such school district shall, except as provided in subsection (6) of this section, become a Class I school district through the order of the county superintendent if the high school is within fifteen miles on a reasonably improved highway of another high school. A resident school district as defined in section 79-3402 shall not count students attending an option school district as defined in section 79-3402 and a Class II school district shall not count foreign exchange students when calculating average daily membership for purposes of this subsection.

This subsection shall not apply to any school district located on an Indian reservation and substantially or totally financed by the federal government.

(6) Any Class II school district maintaining a four-year high school which has an average daily membership of less than ~~twenty-five~~ fifty students in grades nine through twelve ~~for three consecutive years~~ may contract with another school district to provide educational services for its pupils in grades nine through twelve. Such contract may continue for a period not to exceed three years. At the end of such three-year period, the school district may resume educational services for grades nine through twelve if the average daily membership in grades nine through twelve for such school district has reached at least ~~fifty~~ seventy-five students, except that a Class II school district may contract pursuant to this subsection for a period of only one year and at the end of such

one-year period the school district may resume educational services for grades nine through twelve if the average daily membership in grades nine through twelve for such school district has reached at least fifty students. If the school district has not achieved such average daily membership, it shall become a Class I school district as prescribed in subsection (5) of this section.".

2. On page 140, line 24, after "79-4,224," insert "79-701,".

3. Renumber the remaining sections and correct internal references accordingly.

Mr. Abboud asked unanimous consent to print the following amendment to LB 847 in the Journal. No objections. So ordered.

AM1587

(Amendments to AM1585)

1. On page 1, in lines 3 and 4, after the first quotation marks insert "$500,000 from the State Building Fund,".

Mr. Lindsay asked unanimous consent to print the following amendment to LB 181 in the Journal. No objections. So ordered.

(Amendment on file in the Clerk's Office - Room 2018 - AM1743.)

Mr. Landis asked unanimous consent to print the following amendment to LB 760 in the Journal. No objections. So ordered.

AM1744

(Amendments to Standing Committee amendments, AM1504)

1. Insert the following new sections:

"Sec. 12. Program 938. The Board of Regents of the University of Nebraska is hereby authorized to repair, remodel, renovate, and replace greenhouses on the East Campus of the University of Nebraska-Lincoln. There is hereby appropriated $500,000 from the Nebraska Capital Construction Fund for FY1994-95 to begin and complete the project.

Sec. 13. Program 928. The Board of Regents of the University of Nebraska is hereby authorized to provide for asbestos abatement and waterproofing of Burnett Hall at the University of Nebraska-Lincoln.

There is hereby appropriated $100,000 from the Nebraska Capital Construction Fund for FY1992-93 to begin the project. There is hereby appropriated $1,400,000 from the Nebraska Capital Construction Fund for FY1993-94 to complete the project.

Sec. 14. Program 929. The Board of Regents of the University of Nebraska is hereby authorized to complete the Scott Engineering building link at the University of Nebraska-Lincoln. There is hereby appropriated $1,100,000 from the Nebraska Capital Construction Fund for FY1994-95 to begin and complete the project.

Sec. 15. Program 921. The Board of Trustees of the Nebraska State Colleges is hereby authorized to renovate the Burkhiser Technology Complex facility at Chadron State College to provide for classroom space for the Business and Economics Departments on that campus. There is hereby appropriated $30,000 from the Nebraska Capital Construction Fund for FY1992-93 to begin to develop the plans for the facility. There is hereby appropriated $270,000 from the Nebraska Capital Construction Fund for FY1993-94 to renovate that portion of the facility to house the Business Department. There is hereby appropriated $900,000 from the Nebraska Capital Construction Fund for FY1994-95 to continue and complete the project.

Sec. 16. Program 940. To assist in carrying out the provisions of the Deferred Building Renewal Act, there is hereby appropriated (1) $1,255,291 from the Nebraska Capital Construction Fund for FY1993-94 and (2) $1,231,709 from the Nebraska Capital Construction Fund for FY1994-95 to the Department of Administrative Services to carry out the provisions of such act.

Sec. 18. The Legislature finds and declares:

(1) Cancer is a disease which strikes many Nebraska families and has an extremely detrimental effect on the lives of many Nebraskans and on the economy of this state;

(2) Cancer research, both theoretical and clinically based, is of utmost importance to Nebraskans in efforts to combat and control this serious disease;

(3) Nebraska is fortunate to have nationally recognized programs of cancer research in colleges of medicine located in Nebraska;

(4) The promotion of diversity of research has the greatest potential for significant advancement in finding the causes of cancer and the successful treatment of the disease; and

(5) It is in the best interests of the citizens of this state to strengthen existing cancer research programs and prevent duplication of research efforts by supporting and contracting with Nebraska colleges of medicine with existing programs to provide theoretical and clinically based cancer research for the improvement of public health in Nebraska.

Sec. 19. That section 81-638, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-638. The Nebraska Cancer Research Fund is hereby created. The Legislature shall appropriate for each year from the ~~Nebraska Cancer Research Fund~~ fund to the Department of Health ~~an~~ the amount ~~derived from one cent~~ of ~~the~~ cigarette tax ~~imposed by Chapter 77, article 26~~ prescribed in subdivision (1)(b) of section 77-2602, less any amount appropriated from the ~~Nebraska Cancer Research Fund~~ fund specifically to the University of Nebraska Eppley Institute for Research in Cancer and Allied Diseases, which appropriation shall not exceed five hundred thousand dollars in any fiscal year, and to the University of Nebraska Medical Center School of Medicine, which appropriation shall not exceed two hundred fifty thousand dollars in any fiscal year, and the amount appropriated from the fund in an amount not to exceed five hundred thousand dollars in any fiscal year for contracts between the department and postsecondary institutions having colleges of medicine located in Nebraska for clinically based cancer research. Any money in the ~~Nebraska Cancer Research Fund~~ fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to ~~72-1269~~ 72-1276. The director shall, after deducting expenses incurred in the administration of such funds, distribute such funds exclusively for grants and contracts for research of cancer and smoking diseases, for funding the cancer registry prescribed in sections 81-642 to 81-650, and for associated expenses of the ~~Department of Health~~ department due to the establishment and maintenance of such cancer registry.

Not more than ~~ten~~ eight percent of the remainder of the amount ~~generated by one cent~~ of ~~the~~ cigarette tax ~~imposed by Chapter 77, article 26~~ prescribed in subdivision (1)(b) of section 77-2602, reduced by the amount appropriated from such amount for the University of Nebraska Eppley Institute for Research in Cancer and Allied Diseases and the University of Nebraska Medical Center School of Medicine and for contracts between the department and postsecondary institutions having colleges of medicine located in Nebraska for clinically based cancer research, shall be used for funding the cancer registry and associated expenses. The University of Nebraska may receive such grants and contracts and other postsecondary institutions having colleges of medicine located in the State of Nebraska may receive such contracts.".

2. On page 1, line 1, strike "Strike the original sections and insert" and insert "Insert"; in line 7 strike "$74,480" and insert "$1,687,000"; in line 9 strike "FY1992-93" and insert "FY1991-92"; strike beginning with "continue" in line 9 through "phase" in line 10 and insert "complete the design development phase and initiate construction of the project"; in line 11 strike "$1,962,760" and insert "$2,144,480"; in line 12 strike "FY1993-94" and insert "FY1992-93"; in line 13 strike "complete planning and initiate" and insert "continue"; in line 15 strike "$1,962,760" and insert "$168,520"; and in line 16 strike "FY1994-95" and insert "FY1993-94".

3. On page 3, line 8, strike "$-0-" and insert "$318,949"; and strike beginning with the period in line 9 through "FY1994-95" in line 11.

4. On page 6, line 6, after "Hall" insert "and renovate existing Copeland Hall space"; in line 11 strike "$1,128,587" and insert "$1,778,587"; in line 14 strike "$1,128,587" and insert "$1,778,587"; and in line 23 strike "$1,423,001" and insert "$2,023,001".

5. On page 7, line 2, strike "$1,423,001" and insert "$2,023,001".

6. Strike amendment 2 and insert the following new amendments:

"2. On page 2, line 12, strike 'twenty-seven', show as stricken, and insert 'thirty'.

3. On page 3, line 10, strike 'one cent',

show as stricken, and insert 'two cents'.

4. On page 6, line 8, strike 'eleven cents of such tax', show as stricken, and insert 'thirteen cents of such tax less five hundred thousand dollars for FY1991-92 and less five hundred thousand dollars for FY1992-93 which shall be placed in the General Fund'.

5. On page 8, line 15, strike 'section 77-2602' and insert 'sections 77-2602 and 81-638'; and in line 16 strike 'is' and insert 'are'.

6. Renumber remaining sections accordingly.".

VISITORS

Visitors to the Chamber were two groups of students and sponsors from Fremont Senior High; 56 fourth grade students and teachers from Westmont, Springfield; Lloyd, Floyd, and Margaret Krull from Hastings and Vladmir and Mariette Mortier from Belgium; Kansas State Representative, John McClure, and Mrs. McClure from Glen Elder, Kansas; 60 fourth grade students and teachers from Parkview Heights Elementary, LaVista; Mohamed Al-Amin, Haji Mohamed Falmi, Moin Shahiruddin, and Mohd Zin from Malaysia and Robert Malakoff; Joanne Judge from Lancaster, Pennsylvania and Mr. and Mrs. Dave Hanen from Fremont; 37 fourth grade students and teachers from Tri-County Schools, DeWitt; and 37 fifth and sixth grade students and teachers from Arlington.

The Doctor of the Day was Dr. Monty Sellon from Fremont.

ADJOURNMENT

At 1:15 p.m., on a motion by Mr. Will, the Legislature adjourned until 9:00 a.m., Monday, May 13, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

SEVENTY-SIXTH DAY - MAY 13, 1991

LEGISLATIVE JOURNAL

SEVENTY-SIXTH DAY - MAY 13, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

SEVENTY-SIXTH DAY

Legislative Chamber, Lincoln, Nebraska
Monday, May 13, 1991

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Moul presiding.

PRAYER

The prayer was offered by Alam Lodhi, Imam Islamic Center, Omaha, Nebraska.

ROLL CALL

The roll was called and all members were present except Ms. Schimek who was excused; and Messrs. Ashford, Bernard-Stevens, Chambers, Conway, Elmer, Haberman, Hall, Horgan, Lamb, Landis, Lindsay, Morrissey, Rogers, Schmit, Will, Withem, Mmes. Rasmussen, and Smith who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Seventy-Fifth Day was approved.

RESOLUTION

LEGISLATIVE RESOLUTION 77. Read. Considered.

LR 77 was adopted with 19 ayes, 0 nays, and 30 not voting.

BILLS ON FINAL READING

The following bills were read and put upon final passage:

LEGISLATIVE BILL 203. With Emergency.

A BILL FOR AN ACT relating to real estate appraisers; to amend sections 72-224.03, 76-706, 76-1907, 76-2201 to 76-2203, 76-2207 to 76-2210, 76-2212, 76-2213, 76-2218 to 76-2230, 76-2232 to 76-2246, 76-2248 to 76-2250, 77-1333, 77-1372, and 77-2019, Reissue Revised Statutes of Nebraska, 1943, and sections 2-1502 and 49-14,103.01, Revised Statutes Supplement, 1990; to rename the Real Estate Appraiser Licensing and Certification Act; to define and redefine terms; to rename a board and fund; to provide for membership on the Real Estate Appraiser Board; to change and provide powers and duties of the board; to transfer funds; to provide for registered real estate appraisers; to provide for a transitional license; to provide, change, and eliminate provisions relating to licensure and certification; to provide and change fees; to eliminate provisions relating to and provide requirements for appraisal services; to change a penalty provision; to require a directory; to harmonize provisions; to repeal the original sections, and also sections 76-2231 and 76-2247, Reissue Revised Statutes of Nebraska, 1943; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 38:

Abboud	Coordsen	Johnson, L.	Morrissey	Schrock
Ashford	Crosby	Johnson, R.	Nelson	Warner
Baack	Cudaback	Kristensen	Peterson	Wehrbein
Beutler	Dierks	Labedz	Pirsch	Wesely
Beyer	Elmer	Lamb	Robak	Wickersham
Byars	Hartnett	Landis	Robinson	Will
Chizek	Hefner	Lynch	Schellpeper	Withem
Conway	Hillman	Moore		

Voting in the negative, 0.

Excused and not voting, 11:

Bernard-Stevens	Haberman	Lindsay	Rogers	Schmit
Chambers	Hall	Rasmussen	Schimek	Smith
	Horgan			

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

LEGISLATIVE BILL 203A. With Emergency.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 203, Ninety-second Legislature, First Session, 1991; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 38:

Abboud	Coordsen	Johnson, L.	Morrissey	Schrock
Ashford	Crosby	Johnson, R.	Nelson	Warner
Baack	Cudaback	Kristensen	Peterson	Wehrbein
Beutler	Dierks	Labedz	Pirsch	Wesely
Beyer	Elmer	Lamb	Robak	Wickersham
Byars	Hartnett	Landis	Robinson	Will
Chizek	Hefner	Lynch	Schellpeper	Withem
Conway	Hillman	Moore		

Voting in the negative, 0.

Excused and not voting, 11:

Bernard-Stevens	Haberman	Lindsay	Rogers	Schmit
	Hall	Rasmussen	Schimek	Smith
Chambers	Horgan			

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

MOTION - Return LB 427 to Select File

Mr. Wehrbein moved to return LB 427 to Select File for the following specific amendment:
AM1764

(Amendments to Final Reading copy)

1. Strike section 23.

2. On page 1, line 10, strike "9-250,".

3. On page 2, lines 18 and 19, strike "participation in and".

4. On page 125, line 13, strike "9-250,".

5. Renumber the remaining sections accordingly.

Passed over.

BILLS ON FINAL READING

The following bills were read and put upon final passage:

LEGISLATIVE BILL 227.

A BILL FOR AN ACT relating to county general assistance; to amend sections 68-151 to 68-155, Reissue Revised Statutes of Nebraska, 1943; to restate legislative findings; to define and redefine terms; to provide for the performance of community service by employable recipients; to require reports; to harmonize provisions; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 39:

Abboud	Coordsen	Hillman	Moore	Smith
Ashford	Crosby	Johnson, L.	Morrissey	Warner
Baack	Cudaback	Johnson, R.	Nelson	Wehrbein
Beutler	Dierks	Kristensen	Peterson	Wesely
Beyer	Elmer	Labedz	Pirsch	Wickersham
Byars	Hall	Lamb	Robinson	Will
Chizek	Hartnett	Landis	Schellpeper	Withem
Conway	Hefner	Lynch	Schrock	

Voting in the negative, 0.

Present and not voting, 1:

Robak

Excused and not voting, 9:

Bernard-Stevens	Chambers	Horgan	Rasmussen	Schimek
	Haberman	Lindsay	Rogers	Schmit

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 337.

A BILL FOR AN ACT relating to the Public Service Commission; to amend sections 75-352 and 75-354, Reissue Revised Statutes of Nebraska, 1943; to change a fee; to adopt the Interstate Operating Authority Agreement Act; to eliminate certain provisions relating to reciprocity and reciprocal agreements regarding certain motor vehicle identification fees as prescribed; to harmonize provisions; and to repeal the original sections, and also sections 75-356 and 75-357, Reissue Revised Statutes of Nebraska, 1943.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 39:

Abboud	Coordsen	Hillman	Moore	Smith
Ashford	Crosby	Johnson, L.	Morrissey	Warner
Baack	Cudaback	Johnson, R.	Nelson	Wehrbein
Beutler	Dierks	Kristensen	Peterson	Wesely
Beyer	Elmer	Labedz	Pirsch	Wickersham
Byars	Hall	Lamb	Robinson	Will
Chizek	Hartnett	Landis	Schellpeper	Withem
Conway	Hefner	Lynch	Schrock	

Voting in the negative, 0.

Present and not voting, 1:

Robak

Excused and not voting, 9:

Bernard-Stevens	Chambers	Horgan	Rasmussen	Schimek
	Haberman	Lindsay	Rogers	Schmit

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

Mr. Conway asked unanimous consent to be excused until he returns. No objections. So ordered.

GENERAL FILE

LEGISLATIVE BILL 849A. Considered.

Mr. Warner renewed his pending amendment, AM1681, found in the Journal on page 2045.

The Warner amendment was adopted with 25 ayes, 0 nays, 14 present and not voting, and 10 excused and not voting.

Mr. Will moved for a call of the house. The motion prevailed with 16 ayes, 0 nays, and 33 not voting.

Mr. Will requested a roll call vote on the advancement of the bill.

Voting in the affirmative, 19:

Abboud	Chizek	Hall	Morrissey	Wesely
Ashford	Cudaback	Hartnett	Robak	Will
Baack	Dierks	Kristensen	Smith	Withem
Byars	Elmer	Lynch	Warner	

Voting in the negative, 21:

Bernard-Stevens	Crosby	Labedz	Nelson	Rogers
	Hefner	Lamb	Peterson	Schellpeper
Beutler	Hillman	Landis	Pirsch	Wehrbein
Beyer	Johnson, L.	Moore	Robinson	Wickersham
Coordsen	Johnson, R.			

Present and not voting, 1:

Schrock

Excused and not voting, 8:

Chambers	Haberman	Lindsay	Schimek	Schmit
Conway	Horgan	Rasmussen		

Failed to advance to E & R for review with 19 ayes, 21 nays, 1 present and not voting, and 8 excused and not voting.

The Chair declared the call raised.

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following bills: 203, 203A, 227, and 337.

SELECT FILE

LEGISLATIVE BILL 181. Mr. Chizek withdrew the pending Lindsay motion, found in the Journal on page 1785, to indefinitely postpone.

Mrs. Robak offered the following amendment:
AM1242

1. Strike the original sections and insert the following new sections:

"Section 1. That section 24-301.02, Revised Statutes Supplement, 1990, be amended to read as follows:

24-301.02. The State of Nebraska is hereby divided into twenty-one judicial districts as follows:

District No. 1 shall consist of the counties of Johnson, Pawnee, Nemaha, and Richardson;

District No. 2 shall consist of the counties of Sarpy, Cass, and Otoe;

District No. 3 shall consist of the county of Lancaster;

District No. 4 shall consist of the county of Douglas;

District No. 5 shall consist of the counties of Hamilton, Polk, York, Butler, Seward, and Saunders;

District No. 6 shall consist of the counties of Burt, Thurston, Dodge, and Washington;

District No. 7 shall consist of the counties of Fillmore, Saline, Thayer, and Nuckolls;

District No. 8 shall consist of the counties of Dakota, Dixon, and Cedar;

District No. 9 shall consist of the counties of Knox, Antelope, Cuming, Pierce, Madison, Stanton, and Wayne;

District No. 10 shall consist of the counties of Adams, Clay, Phelps, Kearney, Harlan, Franklin, and Webster;

District No. 11 shall consist of the counties of Hall and Howard;

District No. 12 shall consist of the counties of Sherman and Buffalo;

District No. 13 shall consist of the counties of McPherson, Logan, Lincoln, Dawson, Keith, Arthur, Hooker, and Thomas;

District No. 14 shall consist of the counties of Chase, Hayes, Frontier, Furnas, Red Willow, Hitchcock, Perkins, Gosper, and Dundy;

District No. 15 shall consist of the counties of Brown, Keya Paha, Boyd, Rock, Holt, and Cherry;

District No. 16 shall consist of the counties of Sheridan, Grant, Dawes, Box Butte, Morrill, and Sioux;

District No. 17 shall consist of the county of Scotts Bluff;

District No. 18 shall consist of the counties of Jefferson and Gage;

District No. 19 shall consist of the counties of Banner, Kimball, Cheyenne, Garden, and Deuel;

District No. 20 shall consist of the counties of Blaine, Loup, Garfield, Greeley, Wheeler, Valley, and Custer; and

District No. 21 shall consist of the counties of Boone, Platte, Colfax, Nance, and Merrick.

In the fourth district there shall be fourteen judges of the district court, in the third district there shall be six judges of the district court, in the second district there shall be three judges of the district court, in the fifth, sixth, ninth, tenth, eleventh, thirteenth, sixteenth, seventeenth, and twenty-first districts there shall be two judges of the district court in each of such districts, and in all other districts there shall be one judge of the district court. ~~There shall be forty-eight judges of the~~

~~district court. Each district listed in this section shall be served by at least one judge of the district court. Judges in office on July 17, 1986, shall continue to serve in the districts they are serving on such date. On or after July 17, 1986, any vacancy shall be determined as prescribed in section 24-810.~~

Sec. 2. That section 24-503, Revised Statutes Supplement, 1990, be amended to read as follows:

24-503. (1) For the purpose of serving the county courts in each county, twenty-one county judge districts are hereby created, which districts shall be the same as those established by section 24-301.02, except that:

(a) District 6 shall consist of the counties of Burt, Dodge, and Washington;

(b) District 8 shall consist of the counties of Dakota, Dixon, Cedar, and Thurston;

(c) District 16 shall consist of the counties of Sheridan, Grant, Dawes, Box Butte, and Sioux;

(d) District 17 shall consist of the counties of Scotts Bluff, Morrill, and Garden; and

(e) District 19 shall consist of the counties of Banner, Kimball, Cheyenne, and Deuel.

(2) District 4 shall have eleven county judges. District 3 shall have six county judges. Districts 2, 5, 9, 13, and 21 shall have three county judges. Districts 6, 7, 8, 10, 11, 12, 14, 15, 16, 17, and 19 shall have two county judges. Districts 1, 18, and 20 shall have one county judge. ~~There shall be fifty-seven judges of the county court. Each district listed in this section shall be served by at least one judge of the county court. Judges in office on July 17, 1986, shall continue to serve in the districts they are serving on such date. On or after July 17, 1986, any vacancy shall be determined as prescribed in section 24-810.~~

(3) Judge of the county court shall include any person appointed to the office of county judge or municipal judge prior to July 1, 1985, pursuant to Article V, section 21, of the Constitution of Nebraska.

(4) Any person serving as a municipal judge in district 3 or 4 immediately prior to July 1, 1985, shall be a judge of the county court and shall be empowered to hear only those cases as provided in section 24-517

which the presiding judge of the county court for such district, with the concurrence of the Supreme Court, shall direct. ~~Any vacancy occurring after July 1, 1985, which results in a decrease in the number of municipal court judges authorized immediately prior to July 1, 1985, for a city of the primary or metropolitan class shall correspondingly increase the number of county court judges.~~

Sec. 3. That section 24-810, Revised Statutes Supplement, 1990, be amended to read as follows:

24-810. (1) In the event of ~~the death, retirement, resignation, or removal of any district or county judge, the failure of a district or county judge to be retained in office, or an increase in the number of district or county judgeships authorized by law and except in those judicial districts required to be served by at least one county judge pursuant to section 24-503 and one district court judge pursuant to section 24-301.02, the Supreme Court shall, after holding a public hearing, determine whether a judicial vacancy exists. The determination shall be based upon the Supreme Court's analysis of the caseload, travel time, and other factors necessary to assure efficiency and service. After a determination that a judicial vacancy exists, the declaration of the location of the vacancy shall be made by the Judicial Resources Commission. The Supreme Court shall adopt and promulgate rules and regulations on the procedures to be followed in making a determination of the existence of and declaration of the location of judicial vacancies.~~

~~(2) When the location of a district or county judicial vacancy is declared by the Judicial Resources Commission or in the event of~~ a judicial vacancy, ~~in any other court,~~ the Clerk of the Supreme Court shall contact the chairperson of the judicial nominating commission relating to such vacancy and shall ascertain from him or her a time and place for the first meeting of such judicial nominating commission, at which time a public hearing will be held. He or she shall thereupon notify each commission member in writing of the time and place of the meeting and shall also cause appropriate notice to be published by various news media of the time and place of the public hearing of the judicial nominating commission and of the interest of the

commission in receiving information relating to qualified candidates for the judicial vacancy. At least two days prior to the public hearing, the chairperson shall release to the public the names of lawyers who have signified in writing their willingness to serve as a judge if nominated and appointed to such judgeship, and immediately prior to the public hearing the chairperson shall release the names of any additional lawyers who have so signified. Any member of the public shall be entitled to attend the public hearing to express, either orally or in writing, his or her views concerning candidates for the judicial vacancy.

(2) ~~(3)~~ After the public hearing the nominating commission shall hold such additional private or confidential meetings as it determines to be necessary. Additional information may be submitted in writing to the judicial nominating commission at any time prior to its selection of qualified candidates to fill the vacancy. The judicial nominating commission shall make such independent investigation and inquiry as it considers necessary or expedient to determine the qualifications of candidates for the judicial vacancy and shall take such action as it deems necessary or expedient to encourage qualified candidates to accept judicial office or nomination for judicial office.

(3) ~~(4)~~ The commission may, before or after the hearing provided for in subsection (1) ~~(2)~~ of this section, institute a search for additional candidates. If additional candidates are obtained, the commission shall hold further public hearings in the same manner as provided in subsection (1) ~~(2)~~ of this section.

(4) ~~(5)~~ The names of candidates shall be submitted to the Governor within sixty days after ~~a declaration of the location of a district or county judicial vacancy by the Judicial Resources Commission or, in the event of a judicial vacancy in any other court, after~~ a judicial vacancy occurred if one public hearing is held and within ninety days if more than one public hearing is held.

(5) ~~(6)~~ The first public hearing provided for in this section shall be held within forty-five days after ~~the location of a vacancy has been declared or~~ the vacancy occurs. ~~, as the case may be.~~

Sec. 4. If any section in this act or any

part of any section shall be declared invalid or unconstitutional, such declaration shall not affect the validity or constitutionality of the remaining portions thereof.

Sec. 5. That original sections 24-301.02, 24-503, and 24-810, Revised Statutes Supplement, 1990, and also sections 24-735 to 24-738, Reissue Revised Statutes of Nebraska, 1943, are repealed.

Sec. 6. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.".

Mr. Kristensen asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Wickersham moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 1 nay, and 23 not voting.

The Robak amendment was adopted with 25 ayes, 2 nays, 14 present and not voting, and 8 excused and not voting.

Mr. Beutler withdrew his pending amendment, AM1426, printed separately from the Journal and referred to on page 2028.

Mr. Beutler offered the following amendment:
(Amendment on file in the Clerk's Office - Room 2018 - AM1749.)

Mr. Peterson asked unanimous consent to be excused until he returns. No objections. So ordered.

SPEAKER BAACK PRESIDING

Mrs. Robak moved the previous question. The question is, "Shall the debate now close?"

Mr. Chizek moved for a call of the house. The motion prevailed with 10 ayes, 0 nays, and 39 not voting.

Mr. Chizek requested a roll call vote on the motion to cease debate.

Voting in the affirmative, 28:

Abboud	Ashford	Beyer	Byars	Chizek

Coordsen	Hefner	Labedz	Pirsch	Schrock
Cudaback	Hillman	Lamb	Robak	Wehrbein
Dierks	Johnson, L.	Lynch	Robinson	Wickersham
Hall	Johnson, R.	Moore	Schmit	Will
Hartnett	Kristensen	Morrissey		

Voting in the negative, 9:

Beutler	Crosby	Horgan	Smith	Wesely
Chambers	Elmer	Landis	Warner	

Present and not voting, 5:

Baack	Bernard-Stevens	Nelson	Rogers	Withem

Absent and not voting, 1:

Schellpeper

Excused and not voting, 6:

Conway	Lindsay	Peterson	Rasmussen	Schimek
Haberman				

The motion to cease debate prevailed with 28 ayes, 9 nays, 5 present and not voting, 1 absent and not voting, and 6 excused and not voting.

PRESIDENT MOUL PRESIDING

Mr. Chambers requested a record vote on the Beutler amendment.

Voting in the affirmative, 17:

Beutler	Hefner	Lynch	Pirsch	Warner
Beyer	Horgan	Morrissey	Robinson	Wesely
Chambers	Johnson, L.	Nelson	Smith	Withem
Elmer	Landis			

Voting in the negative, 20:

Ashford	Bernard-	Byars	Coordsen	Dierks
Baack	Stevens	Chizek	Cudaback	Hall

Hillman	Labedz	Robak	Schmit	Wickersham
Johnson, R.	Moore	Schellpeper	Schrock	Will
Kristensen				

Present and not voting, 6:

Abboud	Hartnett	Lamb	Rogers	Wehrbein
Crosby				

Excused and not voting, 6:

Conway	Lindsay	Peterson	Rasmussen	Schimek
Haberman				

The Beutler amendment lost with 17 ayes, 20 nays, 6 present and not voting, and 6 excused and not voting.

Mr. Beutler offered FA152, which is AM1749, excluding Section 6.

The Chair declared the call raised.

Messrs. Robinson, Landis, Hefner, R. Johnson, and Mrs. Crosby asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Beutler moved for a call of the house. The motion prevailed with 24 ayes, 0 nays, and 25 not voting.

Mr. Beutler requested a roll call vote on his amendment.

Voting in the affirmative, 19:

Beutler	Hall	Lindsay	Pirsch	Wesely
Byars	Hefner	Lynch	Smith	Will
Chambers	Horgan	Morrissey	Warner	Withem
Elmer	Johnson, L.	Nelson	Wehrbein	

Voting in the negative, 17:

Abboud	Bernard-	Dierks	Labedz	Schellpeper
Ashford	Stevens	Hartnett	Lamb	Schmit
Baack	Chizek	Hillman	Moore	Wickersham
	Cudaback	Kristensen	Robak	

Present and not voting, 6:

Beyer	Peterson	Robinson	Rogers	Schrock
Coordsen				

Excused and not voting, 7:

Conway	Haberman	Landis	Rasmussen	Schimek
Crosby	Johnson, R.			

The Beutler amendment lost with 19 ayes, 17 nays, 6 present and not voting, and 7 excused and not voting.

Pending.

The Chair declared the call raised.

MESSAGE FROM THE GOVERNOR

May 9, 1991

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Madam President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the State Athletic Commission, requiring legislative confirmation.

> Appointee: Jess Cardenas, 4416 South 62nd Avenue, Omaha, NE 68117, (402) 734-0393.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:bh

PRESENTED TO THE GOVERNOR

Presented to the Governor on May 13, 1991, at 10:55 a.m., were the following bills: 203, 203A, 227, and 337.

(Signed) Jan Loder, Enrolling Clerk

BILLS ON FIRST READING

The following bills were read for the first time by title:

LEGISLATIVE BILL 854A. Introduced by Moore, 24.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 854, Ninety-second Legislature, First Session, 1991.

LEGISLATIVE BILL 855A. Introduced by Moore, 24.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 855, Ninety-second Legislature, First Session, 1991.

UNANIMOUS CONSENT - Print in Journal

Mr. Abboud asked unanimous consent to print the following amendment to LB 847 in the Journal. No objections. So ordered.

AM1586
(Amendments to Standing Committee amendments, AM1473)
1. On page 25, line 5, strike "$1,000,000" and insert "$1,500,000"; and in line 10 strike the first "$1,000,000" and insert "$1,500,000".

VISITORS

Visitors to the Chamber were 18 fourth grade students and sponsor from St. Joseph School, Beatrice; 12 seventh and eighth grade students and teacher from St. Andrews, Tecumseh; 60 fourth grade students and teachers from Norris Public School; Senator Robak's husband, Cleo, and Lee Blaser; Harley and Nydra Brosh from Norfolk; and 27 eighth grade students and teacher from Axtell.

RECESS

At 12:10 p.m., on a motion by Mr. Baack, the Legislature recessed until 1:30 p.m.

AFTER RECESS

The Legislature reconvened at 1:30 p.m., President Moul presiding.

ROLL CALL

The roll was called and all members were present except Ms. Schimek who was excused; and Messrs. Conway, Haberman, Hall, Hefner, Landis, Peterson, Rogers, Warner, Mmes. Hillman, and Pirsch who were excused until they arrive.

SELECT FILE

LEGISLATIVE BILL 181. Mr. Lindsay withdrew his pending amendment, AM1743, on file in the Clerk's Office and referred to on page 2075.

Mr. Withem offered the following amendment:
FA153
Add new section 2.
Effective Jan 1, 1993.
District No 1 shall consist of the counties of Johnson, Pawnee, Nemaha and Richardson;
District No 2 shall consist of all other counties.
Renumber remaining sections.

Mr. Moore moved the previous question. The question is, "Shall the debate now close?" The motion lost with 14 ayes, 15 nays, and 20 not voting.

The Withem amendment was adopted with 27 ayes, 2 nays, 14 present and not voting, and 6 excused and not voting.

Mr. Chambers requested a machine vote on the advancement of the bill.

Advanced to E & R for engrossment with 28 ayes, 2 nays, 15 present and not voting, and 4 excused and not voting.

Mr. Peterson asked unanimous consent to be excused until he returns. No objections. So ordered.

LEGISLATIVE BILL 181A. Considered.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 425. The Landis pending amendment, FA131, found in the Journal on page 1850, was renewed.

Mrs. Robak asked unanimous consent to be excused until she returns. No objections. So ordered.

Mr. Hartnett asked unanimous consent to be excused. No objections. So ordered.

Mr. Schellpeper moved the previous question. The question is, "Shall the debate now close?"

Mr. Schellpeper moved for a call of the house. The motion prevailed with 18 ayes, 0 nays, and 31 not voting.

The motion to cease debate prevailed with 26 ayes, 1 nay, and 22 not voting.

Mr. Landis requested a roll call vote on his amendment.

Voting in the affirmative, 25:

Ashford	Coordsen	Landis	Rasmussen	Wehrbein
Baack	Hall	Lynch	Robinson	Wesely
Bernard-Stevens	Hillman	Moore	Schellpeper	Wickersham
Beutler	Johnson, R.	Morrissey	Smith	Will
Chambers	Kristensen	Nelson	Warner	Withem

Voting in the negative, 16:

Abboud	Cudaback	Horgan	Lamb	Rogers
Beyer	Dierks	Johnson, L.	Pirsch	Schmit
Byars	Hefner	Labedz	Robak	Schrock
Chizek				

Present and not voting, 3:

Crosby	Elmer	Lindsay

Excused and not voting, 5:

Conway Haberman Hartnett Peterson Schimek

The Landis amendment was adopted with 25 ayes, 16 nays, 3 present and not voting, and 5 excused and not voting.

Pending.

The Chair declared the call raised.

UNANIMOUS CONSENT - Print in Journal

Mr. Will asked unanimous consent to print the following amendment to LB 320 in the Journal. No objections. So ordered.

(Amendment on file in the Clerk's Office - Room 2018 - AM1714.)

Messrs. Rogers and Schmit asked unanimous consent to print the following amendment to LB 320 in the Journal. No objections. So ordered.

(Amendment on file in the Clerk's Office - Room 2018 - AM1358.)

Mr. Withem asked unanimous consent to print the following amendment to LB 719 in the Journal. No objections. So ordered.

AM1422

(Amendments to AM5130)

1. On page 5, line 11, after "district" insert ". Governing body shall include a county agricultural society".

UNANIMOUS CONSENT - Member Excused

Mr. Conway asked unanimous consent to be excused until he returns. No objections. So ordered.

SELECT FILE

LEGISLATIVE BILL 425. Mr. Beutler withdrew his pending amendment, AM1449, found in the Journal on page 1811.

Mrs. Rasmussen, Messrs. Lindsay, and Beutler renewed their pending amendment, AM1682, found in the Journal on page 2015.

The Rasmussen-Lindsay-Beutler amendment was adopted with 26 ayes, 0 nays, 18 present and not voting, and 5 excused and not voting.

Mrs. Hillman offered the following amendment:
FA154

Amendments to E & R AM5120

On page 1 strike beginning with "Parent" through "parent" and insert "Adult family member shall mean one parent, grandparent, stepparent". In line 19 strike "parent" and insert "adult family member".

On page 2, in lines 14, 15 and 19 strike "parent" and insert "adult family member or guardian".

On page 3, in lines 4 and 14 strike "her parent" and insert "an adult family member or guardian".

Messrs. Schmit, Morrissey, and Schellpeper asked unanimous consent to be excused until they return. No objections. So ordered.

Mrs. Labedz moved the previous question. The question is, "Shall the debate now close?"

Mrs. Labedz moved for a call of the house. The motion prevailed with 16 ayes, 0 nays, and 33 not voting.

The motion to cease debate prevailed with 25 ayes, 7 nays, and 17 not voting.

Mr. Bernard-Stevens requested a record vote on the Hillman amendment.

Voting in the affirmative, 16:

Ashford	Beutler	Landis	Rasmussen	Wickersham
Baack	Chambers	Lynch	Warner	Will
Bernard-Stevens	Hall	Nelson	Wesely	Withem
	Hillman			

Voting in the negative, 22:

Abboud	Chizek	Crosby	Dierks	Horgan
Beyer	Coordsen	Cudaback	Hefner	Johnson, L.

Johnson, R.	Lindsay	Pirsch	Rogers	Schrock
Labedz	Moore	Robak	Schmit	Smith
Lamb	Peterson			

Present and not voting, 5:

Byars	Elmer	Kristensen	Robinson	Wehrbein

Excused and not voting, 6:

Conway	Hartnett	Morrissey	Schellpeper	Schimek
Haberman				

The Hillman amendment lost with 16 ayes, 22 nays, 5 present and not voting, and 6 excused and not voting.

The Chair declared the call raised.

Mr. Withem renewed his pending amendment, AM1476, found in the Journal on page 1825.

Mr. Ashford asked unanimous consent to be excused. No objections. So ordered.

Mr. Byars asked unanimous consent to be excused until he returns. No objections. So ordered.

Mrs. Labedz moved the previous question. The question is, "Shall the debate now close?"

Mr. Wickersham asked unanimous consent to be excused until he returns. No objections. So ordered.

Mrs. Labedz moved for a call of the house. The motion prevailed with 14 ayes, 0 nays, and 35 not voting.

The motion to cease debate prevailed with 25 ayes, 3 nays, and 21 not voting.

The Withem amendment was adopted with 30 ayes, 6 nays, 4 present and not voting, and 9 excused and not voting.

The Chair declared the call raised.

Mr. Coordsen and Mrs. Smith asked unanimous consent to be excused until they return. No objections. So ordered.

Messrs. Lynch and Withem asked unanimous consent to be excused. No objections. So ordered.

Mr. Rogers moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 1 nay, and 22 not voting.

Mrs. Labedz moved for a call of the house. The motion prevailed with 19 ayes, 0 nays, and 30 not voting.

Mr. Bernard-Stevens requested a record vote on the advancement of the bill.

Voting in the affirmative, 30:

Abboud	Crosby	Horgan	Lindsay	Rogers
Beutler	Cudaback	Johnson, L.	Moore	Schmit
Beyer	Dierks	Johnson, R.	Peterson	Schrock
Chizek	Elmer	Kristensen	Pirsch	Smith
Conway	Hall	Labedz	Robak	Wehrbein
Coordsen	Hefner	Lamb	Robinson	Wickersham

Voting in the negative, 11:

Ashford	Chambers	Landis	Rasmussen	Wesely
Baack	Hillman	Nelson	Warner	Will
Bernard-Stevens				

Excused and not voting, 8:

Byars	Hartnett	Morrissey	Schimek	Withem
Haberman	Lynch	Schellpeper		

Advanced to E & R for engrossment with 30 ayes, 11 nays, and 8 excused and not voting.

The Chair declared the call raised.

LEGISLATIVE BILL 840. E & R amendment, AM5137, printed separately from the Journal and referred to on page 1940, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 720. E & R amendment, AM5139, found in the Journal on page 1941, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 579A. Advanced to E & R for engrossment.
LEGISLATIVE BILL 701A. Advanced to E & R for engrossment.
LEGISLATIVE BILL 825A. Advanced to E & R for engrossment.

MESSAGE FROM THE GOVERNOR

May 13, 1991

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 255e and 798e were received in my office on May 10, 1991.

These bills were signed by me on May 13, 1991, and delivered to the Secretary of State.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

UNANIMOUS CONSENT - Print in Journal

Mr. Schellpeper asked unanimous consent to print the following amendment to LB 320 in the Journal. No objections. So ordered.

AM1778

(Amendments to AM1653)

1. Strike sections 74, 75, 76, 77, and 78 and insert the following new sections:

"Sec. 74. That section 77-2701.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-2701.02. Pursuant to section 77-2715.01, ~~commencing July 1, 1990, or on July 10, 1990, whichever is later,~~ the rate of the sales tax levied pursuant to section 77-2703 shall be five and one-half percent.

Sec. 75. That section 77-2715.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-2715.02. (1) Whenever the primary rate is changed by the Legislature under section 77-2715.01, the Tax Commissioner shall update the rate schedules required in subsection (2) of this section to reflect the new primary rate and shall publish such updated schedules.

(2) The following rate schedules are hereby established for the Nebraska individual income tax and shall be in the following form:

(a) The income amounts for columns A, B, and E shall be the same as for the federal rate schedules in effect for tax year 1987;

(b) The amount in column C shall be the total amount of the tax imposed on income less than the amount in column A;

(c) The amount in column D shall be the rate on the income in excess of the amount in column E;

(d) The primary rate set by Legislature shall be multiplied by the following factors to compute the tax rates for column D. The factors for the brackets, from lowest to highest bracket, shall be .64, .98, 1.52, ~~1.87, and 1.87~~ 2.19, and 2.19;

(e) The amounts for column C shall be rounded to the nearest dollar, and the amounts in column D shall be rounded to hundredths of one percent; and

(f) One rate schedule shall be established for each federal filing status.

(3) The tax rate schedules shall use the format set forth in this subsection.

A	B	C	D	E
Taxable income over	but not over	pay	plus	of the amount over

(4) The tax rate applied to other federal taxes included in the computation of the Nebraska

individual income tax shall be seven times the primary rate.

(5) The Tax Commissioner shall prepare, from the rate schedules, tax tables which can be used by a majority of the taxpayers to determine their Nebraska tax liability. The design of the tax tables shall be determined by the Tax Commissioner. The size of the tax table brackets may change as the level of income changes. The difference in tax between two tax table brackets shall not exceed fifteen dollars. The Tax Commissioner may build the personal exemptions and standard deduction amounts into the tax tables.

(6) The Tax Commissioner may require by rule and regulation that all taxpayers shall use the tax tables if their income is less than the maximum income included in the tax tables.".

2. On page 145, line 5, strike "74, 75, and 90" and insert "75 and 87"; in line 10 strike "76 to 78 and 92" and insert "74 and 89"; and in line 20 strike "77-2701" and insert "77-2715.02".

3. On page 146, strike beginning with "sections" in line 3 through "77-2708" in line 4 and insert "77-2701.02"; and in line 5 strike "are" and insert "is".

4. Renumber the remaining sections and correct internal references accordingly.

Mr. Hall asked unanimous consent to print the following amendment to LB 829 in the Journal. No objections. So ordered.

(Amendment on file in the Clerk's Office - Room 2018 - AM1772.)

Messrs. Lamb, Schellpeper, and Rogers asked unanimous consent to print the following amendment to LB 320 in the Journal. No objections. So ordered.

(Amendment on file in the Clerk's Office - Room 2018 - AM1765.)

Mrs. Nelson asked unanimous consent to print the following amendment to LB 549 in the Journal. No objections. So ordered.

AM1739

1. Insert the following new section:

"Sec. 71. That section 84-1321, Reissue

Revised Statutes of Nebraska, 1943, be amended to read as follows:

84-1321. (1) Any member of the retirement system who ceases to be an employee before becoming eligible for retirement under section 84-1317 may, upon application to the board, receive (a) a termination benefit not to exceed the amount in his or her employee account payable in a lump sum plus a paid-up deferred annuity provided by the vested portion of the employer account under which the first annuity payment shall be made as of the first of the month immediately following the sixty-fifth birthday or (b) a paid-up deferred annuity provided by the employee account and the vested portion of the employer account under which the first annuity payment shall be made as of the first of the month immediately following the sixty-fifth birthday. If the terminating member does not make application he or she shall receive the benefits provided under subdivision (1)(b) of this section, except that any person who has been a member of the retirement system and has terminated his or her employment prior to September 1, 1986, and has not withdrawn the amount in his or her employee account shall have the option upon application prior to March 1, 1987, to receive the benefit provided in subdivision (1)(a) of this section.

(2) At the option of the terminating member, any paid-up deferred annuity provided under subsection (1) of this section may commence as of the first of the month at any time after such member attains the age of fifty-five or may be deferred, except that no benefit shall be deferred later than the sixtieth day after the end of the year in which the employee has both attained at least seventy and one-half years of age and has terminated his or her employment with the state. Such election by the terminating member may be made at any time prior to the commencement of the annuity payments. Such paid-up deferred annuity shall be the actuarial equivalent, based on factors designated by the board, of the employee account and the vested portion of the employer account.

(3) The vesting percentage shall be one hundred after five years of participation in the retirement plan. The vesting percentage shall equal one hundred for any disability retirement under section

84-1317.

(4) In the event that the terminating member shall not be credited with one hundred percent of his or her employer account, the remainder shall be credited to the State Employees Retirement Fund and shall be applied to reduction of the liability for prior service benefits until such time as such liability is completely funded, and thereafter the remainder shall first be used to meet the expense charges incurred by the Public Employees Retirement Board in connection with administering the system and the remainder shall then be used to reduce the state contribution which would otherwise be required to fund future service retirement benefits.

(5) If a member ceases to be an employee due to the termination of his or her employment by the state and a grievance or other appeal of the termination is filed, transactions involving forfeiture of his or her employer account shall be suspended pending the final outcome of the grievance or other appeal.".

2. On page 120, line 8, after "section" insert "and with respect to an employee as described in subsection (5) of section 84-1321 who is reinstated to employment".

3. On page 124, line 23, after the first comma insert "84-1321,".

4. Renumber the remaining sections accordingly.

Mr. Hefner asked unanimous consent to print the following amendment to LB 719 in the Journal. No objections. So ordered.

AM1763

(Amendments to AM1658)

1. On page 2, line 6, strike "fifteen" and insert "ten"; and in line 9 strike "five" and insert "ten".

Mr. Robinson asked unanimous consent to print the following amendment to LB 638 in the Journal. No objections. So ordered.

AM1642

(Amendments to Standing Committee amendments, AM0946)

1. On page 6, line 23, after the period insert "Members of the team shall be reimbursed for

their actual and necessary expenses as provided in sections 81-1174 to 81-1177.".

2. On page 7, line 19, strike "relevant state agencies" and insert "State Department of Education, the Department of Health, the Department of Public Institutions, and the Department of Social Services".

Mr. Warner asked unanimous consent to print the following amendment to LB 754 in the Journal. No objections. So ordered.

AM1527

(Amendments to AM1472)

1. Insert the following new amendment:

"2. Insert the following new section:

'Sec. 8. That section 66-1308, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

66-1308. ~~There is hereby~~ The State Treasurer shall certify and notify the Corn Development, Utilization, and Marketing Board, Nebraska Wheat Development, Utilization, and Marketing Board, Grain Sorghum Development, Utilization, and Marketing Board, and Ethanol Authority and Development Board when the balance in the fund becomes less than five million dollars. Beginning January 1 and until December 31 of the year following such certification, there shall be levied an ethanol excise tax upon all wheat, corn, and grain sorghum sold through commercial channels in the State of Nebraska. The tax shall be ~~one-and~~ one-half ~~cents~~ cent per bushel for corn and wheat and ~~one-and~~ one-half ~~cents~~ cent per hundredweight for grain sorghum. ~~for the period July 1, 1986, to January 1, 1988.~~ The tax shall be in addition to any tax or fee imposed pursuant to sections 2-2311, 2-3623, 2-3627, and 2-4012. The tax shall be levied and imposed on the grower at the time of sale or delivery and shall be collected by the first purchaser. No wheat, corn, or grain sorghum shall be subject to the tax more than once. The tax shall terminate on December 31, 1997.'.".

2. On page 1, line 9, strike "7" and insert "9"; and in line 19 after the first set of quotation marks insert "66-1308," and after the last set of quotation marks insert ", and in line 25 after the first comma insert 'and also section 66-1309, Reissue Revised

Statutes of Nebraska, 1943,' ".

3. Renumber the remaining amendments accordingly.

Mr. Lynch asked unanimous consent to print the following amendment to LB 456 in the Journal. No objections. So ordered.

AM1766

1. In the Wesely amendment, AM1296:

a. On page 11, line 1, after the period insert "If requested by the complainant, the identity of the complainant shall not be released to the board.";

b. On page 26, line 19, before "The" insert "(1)";

c. On page 27, after line 9, insert the following new subsection:

"(2) Any licensee, certificate holder, or registrant who is required to file a report of loss or theft of a controlled substance to the federal Drug Enforcement Administration shall provide a copy of such report to the Department of Health."; and

d. On page 28, lines 3 and 4, strike the new matter and reinstate the stricken matter; and in line 5 before "investigations" insert "advise the Attorney General of".

2. On page 13, lines 24 and 25, reinstate the stricken matter.

3. On page 14, lines 1 and 2, reinstate the stricken matter; and in line 2 before "failure" insert "or".

4. On page 17, lines 19 and 20, strike "an imminent" and insert "a".

5. On page 18, line 1, after "preclude" insert "investigation of alleged statutory violations which could result in".

Mr. Warner asked unanimous consent to print the following amendment to LB 625 in the Journal. No objections. So ordered.

AM1675

1. Strike the original sections and all amendments thereto and insert the following new sections:

"Section 1. That section 46, Legislative Bill

663, Ninety-second Legislature, First Session, 1991, be amended to read as follows:

Sec. 46. It is the intent of the Legislature that a clear distinction between area governance and statewide coordination for the community college areas be recognized and that such coordination is appropriate in order to provide the most cost-effective programs for residents of each community college area. It is further the intent of the Legislature that coordination of the community colleges by the Coordinating Commission for Postsecondary Education be conducted through an association of community college area boards. ~~representing all of the community college areas and providing coordination services to its members.~~ All of the community college area boards shall be a part of and shall be represented by such association. Coordination services provided by ~~an~~ such association shall include (1) preparation of a system strategic plan, (2) ~~preparation~~ coordination of the budget request for the biennium, (3) facilitation of program-needs assessment and articulation, (4) recommendation and facilitation of the appointment of representatives to committees, boards, commissions, task forces, and any other state-level bodies requesting or requiring participation from the community college system, and (5) facilitation of responses to data and information requests for the system.

All activities conducted pursuant to this section by such association shall be conducted in accordance with sections 84-1408 to 84-1414.

Nothing in this section shall be construed to require or provide for state control of the operations of any community college area or to abridge the governance ability, rights, or responsibilities of any board. Nothing in this section shall be construed to limit the ability or authority of the commission to fulfill its responsibilities and duties regarding the individual community college areas and the individual community college area campuses.

Sec. 2. That original section 46, Legislative Bill 663, Ninety-second Legislature, First Session, 1991, is repealed.".

Mrs. Rasmussen asked unanimous consent to print the following amendment to LB 320 in the Journal. No objections. So ordered.

AM1777

(Amendments to AM1653)

1. Strike section 83 and insert the following new section:

"Sec. 83. That section 77-3439, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-3439. (1) A governing body may increase the anticipated receipts from property taxes by ~~one~~ up to five percent ~~more than the increase permitted by section 77-3438~~ upon an affirmative vote of at least seventy-five percent of the governing body. In addition, a Community College Board of Governors may increase the anticipated receipts from property taxes by up to five and one-half percent if the community college area has enrollment growth of two and one-half percent or more but less than five percent over the previous year, by up to six percent if such enrollment growth is five percent or more but less than seven and one-half percent, and by up to six and one-half percent if such enrollment growth is seven and one-half percent or more. Any such increase by a Community College Board of Governors shall be made upon an affirmative vote of at least seventy-five percent of the board.

(2) Such vote shall be taken at a public meeting of the governing body following a special public hearing called for the purpose of receiving testimony on such proposed increase. The governing body shall give at least seven calendar days' notice of such public hearing and shall publish such notice at least once in a newspaper of general circulation in the political subdivision.".

Mrs. Rasmussen asked unanimous consent to print the following amendment to LB 701A in the Journal. No objections. So ordered.

AM1782

1. Strike original section 2 and insert the following new section:

"Sec. 2. The State Department of Education shall transfer $208,800 from federal funds to the

Department of Social Services during FY1991-92.".

2. In the Rasmussen amendment, AM1441, on page 1, line 3, after the first comma insert "for state aid".

SELECT COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 843. Placed on Select File as amended.
E & R amendment to LB 843:
AM5145

1. In the Nelson amendment, AM1629, on page 1, line 5, before "Youth" insert "Legislative Academy for" and strike "Academy".

2. In the Standing Committee amendments, AM1508"

a. On page 1, line 21, strike "939,020" and insert "1,124,148";

b. On page 17, line 15, strike "Generals" and insert "General";

c. On page 18, line 12, after "the" insert "Nebraska"; and in line 14 strike the second comma and after "79-12,152" insert a comma;

d. On page 19, lines 5, 11, 18, and 24, after "Fund" insert a comma;

e. On page 22, line 21, strike "for" and insert "to";

f. On page 26, line 18, strike "18,962,374" and insert "18,969,374";

g. On page 36, lines 7 and 11, strike "this appropriation" and insert "the appropriation to this program";

h. On page 48, line 21; and page 49, lines 18 and 19, strike "psychiatric emergency" and insert "emergency psychiatric";

i. On page 51, line 7, after "the" insert "Nebraska";

j. On page 61, line 22, strike "$78,567,861" and insert "$78,567,869";

k. On page 62, line 19, after "Omnibus" insert "Budget";

l. On page 78, line 15, after "FUND" insert "est.";

m. On page 85, line 13, strike "is hereby

directed to" and insert "shall";

n. On page 86, line 5, strike "in" and insert "during";

o. On page 88, lines 3 and 4, strike the second occurrence of "3,476,651" and insert "-0-"; in line 5 strike the second occurrence of "245,431" and insert "-0-"; and in line 13 strike "27,815" and insert "27,185";

p. On page 89, line 8, after "FUND" insert "est.";

q. On page 95, line 14, strike "(3)(a) through (3)(d)" and insert "(4)(a) through (d)";

r. On page 104, line 6, strike "(1)" and number the lettered subdivisions on pages 110 through 114 accordingly;

s. On page 110, lines 3 and 4 and 14 and 15, strike "Medical Center -"; and in line 21 strike "biennium 1991-93" and insert "1991-93 biennium";

t. On page 113, line 11, strike the comma; and in line 24 after "Omaha" insert "shall";

u. On page 118, line 4, strike "FY";

v. On page 123, line 21, strike "1,548,847" and insert "1,548,857";

w. On page 125, line 9, strike "326,233" and insert "326,223";

x. On page 126, line 21; and page 127, line 15, strike "has" and insert "have";

y. On page 139, strike line 3 and insert "the Job Training Cash Fund"; in line 6 strike "Department of Economic Development"; and in line 7 after "Training" insert "Cash";

z. On page 156, line 3, after "Services" insert a comma;

aa. On page 159, lines 20 and 23, strike "hereby"; and

bb. On page 169, line 14, before "Real" insert a comma; in line 16 after the comma insert "line 18,"; and in line 18 after the first semicolon insert paragraphing.

3. On page 144, line 7, strike "Reduction and Recycling Cash" and insert "Fee Collection".

4. On page 148, line 18, strike "Nebraska"; in line 21 after "Fund" insert ", Coordinating Commission for Postsecondary Education Cash Fund"; and

in line 24 strike the semicolon and insert a period.

5. On page 149, line 3, strike the period and insert a semicolon; and in lines 14 and 15 strike "Licensing and Certification".

6. On page 154, line 3, strike the first "be" and insert "is".

7. On page 158, line 13 strike "Nebraska"; and in line 15 after "Fund" insert ", Coordinating Commission for Postsecondary Education Trust Fund".

8. On page 161, line 7, strike "Nebraska".

9. On page 163, line 21, strike "and".

LEGISLATIVE BILL 845. Placed on Select File as amended.
E & R amendment to LB 845:
AM5151

1. In the Standing Committee amendments, AM1367:

a. On page 3, line 4; page 20, line 3; page 37, line 13; and page 45, line 1, after "limits" insert "for";

b. On page 12, lines 22 and 23, strike "16,520" and insert "16,122";

c. On page 29, after line 21, insert:

"PROGRAM TOTAL 547 1,253";

d. On page 30, line 4, strike "PROGRAM" and insert "AGENCY";

e. On page 36, lines 8 and 9, strike "20,051" and insert "-0-"; and in line 10 strike "18,455" and insert "-0-";

f. On page 38, line 13, strike "NEBRASKA";

g. On page 39, line 9, strike "Nebraska State College";

h. On page 40, line 9, strike "and"; and in line 10 strike "Certification"; and

i. On page 48, line 12, strike "1,018,724" and insert "1,018,729"; and in line 13 strike "1,278,175" and insert "1,278,180".

2. On page 54, line 23, after "increase" insert a comma.

LEGISLATIVE BILL 846. Placed on Select File.

LEGISLATIVE BILL 846A. Placed on Select File as amended.
E & R amendment to LB 846A:

AM5146

1. In the Standing Committee amendments, AM1368:

a. On page 11, line 6; and page 51, lines 6 and 18, after "FUND" insert "est.";

b. On page 14, after line 7, insert "PROGRAM TOTAL 583 1,290"

c. On page 33, line 24; and page 34, line 1, strike "7,383" and insert "-0-";

d. On page 35, line 20, strike "NEBRASKA";

e. On page 39, line 12, strike "26,800" and insert "26,880";

f. On page 41, line 17, after "The" insert "Nebraska"; and

g. On page 48, line 9 strike "29,696" and insert "30,696".

LEGISLATIVE BILL 847. Placed on Select File as amended.
E & R amendment to LB 847:
AM5148

1. In the Standing Committee amendment, AM1473:

a. On page 1, line 21, strike "needs" and after "statement" insert "of needs";

b. On page 4, line 6, strike "shed" and insert "storage building"; and in line 20 after "storage" insert "building";

c. On page 10, line 6, after "Oak" insert "Lake"; and in line 7 after "Pawnee" insert "Lake".

d. On page 14, line 23, after "appropriation" insert "to this program";

e. On page 19, line 12, before the period insert "for this project"; and

f. On page 24, line 24, after "FY1991-92" insert "for such purchases".

2. On page 1, strike beginning with the second "to" in line 3 through the first semicolon in line 5.

LEGISLATIVE BILL 842. Placed on Select File.
LEGISLATIVE BILL 841. Placed on Select File.

LEGISLATIVE BILL 844. Placed on Select File as amended.
E & R amendment to LB 844:

AM5149

1. In the Standing Committee amendments, AM1506:

a. Strike section 14 and insert the following new section:

"Sec. 19. That Laws 1990, LB 1031, section 10, be amended to read as follows:

Sec. 10. AGENCY NO. 27 -- DEPARTMENT OF ROADS

Total expenditures by the Department of Roads for permanent and temporary salaries and per diems shall not exceed $52,554,069 for FY1989-90. Total expenditures by the Department of Roads for permanent and temporary salaries and per diems shall not exceed $52,771,988 for FY1990-91.

(1) Program No. 305 - Assistance to Local Transit Authorities

	FY1989-90	FY1990-91
GENERAL FUND	22,000	22,000
CASH FUND	1,097,407	1,003,900
FEDERAL FUND est.	60,433	60,433
PROGRAM TOTAL	1,179,840	1,086,333

There is included in the appropriation to this program for FY1989-90 $1,000,000 Cash Funds for state aid, which shall only be used for such purpose. There is included in the appropriation to this program for FY1990-91 $1,000,000 Cash Funds for state aid, which shall only be used for such purpose.

(2) Program No. 568 - Highway Administration

	FY1989-90	FY1990-91
CASH FUND est.	8,863,054	8,962,765
PROGRAM TOTAL	8,863,054	8,962,765

Cash Fund expenditures shall not be limited to the amount shown.

There is included in the appropriation to this program for FY1989-90 $25,000 Cash Funds which shall be utilized by the Department of Roads, together with the Attorney General, Nebraska State Patrol, and Department of Revenue, to examine the current system of assessment, collection, and enforcement of the motor fuels tax, including the use and effectiveness of available regulatory, civil, and criminal sanctions. The Director-State Engineer and the Superintendent of Law Enforcement and Public Safety for the Nebraska State

Patrol shall each designate an employee in their respective agencies to serve as co-chairpersons of the study. The agencies shall together prepare and submit to the chairpersons of the Judiciary, Revenue, and Appropriations Committees of the Legislature by December 1, 1989, a report delineating any deficiencies in the current system and making recommendations or suggestions for administrative, statutory, or budgetary changes necessary or appropriate to improve the efficiency and effectiveness of or devising a more efficient and effective system for the collection of the motor fuels tax.

There is included in the FY1990-91 appropriation to this program $150,000 Cash Funds which shall be utilized by the Department of Roads together with other affected state agencies to begin implementation of recommendations contained in the Motor Fuels Tax Study submitted on December 1, 1989, to the Appropriations, Judiciary, and Revenue Committees of the Legislature. In addition, any reappropriated balance from the $25,000 Cash Funds appropriated for FY1989-90 for the Motor Fuels Tax Study shall also be utilized to begin implementation of the study's recommendations.

(3) Program No. 569 - Construction

	FY1989-90	FY1990-91
~~CASH FUND~~	~~261,618,300~~	~~253,992,283~~
CASH FUND est.	261,618,300	253,772,474
~~PROGRAM TOTAL~~	~~261,618,300~~	~~253,992,283~~
PROGRAM TOTAL	261,618,300	253,772,474

Cash Fund expenditures shall not be limited to the amount shown.

It is the intent of the Legislature that the Department of Roads shall apply for and make maximum use of available federal funding, including discretionary funding, on all highway construction projects which are eligible for such assistance.

(4) Program No. 571 - Maintenance

	FY1989-90	FY1990-91
CASH FUND est.	49,958,968	51,638,775
PROGRAM TOTAL	49,958,968	51,638,775

Cash Fund expenditures shall not be limited to the amount shown.

(5) Program No. 572 - Services and Supports

	FY1989-90	FY1990-91

CASH FUND est.	7,179,202	6,039,336
PROGRAM TOTAL	7,179,202	6,039,336

Cash Fund expenditures shall not be limited to the amount shown.

There is hereby appropriated for FY1989-90 $213,680,907 from the Highway Cash Fund to the Department of Roads Operation Cash Fund, which fund is hereby appropriated. There is included in the amount appropriated from the Highway Cash Fund to the Department of Roads Operation Cash Fund $1,000,000 for assistance to the local transit authorities program. There is hereby appropriated for FY1990-91 $201,645,359 from the Highway Cash Fund to the Department of Roads Operation Cash Fund, which fund is hereby appropriated. There is included in the amount appropriated from the Highway Cash Fund to the Department of Roads Operation Cash Fund $1,000,000 for assistance to the local transit authorities program.

FOR INFORMATIONAL PURPOSES ONLY: Total Appropriations to Agency No. 27 and Fund Source

	FY1989-90	FY1990-91
GENERAL FUND	22,000	22,000
~~CASH FUND est.~~	~~328,716,931~~	~~321,637,059~~
CASH FUND est.	328,716,931	321,417,250
FEDERAL FUND est.	60,433	60,433
~~AGENCY TOTAL~~	~~328,799,364~~	~~321,719,492~~
AGENCY TOTAL	328,799,364	321,499,683"

and

b. On page 13, line 15, strike the first "and" and strike "and insert '30' "; and in line 16 before the period insert "; and in line 15 after the first comma insert '10,' ".

2. On page 1, strike beginning with "14" in line 4 through "77" in line 5 and insert "13, 14, 23, 50, and 64"; in line 7 after the second comma insert "10,"; strike beginning with the comma in line 11 through "agreements" in line 13; and in line 14 strike beginning with "harmonize" through the second "to".

3. On page 63, line 10, before "Program" insert "(1)"; in line 16 before "Program" insert "(2)"; and in line 23 before "Program" insert "(3)".

4. On page 64, line 4, before "Program" insert "(4)"; and in line 11 before "Program" insert "(5)".

5. On page 69, line 11, strike "615A" and insert "651A".

(Signed) Eric Will, Chairperson

VISITORS

Visitors to the Chamber were 16 students from R-6 School District, Holdrege; 60 fourth grade students and sponsors from Norris Public School; 40 students and sponsors from Trinity Lutheran School, Fremont; former Senator Gary Hannibal; and 28 fourth grade students, teacher, and sponsors from Newman Grove.

ADJOURNMENT

At 5:38 p.m., on a motion by Mr. Baack, the Legislature adjourned until 9:00 a.m., Tuesday, May 14, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

SEVENTY-SEVENTH DAY - MAY 14, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

SEVENTY-SEVENTH DAY

Legislative Chamber, Lincoln, Nebraska
Tuesday, May 14, 1991

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Moul presiding.

PRAYER

The prayer was offered by Sister Barbara Ann Braum, St. Elizabeth Health Center, Lincoln, Nebraska.

ROLL CALL

The roll was called and all members were present except Messrs. Chizek, Haberman, and Hartnett who were excused; and Messrs. Abboud, Ashford, Chambers, Landis, Moore, Morrissey, Rogers, Schmit, Wesely, Withem, Mmes. Labedz, Nelson, and Pirsch who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Seventy-Sixth Day was approved.

SELECT COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 647. Placed on Select File as amended.
E & R amendment to LB 647:
AM5152

1. On page 1, strike beginning with the second "to" in line 1 through the semicolon in line 3; strike beginning with "to" in line 4 through "section"

in line 6 and insert "and to declare an emergency".

2. On page 2, line 16, after the semicolon insert "and"; and in line 20 strike "; and" and insert a period.

3. On page 3, line 14; page 7, line 16; and page 9, line 12, strike the comma.

4. On page 5, line 19, strike the comma; and in line 20 strike the first comma.

5. On page 6, line 14, strike "amount" and insert "number".

6. On page 10, line 13, strike "grantees" and insert "award recipients".

LEGISLATIVE BILL 647A. Placed on Select File as amended.
E & R amendment to LB 647A:
AM5153

1. On page 2, line 3, after the second "the" insert "Nebraska".

LEGISLATIVE BILL 760. Placed on Select File.
LEGISLATIVE BILL 856. Placed on Select File.
LEGISLATIVE BILL 856A. Placed on Select File.
LEGISLATIVE BILL 857. Placed on Select File.

LEGISLATIVE BILL 502. Placed on Select File as amended.
E & R amendment to LB 502:
AM5155

1. On page 1, line 5, strike "and"; and in line 6 after "sections" insert "; and to declare an emergency".

2. On page 3, line 4, after "adjusted" insert "for".

LEGISLATIVE BILL 651. Placed on Select File.

LEGISLATIVE BILL 653. Placed on Select File as amended.
E & R amendment to LB 653:
AM5154

1. On page 1, line 1, strike "the Department of Administrative"; and in line 2 strike "Services" and insert "state administrative agencies".

LEGISLATIVE BILL 652. Placed on Select File as amended.
E & R amendment to LB 652:

AM5156

1. In the Standing Committee amendments, AM1507:

a. On page 12, line 19, strike "Initiative (RHEN)" and insert "(RHEN) Initiative"; and

b. On page 14, line 14, after "and" insert "(2)".

2. On page 1, strike beginning with the first "to" in line 4 through the semicolon in line 5.

LEGISLATIVE BILL 855. Placed on Select File as amended.
E & R amendment to LB 855:
AM5150

1. On page 3, line 7, strike "79-1247.07", show as stricken, and insert "79-1247.05"; in line 10 strike the commas and show as stricken; and in line 21 strike "the provisions of" and show as stricken.

LEGISLATIVE BILL 854. Placed on Select File as amended.
E & R amendment to LB 854:
AM5157

1. On page 1, line 1, strike "motor vehicle operators' " and insert "commercial drivers' "; in line 2 strike "section" and insert "sections 60-4,135 and"; in line 4 strike "commercial drivers' license fees" and insert "provisions relating to early issuance and fees; to provide operative dates" and in line 5 strike "section" and insert "sections".

(Signed) Eric Will, Chairperson

UNANIMOUS CONSENT - Print in Journal

Messrs. Kristensen and Beutler asked unanimous consent to print the following amendment to LB 715 in the Journal. No objections. So ordered.

AM1800

1. On page 8, line 9, after "lien" insert ". A properly executed notarized release explicitly reciting that all child support payments or spousal support payments are current shall be prima facie evidence that such payments are in fact current".

2. On page 21, line 3, after "rule" insert ", and the variation is due to financial circumstances

which have lasted at least six months and can reasonably be expected to last for an additional six months"; and strike lines 6 through 9 and all amendments thereto and insert

"An order shall not be reviewed by the department more than once every two years.".

3. On page 23, line 11, strike "or"; and in line 13 after "income" insert "; or

(c) When the amount of the order is considered with all the other undisputed facts in the case, no variation from the criterion set forth in subdivisions (1) and (2) of section 13 exists".

3. On page 24, lines 15 and 16, strike "shall not be confidential and".

Mr. Baack asked unanimous consent to print the following amendment to LB 207 in the Journal. No objections. So ordered.

AM1794

(Amendments to Final Reading copy)

1. On page 13, strike beginning with "or" in line 6 through "district" in line 7.

Mr. Baack asked unanimous consent to print the following amendment to LB 207 in the Journal. No objections. So ordered.

AM1660

(Amendments to Final Reading copy)

1. Strike original section 1.

2. On page 1, line 4, strike "79-451,".

3. On page 17, line 1, strike "3 and 10" and insert "2 and 9"; and in line 8 strike "79-451,".

4. Renumber remaining sections accordingly.

RESOLUTIONS

LEGISLATIVE RESOLUTION 84. Introduced by Transportation Committee: Kristensen, 37, Chairperson; Beyer, 3; Byars, 30; Horgan, 4; Peterson, 21; Pirsch, 10; Robak, 22; Wickersham, 49.

PURPOSE: The purpose of this resolution is to study Nebraska law relating to the operation of motor vehicles by persons under the influence of alcohol or drugs. The study shall examine and assess the enforcement and administration of current statutory provisions to

evaluate the effectiveness of such statutes in deterring motor vehicle operation by persons under the influence of alcohol or drugs.

The study shall include an examination of the following subjects:

(1) The adoption of an administrative per se license revocation procedure;

(2) The impact of (a) lowering the ten-hundredths of one gram or more by weight of alcohol per one hundred milliliters of blood or urine per se standard to eight-hundredths of one gram or more by weight of alcohol per one hundred milliliters of blood or urine, and (b) lowering the ten-hundredths of one gram or more by weight of alcohol per two hundred ten liters of breath per se standard to eight-hundredths of one gram or more by weight of alcohol per two hundred ten liters of breath;

(3) The need for enactment of more stringent penalties for individuals convicted for second or subsequent driving-while-intoxicated offenses;

(4) The rehabilitative effect of allowing courts to authorize the use of ignition interlock devices when placing a defendant on probation;

(5) Statutory changes required to clarify who is a "qualified technician" for purposes of obtaining a blood sample to conduct blood alcohol content analysis;

(6) The deterrent impact of making a third or subsequent driving-while-intoxicated arrest a felony offense; and

(7) The federal requirement directing states to enact legislation which suspends for a minimum of one hundred eighty days the operator's license of any person convicted for any drug violation.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Transportation Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 85. Introduced by Kristensen, 37.

PURPOSE: The purpose of this resolution is to examine the Nebraska Rules of the Road and prepare legislation which will recodify and update the provisions of Chapter 39, article 6.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Transportation Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution. The committee shall solicit the input of the Revisor of Statutes, affected state agencies, other interested organizations, and persons the committee deems necessary and proper to carry out the purpose of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 86. Introduced by Kristensen, 37.

PURPOSE: The purpose of this resolution is to examine the regulation of hazardous material transporters. The study shall focus upon the requirements imposed by the Federal Motor Carrier Safety Regulations and the Federal Hazardous Materials Regulations adopted as provisions of Nebraska law pursuant to sections 75-363 and 75-364 of the Revised Statutes of Nebraska. Additionally, the study shall examine the impact that the Hazardous Material Transportation Uniform Safety Act of 1990 has upon state regulation of hazardous material transportation.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Transportation Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 87. Introduced by Kristensen, 37.

PURPOSE: The purpose of this resolution is to examine and update those provisions of Nebraska law which involve the operation and regulation of railroads by the state.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Transportation Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution. The committee shall solicit the input of the Public Service Commission, the Department of Roads, the Nebraska Railroad Association, and other interested persons to carry out the purpose of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 88. Introduced by Kristensen, 37.

PURPOSE: The purpose of this resolution is to examine 900/976 pay per call telephone service. The committee in conducting the study shall examine recent efforts undertaken in other states and at the federal level which attempt to promote consumer education and awareness in regard to 900/976 pay per call telephone service. The committee shall also examine recent actions taken by the Public Service Commission and the telecommunications industry to promote consumer protection in this state.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Transportation Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

MESSAGES FROM THE GOVERNOR

May 13, 1991

Madam President, Mr. Speaker
and Members of the Legislature

State Capitol Building
Lincoln, Nebraska 68509

Dear Madam President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Nebraska Commission for the Hearing Impaired, requiring legislative approval.

Appointee: Rosemary Hannam (Reappointed), 4801 California St., Omaha, NE 68132, 402-558-9369.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:fc

May 13, 1991

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Madam President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Nebraska Commission for the Hearing Impaired, requiring legislative approval.

Appointee: Richard McCowin, 4118 N. 17th St., Omaha, NE 68110, 402-453-5594.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:fc

May 13, 1991

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Madam President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Nebraska Commission for the Hearing Impaired, requiring legislative approval.

Appointee: Michael D. Gooch, 12905 Jennifer St., Omaha, NE 68138, 402-253-8300 h, 402-471-7631 w.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:fc

May 13, 1991

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Madam President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Nebraska Commission for the Hearing Impaired, requiring legislative approval.

Appointee: Marcia Kushner, 3501 S. 35th St., Lincoln, NE 68506, 402-489-5957 h, 402-436-1913 w.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:fc

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Madam President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Modular Housing Advisory Committee, requiring legislative approval.

Appointee: Robert A. Phillips, 412 Ninth St., Aurora, NE 68818, 402-694-6037 h, 402-694-5220 w.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:fc

REPORT

Received the 1989-1990 Job Training Partnership Act (JTPA) annual report from the Nebraska Department of Labor.

UNANIMOUS CONSENT - Add Co-Introducer

Mr. Hall asked unanimous consent to have his name added as co-introducer to LB 829. No objections. So ordered.

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following resolution: LR 77.

RESOLUTION

LEGISLATIVE RESOLUTION 82. Read. Considered.

LR 82 was adopted with 23 ayes, 0 nays, and 26 not voting.

GENERAL FILE

LEGISLATIVE BILL 829. Title read. Considered.

Standing Committee amendment, AM1372, printed separately from the Journal and referred to on page 1797, was considered.

Mr. Hall asked unanimous consent to pass over the pending Standing Committee amendment. No objections. So ordered.

Mr. Hall renewed his pending amendment, AM1772, on file in the Clerk's Office and referred to on page 2104.

Messrs. Hall and Will offered the following amendment to the pending Hall amendment:
AM1775

(Amendments to AM1772)

1. Strike sections 5 to 30, 34 to 41, 54, and 82.

2. On page 1, strike beginning with "and" in line 18 through "1990" in line 20.

3. On page 69, strike lines 22 through 24.

4. On page 70, strike line 1.

5. On page 145, lines 21 and 22, strike "5 to 30, 34 to 54, and 82" and insert "8 to 19".

6. Renumber the remaining sections and correct internal references accordingly.

SPEAKER BAACK PRESIDING

Mrs. Crosby asked unanimous consent to be excused until she returns. No objections. So ordered.

MR. CONWAY PRESIDING

Messrs. Elmer and Landis asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Will moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 28 ayes, 0 nays, and 21 not voting.

The Hall-Will amendment was adopted with 26 ayes, 3 nays, 12 present and not voting, and 8 excused and not voting.

Messrs. Hall and Will offered the following amendment to the pending Hall amendment:
AM1774

(Amendments to AM1772)

1. Insert the following new sections:

"Sec. 74. That section 77-4105, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-4105. (1) A taxpayer who has signed an agreement under section 77-4104 may elect to determine taxable income for purposes of the Nebraska income tax using the sales factor only. The election may be made for the year during which the application was filed and for each year thereafter through the eighth year after the end of the entitlement period. The election shall be made for the year of the election by computing taxable income using the sales factor only on the tax return.

~~(2) A taxpayer who has signed an agreement under section 77-4104 shall receive the incentive provided in this subsection if the agreement contains one or more projects which together will result in the investment in qualified property of at least ten million dollars and the hiring of at least one hundred new employees. Such ten-million-dollar investment and hiring of at least one hundred new employees shall be considered a required level of investment and employment for this subsection and for the recapture of personal property tax only.~~

~~The following property used in connection with such project or projects and acquired by the taxpayer, whether by lease or purchase, after the date the application was filed shall constitute separate classes of personal property:~~

~~(a) Turbine-powered aircraft, including turboprop, turbojet, and turbofan aircraft, except when any such aircraft is used for fundraising for or for the transportation of an elected official;~~

~~(b) Mainframe business computers used for business information processing which require environmental controls of temperature and power and which are capable of simultaneously supporting more than one transaction and more than one user plus peripheral~~

~~components which require environmental controls of temperature and power connected to such computers. Computer peripheral components shall be limited to additional memory units, tape drives, disk drives, power supplies, cooling units, and communication controllers; and~~

~~(c) Personal property which is business equipment located in a single project if (i) the business equipment is involved directly in the manufacture or processing of agricultural products, (ii) the investment in the single project exceeds ten million dollars, and (iii) the use, value, and proper classification of the business equipment has been certified by the Tax Commissioner.~~

~~Such property shall be exempt from the tax on personal property from the first January 1 following the date of acquisition for property in subdivision (2)(a) of this section, or from the first January 1 following the end of the year during which the required levels were exceeded for property in subdivisions (2)(b) and (2)(c) of this section, through the sixteenth December 31 after the filing of the application.~~

~~(3)~~ (2) When the taxpayer has met the required levels of employment and investment contained in the agreement, the taxpayer shall also be entitled to the following incentives:

(a) A refund of all sales and use taxes paid under the Nebraska Revenue Act of 1967 and the Local Option Revenue Act from the date of the application through the meeting of the required levels of employment and investment for all purchases, including rentals, of:

(i) Qualified property used as a part of the project;

(ii) Property, excluding motor vehicles, based in this state and used in both this state and another state in connection with the project except when any such property is to be used for fundraising for or for the transportation of an elected official;

(iii) Tangible personal property by the owner of the improvement to real estate that is incorporated into real estate as a part of a project; and

(iv) Tangible personal property by a contractor or repairperson after appointment as a purchasing agent of the owner of the improvement to real

estate. The refund shall be based on fifty percent of the contract price, excluding any land, as the cost of materials subject to the sales and use tax; and

(b) A refund of the sales and use taxes paid under the Nebraska Revenue Act of 1967 and the Local Option Revenue Act on the types of purchases, including rentals, listed in subdivision (a) of this subsection for such taxes paid during each year of the entitlement period in which the taxpayer is at or above the required levels of employment and investment.

~~(4)~~ (3) Any taxpayer who qualifies for the incentives contained in subsections (1) and ~~(3)~~ (2) of this section and who has added at least thirty new employees at the project shall also be entitled to:

(a) A credit equal to five percent of the amount by which the total compensation paid during the year to employees who are either Nebraska employees or base-year employees while employed at the project exceeds the average compensation paid at the project multiplied by the number of equivalent base-year employees.

For the computation of such credit, average compensation shall mean the total compensation paid at the project divided by the total number of equivalent employees at the project; and

(b) A credit equal to ten percent of the investment made in qualified property at the project.

The credits prescribed in subdivisions (a) and (b) of this subsection shall be allowable for compensation paid and investments made during each year of the entitlement period that the taxpayer is at or above the required levels of employment and investment.

The credit prescribed in subdivision (b) of this subsection shall also be allowable during the first year of the entitlement period for investment in qualified property at the project after the date of the application and before the required levels of employment and investment were met.

Sec. 75. That section 77-4107, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-4107. (1) If the taxpayer fails either to meet the required levels of employment or investment for the applicable project by the end of the sixth year

after the end of the year the application was submitted for such project or to utilize such project in a qualified business at employment and investment levels at or above those required in the agreement for the entire entitlement period, all or a portion of the incentives set forth in the Employment and Investment Growth Act shall be recaptured or disallowed.

(2) The recapture or disallowance shall be as follows:

(a) In the case of a taxpayer who failed to meet the required levels within the required time period, all reduction in the personal property tax because of the Employment and Investment Growth Act shall be recaptured and any reduction in the corporate income tax arising solely because of an election under subsection (1) of section 77-4105 shall be deemed an underpayment of the income tax for the year in which the election was exercised and shall be immediately due and payable; and

(b) In the case of a taxpayer who has failed to maintain the project at the required levels of employment and investment for the entire entitlement period, any reduction in the personal property tax, any refunds in tax allowed under subdivision ~~(3)~~ (2)(a) of section 77-4105, and any refunds or reduction in tax allowed because of the use of a credit allowed under subsection ~~(4)~~ (3) of section 77-4105 shall be partially recaptured from either the taxpayer or the owner of the improvement to real estate and any carryovers of credits shall be partially disallowed. One-seventh of the refunds, one-seventh of the reduction in personal property tax, and one-seventh of the credits used shall be recaptured and one-seventh of the remaining carryovers and the last remaining year of personal property tax exemption shall be disallowed for each year the taxpayer did not maintain such project at or above the required levels of employment or investment.

(3) Any refunds or reduction in tax due, to the extent required to be recaptured, shall be deemed to be an underpayment of the tax and shall be immediately due and payable.

When tax benefits were received in more than one year, the tax benefits received in the most recent year shall be recovered first and then the benefits

received in earlier years up to the extent of the required recapture.

(4) Any personal property tax that would have been due except for the exemption allowed under the Employment and Investment Growth Act, to the extent it becomes due under this section, shall be considered an underpayment of such tax and shall be immediately due and payable to the county or counties in which the property was located when exempted. All amounts received by a county under this section shall be allocated to each taxing unit levying taxes on tangible personal property in the county in the same proportion that the levy on tangible personal property of such taxing unit bears to the total levy of all of such taxing units.

(5) Notwithstanding any other limitations contained in the laws of this state, collections of any taxes deemed to be underpayments by this section shall be allowed for a period of ten years after the signing of the agreement or three years after the end of the entitlement period, whichever is later.

(6) Any amounts due under this section shall be recaptured notwithstanding other allowable credits and shall not be subsequently refunded under any provision of the Employment and Investment Growth Act unless the recapture was in error.

(7) The recapture required by this section shall not occur if the failure to maintain the required levels of employment or investment was caused by an act of God or national emergency.".

2. On page 69, strike lines 18 through 21 and show the old matter as stricken; and in line 22 strike "(8)" and insert "(7)".

3. On page 145, line 15, after the second comma insert "74, 75,".

4. On page 146, line 6, strike "section 77-2701" and insert "sections 77-2701, 77-4105, and 77-4107"; and in line 7 strike "is" and insert "are".

5. Renumber the remaining sections and correct internal references accordingly.

SPEAKER BAACK PRESIDING

Mr. Conway and Mrs. Rasmussen asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Landis moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

Mr. Hall moved for a call of the house. The motion prevailed with 19 ayes, 0 nays, and 30 not voting.

Mr. Hall requested a roll call vote on the Hall-Will amendment.

Voting in the affirmative, 19:

Baack	Hillman	Morrissey	Schellpeper	Wickersham
Beutler	Landis	Nelson	Schmit	Will
Dierks	Lynch	Robak	Warner	Withem
Hall	Moore	Rogers	Wesely	

Voting in the negative, 22:

Abboud	Coordsen	Horgan	Lamb	Robinson
Bernard-Stevens	Crosby	Johnson, L.	Lindsay	Schrock
	Cudaback	Johnson, R.	Peterson	Smith
Beyer	Elmer	Kristensen	Pirsch	Wehrbein
Byars	Hefner	Labedz		

Present and not voting, 2:

Chambers Schimek

Excused and not voting, 6:

Ashford	Conway	Haberman	Hartnett	Rasmussen
Chizek				

The Hall-Will amendment lost with 19 ayes, 22 nays, 2 present and not voting, and 6 excused and not voting.

Pending.

UNANIMOUS CONSENT - Print in Journal

Mr. Lynch asked unanimous consent to print the following amendment to LB 849 in the Journal. No objections. So ordered.

AM1752

(Amendments to Standing Committee amendments, AM1071)

1. Insert the following new section:

"Sec. 51. That section 9-329.03, Revised Statutes Supplement, 1990, be amended to read as follows:

9-329.03. (1) Any sole proprietorship, partnership, or corporation, which holds a retailer's license for consumption on the premises or a bottle club license issued by the Nebraska Liquor Control Commission pursuant to the Nebraska Liquor Control Act or which holds a retailer's license for consumption off the premises ~~so long as seventy-five percent of such retailer's revenue on an annual basis is received from the sale of alcoholic liquor,~~ may apply for a pickle card operator's license to sell individual pickle cards as opportunities to participate in a lottery by the sale of pickle cards. ~~The burden shall be on any licensee who holds an off-premises license to show that the licensee's sales revenue meets such percentage requirement.~~

(2) A pickle card operator licensed under the Nebraska Pickle Card Lottery Act shall not be connected with or interested in, directly or indirectly, any person, partnership, firm, or corporation or other party licensed as a distributor or manufacturer under section 9-330 or 9-332.

(3) A sole proprietor, partner in a partnership, or officer or director of a corporation licensed as a pickle card operator shall not be licensed as a sales agent.".

2. On page 121, line 10, after the last comma insert "9-329.03,".

3. Renumber the remaining sections accordingly.

Mr. Hefner asked unanimous consent to print the following amendment to LB 91 in the Journal. No objections. So ordered.

AM1812

(Amendments to AM1658)

1. On page 2, line 6, strike "fifteen" and insert "ten"; and in line 9 strike "five" and insert "ten".

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the attached report on the referral of a Government appointment.

Government, Military and Veterans Affairs
Jess Cardenas - State Athletic Commission

(Signed) Jerome Warner, Chairperson
Legislative Council
Executive Board

VISITORS

Visitors to the Chamber were 26 third and fourth grade students and teachers from Pleasant Dale; 34 third grade students and teachers from McPhee Elementary, Lincoln; 35 fourth grade students and teachers from Starr Elementary, Grand Island; 47 eighth grade students and teachers from Centura Consolidated School, Boelus-Cairo-Dannebrog; 12 eighth grade students and teacher from Assumption School, Omaha; and 27 seventh grade students and teacher from Trinity School, Grand Island.

RECESS

At 12:04 p.m., on a motion by Mr. Cudaback, the Legislature recessed until 1:30 p.m.

AFTER RECESS

The Legislature reconvened at 1:30 p.m., Speaker Baack presiding.

ROLL CALL

The roll was called and all members were present except Messrs. Chizek and Haberman who were excused; and Messrs. Bernard-Stevens, Byars, Chambers, Conway, Hartnett, R. Johnson, Wesely, Wickersham, and Mrs. Labedz who were excused until they arrive.

REPORT

Received statement of deposits to the Highway Cash Fund and Roads Operation Cash fund for April 1991 from the Department of Roads in compliance with section 66-476, R.S. Supp. 1988.

GENERAL FILE

LEGISLATIVE BILL 829. Messrs. Hall and Will offered the following amendment to the pending Hall amendment considered on page 2129:
AM1773

(Amendments to AM1772)

1. On page 98, line 16, strike "seventy-five-hundredths" and insert "sixty-hundredths".

2. On page 100, strike beginning with the second "in" in line 8 through line 9 and insert "through the use of the property factor contained in section 77-2734.12; and"; in line 14 strike "and payroll factors" and insert "factor"; and in line 15 strike "sections 77-2734.12 and 77-2734.13" and insert "section 77-2734.12".

The Hall-Will amendment was adopted with 16 ayes, 3 nays, 19 present and not voting, and 11 excused and not voting.

Mr. Lamb offered the following amendment to the pending Hall amendment:
AM1821

(Amendments to AM1772)

1. On page 68, line 22, strike "For tax year 1991 all" and insert "All".

2. On page 69, lines 18 and 19, strike the new matter and insert "(7) Any".

Messrs. Chambers, Elmer, Ms. Schimek, Mmes. Smith, and Robak asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Coordsen asked unanimous consent to be excused. No objections. So ordered.

Mr. Wehrbein moved the previous question. The question is, "Shall the debate now close?"

Mr. Wehrbein moved for a call of the house. The motion prevailed with 10 ayes, 0 nays, and 39 not voting.

The motion to cease debate prevailed with 25 ayes, 0 nays, and 24 not voting.

The Lamb amendment lost with 16 ayes, 21 nays, 3 present and not voting, and 9 excused and not voting.

The Chair declared the call raised.

Mr. Withem asked unanimous consent to be excused until he returns. No objections. So ordered.

Pending.

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 719A. Introduced by Withem, 14.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 719, Ninety-second Legislature, First Session, 1991; and to declare an emergency.

SELECT COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 849. Placed on Select File as amended.
E & R amendment to LB 849:
AM5159

1. In the Abboud amendment, AM1654, on page 1, line 1, strike "after" and insert "before"; and strike beginning with "Of" in line 2 through "fund" in line 4 and insert ", and one percent of such money".

2. In the Schmit amendment, AM1639:

a. Renumber sections 47 and 48 as sections 46 and 47 respectively; and

b. On page 1, line 5, strike "48" and insert

"47"; in line 10 after "Card" insert "Lottery"; and in line 11 strike the comma;

3. In the Hall-Withem amendment, AM1570, on page 1, line 4, strike "fifty" and insert "forty-nine and one-half"; and in line 5 strike "and fifty" and insert ", forty-nine and one-half".

4. In lieu of the Lynch amendment, FA139, in the Lynch amendment, FA138, on page 1, line 2, after the colon insert " '(4) Preference shall be given to bidders and applicants for contracts based in Nebraska if the costs and benefits are equal or superior to those available from competing persons.".

5. In the Standing Committee amendments, AM1071:

a. On page 2, line 24, strike "and" and insert "or";

b. On page 3, line 18, after "Ticket" insert "or lottery ticket"; and in line 23 strike "a director" and insert "the Director of the Lottery Division";

c. On page 4, line 19, after "the" insert "lottery";

d. On page 5, line 10, strike "deputy director" and insert "Deputy Director of the Lottery Division";

e. On page 8, line 17, strike "are" and insert "is";

f. On page 10, line 21; and page 11, line 3, strike "plan" and insert "plans";

g. On page 11, line 8, after "of" insert "local";

h. On page 13, line 22, strike "under the act" and insert "by the fund";

i. On page 17, line 20, strike "act" and insert "State Lottery Act"; in line 21 strike "State"; and in line 22 strike "Lottery Act" and insert "act";

j. On page 18, line 16; and page 19, line 6, after "or" insert "other".

k. On page 23, line 3, after "and" insert "the";

l. On page 24, line 14, strike "principals" and insert "principles";

m. On page 27, line 9, after "shall" insert "also"; and in line 22 after "prize" insert "resulting from a lottery ticket";

n. On page 28, line 16, strike "claimant" and insert "claimants"; and in line 22 strike "was" and insert "were";

o. On page 30, line 1, strike "in" and insert "for";

p. On page 32, line 3, after "or" insert "been"; strike beginning with the first "the" in line 5 through the comma in line 7; in line 8 after the first comma insert "the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act,"; in line 17 after "responsibility" insert an underscored comma; in line 18 after "division" insert an underscored comma; and in line 22 strike the comma;

q. On page 33, line 5, strike the comma;

r. On page 36, line 11, strike "State Lottery Act" and insert "act";

s. On page 37, line 1, strike the second "each" and insert "the";

t. On page 40, line 20, strike "any";

u. On page 43, line 11, strike the first "the";

v. On page 44, line 14, after "and" insert "the";

w. On page 49, line 4, strike "is", show as stricken, and insert "are"; strike beginning with "the" in line 8 through the second comma in line 10 and show as stricken; and in line 11 after the comma insert "the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act,";

x. On page 55, line 21; page 66, line 15; and page 67, line 17, after the comma insert "the Nebraska County and City Lottery Act,";

y. On page 55, line 23; page 57, line 4; page 66, line 17; and page 67, line 19, strike "the Nebraska County and City Lottery Act," and show as stricken;

z. On page 57, line 2, after "under" insert "the Nebraska County and City Lottery Act,";

aa. On page 70, strike beginning with the first "the" in line 8 through the comma in line 9 and show as stricken; and in line 10 after the first comma insert "the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act,";

bb. On page 71, strike beginning with the second "the" in line 9 through the first comma in line 11 and show as stricken; in line 11 after the second comma insert "the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act,"; and in line 22 strike "three", show as stricken, and insert "two";

cc. On page 89, line 6; page 98, line 24; page 99, line 22; page 100, line 14; and page 102, line 11, after the first comma insert "the Nebraska Lottery and Raffle Act,";

dd. On page 89, line 7; page 99, lines 1 and 22 and 23; page 100, lines 14 and 15; and page 102, lines 11 and 12, strike "the Nebraska Lottery and Raffle Act," and show as stricken;

ee. On page 99, line 12, strike both occurrences of "and" and show as stricken;

ff. On page 100, line 24, strike the new matter and reinstate the stricken matter;

gg. On page 101, line 3, strike "and" and show as stricken;

hh. On page 103, lines 21 to 24; page 104, lines 14 to 16; page 105, lines 13 to 15; page 107, lines 3 to 5; and page 108, lines 2 to 5, strike "the Nebraska Pickle Card Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska Small Lottery and Raffle Act," and show as stricken;

ii. On page 103, line 24; page 104, line 17; page 105, line 16; page 107, line 6; and page 108, line 5, before "the" insert "the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act,";

jj. On page 108, for purposes of correlation with section 14, LB 244, in line 8 after the second comma insert "as amended by section 14, Legislative Bill 244, Ninety-second Legislature, First Session, 1991,"; in lines 19 and 20 strike the stricken matter; and in line 20 remove the underscoring;

kk. On page 112, for purposes of correlation with section 14, LB 244, in line 11 strike "or"; in line 12 after "facility" insert ", or nursing facility"; and in line 13 after "71-2029" insert "and section 7 of this act"; and

ll. On page 121, line 9, after the first comma insert "and" and strike "and 77-2704,"; in line 10

strike "and"; and in line 12 after the comma insert ", and section 77-2704, Reissue Revised Statutes of Nebraska, 1943, as amended by section 14, Legislative Bill 244, Ninety-second Legislature, First Session, 1991,".

6. On page 1, line 4, after the last comma insert "and"; in line 5 strike "and 77-2704,"; in line 6 strike "and"; in line 7 after the first comma insert "9-301,"; in line 8 after "1990" insert ", and section 77-2704, Reissue Revised Statutes of Nebraska, 1943, as amended by section 14, Legislative Bill 244, Ninety-second Legislature, First Session, 1991"; in line 9 after the first semicolon insert "to change provisions relating to the distribution of pickle cards; to redefine a term; to eliminate provisions relating to licensure of pickle card distributors and manufacturers;"; and in line 10 after "sections" insert ", and also sections 9-307, 9-313, and 9-330, Reissue Revised Statutes of Nebraska, 1943, and sections 9-331, 9-332, and 9-333, Revised Statutes Supplement, 1990".

LEGISLATIVE BILL 256. Placed on Select File as amended.
E & R amendment to LB 256:
AM5160

1. In the Standing Committee amendments, AM1207:

a. On page 7, line 6, strike "this"; and in line 7 after "section" insert "4 of this act";

b. On page 13, line 8, strike the comma;

c. On page 14, line 22, strike "such section" and insert "section 9 of this act"; and

d. On page 15, line 5, strike "such sections" and insert "sections 2 to 11 of this act".

2. On page 1, strike lines 3 through 10 and insert "screening mammography, conditions for reimbursement, appeals, reports, fees, records, and immunity from liability; to create the Mammography Screening Cash Fund; and to establish the Mammography Screening Committee.".

LEGISLATIVE BILL 256A. Placed on Select File.

LEGISLATIVE BILL 72. Placed on Select File as amended.
E & R amendment to LB 72:

AM5147

1. For purposes of correlation with section 1, LB 716, and section 2, LB 837:

a. In the Standing Committee amendment, AM1411, strike sections 1 and 3 and insert the following new sections:

"Section 1. That section 81-1578, Revised Statutes Supplement, 1990, as amended by section 1, Legislative Bill 716, Ninety-second Legislature, First Session, 1991, and section 2, Legislative Bill 837, Ninety-second Legislature, First Session, 1991, be amended to read as follows:

81-1578. Sections 81-1578 to 81-15,116 and section 1 of this act, ~~and~~ section 2 of this act, and section 2 of this act shall be known and may be cited as the Low-Level Radioactive Waste Disposal Act.

Sec. 3. That original section 81-1578, Revised Statutes Supplement, 1990, as amended by section 1, Legislative Bill 716, Ninety-second Legislature, First Session, 1991, and section 2, Legislative Bill 837, Ninety-second Legislature, First Session, 1991, is repealed."; and

b. On page 1, line 3, after "1990" insert ", as amended by section 1, Legislative Bill 716, Ninety-second Legislature, First Session, 1991, and section 2, Legislative Bill 837, Ninety-second Legislature, First Session, 1991".

2. In the Standing Committee amendments, AM1411:

a. On page 2, line 19; and page 3, line 3, after "The" insert "election commissioner or"; and

b. On page 3, line 7, strike the comma; and in line 9 eliminate the paragraphing.

LEGISLATIVE BILL 167. Placed on Select File as amended.
E & R amendment to LB 167:
AM5158

1. In the Standing Committee amendments, AM1486:

a. On page 2, strike beginning with "have" in line 17 through "as" in line 18 and insert "mean an insurer as defined";

b. On page 3, line 3, strike "resource" and insert "resources";

c. On page 7, line 9, after "specified" insert "employee benefit";

d. On page 10, lines 8 and 12, strike the comma; and in line 9 strike "provides" and insert "provide"; and

e. On page 12, line 1, strike the comma.

2. On page 1, strike beginning with "to" in line 3 through "and" in line 5 and insert "to adopt the Political Subdivisions Self-Funding Benefits Act; to harmonize provisions; to provide a duty for the Revisor of Statutes; to provide severability;" and in line 6 after "section" insert "; and to declare an emergency".

(Signed) Eric Will, Chairperson

ATTORNEY GENERAL'S OPINION

Opinion No. 91038

DATE: May 14, 1991

SUBJECT: Amendment 1279 to LB 577; The Permit Process for Engaging in Sampling With Respect to Smokeless Tobacco Products

REQUESTED BY: Senator Merton L. Dierks, Nebraska State Legislature

WRITTEN BY: Don Stenberg, Attorney General
Dale A. Comer, Assistant Attorney General

LB 577 is an act which pertains to smokeless tobacco products and which would regulate the distribution of free smokeless tobacco samples, a process otherwise referred to in the bill as "engaging in sampling." Among other things, the bill provides that smokeless tobacco samples can only be distributed at certain locations, and that smokeless tobacco products cannot be given to minors. The bill also provides for enforcement by the Attorney General through suits for civil penalties and injunctive relief.

AM 1279, which can be found at p. 1883 of the current Legislative Journal, would amend LB 577 in several respects. AM 1279 would require an individual to obtain a permit from the Nebraska Secretary of State before engaging in sampling. That permit would be good for one year, and persons engaging in sampling would be required to

have a permit in their possession while participating in that task. Section 8 of AM 1279 specifically provides that:

> If two or more judgments are entered against any manufacturer of smokeless tobacco products, its employees, or its sole agents for a violation of section 2, 3, 4, or 5 of this act, the Attorney General shall notify the Secretary of State that such judgments have been entered. Upon receipt of such notice, the Secretary of State shall revoke the permit issued to such manufacturer. Upon the request of such manufacturer, the Secretary of State shall issue a new permit under section 5 of this act if the judgments are overturned on appeal. If the judgments are not overturned on appeal, the Secretary of State may not issue a new permit to such manufacturer until one year has elapsed from the date when the Secretary of State received notice of the entry of the initial judgments against the manufacturer.

You have several concerns with the language of Section 8 of AM 1279 which apparently prompted your Opinion request. Our responses to the questions which you have raised are discussed below.

You first reference that portion of Section 8 which calls for revocation of a sampling permit in the event that two or more judgments are entered against a manufacturer, and you ask, "{a}m I to understand by this language that this is the sole circumstance under which a permit could be revoked?"

Obviously, we cannot speak to the intent of the drafters or sponsors of this legislative language, and questions concerning the intended meaning of that language might better be addressed to them. On the other hand, statutory language, in the absence of anything indicating to the contrary, is to be given its plain and ordinary meaning. State v. Quandt, 234 Neb. 402, 451 N.W.2d 272 (1990). Section 8 provides for the revocation of a permit when the Secretary of State is notified that two judgments have been entered against a particular defendant. Since that is the only event which triggers the revocation process under the express language of Section 8, we assume that it is, indeed, the "sole circumstance under which a permit could be revoked." However, we would note that the judgments referenced in Section 8 could be obtained as a result of a number of different violations of the act.

You next ask whether the provisions of Section 8 would bring about a result where a manufacturer having two judgments against it for violations of the act and another manufacturer having twenty judgments against it would have the same period of suspension.

Again, we can only look at the language of Section 8 with a view towards its plain and ordinary meaning. On that basis, it appears to us that once a manufacturer has two judgments entered against it for

violations of the act, there is a one year suspension of the permit for engaging in sampling. This same result would obtain whether there are two judgments or twenty judgments against the particular manufacturer.

Finally, you state that you find the parameters set for the Secretary of State in Section 8 to be "rather confusing." You request an analysis of their standing within the due process clauses of the United States and Nebraska Constitutions.

We assume that your final question involves the "void for vagueness doctrine." That concept is based on the due process guarantees of the Fifth and Fourteenth Amendments to the federal Constitution and Article I, Section 3, of our Nebraska Constitution. U.S. v. Articles of Drug, 825 F.2d 1238 (8th Cir. 1987); State v. A. H., 198 Neb. 444, 253 N.W.2d 283 (1987). In order to pass constitutional muster, a statute must be sufficiently specific so that persons of ordinary intelligence must not have to guess at its meaning, and the statute must contain ascertainable standards by which it may be applied. State v. A. H., supra. The void for vagueness doctrine does apply to civil statutes. Id. Even though this is the case, greater vagueness is generally tolerated in civil statutes than in criminal statutes. U.S. v. Articles of Drug, supra. A statute which is otherwise valid will not be held void for vagueness unless it is so deficient in its terms as to render it impossible to enforce. Neeman v. Nebraska Natural Resources Commission, 191 Neb. 672, 217 N.W.2d 166 (1974). The constitutional requirement of reasonable certainty in statutory language is satisfied by the use of ordinary terms which find adequate interpretation in common usage and understanding. Fulmer v. Jensen, 221 Neb. 582, 379 N.W.2d 736 (1986).

In our view, the provisions of Section 8 generally use ordinary terms which find adequate interpretation in common usage and understanding. Consequently, we do not believe that Section 8 is sufficiently vague so as to involve a violation of due process. However, if you believe that Section 8 is confusing and unclear, you may wish to introduce further amendatory language to deal with the interpretation problems which you perceive.

Sincerely yours,
DON STENBERG
Attorney General
(Signed) Dale A. Comer
Assistant Attorney General

05-07-14.91
cc: Patrick J. O'Donnell

Clerk of the Legislature

UNANIMOUS CONSENT - Print in Journal

Messrs. Hall and Bernard-Stevens asked unanimous consent to print the following amendment to LB 577 in the Journal. No objections. So ordered.

AM1732

1. In AM1666, on page 1, line 13, after the first period insert "Possession of tobacco in any form by a minor age sixteen years or older in the ordinary course of his or her employment shall not be deemed a violation of this section.".

NOTICE OF COMMITTEE HEARINGS
General Affairs

Governor Appointments Wednesday, May 22, 1991 1:00 p.m.
Nebraska Arts Council
J. Robert Duncan
Janet Korell
Jacquelyn H. Rosenlof
Jean Sidwell
Maryanne H. Harry

Governor Appointments Thursday, May 30, 1991 1:00 p.m.
Nebraska Arts Council
Helen L. Hayes
State Electrical Board
Sam Johnson

(Signed) Jacklyn Smith, Chairperson

UNANIMOUS CONSENT - Print in Journal

Mr. Coordsen asked unanimous consent to print the following amendment to LB 652 in the Journal. No objections. So ordered.

AM1796

(Amendments to Standing Committee amendments, AM1507)

1. Insert the following new section:

"Sec. 28. There is hereby appropriated $39,500 from the Nebraska Technical Community College

Aid Cash Fund for FY1992-93 to Aid to Technical Community Colleges, for Program 99. There is included in the appropriation to this program (1) $14,500 to support installation of a microwave link to provide a NEB*SAT telecommunications connection between the Western Technical Community College Area campus in Scottsbluff and existing satellite reception and transmission facilities located in Scottsbluff, (2) $12,500 to support a telecommunication technician position for the Mid-Plains Technical Community College Area, and (3) $12,500 to support a telecommunication technician position for the Western Technical Community College Area.

The State Treasurer shall transfer $39,500 from the Employment Security Special Contingent Fund to the Nebraska Technical Community College Aid Cash Fund on or before July 1, 1992.".

2. Renumber the remaining sections accordingly.

Mr. Lynch asked unanimous consent to print the following amendment to LB 719 in the Journal. No objections. So ordered.

AM1840

(Amendments to E & R amendments, AM5130)

1. Insert the following new sections:

"Sec. 3. That section 43-2001, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

43-2001. Sections 43-2001 to 43-2012 and section 4 of this act shall be known and may be cited as the Missing Children Identification Act.

Sec. 4. (1) If a student enrolling for the first time in a school district or an approved or accredited nonpublic school meets the income eligibility requirements of the Food and Nutrition Service National School Lunch Program, 7 C.F.R. part 210, the district or nonpublic school shall provide the student or the person enrolling the student with a document signed by the superintendent of the school district or his or her designee or, in the case of a nonpublic school, by the administrator or his or her designee, verifying the student's eligibility in such program.

(2) The bureau shall provide one certified

birth certificate at no charge to any person who submits the document described in subsection (1) of this section with a request for a certified birth certificate.

Sec. 6. That section 71-612, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-612. (1) The Director of Health, as the State Registrar, through the Department of Health shall preserve permanently and index all certificates received. The department shall supply to any applicant for any proper purpose, as defined by rules and regulations of the department, a certified copy of the record of any birth, death, marriage, or dissolution of marriage registered. Except as provided in subsections (2), (3), (5), and (6) of this section, the department shall be entitled to charge and collect in advance a fee of ~~five~~ six dollars, to be paid by the applicant for each certified copy supplied to the applicant or for any search made at the applicant's request for any such record, whether or not the record is found on file with the department.

(2) The department shall, free of charge, search for and furnish a certified copy of any record on file with the department upon the request of (a) the United States Department of Veterans Affairs or any lawful service organization empowered to represent veterans if the copy of the record is to be issued, for the welfare of any member or veteran of the armed forces of the United States or in the interests of any member of his or her family, in connection with a claim growing out of service in the armed forces of the nation or (b) the Military Department of the State of Nebraska.

(3) The department may, free of charge, search for and furnish a certified copy of any record on file with the department when in the opinion of the director of vital statistics it would be a hardship for the claimant of old age, survivors', or disability benefits under the Social Security Act to pay the fee provided in this section.

(4) A strict account shall be kept of all funds received by the department. Such funds shall be remitted to the State Treasurer who shall credit the funds to the Bureau of Vital Statistics Fund, which fund is hereby created. The fund shall be used for the

purpose of administering the laws relating to vital statistics. Any money in the fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1276. The fund may be used to create a petty cash fund administered by the department to facilitate the payment of refunds to individuals who apply for copies of records. The petty cash fund shall be subject to section 81-104.01, except that the amount in the fund shall not be less than twenty-five dollars nor more than one thousand dollars.

(5) The Department of Health shall, upon request, conduct a search of death certificates for stated individuals for the Nebraska Medical Association or any of its allied medical societies or any inhospital staff committee pursuant to sections 71-3401 to 71-3403. If such death certificate is found, the department shall provide a noncertified copy. The department shall charge a fee for each search or copy sufficient to cover its actual direct costs, except that such fee shall not exceed two dollars per individual search or copy requested.

(6) In addition to the fees charged under subsection (1) of this section, the department shall charge and collect an additional fee of one dollar for any certified copy of the record of any birth or for any search made at the applicant's request for any such record, whether or not the record is found on file with the department. Any county containing a city of the metropolitan class which has an established city-county or county health department pursuant to sections 71-1626 to 71-1636 which has an established system of registering births and deaths shall charge and collect in advance a fee of one dollar and twenty cents for any certified copy of the record of any birth or for any search made at the applicant's request for such record, whether or not the record is found on file with the county. All such fees collected shall be remitted to the State Treasurer who shall credit the fees to the General Fund.".

2. Renumber the remaining sections and change internal references accordingly.

GENERAL FILE

LEGISLATIVE BILL 829. Mr. Lamb offered the following amendment to the pending Hall amendment, AM1772:
(Amendment on file in the Clerk's Office - Room 2018 - AM1852.)

Mr. Lamb moved the previous question. The question is, "Shall the debate now close?"

Mr. Lamb moved for a call of the house. The motion prevailed with 6 ayes, 0 nays, and 43 not voting.

The motion to cease debate prevailed with 26 ayes, 0 nays, and 23 not voting.

Mr. Lamb requested a roll call vote on his amendment.

Voting in the affirmative, 20:

Baack	Dierks	Johnson, R.	Peterson	Schmit
Bernard-Stevens	Elmer	Lamb	Robinson	Schrock
Byars	Hefner	Moore	Rogers	Wehrbein
Cudaback	Johnson, L.	Nelson	Schellpeper	Wickersham

Voting in the negative, 19:

Abboud	Conway	Horgan	Lynch	Warner
Ashford	Crosby	Kristensen	Morrissey	Will
Beutler	Hall	Landis	Pirsch	Withem
Beyer	Hillman	Lindsay	Rasmussen	

Present and not voting, 1:

Wesely

Excused and not voting, 9:

Chambers	Coordsen	Hartnett	Robak	Smith
Chizek	Haberman	Labedz	Schimek	

The Lamb amendment was adopted with 20 ayes, 19 nays, 1 present and not voting, and 9 excused and not voting.

The Chair declared the call raised.

Messrs. Conway, Wickersham, and Mrs. Pirsch asked unanimous consent to be excused until they return. No objections. So ordered.

Messrs. Warner and Conway offered the following amendment to the pending Hall amendment:
AM1803

(Amendments to AM1772)

1. Strike sections 10, 26, 28, and 34 to 41 and insert the following new sections:

"Sec. 26. That section 60-1806, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-1806. ~~In~~ Commencing January 1, 1993, in addition to the permit fee provided by sections 60-1801 to 60-1808, there is hereby imposed upon such camper units a motor vehicle tax~~,~~ which shall be assessed, computed, collected, allocated and subject to refund~~,~~ in the manner prescribed by Chapter 77, article 12, for the taxation of motor vehicles registered for operation upon the public highways of this state. To obtain refund of taxes paid on a camper unit, the person in whose name the permit was originally issued shall obtain a certificate of tax refund from the county assessor and shall deliver such certificate, together with such permit, to the county treasurer, which certificate and permit shall be retained by the county treasurer.

Sec. 44. That section 77-1240.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-1240.01. ~~In~~ Commencing January 1, 1993, in addition to the registration fees provided by Chapter 60, article 3, a motor vehicle tax is hereby imposed on motor vehicles, except dealer's vehicles on hand, registered for operation upon the highways of this state, except motor vehicles exempt from taxation by section 77-202. The motor vehicle tax shall be in lieu of all ad valorem taxes to which the motor vehicle would otherwise be subject. The motor vehicle tax shall be computed annually on the value of the motor vehicle as certified to the county assessor by the Tax Commissioner at a rate equal to the ad valorem rate for all purposes for the preceding year in the several taxing units of the state in which the motor vehicle has ~~tax~~ situs. The

motor vehicle tax as thus computed shall be collected annually by the county treasurer at the time of application for and before registration of the motor vehicle each year. The proceeds from the motor vehicle tax shall be allocated to each taxing unit levying taxes on tangible personal property in the county in which the motor vehicle has ~~tax~~ situs in the same proportion that the levy on tangible personal property of such taxing unit bears to the total levy on tangible personal property of all the taxing units in which the motor vehicle is taxed.

Sec. 45. That section 77-1241.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-1241.01. ~~Motor~~ Commencing January 1, 1993, motor vehicles not subject to a motor vehicle tax and not registered for operation on the highways, except dealers' vehicles on hand, shall be subject to the ad valorem tax on tangible property which shall be computed according to the schedule of values fixed by the Tax Commissioner. If a motor vehicle which has been assessed for ad valorem tax purposes, except dealers' motor vehicles on hand January 1 at 12:01 a.m., is later registered during the registration period for which taxes have been assessed, the owner against whom such ad valorem taxes have been assessed shall be credited with the proportionate amount for the period during which the motor vehicle tax has been paid.".

2. On page 4, line 24; and page 19, line 9, strike "In" and insert "Until January 1, 1993, in".

3. On page 22, line 2; and page 23, line 1, after "vehicle" insert "tax or motor vehicle".

4. On page 23, strike line 19, show the old matter as stricken, and insert an underscored period.

5. On page 29, strike beginning with "as" in line 11 through the period in line 12, show the old matter as stricken, and insert an underscored period.

6. On page 31, line 14, after "section" insert "77-1240 or section".

7. On page 32, line 4, strike "fee"; and in line 5 after "all" insert "motor vehicle taxes or".

8. On page 33, lines 9 and 19, after "motor" insert "vehicle taxes or motor".

9. On page 35, line 13, after "vehicle"

insert "tax or motor vehicle".

10. On page 36, line 9, after "act" insert "or"; and in lines 9 through 11 reinstate the stricken matter.

11. On page 38, line 8, reinstate the stricken matter.

12. On page 39, line 3, after "and" insert "motor vehicle taxes or".

13. On page 42, strike beginning with "as" in line 3 through the period in line 4, show the old matter as stricken, and insert an underscored period.

14. On page 51, line 12, after "all" insert "motor vehicle taxes or".

15. On page 52, line 6, after "from" insert "motor vehicle tax," and after "tax" insert an underscored comma.

16. On page 64, line 12, after "of" insert "motor vehicle taxes or".

17. On page 68, lines 22 through 24, strike the new matter.

18. On page 69, lines 1 through 24, strike the new matter and reinstate the stricken matter.

19. On page 70, lines 1 through 10, strike the new matter and reinstate the stricken matter; and after line 10 insert the following new subsections:

"(12) For tax year 1991 all personal property as defined in section 77-104 other than motor vehicles which are required to be registered under sections 60-301 to 60-347 shall be exempt from property taxation.

(13) For tax year 1992 motor vehicles subject to or specifically exempt from the motor vehicle fee pursuant to section 6 of this act shall be exempt from property taxation.".

20. On page 78, line 20, strike "The" and insert "For tax year 1992, the".

21. On page 79, line 2, strike "of each year" and insert ", 1992"; in line 17, strike "The" and insert "For tax year 1992, the"; and in line 20 strike "of each year" and insert ", 1992".

22. On page 81, line 14, strike "each year"; and in line 15 after "taxation" insert "for tax year 1992".

23. On page 82, line 22, strike "of each year" and insert ", 1992".

24. On page 85, line 19, after "section" insert "77-1238 or section".

25. On page 146, strike beginning with the first "and" in line 10 through line 11; in line 17 after the fourth comma insert "60-1806, 77-1240.01, 77-1241.01,"; in line 24 strike "37-1103,".

26. On page 147, line 3, strike "60-1807,"; strike beginning with "77-202.01" in line 3 through the third comma in line 4; in line 6 after the second comma insert "and" and strike "and 60-1411.03,"; and strike beginning with "and" in line 7 through the last comma in line 10.

28. Renumber the remaining sections and correct internal references accordingly.

The Warner-Conway amendment was adopted with 17 ayes, 0 nays, 22 present and not voting, and 10 excused and not voting.

Mr. Schellpeper offered the following amendment to the pending Hall amendment:
AM1843

(Amendments to AM1772)

1. Strike sections 64, 65, and 66 and insert the following new sections:

"Sec. 64. That section 77-2701.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-2701.02. Pursuant to section 77-2715.01, ~~commencing July 1, 1990, or on July 10, 1990, whichever is later,~~ the rate of the sales tax levied pursuant to section 77-2703 shall be five and one-half percent.

Sec. 65. That section 77-2715.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-2715.02. (1) Whenever the primary rate is changed by the Legislature under section 77-2715.01, the Tax Commissioner shall update the rate schedules required in subsection (2) of this section to reflect the new primary rate and shall publish such updated schedules.

(2) The following rate schedules are hereby established for the Nebraska individual income tax and shall be in the following form:

(a) The income amounts for columns A, B, and E

shall be the same as for the federal rate schedules in effect for tax year 1987;

(b) The amount in column C shall be the total amount of the tax imposed on income less than the amount in column A;

(c) The amount in column D shall be the rate on the income in excess of the amount in column E;

(d) The primary rate set by Legislature shall be multiplied by the following factors to compute the tax rates for column D. The factors for the brackets, from lowest to highest bracket, shall be .64, .98, 1.52, ~~1.87~~ 2.08, and ~~1.87~~ 2.28;

(e) The amounts for column C shall be rounded to the nearest dollar, and the amounts in column D shall be rounded to hundredths of one percent; and

(f) One rate schedule shall be established for each federal filing status.

(3) The tax rate schedules shall use the format set forth in this subsection.

A	B	C	D	E
Taxable income over	but not over	pay	plus	of the amount over

(4) The tax rate applied to other federal taxes included in the computation of the Nebraska individual income tax shall be seven times the primary rate.

(5) The Tax Commissioner shall prepare, from the rate schedules, tax tables which can be used by a majority of the taxpayers to determine their Nebraska tax liability. The design of the tax tables shall be determined by the Tax Commissioner. The size of the tax table brackets may change as the level of income changes. The difference in tax between two tax table brackets shall not exceed fifteen dollars. The Tax Commissioner may build the personal exemptions and standard deduction amounts into the tax tables.

(6) The Tax Commissioner may require by rule and regulation that all taxpayers shall use the tax tables if their income is less than the maximum income included in the tax tables.".

2. On page 98, line 16, strike "one and seventy-five-hundredths" and all amendments thereto and insert "one-half".

3. On page 146, line 6, strike "section

77-2701" and insert "sections 77-2701 and 77-2715.02"; and strike beginning with "sections" in line 13 through "77-2708" in line 14 and insert "77-2701.02"; and in line 15 strike "are" and insert "is".

4. Correct the operative date provision so that section 77-2701.02 becomes operative July 1, 1992, and section 77-2715.02 becomes operative for tax years beginning or deemed to begin after January 1, 1991.

5. Renumber the remaining sections and correct internal references accordingly.

Ms. Schimek asked unanimous consent to be excused until she returns. No objections. So ordered.

Mr. Landis moved the previous question. The question is, "Shall the debate now close?" The motion lost with 15 ayes, 7 nays, and 27 not voting.

Mr. Landis asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Wesely moved the previous question. The question is, "Shall the debate now close?"

Mr. Wesely moved for a call of the house. The motion prevailed with 14 ayes, 0 nays, and 35 not voting.

The motion to cease debate prevailed with 25 ayes, 5 nays, and 19 not voting.

Mr. Schellpeper requested a roll call vote on his amendment.

Voting in the affirmative, 18:

Bernard-Stevens	Crosby	Johnson, R.	Robinson	Schrock
Beyer	Cudaback	Kristensen	Rogers	Wehrbein
Byars	Dierks	Nelson	Schellpeper	Wickersham
	Elmer	Peterson	Schmit	

Voting in the negative, 17:

Abboud	Chambers	Hillman	Landis	Moore
Ashford	Hall	Horgan	Lindsay	Rasmussen
Beutler	Hefner	Johnson, L.	Lynch	Warner

Wesely Will

Present and not voting, 3:

Baack Lamb Morrissey

Absent and not voting, 1:

Withem

Excused and not voting, 10:

Chizek	Coordsen	Hartnett	Pirsch	Schimek
Conway	Haberman	Labedz	Robak	Smith

The Schellpeper amendment was adopted with 18 ayes, 17 nays, 3 present and not voting, 1 absent and not voting, and 10 excused and not voting.

Pending.

SELECT COMMITTEE REPORTS
Enrollment and Review

Correctly Engrossed

The following bills were correctly engrossed: 836 and 836A.

(Signed) Eric Will, Chairperson

Enrollment and Review Change to LB 836

The following changes, required to be reported for publication in the Journal, have been made:
ER7069

1. In the Wickersham amendment, AM1568, on page 1, line 3, the second "strike" has been struck and "before" inserted and the last "and" has been struck.

2. On page 1, line 4, "section" has been struck and "sections 79-439 and" inserted; and in line 11 "to provide for the applicability of provisions to certain school districts;" has been inserted after the semicolon.

(Signed) Mary E. Sommermeyer

E & R Attorney

RESOLUTION

LEGISLATIVE RESOLUTION 89. Introduced by Haberman, 44.

PURPOSE: The purpose of this resolution is to study ways to lower travel expenses for state employees on state business. The study would include the possibility of:

(1) Establishing a state travel agency to handle travel arrangements for the Legislature and state agencies;

(2) Booking all legislative travel through one division, which will contract with one travel agency;

(3) Contracting with one travel agency to make travel arrangements for the Legislature and all state agencies;

(4) Contracting for special discounted air fares as well as free frequent-flyers bonus packages;

(5) Consolidating travel with different state agencies; and

(6) Contracting with certain service suppliers such as rental car companies and hotels.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That a committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

UNANIMOUS CONSENT - Print in Journal

Mr. Coordsen asked unanimous consent to print the following amendment to LB 754 in the Journal. No objections. So ordered.

AM1832

1. Strike the original sections and all amendments thereto and insert the following new sections:

"Section 1. That section 66-474.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

66-474.01. The Department of Revenue shall at

the end of each calendar quarter determine (1) ~~(a) through December 31, 1992, one-half of and after such date the total amount of motor fuel tax that was not collected in the preceding calendar quarter due to the credit provided in section 66-1326 plus (b)~~ the total amount of motor fuel tax that was not collected in the preceding calendar quarter due to the exemption provided in sections 66-410 and 66-428, (2) the amount of motor fuel tax that would not have been collected in the preceding calendar quarter if the exemption provided in sections 66-410 and 66-428 were in the amount of three cents per gallon effective through December 31, 1992, and (3) the amount by which the amount determined in subdivision (1) of this section exceeds the amount determined in subdivision (2) of this section. If the amount determined in subdivision (3) of this section is at least equal to the amount of revenue raised in the same period by one-tenth of one cent of the fuel tax imposed by sections 66-410, 66-428, and 66-605, the Tax Commissioner shall for the next succeeding calendar quarter adjust the rate of the fuel tax imposed by such sections in an amount which the Tax Commissioner estimates, based on the estimates provided to the State Board of Equalization and Assessment pursuant to section 66-476, will raise sufficient revenue to meet and not exceed the amount determined in subdivision (3) of this section, except that all such adjustments shall be in increments of one-tenth of one cent per gallon.

Sec. 2. Any money remaining in the Ethanol Authority and Development Cash Fund on the effective date of this act shall be remitted to the State Treasurer for reimbursement to the persons who contributed to it or to their heirs, designees, or assignees. If there are insufficient funds to reimburse such persons on a dollar-for-dollar basis, then the funds shall be distributed on a pro rata basis.

Sec. 3. That sections 66-474.01, Reissue Revised Statutes of Nebraska are repealed and also sections 66-1301 to 66-1317 and 66-1319 to 66-1326, Reissue Revised Statutes of Nebraska, 1943, are repealed.".

MOTION - Reconsider Action on LB 829

Ms. Schimek moved to reconsider the vote on the Lamb amendment, AM1852, to LB 829.

Laid over.

VISITORS

Visitors to the Chamber were Senator Ashford's student advisory group; 55 fourth grade students and sponsors from Arbor Park Middle School, Blair; Percy Young from Spruce Head, Maine and Dick and Pat Young from Lincoln; Senator Schellpeper's mother, Helen Schulz, Hazel Schellpeper, Veryl Jackson, Virgie Ferichs, and Maxine Schulz; Bob and Selma Rains from Crete, Karen Campbell, and Wava Case from California; 20 fourth grade students and sponsor from Southeast Nebraska Consolidated School in Stella; 13 fourth grade students and sponsor from Beemer; and 24 fourth grade students and sponsors from Nemaha Valley Elementary, Cook and Talmage.

The Doctor of the Day was Dr. Tom Werner from Lincoln.

ADJOURNMENT

At 5:12 p.m., on a motion by Mr. L. Johnson, the Legislature adjourned until 9:00 a.m., Wednesday, May 15, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

SEVENTY-EIGHTH DAY - MAY 15, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

SEVENTY-EIGHTH DAY

Legislative Chamber, Lincoln, Nebraska
Wednesday, May 15, 1991

Pursuant to adjournment, the Legislature met at 9:00 a.m., Speaker Baack presiding.

PRAYER

The prayer was offered by Rev. Harland Johnson, Chaplain Coordinator.

ROLL CALL

The roll was called and all members were present except Mr. Haberman who was excused; and Messrs. Ashford, Bernard-Stevens, Conway, Landis, Lindsay, Moore, Wesely, and Mrs. Robak who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Seventy-Seventh Day was approved.

RESOLUTIONS

LEGISLATIVE RESOLUTION 90. Introduced by Natural Resources Committee: R. Johnson, 34, Chairperson; Beutler, 28; Elmer, 38; Hartnett, 45; Horgan, 4; Lamb, 43; Morrissey, 1; Schmit, 23.

PURPOSE: The purpose of this resolution is to examine the effect of independent power producers furnishing electricity to retail and

wholesale customers with respect to the duplication of facilities and the use of resources.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Natural Resources Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the Natural Resources Committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 91. Introduced by Natural Resources Committee: R. Johnson, 34, Chairperson; Beutler, 28; Elmer, 38; Hartnett, 45; Horgan, 4; Lamb, 43; Morrissey, 1; Schmit, 23.

PURPOSE: The purpose of this resolution is to examine the effect that a beverage container deposit could have on the reduction of waste and on recycling.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Natural Resources Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the Natural Resources Committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 92. Introduced by Natural Resources Committee: R. Johnson, 34, Chairperson; Beutler, 28; Elmer, 38; Hartnett, 45; Horgan, 4; Lamb, 43; Morrissey, 1; Schmit, 23.

WHEREAS, the Legislature finds that the Ethanol Authority and Development Board has control over the Ethanol Authority and Development Cash Fund which has a balance of approximately eighteen million dollars; and

WHEREAS, the Legislature finds that the report required to be filed on January 1 of each year by the Ethanol Authority and Development Board has not been filed with the Clerk of the Legislature for the year 1991; and

WHEREAS, the Legislature finds that the ultimate responsibility of oversight of the activities of the Ethanol Authority and Development Board resides with the Legislature.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Natural Resources Committee of the Legislature shall be designated to conduct an interim study of the accounts of the Ethanol Authority and Development Board, including all expenses of the board.

2. That the Natural Resources Committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

COMMUNICATION

May 15, 1991

Senator George Coordsen
1406 State Capitol
Lincoln, NE 68509

Senator Loran Schmit
1103 State Capitol
Lincoln, NE 68509

Re: Constitutionality of 2-part Amendment to LB850 - The State Claims Bill which Amendment would Bypass the State Claims Board and State Courts and Appropriate $30 Million Dollars for Payment to Commonwealth Depositors and Amend the State Tort Claims Act to Authorize Such Bypass

Dear Senators:

LB850 is scheduled for final reading today. We have concluded that the proposed amendment to LB850 is unconstitutional for several reasons including most specifically the fact that it would appropriate funds and provide substantive changes in State law in the

same bill. Our full formal opinion on these issues will follow in a few days.

Sincerely,
(Signed) Don Stenberg
Attorney General

DS:bs
cc: Clerk of the Legislature

MOTION - Reconsider Action on LB 829

Mr. Withem moved to reconsider the vote on the Schellpeper amendment, AM1843, to LB 829.

Laid over.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following resolution: LR 82.

MOTION - Return LB 850 to Select File

Mr. Schmit moved to return LB 850 to Select File for the following specific amendment:
AM1867

(Amendments to Final Reading copy)

1. Insert the following new section:

"Sec. 6. There is hereby appropriated $30,000,000 from the General Fund for FY1991-92 to the Department of Banking and Finance for the payment of the tort claim against the Department of Banking and Finance filed on January 25, 1991, relating to certain acts of employees of the Commonwealth receivership. The funds appropriated in this section shall be used to reimburse depositors up to the $30,000 guaranteed amount.".

2. Renumber the remaining section accordingly.

Mr. Lynch asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Withem moved the previous question. The question is, "Shall the debate now close?" The motion lost with 17 ayes, 10 nays, and 32 not voting.

Mrs. Pirsch, Messrs. Withem, and Lindsay asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Schmit requested a roll call vote on his motion to return.

Voting in the affirmative, 19:

Ashford	Chizek	Hall	Landis	Schmit
Beutler	Coordsen	Hartnett	Morrissey	Warner
Byars	Crosby	Horgan	Robak	Wesely
Chambers	Dierks	Labedz	Schimek	

Voting in the negative, 18:

Abboud	Beyer	Hefner	Kristensen	Schrock
Baack	Conway	Hillman	Lamb	Smith
Bernard-Stevens	Cudaback	Johnson, L.	Rasmussen	Wickersham
	Elmer	Johnson, R.	Schellpeper	

Present and not voting, 7:

Moore	Peterson	Rogers	Wehrbein	Will
Nelson	Robinson			

Excused and not voting, 5:

Haberman	Lindsay	Lynch	Pirsch	Withem

The Schmit motion to return lost with 19 ayes, 18 nays, 7 present and not voting, and 5 excused and not voting.

Mr. Wickersham asked unanimous consent to be excused until he returns. No objections. So ordered.

BILLS ON FINAL READING

The following bills were read and put upon final passage:

LEGISLATIVE BILL 850. With Emergency.

A BILL FOR AN ACT relating to claims against the state; to appropriate funds for the payment of certain claims; to provide for payment of the claims; to authorize certain write-offs as prescribed; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 42:

Abboud	Conway	Hillman	Morrissey	Schimek
Ashford	Coordsen	Horgan	Nelson	Schmit
Baack	Crosby	Johnson, L.	Peterson	Schrock
Bernard-Stevens	Cudaback	Johnson, R.	Rasmussen	Smith
Beyer	Dierks	Kristensen	Robak	Warner
Byars	Elmer	Labedz	Robinson	Wehrbein
Chambers	Hall	Lamb	Rogers	Wesely
Chizek	Hartnett	Landis	Schellpeper	Will
	Hefner	Moore		

Voting in the negative, 0.

Present and not voting, 1:

Beutler

Excused and not voting, 6:

Haberman	Lynch	Pirsch	Wickersham	Withem
Lindsay				

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

Mr. Schmit asked unanimous consent to be excused until he returns. No objections. So ordered.

LEGISLATIVE BILL 852. With Emergency.

A BILL FOR AN ACT relating to state government; to amend section 81-108, Reissue Revised Statutes of Nebraska, 1943; to change restrictions on department heads regarding other employment

and employment of relatives; to eliminate restrictions on appointees in departments; to repeal the original section; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 41:

Abboud	Chizek	Hefner	Landis	Schellpeper
Ashford	Conway	Hillman	Moore	Schimek
Baack	Coordsen	Horgan	Morrissey	Schrock
Bernard-Stevens	Crosby	Johnson, L.	Nelson	Smith
Beutler	Cudaback	Johnson, R.	Rasmussen	Warner
Beyer	Dierks	Kristensen	Robak	Wehrbein
Byars	Elmer	Labedz	Robinson	Wesely
Chambers	Hall	Lamb	Rogers	Will
	Hartnett			

Voting in the negative, 0.

Present and not voting, 1:

Peterson

Excused and not voting, 7:

Haberman	Lynch	Schmit	Wickersham	Withem
Lindsay	Pirsch			

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

GENERAL FILE

LEGISLATIVE BILL 854A. Title read. Considered.

Advanced to E & R for review with 28 ayes, 0 nays, 15 present and not voting, and 6 excused and not voting.

LEGISLATIVE BILL 855A. Title read. Considered.

Advanced to E & R for review with 26 ayes, 0 nays, 19 present and not voting, and 4 excused and not voting.

LEGISLATIVE BILL 719A. Title read. Considered.

Advanced to E & R for review with 25 ayes, 1 nay, 19 present and not voting, and 4 excused and not voting.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following bills: 850 and 852.

GENERAL FILE

LEGISLATIVE BILL 470. Mr. Hall withdrew his pending motion, found in the Journal on page 1591, to indefinitely postpone.

Mrs. Labedz offered the following amendment:
AM1095

(Amendments to AM1040)

1. On page 1, line 11 strike "(a)" and show as stricken; and strike beginning with "attached" in line 12 through line 21 and show the old matter as stricken.

2. On page 2, strike line 1 and show the old matter as stricken; in line 2 after the stricken "offices" insert "unlimited number of"; strike beginning with "on" in line 5 through "act" in line 6; and strike beginning with "Any" in line 11 through line 18, show the old matter as stricken, and insert "Except for the city, town, or village in which such bank's main office is located, a branch bank shall not be established or maintained pursuant to this section in a city, town, or village with a population of two thousand five hundred persons or less in which the main office of another bank is already located unless each bank whose main office is located in such city, town, or village gives irrevocable written consent to the establishment of such branch bank. Such consent shall be mailed certified mail to the department and to the bank seeking to establish such branch bank.".

3. On page 3, strike beginning with "Such" in line 1 through the period in line 4 and show the old

matter as stricken; strike beginning with "as" in line 6 through the first underscored comma in 7 and insert "within the corporate limits of the city in which the acquired bank was located"; in line 9 after "institution's" insert "existing"; and strike beginning with "to" in line 9 through "occurred" in line 13 and insert "and may create additional branch banks".

4. On page 4, strike beginning with "Such" in line 8 through the period in line 11 and show the old matter as stricken.

5. On page 5, strike beginning with "Such" in line 9 through the period in line 12 and show the old matter as stricken.

MR. MORRISSEY PRESIDING

Messrs. Coordsen and R. Johnson asked unanimous consent to be excused until they return. No objections. So ordered.

Mrs. Labedz moved for a call of the house. The motion prevailed with 13 ayes, 0 nays, and 36 not voting.

Mrs. Labedz requested a roll call vote on her amendment.

Voting in the affirmative, 10:

Abboud	Byars	Chizek	Labedz	Schmit
Baack	Chambers	Crosby	Schellpeper	Warner

Voting in the negative, 21:

Ashford	Hartnett	Johnson, L.	Moore	Rasmussen
Beyer	Hefner	Lamb	Morrissey	Robak
Coordsen	Hillman	Landis	Peterson	Wehrbein
Elmer	Horgan	Lindsay	Pirsch	Wesely
Hall				

Present and not voting, 11:

Bernard-Stevens	Cudaback	Nelson	Rogers	Schrock
Beutler	Dierks	Robinson	Schimek	Will
	Kristensen			

Absent and not voting, 3:

Conway Smith Withem

Excused and not voting, 4:

Haberman Johnson, R. Lynch Wickersham

The Labedz amendment lost with 10 ayes, 21 nays, 11 present and not voting, 3 absent and not voting, and 4 excused and not voting.

The Chair declared the call raised.

Mr. Schmit offered the following amendment:
AM1847

(Amendments to AM1040)

1. On page 2, lines 3 through 6, strike the new matter.

Messrs. Hefner and L. Johnson asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Schmit withdrew his pending amendment.

Mr. Schmit offered the following amendment:
FA156

(Amendments to AM1040)

1. On page 2, lines 3 through 6, strike the new matter and on page 2 reinstate the stricken matter on lines 6 through 11.

SPEAKER BAACK PRESIDING

Mr. Schmit moved for a call of the house. The motion prevailed with 7 ayes, 1 nay, and 41 not voting.

Mr. Schmit requested a roll call vote on his amendment.

Voting in the affirmative, 25:

Abboud	Byars	Hall	Morrissey	Smith
Ashford	Chambers	Hartnett	Nelson	Warner
Baack	Chizek	Horgan	Pirsch	Wesely
Bernard-Stevens	Crosby	Labedz	Rasmussen	Will
Beutler	Elmer	Lindsay	Schmit	Withem

Voting in the negative, 12:

Beyer	Cudaback	Moore	Robak	Schellpeper
Conway	Johnson, L.	Peterson	Rogers	Wehrbein
Coordsen	Kristensen			

Present and not voting, 7:

Dierks	Lamb	Robinson	Schimek	Schrock
Hillman	Landis			

Excused and not voting, 5:

Haberman	Hefner	Johnson, R.	Lynch	Wickersham

The Schmit amendment was adopted with 25 ayes, 12 nays, 7 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Mr. Rogers asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Chambers moved to bracket LB 470 until May 16, 1991.

MR. WARNER PRESIDING

Mr. Morrissey asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Chambers withdrew his motion to bracket.

SPEAKER BAACK PRESIDING

Mr. Schmit moved for a call of the house. The motion prevailed with 16 ayes, 0 nays, and 33 not voting.

Mr. Schmit requested a roll call vote on the advancement of the bill.

Voting in the affirmative, 19:

Baack	Bernard-Stevens	Beutler	Chambers	Crosby
		Byars	Chizek	Elmer

Hartnett	Nelson	Rasmussen	Smith	Wesely
Labedz	Pirsch	Schmit	Warner	Will
Lindsay				

Voting in the negative, 19:

Abboud	Cudaback	Horgan		Peterson
Ashford	Dierks	Johnson, L.	Lamb	Robak
Beyer	Hall	Johnson, R.	Landis	Robinson
Coordsen	Hillman	Kristensen	Moore	Wehrbein

Present and not voting, 5:

Conway	Schellpeper	Schimek	Schrock	Withem

Excused and not voting, 6:

Haberman	Lynch	Morrissey	Rogers	Wickersham
Hefner				

Failed to advance to E & R for review with 19 ayes, 19 nays, 5 present and not voting, and 6 excused and not voting.

PRESENTED TO THE GOVERNOR

Presented to the Governor on May 15, 1991, at 10:40 a.m., were the following bills: 850 and 852.

(Signed) Pam Moravec, Enrolling Clerk

STANDING COMMITTEE REPORT
Nebraska Retirement Systems

LEGISLATIVE BILL 543. Placed on General File as amended.
Standing Committee amendment to LB 543:
AM0726

1. On page 2, strike beginning with the second "the" in line 19 through the comma in line 23, show the old matter as stricken, and insert "<u>fifty-one percent of the total amount of the joint employee and employer accounts payable in a lump sum and</u>".

(Signed) Arlene Nelson, Chairperson

VISITORS

Visitors to the Chamber were 50 fourth grade students and teachers from Gates Elementary, Grand Island; 50 fourth grade students and sponsors from Milliken School, Fremont; 32 fourth grade students and teacher from Polk-Hordville; and students and sponsors from Mentoring Experiential Learning Program.

RECESS

At 11:57 a.m., on a motion by Mr. Moore, the Legislature recessed until 1:30 p.m.

AFTER RECESS

The Legislature reconvened at 1:30 p.m., Speaker Baack presiding.

ROLL CALL

The roll was called and all members were present except Mr. Haberman who was excused; and Messrs. Ashford, Chambers, R. Johnson, Lynch, Moore, Schmit, Warner, Will, Withem, Mmes. Pirsch, Rasmussen, and Smith who were excused until they arrive.

SELECT COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 170. Placed on Select File as amended.
E & R amendment to LB 170:
AM5161

1. On page 5, line 1, reinstate the stricken comma.

2. On page 7, line 5, strike "(1)(c)", show as stricken, and insert "(1)(a)(iii)"; in line 6 after "to" insert "such" and in line 7 strike "(1)(a)(iii) of this section" and show the old matter as stricken.

LEGISLATIVE BILL 748. Placed on Select File as amended.
E & R amendment to LB 748:
AM5162

1. In lieu of the Morrissey amendment, FA151, in the Elmer amendment, AM1712, on page 4, strike beginning with "All" in line 3 through line 5, show as stricken, and insert "Remedial".

2. On page 1, strike lines 2 and 3 and insert "amend section 81-15,102, Reissue Revised Statutes of Nebraska, 1943, and section 81-15,101, Revised Statutes Supplement, 1990; to change provisions relating to the issuance of a license for disposal on certain land and the acceptance or acquisition by the state of land for such disposal; and to repeal the original sections.".

(Signed) Eric Will, Chairperson

UNANIMOUS CONSENT - Print in Journal

Mr. Beutler asked unanimous consent to print the following amendment to LB 256 in the Journal. No objections. So ordered.

AM1835
(Amendments to Standing Committee amendments, AM1207)

1. On page 4, line 16, after "act" insert "from the Mammography Screening Cash Fund".
2. On page 10, line 8, strike "as follows:" and insert ". The priority for waiver of fees shall be as follows:"; strike beginning with "Women" in line 13 through "(c)" in line 17; and in line 20 strike the period and insert "; and"; after line 20 insert "(c) Women with household incomes of two hundred percent of the federal poverty level or above will pay the full mammogram reimbursement rate established.".
3. On page 12, line 13, after "fund" insert ", except money appropriated by the Legislature or any other state funds,"; in lines 14 and 15 strike "and may be used" and insert ". Any money appropriated by the Legislature or any other state funds shall be used only for the administration of the program set up in sections 1 to 13 of this act and".

GENERAL FILE

LEGISLATIVE BILL 511. Considered.

Mr. Conway renewed his pending amendment, AM1205, found in the Journal on page 1612.

Mr. Morrissey offered the following amendment to the pending Conway amendment:

AM1864

(Amendments to AM1205)

1. On page 2, line 3, after the period insert "The commission shall prepare and adopt a long-range comprehensive plan for a designated protected stream which shall set forth the purposes of the designation, proposed uses of lands and waters, and management measures designed to accomplish the purposes. State land within the designated protected stream corridor shall be administered and managed in accordance with the plan, and state management of fisheries, streams, waters, wildlife, and boating shall take cognizance of the plan.".

MR. KRISTENSEN PRESIDING

Mrs. Labedz asked unanimous consent to be excused until she returns. No objections. So ordered.

Mr. Lamb moved for a call of the house. The motion prevailed with 23 ayes, 0 nays, and 26 not voting.

Mr. Lamb requested a roll call vote on the Morrissey amendment.

Voting in the affirmative, 21:

Abboud	Conway	Kristensen	Morrissey	Schimek
Ashford	Hall	Landis	Rasmussen	Wesely
Baack	Hartnett	Lindsay	Robak	Will
Beutler	Horgan	Moore	Robinson	Withem
Chizek				

Voting in the negative, 22:

Bernard-Stevens	Crosby	Hillman	Rogers	Smith
	Cudaback	Johnson, L.	Schellpeper	Warner
Beyer	Dierks	Lamb	Schmit	Wehrbein
Byars	Elmer	Nelson	Schrock	Wickersham
Coordsen	Hefner	Peterson		

Present and not voting, 1:

Pirsch

Excused and not voting, 5:

Chambers Haberman Johnson, R. Labedz Lynch

The Morrissey amendment lost with 21 ayes, 22 nays, 1 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

SPEAKER BAACK PRESIDING

Mr. Lindsay offered the following amendment to the pending Conway amendment:
AM1866

(Amendments to AM1205)

1. On page 1, lines 11 and 12, and 19 and 20; and page 3, lines 2 and 3, strike "Nebraska Natural Resources Commission" and insert "Game and Parks Commission".

Messrs. Hall and Beyer asked unanimous consent to be excused until they return. No objections. So ordered.

The Lindsay amendment lost with 10 ayes, 19 ayes, 15 present and not voting, and 5 excused and not voting.

Mr. Hartnett offered the following amendment to the pending Conway amendment:
AM1868

(Amendments to AM1205)

1. On page 2, line 17, strike "over" and after "jurisdiction" insert "over"; and in line 18 strike ", to the extent possible,".

The Hartnett amendment was adopted with 25 ayes, 0 nays, 19 present and not voting, and 5 excused and not voting.

Mr. Wesely offered the following amendment to the pending Conway amendment:
AM1888

(Amendments to AM1205)

1. On page 3, after line 1, insert the following new subsection:

"(5) Any Nebraska organization or resident may

nominate for designation by the commission as a protected stream all or a portion of any river or stream which possesses one or more of the values recognized in section 1 of this act. Such nomination shall consist of a description of the stream or segment and its values and characteristics and a petition supporting the nomination signed by fifteen members of the Legislature. Upon receipt of the completed nomination, the commission shall investigate and hold a public hearing on the nomination pursuant to section 3 of this act. Any nomination approved by the commission pursuant to this section shall require review and approval by the Legislature prior to designation as a protected stream. Such action shall be filed as a legislative bill in the next regular legislative session following the nomination.".

The Wesely amendment lost with 5 ayes, 12 nays, 27 present and not voting, and 5 excused and not voting.

Mr. Ashford asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Conway moved for a call of the house. The motion prevailed with 11 ayes, 0 nays, and 38 not voting.

Mr. Lamb requested a roll call vote on the Conway amendment, as amended.

Voting in the affirmative, 25:

Abboud	Conway	Johnson, R.	Morrissey	Schimek
Ashford	Hall	Kristensen	Nelson	Warner
Baack	Hartnett	Landis	Rasmussen	Wesely
Bernard-Stevens	Hillman	Lindsay	Robak	Will
Chizek	Horgan	Moore	Robinson	Withem

Voting in the negative, 14:

Beutler	Dierks	Johnson, L.	Rogers	Wehrbein
Byars	Elmer	Lamb	Schmit	Wickersham
Crosby	Hefner	Peterson	Smith	

Present and not voting, 7:

Chambers Cudaback Pirsch Schellpeper Schrock
Coordsen Lynch

Excused and not voting, 3:

Beyer Haberman Labedz

The Conway amendment, as amended, was adopted with 25 ayes, 14 nays, 7 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Advanced to E & R for review with 25 ayes, 15 nays, 7 present and not voting, and 2 excused and not voting.

Mr. Wickersham asked unanimous consent to be excused until he returns. No objections. So ordered.

STANDING COMMITTEE REPORT
Revenue

LEGISLATIVE BILL 627. Placed on General File as amended. (Standing Committee amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM1776.)

(Signed) Tim Hall, Chairperson

RESOLUTIONS

LEGISLATIVE RESOLUTION 93. Introduced by Dierks, 40; Crosby, 29; Nelson, 35.

PURPOSE: The purpose of this resolution is to encourage the Legislature to further pursue the regulation of pet production in Nebraska. While pet production has a reputable and respectable sector which provides healthy and well-mannered pets for Nebraskans and many other people nationwide, the industry is also wrought with "puppy mills" and other poorly-run operations which damage the industry's image and place reputable producers at a financial disadvantage.

Legislative Bill 282, Ninety-second Legislature, First Session, 1991, was introduced this year as a vehicle for discussing the issue of pet

producer regulation. An interim study is sought at this time in order to obtain more public input before pursuing further debate on the bill.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Agriculture Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 94. Introduced by Nelson, 35.

PURPOSE: Contamination of drinking water in private wells affects the marketability of real estate in Nebraska because lenders cannot obtain federal mortgage insurance. The Federal government has recently adopted regulations allowing mortgage insurance coverage to be provided if point of entry water treatment devises are installed, subject to state or local health department review and approval. The purpose of this resolution is to study authorizing state or local health departments to provide the necessary review and approval of point of entry water treatment while assuring the protection of public health and safety.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Health and Human Services Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 95. Introduced by Nelson, 35; Crosby, 29.

PURPOSE: The purpose of this resolution is to study the concept and feasibility of a cost-of-living adjustment for members of the

school employees retirement system. Periodically, legislative action is necessary to keep the system current with the needs of the members of the system. With a prudent use of wisely invested funds it may be possible to create a medium for responding to inflationary periods by using a portion of the investment income to fund a cost-of-living adjustment and relieve the Legislature from the necessity of constant statutory action. The study will examine the concept of a cost-of-living adjustment, the funding of such an adjustment, the feasibility of such action, cost, accountability, and administration, and any other such issues as may be brought before the committee.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Nebraska Retirement Systems Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

UNANIMOUS CONSENT - Print in Journal

Mr. Elmer asked unanimous consent to print the following amendment to LB 829 in the Journal. No objections. So ordered.

AM1873

(Amendments to AM1772)

1. Strike sections 62 to 66, 78, and 80 and insert the following new sections:

"Sec. 21. That section 77-2701, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-2701. Sections 77-2701 to 77-27,135 and sections 22 and 23 of this act shall be known and may be cited as the Nebraska Revenue Act of 1967. After January 1, 1984, any reference to sections 77-2701 to 77-27,135 or the Nebraska Revenue Act of 1967 shall be construed to include sections 77-2734.01 to 77-2734.15.

Sec. 22. There is hereby imposed a sales tax of four-tenths of one percent on all tangible personal property sold in Nebraska for resale. The tax shall be collected by the seller at the time of sale. The tax

shall be collected in the same manner as the sales tax imposed pursuant to sections 77-2702 to 77-2713. The administration of such tax shall be by the Tax Commissioner who shall prescribe forms and adopt and promulgate reasonable rules and regulations in conformity with this section for the ascertainment, assessment, and collection of the tax.

Sec. 23. The Legislature shall appropriate the funds remitted pursuant to section 22 of this act for aid to political subdivisions.".

2. Correct the operative date and repealer provisions to reflect that the sections added by this amendment become operative on July 1, 1991.

3. Renumber the remaining sections and correct internal references accordingly.

4. Strike the Lamb amendment, AM1852.

5. Strike the Schellpeper amendment, AM1843.

SELECT COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 854A. Placed on Select File.
LEGISLATIVE BILL 855A. Placed on Select File.

(Signed) Eric Will, Chairperson

GENERAL FILE

LEGISLATIVE BILL 829. Ms. Schimek withdrew her pending motion, found in the Journal on page 2161, to reconsider the vote on the Lamb amendment, AM1852, to LB 829.

Mr. Withem renewed his pending motion, found in the Journal on page 2166, to reconsider the vote on the Schellpeper amendment, AM1843, to LB 829.

Messrs. R. Johnson, Conway, Lynch, and Coordsen asked unanimous consent to be excused until they return. No objections. So ordered.

MR. MORRISSEY PRESIDING

SPEAKER BAACK PRESIDING

Mr. Chizek moved the previous question. The question is, "Shall the debate now close?" The motion lost with 10 ayes, 13 nays, and 26 not voting.

Mr. Lindsay asked unanimous consent to be excused. No objections. So ordered.

Mr. Abboud moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 1 nay, and 22 not voting.

The Withem motion to reconsider prevailed with 26 ayes, 13 nays, 5 present and not voting, and 5 excused and not voting.

Mr. Schellpeper withdrew his reconsidered amendment, AM1843, considered on page 2156.

Mr. Ashford asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Hefner offered the following amendment to the pending Hall amendment, AM1772, considered on page 2129:
(Amendment on file in the Clerk's Office - Room 2018 - AM1874.)

Mr. Morrissey asked unanimous consent to be excused. No objections. So ordered.

Ms. Schimek moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

Mr. Hefner withdrew his pending amendment.

Pending.

UNANIMOUS CONSENT - Print in Journal

Mr. Robinson asked unanimous consent to print the following amendment to LB 843 in the Journal. No objections. So ordered.

AM1871
(Amendments to Standing Committee amendments, AM1508)
1. On page 118, strike lines 1 through 4.

Mr. Beutler asked unanimous consent to print the following amendment to LB 719 in the Journal. No objections. So ordered.

AM1430

(Amendments to AM5130)

1. Insert the following new section:

"Sec. 71. That section 79-3805, Revised Statutes Supplement, 1990, be amended to read as follows:

79-3805. (1) Using data from the annual financial reports and the annual statistical summary reports for the most recently available complete data year, the department shall calculate the tiered cost per student for grades kindergarten, one through six, including full-day kindergarten, seven and eight, and nine through twelve for each district as described in subsections (2) through (8) of this section.

(2) Each district's general fund operating expenditures for grades kindergarten, one through six, including full-day kindergarten, seven and eight, and nine through twelve shall be computed as follows: (a) The weighted average daily membership for kindergarten shall equal the average daily membership for kindergarten multiplied by five-tenths; (b) the weighted average daily membership for grades one through six, including full-day kindergarten, shall equal the average daily membership for such grades multiplied by one; (c) the weighted average daily membership for grades seven and eight shall equal the average daily membership for such grades multiplied by one and two-tenths; (d) the weighted average daily membership for grades nine through twelve shall equal the average daily membership for such grades multiplied by one and four-tenths; and (e) the total weighted average daily membership shall equal the sum of grades kindergarten, one through six, including full-day kindergarten, seven and eight, and nine through twelve weighted average daily membership values. Each district's general fund operating expenditures for each grade group shall be calculated by dividing that grade group's weighted average daily membership by the total weighted average daily membership in the district and multiplying the result by the district's total general fund operating expenditures.

(3) Each district with general fund operating expenditures in grades one through six, including full-day kindergarten, shall be placed into a tier based on the following schedule.

Tier	Tier midpoint	Average daily membership range	
1	50.50	.01 -	101.00
2	143.00	101.01 -	185.00
3	280.00	185.01 -	375.00
4	687.50	375.01 -	1,000.00
5	1,450.00	1,000.01 -	1,900.00
~~6~~	~~8,450.00~~	~~1,900.01 -~~	~~15,000.00~~
~~7 Median average daily membership of tier~~		~~15,000.01 and over~~	
6	7,700.00	1,900.01 -	13,500.00
7 Median average daily membership of tier		13,500.01	and over

The average general fund operating expenditures per student for grades one through six, including full-day kindergarten, shall be calculated for each tier by adding the total general fund operating expenditures for such grades for all districts in the tier and dividing by the total average daily membership for such grades for all districts in the tier.

(4) Each district with general fund operating expenditures in grades nine through twelve shall be placed in a tier based on the following schedule.

Tier	Tier midpoint	Average daily membership range	
1	25.00	.01 -	50.00
2	62.50	50.01 -	75.00
3	87.50	75.01 -	100.00
4	125.00	100.01 -	150.00
5	200.00	150.01 -	250.00
6	375.00	250.01 -	500.00
7	750.00	500.01 -	1,000.00
~~8~~	~~5,500.00~~	~~1,000.01 -~~	~~10,000.00~~
~~9 Median average daily membership of tier~~		~~10,000.01 and over~~	
8	4,750.00	1,000.01 -	8,500.00
9 Median average daily membership of tier		8,500.01	and over

The average general fund operating expenditures per student for grades nine through twelve

shall be calculated for each tier by adding the total general fund operating expenditures for such grades for all districts in the tier and dividing such sum by the total average daily membership for such grades for all districts in the tier.

(5) Tiered cost per student values shall be computed for grades one through six, including full-day kindergarten, for each district as follows:

(a) For districts with average daily memberships for grades one through six, including full-day kindergarten, which are less than the midpoint of tier 1 for such grades, the tiered cost per student shall equal the average general fund operating expenditures per student for tier 1;

(b) For districts with average daily memberships for grades one through six, including full-day kindergarten, which are greater than the midpoint of tier 7 for such grades, the tiered cost per student for such grades shall equal the average general fund operating expenditures per student for tier 7; and

(c) For districts with average daily memberships for grades one through six, including full-day kindergarten, which fall on or between the midpoints of any two tiers, the tiered cost per student for such grades shall be calculated by means of a linear transition between the average general fund operating expenditures per student of the two tiers between whose midpoints the districts' average daily memberships for such grades fall.

(6) Tiered cost per student values shall be computed for grades nine through twelve for each district as follows:

(a) For districts with average daily memberships for grades nine through twelve which are less than the midpoint of tier 1 for such grades, the tiered cost per student shall equal the average general fund operating expenditures per student for tier 1;

(b) For districts with average daily memberships for grades nine through twelve which are greater than the midpoint of tier 9 for such grades, the tiered cost per student for such grades shall equal the average general fund operating expenditures per student for tier 9; and

(c) For districts with average daily

memberships for grades nine through twelve which fall on or between the midpoints of any two tiers, the tiered cost per student for such grades shall be calculated by means of a linear transition between the average general fund operating expenditures per student of the two tiers between whose midpoints the districts' average daily memberships for such grades fall.

(7) The tiered cost per student for kindergarten shall be calculated by multiplying each district's tiered cost per student for grades one through six, including full-day kindergarten, by five-tenths.

(8) The tiered cost per student for grades seven and eight shall be calculated as follows: For Class II, Class III, Class IV, and Class V districts, the tiered cost per student shall be the calculated mean of the district's tiered cost per student for grades one through six, including full-day kindergarten, and for grades nine through twelve; for Class I districts, the tiered cost per student shall be the district's tiered cost per student for grades one through six, including full-day kindergarten, multiplied by one and two-tenths; and for Class VI districts providing instruction in grades seven and eight as authorized by section 79-1109, the tiered cost per student shall be the district's tiered cost per student for grades nine through twelve multiplied by one and two-tenths and the result divided by one and four-tenths.

(9) The tiered cost per student for nonresident high school tuition funds shall be the average general fund operating expenditures per student for grades nine through twelve for all districts included in subsection (4) of this section.

(10) In districts where more than seventy-five percent of the students enrolled reside on Indian land, as defined under regulations of the United States Department of Education in effect on July 10, 1990, promulgated pursuant to Public Law 81-874, the tiered cost per student for each grade level, as calculated pursuant to subsections (5) through (8) of this section, shall be increased by a factor of twenty-five percent.".

2. On page 141, line 2; and on page 142, line 7, strike ", 79-3806".

3. Renumber the remaining sections and

correct internal references accordingly.

Mr. Wesely asked unanimous consent to print the following amendment to LB 167 in the Journal. No objections. So ordered.

AM1711
(Amendments to Standing Committee amendments, AM1486)

1. On page 3, line 22, after the period insert "If a plan sponsor assumes some or all of the risk for the deductible of an insured plan in an amount in excess of two thousand dollars per employee or dependent, the plan sponsor shall submit the employee benefit plan to the Department of Insurance for review and approval. The department shall review the employee benefit plan to determine the amount of risk exposure due to the assumption of risk for the deductible and the funding available to cover the resulting liability.".

RESOLUTIONS

LEGISLATIVE RESOLUTION 96. Introduced by Business and Labor Committee: Coordsen, 32, Chairperson; Chambers, 11; Elmer, 38; Hefner, 19; Morrissey, 1; Schellpeper, 18; Schimek, 27.

PURPOSE: The purpose of this study is to examine the Nebraska workers' compensation system to see if any modifications are needed. This study will focus on four areas of the Nebraska Workers' Compensation Act: (1) Employee choice of physician; (2) attorney's fees and costs; (3) vocational rehabilitation; and (4) indemnity or wage-loss payments.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Business and Labor Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 97. Introduced by Business and Labor Committee: Coordsen, 32, Chairperson; Chambers, 11; Elmer, 38; Hefner, 19; Morrissey, 1; Schellpeper, 18; Schimek, 27.

PURPOSE: The purpose of this study is to examine if a different court structure is needed in the Nebraska Workers' Compensation Court.

Legislative Bill 360, Ninety-second Legislature, First Session, 1991, was introduced by the Business and Labor Committee. This bill would have eliminated the first hearing with one judge and the rehearing with a three judge panel. In its place, there would be a one judge hearing of record. Currently, the first hearing is not of record, only the rehearing is of record.

Since the last judge was added to the Nebraska Workers' Compensation Court, initial filings and rehearings have increased significantly. There are some legitimate reasons for this increase, but there have been allegations of abuses of the present system.

There is a five-month to six-month wait for the first hearing and over a two-month wait for a rehearing. Additionally, there are over five hundred cases that cannot be set for a first hearing because of the backlog of rehearings.

The choice seems to be between adding more workers' compensation judges or having a longer waiting time for injured workers. This study will examine if there are other alternatives that may address the problem and offer long-term solutions to the workers' compensation court system structure than simply adding more judges.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Business and Labor Committee and the Education Committee of the Legislature shall be designated to conduct a joint interim study to carry out the purposes of this resolution.

2. That the committees shall upon the conclusion of their study make a report of their findings, together with their recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 98. Introduced by Conway, 17.

WHEREAS, the village of Allen, Nebraska, began as a small agricultural settlement in 1888, and its location was subsequently solidified by the arrival of the railroad; and

WHEREAS, Mr. and Mrs. Henry Allen, Jr., deeded forty acres of their land upon which was located the Sioux City and Ogden Short Line Railroad and which later became the Village of Allen; and

WHEREAS, in 1890, in the Village of Allen, postal service commenced, a school district was formed, plans for school and church construction were started, the village government set up, and the name "Allen" chosen as the name of the village; and

WHEREAS, voluntary organizations, such as the Allen Community Development Club and the Volunteer Fire Department and Rescue Unit, have continually worked for the betterment of the community; and

WHEREAS, other organizations that have led to a quality life in Allen include the Dixon County Historical Society and Museum, Senior Citizens, Springbank Township Library, Eastview Cemetery Association, Golden Rule Lodge #236 A.F. & A.M., and Allen Post and Auxiliary of the American Legion; and

WHEREAS, Springbank Friends Church, United Methodist Church, and First Lutheran Church continue to serve the community and the surrounding area; and

WHEREAS, the village of Allen became a growing community and will be celebrating its centennial from July 4-7, 1991.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the people of the Village of Allen should be congratulated on their village's centennial.

2. That a copy of this resolution be sent to Larry and Cathy Boswell of Allen, Nebraska, Centennial Co-chairs.

Laid over.

LEGISLATIVE RESOLUTION 99. Introduced by Smith, 33.

PURPOSE: The purpose of this resolution is to study the feasibility of establishing a voluntary system for accrediting law enforcement agencies in Nebraska. The study shall include, but not be limited to, the following: (1) Whether a Nebraska Law Enforcement Accreditation Council should be created in statute; (2) What is occurring on the national level and in other states regarding law enforcement accreditation; (3) What benefits would result from state accreditation of law enforcement agencies; (4) What costs are directly or indirectly associated with accreditation; (5) The scope of accreditation standards; and (6) Recommended guidelines for accreditation standards.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Government, Military and Veterans Affairs Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

GENERAL FILE

LEGISLATIVE BILL 829. Considered.

Messrs. Rogers and Schmit offered the following amendment to the pending Hall amendment:
(Amendment on file in the Clerk's Office - Room 2018 - AM1827.)

Mr. Schmit asked unanimous consent to be excused until he returns. No objections. So ordered.

MRS. LABEDZ PRESIDING

SPEAKER BAACK PRESIDING

Mr. Horgan asked unanimous consent to be excused. No objections. So ordered.

MR. WARNER PRESIDING

Ms. Schimek moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

Mr. Rogers moved for a call of the house. The motion prevailed with 21 ayes, 0 nays, and 28 not voting.

Mr. Rogers requested a roll call vote on the Rogers-Schmit amendment.

Voting in the affirmative, 16:

Byars	Johnson, L.	Lamb	Pirsch	Schmit
Coordsen	Johnson, R.	Moore	Rogers	Smith
Elmer	Kristensen	Peterson	Schellpeper	Wehrbein
Hefner				

Voting in the negative, 24:

Abboud	Beutler	Hartnett	Rasmussen	Warner
Ashford	Chambers	Hillman	Robak	Wesely
Baack	Chizek	Labedz	Robinson	Wickersham
Bernard-Stevens	Cudaback	Landis	Schimek	Will
	Hall	Nelson	Schrock	Withem

Present and not voting, 3:

Beyer	Crosby	Dierks

Excused and not voting, 6:

Conway	Horgan	Lindsay	Lynch	Morrissey
Haberman				

The Rogers-Schmit amendment lost with 16 ayes, 24 nays, 3 present and not voting, and 6 excused and not voting.

The Chair declared the call raised.

SPEAKER BAACK PRESIDING

Mr. Kristensen offered the following amendment to the pending Hall amendment, AM1772:
FA157
Amend AM1852 as follows:
1. Page 1, line 1 beginning with "and" strike the remainder of Amendment 1.

Mr. Kristensen withdrew his pending amendment.

Mrs. Crosby asked unanimous consent to be excused until she returns. No objections. So ordered.

Mr. Chambers asked unanimous consent to be excused. No objections. So ordered.

The pending Hall amendment, AM1772, as amended, was renewed.

MR. LANDIS PRESIDING

SPEAKER BAACK PRESIDING

Ms. Schimek moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 29 ayes, 1 nay, and 19 not voting.

The Hall amendment, as amended, was adopted with 27 ayes, 1 nay, 14 present and not voting, and 7 excused and not voting.

Mr. Abboud asked unanimous consent to be excused until he returns. No objections. So ordered.

Advanced to E & R for review with 29 ayes, 10 nays, 2 present and not voting, and 8 excused and not voting.

UNANIMOUS CONSENT - Print in Journal

Messrs. Beutler and Withem asked unanimous consent to print the following amendment to LB 719 in the Journal. No objections. So ordered.

AM1900

(Amendments to E & R amendments, AM5130)

1. Insert the following new section:

"Sec. 49. In error proceedings to reverse, vacate, or modify a final order by a school board made pursuant to sections 79-12,107 to 79-12,121, the school district, school board, or both may be named as defendants in error in such proceedings. Such proceedings shall not be defeated nor shall the court be deprived of subject matter jurisdiction because the petitioner named the school board rather than the school district or the school district rather than the school board as the defendant in error.

This section shall apply to all error proceedings currently pending in the district court or the Supreme Court on the operative date of this section and to error proceedings commenced after such date.".

2. Correct the operative date provision so that the section added by this amendment becomes

operative on its effective date.

3. Renumber the remaining sections and correct internal references accordingly.

VISITORS

Visitors to the Chamber were 11 guests from China and Marshall Hansen; Mary Gruber and Vicki Prillaman from Cozad; and 48 eighth grade students and sponsors from Wood River.

ADJOURNMENT

At 7:28 p.m., on a motion by Mr. Hall, the Legislature adjourned until 9:00 a.m., Thursday, May 16, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

SEVENTY-NINTH DAY - MAY 16, 1991

LEGISLATIVE JOURNAL

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

SEVENTY-NINTH DAY

Legislative Chamber, Lincoln, Nebraska
Thursday, May 16, 1991

Pursuant to adjournment, the Legislature met at 9:00 a.m., Speaker Baack presiding.

PRAYER

The prayer was offered by Pastor Fred Tedder, Central Church of The Nazarene, Omaha, Nebraska.

ROLL CALL

The roll was called and all members were present except Messrs. Beutler and Haberman who was excused; and Messrs. Abboud, Bernard-Stevens, Hall, Horgan, R. Johnson, Landis, Lindsay, Moore, Morrissey, Rogers, Wesely, Will, Mmes. Rasmussen, Smith, and Ms. Schimek who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Seventy-Eighth Day was approved.

RESOLUTION

LEGISLATIVE RESOLUTION 100. Introduced by Warner, 25.

PURPOSE: A program evaluation is a systematic review of state agencies and the programs they administer. This review assesses how agencies and programs have been working and considers whether program objectives are being met and whether agencies are operating in an efficient and effective manner.

The goal of legislative program evaluations is to improve the legislative decision-making process and ultimately state government operations by providing information about the performance of state agencies and programs. This requires the development of objective, accurate, reliable, and well-documented information regarding agency performance.

The purpose of this resolution is to study and develop a proposal for conducting legislative program evaluations. This proposal shall include the following issues:

(1) A comparison and evaluation of the various methods for structuring program evaluations;

(2) The organization of a legislative program evaluation committee;

(3) The organization of legislative staff to conduct program evaluations;

(4) Statutory changes;

(5) Audit and study techniques to be used;

(6) Report preparation and format;

(7) Use of the evaluation reports; and

(8) Any other relevant issues that the Executive Board of the Legislative Council deems appropriate.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Executive Board of the Legislative Council shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the Executive Board of the Legislative Council shall begin its study no later than July 1, 1991, and upon the conclusion of its study no later than November 1, 1991, make a report of its findings, together with its recommendations, to the Legislature.

Referred to the Executive Board.

REPORT OF REGISTERED LOBBYISTS

In accordance with LB 987, passed in the 1976 session of the Legislature and amended by LB 4 and LB 41 in the 1977 session of the Legislature, the attached is a list of all Lobbyists who have registered as of May 15, 1991. Further lists listing additional lobbyists who have registered will be filed weekly.

(Signed) Patrick J. O'Donnell
Clerk of the Legislature

DeCamp Legal Services, P.C. DeCamp, John - Lincoln	Region 4 Mental Health Service District
Ryan, James E./James E. Ryan, P.C. - Lincoln	Jobs for Nebraska
Weaver, David S. Washington, DC	Handgun Control, Inc.

UNANIMOUS CONSENT - Print in Journal

Mr. Wesely asked unanimous consent to print the following amendment to LB 843 in the Journal. No objections. So ordered.

AM1655
(Amendments to Standing Committee amendments, AM1508)

1. On page 140, after line 5 insert the following:

"It is the intent of the Legislature that the Department of Economic Development endeavor to establish a community economic development partnership to (a) promote greater coordination and cooperation between service providers, (b) support the development of a more complete and geographically accessible set of services, (c) support the generation of necessary services and programs, (d) stimulate the creation of more effective development strategies and programs, (e) provide greater community participation in defining needs, sharing information, and evolving more effective development services, and (f) encourage high standards of excellence among service providers. It is also the intent of the Legislature that the department provide a report to the Governor and the Legislature summarizing progress made towards establishing a community economic development partnership by October 1, 1992.".

RESOLUTION

LEGISLATIVE RESOLUTION 98. Read. Considered.

LR 98 was adopted with 22 ayes, 0 nays, and 27 not voting.

GENERAL FILE

LEGISLATIVE BILL 355. Mr. Will withdrew his pending motion, found in the Journal on pages 1516 and 1563, to indefinitely postpone.

Mr. Schellpeper withdrew his pending amendment, AM1530, found in the Journal on page 1867.

Messrs. Ashford and Schellpeper offered the following amendment: (Amendment on file in the Clerk's Office - Room 2018 - AM1909.)

MR. CONWAY PRESIDING

Mr. Chizek moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 8 nays, and 16 not voting.

The Ashford-Schellpeper amendment was adopted with 32 ayes, 1 nay, 12 present and not voting, and 4 excused and not voting.

Mr. Landis asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Chambers offered the following amendment:
FA158
Add a new section:
"Notwithstanding any other provision of law, no person convicted of a felony which does not involve violence or the threat of violence, shall be prohibited from purchasing, owning or possessing a firearm"

SPEAKER BAACK PRESIDING

Mr. Lynch asked unanimous consent to be excused. No objections. So ordered.

Mr. Chambers moved for a call of the house. The motion prevailed with 7 ayes, 0 nays, and 42 not voting.

The Chambers amendment lost with 3 ayes, 30 nays, 12 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

Messrs. Dierks, Schmit, and Peterson asked unanimous consent to be excused until they return. No objections. So ordered.

MR. CONWAY PRESIDING

Mrs. Robak moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 0 nays, and 23 not voting.

Mrs. Labedz asked unanimous consent to be excused until she returns. No objections. So ordered.

Mr. Ashford moved for a call of the house. The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

Mr. Ashford requested a roll call vote on the advancement of the bill.

Voting in the affirmative, 31:

Abboud	Conway	Horgan	Nelson	Warner
Ashford	Coordsen	Johnson, R.	Pirsch	Wehrbein
Baack	Crosby	Kristensen	Rasmussen	Wesely
Bernard-Stevens	Elmer	Landis	Schellpeper	Wickersham
	Hall	Moore	Schrock	Will
Chambers	Hartnett	Morrissey	Smith	Withem
Chizek	Hillman			

Voting in the negative, 5:

Cudaback	Hefner	Johnson, L.	Lamb	Robak

Present and not voting, 6:

Beyer	Lindsay	Robinson	Rogers	Schimek
Byars				

Excused and not voting, 7:

Beutler	Haberman	Lynch	Peterson	Schmit
Dierks	Labedz			

Advanced to E & R for review with 31 ayes, 5 nays, 6 present and not voting, and 7 excused and not voting.

The Chair declared the call raised.

UNANIMOUS CONSENT - Print in Journal

Mr. R. Johnson asked unanimous consent to print the following amendment to LB 718 in the Journal. No objections. So ordered.

AM1710

(Amendments to Standing Committee amendments, AM0425)

1. Insert the following new sections:

"Sec. 16. That section 9-601, Revised Statutes Supplement, 1990, be amended to read as follows:

9-601. Sections 9-601 to 9-653 and section 17 of this act shall be known and may be cited as the Nebraska County and City Lottery Act.

Sec. 17. (1) If a racetrack licensed pursuant to Chapter 2, article 12, is located in a county or a county bordering such county and such county or a city or village within such county conducts a lottery pursuant to the Nebraska County and City Lottery Act, two percent of the gross proceeds from such lottery shall be credited to the Thoroughbred Racing Assistance Fund.

(2) The Thoroughbred Racing Assistance Fund is hereby created. The fund shall be used to supplement purses for live thoroughbred racing in Nebraska. The State Racing Commission shall distribute money in the fund to the licensed racetracks based proportionately on the percentage of the live race handle of the immediately preceding year. Any money in the fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1276.

Sec. 18. That section 9-629, Revised Statutes Supplement, 1990, be amended to read as follows:

9-629. (1) ~~The~~ Except as provided in section 17 of this act, the gross proceeds of any lottery conducted by a county, city, or village shall be used solely for community betterment purposes, awarding of prizes, taxes, and expenses.

(2) Not less than sixty-five percent of the gross proceeds shall be used for the awarding of prizes, except that for purposes of conducting a lottery authorized by subdivision (1)(c)(iii) of section 9-607, not less than sixty-five percent of the gross proceeds

during an annual period from July 1 to June 30 of each year shall be used for the awarding of prizes.

(3) Not more than fourteen percent of the gross proceeds shall be used to pay the expenses of operating the lottery, except that license fees paid to the department and audit or legal expenses incurred by the county, city, or village which relate directly to the conduct of operating such lottery shall not be included in determining the fourteen-percent limitation on expenses.".

2. On page 14, line 14, strike "and 2-1207" and insert ", 2-1207, 9-601, and 9-629".

3. Renumber the remaining sections accordingly.

RESOLUTIONS

LEGISLATIVE RESOLUTION 101. Introduced by General Affairs Committee: Smith, 33, Chairperson; Cudaback, 36; Hartnett, 45; R. Johnson, 34; Labedz, 5; Rasmussen, 20; Rogers, 41; Will, 8.

PURPOSE: The purpose of this resolution is to study illegal gambling activities in Nebraska including, but not limited to, illegal gambling devices, bookmaking activities, and foreign lotteries. The goals of the study will be to determine the extent of illegal gambling activities in the state, the impact of such activities on legalized gambling, and whether statutory changes, including increasing criminal penalties or resources, are necessary to further curtail or prohibit such activities. The study will include a review of the provisions of Chapter 28, article 11, the charitable gaming statutes, and the State Racing Commission statutes. The study will also include a survey of the laws of other states pertaining to illegal gambling.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That a committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 102. Introduced by General Affairs Committee: Smith, 33, Chairperson; Cudaback, 36; Hartnett, 45; R. Johnson, 34; Labedz, 5; Rasmussen, 20; Rogers, 41; Will, 8.

PURPOSE: The purpose of this resolution is to study the potential impact of Nebraska becoming the sole distributor of pickle cards under the Nebraska Pickle Card Lottery Act. The goal of the study will be to determine the impact on the pickle card industry of the state becoming the sole distributor of pickle cards and whether it is necessary or desirable to make the state the sole distributor of pickle cards for purposes of the regulation of pickle card activity. The study will look at jurisdictions in which the state is the distributor of pickle cards and shall include a survey of the laws in such jurisdictions to determine whether any enlargement or modification of the Nebraska Pickle Card Lottery Act is necessary or desirable should the Legislature decide to make the state the sole distributor of pickle cards.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That a committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 103. Introduced by General Affairs Committee: Smith, 33, Chairperson; Cudaback, 36; Hartnett, 45; R. Johnson, 34; Labedz, 5; Rasmussen, 20; Rogers, 41; Will, 8.

PURPOSE: The purpose of this resolution is to study the State Racing Commission's funding and regulatory responsibilities under Chapter 2, article 12. The goal of the study will be to determine inadequacies in funding in relation to regulatory responsibilities and to recommend solutions to the commission's current funding problems. The study will look at the current fee structure and the need for additional fees or to dedicate a portion of the revenue from the parimutuel tax to cover the commission's regulatory responsibilities. The study will also include a review of the commission's rules and regulations and a survey of the laws of other racing jurisdictions.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That a committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 104. Introduced by General Affairs Committee: Smith, 33, Chairperson; Cudaback, 36; Hartnett, 45; R. Johnson, 34; Labedz, 5; Rasmussen, 20; Rogers, 41; Will, 8.

PURPOSE: The purpose of this resolution is to study the impact of legalized for-profit horseracing on the horseracing industry in Nebraska and other forms of legalized gambling. The goal of the study will be to determine whether legalized for-profit horseracing is necessary or desirable. The study will look at states which have legalized for-profit horseracing and shall include a survey of the laws in such states to determine whether any enlargement or modification to Chapter 2, article 12, is necessary or desirable should the Legislature decide to legalize such activity.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That a committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 105. Introduced by General Affairs Committee: Smith, 33, Chairperson; Cudaback, 36; Hartnett, 45; R. Johnson, 34; Labedz, 5; Rasmussen, 20; Rogers, 41; Will, 8.

PURPOSE: The purpose of this resolution is to study the potential impact of the legalization of casino gambling in Nebraska and surrounding states. The study will look at the potential impact of riverboat gambling on the Missouri River and the proposed gambling casino in Council Bluffs on legalized gambling in Nebraska. The

study will include a review of states which have legalized casino gambling and a survey of the laws in those states pertaining to casino gambling.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That a committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 106. Introduced by General Affairs Committee: Smith, 33, Chairperson; Cudaback, 36; Hartnett, 45; R. Johnson, 34; Labedz, 5; Rasmussen, 20; Rogers, 41; Will, 8; and Kristensen, 37.

PURPOSE: The purpose of this resolution is to study ways of improving Nebraska's driver's license and state identification card in order to make them more difficult to falsify, alter, or copy. The study will look at innovative methods used by other states to prevent the falsification or alteration of such forms of identification and to detect when falsification or alteration has occurred. The study will also look at the potential impact of converting to a system of centralized driver's license issuance with temporary licenses issued at the local level should that be necessary to address the problem of the falsification or alteration of driver's licenses.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the General Affairs and Transportation Committees of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committees shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

SELECT FILE

LEGISLATIVE BILL 549. E & R amendment, AM5133, found in the Journal on page 1853, was adopted.

Mr. Baack withdrew his pending amendment, AM0840, found in the Journal on page 1822.

Mrs. Nelson renewed her pending amendment, AM1739, found in the Journal on page 2104.

The Nelson amendment was adopted with 25 ayes, 0 nays, 17 present and not voting, and 7 excused and not voting.

Advanced to E & R for engrossment.

SPEAKER BAACK PRESIDING

LEGISLATIVE BILL 456. E & R amendment, AM5134, found in the Journal on page 1877, was adopted.

Mr. Wesely withdrew the Lynch amendment, AM1766, found in the Journal on page 2108.

Messrs. Wesely and Lynch offered the following amendment:
AM1908

1. In the Wesely amendment, AM1296:

a. On page 11, line 1, after the period insert "If requested by the complainant, the identity of the complainant shall not be released to the board.";

b. On page 26, line 19, before "The" insert "(1)";

c. On page 27, after line 9, insert the following new subsection:

"(2) Any licensee, certificate holder, or registrant who is required to file a report of loss or theft of a controlled substance to the federal Drug Enforcement Administration shall provide a copy of such report to the Department of Health."; and

d. On page 28, line 3, reinstate the stricken matter and strike "advise"; and in line 4 reinstate the stricken matter and strike the new matter; and in line 5 before "investigations" insert "advise the Attorney General of".

2. On page 13, lines 24 and 25, reinstate the stricken matter and before each reinstated "dependency"

insert "active".

3. On page 14, lines 1 and 2, reinstate the stricken matter; and in line 2 before "failure" insert "or".

4. On page 17, lines 19 and 20, strike "an imminent" and insert "a".

5. On page 18, line 1, after "preclude" insert "investigation of alleged statutory violations which could result in"; and in line 12 strike "habitual".

The Wesely-Lynch amendment was adopted with 26 ayes, 0 nays, 17 present and not voting, and 6 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 456A. Mr. Wesely offered the following amendment:
AM1581

1. Insert the following new sections:

"Sec. 2. There is hereby appropriated (1) $48,000 from the Health Care Provider Assistance Fund for FY1991-92 and (2) $96,000 from the Health Care Provider Assistance Fund for FY1992-93 to the Department of Public Institutions, for Program 33, to aid in carrying out the provisions of Legislative Bill 456, Ninety-second Legislature, First Session, 1991.

No expenditures for permanent and temporary salaries and per diems for state employees shall be made from funds appropriated in this section.

Sec. 3. There is hereby appropriated (1) $1,200 from the Bureau of Examining Boards' Cash Fund for FY1991-92 and (2) $1,200 from the Bureau of Examining Boards' Cash Fund for FY1992-93 to the Department of Health, for Program 178, to aid in carrying out the provisions of Legislative Bill 456, Ninety-second Legislature, First Session, 1991.

No expenditures for permanent and temporary salaries and per diems for state employees shall be made from funds appropriated in this section.".

The Wesely amendment was adopted with 27 ayes, 0 nays, 16 present and not voting, and 6 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 795. Mr. Hall withdrew his pending amendment, AM1468, found in the Journal on page 1803.

Mr. Hall offered the following amendment:
AM1650

1. Strike the original sections and all amendments thereto and insert the following new sections:

"Section 1. That section 9-607, Revised Statutes Supplement, 1990, be amended to read as follows:

9-607. (1) Lottery shall mean a gambling scheme in which (a) the players pay or agree to pay something of value for an opportunity to win, (b) winning opportunities are represented by tickets, (c) winners are solely determined by one of the following three methods: (i) By a random drawing of tickets differentiated by sequential enumeration from a receptacle by hand whereby each ticket has an equal chance of being chosen in the drawing; (ii) by rubbing or scraping a spot or spots on a disposable instant game ticket to reveal numbers, letters, symbols, or configurations, or any combination thereof, previously specified as winning numbers, letters, symbols, or configurations or a winning combination; or (iii) by use of a game known as keno in which a player selects up to twenty numbers from a total of eighty numbers on a paper ticket and a computer, other electronic selection device, or electrically operated blower machine which is not player activated randomly selects up to twenty numbers from the same pool of eighty numbers and the winning players are determined by the correct matching of the numbers on the paper ticket selected by the players with the numbers randomly selected by the computer, other electronic selection device, or electrically operated blower machine, except that no keno game shall permit or require player access or activation of lottery equipment, and the random selection of numbers by the computer, other electronic selection device, or electronically operated blower machine shall not occur within five minutes of the completion of the previous selection of random numbers,

and (d) the holders of the winning paper tickets are to receive cash or prizes redeemable for cash. Selection of a winner or winners shall be predicated solely on chance.

(2) Lottery shall not include (a) any gambling scheme which uses any mechanical gaming device, computer gaming device, electronic gaming device, or video gaming device which has the capability of awarding something of value, free games redeemable for something of value, or tickets or stubs redeemable for something of value, (b) any activity authorized or regulated under the Nebraska Bingo Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act, section 9-701, or Chapter 2, article 12, or (c) any activity prohibited under Chapter 28, article 11.

(3) Notwithstanding subsections (1) and (2) of this section, any county, city, or village lottery operation in existence and operating on March 1, 1989, which would not meet the requirements of subsection (1) of this section or the requirement in section 9-625 that only one scheme or type of lottery be conducted may continue in operation until January 1, 1991. Such operation shall be restricted to operation upon the same terms as existed on March 1, 1989, and the operation of the lottery shall comply with the other provisions of the Nebraska County and City Lottery Act.

2. That original section 9-607, Revised Statutes Supplement, 1990, is repealed.".

Mrs. Hillman and Mr. Conway asked unanimous consent to be excused until they return. No objections. So ordered.

The Hall amendment was adopted with 25 ayes, 2 nays, 14 present and not voting, and 8 excused and not voting.

Messrs. Dierks and Morrissey asked unanimous consent to be excused until they return. No objections. So ordered.

Messrs. Lindsay, Moore, Horgan, Withem, Will, Chizek, Baack, Hartnett, Abboud, R. Johnson, Hall, Lynch, Mmes. Rasmussen, and Labedz renewed their pending amendment, AM1444, found in the Journal on page 1994.

Mr. Wesely offered the following amendment to the pending Lindsay et al. amendment:
FA159
Amend AM1444
on line 4 after "metropolitan" insert "or primary class"

Messrs. Ashford, Bernard-Stevens, Cudaback, Wickersham, and Schellpeper asked unanimous consent to be excused until they return. No objections. So ordered.

MR. WARNER PRESIDING

The Wesely amendment was adopted with 25 ayes, 1 nay, 13 present and not voting, and 10 excused and not voting.

Mr. Lindsay offered the following amendment to the pending Lindsay et al. amendment:
AM1923

(Amendments to AM1444)

1. On page 1, line 4, after "class" insert "or a county in which a city of the metropolitan class is located".

The Lindsay amendment was adopted with 25 ayes, 1 nay, 13 present and not voting, and 10 excused and not voting.

Mr. Lindsay moved for a call of the house. The motion prevailed with 16 ayes, 0 nays, and 33 not voting.

The pending Lindsay et al. amendment, as amended, was adopted with 26 ayes, 4 nays, 9 present and not voting, and 10 excused and not voting.

The Chair declared the call raised.

Mr. R. Johnson offered the following amendment:
AM1707

1. Insert the following new sections:

"Sec. 3. (1) If a racetrack licensed pursuant to Chapter 2, article 12, is located in a county and such county or a city or village within such county conducts a lottery pursuant to the Nebraska County and City Lottery Act, two percent of the gross proceeds from such lottery shall be credited to the Thoroughbred

Racing Assistance Fund.

(2) The Thoroughbred Racing Assistance Fund is hereby created. The fund shall be used to supplement purses for live thoroughbred racing in Nebraska. The State Racing Commission shall distribute money in the fund to the licensed racetracks based proportionately on the percentage of the live race handle of the immediately preceding year. Any money in the fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1276.".

Sec. 4. That section 9-629, Revised Statutes Supplement, 1990, be amended to read as follows:

9-629. (1) ~~The~~ Except as provided in section 3 of this act, the gross proceeds of any lottery conducted by a county, city, or village shall be used solely for community betterment purposes, awarding of prizes, taxes, and expenses.

(2) Not less than sixty-five percent of the gross proceeds shall be used for the awarding of prizes, except that for purposes of conducting a lottery authorized by subdivision (1)(c)(iii) of section 9-607, not less than sixty-five percent of the gross proceeds during an annual period from July 1 to June 30 of each year shall be used for the awarding of prizes.

(3) Not more than fourteen percent of the gross proceeds shall be used to pay the expenses of operating the lottery, except that license fees paid to the department and audit or legal expenses incurred by the county, city, or village which relate directly to the conduct of operating such lottery shall not be included in determining the fourteen-percent limitation on expenses.".

2. In AM0586:

a. On page 1, line 5, strike "section 2" and insert "sections 2 and 3"; and

b. On page 2, line 10, after "9-601" insert ", 9-629,".

3. Renumber the remaining sections accordingly.

Mrs. Rasmussen asked unanimous consent to be excused. No objections. So ordered.

Mr. R. Johnson offered the following amendment to his pending amendment:
FA160

(Amendments to AM1707)

1. On page 1, line 11, after the period insert "Twenty-five percent of the fund shall be distributed as purse supplements and breeder and stallion awards for Nebraska-bred horses as defined and registered pursuant to section 2-1213 at the racetrack where the funds were generated.".

The R. Johnson amendment was adopted with 25 ayes, 0 nays, 15 present and not voting, and 9 excused and not voting.

Mr. Abboud offered the following amendment to the pending R. Johnson amendment:
FA161

Amend AM1707, on page 1, line three strike "county and" through the word "county" in line 4, and insert "city which"

The Abboud amendment lost with 3 ayes, 12 nays, 25 present and not voting, and 9 excused and not voting.

SPEAKER BAACK PRESIDING

The R. Johnson amendment, as amended, was adopted with 25 ayes, 3 nays, 14 present and not voting, and 7 excused and not voting.

Mr. Hall offered the following amendment:
AM1927

1. Strike the original sections and all amendments thereto and insert the following new sections:

"Section 1. That section 9-607, Revised Statutes Supplement, 1990, be amended to read as follows:

9-607. (1) Lottery shall mean a gambling scheme in which (a) the players pay or agree to pay something of value for an opportunity to win, (b) winning opportunities are represented by tickets, (c) winners are solely determined by one of the following ~~three~~ four methods: (i) By a random drawing of tickets differentiated by sequential enumeration from a receptacle by hand whereby each ticket has an equal

chance of being chosen in the drawing; (ii) by rubbing or scraping a spot or spots on a disposable instant game ticket to reveal numbers, letters, symbols, or configurations, or any combination thereof, previously specified as winning numbers, letters, symbols, or configurations or a winning combination; ~~or~~ (iii) by use of a game known as keno, which is not player accessed, in which a player selects up to ~~twenty~~ twenty-two numbers from a total of eighty numbers on a ticket and a computer, other electronic selection device, or electrically operated blower machine which is not player activated randomly selects up to twenty numbers from the same pool of eighty numbers and the winning players are determined by the correct matching of the numbers selected by the players with the numbers randomly selected by the computer, other electronic selection device, or electrically operated blower machine; or (iv) by use of a player-accessed device which plays the game of keno, except that (A) the player-accessed device shall be located on a premises conducting a live keno game pursuant to the Nebraska County and City Lottery Act, (B) player-accessed devices shall be located at no more than six locations per county, (C) the number of player-accessed devices in any political subdivision or political subdivision jointly conducting such keno game shall be limited to one device per one thousand inhabitants of the political subdivision or political subdivisions, and (D) fifty percent of the revenue, after the payment of prizes and operating expenses, from the operation of such player-accessed devices shall be remitted to the state, and (d) the holders of the winning tickets are to receive cash or prizes redeemable for cash. Selection of a winner or winners shall be predicated solely on chance.

(2) Lottery shall not include (a) any gambling scheme which uses any mechanical gaming device, computer gaming device, electronic gaming device, or video gaming device, other than a device specifically authorized in subsection (1) of this section, which has the capability of awarding something of value, free games redeemable for something of value, or tickets or stubs redeemable for something of value, (b) any activity authorized or regulated under the Nebraska Bingo Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery

Act, the Nebraska Small Lottery and Raffle Act, section 9-701, or Chapter 2, article 12, or (c) any activity prohibited under Chapter 28, article 11.

(3) Notwithstanding subsections (1) and (2) of this section, any county, city, or village lottery operation in existence and operating on March 1, 1989, which would not meet the requirements of subsection (1) of this section or the requirement in section 9-625 that only one scheme or type of lottery be conducted may continue in operation until January 1, 1991. Such operation shall be restricted to operation upon the same terms as existed on March 1, 1989, and the operation of the lottery shall comply with the other provisions of the Nebraska County and City Lottery Act.

2. That original section 9-607, Revised Statutes Supplement, 1990, is repealed.".

Mr. Hartnett asked unanimous consent to be excused. No objections. So ordered.

Messrs. Will and Lindsay offered the following amendment to the pending Hall amendment:
FA162

Amend the Hall amendment (AM1927) as follows:

On page 1, line 2, after "thereto", insert "except AM1444, as amended, and AM1707, as amended,".

The Will-Lindsay amendment was adopted with 25 ayes, 0 nays, 16 present and not voting, and 8 excused and not voting.

Mrs. Smith offered the following amendment to the pending Hall amendment:
FA163

Amend AM1927:

On page 2, line 24, strike "state" and insert "Charitable Gaming Operations Fund."

MR. MORRISSEY PRESIDING

Mr. Coordsen asked unanimous consent to be excused until he returns. No objections. So ordered.

The Smith amendment lost with 12 ayes, 9 nays, 20 present and not voting, and 8 excused and not voting.

Pending.

RESOLUTIONS

LEGISLATIVE RESOLUTION 107. Introduced by Smith, 33.

PURPOSE: The Omnibus Budget Reconciliation Act of 1987 permitted states to apply for medicaid waivers which provided for medicaid reimbursement for certain home and community-based health and social services for medicaid eligibles who, but for these services, would not receive medicaid-funded institutional care. Nebraska has three waivers serving approximately 1264 adults and children. A recent independent assessment of Nebraska's home-based and community-based services waiver found that the average total daily cost of a client in a nursing facility is $34.74 compared to a total daily cost of $23.50 for safe, appropriate care for a waiver client.

Because of the overall medicaid cost avoidance demonstrated with the use of waiver services compared to institutionalization (where costs have increased 6.7 percent over FY 1990-91 even with a waiver), it appears Nebraska might benefit by expanding its use of medicaid waivers. The largest single item in the medicaid budget is nursing home care at $130 million in FY1991-92. Clients could be offered a choice of in-home services as opposed to institutional care when appropriate and General Fund needs could be lessened in a cost containment effort.

The purpose of this resolution is to examine the scope and effectiveness of current medicaid waivers, the feasibility of expanding them, and any factors inhibiting full utilization of present or future waivers. The study will also determine what other waivers are available for the aged as well as for adults and children with disabilities and examine both the need for such waivers in Nebraska and the advisability of applying for additional waivers.

In looking at feasibility the study will include, but not be limited to:

(1) The need for waiver services, including both the potential number of clients and the types of services;

(2) The availability of service providers to supply appropriate care;

(3) The most efficient way to implement a waiver;

(4) Factors that inhibit the application for and utilization of waivers;

(5) The cost to the state in implementing a waiver to determine if total state cost for waivers is less than non-waiver costs of providing appropriate care; and

(6) State-funded services currently provided to the aged as well as adults and children with disabilities to determine the most cost-effective methods of maximizing federal funding sources.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That a committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 108. Introduced by R. Johnson, 34.

PURPOSE: To study whether and under what conditions Nebraska should assume administration of the Federal Insecticide, Fungicide, and Rodenticide Act. Questions shall relate to, but not be limited to, designation of the state lead agency, administrative and enforcement duties of the lead agency, program funding, personnel requirements, and relationship of the Federal Insecticide, Fungicide, and Rodenticide Act to other Environmental Protection Agency proposals concerning endangered species, groundwater protection, farm worker protection, and pesticide residue standards.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Agriculture Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

UNANIMOUS CONSENT - Print in Journal

Messrs. Lamb and Wickersham asked unanimous consent to print the following amendment to LB 783A in the Journal. No objections. So ordered.

AM1787

1. Insert the following new sections:

"Section 1. There is hereby appropriated (1) $3,000,000 from the General Fund for FY1991-92 and (2) $2,000,000 from the General Fund for FY1992-93 to the Light-Density Rail Line Assistance Cash Fund, to aid in carrying out the provisions of Legislative Bill 783, Ninety-second Legislature, First Session, 1991.

Sec. 2. There is hereby appropriated (1) $3,000,000 from the Light-Density Rail Line Assistance Cash Fund for FY1991-92 and (2) $2,000,000 from the Light-Density Rail Line Assistance Cash Fund for FY1992-93 to the Department of Roads, for Program 305, to aid in carrying out the provisions of Legislative Bill 783, Ninety-second Legislature, First Session, 1991.

The unexpended balance existing on June 30, 1992, is hereby reappropriated for FY1992-93 to aid in carrying out the provisions of Legislative Bill 783, Ninety-second Legislature, First Session, 1991.

Sec. 3. There is hereby appropriated (1) $700,000 from the Light-Density Rail Line Assistance Revolving Fund for FY1991-92 and (2) $200,000 from the Light-Density Rail Line Assistance Revolving Fund for FY1992-93 to the Department of Roads, for Program 305, to aid in carrying out the provisions of Legislative Bill 783, Ninety-second Legislature, First Session, 1991.

No expenditures for permanent and temporary salaries and per diems for state employees shall be made from funds appropriated in this section.

The unexpended balance existing on June 30, 1992, is hereby reappropriated for FY1992-93 to aid in carrying out the provisions of Legislative Bill 783, Ninety-second Legislature, First Session, 1991.".

2. On page 2, after line 17 insert:

"The unexpended balance existing on June 30, 1992, is hereby reappropriated for FY1992-93 to aid in carrying out the provisions of Legislative Bill 783, Ninety-second Legislature, First Session, 1991.".

3. Renumber the remaining sections accordingly.

Messrs. Lamb and Wickersham asked unanimous consent to print the following amendment to LB 783 in the Journal. No objections. So ordered.

(Amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM1929.)

Messrs. Hall and Bernard-Stevens asked unanimous consent to print the following amendment to LB 577 in the Journal. No objections. So ordered.

AM1910

1. In AM1666, on page 1, line 13, after the first period insert "Possession of tobacco in any form by a minor in the ordinary course of his or her employment shall not be deemed a violation of this section.".

Mr. R. Johnson asked unanimous consent to print the following amendment to LB 51 in the Journal. No objections. So ordered.

AM1823

(Amendments to Final Reading copy)

1. Insert the following new sections:

"Sec. 18. That section 46-1201, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

46-1201. Sections 46-1201 to 46-1241 and sections 20 and 23 of this act shall be known and may be cited as the Water Well Standards and Contractors' Licensing Act.

Sec. 19. That section 46-1203, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

46-1203. For the purposes of the Water Well Standards and Contractors' Licensing Act, unless the context otherwise requires, the definitions found in sections 46-1204 to 46-1216 and section 20 of this act shall be used.

Sec. 20. Water well monitoring supervisor shall mean any individual engaged solely in the measuring of ground water levels, the collection of ground water samples from existing water wells, or the inspection of installed water well equipment, pumping

systems, or chemigation regulation devices. The term shall not include: (1) An individual who constructs a water well or installs or repairs pumps or pumping equipment or a water well; or (2) an individual who carries out the measurement, sampling, or inspection of a water well which is on land owned by him or her and used by him or her for farming, ranching, or agricultural purposes or as his or her place of abode.

Sec. 21. That section 46-1223, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

46-1223. (1) The department with the assistance of the board shall cause examination to be made of applicants for initial licensure or certification. The board shall determine the type, categories, contents, and required passing grade of examinations to be administered to applicants for licensing or certification. Examinations shall be held at such times and places as the department, with the advice of the board, may determine. The department shall act within ninety days upon all completed applications for licensure or certification.

(2) Examinations for water well monitoring supervisors shall be designed and adopted to examine the knowledge of the applicant regarding the minimum standards for water wells and water well pumps, the geological characteristics of the state, measuring ground water levels, and water sampling practices and techniques. All other examinations ~~Examinations~~ shall be designed and adopted to examine the knowledge of the applicant regarding the minimum standards for water wells and water well pumps, the geological characteristics of the state, current drilling or pump installation practices and techniques, and such other knowledge as deemed appropriate by the board. The board may adopt any nationally developed standard examinations as constituting part or all of the Nebraska examinations.

(3) An examinee who fails to pass the initial examination may retake such examination without charge at any regularly scheduled examination held within four months after failing to pass the initial examination, except that when a national standardized examination is utilized which requires the payment of a fee to purchase

such examination, the board shall require the applicant to pay the appropriate examination fee whether an initial examination or a retake of an examination is involved. Failure of an applicant to pass upon retaking the examination shall disqualify him or her from making further application for a period of six months.

(4) In cases of hardship, the board may provide and direct that special arrangements for administering examinations be utilized. The board may also provide for temporary hardship licensing without examination due to the death of the current license holder or for other good cause shown.

Sec. 22. That section 46-1231, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

46-1231. Each water well drilling supervisor, ~~and~~ pump installation supervisor, and water well monitoring supervisor shall make application for a certificate of competence in his or her respective trade. Such application shall be made to the department which shall charge an application fee set by the board pursuant to section 46-1224 for the filing of such application, and the department shall not act upon any application until the application fee for such certificate has been paid. A certificate shall be issued to every applicant who successfully passes the examination for such certificate, pays the appropriate certification fee, and otherwise complies with the Water Well Standards and Contractors' Licensing Act and all standards, rules, and regulations adopted and promulgated pursuant to such act. Any individual employed by a water well contractor or a pump installation contractor who is not deemed to qualify as a water well drilling supervisor or pump installation supervisor may make application for a certificate of competence in his or her respective trade in the same manner as the water well drilling supervisor or the pump installation supervisor.

Sec. 23. Except as provided in section 46-1233, after the effective date of this act, no water well shall be opened or the seal broken by any person other than an owner of the water well unless the opening or the breaking of the seal is carried out by a certified water well monitoring supervisor.

Sec. 24. That section 46-1238, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

46-1238. Any person who engages (1) in the construction of water wells, (2) ~~or~~ in the installation of pumps and pumping equipment, or (3) in the measuring of ground water levels, taking of ground water samples, or inspection of installed water well equipment, pumping systems, or chemigation regulation devices without first obtaining a license or certificate for such activities from the department as provided in the Water Well Standards and Contractors' Licensing Act or rules and regulations adopted and promulgated pursuant to the act, in addition to the other penalties provided in the act, may be enjoined from continuing such activities.

Sec. 25. That section 46-1240, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

46-1240. Any person who engages (1) in the construction of water wells, (2) in ~~or~~ the installation of pumps and pumping equipment, or (3) in the measuring of ground water levels, taking of ground water samples, or inspection of installed water well equipment, pumping systems, or chemigation regulation devices or who fails to plug or plugs an abandoned well without complying with the standards adopted and promulgated pursuant to the Water Well Standards and Contractors' Licensing Act shall be guilty of a Class III misdemeanor or subject to a civil penalty of not more than five hundred dollars for each day an intentional violation occurs and may be enjoined from continuing such activity, including a mandatory injunction.".

2. On page 1, line 5, strike "and" and after the comma insert "46-1201, 46-1203, 46-1223, 46-1231, 46-1238, and 46-1240,"; and in line 12 after the second semicolon insert "to provide certain requirements for the examination for water well monitoring supervisors; to restrict the opening or breaking of the seal of water wells as prescribed; to change a provision relating to licensure pursuant to the Water Well Standards and Contractors' Licensing Act;".

3. On page 23, line 17, strike "and" and after the second comma insert "46-1201, 46-1203, 46-1223, 46-1231, 46-1238, and 46-1240,".

4. Renumber the remaining section accordingly.

Mr. Coordsen asked unanimous consent to print the following amendment to LB 652 in the Journal. No objections. So ordered.

AM1905

(Amendments to Standing Committee amendments, AM1507)

1. Insert the following new section:

"Sec. 28. There is hereby appropriated $39,500 from the Nebraska Technical Community College Aid Cash Fund for FY1992-93 to Aid to Technical Community Colleges, for Program 99. There is included in the appropriation to this program (1) $14,500 to support installation of a microwave link to provide a NEB*SAT telecommunications connection between the Western Technical Community College Area campus in Scottsbluff and existing satellite reception and transmission facilities located in Scottsbluff, (2) $12,500 to support training of Mid-Plains Technical Community College Area vocational-technical faculty in the use of telecommunication technology for delivery of instructional programming, and (3) $12,500 to support training of Western Technical Community College Area vocational-technical faculty in the use of telecommunication technology for delivery of instructional programming.

The State Treasurer shall transfer $39,500 from the Employment Security Special Contingent Fund to the Nebraska Technical Community College Aid Cash Fund on or before July 1, 1992.".

2. Renumber the remaining sections accordingly.

Messrs. Wesely and Byars asked unanimous consent to print the following amendment to LB 830 in the Journal. No objections. So ordered.

AM1922

(Amendments to E & R amendments, AM5144)

1. Strike sections 16 and 31 and insert the following new section:

"Sec. 30. The State Department of Education shall enter into an interagency agreement with the Department of Public Institutions to provide vocational

rehabilitation services and supported employment programs to persons with developmental disabilities. The Division of Rehabilitation Services shall match all state and local funds provided by the Department of Public Institutions and developmental disabilities regions to the extent that federal vocational rehabilitation funds are available.".

2. On page 1, line 4, strike "27" and insert "26".

3. On page 7, line 13, strike "shall" and insert "may".

4. On page 8, lines 6 and 14, strike "the counties served in"; in line 7 strike "do" and insert "does"; in lines 8 and 15 strike "XX" and insert "17"; in line 15 strike "meet" and insert "meets"; and in line 22 strike "local field office" and insert "developmental disability region".

5. On page 9, line 11, strike "local field office" and insert "developmental disability region".

6. On page 10, strike beginning with "through" in line 2 through "office" in line 3 and insert "in a developmental disability region"; in line 8 strike "local field office" and insert "developmental disability region"; and in line 11 strike "68-1021" and insert "27 of this act".

7. On page 11, line 2, strike "January" and insert "March"; strike beginning with the comma in line 3 through the comma in line 6; in line 8 after the period insert "In order to carry out the planning necessary to implement this subsection and to examine the appropriate alternatives, the director shall establish a working group comprised of persons with developmental disabilities, service providers, state and local officials, and the general public. The purpose of the working group shall be to advise and assist the director in implementing this section."; in line 15 strike "By" and insert "Beginning"; in line 17 strike the comma and insert "or"; and strike beginning with the comma in line 18 through the first "services" in line 19.

8. On page 12, line 2, strike "by" and insert "beginning".

9. On page 13, line 10, after "members" insert "of persons with developmental disabilities".

10. On page 14, line 2, strike "18" and insert "17"; in line 15 strike "by local field offices"; and in line 22 strike "20" and insert "19".

11. On page 15, line 13, strike "20 to 25" and insert "19 to 24"; and in line 17 strike "20" and insert "19".

12. On page 16, line 11, strike "20" and insert "19"; in line 15 strike "problems" and insert "needs".

13. On page 18, line 11, strike "assignment" and insert "placement".

14. On page 20, strike beginning with the comma in line 20 through the comma in line 21.

15. Renumber the remaining sections accordingly.

Mr. Wesely asked unanimous consent to print the following amendment to LB 419 in the Journal. No objections. So ordered.

(Amendment on file in the Clerk's Office - Room 2018 - AM1901.)

SELECT FILE

LEGISLATIVE BILL 795. Mr. R. Johnson moved to reconsider the Smith amendment, FA163, found in this day's Journal.

Mr. Rogers asked unanimous consent to be excused until he returns. No objections. So ordered.

The R. Johnson motion to reconsider prevailed with 26 ayes, 2 nays, 12 present and not voting, and 9 excused and not voting.

The Smith amendment, FA163, found in this day's Journal, was reconsidered.

Mr. R. Johnson asked unanimous consent to be excused until he returns. No objections. So ordered.

SPEAKER BAACK PRESIDING

Mrs. Robak moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

Mrs. Smith moved for a call of the house. The motion prevailed with 13 ayes, 0 nays, and 36 not voting.

Mrs. Smith requested a roll call vote on her amendment.

Voting in the affirmative, 22:

Ashford	Cudaback	Kristensen	Nelson	Warner
Baack	Dierks	Lamb	Schimek	Wehrbein
Bernard-Stevens	Elmer	Lindsay	Schrock	Wesely
Byars	Hall	Moore	Smith	Will
	Hefner	Morrissey		

Voting in the negative, 10:

Crosby	Horgan	Labedz	Robak	Schmit
Hillman	Johnson, L.	Pirsch	Schellpeper	Wickersham

Present and not voting, 6:

Beyer	Chizek	Peterson	Robinson	Withem
Chambers				

Absent and not voting, 2:

Abboud	Landis

Excused and not voting, 9:

Beutler	Coordsen	Hartnett	Lynch	Rogers
Conway	Haberman	Johnson, R.	Rasmussen	

The Smith amendment lost with 22 ayes, 10 nays, 6 present and not voting, 2 absent and not voting, and 9 excused and not voting.

Pending.

The Chair declared the call raised.

Messrs. Landis and Schrock asked unanimous consent to be excused until they return. No objections. So ordered.

STANDING COMMITTEE REPORT
Health and Human Services

The Committee on Health and Human Services desires to report upon the appointments listed below. The Committee suggests the appointments be confirmed by the Legislature and suggests a record vote.

Dr. Duane Polzien - State Board of Health
Dr. Charles W. Wempe - State Board of Health
Patricia (Trish) Q. Lanphier - Child Abuse Prevention Fund Board
Dennis Carlson - Foster Care Review Board

VOTE: Aye: Senators Beyer, Byars, Cudaback, Dierks, Schellpeper, and Wesely. Nay: none. Absent: Senator Rasmussen.

(Signed) Don Wesely, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 109. Introduced by Robak, 22; Moore, 24; Kristensen, 37; Hillman, 48; Smith, 33; Bernard-Stevens, 42; L. Johnson, 15; Crosby, 29; Hartnett, 45; Nelson, 35.

PURPOSE: The fourteen libraries which make up the Public Resource Library Group (Bellevue, Fremont, Beatrice, Norfolk, Columbus, York, Grand Island, Hastings, Kearney, Holdrege, North Platte, McCook, Sidney, and Scottsbluff) desire to automate their facilities so that they may better serve their communities and the entire state. Partial funding from private sources, some of which is dependent upon state assistance, is available through the year 1996.

This resolution seeks to establish a legislative task force that would do the following:

1. Assess the need for a library automation project within the Public Resource Library Group;
2. Identify the potential benefits and shortcomings of involving the state in such a project;
3. Determine the feasibility of financial assistance from the state for such a library automation project;
4. Locate and identify possible funding sources the state might have available for such a library automation project;
5. Develop a comprehensive plan for the implementation of such a library automation project; and
6. Develop any legislation that would be necessary to carry out the recommendations of the task force.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That a task force be assembled and designated by the Executive Board to conduct an interim study to carry out the purposes of this resolution.

2. That the task force consist of the introducers of this resolution, the directors of member libraries in the Public Resource Library Group, and representatives of the Nebraska Library Commission.

3. That the task force shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

UNANIMOUS CONSENT - Print in Journal

Mr. Moore asked unanimous consent to print the following amendment to LB 842 in the Journal. No objections. So ordered.

AM1894

(Amendments to Standing Committee amendments, AM1503)

1. On page 2, line 1, strike "77,040 77,747" and insert "76,457 76,457".

Mr. Moore asked unanimous consent to print the following amendment to LB 844 in the Journal. No objections. So ordered.

AM1896

(Amendments to Standing Committee amendments, AM1506)

1. On page 7, lines 22 and 23, strike "7,983" and insert "11,821".

2. On page 8, line 2, after "expense" insert "and $3,838 General Funds to support a one-time payout of employee benefits.

Total expenditures for permanent and temporary salaries and per diems shall not exceed $3,250 for FY1990-91".

3. On page 12, strike beginning with "lines" in line 4 through "18" in line 7 and insert "after line 5 insert:

'GENERAL FUND -0- 40,000';

in line 6 strike '10,670' and insert '6,670'; in line 7 strike '10,670' and insert '46,670'; in line 9 strike

'$9,267' and insert '$6,003'; after line 10".

Mr. Moore asked unanimous consent to print the following amendment to LB 847 in the Journal. No objections. So ordered.

AM1585
(Amendments to Standing Committee amendments, AM1473)

1. On page 25, strike beginning with "$1,000,000" in line 5 through "$1,000,000" in line 6 and insert "$2,000,000"; and strike line 10 and insert "$2,000,000 from".

Mr. Moore asked unanimous consent to print the following amendment to LB 843 in the Journal. No objections. So ordered.

AM1895
(Amendments to Standing Committee amendments, AM1508)

1. On page 4, strike line 15 and insert:
"GENERAL FUND 20,930,244 21,023,163"
and strike line 17 and insert:
"PROGRAM TOTAL 21,267,444 21,360,363"
and strike lines 23 and 24.

2. On page 6, strike line 11 and insert:
"GENERAL FUND 21,736,115 21,817,784"
and strike line 14 and insert:
"PROGRAM TOTAL 22,145,626 22,227,295".

3. On page 20, line 4, strike "(5)" and insert "(4)"; and in line 10 strike "(6)" and insert "(5)".

4. On page 21, after line 13 insert:

"(6) Program No. 352 - Old Age and Survivors Insurance Disability Determinations

	FY1991-92	FY1992-93
FEDERAL FUND est.	3,374,401	3,439,682
PROGRAM TOTAL	3,374,401	3,439,682
SALARY LIMIT	1,299,739	1,299,739

There is included in the appropriation to this program for FY1991-92 $900,632 Federal Funds estimate for state aid, which shall only be used for such purpose. There is included in the appropriation to this program for FY1992-93 $945,664 Federal Funds estimate for state aid, which shall only be used for such purpose.".

5. On page 37, strike lines 18 and 19 and

insert:
"CASH FUND 1,150,192 1,150,192
PROGRAM TOTAL 1,150,192 1,150,192"
and in line 22 strike "$844,000" and insert "$928,000".

6. On page 38, line 1, strike "$844,000" and insert "$928,000"; after line 3 insert:

"It is the intent of the Legislature that $146,000 Cash Funds be used in FY1991-92 and $146,000 Cash Funds be used in FY1992-93 for the cancer registry."; strike line 8 and insert:
"CASH FUND 12,444,764 12,362,162"
and strike line 10 and insert:
"AGENCY TOTAL 41,671,208 41,562,538".

7. On page 60, line 19, strike "FY1990-91" and insert "FY1991-92 and in FY1992-93".

8. On page 68, line 11, strike "$10,049,072" and insert "$10,089,072"; and after line 13 insert:

"Up to $40,000 General Funds from the amount reappropriated may be used as needed to assist in establishing a cost-effective prospective payment system for nursing homes.".

9. On page 74, after line 12 insert:

"Up to $25,260 of the unexpended balance existing on June 30, 1991, is hereby reappropriated.".

10. On page 90, strike line 10.

11. On page 131, strike lines 3 and 4 and insert:
"CASH FUND 183,737 174,537
REVOLVING FUND 4,807,822 4,878,417".

12. On page 132, strike lines 9 and 10 and insert:
"CASH FUND 2,144,917 2,007,069
REVOLVING FUND 63,284,698 64,353,230".

13. On page 133, strike line 4 and insert:
"SALARY LIMIT 901,495 901,495".

14. On page 146, after line 10 insert:

"The State Treasurer shall transfer $25,000 from the General Fund to the Crimes Against Children Fund on July 1, 1991. The State Treasurer shall transfer $85,000 from the General Fund to the Crimes Against Children Fund on July 1, 1992."

15. On page 161, line 21, strike the first "5,000" and insert "10,000"; and in line 22 strike "271,033" and insert "276,033".

SELECT FILE

LEGISLATIVE BILL 795. The pending Hall amendment, AM1927, as amended, found in this day's Journal, was renewed.

Mr. Wesely asked unanimous consent to be excused until he returns. No objections. So ordered.

Pending.

VISITORS

Visitors to the Chamber were Senator Ashford's mother, Ellen Anderson; Justis Dobesh from Kearney; 36 fourth grade students and sponsors from Underwood Hill, Omaha; 36 fourth grade students and sponsors from Loveland School, Omaha; 28 fourth grade students and teacher from Prairie Lane, Omaha; 27 fifth grade students, sponsors, and teachers from Stromsburg; 38 sixth grade students and teachers from Thedford and Mullen; 14 students and sponsor from Northeast High School, Lincoln; seven third and fourth grade students and teacher from Covenant Christian, Omaha; 26 seventh grade students and teacher from Emerson-Hubbard; 28 fourth grade students and sponsor from Rockbrook School, Omaha; 30 fourth grade students and teacher from Seedling Miles School, Grand Island; 30 fourth grade students and teacher from Lincoln Elementary, Grand Island; and 14 fourth through eighth grade students from Howe.

The Doctor of the Day was Dr. Peter Morin from Lincoln.

MOTION - Adjournment

Mrs. Robak moved to adjourn until Monday, May 20, 1991 at 9:00 a.m.

Mrs. Robak moved for a call of the house. The motion prevailed with 19 ayes, 1 nay, and 29 not voting.

Mrs. Robak requested a roll call vote on her motion to adjourn.

Voting in the affirmative, 29:

Ashford	Baack	Beyer	Chambers	Chizek

Crosby	Hefner	Lindsay	Robinson	Wehrbein
Cudaback	Hillman	Moore	Rogers	Wickersham
Dierks	Horgan	Peterson	Schellpeper	Will
Elmer	Johnson, L.	Pirsch	Schimek	Withem
Hall	Labedz	Robak	Schmit	

Voting in the negative, 8:

Abboud	Kristensen	Morrissey	Smith	Warner
Byars	Lamb	Nelson		

Absent and not voting, 1:

Bernard-
Stevens

Excused and not voting, 11:

Beutler	Haberman	Johnson, R.	Lynch	Schrock
Conway	Hartnett	Landis	Rasmussen	Wesely
Coordsen				

The Robak motion to adjourn prevailed with 29 ayes, 8 nays, 1 absent and not voting, and 11 excused and not voting, and at 3:04 p.m., the Legislature adjourned until 9:00 a.m., Monday, May 20, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

EIGHTIETH DAY - MAY 20, 1991

LEGISLATIVE JOURNAL

EIGHTIETH DAY - MAY 20, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

EIGHTIETH DAY

Legislative Chamber, Lincoln, Nebraska
Monday, May 20, 1991

Pursuant to adjournment, the Legislature met at 9:00 a.m., Speaker Baack presiding.

PRAYER

The prayer was offered by Rev. Harland Johnson, Chaplain Coordinator.

ROLL CALL

The roll was called and all members were present except Mr. Haberman who was excused; and Messrs. Ashford, Beutler, Conway, Dierks, Hall, R. Johnson, Kristensen, Lindsay, Morrissey, Peterson, Schmit, Schrock, Warner, Mmes. Labedz, Nelson, Robak, and Smith who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Seventy-Ninth Day was approved.

ATTORNEY GENERAL'S OPINIONS

Opinion No. 91040

DATE: May 16, 1991

SUBJECT: Amendments to LB 579; State Election Board

REQUESTED BY: Senator Elroy M. Hefner,

Nebraska State Legislature

WRITTEN BY: Don Stenberg, Attorney General
Linda L. Willard, Assistant Attorney General

You have requested that this office review LB 579, as amended, to determine if the bill is now constitutional. The bill, as amended and presented to this office for review, consists of 225 pages. Your question does not narrow the constitutional review to a specific section of the Constitution nor does it limit the review to either the State or Federal Constitution. Because of the nature of the bill and the timing of your request, we have limited our review to those issues discussed in our earlier Opinion (No. 91031) (attached hereto) and those portions of the Nebraska Constitution addressing the duties of the Secretary of State. Specifically, Article III, Sections 2 and 3, and Article IV, Section 4.

The amendments to LB 579 have not altered the list of candidate members submitted by the political parties to the Governor for selection. Therefore, we reiterate our earlier Opinion that this method of restricting the Governor's selection is constitutionally suspect under Article IV, Section 10, of the Constitution of the State of Nebraska.

It appears that none of the amendments to LB 579 have altered the language of the bill as it relates to Neb.Rev.Stat. § 32-704 (reissue 1988). Therefore, our concerns in regard to this section as it relates to Article III, Sections 2 and 3, of the Constitution of the State of Nebraska, as expressed in Opinion No. 91031, remain unchanged.

We were not previously asked to review the bill in regard to Article IV, Section 4. The Office of Secretary of State had certain common law duties at the time of its adoption in Nebraska, including maintenance of the State's records. Most duties pertaining to elections, other than the canvass, apparently were adopted by statute in 1891 (Chapter 15, Consolidated Statutes of Nebraska, 1891). Any attempt to legislatively remove, restrict, or transfer common law duties of the Secretary of State embodied in Article IV, Sections 1 and 4, would be void as an encroachment on the executive powers of that office. State v. State Board of Equalization and Assessment, 123 Neb. 259, 243 N.W. 264 (1932); Ex parte Corliss, 114 N.W. 962 (N.D. 1907). That portion of LB 579, as amended, which addresses Neb.Rev.Stat. § 32-4,101 and those related to the Secretary's receipt of ballots are not in conflict with the constitutional duties of the Secretary of State. However, Neb.Rev.Stat. § 32-4,104, as amended by LB 579, would be an unconstitutional restriction on the common law duties of the Secretary of State relative to the canvassing of votes.

As stated above, our constitutional review of this bill is limited due to time limitations.[1] If you have questions regarding specific portions of LB 579 or specific constitutional provisions, we would be willing to address those questions.

[1] Time has not permitted us to undertake an analysis of whether LB 579 creates an executive state office which would require a two-thirds majority vote for passage. See Neb. Const. art. IV, § 27. See also Sommerville v. Johnson, 149 Neb. 167, 30 N.W.2d 577 (1948); Mekota v. State Board of Equalization and Assessment, 146 Neb. 370, 19 N.W.2d 633 (1945).

Sincerely,
DON STENBERG
Attorney General
(Signed) Linda L. Willard
Assistant Attorney General

28-06-14.91
cc: Patrick J. O'Donnell
Clerk of the Legislature

Opinion No. 91041

DATE: May 17, 1991

SUBJECT: Whether a "Surcharge" Imposed on Depreciation Claimed as a Deduction for Income Tax Purposes Violates the Prohibition in Neb. Const. Art. VIII, Section 1A Against the State "Levying a Property Tax for State Purposes."

REQUESTED BY: Senator W. Owen Elmer
Nebraska State Legislature

WRITTEN BY: Don Stenberg, Attorney General
L. Jay Bartel, Assistant Attorney General

You have requested our opinion as to whether the imposition of a "surcharge" on depreciation claimed as a deduction from gross income for federal income tax purposes (which, correspondingly, would result in a reduction in taxable income for purposes of determining Nebraska income tax liability) would violate the prohibition in Neb. Const. art. VIII, § 1A, against the state "levying

a property tax for state purposes." The "surcharge" would apparently be collected by the state, and would be computed on the basis of a percentage of the deduction for cost recovery allowable under I.R.C. §§ 167 and 168 on property used in a trade or business held for the production of income, except that financial institutions taxed under Neb.Rev.Stat. § 77-3802 (reissue 1990) would be assessed a charge on the reduction in net financial income for cost recovery on property used in a trade or business or property held for the production of income comparable to amounts allowable under I.R.C. §§ 167 and 168. Therefore, the issue raised by your request is whether a "surcharge" imposed on this basis is a "property tax" levied for "state purposes" within the prohibition in Article VIII, Section 1A. In analyzing this issue, the fundamental inquiry must be whether the "surcharge" in question is in the nature of a "property tax" within the meaning of this constitutional provision.

> "{T}he character or nature of a particular tax must be determined by its operation, practical results and incidents, and by the substance and natural and legal effect of the language employed in the statute or law imposing it. Such factors should be relied upon, rather than the name given the tax by the Legislature."

71 Am.Jur.2d State and Local Taxation, § 22 (1973) (footnotes omitted); see also 84 C.J.S. Taxation, § 3b. (1954).

With respect to property taxes, the following general characteristics have been recognized:

> Taxes on property are taxes assessed on all property or on all property of a certain class located within a certain territory on a specified date in proportion to its value, or in accordance with some other reasonable method of apportionment, the obligation of which is absolute and unavoidable and is not based upon any voluntary action of the person assessed. A property tax is measured by the amount of property owned by the taxpayer on a given day, and not by the total amount owned by him during the year.
>
> * * *
>
> If the tax is computed upon a valuation of property, and assessed by assessors either where it is situated or at the owner's domicil {sic}, although privileges may be included in the valuation, it is considered a property tax.

71 Am.Jur.2d State and Local Taxation, supra, at §§ 24 and 26 (footnotes omitted).

In contrast, impositions characterized as "excise taxes" have generally been identified as follows:

> In its modern sense an excise tax is any tax which does not fall within the classification of a poll or property tax, and which embraces every form of burden not laid directly upon persons or property. The obligation to pay an excise tax is based upon the voluntary action of the person taxed in performing the act, enjoying the privilege, or engaging in the occupation which is the subject of the excise, and the element of absolute and unavoidable demand is lacking.
>
> * * *
>
> If a tax is imposed directly by the Legislature without assessment, and its sum is measured by the amount of business done or the extent to which the privileges have been enjoyed or exercised by the taxpayer, irrespective of the nature or value of the taxpayer's assets, it is regarded as an excise.
>
> * * *
>
> If a tax is in its nature an excise, it does not become a property tax because it is proportioned in amount to the value of the property used in connection with the occupation, privilege, or act which is taxed.

71 Am.Jur.2d State and Local Taxation, supra, §§ 25 and 28 (footnotes omitted).

In State v. Galyen, 221 Neb. 497, 378 N.W.2d 182 (1985), the Nebraska Supreme Court addressed the distinction between a "property" tax and an "excise" tax. In Galyen, the court addressed, inter alia, the questions of whether a fee of twenty-five cents per head of cattle sold in Nebraska was a property tax or an excise tax, and, if an excise tax, whether the tax was subject to the uniformity and proportionality requirements of Neb. Const. art. VIII, § 1. In assessing the nature of the tax as a "property" tax or an "excise" tax, the court noted the following definitions of these terms:

> Black's Law Dictionary (5th Ed. 1979) at 506 defines an excise tax as 'A tax imposed on the performance of an act. . . . Tax laid on manufacture, sale, or consumption of commodities. . . .' On the other hand, Black's Law Dictionary, supra, at 1097, defines a property tax as 'A tax levied on both real and personal property; the amount of the tax being dependent on the value of the property, generally expressed as a uniform rate per thousand of valuation.'

221 Neb. at 500, 378 N.W.2d at 185.

Citing its prior decision in Licking v. Hayes Lumber Co., 146 Neb. 240, 19 N.W.2d 148 (1945) (holding a tax imposed as an annual charge upon the right to continue corporate existence was not a property tax, although computed on the basis of the amount of capital stock), as well as other decisions holding a tax imposed on the

doing of an act were excise taxes and not property taxes, the court in Galyen held the tax at issue was an excise tax and not a property tax. 221 Neb. at 500-502, 378 N.W.2d at 185-86. The court further held that, as the tax did not constitute a property tax, the principle of uniformity in Article VIII, Section 1, did not apply. Id. at 502-503, 378 N.W.2d at 186-87.

In addition, while our Supreme Court has not engaged in an extended discussion of the meaning of the term "ad valorem" taxation (which, of course, is the basis associated with property taxation), the court in State ex rel. Meyer v. Story, 173 Neb. 741, 744, 114 N.W.2d 769, 772 (1962), stated: "The phrase 'ad valorem' means literally 'according to the value,' and is used in taxation to designate an assessment of taxes against property at a certain rate upon its value." (citations omitted). See also Report of Attorney General 1979-80, Opinion No. 47, p.73 (discussing meaning of the term "ad valorem" taxation).

Against this background, we must attempt to characterize the nature of the depreciation "surcharge" at issue. In this regard, we note that a "surcharge," in this context, is defined as the imposition of "an additional tax, impost, or cost." Black's Law Dictionary 1292 (6th ed. 1990). The term apparently is generally used to refer to a "surtax," which is defined as "{a}n additional tax on what has already been taxed." Black's Law Dictionary, supra, at 1296. Various states have, consistent with this definition, imposed "surtaxes" or "surcharges" in addition to taxes normally imposed under their income tax laws. See, e.g., Conn. Gen. Stat. Ann. § 12-214(b) (Cum. Supp. 1991); Ill. Rev. Stat. Ch. 120, § 2-201(d) (Supp. 1990); Kan. Stat. Ann. § 79-32,110(c) (2) (1989); Mont. Code Ann. § 15-31-121 (1989); N.Y. Tax Law §§ 209-A and 290-A (McKinney Cum. Supp. 1991).

The proposed "surcharge" on depreciation, in contrast to these exactions, is not imposed on the basis of an additional charge computed on income or tax liability; rather the charge is imposed on an amount which represents a deduction from the basis utilized to determine income tax liability. We have been unable to find any statutory provisions imposing an exaction of this nature, or any caselaw addressing the characterization of a tax of this type.

In spite of this dearth of authority, we must attempt to address the question of the nature of the proposed tax at issue. In attempting to categorize a "surcharge" on depreciation, we believe it is appropriate to analyze the basis upon which the deduction for depreciation is allowed for income purposes and its relationship (or lack thereof) to the value of property to determine if this exaction is, in fact, a "property tax" within the meaning of Article VIII, Section 1A.

> {A}s a matter of accounting theory, depreciation is simply an accounting device intended to allocate the cost of using an asset to the periods in which that use contributes to revenue by approximating the gradual diminution in value of the asset over time due to age, wear and tear, and obsolescence.

Hawkins v. Commissioner, 713 F.2d 347, 351 (8th Cir. 1983); see also Massey Motors, Inc. v. United States, 364 U.S. 92 (1960); Hertz Corp. v. United States, 364 U.S. 122 (1960). See generally H. Sellin, Attorney's Handbook of Accounting, § 5.08 (Rev. 1988).

The distinction between "actual value" for property tax purposes, and "value" determined by reference to the "value" of property for federal income tax purposes, was directly addressed by the Nebraska Supreme Court in State ex rel. Meyer v. NcNeil, 185 Neb. 586, 177 N.W.2d 596 (1970). McNeil involved the issue of whether a legislative act declaring that the values of agricultural income producing machinery and equipment used by any business required to report taxable income under the Internal Revenue Code be used by county assessors for property tax purposes violated Neb. Const. art. VIII, § 1. In determining this method of valuing property for tax purposes violated the State Constitution, the court specifically noted the fact that the "value" of such property for income tax purposes bore no relation to the "actual value" determination required to comply with Article VIII, Section 1. In this regard, the court stated:

> {T}he Internal Revenue Code does not purport to determine the value of agricultural income-producing machinery and equipment. Its purpose is to fix an equitable rate of depreciation of personal property used in a trade or business over the estimated useful life of the property rather than have it fall in a single year period. Its purpose is not to fix the actual value of the property at any given time, but to amortize depreciation during its life in determining net annual income. The revenue act therefore does not purport to determine actual value of farm machinery and equipment at any given time and is wholly unrelated to actual value for taxation purposes required by the law of this state.

Id. at 589, 177 N.W.2d at 599 (emphasis added).

Therefore, in our opinion, the Legislature may impose a tax computed on the amount of depreciation claimed for income tax purposes without violating Article VIII, Section 1A, at least so long as the tax imposed does not exceed the state income tax benefit resulting from the depreciation deduction. The proposed "surcharge" does not fit within the conventional definition of an "ad valorem" property tax, which is the type of exaction the state is prohibited from imposing under Article VIII, §1A. In actuality, as the court noted in McNeil, the amount of depreciation claimed as a deducation for

income tax purposes in a given year does not necessarily bear any relationship to the value of the property depreciated. To the extent that an element of "value" can be said to be encompassed in the concept of depreciation, in the sense that the allowance of a deduction for income tax purposes for depreciation is based, in part, on recognition of the loss in value of an asset over time, we believe this would not render the proposed "surcharge" on depreciation an impermissible "property tax" imposed in violation of Article VIII, §1A. The relationship between any such "value" element in the depreciation concept, and the determination of the "actual value" of property for tax purposes, is too unrelated and tenuous to permit the conclusion that a surcharge on depreciation would be found unconstitutional on this basis.

Furthermore, there is no requirement that the state, for purposes of calculating state income tax liability, allow any deduction for depreciation such as is permitted under federal tax law. The imposition of a charge of this nature would, in effect, simply reduce any benefit received by taxpayers electing to claim such a deduction. To the extent the allowance of a deduction for depreciation expense for state income tax purposes is a matter of legislative grace, it would seem anomalous to conclude that the imposition of a tax having the effect of reducing the benefit of such a deduction would not be constitutionally permissible.

We would be remiss, however, if we did not counsel that our conclusion is by no means certain. Our supreme court has repeatedly admonished that the Legislature may not circumvent the Constitution by attempting to do indirectly that which it may not accomplish directly. Haman v. Marsh, 237 Neb. 699, _____ N.W.2d _____ (1991); Banner County v. State Bd. of Equal., 226 Neb. 236, 411 N.W.2d 35 (1987). It is not inconceivable that the court would view legislation of this nature to be, in substance and effect, an "indirect" attempt by the state to impose a tax on the "value" of property prohibited by Article VIII, Section 1A. While, for the reasons previously articulated, we believe the tax in question is defensible against constitutional attack on this basis, there is no assurance that our supreme court would not view the tax as an indirect means for the state to impose a "property tax," in contravention of Article VIII, Section 1A.

With this concern in mind, we would recommend that rather than a tax surcharge on depreciation (which has some appearance of being a property tax), the Legislature could better reach the same objective by simply disallowing a percentage of depreciation expense as a deduction from income for state income tax purposes. Mechanically this might be accomplished by adding a portion of depreciation

claimed for federal income tax purposes to taxable income for state income tax purposes.

A law written in this manner would, in our opinion, avoid the various Nebraska Constitutional provisions related to property taxes because the tax would clearly be a tax on income.

This is not a recommendation that income taxes should be increased. That is a decision which the Legislature and the Governor must make.

However, if the Governor and the Legislature wish to increase income taxes in a manner related to depreciation, a method that directly denies a portion of the depreciation deduction is much more clearly constitutional than is a surcharge on depreciation.

Very truly yours,
DON STENBERG
Attorney General
(Signed) L. Jay Bartel
Assistant Attorney General

cc: Patrick J. O'Donnell
Clerk of the Legislature
7-65-7.4

REPORT

Received annual report from the Juvenile Services Grant Committee, Supreme Court of Nebraska, pursuant to LB 663 (1990), 43-2412.

UNANIMOUS CONSENT - Print in Journal

Mr. Morrissey asked unanimous consent to print the following amendment to LB 827 in the Journal. No objections. So ordered.

(Amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM1935.)

RESOLUTIONS

LEGISLATIVE RESOLUTION 110. Introduced by Chizek, 31.

PURPOSE: The purpose of this resolution is to study Nebraska laws relating to the railroad industry. This study shall examine the following subjects:

1. An opinion by the Attorney General explaining jurisdiction by the Nebraska courts and agencies over the railroad industry;

2. The current statutes, criminal and court imposed due process standards, relating to railroads as applicable by peace officers in Nebraska;

3. The current statutes as assigned to the enforcement of the Public Service Commission relating to railroads;

4. The current duties of the Department of Labor as relating to railroads;

5. The range of criminal and civil penalties for violations of statutes by employees or employers in the railroad industry; and

6. The current duties as assigned the Department of Roads relating to railroads.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Judiciary Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee when conducting the study shall solicit the input of the Attorney General, Nebraska law enforcement officers, the Department of Labor, the Public Service Commission, the Department of Roads, and railroad labor and railroad management representatives.

3. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 111. Introduced by Chizek, 31.

PURPOSE: The purpose of this resolution is to study the feasibility of providing funding to the three public legal services agencies in Nebraska: Southeast Nebraska Legal Services: Legal Aid of Omaha; and Western Nebraska Legal Services. The study shall specifically review whether it is feasible and constitutional to increase filing and other fees in the Workers' Compensation Court and the other courts of the state to provide funding to the three legal services agencies. Further, the study shall specifically determine whether there are other user-funded activities that are feasible and appropriate as funding sources for the three legal services agencies.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That a committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That such committee of the Legislature shall invite the chairpersons of other appropriate committees and other private or public agencies to join in the study.

3. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

MOTION - Approve Appointments

Mr. Wesely moved the adoption of the report of the Health and Human Services Committee for the following Governor appointments found in the Journal on page 2226: Dr. Duane Polzien, Dr. Charles W. Wempe - State Board of Health; Patricia (Trish) Q. Lanphier - Child Abuse Prevention Fund Board; and Dennis Carlson - Foster Care Review Board.

Voting in the affirmative, 25:

Baack	Crosby	Hillman	Moore	Schimek
Beyer	Cudaback	Horgan	Pirsch	Wehrbein
Byars	Elmer	Johnson, L.	Rasmussen	Wesely
Chambers	Hartnett	Lamb	Robinson	Will
Coordsen	Hefner	Landis	Schellpeper	Withem

Voting in the negative, 0.

Present and not voting, 6:

Abboud	Bernard-Stevens	Chizek	Lynch	Rogers Wickersham

Excused and not voting, 18:

Ashford	Haberman	Labedz	Peterson	Schrock
Beutler	Hall	Lindsay	Robak	Smith
Conway	Johnson, R.	Morrissey	Schmit	Warner
Dierks	Kristensen	Nelson		

These appointments were confirmed with 25 ayes, 0 nays, 6 present and not voting, and 18 excused and not voting.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following resolution: LR 98.

UNANIMOUS CONSENT - Member Excused

Mr. Bernard-Stevens asked unanimous consent to be excused until he returns. No objections. So ordered.

BILLS ON FINAL READING

The following bills were read and put upon final passage:

LEGISLATIVE BILL 836. With Emergency.

A BILL FOR AN ACT relating to children; to amend sections 68-1206, 71-901, 71-1903, 71-1910, 71-1911, and 71-1913, Reissue Revised Statutes of Nebraska, 1943, and sections 79-439 and 79-444, Revised Statutes Supplement, 1990; to adopt the Quality Child Care Act; to require a schedule for rates charged for certain child care services; to change provisions relating to authority to set health and sanitation standards as prescribed; to redefine a term; to change requirements for licensure of certain programs; to provide for the applicability of provisions to certain school districts; to authorize transportation to and from certain programs; to eliminate a requirement for certain statewide child care services; to provide operative dates; to provide severability; to repeal the original sections, and also section 43-531, Reissue Revised Statutes of Nebraska, 1943; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 39:

Abboud	Byars	Cudaback	Horgan	Lynch
Baack	Chambers	Elmer	Johnson, L.	Moore
Bernard-Stevens	Chizek	Hall	Kristensen	Nelson
Beutler	Conway	Hartnett	Labedz	Pirsch
Beyer	Coordsen	Hefner	Lamb	Rasmussen
	Crosby	Hillman	Landis	Robak

Robinson	Schimek	Smith	Wesely	Will
Schellpeper	Schrock	Wehrbein	Wickersham	Withem

Voting in the negative, 0.

Present and not voting, 2:

Peterson Rogers

Excused and not voting, 8:

Ashford	Haberman	Lindsay	Schmit	Warner
Dierks	Johnson, R.	Morrissey		

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

LEGISLATIVE BILL 836A.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 836, Ninety-second Legislature, First Session, 1991; and to require certain transfers.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 37:

Abboud	Chizek	Hillman	Lynch	Schrock
Baack	Conway	Horgan	Nelson	Smith
Bernard-Stevens	Coordsen	Johnson, L.	Pirsch	Wehrbein
	Cudaback	Johnson, R.	Rasmussen	Wesely
Beutler	Elmer	Kristensen	Robak	Wickersham
Beyer	Hall	Labedz	Schellpeper	Will
Byars	Hartnett	Lamb	Schimek	Withem
Chambers	Hefner	Landis		

Voting in the negative, 0.

Present and not voting, 5:

Crosby	Moore	Peterson	Robinson	Rogers

Excused and not voting, 7:

Ashford	Haberman	Morrissey	Schmit	Warner
Dierks	Lindsay			

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following bills: 836 and 836A.

SELECT FILE

LEGISLATIVE BILL 843. E & R amendment, AM5145, found in the Journal on page 2111, was adopted.

Mr. Withem renewed his pending amendment, AM1702, found in the Journal on page 2032.

The Withem amendment was adopted with 27 ayes, 0 nays, 15 present and not voting, and 7 excused and not voting.

Mr. Hall renewed his pending amendment, AM1700, found in the Journal on page 2032.

Mr. Peterson asked unanimous consent to be excused until he returns. No objections. So ordered.

MR. MORRISSEY PRESIDING

Mr. Conway asked unanimous consent to be excused until he returns. No objections. So ordered.

SPEAKER BAACK PRESIDING

Mr. R. Johnson asked unanimous consent to be excused until he returns. No objections. So ordered.

Mrs. Robak moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 1 nay, and 22 not voting.

Mr. Hall moved for a call of the house. The motion prevailed with 19 ayes, 0 nays, and 30 not voting.

Mr. Hall requested a roll call vote on his amendment.

Voting in the affirmative, 26:

Abboud	Crosby	Horgan	Morrissey	Schmit
Ashford	Cudaback	Labedz	Nelson	Wesely
Beutler	Dierks	Landis	Rasmussen	Wickersham
Chambers	Hall	Lindsay	Robak	Will
Chizek	Hartnett	Lynch	Schimek	Withem
Coordsen				

Voting in the negative, 19:

Baack	Byars	Johnson, L.	Peterson	Schellpeper
Bernard-Stevens	Elmer	Kristensen	Pirsch	Schrock
Beyer	Hefner	Lamb	Robinson	Smith
	Hillman	Moore	Rogers	Wehrbein

Excused and not voting, 4:

Conway	Haberman	Johnson, R.	Warner

The Hall amendment was adopted with 26 ayes, 19 nays, and 4 excused and not voting.

Pending.

The Chair declared the call raised.

NOTICE OF COMMITTEE HEARING
Government, Military and Veterans Affairs

Governor Appointment Tuesday, May 28, 1991 1:00 p.m.
Jesse Cardenas - State Athletic Commissioner

(Signed) Gerald Conway, Chairperson

PRESENTED TO THE GOVERNOR

Presented to the Governor on May 20, 1991, at 10:15 a.m., were the following bills: 836 and 836A.

(Signed) Pam Moravec, Enrolling Clerk

RESOLUTIONS

LEGISLATIVE RESOLUTION 112. Introduced by Robak, 22; Hillman, 48.

PURPOSE: One of the major problems that farm implement businesses suffer in our state is unfair competition from out-of-state retailers who attract Nebraska buyers under the pretense that no sales or use tax will be collected. The purpose of this resolution is to address the following questions:

1. Are there other industries in our state which suffer the same type of unfair competition?
2. How much sales and use tax revenue are we losing under our current system of enforcement of sections 77-2702 to 77-2713?
3. How effective overall is the current system of enforcing our state's sales and use tax on out-of-state sales?
4. What type of corrective legislation, if any, is needed?

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That a committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.
2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 113. Introduced by Robak, 22; Hillman, 48.

PURPOSE: There have been concerns expressed recently by citizens over state policy on restricted drivers' licenses. Who is able to obtain such licenses and what purposes the licenses serve are just two of the concerns related to this issue. This resolution seeks to have the following questions addressed:

1. How effective is existing state policy with regard to restricted drivers' licenses?

2. How feasible would it be for the state to expand its policy of issuing restricted drivers' licenses?

3. How feasible would it be for the State of Nebraska to adopt an "extreme inconvenience" statute with regard to restricted drivers' licenses?

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That a committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations. to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 114. Introduced by Robinson, 16; Moore, 24; Lynch, 13; Bernard-Stevens, 42; L. Johnson, 15.

PURPOSE: The State of Nebraska makes extensive use of computers, printers, facsimile machines, copy machines, and other types of office equipment in conducting its day-to-day business. The purchase, utilization, maintenance, and repair of office equipment costs the state a great deal of money each year. The purpose of this resolution is to examine methods to reduce the high cost of the use and upkeep of office equipment by the State of Nebraska.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That a committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 115. Introduced by Chizek, 31.

PURPOSE: The purpose of this resolution is to study the distribution of judicial resources in Nebraska as the Legislature desires to provide fair and equitable judicial resources to all the

citizens of Nebraska. With respect to judicial resources, the study shall include the effects of population shifts on judicial workloads, constitutional requirements, and the various redistricting bills introduced in order to determine the best method of allocating judicial resources in Nebraska. The study shall include, but not be limited to, district courts and county courts.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Judiciary Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 116. Introduced by Hefner, 19.

PURPOSE: The states of Iowa and Minnesota have adopted legislation requiring confiscation of license plates of drivers ticketed for DWI offenses. This study should review the DWI laws of those two states and the desirability of enacting similar statutes in Nebraska as deterrents to driving while under the influence of alcohol or drugs.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That a committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 117. Introduced by Hefner, 19; Peterson, 21.

PURPOSE: The purpose of this study is to review the desirability of placing limits on the number of consecutive terms in office for elected officials at the national, state, and local levels. The study should include a review of any limits of terms in office in other states

that exist as well as the legal and constitutional issues which arise in enacting such limits.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That a committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 118. Introduced by Crosby, 29.

PURPOSE: The purpose of this resolution is to study current safety provisions for school crossing areas in Nebraska and to identify any necessary changes in order to provide the safest possible paths leading to and from elementary and secondary schools.

The intent is to formulate additional public policy and laws which promote the health, safety, and well-being of the children of Nebraska.

This study should include assessments of appropriate warning and crossing signs, lighting, motor vehicle speed zones, and statutory provisions providing for motor vehicle violations in connection with school zone area violations.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Transportation Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 119. Introduced by Crosby, 29.

WHEREAS, it is estimated that over fifty percent of all deaths in Nebraska between the ages of one and sixty-five are linked to individual lifestyle factors; and

WHEREAS, nine of the ten leading causes of premature death in Nebraska can be linked to one or more of the following behaviors: Cigarette smoking; alcohol abuse; lack of exercise; failure to wear motor vehicle safety belts; overeating; and lack of control of hypertension; and

WHEREAS, adolescence, when risky health behaviors can result in serious consequences, is still largely ignored in health policy; and

WHEREAS, organized health promotion efforts aimed at educating people about maintaining health and motivating people to take healthy actions provide promise for the greatest long-term impact on healthy behaviors; and

WHEREAS, increased efforts which emphasize personal choice health behavior education to reduce the risk of premature death and disability can best be accomplished through the building and strengthening of partnerships among the public, private, and voluntary sectors of our society; and

WHEREAS, the Governor of the State of Nebraska has established the Governor's Health Promotion and Physical Fitness Council to improve and expand health information to the people of Nebraska.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Health and Human Services Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That among its tasks the committee shall review the impact of current state health promotion activities in Nebraska with special emphasis given to the health and physical fitness needs of children and adolescents.

3. That the committee will consider the creation of a Commission on Health Promotion and Physical Fitness.

4. That the committee will involve members of the current Governor's Health Promotion and Physical Fitness Council and the Department of Health, State Department of Education, Department of Social Services, and Department of Public Institutions in the interim study.

5. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 120. Introduced by Crosby, 29.

PURPOSE: The purpose of this resolution is to authorize a study to conduct a general review of Nebraska statutes relating to the operation of a motor vehicle under the influence of alcohol or other drugs.

The Legislature recognizes its commitment to the citizens of this state to provide safe roads and to promulgate laws that promote responsible driving and prohibit reckless and dangerous driving.

The study shall include, but not be limited to, the following:

1. A review of all state laws regarding intoxication caused by alcohol and drugs while operating a motor vehicle;

2. A review of the current violations and charges for driving while intoxicated (DWI);

3. An examination of the effect of lowering the legal limit of alcohol in the blood from the current level of ten-hundredths of one gram or more by weight of alcohol per one hundred milliliters of blood;

4. An examination of the court proceedings which follow after an arrest for DWI, including a review of the available legal defenses;

5. An examination of habitual drunk drivers and a review of the maximum penalty for such offenders;

6. Consideration of license suspension;

7. An evaluation of the current methods of testing for alcohol blood-level content, the validity of the test results, and who may appropriately perform the test; and

8. Any other recommended changes in DWI laws which could possibly improve enforcement of responsible driving on public roads in Nebraska.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Transportation Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

UNANIMOUS CONSENT - Member Excused

Mr. Lamb asked unanimous consent to be excused until he returns. No objections. So ordered.

SELECT FILE

LEGISLATIVE BILL 843. Mr. Coordsen asked unanimous consent to replace his pending amendment, AM1687, found in the Journal on page 2033, with a substitute amendment. No objections. So ordered.

Mr. Coordsen withdrew his pending amendment, AM1687, found in the Journal on page 2033.

Mr. Coordsen offered the following substitute amendment:
AM1933
(Amendments to Standing Committee amendments, AM1508)

1. On page 59, strike line 24 and insert:
"GENERAL FUND 34,369,375 35,577,914".
2. On page 60, strike lines 2 and 3 and insert:
"FEDERAL FUND est. 52,447,382 52,290,282
PROGRAM TOTAL 87,066,757 88,068,196".
3. On page 61, strike line 12 and insert:
"GENERAL FUND 71,187,364 78,441,869"
strike lines 14 and 15 and insert:
"FEDERAL FUND est. 76,348,669 80,234,783
PROGRAM TOTAL 147,576,033 158,716,652"
in line 18 strike "$71,307,364" and insert "$71,187,364"; in line 19 strike "$76,378,669" and insert "$76,348,669"; in line 22 strike "$78,567,861" and all amendments thereto and insert "$78,441,869"; and in line 23 strike "$80,266,283" and insert "$80,234,783".
4. On page 64, strike line 18 and insert:
"GENERAL FUND 16,341,456 19,219,708"
and strike lines 20 and 21 and insert:
"FEDERAL FUND est. 394,908 393,408
TOTAL 16,776,364 19,653,116".
5. On page 67, strike lines 11 through 13 and insert:
"GENERAL FUND 124,750,406 147,513,521
FEDERAL FUND est. 274,973,533 305,290,869
PROGRAM TOTAL 399,723,939 452,804,390"
in line 15 strike "$124,658,030" and insert "$124,493,936"; in line 16 strike "$274,583,686" and insert "$274,327,780"; and strike line 19 and insert

"$147,257,051 General Funds and $304,645,116 Federal".

6. On page 69, strike lines 8 through 11 and insert:

"GENERAL FUND	230,307,145	261,533,304
CASH FUND	540,000	490,000
FEDERAL FUND est.	403,769,584	437,815,934
AGENCY TOTAL	634,616,729	699,839,238".

Mr. Coordsen withdrew his pending amendment.

Mr. Hefner renewed his pending amendment, AM1730, found in the Journal on page 2047.

Mr. Schmit asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Chambers offered the following amendment to the pending Hefner amendment:

FA164

Amend Hefner amendment AM1730

Strike $15,000 and insert $30,000.

Mrs. Robak asked unanimous consent to be excused until she returns. No objections. So ordered.

MR. MORRISSEY PRESIDING

Messrs. R. Johnson, Lindsay, and Lynch asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Hartnett moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 27 ayes, 0 nays, and 22 not voting.

The Chambers amendment was adopted with 25 ayes, 7 nays, 11 present and not voting, and 6 excused and not voting.

Pending.

RESOLUTIONS

LEGISLATIVE RESOLUTION 121. Introduced by Agriculture Committee: Rogers, 41, Chairperson; Coordsen, 32; Cudaback, 36; Elmer, 38; Hefner, 19; Morrissey, 1; Schellpeper, 18.

PURPOSE: The purpose of this resolution is to examine the process by which individual counties are admitted to or exit a brand inspection area. The study shall review the current system of legislative oversight in adding or subtracting counties to the brand inspection area. The committee shall also review the feasibility of allowing individual counties to utilize a petition process requesting a special election when considering entering or exiting an inspection area.

Additionally, the study shall examine: (1) Verifiable methods of determining actual owners of cattle who may be eligible to utilize a petition process or vote in a brand area election; (2) possible entities capable of conducting such special elections; and (3) the establishment of an informational structure informing cattle producers of any benefits or responsibilities that may be derived prior to conducting such elections.

The committee may also examine the entire operation of the Nebraska Brand Committee including, but not limited to, inspections, brand recording and registration, fee structures, and administrative duties. The committee may also review the feasibility of transferring the administration of the Nebraska Brand Committee from the office of the Secretary of State to the Department of Agriculture.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Agriculture Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. The committee shall solicit the input of the Nebraska Brand Committee, the office of the Secretary of State, the Department of Agriculture, the Cooperative Extension Service of the University of Nebraska and other interested persons to carry out the purpose of this resolution.

3. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 122. Introduced by Agriculture Committee: Rogers, 41, Chairperson; Coordsen, 32; Cudaback, 36; Elmer, 38; Hefner, 19; Morrissey, 1; Schellpeper, 18.

PURPOSE: The purpose of this resolution is to develop specific recommendations on how the State of Nebraska and the agriculture industry can serve to create new opportunities for jobs and rural economic development. By combining Nebraska's productive resources and the entrepreneurial spirit of its people with emerging marketing and production technologies, ever-changing consumer preferences, and existing public and private institutions, agriculture has great potential for contributing to the growth of the state economy.

This committee shall work with the Department of Agriculture, the commodity check-off boards, of the Department of Economic Development, the Nebraska Rural Development Commission, and the Food Processing Center at the University of Nebraska, and other parties interested in agriculture and rural economic development.

This study shall include, but not be limited to, the following activities:

(1) Assess Nebraska's current private and public sector resources available to support agricultural development;

(2) Assess existing sources of capital and agricultural financing for beginning farmers and new agriculture-related enterprises;

(3) Assess how other selected states support agricultural development; and

(4) Develop recommendations on how the State of Nebraska can support the development of new agricultural products and markets as well as new agriculture-related enterprises.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Agriculture Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 123. Introduced by Moore, 24.

PURPOSE: Because the tourism industry has consistently proven to be a source of revenue to communities in the State of Nebraska, the development of tourism facilities is of increasing interest to political subdivisions. This study will examine methods that would allow the state to assist political subdivisions in the development of capital

facilities intended to act as tourism attractions or tourism information centers. This study will include a review of existing state agency tourism assistance services and the potential financing sources that could be utilized to develop local tourism capital facilities.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Appropriations Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the Appropriations Committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 124. Introduced by Moore, 24.

PURPOSE: The purpose of this resolution is to study the financing of services provided to persons with developmental disabilities. The goal of the study is to recommend a methodology for the future allocation of state aid for services provided to persons with developmental disabilities. The study will examine the present use of client-service contracts and rates as a basis for funding as well as other alternative methods to allocate available funds.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Appropriations Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 125. Introduced by Moore, 24.

PURPOSE: The purpose of this resolution is to study the use by state agencies of consultant contracts. The study shall include, but not be limited to, past patterns of expenditures by state agencies for consultant contracts, preliminary estimates of proposed consultant contracts in the 1992-93 biennium, the means of securing such

contracts, and the statutory and administrative controls in place to manage such contract obligations.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Appropriations Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 126. Introduced by Moore, 24.

PURPOSE: The purpose of this resolution is to examine the feasibility of assessing probation fees against criminal offenders who are sentenced to probation when they are financially able to pay them. The study shall include, but not be limited to:

(1) The practices of other states regarding the assessment and collection of probation fees;

(2) The constitutionality of assessing probation fees;

(3) The ability of those sentenced to probation to pay such a fee;

(4) The administrative costs of creating an assessment of probation fees program; and

(5) The amount of money which might be generated by assessing and collecting probation fees.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That a special committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution. The committee shall consist of five members of the Legislature appointed by the Executive Board of the Legislative Council: One who shall be the chairperson; at least two who shall be members of the Judiciary Committee; and at least two who shall be from the Appropriations Committee.

2. That the special committee shall seek the cooperation and input of the judicial branch of state government when conducting the study.

3. That the special committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature by December 1, 1991.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 127. Introduced by Moore, 24.

PURPOSE: The purpose of this study is to examine the revenues and expenditures of selected state agency cash funds receiving user fees or miscellaneous taxes in order to finance agency operations. This study will focus upon the following areas:

(1) A review of cash fund revenues and expenditures in selected state agencies;

(2) A review of cash fund balances in selected state agencies;

(3) A review of user fees and miscellaneous taxes in selected state agencies and whether the fees may be internally adjusted by the agency or are set in statute; and

(4) A review of the expenditure level of state general funds that are used to match or supplement agency cash funds.

This study will examine whether user fees are adequate to maintain the operations of the agencies or agency programs being examined. if cash fund balances are inadequate or excessive in proportion to expenditures, agency policies regarding the level of cash fund balances, agency policies regarding either the internal or statutory adjustment of fees when cash fund balances become either inadequate or excessive, and the use of state general funds to supplement dedicated cash funds.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Appropriations Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the Appropriations Committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 128. Introduced by Ashford, 6.

PURPOSE: This study shall review the Parenting Act proposed by LB 728 and issues relating to the act.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That a committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 129. Introduced by Hillman, 48; Wickersham, 49.

PURPOSE: Nebraska's tourist industry represents this state's third largest provider of jobs and enterprise opportunities. This industry affords Nebraska critically needed economic diversification. While other Nebraska industries may have limited potential for growth, the tourist industry offers a unique opportunity for economic expansion. Finally, while development opportunities may be limited in many rural areas of Nebraska, the tourist industry extends significant avenues for rural economic development.

Nebraska has established a substantial and sophisticated tourism education and promotion program. This program does an excellent job in drawing tourists to Nebraska's existing attractions. However, Nebraska's program to support the identification and establishment of economically viable new and expanded tourist attractions is limited when compared to programs in other states.

The purpose of this study is to develop specific recommendations on how the State of Nebraska and its tourist industry can more directly support the identification and development of tourist attractions. Nebraska is rich in history, natural environment, geology, wildlife, and recreational opportunities. Each potential asset represents a development opportunity which could result in greater tourism, longer visitation by tourists, and the generation of tourist related businesses. Combined, these outcomes would result in greater economic activity and opportunity for Nebraska.

This study shall work with Nebraska's tourism industry, the Travel and Tourism Division of the Department of Economic Development, the Travel and Tourism Division Advisory Committee, the Nebraska Rural Development Commission, and other parties interested in tourism development.

This study shall include, but not be limited to, the following activities:

(1) Assess opportunities for tourist attraction development across Nebraska;

(2) Assess Nebraska's current private and public sector resources available to support attraction development;

(3) Assess how selected other states support attraction development; and

(4) Develop specific recommendations on how Nebraska can foster economically viable attraction development.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That a committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 130. Introduced by Hillman, 48; Rasmussen, 20.

PURPOSE: The purpose of this resolution is to examine the reasons why Douglas and Scotts Bluff counties represent the two highest teen pregnancy rates in the state. In the course of this study, the committee will:

(1) Compare and contrast the statewide teen pregnancy rate to figures from Douglas and Scotts Bluff counties;

(2) Determine the circumstances contributing to the statewide teen pregnancy data;

(3) Examine the services offered for pregnant teenagers statewide and compare these services to those offered in the two counties.

(4) Determine effectiveness of the services offered;

(5) Develop ideas regarding how to make existing programs more effective and, if that is not feasible, develop or recommend new programs which need to be instituted. Considerations shall include:

(a) Community willingness; and

(b) Availability of resources; and

(6) If applicable, recommend legislation needed to enhance teenage pregnancy assistance.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That a committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 131. Introduced by Landis, 46.

PURPOSE: The purpose of this resolution is to consider updating and rewriting Nebraska law regarding credit life insurance and credit health and accident insurance.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Banking, Commerce and Insurance Committee of the Legislature shall be designated to conduct an interim study, in cooperation with the Department of Insurance, to carry out the purposes of this resolution. The committee should solicit the input of interested persons and groups as it deems necessary and beneficial to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 132. Introduced by Landis, 46.

PURPOSE: The purpose of this resolution is to consider updating and rewriting Nebraska law regarding surplus lines insurance business.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Banking, Commerce and Insurance Committee of the Legislature shall be designated to conduct an interim study, in cooperation with the Department of Insurance, to carry out the purposes of this resolution. The committee should solicit the input of interested persons and groups as it deems necessary and beneficial to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 133. Introduced by Landis, 46.

PURPOSE: The purpose of this resolution is to consider updating and rewriting Nebraska law regarding the establishment of title insurance premium rates.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Banking, Commerce and Insurance Committee of the Legislature shall be designated to conduct an interim study, in cooperation with the Department of Insurance, to carry out the purposes of this resolution. The committee should solicit the input of interested persons and groups as it deems necessary and beneficial to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 134. Introduced by Beyer, 3.

PURPOSE: The purpose of this resolution is to study ways to structure collective bargaining timelines for school districts and their employees in order to facilitate timely resolution of the bargaining process and assist in completing the task within the budget preparation period, if possible. The study shall include:

(1) A review of timelines that exist in other states and their effectiveness;

(2) A review of the present budgetary timelines under which schools operate;

(3) Options for resolution of negotiations that fail at the local level, including a review of the Commission of Industrial Relations and its relationship to school district negotiations; and

(4) Develop amendments to LB 587 (1991) which would make the bill more workable and agreeable to all parties involved.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That a committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

VISITORS

Visitors to the Chamber were Orville Kirby and Don Gable from Gering; 24 seventh and eighth grade students and teacher from Pierce Zion Lutheran in Pierce; Senator Lowell Johnson's son, Kent Johnson, from California; Senator Lindsay's brother, Mike Lindsay, from Minnesota; 27 eighth grade students and principal from Arapahoe; 90 fourth grade students, teachers, and sponsors from J. Sterling Morton School, Omaha; and John Hilgert and Father Kelligar from Omaha.

RECESS

At 12:10 p.m., on a motion by Mr. Hall, the Legislature recessed until 1:30 p.m.

AFTER RECESS

The Legislature reconvened at 1:30 p.m., Speaker Baack presiding.

ROLL CALL

The roll was called and all members were present except Mr. Haberman who was excused; and Messrs. Abboud, Ashford, Conway, Hall, Landis, Lynch, Peterson, Rogers, Schmit, Will, Mmes. Labedz, Pirsch, Robak, and Smith who were excused until they arrive.

RESOLUTIONS

LEGISLATIVE RESOLUTION 135. Introduced by Landis, 46; Wesely, 26.

PURPOSE: The purpose of this resolution is to examine issues associated with the Comprehensive Health Insurance Pool, CHIP, in Nebraska.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Banking, Commerce and Insurance Committee and the Health and Human Services Committee of the Legislature shall be designated to conduct an interim study, in cooperation with the Department of Insurance, to carry out the purposes of this resolution.

2. That the committees shall upon the conclusion of the study make a report of their findings, together with their recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 136. Introduced by Wickersham, 49.

PURPOSE: The purpose of this study is to conduct an examination of the prison privatization issue and assess its primary advantages and limitations. Prison overcrowding is a primary concern to this state and it would be in the best interests of the Legislature to evaluate private prison operation as an alternative to alleviating prison overcrowding.

Utilizing private prison operation for the housing and maintenance of adult prisoners under the jurisdiction of the Nebraska Department of Corrections should be the focus. The study shall include, but not be limited to, the following issues: (1) Contractual agreements; (2) costs; (3) liability; (4) proprietary interests; (5) constitutionality; (6) accountability; (7) security; (8) statutory authority; (9) dependence; and (10) community impact.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That a committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 137. Introduced by Hall, 7.

PURPOSE: The purpose of this resolution is to study Nebraska's overall tax system. The study shall examine the relationship between

and utilization of the sales tax and the income tax as well as local property taxes and user fees. It shall also examine exemptions from each of these tax bases and other tax expenditures. The study should focus on ways to make the overall tax system more fair, more efficient, and more consistent in promoting the tax policy of the state.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Revenue Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 138. Introduced by Dierks, 40; Schellpeper, 18.

PURPOSE: The Nebraska State Fairgrounds constitute a large amount of useful indoor and outdoor space. The State of Nebraska, the University of Nebraska, the City of Lincoln, the Lincoln Public Schools, and other governmental entities are continually seeking additional space to meet their needs. This study resolution requests that the Legislature research the degree to which the fairgrounds buildings and grounds area could be used by governmental entities when State Fair activities are not in session.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That a committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 139. Introduced by Baack, 47; Withem, 14.

PURPOSE: The purpose of this resolution is to study the issues that resulted in the introduction of LB 487 which proposed a common tax

levy for Class I school districts that are part of a Class VI district. Issues that should be studied include whether such a requirement would prevent inequities among schools within a Class VI system, whether it would provide better educational opportunities to all students involved, and whether it would provide for more consistency since affiliated districts are required to pay a common levy beginning in 1993.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Revenue Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the attached report on the referral of Governor appointments.

Health and Human Services
Robert A. Phillips - Modular Housing Advisory Committee
Nebraska Commission for the Hearing Impaired
Michael D. Gooch
Richard McCowin
Rosemary Hannam
Marcia Kushner

(Signed) Jerome Warner, Chairperson
Legislative Council
Executive Board

COMMUNICATION

May 13, 1991

Mr. Patrick J. O'Donnell
Clerk of the Legislature
Room 2018

State Capitol Bldg.
Lincoln, NE 68509

Dear Mr. O'Donnell:

Pursuant to the Provisions of Section 85-408, R.R.S. of Nebraska, 1943, approval is hereby requested for the expenditure of not to exceed $371,700 from the Replacement Fund created by the Resolution establishing an issue of revenue bonds of the Board of Regents of the University of Nebraska (the "University") dated as of December 1, 1964 (the "Resolution"). The following is submitted in connection with such request.

1. Obligation of the University. The University issued its Fees and Facilities Revenue Bonds under the Resolution of 1964 and 1966 to refund then outstanding bonds and construct additional dormitories and other revenue-producing facilities. The Resolution provides that all Facilities (which include all dormitories, food service units, the Student Union and Health Center) will be operated in an efficient, sound and economical manner and the University will maintain, preserve and keep the Facilities in good repair, working order and condition and will from time to time promptly make necessary and proper repairs, renewals, replacements, additions, extensions and betterments thereto so that at all times the business carried on in connection therewith shall be properly and advantageously conducted (Section 6.2 of the Resolution). The Resolution also requires that the University comply with all state laws. This is a contract with the bondholders.
2. Proposed Expenditure of Replacement Fund. In order to fulfill the obligations to keep the Facilities in good repair and operating condition, it is necessary that the following renovations, replacements and additional equipment be made to the Facilities.

Renewals, Replacements and Equipment	
University Housing	$171,700
Nebraska Unions	120,000
Health Center	30,000
GRAND TOTAL	$371,700

The Board of Regents authorized these expenditures from the Bond Replacement Fund at their May 10, 1991 meeting. The fund currently has a balance (including accrual) in excess of $371,700.

3. Request. In order to meet its obligations as described above and in the interests of making timely renovations and additions so that business operations can be carried out more advantageously, the University requests that the Legislature approve the expenditure of up to $371,700 from the Replacement Fund for the purposes set forth above.

Respectfully submitted,
(Signed) James B. Milliken
Corporation Secretary
THE BOARD OF REGENTS OF THE
UNIVERSITY OF NEBRASKA

Referred to the Reference Committee.

MESSAGES FROM THE GOVERNOR

May 20, 1991

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Madam President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Nebraska Dry Bean Commission requiring legislative approval.

Appointee: Garold N. Batterman, RR 2, PO Box 155, Broadwater, NE 69125, 308-489-5603.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:fc

May 20, 1991

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Madam President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Nebraska Dry Bean Commission requiring legislative approval.

Appointee: Jeffrey L. Pickering (Reappointed), RR 1, Box 158, Scottsbluff, NE 69361, 308-632-4591.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:fc

May 20, 1991

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Madam President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Nebraska Dry Bean Commission requiring legislative approval.

Appointee: Leonard J. Treinen, Jr. (Reappointed), 619 Newberry, Alliance, NE 69301, 308-762-5446 h, 308-762-8014 w.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson

Governor

EBN:fc

REPORT

Received annual report of all Tort, Miscellaneous, Contract, and Indemnification claims administered by the Office of Risk Management in accordance with Sections 81-8,226 and 81-8,300, Reissue Revised Statutes of Nebraska, 1943.

PROPOSED RULE CHANGE

Mr. Wesely asked unanimous consent to print the following proposed rule change in the Journal. No objections. So ordered.

Amend Rule 1, Section 16(a); Rule 3, Sections 4(d)(iii), 16(a), 16(b), 16(c), 17, 18(b), 19(b), 19(c); Rule 5, Sections 3(a), 5(g), 5(h), 6(a), 6(d), 6(f); Rule 6, Sections 2(b), 3(a), 3(c), 3(d), 3(f), 4, 5(d), 6, 8(c), 8(d); Rule 7, Sections 1(b), 3(a), 7(d); Rule 8, Sections 4(b), 5; Rule 9, Sections 6, 7, and 9, so that wherever the term "General File" appears, strike the term and insert "First Reading"; and wherever the term "Select File" appears, strike the term and insert "Second Reading."

Referred to the Rules Committee.

SELECT FILE

LEGISLATIVE BILL 843. The pending Hefner amendment, AM1730, as amended, found in the Journal on page 2047 and considered in this day's Journal, was renewed.

Ms. Schimek moved the previous question. The question is, "Shall the debate now close?"

Ms. Schimek moved for a call of the house. The motion prevailed with 10 ayes, 0 nays, and 39 not voting.

The motion to cease debate prevailed with 25 ayes, 0 nays, and 24 not voting.

Mr. Chambers asked unanimous consent to have his name added as co-introducer to AM1730. No objections. So ordered.

Mr. Hefner requested a roll call vote on the Hefner-Chambers amendment.

Voting in the affirmative, 25:

Baack	Chambers	Dierks	Landis	Schimek
Bernard-Stevens	Chizek	Hartnett	Morrissey	Wehrbein
Beutler	Coordsen	Hefner	Rasmussen	Wesely
Beyer	Crosby	Horgan	Robinson	Wickersham
Byars	Cudaback	Lamb	Rogers	Withem

Voting in the negative, 9:

Hillman	Johnson, R.	Moore	Peterson	Warner
Johnson, L.	Kristensen	Nelson	Schrock	

Present and not voting, 4:

Elmer	Lindsay	Schellpeper	Will

Excused and not voting, 11:

Abboud	Haberman	Labedz	Pirsch	Schmit
Ashford	Hall	Lynch	Robak	Smith
Conway				

The Hefner-Chambers amendment was adopted with 25 ayes, 9 nays, 4 present and not voting, and 11 excused and not voting.

The Chair declared the call raised.

Mr. Wickersham asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Withem asked unanimous consent to replace his pending amendment, AM1724, found in the Journal on page 2072, with a substitute amendment. No objections. So ordered.

Mr. Withem asked unanimous consent to withdraw his pending amendment, AM1724, found in the Journal on page 2072.

Mr. Withem offered the following substitute amendment:
AM1952

(Amendments to AM1508)

PURPOSE: Reduce the budget of the Professional Practices Commission by $31,539 in FY1991-92 and $34,225 in FY1992-93.

1. On page 23, lines 14 and 15, strike "139,313" and insert "107,774" and strike "141,999" and insert "107,774".

2. On page 24, line 3, strike "1,927,035" and insert "1,895,496" and strike "1,995,211" and insert "1,960,986"; in line 6 strike "563,960,798" and insert "563,929,259" and strike "590,119,455" and insert "590,085,230".

The Withem amendment was adopted with 25 ayes, 0 nays, 15 present and not voting, and 9 excused and not voting.

Mr. Kristensen asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Robinson renewed his pending amendment, AM1871, found in the Journal on page 2184.

The Robinson amendment was adopted with 25 ayes, 0 nays, 15 present and not voting, and 9 excused and not voting.

Messrs. Bernard-Stevens and Withem asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Wesely asked unanimous consent to replace his pending amendment, AM1655, found in the Journal on page 2198, with a substitute amendment. No objections. So ordered.

Mr. Wesely withdrew his pending amendment, AM1655, found in the Journal on page 2198.

Mr. Wesely offered the following substitute amendment:
AM1968

(Amendments to AM1508)

1. On page 140, after line 5 insert the following:

"It is the intent of the Legislature that the Department of Economic Development endeavor to establish a community economic development partnership to (a) promote greater coordination and cooperation between

service providers, (b) support the development of a more complete and geographically accessible set of services, (c) support the generation of necessary services and programs, (d) stimulate the creation of more effective development strategies and programs, (e) provide greater community participation in defining needs, sharing information, and evolving more effective development services, and (f) encourage high standards of excellence among service providers. It is also the intent of the Legislature that the department provide a report to the Governor and the Legislature summarizing progress made towards establishing a community economic development partnership by January 1, 1992.".

The Wesely amendment was adopted with 25 ayes, 0 nays, 13 present and not voting, and 11 excused and not voting.

Mr. Moore renewed his pending amendment, AM1895, found in the Journal on page 2228.

Mr. Moore offered the following amendment to his pending amendment:
AM1937

(Amendments to AM1895)

1. Insert the following new amendments

"3. On page 7, after line 18, insert:

'The unexpended balance existing on June 30, 1991, is hereby reappropriated.'.

15. On page 135, strike line 9 and insert:

'SALARY LIMIT 436,697 436,697'.".

2. On page 2, line 24, strike "$10,089,072" and insert "$10,239,072".

3. On page 3, line 4, after the first period insert:

"Up to $150,000 General Funds from the amount reappropriated may be used for attorney fees, expert witness fees, and cost analysis pursuant to the Nebraska Hospital Association v. Department of Social Services case.".

4. Renumber remaining amendments accordingly.

The Moore amendment was adopted with 26 ayes, 0 nays, 13 present and not voting, and 10 excused and not voting.

The pending Moore amendment, as amended, was adopted with 26 ayes, 0 nays, 15 present and not voting, and 8 excused and not voting.

Mr. Wesely offered the following amendment:
AM1951
(Amendments to Standing Committee amendment, AM1508)

1. On page 21 after line 13; and on page 52 after line 16 insert:

"The Division of Rehabilitation Services shall receive from the Department of Public Institutions and the developmental disabilities regional governing boards up to $284,000 in FY1991-92 and up to $402,000 in FY1992-93 to provide vocational rehabilitation services and supported work programs to persons with developmental disabilities. The division shall match all state and local funds provided by the Department of Public Institutions and regional governing boards. The Department of Public Institutions and the State Department of Education shall enter into an interagency agreement to provide vocational rehabilitation services and programs to persons with developmental disabilities.".

Mr. Wesely asked unanimous consent to pass over his pending amendment. No objections. So ordered.

Mr. Conway offered the following amendment:
AM1941
(Amendments to Standing Committee amendments, AM1508)

1. On page 11, after line 3, insert

"Included in the appropriation is $20,000 cash funds for FY1991-92 for development of a demonstration electronic federal and state tax lien filing system that is compatible with the electronic filing system developed under section 9-415, Uniform Commercial Code.".

The Conway amendment lost with 5 ayes, 9 nays, 29 present and not voting, and 6 excused and not voting.

Pending.

UNANIMOUS CONSENT - Print in Journal

Mr. R. Johnson asked unanimous consent to print the following amendment to LB 652 in the Journal. No objections. So ordered.

AM1956

(Amendments to Standing Committee amendments, AM1507)

1. Insert the following new section:

"Sec. 9. There is hereby appropriated (1) $100,000 from the General Fund for FY1991-92 and (2) $100,000 from the General Fund for FY1992-93 to the Department of Agriculture, for Program 27, to provide funding for animal damage control.".

2. Renumber the remaining sections accordingly.

Messrs. Kristensen and Beyer asked unanimous consent to print the following amendment to LB 854 in the Journal. No objections. So ordered.

AM1939

1. Insert the following new sections:

"Sec. 3. That section 75-363, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

75-363. (1) The parts of the federal Motor Carrier Safety Regulations, 49 C.F.R., listed in subdivisions (a) through (j) of this subsection or any other parts referred to by such parts, in existence as of January 1, ~~1990~~ 1991, are adopted as Nebraska law. The regulations shall be applicable to all carriers, drivers, and vehicles to which the federal regulations apply, to all vehicles of intrastate motor carriers registered for a gross weight over ten thousand pounds, to all intrastate motor carriers in the operation of vehicles registered by such carriers for a gross weight over ten thousand pounds, and to all drivers of such vehicles if the drivers are operating a commercial motor vehicle as defined in section 60-465 which requires a Class A commercial driver's license except as provided in subsections (2) and (3) of this section. The Legislature hereby adopts:

(a) Part 385 -- Safety Fitness Procedures;

(b) Part 390 -- Federal Motor Carrier Safety Regulations: General;

(c) Part 391, except section 391.15(c) and

subpart H, sections 391.81 through 391.123, Controlled Substance Testing -- Qualifications Of Drivers;

(d) Part 392 -- Driving Of Motor Vehicles;

(e) Part 393 -- Parts And Accessories Necessary For Safe Operations;

(f) Part 394 -- Notification, Reporting And Recording Of Accidents;

(g) Part 395 -- Hours Of Service Of Drivers;

(h) Part 396 -- Inspection, Repair And Maintenance;

(i) Part 397 -- Transportation Of Hazardous Materials; Driving And Parking Rules; and

(j) Part 398 -- Transportation Of Migrant Workers.

(2) Subpart H, sections 391.81 through 391.123, Controlled Substance Testing of part 391 of the federal Motor Carrier Safety Regulations, 49 C.F.R., or any other parts referred to by such subpart as in existence as of January 1, ~~1990~~ 1991, is adopted as Nebraska law. Subpart H of part 391 shall apply to all carriers and drivers to which the federal regulations apply and to all motor carriers and drivers of motor carriers who operate a motor vehicle in intrastate commerce which has a gross vehicle weight rating in excess of twenty-six thousand pounds.

(3) The regulations adopted in subsections (1) and (2) of this section shall not apply to farm trucks registered pursuant to section 60-330 with a gross weight of sixteen tons or less, liquefied petroleum gas tanks with a capacity of three thousand five hundred gallons or less, and fertilizer and agricultural chemical application and distribution equipment transported in units with a capacity of three thousand five hundred gallons or less. The following parts and sections of the federal Motor Carrier Safety Regulations shall not apply to drivers of ~~registered~~ farm trucks registered pursuant to section 60-330 and operated solely in intrastate commerce:

(a) All of part 391;

(b) Section 395.08 of part 395; and

(c) Section 396.11 of part 396.

(4) For purposes of this section, intrastate motor carriers shall not include any motor carrier or driver excepted from the federal Motor Carrier Safety

Regulations by section 390.3(f) of part 390 or any nonprofit entity, operating solely in intrastate commerce, organized for the purpose of furnishing electric service.

Sec. 4. That section 75-364, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

75-364. (1) The parts of the federal Hazardous Material Regulations, 49 C.F.R., listed below or any other parts referred to by such parts, in existence as of January 1, ~~1990~~ 1991, are adopted as part of Nebraska law and, except as provided in subsection (2) of this section, shall be applicable to all private, common, and contract motor vehicle carriers, drivers of such carriers, and vehicles of such carriers whether engaged in interstate or intrastate commerce:

(a) Part 171 -- General Information, Regulations, And Definitions;

(b) Part 172 -- Hazardous Materials Tables And Hazardous Materials Communications Regulations;

(c) Part 173 -- Shippers-General Requirements For Shipments And Packaging;

(d) Part 177 -- Carriage By Public Highway; and

(e) Part 178 -- Shipping Container Specifications.

(2) The provisions of subsection (1) of this section shall not apply to the use of fuels, fertilizers, and agricultural chemicals in a normal farming or ranching operation on the farm or ranch.

(3) Liquefied petroleum gas tanks with a capacity of three thousand five hundred gallons or less, anhydrous ammonia tanks with a capacity of three thousand gallons or less, and flammable liquid tanks with a capacity of three thousand gallons or less shall be exempt from the ~~provisions of subsection (1) of this section to the extent provided in~~ requirements of part 173 and part 177 when such liquified petroleum gas tanks, anhydrous ammonia tanks, or flammable liquid tanks are transported by a motor vehicle registered pursuant to Chapter 60, article 3 and operated solely in intrastate commerce.

(4) Liquefied petroleum gas tanks with a

capacity of three thousand five hundred gallons or less shall be exempt from the provisions of section 173.315(k)(5) adopted under subdivision (1)(c) of this section if such tanks have been inspected and tested in accordance with the State Fire Marshal's rules and regulations.".

2. In the Standing Committee amendments, AM1686:

a. On page 1, line 20, strike "5" and insert "7"; and

b. On page 2, line 3, after "original" insert "sections 75-363 and 75-364, Reissue Revised Statutes of Nebraska, 1943, and"; and in line 4 strike "is" and insert "are".

3. Renumber the remaining sections accordingly.

Mrs. Rasmussen asked unanimous consent to print the following amendment to LB 701A in the Journal. No objections. So ordered.

AM1926

1. Strike original section 2 and insert the following new sections:

"Sec. 2. The State Department of Education shall transfer an amount not to exceed $300,000 from federal funds to the Department of Social Services during FY1991-92.

Sec. 4. On or before September 1, 1992, the Department of Social Services and the State Department of Education shall jointly certify to the budget administrator of the budget division of the Department of Administrative Services the amount of federal medicaid funds paid to local school districts participating in pilot programs established pursuant to Legislative Bill 701, Ninety-second Legislature, First Session, 1991. The appropriation to the State Department of Education, Program 440, for state aid shall be decreased by an amount equal to the amount of federal medicaid payments made to local school districts.".

2. Strike the Rasmussen amendment, AM1441.

MESSAGE FROM THE GOVERNOR

May 7, 1991

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Madam President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Central Interstate Low Level Radioactive Waste Compact Commission requiring legislative approval.

Appointee: Governor E. Benjamin Nelson, Governor's Office, State Capitol, Lincoln, NE 68509, 402-471-2244.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:fc

RESOLUTIONS

LEGISLATIVE RESOLUTION 140. Introduced by Wesely, 26.

PURPOSE: The purpose of this resolution is to examine the need for family resource centers in Nebraska. The study shall include an examination of current family resource centers, funding sources for the centers, and barriers to establishing such centers statewide. The study shall also address family support services provided by the Department of Social Services.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Health and Human Services Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 141. Introduced by Wesely, 26.

WHEREAS, Nebraska is seventh in the nation in the ratio of persons sixty-five years of age or older to the entire state population; and

WHEREAS, the group of Nebraskans seventy-five years of age or older is rapidly increasing; and

WHEREAS, those seventy-five years of age or older are likely to be frail and vulnerable and without family caregivers; and

WHEREAS, the Legislature states in the Nebraska Community Aging Services Act that older individuals of Nebraska are entitled to the same opportunities as others in personal choice and management of their own lives; and

WHEREAS, many older Nebraskans have court-appointed guardians; and

WHEREAS, the standard for appointment of a guardian is clear and convincing evidence that the appointment is necessary or desirable as a means of providing continued care or supervision; and

WHEREAS, advanced age can be the sole determination of incapacity; and

WHEREAS, words of guardians have little protection under the law, have no court-appointed advocates, have hearings before judges only, and must bear the cost of their appeals and all court and attorney fees.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That a committee of the Legislature shall be designated to conduct an interim study of the laws of guardianship in Nebraska and consider the following:

(1) Counsel for proposed wards;

(2) Standards of proof of incapacity;

(3) Court review of least restrictive alternatives available to the proposed ward;

(4) The extent of the duties and powers of guardians; and

(5) Potential reform in the appellate process.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 142. Introduced by Rogers, 41.

PURPOSE: The purpose of this resolution is to study potential sources of funding for the establishment of a random fuels quality testing program within the Department of Agriculture. The study shall examine evidence gathered during past pilot testing programs and shall determine costs of a random fuels quality testing program based on ASTM standards used in analysis of petroleum products, including all motor fuels sold in the state.

The Agriculture Committee shall solicit the input of the Department of Agriculture, the Chemical Engineering Department of the University of Nebraska, the Nebraska Gasohol Committee, the Motor Fuels Tax Task Force, and other interested parties.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Agriculture Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 143. Introduced by Hartnett, 45.

PURPOSE: Legislative Bill 514, Ninety-second Legislature, First Session, 1991, was introduced on behalf of various groups within the pharmacy industry of Nebraska to permit them to make use of supportive pharmacy personnel by expanding to them the same authority currently provided in statutes for hospital pharmacies. The bill would have provided some additional definitions and safeguards on the use of such personnel to guarantee the health and safety of the consuming public as well as certain counseling requirements.

During the course of the session, and both before and after the legislative hearing, a task force, including representatives from many different pharmacy groups and various regulatory bodies, met and worked on proposed amendments to the original bill to address concerns raised. The efforts of that group have led to a final draft of the bill which has not as yet been presented to the Health and Human Services Committee of the Legislature.

This study would propose the formal presentation of the final draft to the Health and Human Services Committee of the Legislature for

discussion so that any remaining issues and concerns, including the need to review the matter through the "407" process, could be addressed and resolved before the start of the next legislative session.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Health and Human Services Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 144. Introduced by Hartnett, 45.

PURPOSE: Volunteer firefighters and rescue personnel serve a major public safety function in Nebraska. Their service area includes a vast majority of the geographic area of the state. Their activity, at minimal cost to the taxpayers, has saved many lives and innumerable dollars in property damage.

The sole statewide link between volunteer fire and rescue departments across the state is the Fire Service and Safety Training Program. The Fire Service provides coordination and training for these organizations at a very small dollar cost to the state.

Nevertheless, the Fire Service is the true "orphan child" of state government. Over the course of years it has been an independent division, a part of the State Fire Marshal's office, and is currently a part of the State Department of Education. Proposals have been made to make the Fire Service part of the University of Nebraska or part of the state college system. This year LB 508 was introduced to make it an independent state agency.

While there is general agreement that the Fire Service does not belong in the State Department of Education (a proposition to which the department itself agrees), there is no consensus on what should be done to give it a permanent and stable position in the system of state government.

This study would undertake to determine what position and status within state government should be accorded to the Fire Service to insure its continued existence and viability and to insure a stable and appropriate level of state funding so that it might continue to provide the high level of service and assistance to the volunteer fire and rescue organizations that it has over the past few years.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Government, Military and Veterans Affairs Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 145. Introduced by Natural Resources Committee: R. Johnson, 34, Chairperson; Beutler, 28; Elmer, 38; Hartnett, 45; Horgan, 4; Lamb, 43; Morrissey, 1; Schmit, 23.

WHEREAS, the Legislature finds that ground water is one of the state's most valuable natural resources; and

WHEREAS, an adequate supply of ground water is essential to the general welfare of the citizens of this state; and

WHEREAS, Nebraska statutes state that conservation and beneficial use of ground water are essential to the future well-being of the state; and

WHEREAS, complete information as to the occurrence and use of ground water in the state is essential to the development of a sound ground water policy; and

WHEREAS, the Legislature finds that stream flows are maintained, in varying degrees, by seepage from ground water reservoirs and that ground water recharge is maintained, in varying degrees, by stream flows; and

WHEREAS, the Legislature recognizes an ever-growing need to establish a state policy regarding water development relating to the effect of surface water use on ground water and the effect of ground water use on the base flow of the natural streams within the state; and

WHEREAS, the Legislature finds that it is a proper and necessary function of state government to develop the statutory framework for the recognition of conjunctive use and integrated management of the ground water and surface water of the state; and

WHEREAS, the need for various municipal water utilities to find new sources of water has led them to acquire land, often at some distance from their territorial boundaries, which has resulted in concern by affected counties and other political subdivisions about the impact on their tax bases, and there is a need to determine

appropriate legislative strategies for avoiding such a result while meeting municipal water demands.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Chairperson of the Natural Resources Committee of the Legislature with the assistance of committee members and staff shall designate and oversee a task force broadly representing Nebraska water interests, including representatives from surface water and ground water irrigators, municipal water users, industrial water users, natural resources districts, and the Game and Parks Commission.

2. That the task force shall develop by January 1, 1992, a legislative proposal which incorporates conjunctive use and integrated management of surface water and ground water considering all relevant factors relating to the rights and needs of landowners, irrigators, the environment, municipal water users, industrial water users, and the general public.

3. That the proposal shall identify and develop an appropriate state role in facilitating and regulating conjunctive use and integrated management of the ground water and surface water in this state.

4. That the proposal shall identify possible solutions to local concerns about tax base loss due to land purchases for municipal water use.

5. That the chairperson of the committee may request assistance from state departments and state agencies, the University of Nebraska, the natural resources districts, and the general public as necessary to develop the proposal.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 146. Introduced by R. Johnson, 34.

PURPOSE: The purpose of this resolution is to examine the need for additional statutory authority to require investigation and remediation of contaminated sites. The purpose is also to examine the need and potential sources for a dedicated fund to be used by the state at contaminated sites for such things as: Emergency actions; replacement of contaminated water supplies; long-term remediation; and a state match for federal sites.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Natural Resources Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the Natural Resources Committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 147. Introduced by Warner, 25; Hall, 7.

PURPOSE: As a result of the March 1991 decision of the Nebraska Supreme Court in Natural Gas Pipeline Co. v. State Board of Equalization, the Governor has appointed a task force to consider changes in Nebraska's tax laws.

The purpose of this resolution is to gather, prepare, and study material to be used as a basis for developing tax policy changes suggested by the Governor's task force, known as the Revenue Revitalization and Restructuring Committee, in preparation for a possible special legislative session in 1991 or the regular legislative session in 1992. The study should be directed toward providing results which would be useful to a concept of analyzing the impact of taxes on different economic sectors in the state and the impacts of any policy changes in taxes. The study shall include, but not be restricted to, the following:

(1) Compiling an accurate and dependable set of indicators that show the role each sector plays in Nebraska's economy and each sector's tax burden. The purpose is to develop an appropriate share for each economic sector's responsibility for state and local taxes.

(2) The amount of taxes, fees, and other governmental costs imposed on each economic sector, including those individuals employed in each industry.

(3) If possible, an estimate of those state and local taxes, fees, etc., which are exported or offset by provisions of state and federal tax codes.

The study should also be updated periodically and serve as a basis to review other future proposed tax policy changes.

The committee shall develop a list of names of people to assist in the design or work plan for such a proposal. The Department of Revenue and the Department of Labor shall cooperate and participate in the collection of data for the study. The Legislative Fiscal Office, the Legislative Research Division, legislative staff from the Legislature's Revenue Committee, and legislative staff of senators

appointed to the task force shall assist in the study as requested by the committee. The study shall be conducted in cooperation with the Governor's task force.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Executive Board of the Legislative Council appoint a committee to oversee the study which shall consist of the legislative members of the Governor's Revenue Revitalization and Restructuring Committee and be chaired by the chair of the Revenue Committee.

2. That the committee may, with the approval of the Executive Board of the Legislative Council, enter into a contract with an independent entity to conduct such study.

3. That in conducting the study, the entity and the committee may use the Legislative Fiscal Office, the Legislative Research Division, legislative staff from the Revenue Committee of the Legislature, and legislative staff of senators appointed to the task force.

4. That the study shall be conducted in conjunction with the Governor's task force.

5. That the committee complete the study and report the findings of the study to the Legislature and the Governor by September 1991 so that the material in the study may be used by the Governor's task force and in any 1991 special legislative session called to deal with the property tax issue or the regular legislative session in 1992.

6. The Legislature shall appropriate no more than $50,000 to the Legislative Council for FY1991-92 for purposes of carrying out this study.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 148. Introduced by Withem, 14; Robinson, 16; Lynch, 13; Moore, 24; Chizek, 31.

PURPOSE: The purpose of this study is to examine the workload of University of Nebraska faculty within the context of current role and mission assignments and to develop a faculty activity analysis of the University of Nebraska. In order to maximize the resources allocated for the University system it is necessary for the Legislature to periodically assess the application of such resources. The purpose of this study is to develop an intercampus and intracampus analysis of faculty workloads and related issues in order to address the efficient utilization of human resources at the University of Nebraska.

This study shall include, but not be limited to: (1) The balance between instruction, research, and public service at each campus; (2) faculty workloads; (3) utilization of full-time and part-time faculty; (4) class size; (5) use of graduate assistants to carry out teaching and research functions; (6) travel reimbursement policies for faculty; (7) accountability for faculty income derived from sources separate, but related to, his or her University position; and (8) the communications effectiveness of teaching faculty whose native language is not English.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Education and Appropriations Committees of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committees shall upon the conclusion of their study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 149. Introduced by Withem, 14; Coordsen, 32.

PURPOSE: This study will examine the relationship and potential conflict between statutory budget limitations and property tax limitations and the Commission of Industrial Relations orders mandating greater increases than allowed under such lids.

The Tax Equity and Educational Opportunities Support Act, generally known as LB 1059, mandated budget limitations for school districts and property tax limitations on other political subdivisions. Under existing law, the Commission of Industrial Relations may order school districts or other political subdivisions to pay teachers and other personnel wages, including fringe benefits, comparable to other similar school districts or political subdivisions. Such an order may necessitate expenditures or property taxes higher than allowed by statutory limitations. This has the potential to cause problems for school districts, political subdivisions, employees, and constituents thereof.

The goal of this study is to propose alternative methods to better integrate the provisions and timing of the statutory budget and property tax limitations and the provisions of the Industrial Relations Act.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Business and Labor and Education Committees of the Legislature shall be designated to conduct a joint interim study to carry out the purposes of this resolution.

2. That the committees shall upon the conclusion of their study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 150. Introduced by Withem, 14.

PURPOSE: The purpose of this study is to examine the role and mission of the Professional Practices Commission. Recent changes in procedures for investigation and prosecution of complaints against certificated school teachers and administrators (LB 575, 1989) have called into question the future role of the commission in this area.

With the ultimate goal of insuring the education, safety, and protection of children who are entrusted to the state certificated personnel of the public schools, the certification and discipline of teachers and school administrators has been subject to different approaches by the states, including:

(1) Certification and discipline consolidated within the State Department of Education;

(2) Certification and discipline consolidated in a state agency independent of the State Department of Education;

(3) Certification issuance entrusted to the State Department of Education and discipline entrusted to a separate state entity, such as a commission, or the Attorney General's office; and

(4) Certification or discipline entrusted to a private, professionally controlled association or entity.

The study shall examine the various options for teacher and administrator certification and discipline and make recommendations as to an appropriate role for the Professional Practices Commission.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Education Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 151. Introduced by Withem, 14.

PURPOSE: The State of Nebraska is truly a member of the world community. During the recent Gulf War our citizens participated in this encounter. Our citizens have been exposed to cultures much different than our own. This diversity of customs, beliefs, and ethnic differences highlight the requirement for more understanding and appreciation of our global status.

As we strive to participate in the worldwide economy we become more and more aware of the need to have our youth more fully mindful of the global nature of our surroundings.

Although our state was settled by a multitude of different ethnic groups, primarily of European stock, subsequent generations have lost a great deal of plurality and diversity of language and custom in the need to build a new nation. This background of assimilation and conformity has been the pattern of education for our youth. While this was desirable and proper, our needs have changed. As our students begin their employment and further education they must compete for jobs and recognition in an economy that is increasingly global in nature. There is an obligation to present to children varied educational opportunities in studies with a worldwide view.

In Nebraska, the Global Education Center at the University of Nebraska at Omaha and the Office of International Affairs at the University of Nebraska-Lincoln have begun work with a coalition of educators in higher education, as well as elementary and secondary school educators to develop materials and programs to assist our schools in their endeavor to nurture future generations in global education and assist our school systems in developing a more culturally sensitive, appreciative, and perceptive student. In the advancement of this strategy, the Global Education Center and similar programs at other centers of higher education are to be utilized to fulfill the purpose of this resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Education Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall analyze the need for state support of the coalition efforts to provide technical assistance to school districts in developing Global Education curriculum and programs.

3. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 152. Introduced by R. Johnson, 34.

PURPOSE: The purpose of this resolution is to examine the issue of surplus capacity in electric lines having a rating of less than thirty-four thousand five hundred volts for the purpose of wheeling electric power and energy to any distribution power agency.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Natural Resources Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 153. Introduced by Schimek, 27; Landis, 46; Labedz, 5; Smith, 33; Schmit, 23; Nelson, 35; Rasmussen, 20; Baack, 47; Warner, 25; Horgan, 4; Coordsen, 32; Chizek, 31; Ashford, 6; Hartnett, 45.

PURPOSE: The purpose of this resolution is to reauthorize the LR 367 Committee of 1990 to continue the study on child abuse and neglect. The committee shall recommence the investigation into the response and resulting actions of various agencies who deliver services to abused and neglected children and their families. The study shall include an analysis of treatment programs for both victims and perpetrators of child abuse and neglect or the lack of such treatment of the perpetrators of the crime as well as the victims.

Because Nebraska currently has no mechanism to systemically review the deaths of children, the LR 367 Committee shall study a sampling of the deaths of children in Nebraska. It shall determine if

a permanent Death Review Committeé is needed to ascertain if a child's death appears to be the result of child abuse or neglect, poverty, or maltreatment or if the child's death is accidental. The permanent Death Review Committee could also determine if further investigation is necessary, if preventative measures were or could have been taken, and if charges should be filed on behalf of the child. The LR 367 Committee shall analyze other states' Death Review Committees, what professionals serve on those committees, and how those committees are organized.

The LR 367 Committee may ask for assistance in the study from representatives of the following:

(1) Nebraska County Judges Association;
(2) Nebraska County Attorney's Association;
(3) County Sheriff's Association;
(4) Nebraska Medical Association;
(5) Children's Hospital, Omaha, Nebraska;
(6) Nebraska Pediatrician's Association;
(7) Office of the Governor;
(8) Attorney General's Special Prosecution Division;
(9) Department of Social Services;
(10) State Department of Education;
(11) Department of Correctional Services;
(12) State Court Administrator's Office;
(13) Foster Care Review Board;
(14) Ombudsman's Office;
(15) Boys Town;
(16) Voices for Children; and
(17) Nebraska PTA.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Executive Board of the Legislature reappoint the members who served on the LR 367 Committee during 1990 and fill any vacancies that have occurred.

2. That the select committee shall consider obtaining the services of one or more persons or firms with nationally recognized expertise in the field of child abuse to aid in carrying out the purposes of this resolution.

3. That the study shall include, but not be limited in its findings, to (a) recommendations for changes in statutory law, (b) recommendations for improvements of current treatment programs for victims and perpetrators, (c) recommendations on the establishment of a permanent Death Review Committee, and (d)

estimates of the potential costs of such changes that would be proposed.

4. That, since one of the primary purposes of this study is to directly assist in fostering the administration of sections 28-710 to 28-727 dealing with child abuse and neglect, the records dealing with child abuse collected under such sections shall be made available to the select committee and its staff subject to strict confidentiality. No records or any part of such records shall be made available to persons outside of the committee or its staff. Records shall be used for data collection purposes only.

5. That the select committee shall, prior to December 1, 1991, make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

SELECT FILE

LEGISLATIVE BILL 843. Mr. Coordsen offered the following amendment:
AM1793

(Amendments to Standing Committee amendments, AM1508)

1. On page 61, after line 9; page 62, after line 21; and page 68, after line 13, insert the following new paragraph:

"The Department of Social Services shall record and report expenditures relating to the implementation of Laws 1989, LB 182.".

The Coordsen amendment was adopted with 26 ayes, 0 nays, 19 present and not voting, and 4 excused and not voting.

Messrs. Moore and Hall offered the following amendment:
AM1972

(Amendments to Standing Committee amendments, AM1508)

1. On page 12, after lines 1 and 6, insert the following:

"It is the intent of the Legislature that any savings resulting from the purchase and use of computer equipment not be utilized for purposes of performance audits or performance reviews.".

The Moore-Hall amendment was adopted with 25 ayes, 0 nays, 20 present and not voting, and 4 excused and not voting.

Mr. Wesely offered the following amendment:
AM1949
(Amendments to Standing Committee amendments, AM1508)

1. On page 51, strike lines 22 and 23 and insert:

"GENERAL FUND 27,736,235 27,736,235
PROGRAM TOTAL 27,736,235 27,736,235".

2. On page 52, lines 18 and 21, strike "$24,252,993" and insert "$27,736,235".

3. On page 54, strike line 17 and insert:

"GENERAL FUND - Title XIX 2,944,757 2,944,757"

strike line 18; and strike line 24 and insert:

"GENERAL FUND - Title XIX 2,611,602 2,611,602".

4. On page 55, strike line 1; strike line 7 and insert:

"GENERAL FUND - Title XIX 6,921,877 6,921,877"

strike line 8; strike line 14 and insert:

"GENERAL FUND - Title XIX 5,544,873 5,544,873"

strike line 15; strike line 21 and insert:

"GENERAL FUND - Title XIX 11,459,323 11,459,323"

and strike line 22.

5. On page 56, strike line 4 and insert:

"GENERAL FUND - Title XIX 11,969,224 11,969,224"

strike line 5; strike line 11 and insert:

"GENERAL FUND - Title XIX 41,451,656 41,451,656"

and strike line 12.

6. On page 57, strike lines 23 and 24 and insert:

"There is included in the general Fund appropriation for FY1991-92 $3,483,240, for purposes of financing special services for persons with mental retardation previously financed with Title XX funds through contractual arrangement between the Department of Social services and regional community-based mental retardation providers.

There is included in the General Fund appropriation for FY1992-93 $3,483,240, for purposes of financing special services for persons with mental retardation previously financed with Title XX funds through contractual arrangement between the Department of Social Services and regional community-based mental retardation providers.".

7. On page 58, strike lines 1 and 2.

8. On page 61, strike line 12 and insert:
"GENERAL FUND 67,824,121 75,084,626"
strike line 14 and insert:
"FEDERAL FUND est. 79,861,912 83,749,526"
in line 18 strike "$71,307,364" and insert "$67,824,121"; in line 19 strike "$76,378,669" and insert "$79,861,912"; in line 22 strike "$78,567,861" and all amendments thereto and insert "$75,084,626"; and in line 23 strike "$80,266,283" and insert "$83,749,526".
9. On page 62, strike lines 1 through 14.
10. On page 64, strike line 24 and insert:
"GENERAL FUND 3,779,800 5,342,000".
11. On page 65, strike line 1 and insert:
"FEDERAL FUND est. 12,911,243 12,911,243".

MR. WARNER PRESIDING

The Wesely amendment was adopted with 26 ayes, 0 nays, 20 present and not voting, and 3 excused and not voting.

Mr. Schmit offered the following amendment:
AM1955
(Amendments to Standing Committee amendments, AM1508)

1. On page 73, strike lines 2 through 10 and insert:

"GENERAL FUND	300,000	300,000
PROGRAM TOTAL	300,000	300,000
SALARY LIMIT	-0-	-0-".

2. On page 74, strike line 3 and insert:
"GENERAL FUND 2,246,966 2,210,729"
and strike line 5 and insert:
"AGENCY TOTAL 2,256,966 2,220,729".

Messrs. Rogers, Conway, Coordsen, and Ms. Schimek asked unanimous consent to be excused until they return. No objections. So ordered.

SPEAKER BAACK PRESIDING

Mr. Schmit moved for a call of the house. The motion prevailed with 11 ayes, 0 nays, and 38 not voting.

Mr. Schmit requested a roll call vote on his amendment.

Voting in the affirmative, 14:

Beutler	Dierks	Hartnett	Morrissey	Wesely
Chambers	Elmer	Labedz	Pirsch	Will
Chizek	Hall	Lamb	Schmit	

Voting in the negative, 21:

Abboud	Beyer	Hillman	Landis	Schrock
Ashford	Byars	Johnson, L.	Moore	Warner
Baack	Crosby	Johnson, R.	Robinson	Wehrbein
Bernard-Stevens	Cudaback	Kristensen	Schimek	Wickersham
	Hefner			

Present and not voting, 9:

Horgan	Nelson	Rasmussen	Schellpeper	Withem
Lindsay	Peterson	Robak	Smith	

Excused and not voting, 5:

Conway	Coordsen	Haberman	Lynch	Rogers

The Schmit amendment lost with 14 ayes, 21 nays, 9 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Messrs. Withem, Schrock, Mmes. Robak, Smith, and Ms. Schimek asked unanimous consent to be excused until they return. No objections. So ordered.

Pending.

REPORT OF THE EXECUTIVE BOARD

May 20, 1991

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. O'Donnell:

Your communication from the University of Nebraska Board of Regents requesting the expenditure of monies from the Bond Replacement Fund has been referenced this day to the Appropriations Committee for their consideration.

Sincerely,
(Signed) Jerome Warner, Chairman
Executive Board

JW:bls

UNANIMOUS CONSENT - Print in Journal

Messrs. Warner and Hall asked unanimous consent to print the following amendment to LB 652 in the Journal. No objections. So ordered.

AM1934
(Amendments to Standing Committee amendments, AM1507)

1. Insert the following new section:
"Section 1. There is hereby appropriated $50,000 from the General Fund for FY1991-92 to the Legislative Council, for Program 122, to assist in carrying out the provisions of Legislative Resolution 147, Ninety-second Legislature, First Session, 1991.".
2. Renumber the remaining sections accordingly.

Mr. Cudaback asked unanimous consent to print the following amendment to LB 719 in the Journal. No objections. So ordered.

AM1875
(Amendments to E & R amendments, AM5130)

1. On page 6, line 21, after "property" insert ", have added a school district or districts which are not part of an educational service unit to an established or new educational service unit pursuant to section 79-2202.06,".
2. On page 7, line 1, strike "consolidation", show as stricken, and insert "annexation, addition, or consolidation. The estimated amount of property taxes for the immediately preceding fiscal year from the annexed, added, or consolidated property to be added to

the property taxes of the political subdivision shall be computed by multiplication of the property tax levy of the political subdivision for the immediately preceding fiscal year by the taxable valuation of the annexed, added, or consolidated property for the immediately preceding fiscal year".

STANDING COMMITTEE REPORT
Government, Military and Veterans Affairs

LEGISLATIVE BILL 618. Placed on General File as amended.
Standing Committee amendment to LB 618:
AM1898

1. Strike original section 1 and insert the following new section:

"Section 1. That section 5-107, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

5-107. ~~The~~ Based on the 1990 federal decennial census, the State of Nebraska ~~is hereby~~ shall be divided into the following public service commissioner districts, ~~consisting of the hereinafter described territory,~~ and each public service commissioner district shall be entitled to one member:

(1) District No. 1. The counties of Lancaster, Otoe, Cass, and that part of Sarpy County not located in public service commissioner District No. 2;

(2) District No. 2. That part of Douglas County beginning at the intersection of the Douglas-Sarpy County line and Interstate Highway 80, north on Interstate Highway 80 to Interstate Highway 680, north on Interstate Highway 680 to Maple Street, east on Maple Street to 90th Street, north on 90th Street to Fort Street, east on Fort Street to Military Avenue, southeast on Military Avenue to 72nd Street, north on 72nd Street to Interstate Highway 680, east on Interstate Highway 680 to the Missouri River, south along the Missouri River to the Douglas-Sarpy County line, west along the Douglas-Sarpy County line to the point of beginning, and that part of Sarpy County which includes the Highland I precinct, the Highland II precinct, and the City of Bellevue precincts;

(3) District No. 3. The counties of Cedar, Dixon, Dakota, Thurston, Burt, Washington, Dodge,

Cuming, Stanton, Madison, Antelope, Pierce, Wayne, that part of Knox County not located in public service commissioner District No. 5, and that part of Douglas County not located in public service commissioner District No. 2;

(4) District No. 4. The counties of Richardson, Pawnee, Jefferson, Thayer, Nuckolls, Webster, Adams, Clay, Fillmore, Saline, Gage, Johnson, Nemaha, Seward, York, Hamilton, Hall, Howard, Merrick, Polk, Butler, Saunders, Colfax, Platte, Nance and Boone; and

District No. 5. The counties of Franklin, Harlan, Furnas, Red Willow, Hitchcock, Dundy, Chase, Hayes, Frontier, Gosper, Phelps, Kearney, Buffalo, Dawson, Lincoln, Perkins, Keith, Deuel, Cheyenne, Kimball, Banner, Scottsbluff, Morrill, Garden, Arthur, McPherson, Logan, Custer, Sherman, Valley, Greeley, Wheeler, Garfield, Loup, Blaine, Thomas, Hooker, Grant, Box Butte, Sioux, Dawes, Sheridan, Cherry, Brown, Rock, Holt, Boyd, Keya Paha, and that part of Knox County which includes the precincts of Raymond, Western, Washington, Walnut Grove, Bohemia, Jefferson, Logan, Miller, Verdigre Township, Verdigre Precincts, Sparta, Niobrara, Creighton 1, Creighton 2, and Creighton Township.

~~District No. 1. The counties of Lancaster, Sarpy, Cass, and Otoe;~~

~~District No. 2. The county of Douglas except the territory in Public Service Commission district 3;~~

~~District No. 3. The counties of Platte, Colfax, Washington, Dodge, Madison, Stanton, Cuming, Burt, Antelope, Pierce, Wayne, Thurston, Knox, Cedar, Dixon, and Dakota; and in Douglas County the territory in legislative districts 3, 4, and 31; and in legislative district 12 beginning at the intersection of 132nd Street and L Street, south on 132nd Street to the Douglas-Sarpy County line, west along the Douglas-Sarpy County line to 144th Street, north on 144th Street to L Street, east on L Street to 132nd Street, the point of beginning;~~

~~District No. 4. The counties of Saunders, Butler, Polk, Gage, Seward, York, Hamilton, Saline, Fillmore, Clay, Jefferson, Thayer, Nuckolls, Hall, Adams, Kearney, Webster, Franklin, Nance, Howard,~~

~~Merrick, Boone, Johnson, Nemaha, Pawnee, Richardson, Phelps, and Harlan;~~

~~District No. 5. The counties of Buffalo, Sherman, Gosper, Furnas, Frontier, Red Willow, Hayes, Hitchcock, Chase, Dundy, Dawson, Custer, Lincoln, Logan, McPherson, Perkins, Keith, Arthur, Hooker, Thomas, Blaine, Loup, Grant, Brown, Boyd, Keya Paha, Rock, Wheeler, Greeley, Garfield, Valley, Cherry, Deuel, Cheyenne, Kimball, Banner, Scotts Bluff, Morrill, Garden, Sheridan, Dawes, Box Butte, Sioux, and Holt.~~".

(Signed) Gerald Conway, Chairperson

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 627A. Introduced by Warner, 25.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 627, Ninety-second Legislature, First Session, 1991; to provide for certain fund transfers; to reduce appropriations; and to declare an emergency.

RESOLUTIONS

LEGISLATIVE RESOLUTION 154. Introduced by Urban Affairs Committee: Hartnett, 45, Chairperson; R. Johnson, 34; Labedz, 5; Rasmussen, 20; Schimek, 27; Smith, 33; Will, 8.

PURPOSE: Of the several standing committees in the Legislature, the Urban Affairs Committee of the Legislature has perhaps the broadest and most diverse subject matter jurisdiction. The committee traditionally has been referenced bills the subject matter of which extends from cemeteries to natural gas to museums. Bills quite often arise from specific problems in specific municipalities in a manner which does not lend itself to early identification or classification as would be the case with issues within the jurisdiction of other committees.

Recognizing this fact, the Urban Affairs Committee of the Legislature has, in the prior two interim periods, undertaken interim studies aimed at identifying specific problems prior to the next legislative session to permit more careful review of legislative

solutions before the session begins and time is not available for the type of analysis the problems deserve.

A study of the effectiveness of the first such resolution (LR 95 from 1989) done in the 1990 interim (LR 321) demonstrated that there was a significant increase in the efficiency of the Urban Affairs Committee of the Legislature in the 1990 session to process legislation and get it to the full legislature early enough to permit full consideration and passage.

The purpose of this study would be to repeat the process undertaken under LR 95 in the 1989 interim and provide a forum during the interim period for municipalities and their representatives, as well as other interested parties, to present issues which would be the subject of future legislation or to solicit their reaction to proposals which have been presented to the committee for future consideration. The subjects available for committee consideration would extend to any matter relevant to the Urban Affairs Committee's subject matter jurisdiction. It would be the goal of this study to streamline the legislative process and permit expedited review of urban-oriented legislation presented to the committee under this study in the 1992 legislative session.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Urban Affairs Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 155. Introduced by Urban Affairs Committee: Hartnett, 45, Chairperson; R. Johnson, 34; Labedz, 5; Rasmussen, 20; Schimek, 27; Smith, 33; Will, 8.

PURPOSE: One of the most important and difficult problems facing Nebraska's cities and villages is the issue of development around the fringes of such cities and villages. It is a complex of many problems including planning and zoning, the formation of SIDs, the financing of community improvements, annexation or lack of annexation, extraterritorial jurisdiction, the political rights of residents living outside of the city but subject to its decisions on many basic matters,

and the appropriate standards for determining when a group of individuals may form their own city or village.

Over the past five sessions many pieces of legislation dealing with these issues have been introduced and referred to the Urban Affairs Committee for consideration. Resolution of concerns has been difficult and generally the issues have been considered in isolation, with solutions proposed, and often rejected, on a piecemeal basis.

The Urban Affairs Committee has determined during its consideration of several bills in this session that it would be appropriate to try and address these matters as part of a broader solution aimed at balancing the rights of all parties involved within the context of responsible development practice and good public policy.

Under this study, the Urban Affairs Committee would undertake to work with Nebraska municipalities, members of the broader development community, and interested citizens in addressing the issues of municipal expansion, planning and zoning authority, and community development to craft legislation aimed at comprehensively establishing a workable Nebraska plan on municipal growth and governance of expanding fringe areas.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Urban Affairs Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 156. Introduced by Urban Affairs Committee: Hartnett, 45, Chairperson; R. Johnson, 34; Labedz, 5; Rasmussen, 20; Schimek, 27; Smith, 33; Will, 8.

PURPOSE: The application for natural gas rate increases in several eastern Nebraska cities and villages has raised some new issues about the rate regulation process and renewed interest in the potential municipalization of private natural gas utilities. The Municipal Natural Gas Regulation Act, sections 19-4601 to 19-4623, or Laws 1987, LB 663, sections 1 to 23 was crafted by the Urban Affairs Committee of the Legislature and adopted by the full Legislature in

1987, and is the principal statutory framework in Nebraska for the regulation of natural gas rates charged to municipal consumers.

In keeping with its role as the legislative committee having principal concern for natural gas regulation by municipalities, the Urban Affairs Committee of the Legislature would, through this study, propose to provide a forum for the discussion of issues related to the current rate increase activity, other issues involved in natural gas rate regulation, and the Municipal Natural Gas Regulation Act that might be presented to the committee. The committee would review recent activity under the Municipal Natural Gas Regulation Act, determine whether changes are appropriate in order to address matters of concern to municipalities and private corporations providing natural gas service to Nebraska consumers as well as to private citizens with concern about the natural gas service they are receiving.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Urban Affairs Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 157. Introduced by Urban Affairs Committee: Hartnett, 45, Chairperson; R. Johnson, 34; Labedz, 5; Rasmussen, 20; Schimek, 27; Smith, 33; Will, 8.

PURPOSE: With increasing pressure on the budgets of Nebraska's cities and villages, both in terms of the difficulty of raising needed revenue and in the face of statutory budget restrictions, it is important to identify new methods and possible strategies for a more cost-effective means of providing municipal services.

Cities in many parts of the country have found that the privatization of various municipal activities has improved levels of service and reduced the ultimate cost of those services to residents. In addition, privatization has increased local business investment, provided new jobs, and served as an important form of economic development.

This study would propose that the Urban Affairs Committee investigate the various services and activities of Nebraska's cities and

villages, determine which of them might feasibly and economically be undertaken by private enterprise, determine what sort of legal arrangements for the provision of those services would be most beneficial, draft appropriate legislation to implement the findings of the committee for introduction in the next legislative session, and provide the Legislature with a basic review of how other states have dealt with the issue of privatization to provide a factual basis for legislative action.

Because of the unique nature of municipally owned and operated natural gas and electric utilities in Nebraska and the special character of Nebraska as a public power state, this study will not undertake to address or to deal with the potential privatization of any municipal gas or electric utilities.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Urban Affairs Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 158. Introduced by Wesely, 26.

PURPOSE: The purpose of this study is to determine whether it should continue to be the policy of the State of Nebraska that birth and death certificates be open records.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Health and Human Services Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 159. Introduced by Wesely, 26.

PURPOSE: The purpose of this resolution is to study ways to make improvements in the delivery of public health services in Nebraska. The study shall include, but not be limited to, an examination of:

(1) Current public health services in Nebraska;

(2) Improving the availability of public health services;

(3) Assuring that all children in Nebraska have needed immunizations;

(4) The "185% of poverty" medicaid option for pregnant women and young children;

(5) An analysis of possible ways to organize expanded public health service in Nebraska;

(6) Ways to improve public health service in rural Nebraska; and

(7) The health pocketbook system used in Japan.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Health and Human Services Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 160. Introduced by Wesely, 26.

PURPOSE: The purpose of this study is to examine the effect of the implementation of the Developmental Disabilities Services Act. The purpose of this study is also to identify and propose solutions to problems in services to the developmentally disabled in Nebraska and to address unmet needs. The study shall also include, but not be limited to: An examination of job training opportunities for Nebraskans with developmental disabilities; and county funding for services to persons with developmental disabilities as well as to persons with mental illness and for drug and alcohol abuse programs. The study shall also examine the Developmental Disability Council in Nebraska.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Health and Human Services Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 161. Introduced by Health and Human Services Committee: Wesely, 26, Chairperson; Beyer, 3; Byars, 30; Cudaback, 36; Dierks, 40; Rasmussen, 20; Schellpeper, 18.

PURPOSE: The State of Nebraska is affected fiscally and socially by the need for and provision of human service programs and by the health status of its citizens. These human service and health status issues include, but are not limited to, child care, utilization review programs, cost containment for health care services, availability of nurses and other health care providers, the medically handicapped children's program, services for persons with head injuries, health care for the medically indigent, volunteer ombudsman programs, maternal and infant care, mental health, mental retardation and other developmental disabilities, substance abuse, poverty, regulation of new health professions, the comprehensive health insurance pool, rural health care availability, teenage pregnancy, asbestos removal, child abuse, adult abuse, medicaid services, fees for licensure, the disabled persons and family support program, hunger, acquired immunodeficiency syndrome, sexual abuse of children, and certificates of need. These issues have been reviewed but need continued review by the Legislature to determine the appropriate legislative responses.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Health and Human Services Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 162. Introduced by Landis, 46.

PURPOSE: The purpose of this resolution is to study bank structure in Nebraska. The study should include an examination of the effect

of past public policy decisions and the potential effect of possible future public policy decisions regarding bank structure. The study should consider the value to consumers and the risk and benefit to the market place resulting from changes in bank structure in Nebraska.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Banking, Commerce and Insurance Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 163. Introduced by Bernard-Stevens, 42.

WHEREAS, the development and promotion of aquatic products in the State of Nebraska would be beneficial in advancing economic development; and

WHEREAS, Nebraska has plentiful water, labor, land, and natural resources necessary for successful commercial fish farming; and

WHEREAS, in order to enable aquaculture farmers in Nebraska to better manage, distribute, produce, harvest, and process their products a study of aquaculture needs to be done.

The purpose of this resolution is to study the feasibility of designating the industry of aquaculture under the jurisdiction of the Department of Agriculture and to develop a statewide plan for the aquaculture industry. The study shall include, but not be limited to: Consideration of surrounding states aquaculture statutes; jurisdiction and regulations; input from aquaculture specialists at the University of Nebraska, the Game and Parks Commission, and the Department of Agriculture, as well as input from the state veterinarian, the Governor's committee on economic development, and representatives from the aquaculture industry.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Agriculture Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 164. Introduced by Wesely, 26; Nelson, 35.

PURPOSE: The purpose of this resolution is to conduct a study of the drug and alcohol abuse treatment programs in Nebraska.

The study shall include, but shall not be limited to:

(1) The location and types of substance abuse beds in Nebraska;

(2) Ways to promote the appropriate utilization of substance abuse programs;

(3) Sources of funding for substance abuse programs;

(4) Changes needed in the substance abuse treatment services delivery system;

(5) Availability of substance abuse treatment for low-income and moderate-income Nebraskans;

(6) Expansion of the medicaid program to include coverage of inpatient substance abuse treatment; and

(7) Adequacy of state-administered, publicly funded, substance abuse treatment programs.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Health and Human Services Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 165. Introduced by Wesely, 26.

PURPOSE: Group health care plans represent a significant cost to businesses, workers, families, and taxpayers in the state, and premium costs for group health care have risen drastically in recent years.

There is increasing discussion regarding state or federal action mandating or further regulating group health care plans. The Legislature is in need of information regarding group health care costs as they compare to other states, as they have been affected by regulation or mandating legislation, and as they have affected the costs of health care services.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Health and Human Services Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 166. Introduced by Wesely, 26.

PURPOSE: The purpose of this resolution is to study the adequacy of health care service for children in Nebraska. The focus of the study shall be on ways to increase health care insurance coverage for children. The study shall also examine the State of Florida's Florida Health Kids Corporation which provides children with health insurance through the public school system.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Health and Human Services Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 167. Introduced by Wesely, 26.

PURPOSE: The purpose of this resolution is to study the Nebraska Mental Health Commitment Act and the need for modification of that act. The study shall include the feasibility of adopting the American Psychiatric Association's Model Mental Health

Commitment Act, the options for expanded medicaid coverage of persons with mental illness, and the service delivery system for community-based mental health services.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Health and Human Services Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 168. Introduced by Wesely, 26.

PURPOSE: The purpose of this study is to examine the foster care and child protective services system in Nebraska. The study shall also include, but not be limited to, an examination of services for Native American children, the need for in-home services, the needs of foster children under three years of age, and ways to improve the child protection service and foster care system in Nebraska.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Health and Human Services Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 169. Introduced by Conway, 17.

PURPOSE: The purpose of this resolution is to study and review the Administrative Procedure Act to determine if there are needed changes to the act.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Government, Military and Veterans Affairs Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

SELECT FILE

LEGISLATIVE BILL 843. Mr. Wesely offered the following amendment:

AM1987

1. On page 61, after line 5, insert the following new paragraph:

"It is the intent of the Legislature that the Department of Social Services shall operate a school on the Nebraska Center for Children and Youth campus unless and until the Director of Social Services demonstrates evidence to the Legislature that the following provisions have been met:

(a) That the closing of Whitehall School will not result in higher costs on an annual basis beginning in FY1991-92 to the State of Nebraska than the savings that will be realized if the school is closed;

(b) That local school districts can meet the needs of the children served at the Whitehall School during the 1990-91 school year;

(c) That services currently provided by the Family Resource Center at the Nebraska Center for Children and Youth will not be affected;

(d) That the use of the building currently housing the school will be available for use by the Lincoln Public Schools; and

(e) That no out-of-state placements will result from the closing of Whitehall School.".

Messrs. R. Johnson, Rogers, and Robinson asked unanimous consent to be excused until they return. No objections. So ordered.

Pending.

RESOLUTIONS

LEGISLATIVE RESOLUTION 170. Introduced by Pirsch, 10.

PURPOSE: The purpose of this resolution is to study the effect of state regulation of travel agencies on the travel business and upon the Office of the Secretary of State with whom travel agencies would be required to register under the provisions of LB 109.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That a committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 171. Introduced by Pirsch, 10.

PURPOSE: The purpose of this study is to examine (1) the effect of sole source "No Substitutes Will Be Considered" restrictions in the public bidding process upon Nebraska-based manufacturers and (2) the effect of the exemption of services from the competitive bidding process upon Nebraska-based service providers.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That a committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 172. Introduced by Pirsch, 10.

PURPOSE: The purpose of this resolution is to examine the possible development of a Taxpayers Bill of Rights for Nebraska. In 1991, the Nebraska Supreme Court has rendered decisions which call into question Nebraska's system of taxing personal and real property. While the ultimate legislative solutions to these decisions involve all

revenue sources, including income tax, Nebraska citizens have had their confidence and trust shaken.

This study shall examine any Taxpayer Bill of Rights proposed or adopted by other states or the federal government and determine whether a Taxpayers Bill of Rights is necessary to protect all Nebraskans from unfair state tax policies and restore the public's confidence in government.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That a committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 173. Introduced by Wesely, 26.

PURPOSE: The purpose of this resolution is to examine the impact of the Employment and Investment Growth Act on Nebraska's economy. Four years after the passage of the act an authoritative cost-benefit analysis of the act's impact on the state needs to be done. This study would analyze, relative to the incentives provided: The amount of investment actually made for capital expansion; the number of jobs retained because of the investment; the number of new jobs created by the investment; the wage levels of these jobs; the number of companies that were actually recruited to the state because of the act and their accompanying economic impact; and the amount and effect of sales tax refunds on municipalities. This study would also evaluate the statewide costs of the program relative to the extended payback period necessary to recoup the state's investment through lost tax revenue. The capital gains tax breaks and other provisions of the act should be studied as well to determine what elements of this legislation are working and what changes may be in order.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Revenue Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 174. Introduced by Wesely, 26.

PURPOSE: The purpose of this resolution is to examine Nebraska's current and projected energy needs and to explore creating a comprehensive statewide energy plan. The Bush Administration has recently unveiled a national energy plan to anticipate the nation's long-term needs. A similar plan for Nebraska which considers not only future consumption, but improved conservation techniques and alternative energy sources, such as solar collection and wind generation, could help enable Nebraska to maintain efficient, affordable, and adequate energy resources well into the next century. The study should also evaluate state government's past and present role in energy programs and policymaking, what current energy programs have been effective, and what new energy programs are needed.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That a committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 175. Introduced by Wesely, 26.

PURPOSE: The purpose of this resolution is to examine additional financing mechanisms that can provide investment capital for start-up entrepreneurs and established small businesses in Nebraska. Currently, ninety-seven percent of the businesses in the state employ fewer than one hundred employees. There is however a shortage of investment capital available for businesses of this size, either in the form of equity investment or direct lower than market-rate interest loans. Financing tools such as venture capital investment credits and linked deposits should be studied to determine how state government can best play a role to fill this capital gap.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Banking, Commerce and Insurance Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 176. Introduced by Wesely, 26.

PURPOSE: The purpose of this resolution is to study the issuance of dealer plates for motor vehicles. Annually, over one thousand four hundred licensed motor vehicle dealers in the state use eleven thousand two hundred ninety-six passenger car dealer plates, two hundred twenty motorcycle dealer plates, and three hundred forty-five trailer dealer plates. The issue of dealer plates should be examined to determine if the fees for these dealer plates and the privileges associated with their use need revision.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That a committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 177. Introduced by Wesely, 26.

PURPOSE: The purpose of this resolution is to explore the possibility of the State of Nebraska extending liability protection for individuals who volunteer their services for the public good. Currently, it is possible for a volunteer to become legally liable if someone is injured as a result of the volunteer's actions. President Bush has proposed the Model State Volunteer Service Act for adoption by the states as a means to balance both the victim's right to seek redress and the individual's right to volunteer without fear

of litigation. This model act should be studied to see if it is needed in Nebraska.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Judiciary Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 178. Introduced by Wesely, 26.

PURPOSE: The purpose of this resolution is to explore the creation of a tax incentive program to encourage the purchase of recycled products. There is presently a need to increase the economic incentive for producers and consumers to choose recycled products over products which are not recycled. Levying a tax on the purchase of virgin paper and other products which are not recycled would encourage the use of recycled products, expand the market for recycled products, and generate new revenue to promote recycling in the state. Purchases of recycled products would be exempt from the tax. The study should examine the types of products that could be subject to the tax, the appropriate levy system, and the means by which such taxes could be assessed and collected.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That a committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 179. Introduced by Wesely, 26.

PURPOSE: The purpose of this resolution is to examine the status of Fairview, the eighty-nine-year-old country estate of Lincoln's favorite son and three-time presidential candidate William Jennings

Bryan. Expansions of the Bryan Hospital facility have gradually encroached on the Fairview structure and the statue of Bryan which stands on the grounds of this historic home. A study updating the Legislature on Fairview's situation should consider the structure's current maintenance and long-term prospects with regard to preservation and setting. The study should also examine the possibility of returning the Bryan statue to its former location on the State Capitol grounds or another suitable location in the State Capitol for public display.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Government, Military and Veterans Affairs Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 180. Introduced by Wesely, 26.

PURPOSE: The State of Nebraska needs to evaluate and develop economic development policies and programs on an ongoing and comprehensive basis to assist businesses and communities throughout the state. Economic development programs and initiatives need to be studied in areas including, but not limited to, (1) the formation of private venture capital in Nebraska, (2) the authorization for the Nebraska Investment Council to invest in venture capital, (3) assistance to new and existing small businesses in Nebraska, (4) community development programs and assistance, (5) investment in research and development, and (6) the development of a comprehensive foreign trade assistance program.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That a committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 181. Introduced by Wesely, 26.

PURPOSE: The purpose of this resolution is to consider possible alternative names for the Department of Environmental Control and the Department of Public Institutions to better reflect their missions and responsibilities.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That a committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 182. Introduced by Wesely, 26; Cudaback, 36.

PURPOSE: The purpose of this study is to examine the need for regulation of housing contractors in Nebraska and whether LB 725 currently being held by the Health and Human Services Committee should be enacted into law.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Health and Human Services Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 183. Introduced by Rasmussen, 20; Crosby, 29.

PURPOSE: The purpose of this resolution is to study the use of multidisciplinary teams to address the issues related to child abuse and neglect in Nebraska. The Legislature recognizes that while there are a number of agencies, organizations, and professionals who work

in the area of child abuse and neglect, they often function independent of one another. This study would evaluate the potential efficiency and effectiveness of a multidisciplinary approach to child abuse and neglect issues. This study proposes to examine the following aspects of multidisciplinary child abuse and neglect teams:

(1) The need for cooperation and collaboration;
(2) Organizational structure within communities;
(3) The composition of teams;
(4) Roles and responsibilities of team members;
(5) Funding needs;
(6) Recommended strategies of operation; and
(7) Relationship of such teams to existing local child abuse prevention councils and the Nebraska Child Abuse Prevention Fund Board.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Health and Human Services Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 184. Introduced by L. Johnson, 15.

PURPOSE: The purpose of this resolution is to examine the adequacy of existing Nebraska inheritance tax laws. The study shall focus on the reporting and probating of intangible assets such as certificates of deposit, joint tenancy accounts, bonds, stocks, insurance contracts, etc., to determine whether Nebraska inheritance tax is commonly avoided with regard to such assets.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Government, Military and Veterans Affairs Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution. The committee shall solicit the input of affected state agencies, county attorneys, and other interested organizations and persons the committee deems necessary and proper to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations. to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 185. Introduced by R. Johnson, 34.

PURPOSE: The purpose of this resolution is to examine rivers and streams in Nebraska which together with their environments possess outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values and which should be preserved for the benefit and enjoyment of present and future generations. The resolution shall also examine current authority regarding appropriate protective measures.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Natural Resources Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

UNANIMOUS CONSENT - Print in Journal

Mr. Warner asked unanimous consent to print the following amendment to LB 627 in the Journal. No objections. So ordered.

AM1834

(Amendments to Standing Committee amendments, AM1776)

1. Insert the following new section:

"Sec. 142. (1) The Legislature hereby adopts by reference the American Society For Testing and Materials publication D4814-89 entitled Standard Specifications for Automotive Spark Ignition Engine Fuels. The Department of Agriculture shall file copies of such publication with the Secretary of State and Clerk of the Legislature.

(2) Commencing on the effective date of this act, all automotive spark ignition engine fuels sold in

Nebraska shall meet the specification as found in the American Society For Testing and Materials publication D4814-89 entitled Standard Specifications for Automotive Spark Ignition Engine Fuels. Any person who violates this subsection of the act shall be guilty of an infraction pursuant to section 29-431 to 29-438.

(3) For the purposes of this section, automotive spark ignition engine fuels shall mean gasoline and its blends with oxygenates such as alcohol and ethers.".

2. Renumber the remaining sections accordingly.

Mrs. Smith and Mr. Will asked unanimous consent to print the following amendment to LB 849 in the Journal. No objections. So ordered.

AM1954
(Amendments to Standing Committee amendments, AM1071)

1. On page 2, line 3, after "mean" insert "any variation of the following types of games".

2. On page 14, line 6, strike"department" and insert "Governor".

3. On page 17, line 5, after "investigation" insert "except as provided in subdivision (3)(d) of section 8 of this act".

4. On page 21, line 15, strike "director's".

5. On page 24, line 20, strike "types of"; and in lines 22 and 24 strike "type of".

6. On page 28, line 21, after the first "the" insert "lottery".

7. On page 37, lines 11 and 13, after the first "the" insert "lottery".

RESOLUTIONS

LEGISLATIVE RESOLUTION 186CA. Introduced by Baack, 47, Hall, 7, Hillman, 48, Wickersham, 49, Withem, 14, Schimek, 27, Smith, 33, Schrock, 39, Beutler, 28, Robak, 22, Nelson, 35, Schellpeper, 18, Dierks, 40, Byars, 30, Warner, 25, Hartnett, 45, Coordsen, 32, Landis, 46, Wesely, 26, at the request of the Governor.

A Resolution to propose an amendment to the Constitution of Nebraska by amending Article VIII, sections 1, 2, and 4.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

Section 1. That at a special election on August 6, 1991, there shall be submitted to the electors of the State of Nebraska for approval the following amendment to the Constitution of Nebraska by amending Article VIII, sections 1, 2, and 4, which is hereby proposed by the Legislature:

CVIII-1 "~~The necessary revenue of the state and its governmental subdivisions shall be raised by taxation in such manner as the Legislature may direct. Taxes shall be levied by valuation uniformly and proportionately upon all tangible property and franchises, except that: (1) The Legislature may provide for a different method of taxing motor vehicles and may also establish a separate class of motor vehicles consisting of those owned and held for resale by motor vehicle dealers which shall be taxed in the manner and to the extent provided by the Legislature and may also establish a separate class for trucks, trailers, semitrailers, truck-tractors, or combinations thereof, consisting of those owned by residents and nonresidents of this state, and operating in interstate commerce, and may provide reciprocal and proportionate taxation of such vehicles; PROVIDED, that such tax proceeds from motor vehicles taxed in each county shall be allocated to the state, counties, townships, cities, villages, and school districts of such county in the same proportion that the levy of each bears to the total levy of the county on personal tangible property; and (2) the Legislature may provide that agricultural land and horticultural land, as defined by the Legislature, shall constitute a separate and distinct class of property for purposes of taxation and may provide for a different method of taxing agricultural land and horticultural land which results in values that are not uniform and proportionate with all other tangible property and franchises but which results in values that are uniform and proportionate upon all property within the class of agricultural land and horticultural land. The Legislature may enact laws to provide that the value of land actively devoted to agricultural or horticultural use shall for property tax purposes be that value which such land has for agricultural or horticultural use without regard to any value which such land might have for other purposes or uses and may prescribe standards and methods for the determination of the value of real or other tangible property at uniform and proportionate values. Taxes uniform as to class of property or the ownership or use thereof may be levied by valuation or otherwise upon classes of intangible property as the Legislature may determine, and such intangible property held in trust or otherwise for the purpose of funding pension, profit-sharing, or~~

~~other employee benefit plans as defined by the Legislature may be declared exempt from taxation. Taxes other than property taxes may be authorized by law. Existing revenue laws shall continue in effect until changed by the Legislature. The Legislature may provide that livestock shall constitute a separate and distinct class of property for purposes of taxation and may further provide for reciprocal and proportionate taxation of livestock located in this state for only part of a year.~~

The necessary revenue of the state and its governmental subdivisions shall be raised by taxation in such manner as the Legislature may direct. Taxes shall be levied by valuation uniformly and proportionately upon all real property and franchises except as set forth in this article. The Legislature may provide that agricultural land and horticultural land, as defined by the Legislature, shall constitute a separate and distinct class of property for purposes of taxation and may provide for a different method of taxing agricultural land and horticultural land which results in values that are not uniform and proportionate with all other real property and franchises but which results in values that are uniform and proportionate upon all property within the class of agricultural land and horticultural land. The Legislature may enact laws to provide that the value of land actively devoted to agricultural or horticultural use shall for real property tax purposes be that value which such land has for agricultural or horticultural use without regard to any value which such land might have for other purposes or uses and may prescribe standards and methods for the determination of the value of such land at uniform and proportionate values.

Tangible personal property, unless exempt or otherwise provided for by the Constitution, shall be subject to tax in whole or in part by valuation or otherwise in such manner as the Legislature may direct. The Legislature may provide for a different method of taxing motor vehicles and may also establish a separate class of motor vehicles consisting of those owned and held for resale by motor vehicle dealers which shall be taxed in the manner and to the extent provided by the Legislature and may also establish a separate class for trucks, trailers, semitrailers, truck-tractors, or combinations thereof, consisting of those owned by residents and nonresidents of this state, and operating in interstate commerce, and may provide reciprocal and proportionate taxation of such vehicles; PROVIDED, that such tax proceeds from motor vehicles taxed in each county shall be allocated to the counties, townships, cities, villages, and school districts of such county in the same proportion that the levy of each bears to the total levy of the county on personal tangible property.

Taxes uniform as to class of property or the ownership or use thereof may be levied by valuation or otherwise upon classes of intangible property as the Legislature may determine, and such intangible property held in trust or otherwise for the purpose of funding pension, profit-sharing, or other employee benefit plans as defined by the Legislature may be declared exempt from taxation.

Taxes other than property taxes may be authorized by law. Existing revenue laws shall continue in effect until changed by the Legislature.

The Legislature may provide that livestock shall constitute a separate and distinct class of property for purposes of taxation and may further provide for reciprocal and proportionate taxation of livestock located in this state for only part of a year."

CVIII-2 "The property of the state and its governmental subdivisions shall be exempt from taxation. The Legislature by general law may exempt from taxation property owned by and used exclusively for agricultural and horticultural societies, and property owned and used exclusively for educational, religious, charitable, or cemetery purposes, when such property is not owned or used for financial gain or profit to either the owner or user. ~~Household~~ Inventory, household goods, and personal effects, as defined by law, ~~may be exempted~~ shall be exempt from property taxation. ~~in whole or in part, as may be provided by general law, and the Legislature may prescribe a formula for the determination of value of household goods and personal effects.~~ The Legislature by general law may provide that the increased value of land by reason of shade or ornamental trees planted along the highway shall not be taken into account in the assessment of such land. The Legislature by general law and upon any terms, conditions, and restrictions it prescribes, may provide that the increased value of real property resulting from improvements designed primarily for energy conservation may be exempt from taxation. The value of a home substantially contributed by ~~the Veterans' Administration of~~ the United States Department of Veterans Affairs for a paraplegic veteran or multiple amputee shall be exempt from taxation during the life of such veteran or until the death or remarriage of his ~~widow or her remarriage~~ or her surviving spouse. The Legislature may exempt from an intangible property tax life insurance and life insurance annuity contracts and any payment connected therewith and any right to pension or retirement payments. The Legislature may classify personal property in such manner as it sees fit, and may exempt any of such classes, or ~~may~~ exempt all personal property from property taxation. No property shall be exempt from taxation except as provided in the Constitution. The Legislature may by

general law provide that a portion of the value of any residence actually occupied as a homestead by any classification of owners as determined by the Legislature shall be exempt from taxation."

CVIII-4 "Except as to tax and assessment charges against real property remaining delinquent and unpaid for a period of fifteen years or longer, the Legislature shall have no power to release or discharge any county, city, township, town, or district whatever, or the inhabitants thereof, or any corporation, or the property therein, from their or its proportionate share of taxes to be levied for state purposes, or due any municipal corporation, nor shall commutation for such taxes be authorized in any form whatever; PROVIDED, that the Legislature may provide by law for the payment or cancellation of taxes or assessments against real estate remaining unpaid against real estate owned or acquired by the state or its governmental subdivisions. The release or discharge prohibited by this section shall not be construed or deemed to prevent the exemption or nonuniform taxation, as provided by the Constitution, of classes of property.".

Sec. 2. That the proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1. The proposition for the submission of the proposed amendment shall be placed upon the ballot in the following form:

"A constitutional amendment to authorize the Legislature to provide for the taxation of certain tangible personal property in such manner as the Legislature may direct, to exempt inventory, household goods, and personal effects from property taxation, and to harmonize with other constitutional provisions with respect to the exemption or nonuniform taxation of classes of property.

For

Against".

Sec. 3. That the proposed amendment, if adopted, shall be in force and take effect immediately upon the completion of the canvass of the votes, at which time it shall be the duty of the Governor to proclaim it as a part of the Constitution of Nebraska.

Referred to the Reference Committee.

LEGISLATIVE RESOLUTION 187. Introduced by Withem, 14; Lynch, 13.

PURPOSE: The purpose of this study is to investigate the efficiency of operations of the public school system of the State of Nebraska. The administrative and instructional efficiency of the public schools was brought into question by the legislatively mandated Syracuse Tax

Study in 1989, the recent study of school financing commissioned by the Greater Omaha Area Chamber of Commerce, and the Lynch amendment to LB 719. Other studies, such as Class Dismissed, a study commissioned by the Nebraska Rural Community Schools Association, have suggested that administrative and instructional cost inefficiencies are not peculiar to small schools. The study should examine the accuracy and relevancy of these different studies in terms of the current structure and characteristics of Nebraska public schools.

Legislatively, the issue of cost efficiency of public schools has focused almost exclusively on school district reorganization (LB 662 - 1985, LB 940 - 1988, and LB 259 - 1990). Efficiency incentives were not included in the school financing formula recently adopted in LB 1059. LB 1059 placed all schools in enrollment tiers based on the assumption that school size was the primary determinant of school costs. The study shall examine a number of variables which relate to school cost efficiencies including, but not limited to:

(1) School district size;
(2) School district geography;
(3) School district demographic and socioeconomic factors;
(4) State accreditation requirements; and
(5) Other state and federal aid programs.

Finally, the study shall consider a number of methods, incentives, cooperative programs, cooperative programs including incentives, and mandatory standards to encourage and promote improvements in public school efficiencies.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-FIRST LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That a committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the attached report on the referral of legislative resolution 186CA.

LR	Committee
186CA	Revenue

(Signed) Jerome Warner, Chairperson
Legislative Council
Executive Board

UNANIMOUS CONSENT - Unbracket LB 625

Mr. Warner asked unanimous consent to unbracket LB 625. No objections. So ordered.

UNANIMOUS CONSENT - Print in Journal

Messrs. Beutler and Kristensen asked unanimous consent to print the following amendment to LB 715 in the Journal. No objections. So ordered.

AM1966

1. Insert the following new sections:

"Section 1. That section 42-363, Revised Statutes Supplement, 1990, be amended to read as follows:

42-363. No suit for divorce shall be heard or tried until ~~sixty~~ ninety days after perfection of service of process, at which time the suit may be heard or tried and a decree may be entered.

Sec. 5. That section 42-372, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

42-372. ~~(1)~~ A decree dissolving a marriage shall become final and operative, except for the purpose of review by appeal, when rendered. A decree rendered pursuant to this section prior to October 1, 1991, which has not become final and operative shall become final and operative, except for the purpose of review by appeal, on such date. ~~without any further action of the court on (a) the date of death of one of the parties to the dissolution or (b) six months after the decree is rendered, whichever occurs first. If the decree becomes final and operative upon the date of death of one of the parties to the dissolution, the decree shall be treated as if it became final and operative the date it was rendered.~~

~~(2) For the purpose of review by appeal, the decree shall be treated as a final order as soon as it~~

~~is rendered.~~ If an appeal is instituted within thirty days of the date the decree is rendered, such decree shall not become final until such proceedings are finally determined. ~~If no such proceedings have been instituted within such thirty-day period, the court may, at any time within such six months, vacate or modify its decree.~~".

2. On page 4, line 16; page 7, line 16; page 11, lines 6 and 16; page 12, line 5; page 16, line 7; page 17, line 15; page 18, line 3; page 19, lines 9 and 23; page 20, line 9; page 24, line 15; and page 25, lines 10 and 11, strike "13 to 18" and insert "15 to 20".

3. On page 21, lines 11 and 21; page 23, line 1; and page 24, line 7, strike "13" and insert "15".

4. On page 21, line 18, strike "15 and 18" and insert "17 and 20".

5. On page 22, line 19, strike "18" and insert "20".

6. On page 25, line 14, after "42-371," insert "42-372,"; and in line 16 strike "section" and insert "sections 42-363 and".

7. Renumber the remaining sections accordingly.

Mr. Moore asked unanimous consent to print the following amendment to LB 844 in the Journal. No objections. So ordered.

AM1980

1. Insert the following new sections:

"Sec. 34. AGENCY NO. 33 -- GAME AND PARKS COMMISSION

Program No. 336 - Wildlife Conservation

	FY1989-90	FY1990-91
CASH FUND	-0-	100,000
PROGRAM TOTAL	-0-	100,000

There is included in the appropriation to this program for FY1990-91 $100,000 Cash Funds for the replacement of equipment, tools, furniture, and other personal property damaged by the storm at the Crawford fish hatchery.

The unexpended Cash Fund balance existing on June 30, 1991, is hereby reappropriated for FY1991-92 for the same purpose.

The Game and Parks Commission shall apply for and make maximum use of available federal disaster assistance funding.

Sec. 38. AGENCY NO. 54 -- NEBRASKA STATE HISTORICAL SOCIETY

Program No. 648 - Nebraska State Historical Society

	FY1989-90	FY1990-91
GENERAL FUND	-0-	9,230
PROGRAM TOTAL	-0-	9,230

There is included in the appropriation to this program for FY1990-91 $9,230 General Funds for the repair of storm damage at the Fort Robinson buildings and cemetery.

The amounts appropriated in this section to the Nebraska State Historical Society for storm damage repair shall not be included in the calculations of FY1990-91 expenditures for branch museums as provided in Legislative Bill 843, Ninety-second Legislature, First Session, 1991.

Sec. 43. Program 967. The Game and Parks Commission is hereby authorized to repair storm-damaged facilities at Fort Robinson State Park. There is hereby transferred $30,000 of appropriated State Building Funds from Program 973 to Program 967 for such repairs. There is hereby appropriated $374,300 from the General Fund for FY1990-91 for such repairs.

The unexpended balance of General Funds and State Building Funds existing on June 30, 1991, is hereby reappropriated for FY1991-92 for the purpose of repairing storm-damaged facilities at Fort Robinson State Park.

The Game and Parks Commission shall apply for and make maximum use of available federal disaster assistance funding.

Sec. 44. Program 973. The Game and Parks Commission is hereby authorized to use Cash Funds originally appropriated for reservoir construction to repair storm-damaged facilities at the Crawford fish hatchery during FY1990-91 and during FY1991-92.

The Game and Parks Commission shall apply for and make maximum use of available federal disaster assistance funding.".

2. On page 65, lines 11 and 12, strike

"615,190" and insert "2,420,199"; and in line 16 strike "$615,190" and insert "$2,420,199".

3. On page 66, line 6, strike "615,190" and insert "2,420,199"; and in line 8 strike "709,827" and insert "2,514,836".

4. Renumber remaining sections accordingly.

Mr. Moore asked unanimous consent to print the following amendment to LB 844 in the Journal. No objections. So ordered.

AM1944

1. Insert the following new sections:

"Sec. 34. AGENCY NO. 33 -- GAME AND PARKS COMMISSION

Program No. 336 - Wildlife Conservation

	FY1989-90	FY1990-91
CASH FUND	-0-	100,000
PROGRAM TOTAL	-0-	100,000

There is included in the appropriation to this program for FY1990-91 $100,000 Cash Funds for the replacement of equipment, tools, furniture, and other personal property damaged by the storm at the Crawford fish hatchery.

The unexpended Cash Fund balance existing on June 30, 1991, is hereby reappropriated for FY1991-92 for the same purpose.

The Game and Parks Commission shall apply for and make maximum use of available federal disaster assistance funding.

Sec. 38. AGENCY NO. 54 -- NEBRASKA STATE HISTORICAL SOCIETY

Program No. 648 - Nebraska State Historical Society

	FY1989-90	FY1990-91
GENERAL FUND	-0-	9,230
PROGRAM TOTAL	-0-	9,230

There is included in the appropriation to this program for FY1990-91 $9,230 General Funds for the repair of storm damage at the Fort Robinson buildings and cemetery.

The amounts appropriated in this section to the Nebraska State Historical Society for storm damage repair shall not be included in the calculations of FY1990-91 expenditures for branch museums as provided in

Legislative Bill 843, Ninety-second Legislature, First Session, 1991.

Sec. 43. Program 967. The Game and Parks Commission is hereby authorized to repair storm-damaged facilities at Fort Robinson State Park. There is hereby transferred $30,000 of appropriated State Building Funds from Program 973 to Program 967 for such repairs. There is hereby appropriated $374,300 from the General Fund for FY1990-91 for such repairs.

The unexpended balance of General Funds and State Building Funds existing on June 30, 1991, is hereby reappropriated for FY1991-92 for the purpose of repairing storm-damaged facilities at Fort Robinson State Park.

The Game and Parks Commission shall apply for and make maximum use of available federal disaster assistance funding.

Sec. 44. Program 973. The Game and Parks Commission is hereby authorized to use Cash Funds originally appropriated for reservoir construction to repair storm-damaged facilities at the Crawford fish hatchery during FY1990-91 and during FY1991-92.

The Game and Parks Commission shall apply for and make maximum use of available federal disaster assistance funding.".

2. On page 65, lines 11 and 12, strike "615,190" and insert "1,588,252"; and in line 16 strike "$615,190" and insert "$1,588,252".

3. On page 66, line 6, strike "615,190" and insert "1,588,252"; and in line 8 strike "709,827" and insert "1,682,889".

4. Renumber remaining sections accordingly.

Mr. Warner asked unanimous consent to print the following amendment to LB 647 in the Journal. No objections. So ordered.

AM1946

(Amendments to AM1574)

1. On page 23, strike beginning with the semicolon in line 15 through the last quotation mark in line 16.

Mr. Warner asked unanimous consent to print the following amendment to LB 647 in the Journal. No objections. So ordered.

AM1945

1. On page 9, line 20, after "commission" insert "and its agents"; and in line 21 strike "it" and insert "them".

Mr. Warner asked unanimous consent to print the following amendment to LB 647 in the Journal. No objections. So ordered.

AM1947

1. Insert the following new section:

"Sec. 23. Each eligible postsecondary educational institution shall annually submit to the commission a report, in such form as prescribed by the commission, on all institutionally-funded student financial aid awarded by the institution in the previous year.".

2. On page 2, line 1, strike "22" and insert "23".

3. Renumber the remaining section accordingly.

VISITORS

Visitors to the Chamber were nine members of Box Butte Development Corporation; 46 fourth grade students and sponsors from Harrison School, Omaha; Paul Marsh and Mark Johnson from Fremont; 20 kindergarten through eighth grade students, teachers, and sponsors from Barbara Christian Academy, Lincoln; and Ann Doering from Franklin.

The Doctor of the Day was Dr. Bill Doering from Franklin.

MOTION - Adjournment

Mr. Wehrbein moved to adjourn until 9:00 a.m., Tuesday, May 21, 1991.

Mr. Bernard-Stevens moved for a call of the house. The motion prevailed with 11 ayes, 3 nays, and 35 not voting.

Mr. Bernard-Stevens requested a roll call vote on the motion to adjourn.

Voting in the affirmative, 22:

Abboud	Dierks	Johnson, L.	Morrissey	Warner
Beutler	Elmer	Johnson, R.	Pirsch	Wehrbein
Beyer	Hall	Labedz	Rasmussen	Wesely
Chambers	Hefner	Landis	Schmit	Will
Chizek	Horgan			

Voting in the negative, 15:

Ashford	Byars	Hartnett	Lamb	Rogers
Baack	Crosby	Hillman	Moore	Schellpeper
Bernard-Stevens	Cudaback	Kristensen	Nelson	Wickersham

Present and not voting, 1:

Peterson

Absent and not voting, 1:

Lindsay

Excused and not voting, 10:

Conway	Haberman	Robak	Schimek	Smith
Coordsen	Lynch	Robinson	Schrock	Withem

The Wehrbein motion to adjourn prevailed with 22 ayes, 15 nays, 1 present and not voting, 1 absent and not voting, and 10 excused and not voting, and at 4:57 p.m., the Legislature adjourned until 9:00 a.m., Tuesday, May 21, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

EIGHTY-FIRST DAY - MAY 21, 1991

LEGISLATIVE JOURNAL

EIGHTY-FIRST DAY - MAY 21, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

EIGHTY-FIRST DAY

Legislative Chamber, Lincoln, Nebraska
Tuesday, May 21, 1991

Pursuant to adjournment, the Legislature met at 9:00 a.m., Speaker Baack presiding.

PRAYER

The prayer was offered by Captain Joseph Wheeler, Salvation Army, Lincoln, Nebraska.

ROLL CALL

The roll was called and all members were present except Mr. Haberman who was excused; and Messrs. Bernard-Stevens, Chambers, Conway, Hall, R. Johnson, Lindsay, Schrock, Mmes. Labedz, Pirsch, and Rasmussen who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

Page 2318, line 19, strike "LB 425" and insert "LB 725".
The Journal for the Eightieth Day was approved as corrected.

ATTORNEY GENERAL'S OPINIONS

Opinion No. 91042

DATE: May 20, 1991

SUBJECT: Constitutionality of Two-Part Amendment to LB 850, the State Claims Bill, Which Amendment Would Bypass the State Claims

Board and State Courts and Appropriate $30,000,000 for Payment to Commonwealth Depositors and Amend the State Tort Claims Act to Authorize Such Bypass.

REQUESTED BY: Senator George Coordsen
District No. 32

WRITTEN BY: Don Stenberg, Attorney General
John R. Thompson, Deputy Attorney General

Amendment 1447 to LB 850 is in two parts. The first would appropriate $30,000,000.00 for the payment of the tort claim filed January 25, 1991, by representatives of the Commonwealth depositors without action by the State Claims Board or the state court system as required by the State Tort Claims Act. The second part proposes to amend the State Tort Claims Act to permit bypassing the Board and courts. You have raised several questions concerning the constitutionality of Amendment 1447.

Your first question is whether the appropriation of $30,000,000.00 would be constitutionally permissible in view of the recent decision in Haman v. Marsh, 237 Neb. 669, ____ N.W.2d ____ (1991). We believe that to the extent such an appropriation exceeds any actual tort liability of the state it would be subject to the same constitutional infirmities as found in Haman. We should point out that no valid appropriation may be made until appropriate authorizing legislation has been adopted.

Your next two questions relate to germaneness of the two subjects in the amendment, the appropriation of money and substantive changes in the State Tort Claims Act. We believe there are serious constitutional problems in this regard. Article III, section 14, of the Nebraska Constitution provides:

". . .No bill shall contain more than one subject, and the same shall be clearly expressed in the title. . . ."

It appears that the inclusion of substantive changes to the State Tort Claims Act in the same bill which appropriates money for the payment of claims violates the above provision and would probably be unconstitutional. This conclusion is consistent with prior opinions of this office where we have consistently indicated that substantive language may not be placed in a legislative bill together with appropriations language. See Opinion No. 214 dated March 26, 1976 and Opinion No. 81 dated April 23, 1981.

Your next question relates to the proposed amendment to the State Tort Claims Act which provides for direct action by the Legislature

on claims in excess of $5,000,000.00 without any prior review by the State Claims Board and the state courts. You ask whether the classification would be reasonable and constitutionally permissible. Our answer to this must necessarily be somewhat less precise. While we believe a plausible argument can be made that the classification is arbitrary and unreasonable, the courts generally give some deference to the policy findings of the Legislature. Under the present structure of the State Tort Claims Act, claims of $5,000.00 or less may be approved by the State Claims Board with no other review or oversight. Claims over $5,000.00 must be approved by the Lancaster County District Court as well as the Board. All claims exceeding $50,000.00 must also be reviewed by the Legislature and appropriation made before payment. In other words, additional review and oversight is required for each class of claims as they get larger in amount.

Under the proposed amendment that scheme would not be followed. In fact, the review by the Board and courts would be eliminated for the class of claims involving the most money. While this on its face seems somewhat odd, it can perhaps be justified on the basis that claims of this magnitude will be carefully reviewed by the Legislature while for smaller claims, the Legislature will generally rely on the decision of the State Claims Board and the courts.

Finally, you question whether the amendment may violate the separation of powers provision of the Nebraska Constitution, Article II, section 1. Under Article IV, section 1, the Attorney General is an executive officer. The Attorney General is vested with broad common law and statutory powers, including the power to initiate and defend actions, to make decisions regarding strategy, and to negotiate and enter into settlements. See State v. State Board of Equalization and Assessment, 123 Neb. 259, 242 N.W. 609 (1932), cited with approval in State v. Douglas, 217 Neb. 199, 349 N.W.2d 870 (1984); and Neb.Rev.Stat. § 84-202 (Reissue 1987) and Neb.Rev.Stat. § 81-8,218 (1990 Cum.Supp.).

Also, Neb.Rev.Stat. § 81-8,218 specifically provides that the Attorney General is authorized to compromise or settle any suits brought under the State Tort Claims Act with the approval of the court in which the suit is pending.

Under the proposed legislation, the Legislature would, in effect, be substituted for the State Claims Board. This mechanism allows for settlement of claims by the State prior to the commencement of litigation and hence does not conflict with the authority of the Attorney General. The power to appropriate funds is, of course, a legislative power. Moreover, the proposed legislation still requires judicial approval of the settlement. Considering all of these points,

we are of the opinion that Nebraska Constitution, Article II, Section 1 and Article IV, Section 1 are not violated by the proposed legislation.

Very truly yours,
DON STENBERG
Attorney General
(Signed) John R. Thompson
Deputy Attorney General

cc: Patrick O'Donnell
Clerk of the Legislature
4-159-7

Opinion No. 91043

DATED: May 20, 1991

SUBJECT: Constitutionality of Two-Part Amendment to LB 850, the State Claims Bill, Which Amendment Would Bypass the State Claims Board and State Courts and Appropriate $30,000,000 for Payment to Commonwealth Depositors and Amend the State Tort Claims Act to Authorize Such Bypass.

REQUESTED BY: Senator Loran Schmit
District No. 23

WRITTEN BY: Don Stenberg, Attorney General
John R. Thompson, Deputy Attorney General

In your May 2, 1991, letter to this office you requested our opinion with respect to four questions.

You first asked whether the Legislature, when it disagrees with the conclusion of the State Claims Board, must nevertheless approve a claim in the same amount as approved by the Board itself. Tort Claim No. 91-310 which is the subject of your request seeks millions of dollars on behalf of Commonwealth depositors. Under the current State Tort Claims Act any claim in excess of $5,000.00 must be approved by the Lancaster County District Court pursuant to Neb.Rev.Stat. § 81-8,211. After approval or disapproval by the district court any payment in excess of $50,000.00 must be withheld until that award or judgment has been reviewed by the Legislature and specific appropriation made therefor pursuant to Neb.Rev.Stat.

§ 81-8,224. It does not appear that the State Tort Claims Act contemplates that any amount in excess of that approved by the Board and the court will be appropriated by the Legislature. Neb.Rev.Stat. § 81-8,224 appears to contemplate only that the Legislature may withhold payment of any amount in excess of the $50,000.00 until it has reviewed the matter and made appropriation therefor.

You next asked whether the Legislature may approve a claim that the State Claims Board has disapproved. The answer to this would appear to the same as for your first question. In other words, under the State Tort Claims Act the claim must first go to the State Claims Board and, if sufficient in size, must then go to the Lancaster County District Court for review and approval or disapproval. The Legislature's authority in this regard is to either approve or disapprove the amount awarded by the Board and the court. It does not appear that any authority is retained by the Legislature to enlarge upon that amount.

Your third and fourth questions relate to the constitutionality of Amendment 1447 to LB 850. In that regard, we attach a copy of the opinion rendered this date to Senator Coordsen covering the same subject matter. We believe that opinion answers both of your remaining questions.

Very truly yours,
DON STENBERG
Attorney General
(Signed) John R. Thompson
Deputy Attorney General

Enc.
cc: Patrick O'Donnell
Clerk of Legislature
4-160-7

REPORT

Received minutes of the Board of Public Roads Classifications and Standards for March 1991 from the Nebraska Department of Roads.

SELECT FILE

LEGISLATIVE BILL 843. Mr. Wesely offered the following amendment:
AM1990

(Amendments to AM1508)

1. On page 20 strike line 14 and insert:
"CASH FUND 676,600 796,600"
and strike line 16 and insert
"PROGRAM TOTAL 5,977,279 6,449,659".

2. On page 21, after line 13; and on page 52, after line 16 insert:

"The Division of Rehabilitation Services shall receive from the Department of Public Institutions and the developmental disabilities regional governing boards up to $284,000 in FY1991-92 and up to $402,000 in FY1992-93 to provide vocational rehabilitation services and supported work programs to persons with developmental disabilities. The division shall match all state and local funds provided by the Department of Public Institutions and regional governing boards. The Department of Public Institutions and the State Department of Education shall enter into an interagency agreement to provide vocational rehabilitation services and programs to persons with developmental disabilities.".

3. On page 24 strike line 2 and insert:
"CASH FUND 2,211,035 2,397,211"
and strike line 6 and insert
"AGENCY TOTAL 564,244,798 590,521,455".

Mr. Abboud asked unanimous consent to be excused until he returns. No objections. So ordered.

PRESIDENT MOUL PRESIDING

Mr. Wesely moved for a call of the house. The motion prevailed with 16 ayes, 0 nays, and 33 not voting.

Mr. Wesely requested a roll call vote on his amendment.

Voting in the affirmative, 22:

Baack	Conway	Landis	Rogers	Smith
Beutler	Cudaback	Lynch	Schellpeper	Wesely
Byars	Dierks	Morrissey	Schimek	Will
Chambers	Hall	Robak	Schmit	Withem
Chizek	Labedz			

Voting in the negative, 12:

Ashford	Beyer	Johnson, L.	Moore	Warner
Bernard-Stevens	Hefner	Kristensen	Robinson	Wehrbein
	Hillman	Lamb		

Present and not voting, 8:

Coordsen	Elmer	Horgan	Peterson	Wickersham
Crosby	Hartnett	Nelson		

Excused and not voting, 7:

Abboud	Johnson, R.	Pirsch	Rasmussen	Schrock
Haberman	Lindsay			

The Wesely amendment lost with 22 ayes, 12 nays, 8 present and not voting, and 7 excused and not voting.

The Chair declared the call raised.

Messrs. Elmer and Lamb asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Wesely offered the following amendment:
AM1969

(Amendments to AM1508)

1. On page 141, lines 10 and 11, strike "1,480,000" and insert "1,000,000"; and after line 18 insert the following:

"It is the intent of the Legislature that no more than one-half of the General Funds received by the Research and Development Authority shall be used for administrative expenses. If outside sources of funding are received to match General Funds, administrative expenses shall not exceed $750,000.".

2. On page 142, line 23, strike "4,827,756" and insert "4,347,756".

3. On page 143, line 2, strike "17,737,566" and insert "17,257,566".

Messrs. Peterson, Dierks, Conway, and Mrs. Robak asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Wesely asked unanimous consent to replace his pending amendment, AM1969, with a substitute amendment. No objections. So ordered.

Mr. Wesely withdrew his pending amendment, AM1969, found in this day's Journal.

Mr. Wesely offered the following substitute amendment:
AM1970

(Amendments to AM1508)

1. On page 141, after line 18, insert the following:

"It is the intent of the Legislature that no more than one-half of the General Funds received by the Research and Development Authority shall be used for administrative expenses. If outside sources of funding are received to match General Funds, administrative expenses shall not exceed $750,000.".

Mr. Lynch moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 0 nays, and 23 not voting.

Mr. Wesely requested a record vote on his amendment.

Voting in the affirmative, 13:

Beutler	Hall	Lynch	Schmit	Wesely
Chizek	Labedz	Morrissey	Smith	Will
Dierks	Landis	Rasmussen		

Voting in the negative, 18:

Ashford	Coordsen	Hillman	Moore	Warner
Baack	Crosby	Johnson, L.	Robinson	Wehrbein
Byars	Cudaback	Kristensen	Schimek	Wickersham
Chambers	Hefner	Lamb		

Present and not voting, 9:

Bernard-Stevens	Beyer	Horgan	Nelson	Schellpeper
	Hartnett	Johnson, R.	Rogers	Withem

Excused and not voting, 9:

Abboud	Elmer	Lindsay	Pirsch	Schrock
Conway	Haberman	Peterson	Robak	

The Wesely amendment lost with 13 ayes, 18 nays, 9 present and not voting, and 9 excused and not voting.

Pending.

Messrs. Dierks and Lynch asked unanimous consent to be excused until they return. No objections. So ordered.

UNANIMOUS CONSENT - Print in Journal

Messrs. Hartnett and Lynch asked unanimous consent to print the following amendment to LB 795 in the Journal. No objections. So ordered.

AM1960

1. Insert the following new sections:

"Section 1. That section 9-301, Revised Statutes Supplement, 1990, be amended to read as follows:

9-301. Sections 9-301 to 9-356 and section 2 of this act shall be known and may be cited as the Nebraska Pickle Card Lottery Act.

Sec. 2. In any administrative action initiated by the department pursuant to subdivision (3) or (5) of section 9-322, an administrative order shall be issued within forty-five days following the conclusion of any hearing on such action.

Sec. 3. That section 9-329.03, Revised Statutes Supplement, 1990, be amended to read as follows:

9-329.03. (1) Any sole proprietorship, partnership, or corporation, which holds a retailer's license for consumption on the premises or a bottle club license issued by the Nebraska Liquor Control Commission pursuant to the Nebraska Liquor Control Act or which holds a retailer's license for consumption off the premises ~~so long as seventy-five percent of such retailer's revenue on an annual basis is received from the sale of alcoholic liquor,~~ may apply for a pickle

card operator's license to sell individual pickle cards as opportunities to participate in a lottery by the sale of pickle cards. ~~The burden shall be on any licensee who holds an off-premises license to show that the licensee's sales revenue meets such percentage requirement.~~

(2) A pickle card operator licensed under the Nebraska Pickle Card Lottery Act shall not be connected with or interested in, directly or indirectly, any person, partnership, firm, or corporation or other party licensed as a distributor or manufacturer under section 9-330 or 9-332.

(3) A sole proprietor, partner in a partnership, or officer or director of a corporation licensed as a pickle card operator shall not be licensed as a sales agent.".

2. Renumber the remaining sections and correct internal references and the repealer accordingly.

Mr. Hartnett asked unanimous consent to print the following amendment to LR 24CA in the Journal. No objections. So ordered.

AM0776

1. On page 1, line 7, strike "general" and insert "primary"; and in line 8 strike "November" and insert "May".

2. On page 2, line 19, after the period insert "The Legislature shall authorize a lottery game or games for the exclusive use of a city or county lottery authorized under subsection (2) of this section, and such lottery game or games shall not be approved for use as part of a state lottery authorized under this subsection.".

3. On page 3, line 16, after "state" insert "and to authorize a lottery game or games for the exclusive use of a city or county lottery".

Mrs. Smith asked unanimous consent to print the following amendment to LB 795 in the Journal. No objections. So ordered.

AM1943

1. Insert the following new section:

"Sec. 6. If any section in this act or any

part of any section shall be declared invalid or unconstitutional, such declaration shall not affect the validity or constitutionality of the remaining portions thereof.".

2. Renumber the remaining section accordingly.

ATTORNEY GENERAL'S OPINION

Opinion No. 91044

DATE: May 20, 1991

SUBJECT: AM 1444 to LB 795; Constitutionality of Proposed Statutory Provisions Which Would Allow a City to Use Lottery Proceeds for Acquisition, Purchase, and Maintenance of a Professional Baseball Organization

REQUESTED BY: Senator Jacklyn J. Smith
Nebraska State Legislature

WRITTEN BY: Don Stenberg, Attorney General
Dale A. Comer, Assistant Attorney General

LB 795 would amend the existing Nebraska County and City Lottery Act in various respects. AM 1444 to that bill would, in turn, amend LB 795 to provide that a city of the metropolitan class which conducts a local option lottery has authority to use a portion of the lottery proceeds "for the acquisition, purchase and maintenance of a professional baseball organization." You are concerned with the constitutionality of that amendment in light of Article III, Section 24 of the Nebraska Constitution, and that concern prompted your Opinion request to this office. We believe that the amendment in question is constitutional under our State Constitution.

Article III, Section 24 of our State Constitution provides, in pertinent part:

> The Legislature shall not authorize any game of chance, nor any lottery, or gift enterprise when the consideration for a chance to participate involves the payment of money for the purchase of property, services, or a chance or admission ticket or requires an expenditure of substantial effort or time, except that it may authorize and regulate other lotteries, raffles, and gift enterprises which are intended solely as business promotions or the proceeds

> of which are to be used solely for charitable or community betterment purposes without profit to the promoter of such lotteries, raffles, or gift enterprises.

You first ask whether the use of lottery proceeds for the acquisition, purchase, and maintenance of a professional baseball franchise is within a reasonable interpretation of "community betterment" as required by Article III, Section 24.

The portion of Article III, Section 24 which pertains to lotteries for community betterment purposes was added to our State Constitution in 1968. State v. City Betterment Corporation, 197 Neb. 575, 250 N.W.2d 601 (1977). There are no cases from the Nebraska Supreme Court which interpret "community betterment" as it is used in Article III, Section 24 of the Nebraska Constitution. Moreover, as we noted in Opinion of the Attorney General No. 52, March 17, 1983, a review of the legislative history of both the constitutional amendment and its enacting legislation does not assist in defining "community betterment purposes." However, it is clear that the "words and terms of a constitutional provision are to be interpreted and understood in their most natural and obvious meaning." State v. City Betterment Corporation, supra, 197 Neb. at 582, 583, 250 N.W.2d at 605. Therefore, as we did in our Opinion in 1983, we must analyze the phrase "community betterment" in its natural and obvious sense.

In Opinion of the Attorney General No. 52, March 17, 1983, we stated:

> Websters Third New International Dictionary, Unabridged Edition, 1967 defines "betterment" as the making or becoming better: improvement as: an improvement of an estate that makes it better and more valuable than mere repairs would do, an improvement that does more than restore to a former good condition, the replacement in accounting of an existing asset with one of greater cost or superior value. That same volume variously defines "community" including the following: A body of individuals organized into a unit or manifesting unusual awareness of some unifying trait: a state or commonwealth.

As a result, "community betterment" involves improvement of a body of individuals such as a city or county that makes that governmental unit better or more valuable than before.

We believe that the acquisition, purchase, and maintenance of a professional baseball organization would fit within that broad definition of community betterment. The presence of a professional baseball team in a community could lead to the improvement of that community in a number of ways. For instance, major employers might be attracted to the community because of the increased

recreational possibilities, or commerce within the community might be enhanced because individuals attending games would shop or spend time there. Consequently, we believe that the acquisition, purchase, and maintenance of a professional baseball franchise would fit under the broad parameters of Article III, Section 24 of the Nebraska Constitution.

You also ask whether the use of lottery proceeds, as proposed in AM 1444, would fall within the term "community betterment" as that term is defined by Neb.Rev.Stat. § 9-604 (Reissue 1987). We believe that this question, in effect, asks us to interpret an existing statute which we cannot do for the reasons stated in our Opinion No. 157 to Senator Beutler, dated December 20, 1985. However, we would note that, if the Nebraska County and City Lottery Act is amended as contemplated by AM 1444, then use of the proceeds of a lottery for the purposes proposed in that amendment would be permissible under the Act even if such a use did not fit under the definition of community betterment set out in Neb.Rev.Stat. § 9-604.

Sincerely yours,
DON STENBERG
Attorney General
(Signed) Dale A. Comer
Assistant Attorney General

05-08-14.91
cc: Patrick J. O'Donnell
Clerk of the Legislature

SELECT COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 719A. Placed on Select File.

LEGISLATIVE BILL 511. Placed on Select File as amended.
E & R amendment to LB 511:
AM5163

1. On page 1, strike beginning with "scenic" in line 1 through line 9 and insert "rivers and streams; to amend section 2-1507, Reissue Revised Statutes of Nebraska, 1943; to state findings; to authorize the Nebraska Natural Resources Commission to designate protected streams; to require enforcement of use restrictions; to harmonize provisions; and to repeal the original section.".

Correctly Engrossed

The following bills were correctly engrossed: 181, 181A, 425, 579A, 703, 703A, 720, 825A, and 840.

(Signed) Eric Will, Chairperson

Enrollment and Review Change to LB 181

The following changes, required to be reported for publication in the Journal, have been made:
ER7070

1. In lieu of the Withem amendment, FA153, in the Robak amendment, AM1242:

a. On page 1, line 6, "The" has been struck, shown as stricken, and "(1) Until January 1, 1993, the" inserted; and

b. On page 4, after line 2, the following new subsection has been inserted:

"(2) Effective January 1, 1993, the State of Nebraska is hereby divided into two district court judicial districts as follows:

District No. 1 shall consist of the counties of Johnson, Pawnee, Nemaha, and Richardson; and

District No. 2 shall consist of all other counties."; and in line 8 "subsection (1) of" has been inserted after "by".

2. In the Robak amendment, AM1242:

a. On page 1, line 7, "district court" has been inserted after "twenty-one"; and

b. On page 8, line 19, "such" has been inserted after "in" and the matter beginning with "(1)" through the period has been struck, the old matter shown as stricken, and an underscored period inserted.

3. On page 1, the matter beginning with "district" in line 1 through line 5 has been struck and "courts; to amend sections 24-301.02, 24-503, and 24-810, Revised Statutes Supplement, 1990; to increase the number of judges of the district court; to change provisions relating to the number of district court judicial districts, the allocation of district and county court judges, and determination of judicial vacancies; to eliminate the Judicial Resources Commission; to harmonize provisions; to provide severability; to repeal the original sections, and also sections 24-735 to 24-738, Reissue Revised Statutes of Nebraska, 1943; and to declare an emergency." inserted.

Enrollment and Review Change to LB 425

The following changes, required to be reported for publication in the Journal, have been made:
ER7071

1. In the Rasmussen-Lindsay-Beutler amendment, AM1682:

a. On page 2, lines 11 and 20, "to" has been struck and "of" inserted; and in lines 18 and 19 "of the court" has been inserted after "clerk";

b. On page 3, line 4, "all" has been inserted after the comma; in line 5 "all" has been inserted after the first comma; in line 6 "any" has been inserted after "of"; and in lines 8 and 11 "of the court" has been inserted after "clerk";

c. On page 5, line 2, "of the court" has been inserted after "clerk"; and

d. On page 6, line 11, "of" has been struck and "to" inserted.

Enrollment and Review Change to LB 703

The following changes, required to be reported for publication in the Journal, have been made:
ER7072

1. Because of the amendment of section 71-2017.01 by section 4, LB 244, in the Wesely amendment, AM0916, section 9 has been struck and the following new section inserted:

"Sec. 35. That section 71-2017.01, Reissue Revised Statutes of Nebraska, 1943, as amended by section 4, Legislative Bill 244, Ninety-second Legislature, First Session, 1991, be amended to read as follows:

71-2017.01. For purposes of sections 71-2017 to 71-2029 and section 7 of this act, unless the context otherwise requires:

(1) Care shall mean the exercise of concern or responsibility for the comfort and welfare of the residents of a facility by the owner, occupant, administrator, or operator of the facility in addition to the provision of food and shelter to the residents and shall include, but not be limited to, the maintenance of a minimum amount of supervision of the activities of the residents of the facility as well as the provision of a minimum amount of assistance to the residents and shall also include personal care, hereby defined as the provision of health-related services for individuals who are in need of a protective environment but who are otherwise able to manage the normal activities of daily living;

(2) Hospital shall mean (a) any institution, facility, place, or building which is devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment, or medical care over a period exceeding twenty-four consecutive hours of two or more nonrelated

individuals suffering from illness, condition, injury, or deformity, (b) any institution, facility, place, or building which is devoted primarily to the rendering over a period exceeding twenty-four consecutive hours of obstetrical or other medical care for two or more nonrelated individuals, or (c) any institution, facility, place, or building in which any accommodation is primarily maintained, furnished, or offered for the medical and nursing care over a period exceeding twenty-four consecutive hours of two or more nonrelated aged or infirm persons requiring or receiving convalescent care. Hospital shall include, but not be limited to, facilities or parts of facilities which provide space for general acute hospitals, short-term hospitals, rehabilitation hospitals, long-term care hospitals, psychiatric or mental hospitals, and emergency hospitals or treatment centers. Hospital shall not be construed to include the residence, office, or clinic of a private physician or of an association of physicians, any other health practitioner, or any practitioner or association of practitioners licensed pursuant to Chapter 71, in which residence, office, or clinic patients are not treated or given care for a period in excess of twenty-four consecutive hours;

(3) General acute hospital shall mean a hospital having a duly constituted governing body which exercises administrative and professional responsibility and an organized medical staff which provides inpatient care, including medical, nursing, surgical, anesthesia, laboratory, diagnostic radiology, pharmacy, and dietary services. Such services may be provided through a contract or agreement;

(4) Short-term hospital shall mean a hospital that (a) is primarily devoted to the diagnosis and treatment of individuals requiring short-term treatment or treatment of diagnosis consistent with the medical support available and (b) has written coordination agreements with a general acute hospital for transfers and quality assurance programs. Short-term hospital shall not mean a facility for the treatment of mental diseases, a rehabilitation hospital, an alcoholic treatment center, or a drug treatment center;

(5) Rehabilitation hospital shall mean a hospital which is operated for the primary purpose of assisting in the rehabilitation of disabled persons through an integrated program of medical and other services provided under professional supervision;

(6) Long-term care hospital shall mean any hospital, any distinct part of any hospital, or any portion of a hospital which is primarily devoted to providing the care and services as set forth in subdivisions (10), (11), and (22) of this section;

(7) Psychiatric or mental hospital shall mean a hospital which is primarily engaged in providing to inpatients, by or under the

supervision of a physician, psychiatric services for the diagnosis and treatment of mentally ill persons;

(8) Emergency hospital or treatment center shall mean a hospital primarily devoted to the diagnosis and treatment of individuals requiring emergency outpatient services and emergency care and with written coordination agreements with a general acute hospital for transfers and quality assurance programs;

(9) Health clinic shall mean any institution, facility, place, building, or agency, not licensed as a hospital, which is operated under the name or title of health clinic, health center, or any other word or phrase of like or similar import, either independently or in connection with any other purpose, for the purpose of providing or making available at such institution, facility, place, building, or agency on an outpatient basis and for a period not exceeding twenty-four consecutive hours advice, counseling, diagnosis, treatment, care, or services relating to the preservation or maintenance of health primarily or exclusively to persons not residing or confined in such institution, facility, place, building, or agency. Satellite clinics operated on an intermittent basis at a specific location or site and providing services within a portion of the total geographic area served by a licensed health clinic need not be licensed but may operate as a part of the parent clinic and share administration and services. Specific types or categories of health clinics may be further defined by appropriate rule and regulation of the Department of Health not inconsistent with this definition and in no case shall be construed to include the residence, office, or clinic of a private physician or an association of physicians, any other health practitioner or association of practitioners, or any practitioner licensed pursuant to Chapter 71 unless ten or more abortions, as defined in subdivision (1) of section 28-326, are performed during any one calendar week in such residence, office, or clinic;

(10) Skilled nursing facility shall mean any institution, facility, place, or building or a distinct part of any institution, facility, place, or building which is primarily devoted to providing to inpatients skilled nursing care and related services for patients who require medical or nursing care or rehabilitation of injured, disabled, or sick persons. Unless a waiver is granted pursuant to section 71-2017.06, a skilled nursing facility shall use the services of (a) a licensed registered nurse for at least eight consecutive hours per day, seven days per week, and (b) a licensed registered nurse or licensed practical nurse on a twenty-four-hour basis seven days per week. Except when waived under section 71-2017.06, a skilled nursing facility shall designate a licensed registered nurse or licensed practical nurse to serve as a charge nurse on each tour of duty. The Director of

Nursing Services shall be a licensed registered nurse, and this requirement shall not be waived. The Director of Nursing Services may serve as a charge nurse only when the skilled nursing facility has an average daily occupancy of sixty or fewer residents;

(11) Intermediate care facility shall mean any institution, facility, place, or building in which accommodation and board for a period exceeding twenty-four consecutive hours and also nursing care and related medical services are provided for two or more nonrelated individuals who are ill, injured, or disabled but not in need of hospital or skilled nursing facility care, but who by reason of illness, disease, injury, deformity, disability, convalescence, or physical or mental infirmity require such nursing care and related medical services. An intermediate care facility shall provide at least one licensed registered nurse or licensed practical nurse on duty on the day shift seven days per week and at least one licensed registered nurse, licensed practical nurse, or care staff member on duty on the other two shifts seven days per week. An intermediate care facility shall provide a Director of Nursing Services, who shall be a licensed registered nurse, to administer, supervise, delegate, and evaluate nursing and nursing support services of the facility. The Director of Nursing Services shall serve on the day shift five days per week, eight hours per day, except when it is necessary to vary working hours to provide supervision on other shifts, and may satisfy the day-shift nurse requirement for five of seven days per week if he or she can meet both the nursing care needs of the patients or residents for that shift and his or her administrative and supervisory responsibilities as Director of Nursing Services;

(12) Intermediate care facility for the mentally retarded shall mean any institution, facility, place, or building, not licensed as a hospital, that provides accommodation, board, training or habilitation services, advice, counseling, diagnosis, treatment, and care, including nursing care and related medical services, for a period exceeding twenty-four consecutive hours for fifteen or more nonrelated individuals who have mental retardation or related conditions, including epilepsy, cerebral palsy, or other developmental disabilities. The requirement of fifteen or more nonrelated individuals shall not apply to any intermediate care facility for the mentally retarded which has a valid license as of January 1, 1988;

(13) Residential care facility shall mean any institution, facility, place, or building in which there are provided for a period exceeding twenty-four consecutive hours accommodation, board, and care, such as personal assistance in feeding, dressing, and other essential daily living activities, to four or more nonrelated individuals who by reason of illness, disease, injury, deformity, disability, or physical or mental

infirmity are unable to sufficiently or properly care for themselves or manage their own affairs but do not require the daily services of a licensed registered nurse or licensed practical nurse;

(14) Domiciliary facility shall mean any institution, facility, place, or building in which there are provided for a period exceeding twenty-four consecutive hours accommodation and supervision to four or more individuals, not related to the owner, occupant, manager, or administrator thereof, who are essentially capable of managing their own affairs but who are in need of supervision, including supervision of nutrition, by the institution, facility, place, or building on a regular, continuing basis but not necessarily on a consecutive twenty-four-hour basis. This definition shall not include those homes or facilities providing casual care at irregular intervals;

(15) Mental health center shall mean any institution, facility, place, or building, not licensed as a hospital, which is used to provide for a period exceeding twenty-four consecutive hours accommodation, board, and advice, counseling, diagnosis, treatment, care, or services primarily or exclusively to persons residing or confined in the institution, facility, place, or building who are afflicted with a mental disease, disorder, or disability;

(16) Center for the developmentally disabled shall mean any residential institution, facility, place, or building, not licensed as a hospital, which is used to provide accommodation, board, and training, advice, counseling, diagnosis, treatment, care, including medical care when appropriate, or services primarily or exclusively to four or more persons residing in the institution, facility, place, or building who have developmental disabilities;

(17) Alcoholic treatment center shall mean any institution, facility, place, or building, not licensed as a hospital, including any private dwelling, which is used to provide residential care, treatment, services, maintenance, accommodation, or board in a group setting primarily or exclusively for individuals having any type of habituation, dependency, or addiction to the use of alcohol, in which are provided guidance, supervision, and personal services relating to those areas of adjustment which enable the alcohol dependent or alcoholic to move into independent living in normal surroundings but not services that can be rendered only by a physician or within the confines of a hospital, and which is not a permanent residence but only a temporary one. Alcoholic treatment center shall include institutions, facilities, places, or buildings in which there are provided nonresidential programs and services primarily or exclusively to nonresidents of the institution, facility, place, or building having any type of habituation, dependency, or addiction to the use of alcohol. Specific types or categories of alcoholic treatment centers may be

further defined by appropriate rule and regulation of the department not inconsistent with this definition;

(18) Drug treatment center shall mean any institution, facility, place, or building, not licensed as a hospital, including any private dwelling, which is used to provide residential care, treatment, services, maintenance, accommodation, or board in a group setting primarily or exclusively for individuals who have any type of habituation, dependency, or addiction to the use of any kind of controlled substance, narcotic drug, or other type of drug, in which are provided guidance, supervision, and personal services relating to those areas of adjustment which enable the drug user, dependent, or addict to move into independent living in normal surroundings but not services that can be rendered only by a physician or within the confines of a hospital, and which is not a permanent residence but only a temporary one. Drug treatment center shall include institutions, facilities, places, or buildings in which there are provided nonresidential programs and services primarily or exclusively to nonresidents of the institution, facility, place, or building having any type of habituation, dependency, or addiction to the use of any kind of controlled substance, narcotic drug, or other type of drug. Specific types or categories of drug treatment centers may be further defined by appropriate rule and regulation of the department not inconsistent with this definition;

(19) Home health agency shall mean a public agency, private organization, or subdivision of such an agency or organization which is primarily engaged in providing skilled nursing care or a minimum of one other therapeutic service as defined by the department on a full-time, part-time, or intermittent basis to patients in a place of temporary or permanent residence used as the patient's home under a plan of care as prescribed by the attending physician and which meets the rules, regulations, and standards as established by the department. Nothing in this subdivision shall be construed to require (a) a physician's plan of care, (b) a summary report to the physician, (c) a progress report, or (d) a discharge summary when only personal care or assistance with the activities of daily living, as such terms are defined in section 71-6602, are provided. Parent home health agency shall mean the primary home health agency which establishes, maintains, and assures administrative and supervisory control of branch offices and subunits. Branch office shall mean a home health agency which is at a location or site providing services within a portion of the total geographic area served by the parent agency and is in sufficient proximity to share administration, supervision, and services with its parent agency in a manner that renders it unnecessary for the branch independently to meet licensure requirements. A

branch office shall be part of its parent home health agency and share administration and services. Subunit shall mean a home health agency which serves patients in a geographic area different from that of the parent agency and which, by virtue of the distance between it and the parent agency, is judged incapable of sharing administration, supervision, and services on a daily basis and shall independently meet the licensing requirements for home health agencies. Home health agency shall not include private duty nursing registries as long as the private duty nursing registrant is the direct payee from the patient. Home health agency shall not apply to the practice of home health care by other licensed medical persons as authorized by the practice of their particular specialty nor to the individuals providing homemaker or chore services within the home;

(20) Developmental disability shall mean a severe, chronic disability of a person which (a) is attributable to a mental or physical impairment or combination of mental and physical impairment, (b) is manifested before the person attains the age of twenty-two, (c) is likely to continue indefinitely, (d) results in substantial functional limitations in three or more of the following areas of major life activity: Self-care; receptive and expressive language; learning; mobility; self-direction; capacity for independent living; and economic self-sufficiency, and (e) reflects the person's need for a combination and sequence of special interdisciplinary or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated;

(21) Qualified mental retardation professional shall mean any person (a) who has satisfied any of the educational requirements listed in this subdivision, (b) who has at least two years of additional experience in treating persons with mental retardation, one of which was spent in an administrative capacity, and (c) who has offered proof of fulfillment of the requirements prescribed in this subdivision to the department. Educational requirements to satisfy this subdivision shall include the following: A psychologist with at least a master's degree in psychology from an accredited college or university and with specialized training or one year of experience in treating persons with mental retardation; a physician licensed under the Uniform Licensing Law to practice medicine and surgery, osteopathic medicine and surgery, or as an osteopathic physician and with specialized training or one year of experience in treating persons with mental retardation; an educator with a degree in education from an accredited college or university and with specialized training or one year of experience in working with persons with mental retardation; or a certified social worker or certified master social worker certificated under the Uniform Licensing Law who has at

least three years' social work experience and specialized training or one year of experience in working with persons with mental retardation; and

(22) Nursing facility shall mean any institution, facility, place, or building or a distinct part of any institution, facility, place, or building which is primarily devoted to providing to inpatients nursing care and related services for patients who require medical or nursing care or rehabilitation of injured, disabled, or sick persons. Unless a waiver is granted pursuant to section 7 of this act, a nursing facility shall use the services of (a) a licensed registered nurse for at least eight consecutive hours per day, seven days per week, and (b) a licensed registered nurse or licensed practical nurse on a twenty-four-hour basis seven days per week. Except when waived under section 7 of this act, a nursing facility shall designate a licensed registered nurse or licensed practical nurse to serve as a charge nurse on each tour of duty. The Director of Nursing Services shall be a licensed registered nurse, and this requirement shall not be waived. The Director of Nursing Services may serve as a charge nurse only when the nursing facility has an average daily occupancy of sixty or fewer residents.".

2. The following new sections have been inserted:

"Sec. 78. Section 82 of this act shall become operative October 1, 1991. Sections 18, 19, 77, and 81 of this act shall become operative July 1, 1991. Sections 17, 20 to 23, 78 to 80, and 84 of this act shall become operative on their effective date. The other sections of this act shall become operative three calendar months after the adjournment of this legislative session.

Sec. 80. That original sections 71-162, 71-1,147.03, 71-1,147.05, 71-1,147.07, and 71-1,147.08, Reissue Revised Statutes of Nebraska, 1943, are repealed.

Sec. 83. That original sections 71-125, 71-131, 71-132, 71-138, 71-382, 71-503.01, 71-601, 71-605.02, 71-612, 71-617.15, 71-627, 71-634, 71-1559, 71-2618, 71-3508.04, 71-3702 to 71-3706, 71-3708 to 71-3710, 71-3713, 71-3714, 71-4604.01, 71-4624, 71-6303, 71-6601 to 71-6603, 71-6605 to 71-6607, 71-6609, 71-6612, 71-6614, 71-6615, 77-2602, 81-216.27, 81-638, 81-643, 81-644, 81-645, 81-647, and 81-649, Reissue Revised Statutes of Nebraska, 1943, sections 44-32,163, 81-642, and 81-648, Revised Statutes Supplement, 1990, and section 71-2017.01, Reissue Revised Statutes of Nebraska, 1943, as amended by section 4, Legislative Bill 244, Ninety-second Legislature, First Session, 1991, and also sections 71-126, 71-6604, 71-6610, 71-6611, and 71-6613, Reissue Revised Statutes of Nebraska, 1943, are repealed.".

3. In lieu of the Moore amendment, AM1593, in the Wesely amendment, AM1611, on page 65, line 8, "ten" has been struck, shown as stricken, and "twenty" inserted.

4. In the Wesely amendment, AM1611:

a. Sections 51 to 53 have been struck and sections 1, 6, 7 to 11, 13, 14, 17 to 22, 23 to 39, and 40 to 50 have been renumbered as sections 12, 17, 20 to 24, 26, 76, 29 to 34, 36 to 52, and 65 to 75, respectively;

b. On page 11, the matter beginning with "Bureau" in line 18 through the comma in line 19 has been struck, the old matter shown as stricken, and "bureau" inserted; and in line 24 the new matter has been struck;

c. On page 12, line 1, the matter beginning with "Health" through "Health" has been struck, the old matter shown as stricken, and "bureau" inserted;

d. On page 15, line 23, the new matter has been struck and "or each search made at the applicant's request" has been inserted after "applicant";

e. On page 17, line 10, "department" has been struck, shown as stricken, and "Department of Health" inserted;

f. On page 18, line 10, "Department of Health" has been struck, shown as stricken, and "department" inserted;

g. On page 25, line 13, "effective" has been struck and "operative" inserted and "act" has been struck and "section" inserted;

h. On page 31, line 6, an underscored comma has been inserted after "Trainee";

i. On page 33, line 5, "subdivision" has been struck, shown as stricken, and "subsection" inserted;

j. On page 34, line 1, "persons who meet" has been struck, shown as stricken, and "a person who meets" inserted;

k. On page 36, line 12, the new matter has been struck;

l. On page 37, line 12, the comma has been struck and shown as stricken and an underscored comma has been inserted after "and"; in line 13 an underscored comma has been inserted after "April"; and in line 14 "a" has been inserted after the first comma;

m. On page 39, line 5, "effective" has been struck and "operative" inserted; in line 6 "act" has been struck and "section" inserted; in line 16 an underscored comma has been inserted after "duties"; in line 18 the comma has been struck and shown as stricken; and the matter beginning with "Board" in line 22 through "Specialists" in line 23 has been struck, the old matter shown as stricken, and "board" inserted;

n. On page 40, the matter beginning with "Board" in line 6 through "Specialists" in line 7 has been struck, the old matter shown as stricken, and "board" inserted;

o. On page 41, line 24, the comma has been struck and shown as stricken;

p. On page 63, lines 8, 11, 12, 15, and 16; and page 64, line 7, the new matter has been struck and the stricken matter reinstated;

q. On page 64, line 18; and page 65, line 10, "Chapter 77, article 26" has been struck, shown as stricken, and "section 77-2602" inserted;

r. On page 65, line 5; page 66, lines 3 and 22; page 69, line 7; page 70, line 15; and page 74, lines 5 and 16, "and sections 75 and 76 of this act" has been inserted after "81-650";

s. On page 67, line 6, "cancer" has been inserted after "the"; and in line 11 "5 of this act" has been struck and "81-647" inserted;

t. On page 68, line 8, "cancer" has been inserted after "the"; and in line 20 "cancer" has been inserted before "registry";

u. On page 68, line 2; and page 73, lines 3 and 20, "and sections 75 and 76 of this act" has been inserted after "81-650";

v. On page 69, line 20, "such" has been inserted before "sections" and "81-642 to 81-650" has been struck and shown as stricken;

w. On page 70, line 19, "such" has been inserted before "sections"; and in lines 19 and 20 "81-642 to 81-650" has been struck and shown as stricken;

x. On page 71, line 9, an underscored comma has been inserted after "cure"; and in line 15 the first comma has been struck;

y. On page 73, line 15, the comma has been struck; and in line 19 an underscored comma has been inserted after "nondisclosure";

z. On page 74, line 1, the second comma has been struck and shown as stricken; in line 3 "takes" has been struck, shown as stricken, and "take" inserted; in line 4 "and" has been struck; in line 6 "such" has been inserted before "sections" and an underscored period has been inserted after "sections"; and in line 7 "81-642 to 81-650." has been struck and shown as stricken; and

aa. On page 75, line 2, "sections 81-642 to 81-650" has been struck and "such sections" inserted; and in line 11 "deemed" has been struck.

5. In the Wesely amendment, AM0916:

a. Sections 10 to 21 have been renumbered as sections 53 to 64, respectively;

b. On page 17, lines 14 and 21; page 23, line 21; page 30, line 4; and page 31, lines 6 and 17, "16 and 17" has been struck and "59 and 60" inserted;

c. On page 19, line 24, "and" has been struck;

d. On page 20, line 12; page 22, line 3; and page 28, line 8, "effective" has been struck and "operative" inserted and "act" has been struck and "section" inserted;

e. On page 21, line 2, "and" has been struck and shown as stricken; in line 6 "16" has been struck and "59" inserted; in line 14 "effective" has been struck and "operative" inserted and "act." has been struck and "section;" inserted; and in lines 19 and 24 "17" has been struck and "60" inserted;

f. On page 22, line 4, "17" has been struck and "60" inserted; in line 6 "one of" has been inserted after "to"; and in line 10 "(h)" has been struck and "(6)" inserted;

g. On page 26, line 17, "function" has been struck and "functioning" inserted;

h. On page 28, line 14, "77-6603" has been struck and "71-6603" inserted; in line 20 "16" has been struck and "59" inserted; and in line 21 "program" has been struck; and

i. On page 29, line 6, the first comma has been struck and "or" inserted and the second comma has been struck.

6. In the Lindsay et al. amendment, AM0708:

a. Section 12 has been struck and sections 6, 7, 11, 13, 15, 16, and 17 have been renumbered as sections 18, 19, 77, 79, 81, 82, and 84;

b. On page 1, line 13, the second comma has been struck and shown as stricken;

c. On page 5, line 18, the first and last commas have been struck and shown as stricken;

d. On page 6, the matter beginning with "That" in line 16 through line 23 has been struck; and in line 24 "(1)" has been inserted before "The"; and

e. On page 7, line 1, both commas have been struck; and in line 13 "subsection" has been struck and "section" inserted; and

f. On page 8,

"(4) If Legislative Bill 830, Ninety-second Legislature, First Session, 1991, becomes law, the duties imposed by this section on the office of mental retardation shall be carried out by the Department of Public Institutions." has been inserted after line 6; in line 18 the last comma has been struck and "and" inserted; in line 19 "and 83-1,143.04," has been struck; and in line 20 "and also section 83-1,143.04, Reissue Revised Statutes of Nebraska, 1943," has been inserted after the second comma.

7. In the Wesely amendment, AM0770:

a. The following new amendment has been inserted:

"2. Renumber remaining sections accordingly.";

b. Underscoring has been inserted in sections 1 to 11;

c. On page 1, line 2, "This" has been struck and "Sections 1 to 11 of this" inserted; and in line 14 the semicolon has been struck and an underscored comma inserted; and

d. On page 4, line 17, "Back-up" has been struck and "Providing backup" inserted.

8. On page 1, lines 2 through 12 and all amendments thereto have been struck and "amend sections 71-125, 71-131, 71-132, 71-138, 71-162, 71-1,132.06, 71-1,132.11, 71-1,147.03, 71-1,147.05, 71-1,147.07, 71-1,147.08, 71-382, 71-503.01, 71-601, 71-605.02, 71-612, 71-617.15, 71-627, 71-634, 71-1559, 71-2618, 71-3508.04, 71-3702 to 71-3706, 71-3708 to 71-3710, 71-3713, 71-3714, 71-4604.01, 71-4624, 71-6303, 71-6601 to 71-6603, 71-6605 to 71-6607, 71-6609, 71-6612, 71-6614, 71-6615, 77-2602, 81-216.27, 81-638, 81-643, 81-644, 81-645, 81-647, and 81-649, Reissue Revised Statutes of Nebraska, 1943, sections 44-32,163, 81-642, and 81-648, Revised Statutes Supplement, 1990, and section 71-2017.01, Reissue Revised Statutes of Nebraska, 1943, as amended by section 4, Legislative Bill 244, Ninety-second Legislature, First Session, 1991; to adopt the Critical Incident Stress Debriefing Act; to change and eliminate provisions relating to examinations, fees, and funds; to permit disclosure of certain confidential reports as prescribed; to change provisions relating to the scope of nursing, immunity, birth certificates, home health aides, and the cancer registry; to state intent; to define, redefine, and eliminate terms; to rename sanitarians, a board, and a fund; to provide penalties; to provide duties for the office of mental retardation or Department of Public Institutions and the Board of Nursing; to eliminate provisions relating to home health aides and special care providers; to harmonize provisions; to provide operative dates; to provide severability; to repeal the original sections, and also sections 71-126, 71-6502, 71-6604, 71-6610, 71-6611, 71-6613, and 83-1,143.04, Reissue Revised Statutes of Nebraska, 1943; and to declare an emergency." inserted.

9. On page 9, lines 2, 12, 16, 17, 19, and 21, paragraphing has been inserted before the first left parenthesis; in lines 12 and 16 "to" has been struck and "To" inserted; in lines 17, 19, and 21 "to" has been struck, shown as stricken, and "To" inserted; and in line 24 paragraphing has been inserted before "The".

10. On page 15, lines 2 and 22; and page 16, line 5, paragraphing has been inserted after the period.

11. On page 16, line 18, "8" has been struck and "28" inserted.

Enrollment and Review Change to LB 703A

The following changes, required to be reported for publication in the Journal, have been made:
ER7074

1. On page 2, lines 2 and 3 and 4, "Bureau of Vital Statistics" has been struck and "Department of Health Cash" inserted.

Enrollment and Review Change to LB 840

The following changes, required to be reported for publication in the Journal, have been made:
ER7073

1. In the E & R amendment, AM5137, on page 23, line 13, the new matter has been struck and the stricken matter reinstated; and in line 17 the comma has been struck, shown as stricken, and "or" inserted.

(Signed) Mary E. Sommermeyer
E & R Attorney

STANDING COMMITTEE REPORT
Banking, Commerce and Insurance

The Committee on Banking, Commerce and Insurance desires to report favorably upon the appointment listed below. The Committee suggests the appointment be confirmed by the Legislature and suggests a record vote.

Gerald L. Schleich - Nebraska Research and Development Authority

VOTE: Aye: Senators Landis, Abboud, Hall, Lindsay, and Wesely. Absent: Senators Schmit, Conway, and Haberman.

(Signed) David Landis, Chairperson

SELECT FILE

LEGISLATIVE BILL 843. Mr. Schmit offered the following amendment:
AM2002

(Amendments to AM1508)

1. On page 73, strike lines 2 and 3 and insert:

"GENERAL FUND	5,000,000	5,000,000
PROGRAM TOTAL	5,000,000	5,000,000".

2. On page 74, strike line 3 and insert:

"GENERAL FUND	6,946,966	6,910,729"

and strike line 5 and insert:

"AGENCY TOTAL 6,956,966 6,920,729".

Mrs. Hillman asked unanimous consent to be excused until she returns. No objections. So ordered.

Mr. Schmit withdrew his pending amendment.

Mr. Wesely renewed his pending amendment, AM1987, found in the Journal on page 2311.

Mr. Moore offered the following amendment to the pending Wesely amendment:
AM2001

(Amendments to AM1987)

1. On page 1, strike lines 3 through 21 and insert the following:

"(a) If the Whitehall School on the Nebraska Center for Children and Youth campus is closed, it is the intent of the Legislature that the Director of Social Services file a report with the Legislative Fiscal Office regarding the following:

(i) That the closing of Whitehall School will not result in higher costs on an annual basis beginning in FY1991-92 to the Department of Social Services than the savings that will be realized if the school is closed;

(ii) The manner in which local school districts are meeting the educational needs of the children served by Whitehall School at the time of its closing; and

(iii) Any children served by the Whitehall School at the time of its closure who are placed out-of-state.

(b) It is the further intent of the Legislature:

(i) That services currently provided by the Family Resource Center at the Nebraska Center for Children and Youth will not be affected; and

(ii) That the part of the building currently housing the school will be available for use by the Lincoln Public Schools.".

2. On page 2, strike lines 1 and 2.

MR. WARNER PRESIDING

PRESIDENT MOUL PRESIDING

Mrs. Nelson asked unanimous consent to be excused until she returns. No objections. So ordered.

The Moore amendment was adopted with 29 ayes, 1 nay, 11 present and not voting, and 8 excused and not voting.

The pending Wesely amendment, as amended, was adopted with 25 ayes, 0 nays, 16 present and not voting, and 8 excused and not voting.

Mr. Schmit offered the following amendment:
AM2003

(Amendments to AM1508)

1. On page 73, strike lines 2 and 3 and insert:

"GENERAL FUND	1,023,016	947,500
PROGRAM TOTAL	1,023,016	947,500".

2. On page 74, strike line 3 and insert:

"GENERAL FUND	2,969,982	2,858,229"

and strike line 5 and insert:

"AGENCY TOTAL	2,979,982	2,868,229".

Mr. Schmit moved for a call of the house. The motion prevailed with 17 ayes, 1 nay, and 31 not voting.

Mr. Schmit requested a roll call vote on his amendment.

Voting in the affirmative, 15:

Chizek	Hefner	Lamb	Peterson	Schmit
Hall	Horgan	Lindsay	Rogers	Wesely
Hartnett	Labedz	Morrissey	Schellpeper	Will

Voting in the negative, 18:

Ashford	Beyer	Johnson, L.	Moore	Warner
Baack	Coordsen	Johnson, R.	Robinson	Wehrbein
Bernard-Stevens	Crosby	Kristensen	Schimek	Wickersham
	Hillman	Landis	Schrock	

Present and not voting, 8:

Beutler	Cudaback	Rasmussen	Smith	Withem
Byars	Nelson	Robak		

Absent and not voting, 1:

Chambers

Excused and not voting, 7:

Abboud	Dierks	Haberman	Lynch	Pirsch
Conway	Elmer			

The Schmit amendment lost with 15 ayes, 18 nays, 8 present and not voting, 1 absent and not voting, and 7 excused and not voting.

The Chair declared the call raised.

Mr. Schmit asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Bernard-Stevens offered the following amendment:
AM1733
(Amendments to Standing Committee amendments, AM1508)

1. On page 61, strike line 12 and insert:
"GENERAL FUND 71,422,364 78,704,819"
Strike line 15 and insert:
"PROGRAM TOTAL 147,841,033 159,011,102"
in line 18 strike "$71,307,364" and insert "$71,422,364"; and in line 22 strike "$78,567,861" and insert "$78,704,819".

2. On page 65, strike line 20 and insert:
"GENERAL FUND 2,686,382 3,108,823"
and strike line 22 and insert:
"TOTAL 7,267,661 8,508,424".

3. On page 67, after line 3 insert:
There is included in the appropriation to this program for FY1991-92 $115,000 General Funds and for FY1992-93 $136,950 General Funds to pay for liability and property damage insurance for family foster parents.".

4. On page 69, strike line 8 and insert:
"GENERAL FUND 230,877,239 262,133,062"
and strike line 11 and insert:

1 "AGENCY TOTAL 635,515,480 700,780,317".

Mr. Cudaback and Mrs. Labedz asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Bernard-Stevens moved for a call of the house. The motion prevailed with 15 ayes, 0 nays, and 34 not voting.

Mr. Bernard-Stevens requested a roll call vote on his amendment.

Voting in the affirmative, 27:

Baack	Crosby	Labedz	Robak	Warner
Bernard-Stevens	Hall	Landis	Schellpeper	Wesely
Chambers	Hartnett	Lindsay	Schimek	Wickersham
Chizek	Horgan	Morrissey	Schrock	Will
Coordsen	Johnson, R.	Nelson	Smith	Withem
	Kristensen	Rasmussen		

Voting in the negative, 6:

Ashford	Johnson, L.	Lamb	Moore	Wehrbein
Hillman				

Present and not voting, 6:

Beutler	Byars	Peterson	Robinson	Rogers
Beyer				

Absent and not voting, 1:

Hefner

Excused and not voting, 9:

Abboud	Cudaback	Elmer	Lynch	Schmit
Conway	Dierks	Haberman	Pirsch	

The Bernard-Stevens amendment was adopted with 27 ayes, 6 nays, 6 present and not voting, 1 absent and not voting, and 9 excused and not voting.

Mr. Wesely offered the following amendment:
AM2011

(Amendments to AM1508)

1. On page 21, after line 13; and on page 52, after line 16 insert:

"It is the intent of the Legislature that the Department of Public Institutions and the developmental disabilities regional governing boards work with the Division of Rehabilitation Services to develop a plan to provide vocational rehabilitation services and supported work programs for persons with developmental disabilities. The plan shall be submitted by November 1, 1991, to the Appropriations Committee of the Legislature. The goal of the plan shall be to utilize up to $284,000 in FY1991-92 and up to $402,000 in FY1992-93 provided by the Department of Public Institutions and the developmental disabilities regional governing boards as a match to provide vocational rehabilitation services to persons with developmental disabilities.".

The Wesely amendment was adopted with 32 ayes, 0 nays, 8 present and not voting, and 9 excused and not voting.

Advanced to E & R for engrossment.

MOTION - Suspend Rules

Mr. Hall moved to suspend the rules, Rule 3, Section 13, to allow scheduling of the public hearing on LR 186CA.

The Hall motion to suspend the rules prevailed with 31 ayes, 1 nay, 8 present and not voting, and 9 excused and not voting.

NOTICE OF COMMITTEE HEARING
Revenue

LR 186CA Thursday, May 23, 1991 8:00 a.m.

(Signed) Tim Hall, Chairperson

UNANIMOUS CONSENT - Print in Journal

Mr. Landis asked unanimous consent to print the following amendment to LB 72 in the Journal. No objections. So ordered.

AM1991

1. In the Standing Committee amendments, AM1411:

a. Insert the following new section:

"Sec. 3. (1) To determine the issue of community support for the potential siting of a facility in a county pursuant to the Low-Level Radioactive Waste Disposal Act if an application for a license is denied pursuant to an election held pursuant to section 2 of this act, any county, other than a county holding an election pursuant to such section, may submit the question of whether or not there is community support for the potential siting of a facility in such county to the registered voters of such county. If the question is not submitted to the registered voters of a county pursuant to this section, community support shall be deemed to exist in such county.

(2) The county board of a county may, by a resolution adopted by a majority of its members, authorize a special election to determine community support for the purpose of the potential siting of a facility in the county. If the county board resolves to hold such special election, the election shall be held on the same date as the first special, primary, or general statewide election held after the election held pursuant to section 2 of this act. Notice of the special election shall be given in the same manner as notice is given for other county elections. The county clerk or election commissioner shall have the necessary ballots printed and distributed to the designated polling places.

(3) Any registered voter who is a resident of the county may vote on the question. If a majority of the registered voters voting on the question votes in favor of the potential siting of the facility in the county, community support shall be deemed to exist. The county clerk or election commissioner shall forward to the Secretary of State pursuant to law the official canvass of the votes cast in his or her county on the question. The county canvassing board shall canvass the results of the election and certify the results to the county board. Each county board shall send a copy of the election results to the Central Interstate Low-Level Radioactive Waste Commission. The cost of the election

shall be paid by the county.

(4) The results of a special election held pursuant to this section shall be used by the commission for purposes of determining community support for the potential siting of a facility pursuant to the act after the effective date of this act.";

b. On page 3, strike beginning with "clerk" in line 3 through "state" in line 6; and after line 13 insert the following new subsection:

"(6) The election authorized in this section shall be held in any county in which a preferred site has been selected by the developer on or before the effective date of this act."; and

c. Renumber the remaining section accordingly.

2. In the E & R amendments, AM5147, on page 1, line 14, strike "section 2" and insert "sections 2 and 3".

VISITORS

Visitors to the Chamber were 26 third and fourth grade students and teacher from Garland; 58 fourth grade students, teachers, and sponsors from Mount View School, Omaha; and 60 fourth grade students and teachers from Hitchcock School, Omaha.

RECESS

At 12:15 p.m., on a motion by Mr. Baack, the Legislature recessed until 1:30 p.m.

AFTER RECESS

The Legislature reconvened at 1:32 p.m., President Moul presiding.

ROLL CALL

The roll was called and all members were present except Mr. Haberman who was excused; and Messrs. Chambers, Conway, Elmer, Hall, R. Johnson, Lynch, Robinson, Rogers, Schmit, Mmes. Labedz, Pirsch, and Robak who were excused until they arrive.

SELECT COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 829. Placed on Select File as amended.
(E & R amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM5164.)

LEGISLATIVE BILL 355. Placed on Select File as amended.
E & R amendment to LB 355:
AM5165

1. In the Ashford-Schellpeper amendment, AM1909:

a. On page 2, line 19, after "person" insert a comma; and in line 22 strike the third comma;

b. On page 6, line 12, strike "rent,"; and in line 13 after the comma insert "rent,";

c. On page 7, lines 13 and 14 and 17; page 8, line 13; page 9, line 17; page 10, lines 15 and 18; and page 11, lines 14 and 15, strike "Nebraska State Patrol" and insert "patrol";

d. On page 8, line 21, strike the comma;

e. On page 9, line 10, after "history" insert "record";

f. On page 11, line 5, strike the second "Nebraska State Patrol" and insert "patrol";

g. On page 14, line 2, after the first comma insert "lease, rental," and before "of" insert ", lease, rental, or transfer"; and

h. On page 15, lines 2 and 3, strike "this act" and insert "such sections".

2. On page 1, strike beginning with "require" in line 1 through "procedures" in line 4 and insert "state intent; to require a certificate for the purchase, lease, rental, or transfer of a handgun; to provide exceptions; to provide for application procedures, an investigation, time limits, and an appeal; to provide penalties; to provide for a review of automated criminal history files, procedures for a criminal history record check, and an annual report; to provide powers and duties for the Nebraska State Patrol; to provide for the effect of city and village ordinances".

Correctly Engrossed

The following bills were correctly engrossed: 456, 456A, and 549.

(Signed) Eric Will, Chairperson

Enrollment and Review Change to LB 456

The following changes, required to be reported for publication in the Journal, have been made:
ER7076

1. In the Wesely-Lynch amendment, AM1908:

a. On page 1, line 13, "Department of Health" has been struck and "department" inserted; and

b. On page 2, line 7, "the" has been inserted before "investigation".

2. In the Standing Committee amendment, AM0514:

a. On page 1, line 17, the matter beginning with "chemical" through the third "or" has been struck; and in line 18 "or dependence on or active addiction to alcohol or any controlled substance or narcotic drug" has been inserted after "intoxication"; and

b. On page 2, line 3, the matter beginning with "chemical" through "impairment" has been struck and "habitual intoxication" inserted; and in line 4 "dependency" has been struck and "dependence on or active addiction to alcohol or any controlled substance or narcotic drug" inserted.

Enrollment and Review Change to LB 549

The following changes, required to be reported for publication in the Journal, have been made:
ER7075

1. On page 1, line 11, "84-1321," has been inserted after the third comma.

2. On page 2, line 20, "the suspension of certain transactions and the" has been inserted after "for".

(Signed) Mary E. Sommermeyer
E & R Attorney

RESOLUTIONS

LEGISLATIVE RESOLUTION 188. Introduced by Ashford, 6.

WHEREAS, October 12, 1992, marks the five hundredth anniversary of the voyages of Christopher Columbus; and

WHEREAS, also in 1992 Nebraska marks its one hundred twenty-fifth year of statehood; and

WHEREAS, the progress of our state and nation are the direct result of the accomplishments and growing understanding among natives to this land and those who settled here upon discovering a new life; and

WHEREAS, the challenges faced and overcome by our predecessors have taught us many lessons and have helped shape a state and nation of great potential; and

WHEREAS, our work today is enriched by our history and will enrich the future of our children and grandchildren and help all people realize the potential of this land.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That 1992 shall be a year of remembrance and celebration of Nebraska's rich heritage and bright future through observances of both The Year of the Quincentenary and the Nebraska Quasquicentennial, coordinated by the Nebraska Quasquicentennial Commission.

Laid over.

LEGISLATIVE RESOLUTION 189. Introduced by Hartnett, 45.

WHEREAS, the Bellevue East High School Boys and girls Track Teams are the 1991 Class A Champions; and

WHEREAS, these young men and women have demonstrated athletic excellence deserving statewide recognition; and

WHEREAS, the winning of a state high school championship in track and field competition demonstrates the willingness of these young men and women and their coaches to work, concentrate, and cooperate as a team.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature commend and extend their congratulations to the members of the Bellevue East High School Boys and Girls Track Teams and their coaches.

2. That a copy of this resolution be forwarded to the teams and coaches.

Laid over.

SPEAKER BAACK PRESIDING

SELECT FILE

LEGISLATIVE BILL 845. E & R amendment, AM5151, found in the Journal on page 2113, was adopted.

Mr. Ashford offered the following amendment:
AM1623
(Amendments to Standing Committee amendments, AM1367)

1. On page 39, lines 18 and 19, strike "10,619,129 23,171,652" and insert "13,619,129 26,171,652".

PRESIDENT MOUL PRESIDING

Messrs. Coordsen and Peterson asked unanimous consent to be excused until they return. No objections. So ordered.

Mrs. Robak moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 2 nays, and 22 not voting.

The Ashford amendment lost with 7 ayes, 18 nays, 17 present and not voting, and 7 excused and not voting.

Messrs. Ashford, Landis, and Mrs. Robak asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Warner offered the following amendment:
AM1986
(Amendments to Standing Committee amendments, AM1367)

1. On page 1, strike lines 5 through 21 and insert:

"(1) Program No. 122 - Legislative Services

	FY1991-92	FY1992-93
GENERAL FUND	200,971	454,075
PROGRAM TOTAL	200,971	454,075
SALARY LIMIT	192,695	428,566

(2) Program No. 123 - Clerk of the Legislature

	FY1991-92	FY1992-93
GENERAL FUND	58,428	127,459
PROGRAM TOTAL	58,428	127,459
SALARY LIMIT	55,914	120,362

(3) Program No. 126 - Legislative Research

	FY1991-92	FY1992-93

GENERAL FUND	39,690	82,571
PROGRAM TOTAL	39,690	82,571
SALARY LIMIT	37,895	78,003

(4) Program No. 127 - Revisor of Statutes

	FY1991-92	FY1992-93
GENERAL FUND	35,286	70,060
PROGRAM TOTAL	35,286	70,060
SALARY LIMIT	33,260	65,577

(5) Program No. 504 - Office of Public Counsel (Ombudsman)

	FY1991-92	FY1992-93
GENERAL FUND	13,586	32,046
PROGRAM TOTAL	13,586	32,046
SALARY LIMIT	12,965	30,001

(6) Program No. 638 - Fiscal and Program Analysis

	FY1991-92	FY1992-93
GENERAL FUND	39,061	74,247
PROGRAM TOTAL	39,061	74,247
SALARY LIMIT	36,840	69,756

FOR INFORMATIONAL PURPOSES ONLY: Total Appropriations to Agency No. 3 and Fund Source

	FY1991-92	FY1992-93
GENERAL FUND	387,022	840,458
AGENCY TOTAL	387,022	840,458".

2. On page 2, strike lines 1 through 20.

Messrs. R. Johnson and Conway asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Baack moved for a call of the house. The motion prevailed with 18 ayes, 0 nays, and 31 not voting.

Mr. Baack requested a roll call vote on the Warner amendment.

Voting in the affirmative, 25:

Abboud	Coordsen	Hillman	Labedz	Robinson
Baack	Crosby	Horgan	Lindsay	Rogers
Beyer	Cudaback	Johnson, L.	Morrissey	Schimek
Chambers	Hall	Johnson, R.	Rasmussen	Wesely
Chizek	Hartnett	Kristensen	Robak	Withem

Voting in the negative, 8:

Bernard-Stevens	Beutler	Hefner	Moore	Wehrbein
	Byars	Landis	Warner	

Present and not voting, 9:

Lamb	Nelson	Schellpeper	Smith	Will
Lynch	Peterson	Schrock	Wickersham	

Excused and not voting, 7:

Ashford	Dierks	Haberman	Pirsch	Schmit
Conway	Elmer			

The Warner amendment was adopted with 25 ayes, 8 nays, 9 present and not voting, and 7 excused and not voting.

Advanced to E & R for engrossment.

The Chair declared the call raised.

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the attached report on the referral of Governor appointments.

Agriculture
Nebraska Dry Bean Commission
Leonard J. Treinen, Jr.
Jeffrey L. Pickering
Garold N. Batterman

Natural Resources
Central Interstate Low Level Radioactive Waste Compact Commission
Governor Benjamin Nelson

(Signed) Jerome Warner, Chairperson
Legislative Council
Executive Board

UNANIMOUS CONSENT - Print in Journal

Mr. Morrissey asked unanimous consent to print the following amendment to LB 813 in the Journal. No objections. So ordered.

AM1995
(Amendments to Standing Committee amendments, AM0749)

1. Insert the following new sections:

"Sec. 16. That section 19-2101, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

19-2101. A city ~~Cities~~ of the first class, city ~~cities~~ of the second class, and ~~villages~~ village shall have the power to purchase, construct, maintain, and improve garbage disposal plants, or systems or solid waste disposal areas, and purchase equipment for the operation thereof, for the use of their respective ~~municipalities and the inhabitants thereof~~ municipality, county, region, or state, and are hereby authorized and empowered to lease or to take land in fee within their corporate limits or without their corporate limits by donation, gift, devise, purchase, or appropriation for rights-of-way and for construction and operation of such a disposal plant, or system or solid waste disposal area.

Sec. 17. That original section 19-2101, Reissue Revised Statutes of Nebraska, 1943, is repealed.".

2. Underscore sections 1 to 15.

Ms. Schimek asked unanimous consent to print the following amendment to LB 256 in the Journal. No objections. So ordered.

AM1992
(Amendments to Standing Committee amendments, AM1207)

1. On page 4, strike beginning with "set" in line 19 through "mammogram" in line 24 and insert "in an amount equal to the medicare reimbursement rate for screening mammography".

2. On page 6, line 6, strike "403" and insert "405"; and in line 7 strike "474" and insert "494".

Mrs. Smith, Messrs. Will, and Hartnett asked unanimous consent to print the following amendment to LB 849 in the Journal. No objections. So ordered.

AM1718

1. Strike the Schmit amendment, AM1639, and all amendments thereto.

SELECT FILE

LEGISLATIVE BILL 846. Advanced to E & R for engrossment.

LEGISLATIVE BILL 846A. E & R amendment, AM5146, found in the Journal on page 2113, was adopted.

Advanced to E & R for engrossment.

Mr. Conway and Mrs. Hillman asked unanimous consent to be excused until they return. No objections. So ordered.

LEGISLATIVE BILL 847. E & R amendment, AM5148, found in the Journal on page 2114, was adopted.

Mr. Moore renewed his pending amendment, AM1585, found in the Journal on page 2228.

The Moore amendment was adopted with 25 ayes, 0 nays, 17 present and not voting, and 7 excused and not voting.

Mr. Abboud renewed his pending amendment, AM1587, found in the Journal on page 2075.

Mr. Dierks asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Abboud moved for a call of the house. The motion prevailed with 16 ayes, 0 nays, and 33 not voting.

Mr. Abboud requested a roll call vote on his amendment.

Voting in the affirmative, 19:

Abboud	Cudaback	Johnson, L.	Morrissey	Smith
Beyer	Hall	Johnson, R.	Nelson	Warner
Chambers	Hartnett	Labedz	Schellpeper	Wesely
Chizek	Hefner	Landis	Schrock	

Voting in the negative, 18:

Bernard-Stevens	Coordsen	Kristensen	Rasmussen	Wehrbein
Beutler	Crosby	Lamb	Robak	Wickersham
Byars	Hillman	Lynch	Robinson	Withem
	Horgan	Moore	Schimek	

Present and not voting, 5:

Baack	Lindsay	Peterson	Rogers	Will

Excused and not voting, 7:

Ashford	Dierks	Haberman	Pirsch	Schmit
Conway	Elmer			

The Abboud amendment lost with 19 ayes, 18 ayes, 5 present and not voting, and 7 excused and not voting.

The Chair declared the call raised.

Mr. Abboud withdrew his pending amendment, AM1586, found in the Journal on page 2095.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 842. Mr. Moore renewed his pending amendment, AM1894, found in the Journal on page 2227.

The Moore amendment was adopted with 28 ayes, 0 nays, 14 present and not voting, and 7 excused and not voting.

Mrs. Hillman asked unanimous consent to be excused until she returns. No objections. So ordered.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 841. Advanced to E & R for engrossment.

LEGISLATIVE BILL 844. E & R amendment, AM5149, found in the Journal on page 2114, was adopted.

Mr. Moore renewed his pending amendment, AM1896, found in the Journal on page 2227.

The Moore amendment was adopted with 25 ayes, 0 nays, 16 present and not voting, and 8 excused and not voting.

Mrs. Robak asked unanimous consent to be excused until she returns. No objections. So ordered.

Mr. Moore renewed his pending amendment, AM1980, found in the Journal on page 2328.

SPEAKER BAACK PRESIDING

PRESIDENT MOUL PRESIDING

The Moore amendment was adopted with 25 ayes, 0 nays, 16 present and not voting, and 8 excused and not voting.

Mr. Moore withdrew his pending amendment, AM1944, found in the Journal on page 2330.

Mr. Landis asked unanimous consent to be excused until he returns. No objections. So ordered.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 647. E & R amendment, AM5152, found in the Journal on page 2119, was adopted.

Mr. Warner offered the following amendment:
(Amendment on file in the Clerk's Office - Room 2018 - AM1574.)

Mr. Warner renewed his pending amendment, AM1946, found in the Journal on page 2331, to his pending amendment.

Mr. Beyer asked unanimous consent to be excused. No objections. So ordered.

Mr. Wickersham and Mrs. Hillman asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Warner moved for a call of the house. The motion prevailed with 21 ayes, 0 nays, and 28 not voting.

Mr. Warner requested a roll call vote on his amendment.

Voting in the affirmative, 14:

Ashford	Hall	Kristensen	Nelson	Warner
Beutler	Hefner	Lamb	Rasmussen	Wesely
Cudaback	Johnson, L.	Landis	Schimek	

Voting in the negative, 17:

Bernard-Stevens	Hartnett	Lindsay	Peterson	Schellpeper
	Horgan	Lynch	Robak	Schrock
Chizek	Johnson, R.	Moore	Robinson	Will
Crosby	Labedz	Morrissey		

Present and not voting, 9:

Baack	Chambers	Dierks	Smith	Withem
Byars	Coordsen	Rogers	Wehrbein	

Absent and not voting, 1:

Abboud

Excused and not voting, 8:

Beyer	Elmer	Hillman	Schmit	Wickersham
Conway	Haberman	Pirsch		

The Warner amendment lost with 14 ayes, 17 nays, 9 present and not voting, 1 absent and not voting, and 8 excused and not voting.

The Chair declared the call raised.

Mr. Warner withdrew his pending amendment, AM1574.

Mr. Warner renewed his pending amendment, AM1945, found in the Journal on page 2331.

The Warner amendment was adopted with 28 ayes, 0 nays, 13 present and not voting, and 8 excused and not voting.

Mr. Warner renewed his pending amendment, AM1947, found in the Journal on page 2332.

Mr. Lynch offered the following amendment to the pending Warner amendment:
AM2008

(Amendments to AM1947)

1. On page 1, line 3, after "institution" insert "and each nonprofit foundation created for the benefit and support of public institutions of higher education".

The Lynch amendment was adopted with 27 ayes, 0 nays, 14 present and not voting, and 8 excused and not voting.

The pending Warner amendment, as amended, was adopted with 26 ayes, 1 nay, 14 present and not voting, and 8 excused and not voting.

Mr. Beutler offered the following amendment:
AM2031

1. On page 3, strike lines 19 through 21 and all amendments thereto and insert:
"(3) Accredited by a member of the Council on Postsecondary Accreditation; and".

The Beutler amendment was adopted with 32 ayes, 0 nays, 10 present and not voting, and 7 excused and not voting.

Mr. Lynch offered the following amendment:
AM1940

(Amendments to AM1574)

1. Insert the following new section:
"Sec. 57. It is the intent of the Legislature that the Board of Regents of the University of Nebraska establish differential tuition rates at seventy-five percent of the established tuition rates for the respective campuses of the University of Nebraska for courses taught primarily by graduate assistants.".
2. Renumber the remaining sections accordingly.

Mr. Lynch withdrew his pending amendment.

Mr. Lindsay offered the following amendment:
FA165

Add a new section as follows:

If any section in this act or any part of any section shall be declared invalid or unconstitutional, such declaration of invalidity shall not affect the validity of the remaining portions thereof.

The Lindsay amendment was adopted with 27 ayes, 0 nays, 15 present and not voting, and 7 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 647A. E & R amendment, AM5153, found in the Journal on page 2120, was adopted.

Mr. Warner withdrew his pending amendment, AM1628, found in the Journal on page 2040.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 760. Mr. Landis withdrew his pending amendment, AM1744, found in the Journal on page 2075.

Mr. Morrissey offered the following amendment:
AM2032
(Amendments to Standing Committee amendments, AM1504)

1. On page 1, line 1, strike "Strike the original sections and insert" and insert "Insert".

2. Insert the following new amendments:

"3. On page 2, line 12; and page 3, line 3, strike 'twenty-seven', show as stricken, and insert 'twenty-eight'.

4. On pages 4, 7, and 8, strike the new matter and reinstate the stricken matter.

5. On page 6, line 14, strike 'and' and show as stricken; and in line 23 after '2008-09' insert '(h) Eighth, there shall be placed in the Solid Waste Management Fund the equivalent of one cent of such tax to carry out section 14 of this act'.".

3. Insert the following new section:

"Sec. 14. The Solid Waste Management Fund is hereby created. Any money in the fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1276.

The Legislature shall appropriate for each year from the fund the amount of cigarette tax prescribed in section 77-2602 to the Department of

Environmental Control. The appropriations shall be used to provide assistance to political subdivisions to carry out activities in accordance with the comprehensive solid waste management plan as authorized by section 81-15,166. Expenses of the department for such activities shall not exceed ten percent of the total amount received in the Solid Waste Management Fund. Appropriations from the fund to the department shall not commence until statutory authority is given by the Legislature for use of the fund which will be based on recommendations and findings contained in the comprehensive solid waste management plan.".

4. Insert underscoring in the original sections.

5. Renumber the remaining sections accordingly.

SPEAKER BAACK PRESIDING

Mrs. Smith and Mr. Schmit asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Morrissey requested a record vote on his amendment.

Voting in the affirmative, 10:

Bernard-Stevens	Hartnett	Kristensen	Morrissey	Schimek
Beutler	Johnson, R.	Lindsay	Rogers	Wesely

Voting in the negative, 22:

Abboud	Elmer	Labedz	Peterson	Warner
Baack	Hall	Landis	Rasmussen	Wehrbein
Chizek	Hefner	Moore	Robak	Will
Crosby	Hillman	Nelson	Schellpeper	Withem
Cudaback	Johnson, L.			

Present and not voting, 10:

Ashford	Chambers	Dierks	Lamb	Robinson
Byars	Coordsen	Horgan	Lynch	Schrock

Excused and not voting, 7:

Beyer Haberman Schmit Smith Wickersham
Conway Pirsch

The Morrissey amendment lost with 10 ayes, 22 nays, 10 present and not voting, and 7 excused and not voting.

Mr. Wesely offered the following amendment:
AM1948
(Amendments to Standing Committee amendments, AM1504)

1. Insert the following new amendments:

"3. On page 2, line 12, strike 'twenty-seven', show as stricken, and insert 'thirty'.

4. On page 3, line 3, strike 'twenty-seven', show as stricken, and insert 'thirty'.

5. On page 6, line 14, strike 'and' and show as stricken; and in line 23 after '2008-09' insert ';

(h) Eighth, there shall be placed in the Community Health Services Fund the sum of six hundred thousand dollars. The Community Health Services Fund is hereby created. Such fund shall be administered by the Department of Health. The fund shall be used to establish and maintain six public health regions. Any money in the fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1276;

(i) Ninth, there shall be placed in the Mammography Screening Fund the sum of one million one hundred fifty thousand dollars. The Mammography Screening Fund is hereby created. Such fund shall be administered by the Department of Health. The fund shall be used to provide free or reduced cost mammography screenings for low-income women over the age of thirty-five. Any money in the fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1276;

(j) Tenth, there shall be placed in the Childhood Vaccine Fund the sum of one million three hundred ninety thousand dollars. The Childhood Vaccine Fund is hereby created. Such fund shall be administered by the Department of Health. The fund shall be used to provide free immunizations to children under the age of nineteen. Any money in the fund available for investment shall be invested by the state investment

officer pursuant to sections 72-1237 to 72-1276;

(k) Eleventh, there shall be placed in the Aid to Dependent Children Transition Fund the sum of two hundred eighty thousand dollars. The Aid to Dependent Children Transition Fund is hereby created. Such fund shall be administered by the Department of Social Services. The fund shall be used to continue aid to dependent children assistance for one month following the date the recipient begins employment. Any money in the fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1276; and

(l) Twelfth, there shall be placed in the Early Intervention Health Care Fund the sum of six hundred thirty thousand dollars. The Early Intervention Health Care Fund is hereby created. Such fund shall be administered by the Department of Social Services. The fund shall be used to extend medical assistance to high-risk pregnant women and infants as allowed under section 1915(g) of the Social Security Act and 42 U.S.C. 1396a, as amended. Any money in the fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1276.'.".

MR. MORRISSEY PRESIDING

Mr. Wesely withdrew his pending amendment.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 854. E & R amendment, AM5157, found in the Journal on page 2121, was adopted.

Messrs. Kristensen and Beyer withdrew their pending amendment, AM1939, found in the Journal on page 2276.

Mr. Kristensen offered the following amendment:
AM2035

1. Insert the following new sections:

"Sec. 3. That section 75-363, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

75-363. (1) The parts of the federal Motor Carrier Safety Regulations, 49 C.F.R., listed in

subdivisions (a) through (j) of this subsection or any other parts referred to by such parts, in existence and effective as of January 1, ~~1990~~ 1991, are adopted as Nebraska law. The regulations shall be applicable to all carriers, drivers, and vehicles to which the federal regulations apply, to all vehicles of intrastate motor carriers registered for a gross weight over ten thousand pounds, to all intrastate motor carriers in the operation of vehicles registered by such carriers for a gross weight over ten thousand pounds, and to all drivers of such vehicles if the drivers are operating a commercial motor vehicle as defined in section 60-465 which requires a Class A commercial driver's license except as provided in subsections (2) and (3) of this section. The Legislature hereby adopts:

(a) Part 385 -- Safety Fitness Procedures;

(b) Part 390 -- Federal Motor Carrier Safety Regulations: General;

(c) Part 391, except section 391.15(c) and subpart H, sections 391.81 through 391.123, Controlled Substance Testing -- Qualifications Of Drivers;

(d) Part 392 -- Driving Of Motor Vehicles;

(e) Part 393 -- Parts And Accessories Necessary For Safe Operations;

(f) Part 394 -- Notification, Reporting And Recording Of Accidents;

(g) Part 395 -- Hours Of Service Of Drivers;

(h) Part 396 -- Inspection, Repair And Maintenance;

(i) Part 397 -- Transportation Of Hazardous Materials; Driving And Parking Rules; and

(j) Part 398 -- Transportation Of Migrant Workers.

(2) Subpart H, sections 391.81 through 391.123, Controlled Substance Testing of part 391 of the federal Motor Carrier Safety Regulations, 49 C.F.R., or any other parts referred to by such subpart as in existence and effective as of January 1, ~~1990~~ 1991, is adopted as Nebraska law. Subpart H of part 391 shall apply to all carriers and drivers to which the federal regulations apply and to all motor carriers and drivers of motor carriers who operate a motor vehicle in intrastate commerce which has a gross vehicle weight rating in excess of twenty-six thousand pounds.

(3) The regulations adopted in subsections (1) and (2) of this section shall not apply to farm trucks registered pursuant to section 60-330 with a gross weight of sixteen tons or less, liquefied petroleum gas tanks with a capacity of three thousand five hundred gallons or less, flammable liquid tanks with a capacity of three thousand gallons or less, and fertilizer and agricultural chemical application and distribution equipment transported in units with a capacity of three thousand five hundred gallons or less. The following parts and sections of the federal Motor Carrier Safety Regulations shall not apply to drivers of ~~registered~~ farm trucks registered pursuant to section 60-330 and operated solely in intrastate commerce:

(a) All of part 391;

(b) Section 395.08 of part 395; and

(c) Section 396.11 of part 396.

(4) For purposes of this section, intrastate motor carriers shall not include any motor carrier or driver excepted from the federal Motor Carrier Safety Regulations by section 390.3(f) of part 390 or any nonprofit entity, operating solely in intrastate commerce, organized for the purpose of furnishing electric service.

Sec. 4. That section 75-364, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

75-364. (1) The parts of the federal Hazardous Material Regulations, 49 C.F.R., listed below or any other parts referred to by such parts, in existence ~~as of January 1, 1990~~ and effective as of December 30, 1990, are adopted as part of Nebraska law and, except as provided in subsection (2) of this section, shall be applicable to all private, common, and contract motor vehicle carriers, drivers of such carriers, and vehicles of such carriers whether engaged in interstate or intrastate commerce:

(a) Part 171 -- General Information, Regulations, And Definitions;

(b) Part 172 -- Hazardous Materials Tables And Hazardous Materials Communications Regulations;

(c) Part 173 -- Shippers-General Requirements For Shipments And Packaging;

(d) Part 177 -- Carriage By Public Highway;

and

(e) Part 178 -- Shipping Container Specifications.

(2) The provisions of subsection (1) of this section shall not apply to the use of fuels, fertilizers, and agricultural chemicals in a normal farming or ranching operation on the farm or ranch.

(3) Liquefied petroleum gas tanks with a capacity of three thousand five hundred gallons or less, anhydrous ammonia tanks with a capacity of three thousand gallons or less, and flammable liquid tanks with a capacity of three thousand gallons or less shall be exempt from the ~~provisions of subsection (1) of this section to the extent provided in~~ requirements of part 173 and part 177 when such liquified petroleum gas tanks, anhydrous ammonia tanks, or flammable liquid tanks are transported by a motor vehicle registered pursuant to Chapter 60, article 3 and operated solely in intrastate commerce.

(4) Liquefied petroleum gas tanks with a capacity of three thousand five hundred gallons or less shall be exempt from the provisions of section 173.315(k)(5) adopted under subdivision (1)(c) of this section if such tanks have been inspected and tested in accordance with the State Fire Marshal's rules and regulations.".

2. In the Standing Committee amendments, AM1686:

a. On page 1, line 20, strike "5" and insert "7"; and

b. On page 2, line 3, after "original" insert "sections 75-363 and 75-364, Reissue Revised Statutes of Nebraska, 1943, and"; and in line 4 strike "is" and insert "are".

3. Renumber the remaining sections accordingly.

Mr. Rogers asked unanimous consent to be excused until he returns. No objections. So ordered.

The Kristensen amendment was adopted with 26 ayes, 0 nays, 16 present and not voting, and 7 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 854A. Advanced to E & R for engrossment.

SPEAKER BAACK PRESIDING

LEGISLATIVE BILL 855. E & R amendment, AM5150, found in the Journal on page 2121, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 855A. Advanced to E & R for engrossment.
LEGISLATIVE BILL 856. Advanced to E & R for engrossment.
LEGISLATIVE BILL 856A. Advanced to E & R for engrossment.
LEGISLATIVE BILL 857. Advanced to E & R for engrossment.

LEGISLATIVE BILL 502. E & R amendment, AM5155, found in the Journal on page 2120, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 651. Advanced to E & R for engrossment.

LEGISLATIVE BILL 653. E & R amendment, AM5154, found in the Journal on page 2120, was adopted.

Advanced to E & R for engrossment.

UNANIMOUS CONSENT - Print in Journal

Mr. Wickersham asked unanimous consent to print the following amendment to LB 783A in the Journal. No objections. So ordered.

AM1942

1. Strike the original sections and all amendments thereto and insert the following new sections:

"Section 1. There is hereby appropriated (1) $3,000,000 from the General Fund for FY1991-92 and (2) $2,000,000 from the General Fund for FY1992-93 to the Light-Density Rail Line Assistance Cash Fund, to aid in carrying out the provisions of Legislative Bill 783, Ninety-second Legislature, First Session, 1991.

Sec. 2. There is hereby appropriated (1) $3,000,000 from the Light-Density Rail Line Assistance

Cash Fund for FY1991-92 and (2) $2,000,000 from the Light-Density Rail Line Assistance Cash Fund for FY1992-93 to the Nebraska Railway Council, for Program 184, to aid in carrying out the provisions of Legislative Bill 783, Ninety-second Legislature, First Session, 1991.

The unexpended balance existing on June 30, 1992, is hereby reappropriated for FY1992-93 to aid in carrying out the provisions of Legislative Bill 783, Ninety-second Legislature, First Session, 1991.

Sec. 3. There is hereby appropriated (1) $700,000 from the Light-Density Rail Line Assistance Revolving Fund for FY1991-92 and (2) $200,000 from the Light-Density Rail Line Assistance Revolving Fund for FY1992-93 to the Nebraska Railway Council, for Program 185, to aid in carrying out the provisions of Legislative Bill 783, Ninety-second Legislature, First Session, 1991.

No expenditures for permanent and temporary salaries and per diems for state employees shall be made from funds appropriated in this section.

The unexpended balance existing on June 30, 1992, is hereby reappropriated for FY1992-93 to aid in carrying out the provisions of Legislative Bill 783, Ninety-second Legislature, First Session, 1991.

Sec. 4. The General Fund appropriation to the Branch Rail Revitalization Council, for Program 113, for FY1991-92 and FY1992-93, contained in Legislative Bill 843, Ninety-second Legislature, First Session, 1991, is hereby lapsed.

Sec. 5. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.".

Mr. Landis asked unanimous consent to print the following amendment to LB 167 in the Journal. No objections. So ordered.

AM2013

(Amendments to Standing Committee amendments, AM1486)

1. On page 2, line 16, after "Actuaries" insert "who is not an employee of the plan sponsor. Selection of an independent actuary by a plan sponsor shall comply with the conflict of interest provisions of the Nebraska Political Accountability and Disclosure

Act".

2. On page 5, line 11, after "dependents" insert "and the nature of any claims submitted by employees and their dependents"; and in line 15 after the period insert "No information regarding claims submitted by employees and their dependents and held by the plan sponsor shall be used directly or indirectly to alter the terms and conditions of employment of the employees. Any plan sponsor, member of its governing body, officer, employee, or agent, who knowingly or willfully violates this subsection shall be guilty of a Class III misdemeanor.".

3. On page 6, line 3, strike "all" and insert "one hundred percent of".

4. On page 12, line 5, before "Employee" insert "(1)"; and after line 9 insert the following new subsection:

"(2) If any covered employee of a plan sponsor which is a school district terminates employment with such plan sponsor and obtains employment with another plan sponsor which is a school district prior to October 1, 1994, such employee or such employee and any dependents shall not be subject to any preexisting condition period or other waiting period of the employee benefit plan of the plan sponsor with which such employment is obtained, if both such plan sponsors have obtained excess insurance from the same insurer.".

Mr. Warner asked unanimous consent to print the following amendment to LB 829 in the Journal. No objections. So ordered.

AM1911

(Amendments to AM5164)

1. Strike section 21.

2. On page 101, line 24, strike "77-27,136,".

3. Renumber the remaining sections and correct internal references accordingly.

SELECT FILE

LEGISLATIVE BILL 652. E & R amendment, AM5156, found in the Journal on page 2120, was adopted.

Mr. Chambers renewed his pending amendment, AM1715, found in the Journal on page 2056.

Messrs. Landis and Wesely asked unanimous consent to be excused until they return. No objections. So ordered.

PRESIDENT MOUL PRESIDING

Mr. Lynch moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 0 nays, and 23 not voting.

The Chambers amendment was adopted with 25 ayes, 1 nay, 14 present and not voting, and 9 excused and not voting.

Mr. Coordsen withdrew his pending amendment, AM1796, found in the Journal on page 2148.

Mr. R. Johnson asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Coordsen renewed his pending amendment, AM1905, found in the Journal on page 2222.

Messrs. Conway, Lindsay, Schrock, Withem, Ms. Schimek, and Mrs. Robak asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Coordsen moved for a call of the house. The motion prevailed with 16 ayes, 0 nays, and 33 not voting.

Mr. Coordsen requested a roll call vote on his amendment.

Voting in the affirmative, 19:

Baack	Chambers	Dierks	Labedz	Rasmussen
Bernard-Stevens	Coordsen	Elmer	Lamb	Rogers
Byars	Crosby	Hefner	Lynch	Schellpeper
	Cudaback	Hillman	Nelson	Wickersham

Voting in the negative, 8:

Ashford	Johnson, L.	Moore	Warner	Wehrbein
Chizek	Kristensen	Robinson		

Present and not voting, 7:

Beutler	Hartnett	Morrissey	Peterson	Will
Hall	Horgan			

Absent and not voting, 1:

Abboud

Excused and not voting, 14:

Beyer	Johnson, R.	Pirsch	Schmit	Wesely
Conway	Landis	Robak	Schrock	Withem
Haberman	Lindsay	Schimek	Smith	

The Coordsen amendment lost with 19 ayes, 8 nays, 7 present and not voting, 1 absent and not voting, and 14 excused and not voting.

The Chair declared the call raised.

Mr. Coordsen asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. R. Johnson renewed his pending amendment, AM1956, found in the Journal on page 2276.

Mr. Peterson asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. R. Johnson moved for a call of the house. The motion prevailed with 20 ayes, 0 nays, and 29 not voting.

Mr. R. Johnson requested a roll call vote on his amendment.

Voting in the affirmative, 21:

Ashford	Cudaback	Hefner	Lamb	Rogers
Baack	Dierks	Johnson, R.	Morrissey	Schellpeper
Byars	Elmer	Kristensen	Nelson	Wehrbein
Chizek	Hall	Labedz	Rasmussen	Wickersham
Crosby				

Voting in the negative, 11:

Bernard-Stevens	Chambers	Horgan	Moore	Warner
Beutler	Hartnett	Johnson, L.	Robinson	Will
	Hillman			

Present and not voting, 1:

Lynch

Absent and not voting, 1:

Abboud

Excused and not voting, 15:

Beyer	Haberman	Peterson	Schimek	Smith
Conway	Landis	Pirsch	Schmit	Wesely
Coordsen	Lindsay	Robak	Schrock	Withem

The R. Johnson amendment lost with 21 ayes, 11 nays, 1 present and not voting, 1 absent and not voting, and 15 excused and not voting.

The Chair declared the call raised.

Pending.

STANDING COMMITTEE REPORT
Government, Military and Veterans Affairs

LEGISLATIVE BILL 615. Placed on General File as amended.
Standing Committee amendment to LB 615:
AM2010

1. Strike original section 1 and insert the following new section:

"Section 1. That section 5-101.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

5-101.01. Based on the ~~1980~~ 1990 federal decennial census, the State of Nebraska is hereby divided into three districts of Representatives to the Congress of the United States, and each ~~of which districts~~ district shall be entitled to elect one Representative. The limits and designations of the three districts shall be as ~~hereinafter provided~~

follows: ~~The~~

(1) The first district shall contain the counties of Richardson, Nemaha, Otoe, Johnson, Pawnee, Gage, Lancaster, Saunders, Saline, Jefferson, Thayer, Fillmore, Seward, York, Butler, Dodge, Washington, Colfax, ~~Madison,~~ Burt, Stanton, Cuming, Thurston, Wayne, ~~Pierce,~~ Cedar, Knox, Dixon, and Dakota, and ~~the townships of Salt Creek, South Bend, Greenwood, Elmwood, Tipton, and Stove Creek in Cass County shall constitute the first district. The~~ that part of Cass County not located in the second district;

(2) The second district shall contain the counties of Douglas, and Sarpy, ~~Burt, and Washington, and the county of Cass except the territory in the first district shall constitute the second district. The counties of Hamilton, Clay, Nuckolls, Merrick, Nance, Boone, Antelope, Boyd, Holt, Wheeler, Greeley, Howard, Hall, Platte, Polk, Adams, Webster, Kearney, Franklin, Phelps, Harlan, Gosper, Furnas, Buffalo, Sherman, Valley, Garfield, Keya Paha, Rock, Brown, Blaine, Loup, Custer, Dawson, Lincoln, Frontier, Red Willow, Hayes, Hitchcock, Chase, Dundy, Logan, Thomas, Cherry, Hooker, McPherson, Grant, Arthur, Keith, Perkins, Deuel, Garden, Sheridan, Dawes, Box Butte, Morrill, Cheyenne, Kimball, Banner, Scotts Bluff, Sioux, and Thayer shall constitute the third district~~ and that part of Cass County which includes the North Plattsmouth precinct and the City of Plattsmouth; and

(3) The third district shall contain the counties of Polk, Platte, Madison, Pierce, Antelope, Boone, Nance, Merrick, Hamilton, Clay, Nuckolls, Webster, Adams, Hall, Howard, Greeley, Wheeler, Holt, Boyd, Garfield, Valley, Sherman, Buffalo, Kearney, Franklin, Harlan, Phelps, Furnas, Gosper, Dawson, Custer, Loup, Blaine, Keya Paha, Rock, Brown, Cherry, Thomas, Logan, Lincoln, Frontier, Red Willow, Hitchcock, Hayes, McPherson, Hooker, Grant, Arthur, Keith, Perkins, Chase, Dundy, Deuel, Garden, Sheridan, Cheyenne, Morrill, Box Butte, Dawes, Sioux, Scotts Bluff, Banner, and Kimball.".

(Signed) Gerald Conway, Chairperson

SELECT COMMITTEE REPORT

Enrollment and Review

Enrollment and Review Change to LB 181
(CORRECTED COPY)

The following changes, required to be reported for publication in the Journal, have been made:
ER7070

1. In lieu of the Withem amendment, FA153, in the Robak amendment, AM1242:

a. On page 1, line 6, "The" has been struck, shown as stricken, and "(1) Until January 1, 1993, the" inserted; and

b. On page 4, after line 2, the following new subsection has been inserted:

"(2) Effective January 1, 1993, the State of Nebraska is hereby divided into two district court judicial districts as follows:

District No. 1 shall consist of the counties of Johnson, Pawnee, Nemaha, and Richardson; and

District No. 2 shall consist of all other counties.".

2. In the Robak amendment, AM1242:

a. On page 1, line 7, "district court" has been inserted after "twenty-one"; and

b. On page 8, line 19, "such" has been inserted after "in" and the matter beginning with "(1)" through the period has been struck, the old matter shown as stricken, and an underscored period inserted.

3. On page 1, the matter beginning with "district" in line 1 through line 5 has been struck and "courts; to amend sections 24-301.02, 24-503, and 24-810, Revised Statutes Supplement, 1990; to increase the number of judges of the district court; to change provisions relating to the number of district court judicial districts, the allocation of district and county court judges, and determination of judicial vacancies; to eliminate the Judicial Resources Commission; to harmonize provisions; to provide severability; to repeal the original sections, and also sections 24-735 to 24-738, Reissue Revised Statutes of Nebraska, 1943; and to declare an emergency." inserted.

(Signed) Mary E. Sommermeyer
E & R Attorney

UNANIMOUS CONSENT - Print in Journal

Mr. Moore asked unanimous consent to print the following amendment to LB 829 in the Journal. No objections. So ordered.

AM1914

(Amendments to AM5164)

1. Strike sections 17 and 19 and insert the following new sections:

"Sec. 17. That section 77-2701.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-2701.01. Pursuant to section 77-2715.01, for all taxable years beginning or deemed to begin on or after January 1, 1990, under the Internal Revenue Code of 1986, as amended, the rate of the income tax levied pursuant to section 77-2715 shall be three and forty-three-hundredths percent. Pursuant to section 77-2715.01, for all taxable years beginning or deemed to begin on or after January 1, 1991, under the Internal Revenue Code of 1986, as amended, the rate of the income tax levied pursuant to section 77-2715 shall be three and ~~seventy-hundredths~~ eighty-three-hundredths percent.

Sec. 20. That section 77-2715.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-2715.02. (1) Whenever the primary rate is changed by the Legislature under section 77-2715.01, the Tax Commissioner shall update the rate schedules required in subsection (2) of this section to reflect the new primary rate and shall publish such updated schedules.

(2) The following rate schedules are hereby established for the Nebraska individual income tax and shall be in the following form:

(a) The income amounts for columns A, B, and E shall be the same as for the federal rate schedules in effect for tax year 1987;

(b) The amount in column C shall be the total amount of the tax imposed on income less than the amount in column A;

(c) The amount in column D shall be the rate on the income in excess of the amount in column E;

(d) The primary rate set by Legislature shall be multiplied by the following factors to compute the tax rates for column D. The factors for the brackets, from lowest to highest bracket, shall be .64, .98, 1.52, ~~1.87~~ 2.08, and ~~1.87~~ 2.28;

(e) The amounts for column C shall be rounded

to the nearest dollar, and the amounts in column D shall be rounded to hundredths of one percent; and

(f) One rate schedule shall be established for each federal filing status.

(3) The tax rate schedules shall use the format set forth in this subsection.

A	B	C	D	E
Taxable income over	but not over	pay	plus	of the amount over

(4) The tax rate applied to other federal taxes included in the computation of the Nebraska individual income tax shall be seven times the primary rate.

(5) The Tax Commissioner shall prepare, from the rate schedules, tax tables which can be used by a majority of the taxpayers to determine their Nebraska tax liability. The design of the tax tables shall be determined by the Tax Commissioner. The size of the tax table brackets may change as the level of income changes. The difference in tax between two tax table brackets shall not exceed fifteen dollars. The Tax Commissioner may build the personal exemptions and standard deduction amounts into the tax tables.

(6) The Tax Commissioner may require by rule and regulation that all taxpayers shall use the tax tables if their income is less than the maximum income included in the tax tables.".

2. On page 21, line 8, strike "two" and insert "one and six-tenths".

3. Correct the operative date provision and repealers so that sections 77-2701.01 and 77-2715.02 become operative for tax years beginning or deemed to begin on or after January 1, 1991.

4. Renumber the remaining sections accordingly.

Mr. Warner asked unanimous consent to print the following amendment to LB 627 in the Journal. No objections. So ordered.

AM1989

(Amendments to Standing Committee amendments, AM1776)

1. Insert the following new sections:

"Sec. 140. There is hereby created the Motor Fuel Tax Enforcement and Collection Cash Fund. Such

fund shall consist of appropriations to the fund and money transferred to it pursuant to section 39-2215. The fund shall be used exclusively for the costs of the Motor Fuel Tax Enforcement and Collection Division created by section 139 of this act and other related costs for the Department of Agriculture and functional areas of the Department of Revenue as provided by such section. Any money in the fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1276.

Sec. 144. That original section 39-2215, Revised Statutes Supplement, 1990, is repealed.

Sec. 146. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.".

2. On page 5, line 17, strike "appropriated" and insert "transferred to the Motor Fuel Tax Enforcement and Collection Cash Fund for use as provided in section 139 of this act on a monthly or other less frequent basis as determined by the appropriation language".

3. On page 36, lines 20, 21, and 22, strike the new matter and reinstate the stricken matter.

4. On page 90, line 10, after "(3)" insert "Receipt of an exemption certificate taken in good faith shall be conclusive proof for the seller that the sale was exempt.

(4)".

5. On page 91, strike beginning with "person" in line 16 through the comma in line 19 and insert "importer".

6. On page 144, lines 13 and 14, strike "divisions of the department" and insert "division".

7. On page 145, line 7 after the second "the" insert "responsibility of the division for the enforcement of the"; and after line 8 insert:

"Funds appropriated to the division may also be used to contract with the Department of Agriculture to aid in enforcing section 112 of this act, and such contracted funds shall only be used for such purpose. The amount of any contracts entered into pursuant to this section shall be appropriated and accounted for in a separate budget subprogram of the division.".

8. On page 148, line 18, strike "This" and

insert "Sections 4, 139, 140, and 144 of this act shall become operative July 1, 1991. The other sections of this".

9. On page 149, line 17, strike "sections 39-2215 and" and insert "section".

10. Renumber the remaining sections accordingly.

VISITORS

Visitors to the Chamber were 29 fourth grade students and sponsors from Mount View School, Omaha.

MOTION - Adjournment

Mr. Kristensen moved to adjourn until May 22, 1991, at 9:00 a.m. The motion prevailed with 16 ayes, 11 nays, 7 present and not voting, and 15 excused and not voting, and at 7:46 p.m., the Legislature adjourned until 9:00 a.m., Wednesday, May 22, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

EIGHTY-SECOND DAY - MAY 22, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

EIGHTY-SECOND DAY

Legislative Chamber, Lincoln, Nebraska
Wednesday, May 22, 1991

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Moul presiding.

PRAYER

The prayer was offered by Pastor Charles Sibley from Alanson, Michigan.

ROLL CALL

The roll was called and all members were present except Mr. Haberman who was excused; and Messrs. Abboud, Bernard-Stevens, Beutler, Chambers, Conway, Hall, R. Johnson, Landis, Peterson, Robinson, Schmit, Mmes. Labedz, Pirsch, and Robak who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Eighty-First Day was approved.

MESSAGES FROM THE GOVERNOR

May 17, 1991

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 203e, 203Ae, 227, and 337 were received in my office on May 13, 1991; and Legislative Bills 850e and 852e were received on May 15, 1991.

These bills were signed by me on May 17, 1991, and delivered to the Secretary of State.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

May 21, 1991

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 836e and 836Ae were received in my office on May 20, 1991.

These bills were signed by me on May 21, 1991, and delivered to the Secretary of State.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

UNANIMOUS CONSENT - Member Excused

Mr. Wickersham asked unanimous consent to be excused until he returns. No objections. So ordered.

RESOLUTIONS

LEGISLATIVE RESOLUTION 188. Read. Considered.

LR 188 was adopted with 21 ayes, 0 nays, and 28 not voting.

LEGISLATIVE RESOLUTION 189. Read. Considered.

LR 189 was adopted with 21 ayes, 0 nays, and 28 not voting.

MOTION - Approve Appointment

Mr. Landis moved the adoption of the report of the Banking, Commerce and Insurance Committee for the following Governor appointment found in the Journal on page 2360: Gerald L. Schleich - Nebraska Research and Development Authority.

Voting in the affirmative, 25:

Baack	Hefner	Lamb	Nelson	Schimek
Beyer	Hillman	Landis	Rasmussen	Smith
Coordsen	Horgan	Lindsay	Robinson	Warner
Crosby	Kristensen	Lynch	Rogers	Wesely
Hartnett	Labedz	Morrissey	Schellpeper	Will

Voting in the negative, 0.

Present and not voting, 11:

Ashford	Cudaback	Elmer	Moore	Wehrbein
Byars	Dierks	Johnson, L.	Schrock	Withem
Chizek				

Excused and not voting, 13:

Abboud	Beutler	Haberman	Peterson	Schmit
Bernard-Stevens	Chambers	Hall	Pirsch	Wickersham
	Conway	Johnson, R.	Robak	

The appointment was confirmed with 25 ayes, 0 nays, 11 present and not voting, and 13 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 652. Messrs. Warner and Hall renewed their pending amendment, AM1934, found in the Journal on page 2297.

The Warner-Hall amendment was adopted with 26 ayes, 0 nays, 17 present and not voting, and 6 excused and not voting.

Mr. Will moved to reconsider the R. Johnson amendment, AM1956, to LB 652, found on page 2276 and considered on page 2391.

Mr. Morrissey moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 0 nays, and 23 not voting.

The Will motion to reconsider prevailed with 25 ayes, 11 nays, 10 present and not voting, and 3 excused and not voting.

The R. Johnson amendment, AM1956, found in the Journal on page 2276 and considered on page 2391, was reconsidered.

Mr. Hefner moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

SPEAKER BAACK PRESIDING

Mr. Moore requested a record vote on the R. Johnson amendment.

Voting in the affirmative, 26:

Baack	Crosby	Hartnett	Morrissey	Schellpeper
Beyer	Cudaback	Hefner	Nelson	Schmit
Byars	Dierks	Johnson, R.	Rasmussen	Schrock
Chizek	Elmer	Kristensen	Robak	Wehrbein
Conway	Hall	Lamb	Rogers	Wickersham
Coordsen				

Voting in the negative, 15:

Abboud	Hillman	Lindsay	Schimek	Wesely
Bernard-Stevens	Johnson, L.	Moore	Smith	Will
Beutler	Landis	Robinson	Warner	Withem

Present and not voting, 6:

Ashford	Horgan	Labedz	Lynch	Peterson
Chambers				

Excused and not voting, 2:

Haberman Pirsch

The R. Johnson amendment was adopted with 26 ayes, 15 nays, 6 present and not voting, and 2 excused and not voting.

Messrs. Warner and Withem offered the following amendment: AM1699

(Amendments to Standing Committee amendments, AM1507)

1. On page 11, after line 14 insert the following:

"Nothing in this section shall be construed as constituting legislative authorization for or approval of the construction or development of any education center as such term is defined in Legislative Bill 663, Ninety-second Legislature, First Session, 1991.".

Messrs. Abboud and Lynch asked unanimous consent to be excused until they return. No objections. So ordered.

The Warner-Withem amendment was adopted with 26 ayes, 0 nays, 19 present and not voting, and 4 excused and not voting.

Mr. Dierks asked unanimous consent to be excused until he returns. No objections. So ordered.

Messrs. Wesely and Landis offered the following amendment: AM2038

(Amendments to Standing Committee amendments, AM1507)

1. Insert the following new section:

"Sec. 10. There is hereby appropriated $25,000 from the Department of Insurance Cash Fund for FY1991-92 to the Department of Insurance for Program 69, to conduct a review of the Comprehensive Health Insurance Pool.

The Department of Insurance shall conduct studies of the feasibility of a needs-based premium rate structure, alternative funding sources for the comprehensive health insurance pool, the composition of and the procedure for appointing the Board of Directors of the Comprehensive Health Insurance Pool, how the annual premium rate is established and implemented, provider reimbursement methodology, cost containment strategies, strategies to address the practice of intentional separation of employees from their employers group health coverage in order to place employees in the pool, and other relevant matters and shall submit a

report of its recommendations to the Governor and the Legislature not later than December 1, 1991.

No expenditures for permanent and temporary salaries and per diems for state employees shall be made from funds appropriated in this section.".

2. Renumber the remaining sections accordingly.

The Wesely-Landis amendment was adopted with 25 ayes, 0 nays, 19 present and not voting, and 5 excused and not voting.

Messrs. Kristensen and Cudaback offered the following amendment: AM2012

(Amendments to Standing Committee amendments, AM1507)

1. Insert the following new section:

"Sec. 22. There is hereby appropriated (1) $250,000 from the General Fund for FY1991-92 and (2) $250,000 from the General Fund for FY1992-93 to the Board of Regents of the University of Nebraska, for expenditure and distribution to the campuses by the University of Nebraska Central Administration, for supplemental support for the University of Nebraska at Kearney.

The budget division of the Department of Administrative Services shall transfer appropriations to the appropriate campus programs on appropriate state-level Nebraska Accounting System Reports upon notification by the Central Administration.".

2. Renumber the remaining sections accordingly.

Messrs. Ashford, Hall, Chizek, and Will offered the following amendment to the pending Kristensen-Cudaback amendment: AM2064

(Amendments to AM2012)

1. On page 1, line 14, after the first period insert:

"Sec. 23. There is hereby appropriated (1) $250,000 from the General Fund for FY1991-92 and (2) $250,000 from the General Fund for FY1992-93 to the Board of Regents of the University of Nebraska, for expenditure and distribution to the campuses by the University of Nebraska Central Administration, for additional support for the University of Nebraska at

Omaha.

The budget division of the Department of Administrative Services shall transfer appropriations to the appropriate campus programs on appropriate state-level Nebraska Accounting System Reports upon notification by the Central Administration.".

PRESIDENT MOUL PRESIDING

Mr. Landis asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Abboud moved the previous question. The question is, "Shall the debate now close?"

Mr. Ashford moved for a call of the house. The motion prevailed with 19 ayes, 0 nays, and 30 not voting.

The motion to cease debate prevailed with 25 ayes, 1 nay, and 23 not voting.

Mr. Ashford requested a roll call vote on the Ashford et al. amendment.

Voting in the affirmative, 21:

Abboud	Dierks	Kristensen	Pirsch	Schrock
Ashford	Hall	Labedz	Rasmussen	Warner
Chambers	Hartnett	Landis	Rogers	Will
Chizek	Horgan	Lindsay	Schmit	Withem
Cudaback				

Voting in the negative, 22:

Baack	Conway	Johnson, L.	Robak	Smith
Bernard-Stevens	Coordsen	Lamb	Robinson	Wehrbein
Beutler	Crosby	Moore	Schellpeper	Wesely
Byars	Hefner	Morrissey	Schimek	Wickersham
	Hillman	Nelson		

Present and not voting, 4:

Beyer	Elmer	Johnson, R.	Peterson

Excused and not voting, 2:

Haberman Lynch

The Ashford et al. amendment lost with 21 ayes, 22 nays, 4 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

Messrs. Robinson and Elmer asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Kristensen moved for a call of the house. The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

Mr. Kristensen requested a roll call vote on the Kristensen-Cudaback amendment.

Voting in the affirmative, 22:

Ashford	Dierks	Labedz	Rasmussen	Schmit
Bernard-Stevens	Hall	Lamb	Robak	Schrock
Chambers	Horgan	Landis	Rogers	Smith
Cudaback	Johnson, R.	Nelson	Schimek	Warner
	Kristensen	Pirsch		

Voting in the negative, 22:

Abboud	Conway	Johnson, L.	Peterson	Wesely
Baack	Coordsen	Lindsay	Robinson	Wickersham
Beutler	Crosby	Moore	Schellpeper	Will
Beyer	Hefner	Morrissey	Wehrbein	Withem
Byars	Hillman			

Present and not voting, 2:

Chizek Hartnett

Excused and not voting, 3:

Elmer Haberman Lynch

The Kristensen-Cudaback amendment lost with 22 ayes, 22 nays, 2 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Mr. Robinson asked unanimous consent to be excused until he returns. No objections. So ordered.

Messrs. Hall and Chizek offered the following amendment:
AM2040

1. Insert the following new section:

"Sec. 28. There is hereby appropriated $39,500 from the General Fund for FY1992-93 to Aid to Technical Community Colleges, for Program 99. There is included in the appropriation to this program (1) $14,500 to support installation of a microwave link to provide a NEB*SAT telecommunications connection between the Western Technical Community College Area campus in Scottsbluff and existing satellite reception and transmission facilities located in Scottsbluff, (2) $12,500 to support training of Mid-Plains Technical Community College Area vocational-technical faculty in the use of telecommunication technology for delivery of instructional programming, and (3) $12,500 to support training of Western Technical Community College Area vocational-technical faculty in the use of telecommunication technology for delivery of instructional programming.".

2. Renumber the remaining sections accordingly.

Mr. Peterson asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Coordsen moved for a call of the house. The motion prevailed with 21 ayes, 0 nays, and 28 not voting.

Mr. Moore requested a record vote on the Hall-Chizek amendment.

Voting in the affirmative, 29:

Abboud	Chizek	Hall	Lamb	Rogers
Ashford	Conway	Hefner	Lindsay	Schellpeper
Baack	Coordsen	Hillman	Nelson	Schimek
Byars	Cudaback	Horgan	Rasmussen	Schmit
Chambers	Dierks	Labedz	Robak	Schrock

Smith	Wickersham	Will	Withem	

Voting in the negative, 13:

Bernard-Stevens	Beyer	Johnson, L.	Landis	Warner
	Crosby	Johnson, R.	Moore	Wehrbein
Beutler	Hartnett	Kristensen	Morrissey	

Present and not voting, 2:

Pirsch	Wesely

Excused and not voting, 5:

Elmer	Haberman	Lynch	Peterson	Robinson

The Hall-Chizek amendment was adopted with 29 ayes, 13 nays, 2 present and not voting, and 5 excused and not voting.

Mr. Schmit offered the following amendment:
AM2054

(Amendments to AM1507)

1. Insert the following new section:

"Sec. 28. There is hereby appropriated (1) $43,000 from the General Fund for FY1991-92 and (2) $43,000 from the General Fund for FY1992-93 to the Nebraska Commission on Law Enforcement and Criminal Justice, for Program 201, for victim-witness assistance aid.".

2. Renumber the remaining sections accordingly.

Mr. Schmit requested a record vote on his amendment.

Voting in the affirmative, 13:

Ashford	Dierks	Horgan	Pirsch	Schmit
Chambers	Hall	Labedz	Rasmussen	Wesely
Chizek	Hartnett	Lindsay		

Voting in the negative, 20:

Baack	Bernard-Stevens	Beutler	Conway	Hefner
		Beyer	Coordsen	Johnson, L.

Lamb	Morrissey	Schellpeper	Warner	Wickersham
Landis	Nelson	Schrock	Wehrbein	Withem
Moore	Robak			

Present and not voting, 11:

Abboud	Cudaback	Johnson, R.	Rogers	Smith
Byars	Hillman	Kristensen	Schimek	Will
Crosby				

Excused and not voting, 5:

Elmer	Haberman	Lynch	Peterson	Robinson

The Schmit amendment lost with 13 ayes, 20 nays, 11 present and not voting, and 5 excused and not voting.

Advanced to E & R for engrossment.

NOTICE OF COMMITTEE HEARING
Agriculture

Governor Appointments Monday, June 3, 1991 1:00 p.m.
Nebraska Dry Bean Commission
Jeffrey L. Pickering
Garold N. Batterman
Leonard J. Treinen, Jr.

(Signed) Carson Rogers, Chairperson

UNANIMOUS CONSENT - Print in Journal

Mr. Schmit asked unanimous consent to print the following amendment to LR 186CA in the Journal. No objections. So ordered.

AM2006

1. Strike original sections 1 and 2 and insert the following new sections:

"Section 1. That at a special election on August 6, 1991, there shall be submitted to the electors of the State of Nebraska for approval the following amendment to the Constitution of Nebraska by amending Article VIII, sections 1, 2, and 4, which is hereby proposed by the Legislature:

CVIII-1 'The necessary revenue of the state and its governmental subdivisions shall be raised by taxation in such manner as the Legislature may direct. ~~Taxes shall be levied by valuation uniformly and proportionately upon all tangible property and franchises, except that: (1) The Legislature may provide for a different method of taxing motor vehicles and may also establish a separate class of motor vehicles consisting of those owned and held for resale by motor vehicle dealers which shall be taxed in the manner and to the extent provided by the Legislature and may also establish a separate class for trucks, trailers, semitrailers, truck-tractors, or combinations thereof, consisting of those owned by residents and nonresidents of this state, and operating in interstate commerce, and may provide reciprocal and proportionate taxation of such vehicles; PROVIDED, that such tax proceeds from motor vehicles taxed in each county shall be allocated to the state, counties, townships, cities, villages, and school districts of such county in the same proportion that the levy of each bears to the total levy of the county on personal tangible property; and (2) the Legislature may provide that agricultural land and horticultural land, as defined by the Legislature, shall constitute a separate and distinct class of property for purposes of taxation and may provide for a different method of taxing agricultural land and horticultural land which results in values that are not uniform and proportionate with all other tangible property and franchises but which results in values that are uniform and proportionate upon all property within the class of agricultural land and horticultural land. The Legislature may enact laws to provide that the value of land actively devoted to agricultural or horticultural use shall for property tax purposes be that value which such land has for agricultural or horticultural use without regard to any value which such land might have for other purposes or uses and may prescribe standards and methods for the determination of the value of real or other tangible property at uniform and proportionate values. Taxes uniform as to class of property or the ownership or use thereof may be levied by valuation or otherwise upon classes of intangible property as the Legislature may determine, and such**

~~intangible property held in trust or otherwise for the purpose of funding pension, profit-sharing, or other employee benefit plans as defined by the Legislature may be declared exempt from taxation. Taxes other than property taxes may be authorized by law. Existing revenue laws shall continue in effect until changed by the Legislature. The Legislature may provide that livestock shall constitute a separate and distinct class of property for purposes of taxation and may further provide for reciprocal and proportionate taxation of livestock located in this state for only part of a year.~~'.

Sec. 2. That the proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1. The proposition for the submission of the proposed amendment shall be placed upon the ballot in the following form:

'A constitutional amendment to authorize the Legislature to provide for taxation in such manner as it may direct.

For

Against'.".

RESOLUTION

LEGISLATIVE RESOLUTION 190. Introduced by Moore, 24.

WHEREAS, Gayle E. Haman filed an original action in the Nebraska Supreme Court seeking to enjoin officials of this state from expending funds pursuant to 1990 Neb. Laws, L.B. 272A because such law was alleged to be unconstitutional; and

WHEREAS, the Nebraska Supreme Court in Haman v. Marsh ruled that 1990 Neb. Laws, L.B. 272A was unconstitutional and made permanent such injunction; and

WHEREAS, pursuant to section 24-204.01, Reissue Revised Statutes of Nebraska, 1943, Gayle E. Haman is entitled to attorney fees and costs for prosecuting such action if certain conditions are met; and

WHEREAS, the Nebraska Supreme Court ruled in Haman v. Marsh that Haman was entitled to $10,000 to apply on her attorney fees and costs of this action having met the conditions set out in section 24-204.01, Reissue Revised Statutes of Nebraska, 1943; and

WHEREAS, the Appropriations Committee of the Legislature has included funding in Legislative Bill 843, Ninety-second Legislature, First Session, 1991, in the amount of $10,000 General Funds for payment to Gayle E. Haman of attorney fees and costs; and

WHEREAS, section 24-204.01, Reissue Revised Statutes of Nebraska, 1943, provides that no such payment shall be made until approval thereof shall have been given by the Legislature by resolution adopted by a majority vote of its members.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature approves the payment of $10,000 to Gayle E. Haman to apply on her attorney fees and costs of this action having met the conditions set out in section 24-204.01, Reissue Revised Statutes of Nebraska, 1943.

2. That the payment be made from $10,000 General Funds appropriated to the Attorney General for FY1991-92 pursuant to section 24-204.01, Reissue Revised Statutes of Nebraska, 1943.

Laid over.

VISITORS

Visitors to the Chamber were Lela Sibley from Alanson, Michigan; 40 sixth grade students and teachers from St. Isidore School, Columbus; Mr. Carl Geis from Goehner; and ten seventh and eighth grade students and sponsor from St. Paul's Lutheran School, Arlington.

RECESS

At 12:18 p.m., on a motion by Mr. Baack, the Legislature recessed until 1:30 p.m.

AFTER RECESS

The Legislature reconvened at 1:30 p.m., President Moul presiding.

ROLL CALL

The roll was called and all members were present except Mr. Haberman who was excused; and Messrs. Chambers, Conway, Cudaback, Elmer, Hall, Landis, Moore, Peterson, Rogers, Schmit,

Schrock, Mmes. Labedz, Pirsch, Robak, and Smith who were excused until they arrive.

RESOLUTION

LEGISLATIVE RESOLUTION 191. Introduced by Conway, 17; Coordsen, 32.

WHEREAS, the week commencing June 3, 1991, has been designated by the National Management Association as "Management Week"; and

WHEREAS, the National Management Association is an organization committed to the promotion of the free enterprise system, management as a distinct profession, and the certification of managers; and

WHEREAS, the management profession has significantly contributed to the strength and vitality of this country's economy and in the future such skills will be particularly essential as we strive to strengthen the economy of the State of Nebraska; and

WHEREAS, there are two chapters of the National Management Association comprised of employees of the State of Nebraska; and

WHEREAS, the original chapter, the Nebraska State Government Chapter of the National Management Association, was chartered in 1984 with one hundred members and now has over two hundred fifty-five members representing forty-six state agencies, including the Legislative Council; and

WHEREAS, the Omaha State Government Chapter of the National Management Association was chartered in 1989 with fifty members representing most of the agencies of state government; and

WHEREAS, the Nebraska State Government Chapter and the Omaha State Government Chapter of the National Management Association will join with the Lincoln Human Resource Management Association, a chapter of the Society of Human Resource Management Associations, which was chartered in 1953 and how has over two hundred fifty members, and with other private and public sector managers nationwide, to honor the role and achievements of managers in our society during "Management Week."

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature hereby declares the week commencing June 3, 1991, as "Management Week" in Nebraska and calls upon the citizenry to recognize and participate in the observance of this worthy occasion.

2. That copies of this resolution be delivered to Helen E. Griffin, President of the Nebraska State Government Chapter of the National Management Association, James F. Schmidt, President of the Omaha State Government Chapter of the National Management Association, and Douglas J. McDaniel, President of the Lincoln Human Resource Management Association.

Laid over.

WITHDRAW - Amendments to LB 701A

Mrs. Rasmussen withdrew her pending amendments, AM1782 and AM1926, found in the Journal on pages 2110 and 2279, to LB 701A.

MOTION - Return LB 701A to Select File

Mrs. Rasmussen moved to return LB 701A to Select File for the following specific amendment:
AM2042

1. Strike original section 2 and insert the following new sections:

"Sec. 2. The State Department of Education shall transfer an amount not to exceed $300,000 from federal funds to the Department of Social Services during FY1991-92.

Sec. 4. On or before September 1, 1992, the Department of Social Services and the State Department of Education shall jointly certify to the budget administrator of the budget division of the Department of Administrative Services the amount of federal medicaid funds paid to local school districts participating in pilot programs established pursuant to Legislative Bill 701, Ninety-second Legislature, First Session, 1991. The appropriation to the State Department of Education, Program 440, for state aid shall be decreased by an amount equal to the amount that would have been reimbursed to the local school district through the special education reimbursement process that was funded for demonstration project purposes by federal medicaid payments.".

2. Strike the Rasmussen amendment, AM1441.

The Rasmussen motion to return prevailed with 26 ayes, 0 nays, 7 present and not voting, and 16 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 701A. The Rasmussen specific amendment, AM2042, found in this day's Journal, was adopted with 26 ayes, 0 nays, 8 present and not voting, and 15 excused and not voting.

Advanced to E & R for engrossment.

WITHDRAW - Amendment to LB 625

Mr. Warner withdrew his pending amendment, AM1675, found in the Journal on page 2108, to LB 625.

MOTION - Return LB 625 to Select File

Mr. Warner moved to return LB 625 to Select File for the following specific amendment:
AM2041

1. Strike the original sections and all amendments thereto and insert the following new sections:

"Section 1. That section 46, Legislative Bill 663, Ninety-second Legislature, First Session, 1991, be amended to read as follows:

Sec. 46. It is the intent of the Legislature that a clear distinction between area governance and statewide coordination for the community college areas be recognized and that such coordination is appropriate in order to provide the most cost-effective programs for residents of each community college area. It is further the intent of the Legislature that coordination of the community colleges by the Coordinating Commission for Postsecondary Education be conducted through an association of community college area boards. ~~representing all of the community college areas and providing coordination services to its members.~~ All of the community college area boards shall be a part of and shall be represented by such association. Coordination services provided by ~~an~~ such association shall include (1) preparation of a system strategic plan, (2) ~~preparation~~ coordination of the budget request for the biennium, (3) facilitation of program-needs assessment and articulation, (4) recommendation and facilitation of

the appointment of representatives to committees, boards, commissions, task forces, and any other state-level bodies requesting or requiring participation from the community college system, and (5) facilitation of responses to data and information requests for the system.

All activities conducted pursuant to this section by such association shall be conducted in accordance with sections 84-1408 to 84-1414.

Nothing in this section shall be construed to require or provide for state control of the operations of any community college area or to abridge the governance ability, rights, or responsibilities of any board. Nothing in this section shall be construed to limit the ability or authority of the commission to fulfill its responsibilities and duties regarding the individual community college areas and the individual community college area campuses.

Sec. 2. This act shall become operative on January 1, 1992.

Sec. 3. That original section 46, Legislative Bill 663, Ninety-second Legislature, First Session, 1991, is repealed.".

The Warner motion to return prevailed with 25 ayes, 0 nays, 11 present and not voting, and 13 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 625. The Warner specific amendment, AM2041, found in this day's Journal, was adopted with 27 ayes, 0 nays, 10 present and not voting, and 12 excused and not voting.

Advanced to E & R for engrossment.

MOTION - Return LB 51 to Select File

Mr. R. Johnson moved to return LB 51 to Select File for his specific amendment, AM1823, found in the Journal on page 2218.

The R. Johnson motion to return prevailed with 31 ayes, 0 nays, 13 present and not voting, and 5 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 51. The R. Johnson amendment, AM1823, found in the Journal on page 2218, was adopted with 29 ayes, 0 nays, 15 present and not voting, and 5 excused and not voting.

Advanced to E & R for re-engrossment.

MOTION - Return LB 207 to Select File

Mr. Baack moved to return LB 207 to Select File for his specific amendment, AM1794, found in the Journal on page 2122.

Messrs. Elmer and Lamb asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Robinson moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 27 ayes, 0 nays, and 22 not voting.

The Baack motion to return prevailed with 25 ayes, 12 nays, 8 present and not voting, and 4 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 207. The Baack specific amendment, AM1794, found in the Journal on page 2122, was considered.

Mrs. Hillman, Messrs. Chizek, Ashford, Moore, and Lamb asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Baack requested a roll call vote on his specific amendment.

Voting in the affirmative, 25:

Baack	Coordsen	Kristensen	Schellpeper	Wehrbein
Bernard-Stevens	Crosby	Landis	Schimek	Wesely
Byars	Cudaback	Lindsay	Schrock	Wickersham
Chambers	Hartnett	Morrissey	Smith	Will
Conway	Hillman	Nelson	Warner	Withem

Voting in the negative, 13:

Abboud	Horgan	Labedz	Rasmussen	Robinson
Beyer	Johnson, L.	Lynch	Robak	Rogers
Hefner	Johnson, R.	Pirsch		

Present and not voting, 4:

Beutler	Chizek	Dierks	Peterson

Excused and not voting, 7:

Ashford	Haberman	Lamb	Moore	Schmit
Elmer	Hall			

The Baack specific amendment was adopted with 25 ayes, 13 nays, 4 present and not voting, and 7 excused and not voting.

Advanced to E & R for re-engrossment.

MOTION - Return LB 207 to Select File

Mr. Baack moved to return LB 207 to Select File for his specific amendment, AM1660, found in the Journal on page 2122.

The Baack motion to return prevailed with 31 ayes, 0 nays, 11 present and not voting, and 7 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 207. The Baack specific amendment, AM1660, found in the Journal on page 2122, was adopted with 36 ayes, 0 nays, 7 present and not voting, and 6 excused and not voting.

Advanced to E & R for re-engrossment.

MOTION - Return LB 207 to Select File

Mr. Chambers moved to return LB 207 to Select File for the following specific amendment:
FA166
Page 12, Strike lines 23-25
Page 13, Strike lines 1-10.

MR. CONWAY PRESIDING

The Chambers motion to return prevailed with 30 ayes, 0 nays, 14 present and not voting, and 5 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 207. The Chambers specific amendment, FA166, found in this day's Journal, was adopted with 36 ayes, 0 nays, 8 present and not voting, and 5 excused and not voting.

Advanced to E & R for re-engrossment.

Mr. Landis asked unanimous consent to be excused until he returns. No objections. So ordered.

MOTION - Return LB 427 to Select File

Mr. Wehrbein renewed his pending motion, found in the Journal on page 2082, to return LB 427 to Select File for his specific amendment, AM1764.

PRESIDENT MOUL PRESIDING

Messrs. Coordsen and Beutler asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Hall moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

Mrs. Smith requested a record vote on the Wehrbein motion to return.

Voting in the affirmative, 10:

Beyer	Cudaback	Landis	Pirsch	Wehrbein
Crosby	Dierks	Peterson	Warner	Wesely

Voting in the negative, 18:

Bernard-Stevens	Hall	Kristensen	Rasmussen	Smith
	Hartnett	Labedz	Robak	Will
Chizek	Horgan	Lynch	Schellpeper	Withem
Conway	Johnson, L.	Nelson	Schimek	

Present and not voting, 13:

Abboud	Chambers	Johnson, R.	Robinson	Schrock
Baack	Hefner	Lindsay	Rogers	Wickersham
Byars	Hillman	Morrissey		

Excused and not voting, 8:

Ashford	Coordsen	Haberman	Moore	Schmit
Beutler	Elmer	Lamb		

The Wehrbein motion to return lost with 10 ayes, 18 nays, 13 present and not voting, and 8 excused and not voting.

UNANIMOUS CONSENT - Member Excused

Mr. Chambers asked unanimous consent to be excused until he returns. No objections. So ordered.

BILL ON FINAL READING

The following bill was read and put upon final passage:

LEGISLATIVE BILL 427. With Emergency.

A BILL FOR AN ACT relating to bingo and other gambling; to amend sections 9-235, 9-264, 9-330, 9-350, 9-354, 9-401, 9-418, 9-419, 9-420, 9-429, 9-436, 9-509, 9-604, and 9-701, Reissue Revised Statutes of Nebraska, 1943, and sections 9-1,101, 9-1,104, 9-1,105, 9-201, 9-203, 9-207.01, 9-214.01, 9-216, 9-226, 9-227, 9-228, 9-233, 9-233.01, 9-235.01, 9-235.02, 9-235.03, 9-236, 9-239, 9-247, 9-250, 9-253, 9-258, 9-261, 9-266, 9-306.01, 9-322, 9-323, 9-324, 9-328, 9-329, 9-329.02, 9-332, 9-340.02, 9-344, 9-345.03, 9-356, 9-421, 9-601, 9-620, 9-623, 9-630, 9-631, 9-632, 9-639, 9-640, 9-642, 9-646, 9-649, 9-650, and 9-653, Revised Statutes Supplement, 1990; to authorize fees for certain publications; to require personal history reports; to change provisions relating to the disposition of prizes won by investigators, fingerprinting requirements, and criminal history record checks; to define and redefine terms; to provide for and change powers and duties of the Department of Revenue; to provide for and change provisions relating to administrative fines; to provide for personal service for certain notices; to change provisions relating to certain proceedings; to require license and permit renewal applications to be submitted by certain dates; to change provisions relating to

participation in and the conduct of bingo; to provide for a permit to conduct bingo on an excursion or dinner train; to provide for the confidentiality of personal history reports; to prohibit imposition of certain occupation taxes; to change provisions relating to pickle card units, pickle card dispensing devices, lotteries and raffles, the conduct of a county or city lottery, and gift enterprises; to harmonize provisions; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 34:

Ashford	Conway	Hillman	Morrissey	Schrock
Baack	Coordsen	Horgan	Nelson	Smith
Bernard-Stevens	Cudaback	Johnson, L.	Pirsch	Warner
	Elmer	Kristensen	Rasmussen	Wesely
Beyer	Hall	Labedz	Robak	Wickersham
Byars	Hartnett	Lindsay	Schellpeper	Will
Chizek	Hefner	Moore	Schimek	Withem

Voting in the negative, 6:

Abboud	Johnson, R.	Lamb	Landis	Peterson
Crosby				

Present and not voting, 6:

Beutler	Lynch	Robinson	Rogers	Wehrbein
Dierks				

Excused and not voting, 3:

Chambers	Haberman	Schmit

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

UNANIMOUS CONSENT - Print in Journal

Mr. Hartnett asked unanimous consent to print the following amendment to LB 719 in the Journal. No objections. So ordered.

AM2063

(Amendments to E & R amendments, AM5130)

1. On page 78, line 5, after the period insert "The commissioner may waive the provisions of this section for any candidate with a handicapping condition as defined in section 79-3309 if the commissioner determines that such condition precludes the administration of the examination established or designated by the board.".

Mr. Kristensen asked unanimous consent to print the following amendment to LB 262 in the Journal. No objections. So ordered.

(Amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM1925.)

ATTORNEY GENERAL'S OPINION

Opinion No. 91045

DATE: May 22, 1991

SUBJECT: LB 840 - Constitutionality of Including Various Local Government Revenues Within the Term "Local Sources of Revenue" Under the Local Option Municipal Economic Development Act.

REQUESTED BY: Senator Lowell C. Johnson
Nebraska State Legislature

WRITTEN BY: Don Stenberg, Attorney General
L. Jay Bartel, Assistant Attorney General

You have requested our opinion regarding the constitutionality of including two specific sources of revenues of cities and villages within the term "local sources of revenue" under LB 840, the "Local Option Municipal Economic Development Act." Generally, LB 840 constitutes the enabling legislation to permit cities and villages in Nebraska to exercise the authority granted by Constitutional Amendment 3 in November, 1990, which authorizes cities and villages to appropriate funds derived from local sources of revenue

for economic or industrial development projects or programs, subject to approval by a majority of the registered voters of the city or village voting upon the question. The constitutional amendment (contained in Neb. Const. art. XIII, § 2), provides the term "local sources of revenue shall mean funds raised from general taxes levied by the city or village and shall not include any funds received by the city or village which are derived from state or federal sources." (emphasis added). Your specific question concerns whether either rent or rents paid for the use and benefit of municipal utilities under Neb.Rev.Stat. § 16-682 (Reissue 1987), or payments in lieu of taxes by public power or irrigation districts made pursuant to Neb. Const. art. VIII, § 11, and Neb.Rev.Stat. §§ 70-651.01 to 70-651.05 (Reissue 1990), constitute "general taxes levied" by a city or village within the meaning of the term "local sources of revenue" as defined under Neb. Const. art. XIII, § 2.

The general rule regarding the characterization of a tax as a "general" tax, as opposed to a "special" tax, is stated in 71 Am. Jur. 2d State and Local Taxation § 21 (1973) as follows:

> Taxes, particularly property taxes, are occasionally classified as general or special. This classification is made most commonly with respect to the distinction between the imposition known as a 'special assessment' and the customary annual tax imposed upon all property within the taxing district to provide revenue for the usual and ordinary day-to-day expenses of the government, the term 'special tax' sometimes being used as synonymous with the term 'special assessment.' With respect to general taxes, the government renders no return of special benefit to any property, but only secures to the citizen the general benefit which results from protection to his person and property and the promotion of various schemes which have for their object the welfare of all; on the other hand, special assessments or special taxes proceed upon the theory that when a local improvement enhances the value of neighboring property that property should pay the improvement.

Similarly, the distinction between "general" and "special" taxes is explained in 84 C.J.S. Taxation § 3a. (1954) as follows:

> 'General' taxes are those imposed throughout the state or some civil division thereof for the purpose of raising revenue for the support of the government and for general purposes, and which are levied on the ground of general public benefits, while 'special' taxes are those which are levied for a special or local purpose for the benefit of a part only of the body politic.

In Farnham v. City of Lincoln, 75 Neb. 502, 106 N.W. 666 (1906), the Nebraska Supreme Court recognized the difference between

"general" and "special" taxes or assessments. In this respect, the court in Farnham stated:

> Special assessments are a peculiar species of taxation, standing apart from the general burdens imposed for state and municipal purposes, and governed by principles that do not apply generally. The general levy of taxes is understood to exact contributions in return for the general benefits of government, and it promises nothing to the persons taxed, beyond what may be anticipated from an administration of the laws for individual protection and the general public good. Special assessments, on the other hand, are made upon the assumption that a portion of the community is to be specially and peculiarly benefited, in the enhancement of the value of property peculiarly situated as regards a contemplated expenditure of public funds; and, in addition to the general levy, they demand that special contributions, in consideration of the special benefit, shall be made by the persons receiving it.

Id. at 506-507, 106 N.W. at 668.

Again, discussing the term "general" taxes, the court in Schulz v. Dixon County, 134 Neb. 549, 556, 279 N.W. 179, 183 (1938), stated:

> Taxes proper, or general taxes, it has been said, 'proceed upon the theory that the existence of government is a necessity; that it cannot continue without means to pay its expenses; that for those means it has the right to compel all citizens and property within its limits to contribute; and that for such contribution it renders no return of special benefit to any property, but only secures to the citizen that general benefit which results from protection to his person and property, and the promotion of those various schemes which have for their object the welfare of all.'

Based on the foregoing, it is our opinion that neither of the impositions referred to in your request properly fit within the phrase "general taxes levied" by a city or village in Article XIII, Section 2, for purposes of determining the "local sources of revenue" which may be utilized by cities and villages to fund economic or industrial programs or projects. As to rents paid for the use and benefit of municipal utilities under Neb.Rev.Stat. § 16-682 (Reissue 1987), the charges imposed are directly related to a specific benefit received by the property owner or resident, as opposed to an exaction for the benefit of the public in general. Indeed, the statute specifically provides that delinquent water rentals remaining unpaid for three months may be assessed against the real estate as a "special assessment." We do not believe these impositions may be characterized as "general taxes levied" by a city or village within the meaning of Article XIII, Section 2.

As to the payments in lieu of taxes made by public power or irrigation districts pursuant to Neb. Const. art. VIII, § 11, and Neb.Rev.Stat. §§ 70-651.01 to 70-651.05 (Reissue 1990), it is our opinion that these payments also do not fall within the term "general taxes levied" as used in Article XIII, Section 2. The precise language employed in Article XIII, Section 2, limits the term "local sources of revenue" to "general taxes levied by the city or village." Payments in lieu of taxes made by public power or irrigation districts do not constitute revenues from any "tax" levied by a city or village; rather, these payments are simply required by Nebraska constitutional and statutory provisions which compel these entities to make payments to local government bodies "in lieu of" other taxes. Therefore, we believe in lieu of tax payments received by cities or villages from public power or irrigation districts do not fit under the term "general taxes levied" by cities or villages in Article XIII, Section 2.

Very truly yours,
DON STENBERG
Attorney General
(Signed) L. Jay Bartel
Assistant Attorney General

cc: Patrick O'Donnell
Clerk of the Legislature
7-70-7.4

STANDING COMMITTEE REPORTS
Government, Military and Veterans Affairs

LEGISLATIVE BILL 617. Placed on General File as amended.
Standing Committee amendment to LB 617:
AM2024

1. Strike original sections 1 and 2 and insert the following new sections:

"Section 1. That section 85-103.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

85-103.01. For the purpose of section 85-103, the state is divided into eight districts. The limits and designations of the eight districts shall be as follows:

District No. 1. The county of Lancaster, ~~County~~ except that part of Lancaster County included in Regent district 4 and Regent district 5; ~~.~~

~~District No. 2. In Douglas County, the~~

~~following legislative districts: 4, 8, 10, 13, and 31, that part of legislative district 3 lying in Douglas County, in legislative district 20 beginning at the intersection of Interstate Highway 680 and Pacific Street, east on Pacific Street to 105th Street, south on 105th Street to Pinehurst Avenue, east on Pinehurst Avenue to 102nd Street, south on 102nd Street to West Center Road, west on West Center Road to Interstate Highway 680, north on Interstate Highway 680 to the point of beginning; and in legislative district 12 beginning at the intersection of 96th Street and the Douglas-Sarpy County line, west along the Douglas-Sarpy County line to 144th Street, north on 144th Street to L Street, east on L Street to Interstate Highway 80, south on Interstate Highway 80 to Q Street, east on Q Street to 104th Street, north on 104th Street to Mockingbird Drive, north along Mockingbird Drive to 102nd Street, north on 102nd Street to L Street, east on L Street to 90th Street, south on 90th Street to O Street, west on O Street to 93rd Street, south on 93rd Street to Q Street, west on Q Street to 96th Street, south on 96th Street to the point of beginning.~~

District No. 2. That part of Douglas County beginning at the intersection of the Douglas-Sarpy County line and 168th Street, north on 168th Street to West Center Road, east on West Center Road to Hendricks Road, north on Hendricks Road to 158th Circle, north on 158th Circle to Woolworth Avenue, north on Woolworth Avenue to 155th Street, north on 155th to Pacific Street, east on Pacific Street to 90th Street, north on 90th Street to Western Avenue, east and south on Western Avenue to Nicholas Street, east on Nicholas Street to 72nd Street, north on 72nd Street to Hamilton Street, east on Hamilton Street to 33rd Street, north on 33rd Street to Charles Street, east on Charles Street to 16th Street, south on 16th Street to Nicholas Street, east on Nicholas Street to 11th Street, north on 11th Street to Seward Street, east on Seward Street to 6th Street, south and east on 6th Street to Abbott Drive, north on Abbott Drive to the Grace Street Outfall, south along the Grace Street Outfall to the Missouri River, north along the Missouri River to the Douglas-Washington County line, west along the Douglas-Washington County line to the Platte River, south along the Platte River

to the Douglas-Sarpy County line, and east along the Douglas-Sarpy County line to the point of beginning;

District No. 3. The counties of Cedar, Dixon, Dakota, Wayne, Thurston, Madison, Stanton, Cuming, Burt, ~~Boone, Nance,~~ Platte, Colfax, Dodge, and Washington; ~~.~~

District No. 4. The counties of Sarpy, Cass, Otoe, ~~Saline, Jefferson, Gage,~~ Johnson, Nemaha, Pawnee, and Richardson, that part of Douglas County beginning at the intersection of 42nd and Harrison Streets, north on 42nd Street to F Street, east on F Street to the Union Pacific Railroad right-of-way, north along the Union Pacific Railroad right-of-way to Interstate Highway 80, east on Interstate Highway 80 to the Missouri River, south along the Missouri River to Harrison Street, and west on Harrison Street to the point of beginning, and that part of Lancaster County which includes the precincts of Lancaster, Stevens Creek, Grant 1, Grant 2, Grant 3, Stockton, Saltillo 1, Saltillo 2, Nemaha, Buda, South Pass, and Panama; ~~.~~

District No. 5. The counties of ~~Merrick,~~ Polk, Butler, Saunders, ~~Hall, Hamilton,~~ York, Seward, Gosper, Phelps, Kearney, Adams, Clay, Fillmore, Saline, Harlan, Franklin, Webster, Nuckolls, ~~and~~ Thayer, Jefferson, and Gage, and that part of Lancaster County which includes the precincts of Elk, Middle Creek, Denton, Yankee Hill, Highland, Centerville, and Olive Branch; ~~.~~

District No. 6. The counties of ~~Sioux, Dawes, Box Butte, Sheridan, Cherry, Brown, Grant, Arthur, Hooker, McPherson, Thomas, Logan, Scotts Bluff, Banner, Morrill, Garden, Kimball, Cheyenne, Deuel, Keith, Perkins, Lincoln, Chase, Hayes, Frontier, Dundy, Hitchcock, and Red Willow~~ Hamilton, Merrick, Nance, Boone, Antelope, Pierce, Knox, Boyd, Holt, Wheeler, Greeley, Howard, Hall, Buffalo, Sherman, Valley, Garfield, Loup, Rock, Keya Paha, Brown, Blaine, and Custer; ~~.~~

District No. 7. The counties of ~~Keya Paha, Rock, Holt, Boyd, Knox, Cedar, Antelope, Pierce, Blaine, Loup, Garfield, Wheeler, Custer, Valley, Greeley, Sherman, Howard, Dawson, Buffalo, Gosper, Furnas, Phelps, Harlan, Kearney, and Franklin~~ Furnas, Red Willow, Hitchcock, Dundy, Chase, Hayes, Frontier, Dawson, Lincoln, Perkins, Keith, Deuel, Cheyenne,

Kimball, Banner, Scotts Bluff, Morrill, Garden, Arthur, McPherson, Logan, Thomas, Hooker, Grant, Cherry, Sheridan, Dawes, Box Butte, and Sioux; and ~~.~~

District No. 8. ~~In~~ That part of Douglas County~~, the legislative districts of 5, 6, 7, 9, and 11, and in legislative districts 12 and 20, that part~~ not included in Regent district 2 and Regent district 4.

Sec. 2. That section 85-103.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

85-103.02. The precincts, townships, and cities mentioned in section 85-103.01 are the precincts, townships, and cities set out in the ~~1980~~ 1990 Census of Population by the United States Department of Commerce, Bureau of the Census. The legislative districts mentioned in section 85-103.01 are the districts established by ~~sections 5-202 to 5-250~~ Legislative Bill 614, Ninety-second Legislature, First Session, 1991.

Sec. 3. That original sections 85-103.01 and 85-103.02, Reissue Revised Statutes of Nebraska, 1943, are repealed.".

LEGISLATIVE BILL 619. Placed on General File as amended.
Standing Committee amendment to LB 619:
AM2025

1. Strike original section 2 and insert the following new sections:

"Sec. 2. That section 79-322.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-322.01. For the purpose of section 79-322, the state is divided into eight districts. The limits and designations of the eight districts shall be as follows:

District No. 1. The county of Lancaster, ~~County~~ except that part of Lancaster County included in State Board of Education district 4 and State Board of Education district 5; ~~.~~

~~District No. 2. In Douglas County, the following legislative districts: 4, 8, 10, 13, and 31, that part of legislative district 3 lying in Douglas County, in legislative district 20 beginning at the intersection of Interstate Highway 680 and Pacific Street, east on Pacific Street to 105th Street, south on~~

~~105th Street to Pinehurst Avenue, east on Pinehurst Avenue to 102nd Street, south on 102nd Street to West Center Road, west on West Center Road to Interstate Highway 680, north on Interstate Highway 680 to the point of beginning; and in legislative district 12 beginning at the intersection of 96th Street and the Douglas-Sarpy County line, west along the Douglas-Sarpy County line to 144th Street, north on 144th Street to L Street, east on L Street to Interstate Highway 80, south on Interstate Highway 80 to Q Street, east on Q Street to 104th Street, north on 104th Street to Mockingbird Drive, north along Mockingbird Drive to 102nd Street, north on 102nd Street to L Street, east on L Street to 90th Street, south on 90th Street to O Street, west on O Street to 93rd Street, south on 93rd Street to Q Street, west on Q Street to 96th Street, south on 96th Street to the point of beginning.~~

District No. 2. That part of Douglas County beginning at the intersection of the Douglas-Sarpy County line and 168th Street, north on 168th Street to West Center Road, east on West Center Road to Hendricks Road, north on Hendricks Road to 158th Circle, north on 158th Circle to Woolworth Avenue, north on Woolworth Avenue to 155th Street, north on 155th to Pacific Street, east on Pacific Street to 90th Street, north on 90th Street to Western Avenue, east and south on Western Avenue to Nicholas Street, east on Nicholas Street to 72nd Street, north on 72nd Street to Hamilton Street, east on Hamilton Street to 33rd Street, north on 33rd Street to Charles Street, east on Charles Street to 16th Street, south on 16th Street to Nicholas Street, east on Nicholas Street to 11th Street, north on 11th Street to Seward Street, east on Seward Street to 6th Street, south and east on 6th Street to Abbott Drive, north on Abbott Drive to the Grace Street Outfall, south along the Grace Street Outfall to the Missouri River, north along the Missouri River to the Douglas-Washington County line, west along the Douglas-Washington County line to the Platte River, south along the Platte River to the Douglas-Sarpy County line, and east along the Douglas-Sarpy County line to the point of beginning;

District No. 3. The counties of Cedar, Dixon, Dakota, Wayne, Thurston, Madison, Stanton, Cuming, Burt, ~~Boone, Nance,~~ Platte, Colfax, Dodge, and Washington; -

District No. 4. The counties of Sarpy, Cass, Otoe, ~~Saline, Jefferson, Gage,~~ Johnson, Nemaha, Pawnee, and Richardson, that part of Douglas County beginning at the intersection of 42nd and Harrison Streets, north on 42nd Street to F Street, east on F Street to the Union Pacific Railroad right-of-way, north along the Union Pacific Railroad right-of-way to Interstate Highway 80, east on Interstate Highway 80 to the Missouri River, south along the Missouri River to Harrison Street, and west on Harrison Street to the point of beginning, and that part of Lancaster County which includes the precincts of Lancaster, Stevens Creek, Grant 1, Grant 2, Grant 3, Stockton, Saltillo 1, Saltillo 2, Nemaha, Buda, South Pass, and Panama; ~~.~~

District No. 5. The counties of ~~Merrick,~~ Polk, Butler, Saunders, ~~Hall, Hamilton,~~ York, Seward, Gosper, Phelps, Kearney, Adams, Clay, Fillmore, Saline, Harlan, Franklin, Webster, Nuckolls, ~~and~~ Thayer, Jefferson, and Gage, and that part of Lancaster County which includes the precincts of Elk, Middle Creek, Denton, Yankee Hill, Highland, Centerville, and Olive Branch; ~~.~~

District No. 6. The counties of ~~Sioux, Dawes, Box Butte, Sheridan, Cherry, Brown, Grant, Arthur, Hooker, McPherson, Thomas, Logan, Scotts Bluff, Banner, Morrill, Garden, Kimball, Cheyenne, Deuel, Keith, Perkins, Lincoln, Chase, Hayes, Frontier, Dundy, Hitchcock, and Red Willow~~ Hamilton, Merrick, Nance, Boone, Antelope, Pierce, Knox, Boyd, Holt, Wheeler, Greeley, Howard, Hall, Buffalo, Sherman, Valley, Garfield, Loup, Rock, Keya Paha, Brown, Blaine, and Custer; ~~.~~

District No. 7. The counties of ~~Keya Paha, Rock, Holt, Boyd, Knox, Cedar, Antelope, Pierce, Blaine, Loup, Garfield, Wheeler, Custer, Valley, Greeley, Sherman, Howard, Dawson, Buffalo, Gosper, Furnas, Phelps, Harlan, Kearney, and Franklin~~ Furnas, Red Willow, Hitchcock, Dundy, Chase, Hayes, Frontier, Dawson, Lincoln, Perkins, Keith, Deuel, Cheyenne, Kimball, Banner, Scotts Bluff, Morrill, Garden, Arthur, McPherson, Logan, Thomas, Hooker, Grant, Cherry, Sheridan, Dawes, Box Butte, and Sioux; and ~~.~~

District No. 8. ~~In~~ That part of Douglas County~~, the legislative districts of 5, 6, 7, 9, and 11,~~

~~and in legislative districts 12 and 20, that part~~ not included in State Board of Education district 2 and State Board of Education district 4.

Sec. 3. That section 79-322.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-322.02. The precincts, townships, and cities mentioned in section 79-322.01 are the precincts, townships, and cities set out in the ~~1980~~ 1990 Census of Population by the United States Department of Commerce, Bureau of the Census. ~~The legislative districts mentioned in section 79-322.01 are the districts established by sections 5-202 to 5-250.~~

Sec. 4. That original sections 79-322, 79-322.01, and 79-322.02, Reissue Revised Statutes of Nebraska, 1943, are repealed.".

(Signed) Gerald Conway, Chairperson

GENERAL FILE

LEGISLATIVE BILL 627. Title read. Considered.

Standing Committee amendment, AM1776, printed separately from the Journal and referred to on page 2180, was considered.

Messrs. Lynch and Elmer asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Warner renewed his pending amendment, AM1834, found in the Journal on page 2320, to the pending Standing Committee amendment.

The Warner amendment was adopted with 18 ayes, 0 nays, 26 present and not voting, and 5 excused and not voting.

Mr. Warner renewed his pending amendment, AM1989, found in the Journal on page 2396, to the pending Standing Committee amendment.

The Warner amendment was adopted with 18 ayes, 0 nays, 26 present and not voting, and 5 excused and not voting.

Mr. Warner offered the following amendment to the pending Standing Committee amendment:
FA167
(AM to AM1776)
1. On page 147, line 1, strike "first", the first underscored comma, and "1991" and after the second underscored comma insert "1992".

The Warner amendment was adopted with 16 ayes, 0 nays, 28 present and not voting, and 5 excused and not voting.

The Standing Committee amendment, as amended, was adopted with 25 ayes, 0 nays, 19 present and not voting, and 5 excused and not voting.

Advanced to E & R for review with 25 ayes, 0 nays, 20 present and not voting, and 4 excused and not voting.

LEGISLATIVE BILL 627A. Title read. Considered.

Advanced to E & R for review with 25 ayes, 0 nays, 20 present and not voting, and 4 excused and not voting.

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following bill: 427.

SELECT FILE

LEGISLATIVE BILL 829. E & R amendment, AM5164, printed separately from the Journal and referred to on page 2368, was adopted.

Mr. Dierks offered the following amendment:
AM2037

(Amendments to AM5164)

1. Strike sections 7 and 22 and insert the following new sections:

"Sec. 7. That section 77-202, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-202. (1) The following property shall be exempt from ad valorem taxes:

(a) ~~The property~~ Property of the state and its

governmental subdivisions;

(b) Property owned by and used exclusively for agricultural and horticultural societies;

(c) Property owned by educational, religious, charitable, or cemetery organizations and used exclusively for educational, religious, charitable, or cemetery purposes, when such property is not (i) owned or used for financial gain or profit to either the owner or user, (ii) used for the sale of alcoholic liquors for more than twenty hours per week, or (iii) owned or used by an organization which discriminates in membership or employment based on race, color, or national origin. For purposes of this subdivision, educational organization shall mean an institution operated exclusively for the purpose of offering regular courses with systematic instruction in academic, vocational, or technical subjects or a museum or historical society operated exclusively for the benefit and education of the public. For purposes of this subdivison, ~~and~~ charitable organization shall mean an organization operated exclusively for the purpose of the mental, social, or physical benefit of the public or an indefinite number of persons; and

(d) Household goods and personal effects ~~when such property is~~ not owned or used for financial gain or profit to either the owner or user.

(2) The increased value of land by reason of shade and ornamental trees planted along the highway shall not be taken into account in the assessment of ~~such~~ land.

(3) The premiums received by any insurance company authorized to do business in this state on all annuity contracts and pension, profit-sharing, and other employee benefit plans which are described in section 818(a) of the Internal Revenue Code of 1986, as amended, shall be exempt from taxes.

(4) Life insurance, ~~and~~ life insurance annuity contracts, ~~and~~ any payment connected therewith, and any right to pension or retirement payments shall be exempt from the intangible tax.

(5) Vehicles registered ~~under~~ pursuant to section 60-305.09 and ~~paying~~ for which the registration fees prescribed in such section have been paid shall be exempt from payment of ad valorem taxes.

(6) All personal property other than motor vehicles which are required to be registered under sections 60-301 to 60-347 shall be exempt from property taxation.

~~(6) Agricultural income-producing machinery and equipment shall be exempt from the personal property tax except: (a) Motor vehicles, as defined in section 60-301; (b) property assessed by the Tax Commissioner as provided in sections 77-601 to 77-623; (c) property owned by parties deemed public service entities subject to the provisions of sections 77-801 to 77-803; and (d) any building or fixture, whether permanently attached to the land or not.~~

~~(7) Business inventory shall be exempt from the personal property tax.~~

~~(8) Feed, fertilizer, and farm inventory shall be exempt from the personal property tax.~~

~~(9) Grain, seed, livestock, poultry, fish, honeybees, and fur-bearing animals shall be exempt from the personal property tax.~~

~~(10) Any personal property exempt pursuant to subsection (2) of section 77-4105 shall be exempt from the personal property tax.~~

~~(11) Railroad rolling stock shall be exempt from the personal property tax. Railroad rolling stock shall mean locomotives, freight cars, and other flanged-wheel equipment operated solely on rails and owned, leased, or used for or in railroad transportation. For tax year 1989, this subsection shall apply to railroad rolling stock upon which no levy has been made or upon which no tax may lawfully be collected.~~

Sec. 21. That section 77-2734.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-2734.02. (1) A tax is hereby imposed for each taxable year on the taxable income of every corporate taxpayer that is doing business in this state at a rate equal to ~~one hundred fifty and eight-tenths~~ one hundred ninety-seven percent of the primary rate imposed on individuals under section 77-2701.01 on the first fifty thousand dollars of taxable income, ~~and~~ at the rate of two hundred ~~eleven~~ fifty-four and thirty-two hundredths percent of such rate on all taxable income in

excess of fifty thousand dollars but not more than one hundred thousand dollars, at a rate of two hundred eighty-one and thirty-five hundredths percent of such rate on all taxable income in excess of one hundred thousand dollars but not more than two hundred thousand dollars, and at a rate of three hundred twenty-one and nine-tenths percent of such rate on all taxable income in excess of two hundred thousand dollars. The resultant rates shall be rounded to the nearest one hundredth of one percent.

(a) For corporate taxpayers with a fiscal year that does not coincide with the calendar year, the individual rate used for this subsection shall be the rate in effect on the first day, or the day deemed to be the first day, of the taxable year.

(b) For fiscal years beginning before January 1, 1968, the rate initially set shall apply for the period from January 1, 1968, to the end of that fiscal year.

(2) For a corporate taxpayer that is subject to tax in another state, its taxable income shall be the portion of the taxpayer's federal taxable income, as adjusted, that is determined to be connected with the taxpayer's operations in this state pursuant to sections 77-2734.05 to 77-2734.15.

(3) Each corporate taxpayer shall file only one income tax return for each taxable year.

Sec. 23. The amount of tax lost by political subdivisions for tax year 1991 as a result of the exemption of personal property by section 77-202 as changed by this Legislative bill shall be paid to the county treasurer by the state. The Tax Commissioner shall, on or before January 1, 1992, notify the Director of Administrative Services of the amount so certified pursuant to section 77-1613.01 to be reimbursed by the state. Reimbursement of the funds lost shall be made to each county according to the certification and shall be distributed in six as nearly as possible equal monthly payments on the last business day of each month beginning in January. The State Treasurer shall, on the business day preceding the last business day of each month, notify the Director of Administrative Services of the amount of funds available in the General Fund for payment purposes. The Director of Administrative

Services shall, on the last business day of each month, draw warrants against funds appropriated. Out of the amount received the county treasurer shall distribute the full amount lost to each of the taxing agencies within his or her county. Each taxing agency shall, in preparing its annual budget, take into account the amount to be received under this section.".

2. On page 21, strike "two" and insert "one and four-tenths".

3. On page 29, lines 6 through 9, strike the new matter and insert "telecommunications service, except carrier access services, interstate or international 800/900 service, and interstate or international private communications service, for all international, interstate, and intrastate telecommunications service originating from or received on telecommunications equipment in the state if the charge for the service is billed to an apparatus, telephone, or account in this state without regard to where the bill for such service is actually received. If a taxpayer presents to the Tax Commissioner written proof of double taxation of the telecommunication service, the Tax Commissioner shall credit against the tax accrued the amount of tax actually paid by the taxpayer to the other taxing entity. If the tax accrued exceeds the amount of the tax actually paid by the taxpayer to the other taxing entity, the taxpayer shall pay the difference to the state. The credit provided for in this section shall not be allowed if the tax actually paid by the taxpayer to the other taxing entity was not by law required to be paid".

4. On page 54, line 6, strike "and" and show as stricken.

5. On page 55, line 19, after "1967" insert ";

(22) Telecommunications service shall mean the transmission of any two-way interactive electromagnetic communications, including voice, image, date, and any other information, by the use of any means, including wire, cable, fiber optical cable, microwave, radiowave, or any combination of such media. Telecommunications service shall include basic local exchange telephone service, toll telephone service, and teletypewriter service, including residential and business service,

directory assistance, cellular mobile telephone or telecommunication service, specialized mobile radio and two-way pagers, and paging service including any form of mobile two-way communication. Telecommunications service shall not include separately stated nontransmission services which constitute computer processing applications used to act on the information to be transmitted;

(23) Private communications service shall mean telecommunications services furnished to a subscriber which entitle the subscriber to exclusive or priority use of any communication channel or groups of channels or to the exclusive or priority use of any interstate intercommunications system for the subscriber's stations; and

(24) 800/900 service shall mean any outbound or inbound interstate wide-area telecommunications service or other similar service which entitles the subscriber, upon payment of a charge based upon a flat amount or usage, to make or receive a large volume of telephonic communications to or from persons having telephone or radio telephone stations in specified areas which are outside the telephone system area in which the subscriber's station is located".

6. On page 101, line 8, strike "section 77-2701" and insert "sections 77-2701 and 77-2734.02,"; and in line 9 strike "is" and insert "are".

7. Renumber the remaining sections and correct internal references accordingly.

8. Correct the operative date provision so that section 77-2734.02 becomes operative for tax years beginning or deemed to begin on or after January 1, 1991.

MR. WARNER PRESIDING

SPEAKER BAACK PRESIDING

The Dierks amendment lost with 9 ayes, 19 nays, 18 present and not voting, and 3 excused and not voting.

Messrs. Hall and Moore offered the following amendment:
AM2020

(Amendments to E & R amendments, AM5164)

1. Strike sections 17, 18, 19, 20, and 34 and insert the following new sections:

"Sec. 17. For purposes of sections 18 to 22 of this act:

(1) Employee shall mean any person who is considered an employee for income tax withholding purposes;

(2) Employer shall mean any person who is considered an employer for income tax withholding purposes, except employer shall not include the state, any governmental unit or political subdivision of this state, or the federal government and its agencies or instrumentalities; and

(3) Self-employed person shall mean any person who is engaged in any activity with the object of gain, benefit, or advantage and who is not considered an employee of another person for such activity. Self-employed person shall not include any person for whom the activity generates either investment or passive income under the Internal Revenue Code of 1986, as amended.

Sec. 18. (1) There is hereby imposed from July 1, 1991, through June 30, 1992, an occupation fee on each employer within Nebraska. The occupation fee shall be three and eight-tenths cents per employee hour worked for such employer in Nebraska. The occupation fee shall not be collected or withheld from employees.

(2) The number of employee hours worked shall be determined by adding the total number of hours worked during the period by each of the employees. The number of hours worked will include the number of vacation or sick leave hours for which regular pay was paid. Hours paid at rates above normal hourly rates, such as overtime or holiday pay, will be counted at the number of hours actually worked. The number of hours worked will include forty hours per week for each person paid by salary or commission when a record of actual hours worked is not retained by the employer.

(3) For employees who work in more than one state, the hours reported for unemployment tax purposes to Nebraska shall be included as worked in Nebraska.

Sec. 19. (1) There is hereby imposed from July 1, 1991, through June 30, 1992, an occupation fee

on each self-employed person within Nebraska who has total gross sales or receipts from self-employment activities in excess of ten thousand dollars a year.

(2) A self-employed person who has employees shall pay the fee on forty hours a week in addition to the total number of hours worked by his or her employees.

(3) A self-employed person without any employees will pay the fee required by section 18 of this act for forty hours per week for any week he or she participated in the activity. Any week in which the person has incurred expenses for the activity, he or she shall be presumed to have participated in the activity.

(4) Any self-employed person who does not have more than ten thousand dollars of gross receipts in the prior year, shall not be required to file a return until after reaching the required level of receipts. Upon reaching the required level of receipts, the fee for all of the hours worked during the year shall be due with the next return. For purposes of this section, year shall mean the year from July 1 through the next following June 30.

Sec. 20. (1) Each employer or self-employed person subject to the fee shall file a return quarterly and report the hours worked for the previous quarter.

(2) The fee shall be paid quarterly, except that employers with more than ten thousand employee hours a month shall pay the fee each month.

(3) The fee shall be due the last day of the month following the end of the period.

Sec. 21. (1) The fee shall be administered in the same manner as the withholding tax, including penalties, interest, refunds, and deficiency determinations.

(2) The Tax Commissioner shall prescribe the forms for filing and paying the fee.

(3) A separate license shall not be required, except the Tax Commissioner may require an application as necessary for the efficient administration of the fee.

Sec. 22. The fee shall be due for all employee hours worked on or after 12:01 a.m. July 1, 1991, and on or before 12:00 a.m. July 1, 1992.

Sec. 23. That section 77-2734.02, Reissue

Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-2734.02. (1) A tax is hereby imposed for each taxable year on the taxable income of every corporate taxpayer that is doing business in this state at a rate equal to one hundred fifty and eight-tenths percent of the primary rate imposed on individuals under section 77-2701.01 on the first fifty thousand dollars of taxable income and at the rate of two hundred eleven percent of such rate on all taxable income in excess of fifty thousand dollars. And for tax years beginning on or after January 1, 1991, and before January 1, 1992, taxable income in excess of $200,000 shall be taxed an additional thirty-two percent of such rate. The resultant rates shall be rounded to the nearest one hundredth of one percent.

(a) For corporate taxpayers with a fiscal year that does not coincide with the calendar year, the individual rate used for this subsection shall be the rate in effect on the first day, or the day deemed to be the first day, of the taxable year.

(b) For fiscal years beginning before January 1, 1968, the rate initially set shall apply for the period from January 1, 1968, to the end of that fiscal year.

(2) For a corporate taxpayer that is subject to tax in another state, its taxable income shall be the portion of the taxpayer's federal taxable income, as adjusted, that is determined to be connected with the taxpayer's operations in this state pursuant to sections 77-2734.05 to 77-2734.15.

(3) Each corporate taxpayer shall file only one income tax return for each taxable year.".

2. On page 21, line 8, strike "two" and insert "one and seventy-five hundredths".

3. On page 101, line 8, strike "section 77-2701," and insert "sections 77-2701 and 77-2734.02,"; and in line 9 strike "is" and insert "are".

4. Renumber the remaining sections and correct internal references accordingly.

5. Correct the operative date provision so that section 17 to 22 become operative on July 1, 1991, and section 23 becomes operative for all taxable years beginning or deemed to begin on or after January 1,

16 1991.

Mr. Abboud asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Wickersham offered the following amendment to the pending Hall-Moore amendment:
AM2083

(Amendments to AM2020)

1. On page 3, line 23, strike "quarterly"; and in line 24 strike "previous quarter" and insert "period covered by the return".

2. On page 4, line 1, strike "paid quarterly" and insert "remitted with the return"; and strike lines 4 and 5 and insert the following new subsection:

"(3) The Tax Commissioner shall provide for annual and semiannual filing of returns and payment of the fee by rule and regulation.".

Mr. Schellpeper moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

The Wickersham amendment was adopted with 26 ayes, 0 nays, 20 present and not voting, and 3 excused and not voting.

Mr. Hall offered the following amendment to the pending Hall-Moore amendment:
(Amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM2033.)

Mr. R. Johnson asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Wehrbein moved the previous question. The question is, "Shall the debate now close?" The motion lost with 12 ayes, 13 nays, and 24 not voting.

PRESIDENT MOUL PRESIDING

Pending.

PRESENTED TO THE GOVERNOR

Presented to the Governor on May 22, 1991, at 5:55 p.m., was the following bill: 427.

(Signed) Pam Moravec, Enrolling Clerk

ATTORNEY GENERAL'S OPINION

Opinion No. 91046

DATE: May 21, 1991

SUBJECT: LB 829 - Constitutionality of Amendment Exempting From Property Taxation Certain Personal Property of Transportation Common Carriers.

REQUESTED BY: Senator Jerome Warner
Nebraska State Legislature

WRITTEN BY: Don Stenberg, Attorney General
L. Jay Bartel, Assistant Attorney General

You have requested our opinion regarding the constitutionality of a proposed amendment to LB 829 which would provide an exemption from property taxation for certain "personal property of transportation common carriers - railroad rolling stock, motor carriers and airplanes." Your question is whether the establishment of an exemption of this type would cure the constitutional defects found by the court in declaring unconstitutional the exemption of railroad rolling stock under LB 7 in Natural Gas Pipeline Co. v. State Bd. of Equal., 237 Neb. 357, 466 N.W.2d 461 (1991) ("NGPL").

In NGPL, the per curiam majority held, in part, that the exemption of railroad rolling stock established under LB 7 (1989 Neb. Laws, Spec. Sess.) created an unreasonable classification in violation of the prohibition against special legislation in Neb. Const. art. III, § 18, and violated the uniformity clause of Neb. Const. art. VIII, § 1. 237 Neb. at 371, 466 N.W.2d at 470. The court quoted the following language from State ex rel. Cone v. Bauman, 120 Neb. 77, 82-83, 231 N.W. 693, 695 (1930), setting forth the standards to be applied in judging the reasonableness of a legislative classification:

> The rule is well established that the legislature may, for the purpose of legislating, classify persons, places, objects or subjects, but such classification must rest upon some difference in situation or circumstance which, in reason, calls for distinctive legislation

for the class. The class must have a substantial quality or attribute which requires legislation appropriate or necessary for those in the class which would be inappropriate or unnecessary for those without the class.

237 Neb. at 370, 466 N.W.2d at 470.

Applying these principles to the railroad rolling stock exemption created by LB 7, the court stated:

The Legislature's exemption of railroad rolling stock is not based on any real distinction between railroads and other common carriers. If 'size' and 'weight,' mentioned in the Legislature's stated justification for the classification, refer to things which are large and heavy and the 'restrictions or conditions' means that speed is not required, then the expressed legislative justification could just as easily refer to trucks and trucking companies as to railroads. On the other hand, if one thinks in terms of things which are small and light and must be moved quickly, the expressed justification could just as easily refer to airlines and airline companies.

The Legislature's stated justification is illusory. We fail to see any real and substantial difference between personal property used for income production by one type of business and the same type of income-producing personal property used by another type of business.

The Legislature's effort to exempt railroads is not based on a reasonable classification and violates both the proportionality and special legislation requirements of the Nebraska Constitution. There is no reasonable basis for treating railroads differently from other common carriers; therefore, the distinction, as a classification and basis for an exemption from personal property tax, reflected in L.B. 7, results from special legislation prohibited by Neb. Const. art. III, § 18, and violates the uniformity clause of Neb. Const. art. VIII, § 1.

237 Neb. at 371, 466 N.W.2d at 470.

The apparent theory underlying your proposal is that the basis for the court's finding that the exemption of railroad rolling stock under LB 7 was unconstitutional was the court's determination that the classification was unreasonable because it was not "based on any real distinction between railroads and other common carriers." 237 Neb. at 371, 466 N.W. at 470. This interpretation would view the court's declaration that LB 7 was constitutionally prohibited special legislation to be limited to a finding, in effect, that the "class" of railroad rolling stock was unreasonable solely because it was too narrowly drawn due to the non-inclusion of personal property of other common carriers. Your proposed amendment would seek to cure this defect by creating a class of exempt personal property under

the authority vested in the Legislature under Neb. Const. art. VIII, § 2, consisting of personal property of transportation common carriers, specifically, railroad rolling stock, trucks and airplanes.

In our opinion, this proposed "solution" may well rest on an unduly narrow interpretation of the decision in NGPL. First, while it is true the court referred to the absence of any real distinction between railroad rolling stock and trucks and airplanes in striking down the classification in LB 7, it did so in the specific context of discussing how the Legislature's stated justification for the exemption (contained in subsection (3) of LB 7, § 1) was not based on any substantial difference to support the disparate tax treatment of such property. Thus, while the court focused on the expressed justification for the exemption stated in the bill in striking down the rolling stock exemption, it is not at all clear that the court would view exempting all personal property of transportation common carriers as creating a "reasonable" classification for purposes of Neb. Const. art. VIII, § 2. In this regard, we note that, in addition to its discussion of the absence of any justification to differentiate the property of railroads and other common carriers in the manner attempted under LB 7, the court further stated: "We fail to see any real and substantial difference between personal property used for income production by one type of business and the same type of income-producing personal property used by another type of business." 237 Neb. at 371, 466 N.W.2d at 470. This passage may indicate the court views the natural classification requiring uniformity of treatment for property tax purposes as consisting of some broader class of "personal property used for income production," as opposed to your proposal to establish a class of exempt property limited to certain transportation property used by common carriers.[1]

Furthermore, it should be noted that at least three members of the court joined in a concurring opinion in NGPL which reflected the view that the exemption of railroad rolling stock under LB 7 violated Article III, Section 18, for the reason that this exemption, when considered in connection with the extensive exemptions already provided for other commercial and industrial personal property, merely created "even greater discriminatory treatment against that commercial and industrial property which is not exempted." 237 Neb. at 374, 466 N.W.2d at 472 (White and Fahrnbruch, J. J., concurring). The concurrence further stated:

> When property, regardless of whether it is real or tangible personal property, is classified so that it provides exemption from taxation to all but a small amount of property, the classification and exemption may well be unreasonable and arbitrary and may

fall within the prohibition of Neb. Const. art. III, § 18, which is this state's 'equal protection clause.'

Id. at 375, 466 N.W.2d at 472 (White and Fahrnbruch, J. J., concurring); See also 237 Neb. at 376-77, 466 N.W.2d at 473 (Grant, J. concurring) (joining in concurring opinion of White and Fahrnbruch, J. J.); and 237 Neb. at 381-82, 466 N.W.2d at 476 (Caporale, J., concurring) (stating "there may be merit in much of what the majority has declared with respect to L.B. 7, and perhaps too in much of what Judges White and Fahrnbruch have expressed in that regard, ...").

While the opinions expressed by these members of the court in their concurrences in NGPL are not precedent, and do not represent the holding of a majority of the court, it is nevertheless significant to note that at least three (and possibly four) judges have clearly indicated that, in their view, the invalidity of the exemption for railroad rolling stock under LB 7 extended beyond a mere failure to include such property in a broader class of "personal property of transportation common carriers." Rather, these judges indicated their belief that the classification of property in a manner providing exemption from taxation "to all but a small amount of property" may violate Article III, Section 18. 237 Neb. at 375, 466 N.W.2d at 472 (White and Fahrnbruch, J. J., concurring). In the event that five members of the court were to adhere to this view, it is evident that an attempt to establish as a class of exempt personal property certain property used by transportation common carriers (including railroad rolling stock, trucks, and airplanes), in addition to the various other classifications of exempt personal property currently provided under Nebraska law, would not withstand constitutional scrutiny under Article III, Section 18 and would also likely be viewed as violating the uniformity requirement of Article VIII, Section 1. It is impossible to tell, of course, if five members would adopt this interpretation if squarely faced with this issue.[2]

In sum, while it is possible to narrowly construe the court's basis for declaring the exemption of railroad rolling stock under LB 7 to be unconstitutional special legislation in violation of Neb. Const. art. III, § 18 (and the uniformity clause of Neb. Const. art. VIII, § 1) as being limited to a determination that it was impermissible to establish a class of exempt personal property of this type without including other common carrier personal property, we believe serious questions exist as to the propriety of adopting this limited interpretation. In our view, it is not at all clear that the court would accept as reasonable a classification exempting some personal property used for the production of income (consisting of the types of transportation common carrier personal property previously identified) while other

income-producing personal property remained subject to taxation, at least where the amount of personal property taxed represented a small part of the total amount of personal property of this nature available for taxation.

In light of the views expressed by various members of the court in NGPL relating to this issue, and the nature of the per curiam majority's discussion of LB 7, we cannot provide a definitive answer to the question you have raised. We urge caution, however, in that legislative action taken on the assumption this "narrow" interpretation of the court's basis for declaring LB 7 unconstitutional is correct, such as enactment of your proposed amendment to expand the class of exempt personal property to include other common carrier transportation personal property, would undoubtedly expose substantial future property taxes to risk in the event such action is subsequently declared unconstitutional.

[1] While your amendment seems to contemplate establishing a class exempting "personal property of transportation common carriers," it appears the class would be limited to railroad rolling stock, trucks, and airplanes, as opposed to all personal property owned by railroads, truck companies or air carriers.

[2] Five of the seven judges of the Nebraska Supreme Court must agree to hold a law unconstitutional. Neb. Const. art. V, §2.

Very truly yours,
DON STENBERG
Attorney General
(Signed) L. Jay Bartel
Assistant Attorney General

cc: Patrick O'Donnell
Clerk of the Legislature
7-69-7.4

SELECT FILE

LEGISLATIVE BILL 829. The pending Hall amendment, AM2033, referred to in this day's Journal, to the pending Hall-Moore amendment, was renewed.

Mr. Dierks moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 6 nays, and 18 not voting.

Mr. Hall moved for a call of the house. The motion prevailed with 34 ayes, 0 nays, and 15 not voting.

Mr. Lindsay requested a roll call vote on the Hall amendment.

Voting in the affirmative, 25:

Ashford	Byars	Hall	Morrissey	Smith
Baack	Chizek	Hartnett	Nelson	Wehrbein
Bernard-Stevens	Coordsen	Hefner	Pirsch	Wesely
	Crosby	Hillman	Rasmussen	Will
Beutler	Elmer	Landis	Schellpeper	Withem
Beyer				

Voting in the negative, 20:

Abboud	Dierks	Labedz	Peterson	Schmit
Chambers	Horgan	Lamb	Robak	Schrock
Conway	Johnson, L.	Lindsay	Robinson	Warner
Cudaback	Kristensen	Moore	Rogers	Wickersham

Present and not voting, 1:

Schimek

Excused and not voting, 3:

Haberman Johnson, R. Lynch

The Hall amendment was adopted with 25 ayes, 20 nays, 1 present and not voting, and 3 excused and not voting.

Pending.

The Chair declared the call raised.

SELECT COMMITTEE REPORT
Enrollment and Review

Correctly Engrossed

The following bill was correctly engrossed: 843.

(Signed) Eric Will, Chairperson

Enrollment and Review Change to LB 843

The following changes, required to be reported for publication in the Journal, have been made:
ER7077

1. In the Bernard-Stevens amendment, AM1733, on page 1, line 12, "67" has been struck and "65" inserted and "3" has been struck and "22" inserted; and in line 16 "family foster" has been struck and "foster family" inserted.

2. In the Moore amendment, AM2001, on page 1, line 7, "Office" has been struck and "Analyst" inserted.

3. In the Wesely amendment, AM1949, on page 2, lines 7 and 14, "$3,483,240" has been struck and "$3,483,242" inserted.

4. In the Hefner-Chambers amendment, AM1730, on page 1, line 6, "Legislative Academy for" has been inserted before "Youth" and "Academy" has been struck.

5. In the Standing Committee amendments, AM1508:

a. On page 58, line 19 has been struck and
"GENERAL FUND 97,594,088 96,187,313"
inserted; and line 22 has been struck and
"AGENCY TOTAL 146,339,479 147,356,666"
inserted;

b. On page 61, line 12 and all amendments thereto have been struck and
"GENERAL FUND 67,939,121 75,221,576"
inserted; in line 18 "$71,307,364" and all amendments thereto have been struck and "$67,939,121" inserted; and in line 22 "$78,567,861" and all amendments thereto have been struck and "$75,221,576" inserted; and

c. On page 69, line 8 and all amendments thereto have been struck and
"GENERAL FUND 227,393,996 258,649,819"
inserted; and line 10 has been struck and
"FEDERAL FUND est. 407,581,484 441,640,498"
inserted.

6. On page 143, line 17, "Railroad and Car Company" has been struck; and in line 18 ", Municipal Infrastructure Redevelopment Fund" has been inserted after "Fund".

7. On page 144, line 13, ", Petroleum Release Remedial Action Collection Fund" has been inserted after "Fund".

8. On page 149, line 7, "University of Nebraska at Kearney Cash Fund," has been inserted after the comma.

9. On page 151, line 1, ", Vacant Building and Excess Land Fund" has been inserted after "Fund".

10. On page 159, line 3, "University of Nebraska at Kearney Trust Fund," has been inserted after the comma.

(Signed) Mary E. Sommermeyer
E & R Attorney

SELECT FILE

LEGISLATIVE BILL 829. Mr. Lindsay offered the following amendment to the pending Hall-Moore amendment:
FA168

Amend AM2033 to AM2020 as follows:

1. On p. 9, line 2, strike "architectural" through "publishing" in line 3 and insert "all services except medical"

Pending.

Mrs. Smith asked unanimous consent to be excused until she returns. No objections. So ordered.

MOTION - Adjournment

Mr. Abboud moved to adjourn until May 23, 1991, at 10:00 a.m. The motion lost with 4 ayes, 20 nays, 21 present and not voting, and 4 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 829. Mr. Lindsay withdrew his pending amendment, FA168, found in this day's Journal.

Mr. Abboud offered the following amendment to the pending Hall-Moore amendment:
FA169

Amend AM2033

On page 9 line 2, after "legal" insert "repair to tangible personal property, barbering and cosmetic services, insurance commissions, telemarketing, computer programming, construction, veterinary services, plumbing services"

SPEAKER BAACK PRESIDING

Mr. Abboud withdrew his pending amendment.

The pending Hall-Moore amendment, AM2020, found in this day's Journal, as amended, was renewed.

PRESIDENT MOUL PRESIDING

Mr. Wesely moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 7 nays, and 17 not voting.

Mr. Lindsay requested a record vote on the Hall-Moore amendment, as amended.

Voting in the affirmative, 26:

Ashford	Byars	Hefner	Rasmussen	Warner
Baack	Chizek	Hillman	Rogers	Wehrbein
Bernard-Stevens	Coordsen	Landis	Schellpeper	Wesely
Beutler	Elmer	Morrissey	Schimek	Will
Beyer	Hall	Nelson	Smith	Withem
	Hartnett			

Voting in the negative, 18:

Abboud	Dierks	Labedz	Peterson	Robinson
Chambers	Horgan	Lamb	Pirsch	Schmit
Crosby	Johnson, L.	Lindsay	Robak	Wickersham
Cudaback	Kristensen	Moore		

Present and not voting, 2:

Conway Schrock

Excused and not voting, 3:

Haberman Johnson, R. Lynch

The Hall-Moore amendment, as amended, was adopted with 26 ayes, 18 nays, 2 present and not voting, and 3 excused and not voting.

Messrs. Conway and Will asked unanimous consent to bracket LB 829 until Tuesday, May 28, 1991. No objections. So ordered.

SELECT COMMITTEE REPORTS
Enrollment and Review

Correctly Engrossed

The following bills were correctly engrossed: 845, 846, and 846A.

(Signed) Eric Will, Chairperson

Enrollment and Review Change to LB 845

The following changes, required to be reported for publication in the Journal, have been made:
ER7082
1. In the Standing Committee amendments, AM1367:
a. On page 44, line 24, "Nebraska" has been inserted after "The";
b. On page 48, line 20, "est." has been struck; and
c. On page 56, line 16, "PROGRAM" has been struck and "AGENCY" inserted.
2. On page 59, line 1, ", and any amendments thereto," has been inserted after "Manual".

Enrollment and Review Change to LB 846A

The following changes, required to be reported for publication in the Journal, have been made:
ER7080
1. In the Standing Committee amendment, AM1368:
a. On page 37, line 15, "and" has been struck; and line 16 has been struck;
b. On page 45, line 2, "est." has been struck; and in lines 3 and 18 "AGENCY" has been struck and "PROGRAM" inserted; and
c. On page 51, line 19, "PROGRAM" has been struck and "AGENCY" inserted.

(Signed) Mary E. Sommermeyer
E & R Attorney

UNANIMOUS CONSENT - Print in Journal

Messrs. Ashford and Schellpeper asked unanimous consent to print the following amendment to LB 355 in the Journal. No objections. So ordered.

AM2102

(Amendments to AM1909)

1. Strike sections 9 to 22 and insert the following new sections:

"Sec. 9. No importer, manufacturer, or dealer licensed pursuant to 18 U.S.C. 923 shall sell or deliver any handgun to another person other than a licensed importer, manufacturer, dealer, or collector until he or she has:

(1)(a) Inspected a valid certificate issued to such person pursuant to sections 1 to 7 of this act; and

(b) Inspected a valid identification containing a photograph of such person which appropriately and completely identifies such person; or

(2)(a) Obtained a completed consent form from the potential buyer or transferee, which form shall be established by the Nebraska State Patrol and provided by the licensed importer, manufacturer, or dealer. The form shall include only the name, date of birth, gender, race, and social security number or other identification number of such potential buyer or transferee;

(b) Inspected a valid identification containing a photograph of the potential buyer or transferee which appropriately and completely identifies such person;

(c) Requested by toll-free telephone call or other electromagnetic communication that the Nebraska State Patrol conduct a criminal history record check; and

(d) Received a unique approval number for such inquiry from the Nebraska State Patrol indicating the date and number on the consent form.

Sec. 10. (1) Upon receipt of a request for a criminal history record check, the Nebraska State Patrol shall as soon as possible during the licensee's telephone call or by return telephone call:

(a) Review its criminal history records to determine if the potential buyer or transferee is prohibited from receipt or possession of a handgun pursuant to state or federal law; and

(b) Inform the licensee either (i) that its records demonstrate that the potential buyer or transferee is prohibited from receipt or possession of a handgun or (ii) provide the licensee with a unique

approval number.

(2) In the event of electronic failure or similar emergency beyond the control of the Nebraska State Patrol, the patrol shall immediately notify a requesting licensee of the reason for and estimated length of such delay. In any event, no later than the end of the next business day the Nebraska State Patrol shall either (a) inform the licensee that its records demonstrate that the potential buyer or transferee is prohibited from receipt or possession of a handgun or (b) provide the licensee with a unique approval number. If the licensee is not informed by the end of the next business day that the potential buyer is prohibited from receipt or possession of a handgun, and regardless of whether the unique approval number has been received, the licensee may complete the sale or delivery and shall not be deemed to be in violation of sections 9 to 22 of this act with respect to such sale or delivery.

(3) A fee of three dollars shall be charged for each request of a criminal history record check required pursuant to section 9 of this act, which amount shall be transmitted monthly to the Nebraska State Patrol. Such amount shall be for the purpose of covering the costs of the criminal history record check.

Sec. 11. (1) Any records which are created by the Nebraska State Patrol to conduct the criminal history check containing any of the information set forth in subdivision (1) of section 9 of this act pertaining to a potential buyer or transferee who is not prohibited from receipt or transfer of a handgun by reason of state or federal law shall be confidential and may not be disclosed by the patrol or any officer or employee thereof to any person. The Nebraska State Patrol shall destroy any such records as soon as possible after communicating the unique approval number and, in any event, such records shall be destroyed within forty-eight hours after the date of receipt of the licensee's request.

(2) Notwithstanding the provisions of this section, the Nebraska State Patrol shall only maintain a log of dates of requests for criminal history record checks and unique approval numbers corresponding to such dates for not to exceed one year.

(3) Nothing in this section shall be construed

to allow the state to maintain records containing the names of licensees who receive unique approval numbers or to maintain records of handgun transactions, including the names or other identification of licensees and potential buyers or transferees including persons not otherwise prohibited by law from the receipt or possession of handguns.

Sec. 12. The Nebraska State Patrol shall establish a toll-free telephone number which shall be operational seven days a week between 8 a.m. and 10 p.m. for purposes of responding to requests under section 9 of this act. The Nebraska State Patrol shall employ and train such personnel as is necessary to expeditiously administer the provisions of sections 9 to 22 of this act.

Sec. 13. Any person who is denied the right to purchase or receive a handgun as a result of procedures established by sections 9 to 22 of this act may request amendment of the record pertaining to him or her by petitioning the Nebraska State Patrol. If the Nebraska State Patrol fails to amend the record within seven days, the person requesting the amendment may petition the county court of the county in which he or she resides for an order directing the patrol to amend the record. If the person proves by a preponderance of the evidence that the record should be amended, the court shall order the record be amended. If the record demonstrates that such person is not prohibited from receipt or possession of a handgun by state or federal law, the Nebraska State Patrol shall destroy any records it maintains which contain any information derived from the criminal history record check.

Sec. 14. The Nebraska State Patrol shall adopt and promulgate rules and regulations to ensure the identity, confidentiality, and security of all records and data provided pursuant to sections 9 to 22 of this act.

Sec. 15. A licensed importer, manufacturer, or dealer shall not be required to comply with the provisions of subdivision (2) of section 9 and sections 10 to 22 of this act in the event of:

(1) Unavailability of telephone service at the licensed premises due to (a) the failure of the entity which provides telephone service in the state, region,

or other geographical area in which the licensee is located to provide telephone service to the premises due to the location of such premises or (b) the interruption of telephone service by reason of hurricane, flood, natural disaster, other act of God, war, riot, or other bona fide emergency or reason beyond the control of the licensee; or

(b) Failure of the Nebraska State Patrol to comply reasonably with the requirements of sections 9 to 22 of this act.

Sec. 16. Compliance with sections 9 to 22 of this act shall be a defense by the Nebraska State Patrol and the licensee transferring a handgun in any cause of action under the laws of this state for liability for damages arising from the importation or manufacture, or the subsequent sale or transfer, of any handgun which has been shipped or transported in interstate or foreign commerce to any person who has been convicted in any court of any crime punishable by a term of more than one year.

Sec. 17. Sections 9 to 22 of this act shall not apply to any transfer involving an antique handgun.

Sec. 18. Any licensed importer, manufacturer, or dealer who knowingly and intentionally requests a criminal history record check from the Nebraska State Patrol for any purpose other than compliance with sections 9 to 22 of this act or knowingly and intentionally disseminates any criminal history record information to any person other than the subject of such information shall be guilty of a Class I misdemeanor.

Sec. 19. Any person who, in connection with the purchase, transfer, or attempted purchase of a handgun pursuant to sections 9 to 22 of this act, knowingly and intentionally makes any materially false oral or written statement or knowingly and intentionally furnishes any false identification intended or likely to deceive the licensee shall be guilty of a Class IV felony.

Sec. 20. Any licensed importer, manufacturer, or dealer who knowingly and intentionally sells or delivers a handgun in violation of this act shall be guilty of a Class IV felony.

Sec. 21. For purposes of this act, any person who knowingly and intentionally obtains a handgun for

the purposes of transferring it to a person who is prohibited from receipt or possession of a handgun by state or federal law shall be guilty of a Class IV felony.

Sec. 22. The Nebraska State Patrol shall provide an annual report to the Judiciary Committee of the Legislature which includes the number of inquiries made pursuant to sections 9 to 22 of this act for the prior calendar year, the number of such inquiries resulting in a determination that the potential buyer or transferee was prohibited from receipt or possession of a handgun pursuant to state or federal law, the estimated costs of administering such sections, the number of instances in which a person requested amendment of the record pertaining to such person pursuant to section 13 of this act, and the number of instances in which a district court issued an order directing the patrol to amend a record.".

2. On page 4, strike beginning with "based" in line 11 through "act" in line 13 and insert "to any law enforcement agency provided such law enforcement agency complies with sections 1 to 7 of this act".

3. On page 6, line 3, after the second period insert "It is the intent of the Legislature that the Nebraska State Patrol shall make all reasonable efforts to update and computerize the criminal history files of the state."; in line 14 after "or" insert "to the extent provided"; and in lines 18 and 19 after "to" insert "19 and section".

4. On page 16, line 4, after "be" insert "held and".

5. Renumber the remaining sections accordingly.

Mr. L. Johnson asked unanimous consent to print the following amendment to LB 829 in the Journal. No objections. So ordered.

AM2055

(Amendments to AM5164)

1. On page 96, line 22, after "body" insert "or by a majority vote of the governing body if the governing body did not increase receipts from property taxes for fiscal year 1990-91".

ADJOURNMENT

At 9:31 p.m., on a motion by Mr. Baack, the Legislature adjourned until 10:00 a.m., Thursday, May 23, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

EIGHTY-THIRD DAY - MAY 23, 1991

LEGISLATIVE JOURNAL

EIGHTY-THIRD DAY - MAY 23, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

EIGHTY-THIRD DAY

Legislative Chamber, Lincoln, Nebraska
Thursday, May 23, 1991

Pursuant to adjournment, the Legislature met at 10:00 a.m., President Moul presiding.

PRAYER

The prayer was offered by Pastor Alex Wacker, St. Andrews Lutheran Church, Lincoln, Nebraska.

ROLL CALL

The roll was called and all members were present except Mr. Haberman who was excused; and Messrs. Ashford, Elmer, Horgan, Morrissey, Peterson, Schmit, Will, Mmes. Labedz, Rasmussen, and Robak who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Eighty-Second Day was approved.

SELECT COMMITTEE REPORTS
Enrollment and Review

Correctly Engrossed

The following bills were correctly engrossed: 502, 651, 653, 841, and 842.

(Signed) Eric Will, Chairperson

REPORT OF REGISTERED LOBBYISTS

In accordance with LB 987, passed in the 1976 session of the Legislature and amended by LB 4 and LB 41 in the 1977 session of the Legislature, the attached is a list of all Lobbyists who have registered as of May 22, 1991. Further lists listing additional lobbyists who have registered will be filed weekly.

(Signed) Patrick J. O'Donnell
Clerk of the Legislature

DeCamp Legal Services, P.C.
DeCamp, John - Lincoln

O'Hara & Associates
O'Hara, Paul V. - Lincoln
Pappas, James E. - Lincoln
(Withdrawn 91/05/20)
Pappas, James E. - Lincoln
Wright, Norman H. - Omaha

Nebraskans for Reform of Tobacco Laws (NRTL)

International Gamco, Inc.
UNO AAUP

J. Murry Shaeffer
Omaha Zoological Society

STANDING COMMITTEE REPORT
General Affairs

The Committee on General Affairs desires to report favorably upon the appointments listed below. The Committee recommends the appointments be confirmed by the Legislature and requests a record vote.

J. Robert Duncan - Nebraska Arts Council
Maryanne Harry - Nebraska Arts Council
Janet Korell - Nebraska Arts Council
Jacquelyn H. Rosenlof - Nebraska Arts Council
Jean Sidwell - Nebraska Arts Council

VOTE: Aye: Senators Cudaback, Hartnett, R. Johnson, Labedz, Rasmussen, Rogers, Smith, and Will. Nay: none. Not Voting: none. Absent: none.

(Signed) Jacklyn Smith, Chairperson

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following resolutions: LR 188 and LR 189.

RESOLUTIONS

LEGISLATIVE RESOLUTION 190. Read. Considered.

LR 190 was adopted with 25 ayes, 1 nay, and 23 not voting.

LEGISLATIVE RESOLUTION 191. Read. Considered.

LR 191 was adopted with 27 ayes, 0 nays, and 22 not voting.

SELECT FILE

LEGISLATIVE BILL 419. E & R amendment, AM5064, found in the Journal on page 984, was adopted.

Mr. Wesely withdrew his pending amendment, AM1901, on file in the Clerk's Office and referred to on page 2224.

Messrs. Schellpeper and Elmer asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Wesely offered the following amendment:
(Amendment on file in the Clerk's Office - Room 2018 - AM1988.)

Mr. Conway asked unanimous consent to be excused until he returns. No objections. So ordered.

The Wesely amendment was adopted with 25 ayes, 0 nays, 16 present and not voting, and 8 excused and not voting.

Mr. Hall offered the following amendment:
AM2111

1. Insert the following new sections:

"Section 1. The director shall keep a record on each agent and broker licensed pursuant to the Insurance Producers Licensing Act which contains at least the following information:

(1) The name and address of the employing insurance agency and any license number;

(2) The number of written complaints submitted to the director within the preceding five years, if submitted on or after the effective date of this act, involving the agent or broker; and

(3) Any disposition or other resolution of the written complaints, including any fine or other disciplinary action taken by the director in response to a complaint, or a notation that disposition is pending.

A copy of the record on an agent or broker shall be available upon request to any insurer as defined in section 44-103 which holds a certificate of authority to transact the business of insurance in this state and which is considering appointing the subject agent or contracting with the subject broker pursuant to the Insurance Producers Licensing Act. Information contained in a record shall not be used by an insurer, agent, broker, or insurance agency for purposes of obtaining a competitive advantage. Use of such information for purposes of obtaining a competitive advantage shall be an unfair trade practice in the business of insurance subject to the Unfair Insurance Trade Practices Act. Any insurer requesting a record shall provide an employment application or other evidence that the subject agent is seeking appointment by or the subject broker is seeking to contract with the requesting insurer and a written authorization signed by the subject agent or broker and shall pay the director a fee sufficient to cover the cost of providing the report. The director and any employee of the department shall not be liable to an agent or broker for releasing any information required by this section.

Sec. 2. That section 44-4001, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-4001. Sections 44-4001 to 44-4044 and section 1 of this act shall be known and may be cited as the Insurance Producers Licensing Act.

Sec. 3. That original section 44-4001, Reissue Revised Statutes of Nebraska, 1943, is repealed.".

2. Renumber the remaining sections and correct internal references accordingly.

SPEAKER BAACK PRESIDING

The Hall amendment was adopted with 26 ayes, 0 nays, 15 present and not voting, and 8 excused and not voting.

Mr. Hall offered the following amendment:

FA170
Amend AM1988
On pg 26 line 17 strike "104,803" & insert "187,078"
Line 18 strike "89,166" and insert "101,066"
Line 24 strike "57,320" and insert "79,884"
Pg 27 line 1 strike "58,718" and insert "67,201"

The Hall amendment was adopted with 25 ayes, 0 nays, 16 present and not voting, and 8 excused and not voting.

Advanced to E & R for engrossment.

GENERAL FILE

LEGISLATIVE BILL 669. Title read. Considered.

Standing Committee amendment, AM0373, found in the Journal on page 791, was considered.

Mr. Ashford offered the following amendment to the pending Standing Committee amendment:
FA171
Amend Committee Amendments
On pg 2 line 11 delete "Compostable"
On line 13 add after facility, "provided such facility is located in the State of Nebraska."
Line 15 delete "Compostable"
Line 17 add after facility, "provided such facility is located in Nebraska."

Mr. Dierks moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

Mr. Coordsen asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Ashford moved for a call of the house. The motion prevailed with 16 ayes, 2 nays, and 31 not voting.

Mr. Ashford requested a roll call vote on his amendment.

Voting in the affirmative, 21:

Ashford	Hefner	Lynch	Rasmussen	Schimek
Beyer	Johnson, L.	Morrissey	Robak	Wehrbein
Crosby	Lamb	Nelson	Robinson	Wesely
Dierks	Landis	Pirsch	Rogers	Withem
Hall				

Voting in the negative, 16:

Abboud	Cudaback	Horgan	Labedz	Schrock
Baack	Hartnett	Johnson, R.	Lindsay	Smith
Beutler	Hillman	Kristensen	Moore	Warner
Byars				

Present and not voting, 6:

Bernard-Stevens	Chambers	Peterson	Wickersham	Will
	Chizek			

Excused and not voting, 6:

Conway	Elmer	Haberman	Schellpeper	Schmit
Coordsen				

The Ashford amendment was adopted with 21 ayes, 16 nays, 6 present and not voting, and 6 excused and not voting.

Pending.

The Chair declared the call raised.

Mr. Dierks asked unanimous consent to be excused until he returns. No objections. So ordered.

SELECT COMMITTEE REPORTS
Enrollment and Review

Correctly Engrossed

The following bills were correctly engrossed: 647, 647A, 760, 847, 854, 854A, 855, 855A, 856, 856A, and 857.

(Signed) Eric Will, Chairperson

Enrollment and Review Change to LB 647

The following changes, required to be reported for publication in the Journal, have been made:
ER7085
1. In the Moore amendment, AM1502, on page 1, line 13, "and" has been inserted after the second comma.

Enrollment and Review Change to LB 760

The following changes, required to be reported for publication in the Journal, have been made:
ER7086
1. In the Standing Committee amendments, AM1504, on page 2, line 23, "Fund" has been inserted before "for".

Enrollment and Review Change to LB 847

The following changes, required to be reported for publication in the Journal, have been made:
ER7084
1. In the Standing Committee amendments, AM1473:
a. On page 5, line 12, "FY1993-95" has been struck and "1993-95" inserted;
b. On page 15, line 15, a comma has been inserted after "contracts"; and
c. On page 29, line 8, "Programs" has been struck and "Program" inserted.

Enrollment and Review Change to LB 854

The following changes, required to be reported for publication in the Journal, have been made:
ER7078
1. In the Kristensen amendment, AM2035, on page 5, line 19, an underscored comma has been inserted after "3".
2. On page 1, the matter beginning with "motor" in line 1 through line 6 and all amendments thereto have been struck and "motor vehicles; to amend sections 75-363 and 75-364, Reissue Revised Statutes of Nebraska, 1943, and sections 60-4,135 and 60-4,148, Revised Statutes Supplement, 1990; to change provisions relating to early issuance of and fees for commercial drivers' licenses and the applicability of the federal Motor Carrier Safety Regulations and the federal Hazardous Material Regulations; to provide operative dates;

to repeal the original sections; and to declare an emergency." inserted.

Enrollment and Review Change to LB 856

The following changes, required to be reported for publication in the Journal, have been made:
ER7083
1. On page 2, line 5, "the State of" has been struck and shown as stricken.

(Signed) Mary E. Sommermeyer
E & R Attorney

STANDING COMMITTEE REPORT
Revenue

The Committee on Revenue desires to report favorably upon the appointments listed below. The Committee suggests the appointments be confirmed by the Legislature and suggests a record vote.

Nebraska Agricultural Land Valuation Advisory Board:
Robert J. Broomfield
Jack Ostergard
Paul Phelps
Ivan J. Schmedding

VOTE: Aye: Senators Hall, Hefner, Landis, Peterson, Warner, and Will. Absent: Senators Haberman and Rogers.

(Signed) Tim Hall, Chairperson

NOTICE OF COMMITTEE HEARINGS
Health and Human Services

Governor Appointments Thursday, May 30, 1991 1:15 p.m.
Nebraska Commission for Hearing Impaired
Marcia Kushner
Michael D. Gooch
Richard McCowin
Rosemary Hannam
Robert A. Phillips

(Signed) Don Wesely, Chairperson

STANDING COMMITTEE REPORT
Government, Military and Veterans Affairs

LEGISLATIVE BILL 616. Placed on General File as amended.
Standing Committee amendment to LB 616:
AM2076

1. Strike the original section and insert the following new sections:

"Section 1. That section 24-201.02, Revised Statutes Supplement, 1990, be amended to read as follows:

24-201.02. The State of Nebraska is hereby divided into ~~the~~ six Supreme Court judicial districts, ~~described in this section, each of which~~ Each district shall be entitled to one Supreme Court Judge. The limits and designations of the six districts shall be as follows:

District No. 1. The counties of Lancaster, ~~Gage, Otoe, Johnson, Nemaha, Pawnee, and Richardson.~~ Seward, and York and that part of Gage County which includes the precincts of Adams, Blakely, Clatonia, Filley, Grant, Hanover, Highland, Holt, Hooker, Logan, Midland Ward 1, Midland Ward 2, Nemaha, and the City of Beatrice;

District No. 2. ~~The counties of Burt and Washington, and in~~ That part of Douglas County~~, that area~~ not included in Supreme Court judicial district 4;

~~.~~

District No. 3. The counties of ~~Knox, Cedar, Dixon, Dakota, Pierce, Wayne, Thurston, Madison, Stanton, Cuming, Colfax, Dodge, Butler, Saunders, Antelope, Boone, Platte, Nance, and Merrick.~~ Fillmore, Saline, Thayer, Jefferson, Polk, Platte, Antelope, Boone, Nance, Merrick, Hamilton, Clay, Nuckolls, Webster, Adams, Hall, Howard, Greeley, Wheeler, Holt, Boyd, Garfield, Valley, Kearney, and Franklin and that part of Gage County not included in Supreme Court judicial district 1;

District No. 4. ~~The counties of~~ Sarpy County, ~~and Cass, and in~~ that part of Cass County which includes the North Plattsmouth precinct and the City of Plattsmouth precincts, and that part of Douglas County, beginning at the intersection of the ~~Sarpy-Douglas~~

Douglas-Sarpy County line and 180th Street, north on 180th Street to West Center Road, east on West Center Road to ~~168th Street~~ Interstate Highway 680, north on ~~168th Street~~ Interstate Highway 680 to Pacific Street, east on Pacific Street to ~~20th~~ 22nd Street, south on ~~20th~~ 22nd Street to Pierce Street, east on Pierce Street to ~~16th Street, north on 16th Street to Pacific Street, east on Pacific Street to 11th Street, north on 11th Street to Marcy Street, east on Marcy Street to 7th Street and~~ the Union Pacific ~~railroad tracks~~ Railroad right-of-way, east on the Union Pacific ~~railroad tracks to the Iowa-Nebraska state line~~ Railroad right-of-way to the Missouri River, south along the ~~Iowa-Nebraska state line~~ Missouri River to the ~~Sarpy-Douglas~~ Douglas-Sarpy County line, and west ~~on~~ along the ~~Sarpy-Douglas~~ Douglas-Sarpy County line to 180th Street~~,~~ to the point of beginning; ~~.~~

District No. 5. The counties of ~~Dundy, Hayes, Hitchcock, Frontier, Red Willow, Dawson, Gosper, Furnas, Phelps, Harlan, Kearney, Franklin, Hall, Adams, Webster, Nuckolls, Thayer, Clay, Hamilton, Polk, York, Seward, Fillmore, Saline, Jefferson, and Chase.~~ Richardson, Nemaha, Otoe, Johnson, Pawnee, Saunders, Butler, Colfax, Dodge, Washington, Burt, Cuming, Stanton, Madison, Pierce, Wayne, Thurston, Dakota, Dixon, Cedar, and Knox, and that part of Cass County not included in Supreme Court judicial district 4;

District No. 6. The counties of ~~Sioux, Dawes, Box Butte, Sheridan, Cherry, Keya Paha, Brown, Rock, Boyd, Holt, Wheeler, Garfield, Loup, Blaine, Thomas, Hooker, Grant, Garden, Morrill, Scotts Bluff, Banner, Kimball, Cheyenne, Deuel, Arthur, Keith, Perkins, McPherson, Lincoln, Logan, Custer, Valley, Greeley, Sherman, Howard, and Buffalo~~ Sherman, Buffalo, Phelps, Harlan, Furnas, Gosper, Dawson, Custer, Loup, Blaine, Rock, Brown, Keya Paha, Cherry, Thomas, Logan, Lincoln, Frontier, Red Willow, Hitchcock, Hayes, McPherson, Hooker, Grant, Arthur, Keith, Perkins, Chase, Dundy, Deuel, Garden, Sheridan, Cheyenne, Morrill, Box Butte, Dawes, Sioux, Scotts Bluff, Banner, and Kimball.

Sec. 2. The precincts, townships, and cities mentioned in section 24-201.02 shall be the precincts, townships, and cities set out in the 1990 Census of Population by the United States Department of Commerce,

Bureau of the Census.

Sec. 3. That original section 24-201.02, Revised Statutes Supplement, 1990, is repealed.".

(Signed) Gerald Conway, Chairperson

GENERAL FILE

LEGISLATIVE BILL 669. Mrs. Pirsch offered the following amendment to the pending Standing Committee amendment:
FA172
Amend FA171
by adding after "provided such facility is located in Nebraska"
change period to comma
or within 50 miles of the Nebraska Border."

Messrs. Byars, Peterson, and Moore asked unanimous consent to be excused until they return. No objections. So ordered.

The Pirsch amendment was adopted with 21 ayes, 0 nays, 19 present and not voting, and 9 excused and not voting.

Mr. Morrissey moved to bracket LB 669 until January 1, 1992.

Mr. Wesely asked unanimous consent to be excused until he return. No objections. So ordered.

Mr. Lynch asked unanimous consent to be excused. No objections. So ordered.

Mr. Morrissey moved for a call of the house. The motion prevailed with 15 ayes, 0 nays, and 34 not voting.

Mr. Morrissey requested a roll call vote on his motion to bracket.

Voting in the affirmative, 11:

Crosby	Nelson	Robinson	Schimek	Will
Cudaback	Robak	Rogers	Wesely	Withem
Morrissey				

Voting in the negative, 27:

Abboud	Ashford	Baack

Bernard-Stevens	Hartnett	Johnson, R.	Moore	Schrock
Beutler	Hefner	Kristensen	Peterson	Smith
Beyer	Hillman	Labedz	Pirsch	Warner
Chizek	Horgan	Landis	Rasmussen	Wehrbein
	Johnson, L.	Lindsay	Schmit	Wickersham

Present and not voting, 3:

Chambers	Hall	Lamb

Excused and not voting, 8:

Byars	Coordsen	Elmer	Lynch	Schellpeper
Conway	Dierks	Haberman		

The Morrissey motion to bracket lost with 11 ayes, 27 nays, 3 present and not voting, and 8 excused and not voting.

The Chair declared the call raised.

The Standing Committee amendment, as amended, was adopted with 28 ayes, 2 nays, 11 present and not voting, and 8 excused and not voting.

Advanced to E & R for review with 26 ayes, 6 nays, 9 present and not voting, and 8 excused and not voting.

Mr. Lamb asked unanimous consent to be excused until he returns. No objections. So ordered.

LEGISLATIVE BILL 470. Considered.

Mr. Hefner asked unanimous consent to be excused until he returns. No objections. So ordered.

PRESIDENT MOUL PRESIDING

Mr. Schmit moved for a call of the house. The motion prevailed with 22 ayes, 0 nays, and 27 not voting.

Mr. Schmit requested a roll call vote on the advancement of the bill.

Voting in the affirmative, 23:

Ashford	Chizek	Horgan	Pirsch	Warner
Baack	Conway	Johnson, R.	Rasmussen	Wesely
Beutler	Crosby	Labedz	Schmit	Will
Byars	Hall	Lindsay	Smith	Withem
Chambers	Hartnett	Nelson		

Voting in the negative, 13:

Bernard-Stevens	Cudaback	Landis	Robak	Wehrbein
	Hillman	Morrissey	Robinson	Wickersham
Beyer	Johnson, L.	Peterson	Rogers	

Present and not voting, 5:

Abboud	Coordsen	Kristensen	Moore	Schimek

Absent and not voting, 1:

Schrock

Excused and not voting, 7:

Dierks	Haberman	Lamb	Lynch	Schellpeper
Elmer	Hefner			

Failed to advance to E & R for review with 23 ayes, 13 nays, 5 present and not voting, 1 absent and not voting, and 7 excused and not voting.

The Chair declared the call raised.

Mrs. Robak asked unanimous consent to be excused until she returns. No objections. So ordered.

LEGISLATIVE BILL 327. Mr. Chambers asked unanimous consent to pass over. No objections. So ordered.

EASE

The Legislature was at ease from 1:45 p.m. until 1:50 p.m.

SELECT FILE

LEGISLATIVE BILL 715. E & R amendment, AM5129, found in the Journal on page 1795, was adopted.

Mr. Wickersham renewed his pending amendment, AM0911, found in the Journal on page 1679.

The Wickersham amendment was adopted with 25 ayes, 0 nays, 18 present and not voting, and 6 excused and not voting.

Mr. Schmit asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Beutler asked unanimous consent to replace his pending amendment, AM1203, found in the Journal on page 1855, with a substitute amendment. No objections. So ordered.

Mr. Beutler withdrew his pending amendment, AM1203, found in the Journal on page 1855.

Mrs. Hillman asked unanimous consent to be excused until she returns. No objections. So ordered.

Mr. Beutler offered the following substitute amendment:
AM1767

1. Insert the following new sections:

"Sec. 19. That section 43-1608, Revised Statutes Supplement, 1990, be amended to read as follows:

43-1608. The Legislature finds that matters relating to the establishment, modification, and enforcement of child, ~~or~~ spousal, or medical support should be handled by the district courts in an expeditious manner so that parties may obtain needed orders and other action as quickly as possible.

Sec. 20. That section 43-1609, Revised Statutes Supplement, 1990, be amended to read as follows:

43-1609. (1) The Supreme Court shall direct the district courts to appoint one or more child support referees if the Supreme Court determines that child support referees are necessary in order for the district courts to meet the requirements of federal law relating to expediting the establishment, enforcement, collection, and modification of child, spousal, or

medical support.

(2) Child support referees ~~A child support referee~~ shall be appointed by order of the district court if it is determined by the ~~district court~~ Supreme Court that a child support referee is necessary. ~~to aid the court in meeting the requirements relating to case progression standards established by Public Law 98-378.~~ The ~~district courts in two or more judicial districts may agree to~~ Supreme Court shall appoint ~~a child support referee~~ child support referees to serve more than one judicial district if the Supreme Court determines it is necessary. ~~In order to be appointed as a child support referee,~~

(3) To be qualified for appointment as a child support referee, a person shall be an attorney in good standing admitted to the practice of law in the State of Nebraska and shall meet any other requirements imposed by the Supreme Court. A child support referee shall be sworn or affirmed to well and faithfully hear and examine the cause and to make a just and true report according to the best of his or her understanding. The oath or affirmation may be administered by a district court judge. A child support referee may be removed at any time by the ~~district court~~ appointing court or by the Supreme Court.

(4) The Supreme Court may contract with an attorney to perform the duties of a referee for a specific case or for a specific amount of time or may direct a judge of the county court to perform such duties.

Sec. 21. That section 43-1610, Revised Statutes Supplement, 1990, be amended to read as follows:

43-1610. ~~Offices~~ Salaries, offices, support staff, equipment, furnishings, and supplies shall be provided by the county ~~in the budget of the district court of the county or counties in which the child support referee serves. Salaries and expenses of child support referees and staff shall be paid by funds appropriated by the county or counties to the district court~~ through funds appropriated by the county to the district court. If the Supreme Court determines that a referee shall be appointed to serve in more than one judicial district pursuant to section 43-1609, the

salary and necessary travel expenses of the referee shall be paid by funds appropriated by the State of Nebraska from funds appropriated to the Supreme Court.

Sec. 22. That section 43-1611, Revised Statutes Supplement, 1990, be amended to read as follows:

43-1611. A district court may by rule or order refer or assign any and all matters regarding the establishment, enforcement, modification, and collection of child, ~~or~~ spousal, or medical support and paternity matters to a child support referee for findings and recommendations.".

2. On page 25, line 16, strike "section" and insert "sections"; and in line 17 after the first comma insert "43-1608, 43-1609, 43-1610, and 43-1611,".

3. Renumber the remaining sections accordingly.

The Beutler amendment was adopted with 25 ayes, 0 nays, 16 present and not voting, and 8 excused and not voting.

Mr. Beutler withdrew his pending amendment, AM1614, found in the Journal on page 2043.

Messrs. Kristensen and Beutler renewed their pending amendment, AM1800, found in the Journal on page 2121.

Mr. Hefner asked unanimous consent to be excused until he returns. No objections. So ordered.

The Kristensen-Beutler amendment was adopted with 25 ayes, 0 nays, 15 present and not voting, and 9 excused and not voting.

Messrs. Beutler and Kristensen renewed their pending amendment, AM1966, found in the Journal on page 2327.

Mr. Moore requested a ruling of the Chair on whether the Beutler-Kristensen amendment is germane to the bill.

The Chair ruled the Beutler-Kristensen amendment is not germane to the bill.

Messrs. Chizek and Beutler offered the following amendment:
FA173

Amend AM1767
On p. 2, lines 23-24, strike "or by the Supreme Court"

The Chizek-Beutler amendment was adopted with 25 ayes, 0 nays, 17 present and not voting, and 7 excused and not voting.

Mr. Withem asked unanimous consent to be excused until he returns. No objections. So ordered.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 715A. Mr. Beutler offered the following amendment:
AM1616

1. Insert the following new section:

"Sec. 2. There is hereby appropriated (1) $17,223 from the General Fund and $31,986 from federal funds for FY1991-92 and (2) $18,114 from the General Fund and $33,640 from federal funds for FY1992-93 to the Supreme Court, for Program 52, to aid in carrying out the provisions of Legislative Bill 715, Ninety-second Legislature, First Session, 1991.

Total expenditures for permanent and temporary salaries and per diems from funds appropriated in this section shall not exceed $40,000 for FY1991-92 or $40,000 for FY1992-93.".

The Beutler amendment was adopted with 25 ayes, 0 nays, 16 present and not voting, and 8 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 638. E & R amendment, AM5142, found in the Journal on page 1969, was adopted.

Mr. Robinson renewed his pending amendment, AM1642, found in the Journal on page 2106.

The Robinson amendment was adopted with 25 ayes, 0 nays, 16 present and not voting, and 8 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 638A. Advanced to E & R for engrossment.

LEGISLATIVE BILL 256. E & R amendment, AM5160, found in the Journal on page 2143, was adopted.

Mr. Beutler withdrew his pending amendment, AM1835, found in the Journal on page 2176.

Ms. Schimek renewed her pending amendment, AM1992, found in the Journal on page 2374.

The Schimek amendment was adopted with 26 ayes, 0 nays, 15 present and not voting, and 8 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 256A. Advanced to E & R for engrossment.

LEGISLATIVE BILL 170. E & R amendment, AM5161, found in the Journal on page 2175, was adopted.

Advanced to E & R for engrossment.

Mrs. Smith asked unanimous consent to be excused until she returns. No objections. So ordered.

LEGISLATIVE BILL 830. E & R amendment, AM5144, printed separately from the Journal and referred to on page 1998, was adopted.

Messrs. Wesely and Byars withdrew their pending amendment, AM1922, found in the Journal on page 2222.

Messrs. Wesely and Byars offered the following amendment:
AM2117

(Amendments to E & R amendments, AM5144)

1. Strike sections 16 and 31 and insert the following new section:

"Sec. 30. The State Department of Education shall enter into an interagency agreement with the Department of Public Institutions to provide vocational rehabilitation services and supported employment programs to persons with developmental disabilities. The Division of Rehabilitation Services of the State Department of Education shall match all state and local

funds provided by the Department of Public Institutions and developmental disabilities regions to the extent that federal vocational rehabilitation funds are available.".

2. On page 1, line 4, strike "27" and insert "26".

3. On page 7, line 13, strike "shall" and insert "may".

4. On page 8, lines 6 and 14, strike "the counties served in"; in line 7 strike "do" and insert "does"; in lines 8 and 15 strike "XX" and insert "17"; in line 15 strike "meet" and insert "meets"; and in line 22 strike "local field office" and insert "developmental disability region".

5. On page 9, line 9, after "by" insert "advocacy groups, providers, elected officials, or other groups or"; in line 10, strike "who reside" and insert "and who are located"; and in line 11 strike "local field office" and insert "developmental disability region".

6. On page 10, strike beginning with "through" in line 2 through "office" in line 3 and insert "in a developmental disability region"; in line 8 strike "local field office" and insert "developmental disability region"; and in line 11 strike "68-1021" and insert "27 of this act".

7. On page 11, line 2, strike "January 1, 1992" and insert "December 1, 1991"; in line 6 strike "develop and implement" and insert "define and develop a plan for"; in line 8 after the period insert "This system may be implemented on March 1, 1992."; and in line 15 strike "By" and insert "Beginning".

8. On page 12, line 2, strike "by" and insert "beginning"; and in line 11 strike "only".

9. On page 13, line 5, strike "equal numbers of"; and in line 10 after "members" insert "of persons with developmental disabilities. At least one-third of the membership shall be persons with developmental disabilities or members of their families. No more than one-third of the membership shall be elected officials and no more than one-third of the membership shall be persons who are not elected officials, persons with developmental disabilities, or family members of persons with developmental disabilities".

10. On page 14, line 2, strike "18" and insert "17"; in line 15 strike "by local field offices"; and in line 22 strike "20" and insert "19".

11. On page 15, line 13, strike "20 to 25" and insert "19 to 24"; and in line 17 strike "20" and insert "19".

12. On page 16, line 11, strike "20" and insert "19"; in line 15 strike "problems" and insert "needs".

13. On page 18, line 11, strike "assignment" and insert "placement".

14. On page 20, strike beginning with the comma in line 20 through the comma in line 21.

15. Renumber the remaining sections accordingly.

The Wesely-Byars amendment was adopted with 26 ayes, 0 nays, 15 present and not voting, and 8 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 830A. Mr. Wesely offered the following amendment:
AM1981

1. Strike the original section and insert the following new sections:

"Section 1. There is hereby appropriated (1) $95,000 from the General Fund for FY1991-92 and (2) $95,000 from the General Fund for FY1992-93 to the Department of Public Institutions, for Program 33, to aid in carrying out the provisions of Legislative Bill 830, Ninety-second Legislature, First Session, 1991.

Total expenditures for permanent and temporary salaries and per diems from funds appropriated in this section shall not exceed $53,000 for FY1991-92 or $53,000 for FY1992-93.

Sec. 2. (1) The FY1991-92 General Fund appropriation to the Department of Public Institutions for state aid, for Program 424, is hereby reduced by up to $4,614,000, and the FY1991-92 General Fund allocation to each mental retardation region is hereby reduced by up to a combined total for all regions of up to $4,614,000, to reflect the shift in responsibility for service coordination which is made by Legislative Bill

830, Ninety-second Legislature, First Session, 1991.

The FY1991-92 General Fund appropriation to the Department of Public Institutions, for Program 33, is hereby increased by up to $4,614,000 to reflect the shift in responsibility for service coordination which is made by Legislative Bill 830, Ninety-second Legislature, First Session, 1991.

The amount authorized for permanent and temporary salaries and per diems for the Department of Public Institutions, Program 33, is hereby increased by up to $2,537,180 for FY1991-92.

(2) The FY1992-93 General Fund appropriation to the Department of Public Institutions, for state aid, for Program 424, is hereby reduced by up to $4,614,000. and the FY1992-93 General Fund allocation to each mental retardation region is hereby reduced by up to a combined total for all regions of up to $4,614,000, to reflect the shift in responsibility for service coordination which is made by Legislative Bill 830, Ninety-second Legislature, First Session, 1991.

The FY1992-93 General Fund appropriation to the Department of Public Institutions, for Program 33, is hereby increased by up to $4,614,000 to reflect the shift in responsibility for service coordination which is made by Legislative Bill 830, Ninety-second Legislature, First Session, 1991.

The amount authorized for permanent and temporary salaries and per diems for the Department of Public Institutions, Program 33, is hereby increased by up to $2,625,981 for FY1992-93.".

The Wesely amendment was adopted with 25 ayes, 0 nays, 16 present and not voting, and 8 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 167. E & R amendment, AM5158, found in the Journal on page 2144, was adopted.

Mr. Wesely renewed his pending amendment, AM1711, found in the Journal on page 2189.

Mr. Wesely withdrew his pending amendment.

Mr. Landis renewed his pending amendment, AM2013, found in the Journal on page 2388.

The Landis amendment was adopted with 25 ayes, 0 nays, 16 present and not voting, and 8 excused and not voting.

Mr. Wesely offered the following amendment:
AM2065
(Amendments to Standing Committee amendments, AM1486)

1. On page 4, lines 5 and 11, strike "not"; and in line 7 strike "or" and insert "and".

Mr. Wesely withdrew his pending amendment.

Mr. Chizek offered the following amendment:
AM1965
(Amendments to Standing Committee amendments, AM1486)

1. Insert the following new section:

"Sec. 7. Employee shall mean any current employee or employee who retires while an employee benefit plan is in effect.

".

2. On page 1, line 3, strike "26" and insert "27"; and in line 18 strike "13" and insert "14".

3. On page 2, line 4, strike "an" and insert "a current employee or retired"; and in line 7 strike "14" and insert "15".

4. On page 3, line 15, after "dependents" insert "and its retired employees and their dependents"; and in line 21 strike "22" and insert "23".

5. On page 5, line 2, after the period insert "Any employee retiring from a political subdivision having at the time of his or her retirement a self-funded employee benefit plan shall be entitled to continue his or her coverage under such plan provided that the employee shall receive full benefits under the self-funded portion of the plan at no cost and may be charged premium costs as proportionately determined for any excess insurance the plan sponsor has obtained in accordance with section 23 of this act."; in line 7 strike "19" and insert "20"; and in line 23 strike "23" and insert "24".

6. On page 8, lines 9 and 13, strike "19" and insert "20".

7. On page 12, line 4, strike "25" and insert "26".

8. On page 14, line 3, strike "26" and insert "27".

Mrs. Labedz asked unanimous consent to be excused. No objections. So ordered.

Pending.

SELECT COMMITTEE REPORTS
Enrollment and Review

Correctly Engrossed

The following bills were correctly engrossed: 625, 652, 701A, and 844.

(Signed) Eric Will, Chairperson

Enrollment and Review Change to LB 625

The following changes, required to be reported for publication in the Journal, have been made:
ER7087

1. On page 1, the language beginning with "technical" in line 1 through line 8 has been struck and "community colleges; to amend section 46, Legislative Bill 663, Ninety-second Legislature, First Session, 1991; to change provisions relating to coordination of community colleges; to require compliance with public meeting requirements as prescribed; to provide an operative date; and to repeal the original section." inserted.

Enrollment and Review Change to LB 652

The following changes, required to be reported for publication in the Journal, have been made:
ER7079

1. In the Landis-Wesely amendment, AM2038, on page 1, line 4, a comma has been inserted after "Insurance".

2. In the Warner-Hall amendment, AM1934, on page 1, line 4, "assist" has been struck and "aid" inserted.

3. In the Standing Committee amendments, AM1507:

a. On page 11, line 22, "facility" has been struck and "faculty" inserted; and

b. On page 14, line 16, "for" has been inserted after the first comma.

4. On page 1, line 3, ", state aid, capital construction, and postsecondary education" has been inserted after "Government".

Enrollment and Review Change to LB 701A

The following changes, required to be reported for publication in the Journal, have been made:
ER7081

1. On page 1, line 4, "and" has been struck; and in line 5 ": and to decrease an appropriation" has been inserted after "funds".

Enrollment and Review Change to LB 844

The following changes, required to be reported for publication in the Journal, have been made:
ER7090

1. On page 1, line 11, ", postsecondary education, capital construction, and state aid" has been inserted after "government".

(Signed) Mary E. Sommermeyer
E & R Attorney

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 413A. Introduced by Baack, 47.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 413, Ninety-second Legislature, First Session, 1991.

STANDING COMMITTEE REPORTS
Nebraska Retirement Systems

LEGISLATIVE BILL 802. Placed on General File as amended.
Standing Committee amendment to LB 802:
AM2028

1. Strike the original sections and insert the following new sections:

"Section 1. That section 81-2025, Revised Statutes Supplement, 1990, be amended to read as

follows:

81-2025. (1) Every officer who has been in the employ of the state as ~~such~~ an officer and who becomes disabled and physically unfit to perform the duties of an officer shall be entitled to retire and receive an annuity as provided by law.

(2) Every officer who has been in the employ of the state as ~~such~~ an officer for twenty years or more ~~and has attained the age of fifty years or more~~ shall be entitled to retire and receive an annuity as provided by law. The right to retire ~~at~~ prior to the age of fifty years shall be at the option of the officer, but such retirement shall be mandatory upon the officer attaining the age of sixty years.

(3) Any officer who has attained the age of sixty years upon his or her separation from state service but who has not been in the employ of the state for twenty years as ~~such~~ an officer shall be entitled to the annuity as provided for in sections 81-2014 to ~~81-2034~~ 81-2036.

(4) Payment of any benefit provided under such sections ~~81-2014 to 81-2034~~ may not be deferred later than the sixtieth day after the end of the year in which the officer has both attained at least age seventy and one-half years and terminated his or her employment with the Nebraska State Patrol.

(5) The effective date of retirement payments shall be the first day of the month following (a) the date a member qualifies for retirement as provided in this section or (b) the date upon which a member's request for retirement is received on an application form provided by the system, whichever is later. An application may be filed no more than ninety days in advance of qualifying for retirement.

Sec. 2. That section 81-2026, Revised Statutes Supplement, 1990, be amended to read as follows:

81-2026. (1)(a) Any officer qualified for an annuity as provided in section 81-2025 for reasons other than disability shall be entitled to receive a monthly annuity for the remainder of the officer's life. The amount of the annuity shall be a percentage of the officer's final average monthly salary. For purposes of this computation, final average monthly salary is

defined to be the sum of the officer's total salary during the final three years of service as an officer divided by thirty-six.

(b) For retirement on or after the fifty-fifth birthday of the member, the percentage shall be three percent multiplied by the number of years of service, as calculated in section 81-2033, except that the percentage shall never be greater than seventy-five percent.

(c) For retirement on or after the fiftieth birthday of the member with at least twenty-five years of service as an officer, the percentage shall be three percent multiplied by the number of years of service, as calculated in section 81-2033, except that the percentage shall never be greater than seventy-five percent.

(d) For retirement on or after the fiftieth but prior to the fifty-fifth birthday of the member with less than twenty-five years of service as an officer, the annuity which would apply if the member were age fifty with twenty-five years of service at the date of retirement shall be reduced by five-ninths of one percent for each month the length of service is less than twenty-five years.

(e) For retirement prior to the fiftieth birthday of the member with more than twenty-five years of service as an officer, the annuity which would apply if the member were age fifty with twenty-five years of service at the date of retirement shall be reduced by five-ninths of one percent for each month by which the early retirement date precedes age fifty.

(f) For retirement ~~on or after~~ prior to the fiftieth birthday of the member ~~but prior to the fifty-fifth birthday of the member~~ with twenty-five or less years of service as an officer, the annuity which would apply if the member were age ~~fifty-five~~ fifty with twenty-five years of service at the date of retirement shall be reduced by five-ninths of one percent for each month by which the early retirement date precedes age ~~fifty-five.~~ fifty or the completion of twenty-five years of service, whichever provides the greater benefit.

(g) Any officer who has completed thirty years of service with the Nebraska State Patrol shall have

retirement benefits computed as if the officer had reached age fifty-five. ~~For purposes of this computation, final average monthly salary is defined to be the sum of the officer's total salary during the final three years of service as an officer divided by thirty-six.~~

(2) Any officer qualified for an annuity as provided in section 81-2025 for reasons of disability shall be entitled to receive a monthly annuity for the remainder of the period of disablement as provided in sections 81-2028 to 81-2030. The amount of the annuity shall be fifty percent of the officer's monthly salary at the date of disablement if the officer has completed seventeen or fewer years of service. If the officer has completed more than seventeen years of service, the amount of the annuity shall be three percent of the final monthly salary at the date of disablement multiplied by the total years of service but not to exceed seventy-five percent of the final average monthly salary as defined in subsection (1) of this section. The date of disablement shall be the date on which the benefits as provided in section 81-2028 have been exhausted.

(3) Upon the death of an officer after retirement for reasons other than disability, the officer's surviving spouse, if married to the officer on the date of retirement, shall continue to receive seventy-five percent of the amount of such officer's annuity for the remainder of the surviving spouse's life or until the surviving spouse remarries. If the surviving spouse has a dependent child or children under the age of nineteen years in his or her care, the benefit shall be one hundred percent of the amount of such officer's annuity until such time as the youngest such dependent child attains the age of nineteen years, after which time the benefit shall be reduced to seventy-five percent of the amount of such officer's annuity. If there is no surviving spouse living at the date of the officer's death, the officer's child or children, if any, shall continue to receive seventy-five percent of the amount of such officer's annuity until such time as the youngest such child attains the age of nineteen years. If there is more than one such child under the age of nineteen years at such time, the amount

thereof shall be divided equally among such children under such age and, as they attain the age of nineteen years, only the other child or children under such age shall participate therein. If there is no surviving spouse or no child under the age of nineteen years at the date of the officer's death, the amount of annuities such officer has received under sections 81-2014 to ~~81-2034~~ 81-2036 shall be computed. If such amount is less than the contributions to the ~~fund referred to in section 81-2018~~ State Patrolmen's Retirement Fund made by such officer, plus regular interest, the difference shall be paid to the officer's designated beneficiary or estate. Upon the death of an officer after retirement for reasons of disability, benefits shall be provided as if the officer had retired for reasons other than disability. Upon the death of an officer before retirement, benefits shall be provided as if the officer had retired for reasons of disability on the date of such officer's death as follows:

(a) To the surviving spouse and dependent child or children under the age of nineteen years in such spouse's care, the benefit shall be one hundred percent of the amount of such officer's annuity until such time as the youngest dependent child attains the age of nineteen years after which time the benefit shall be reduced to seventy-five percent of the officer's annuity for the remainder of his or her life or until he or she remarries;

(b) ~~if~~ If there is no spouse living at the date of the officer's death, his or her child or children, if any, shall continue to receive seventy-five percent of the amount of such officer's annuity until such time as the youngest child attains the age of nineteen years;

(c) ~~if~~ If there ~~should be~~ is more than one child under the age of nineteen years at the date of the officer's death, the benefit shall be divided equally among such children and, as they attain the age of nineteen years, only the child or children under the age of nineteen years shall participate therein; and

(d) ~~if~~ If there is no child or children under the age of nineteen years living at the date of the officer's death, the surviving spouse shall receive seventy-five percent of the amount of such officer's

annuity for the remainder of his or her life or until he or she remarries. If no benefits are paid to a surviving spouse or dependent children, benefits will be paid as described in subsection (1) of section 81-2031.

(4) Any benefits provided in subsections (1), (2), and (3) of this section shall apply only to retirements, disabilities, and deaths occurring on or after September 2, 1977. No benefits being paid under the system on September 2, 1977, shall be modified, in any way, by the enactment of Laws 1977, LB 347.

(5) Notwithstanding anything to the contrary in sections 81-2014 to ~~81-2034~~ 81-2036, the annual benefit payable under such sections shall not at any time exceed the lesser of (a) ninety thousand dollars, as adjusted for cost-of-living adjustments announced by the Internal Revenue Service for each calendar year in which the adjustment is announced, actuarially reduced to reflect distributions prior to age sixty-two, or (b) one hundred percent of the member's average annual compensation for the three consecutive calendar years of service during which the member received his or her highest compensation and was an active member in the ~~retirement system provided by sections 81-2014 to 81-2034~~ Nebraska State Patrolmen's Retirement System. The maximum amount shall be adjusted, when necessary, as follows:

(i) When the annual benefit is payable under this system to a member in a form other than a straight life annuity or the joint and survivor annuity described by subsections (1) and (3) of this section, the maximum amount shall be adjusted to the equivalent of a straight life annuity beginning at the same age on the basis of actuarial assumptions recommended by the actuary, approved by the board, and kept on file with the board; and

(ii) ~~when~~ When the annual benefit is payable under this system to a member who has less than ten years of service under the system, the maximum amount shall be multiplied by a fraction, the numerator of which is the member's number of years of service under the system and the denominator of which is ten.

Sec. 3. This act shall become operative on July 1, 1991.

Sec. 4. That original sections 81-2025 and

81-2026, Revised Statutes Supplement, 1990, are repealed.

Sec. 5. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.".

(Signed) Arlene Nelson, Chairperson

Government, Military and Veterans Affairs

LEGISLATIVE BILL 614. Placed on General File as amended. (Standing Committee amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM2096.)

(Signed) Gerald Conway, Chairperson

UNANIMOUS CONSENT - Print in Journal

Mr. Withem asked unanimous consent to print the following amendment to LB 719 in the Journal. No objections. So ordered.

(Amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM2014.)

MOTION - Adjournment

Mr. Robinson moved to adjourn until 9:00 a.m., Tuesday, May 28, 1991. The motion lost with 4 ayes, 13 nays, 24 present and not voting, and 8 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 167. The pending Chizek amendment, AM1965, found in this day's Journal, was renewed.

The Chizek amendment lost with 5 ayes, 15 nays, 21 present and not voting, and 8 excused and not voting.

Advanced to E & R for engrossment.

UNANIMOUS CONSENT - Add Co-Introducer

Mr. Warner asked unanimous consent to have his name added as co-introducer to AM1925 to LB 262. No objections. So ordered.

VISITORS

Visitors to the Chamber were Senator Robinson's grandchildren, Alyssa and Eric Stapp from Omaha; 17 fourth grade students and teacher from Emmanuel Lutheran, York; 80 fourth grade students and teachers from Cather School, Omaha; 54 sixth grade students and teachers from Western Hills, Omaha; 73 fourth grade students and teachers from Cody Elementary, Omaha; Senator Schmit's daughter and her fiance, Lt. Jean Schmit, U.S.N. and Flight Lt. Kevin Hapwood, Royal Air Force, United Kingdom; 80 fourth grade students, teachers, and principal from Hickory Hill, Papillion; 56 fourth grade students and sponsor from Westlaws Elementary, Grand Island; and Laura McManur and William Brown from Omaha.

ADJOURNMENT

At 3:56 p.m., on a motion by Mr. Baack, the Legislature adjourned until 9:00 a.m., Tuesday, May 28, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

EIGHTY-FOURTH DAY - MAY 28, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

EIGHTY-FOURTH DAY

Legislative Chamber, Lincoln, Nebraska
Tuesday, May 28, 1991

Pursuant to adjournment, the Legislature met at 9:02 a.m., President Moul presiding.

PRAYER

The prayer was offered by Captain Lois Wheeler, Salvation Army, Lincoln, Nebraska.

ROLL CALL

The roll was called and all members were present except Messrs. Ashford, Bernard-Stevens, Chambers, Dierks, Haberman, Hartnett, R. Johnson, Lindsay, Schellpeper, Schmit, Wehrbein, Withem, Mmes. Labedz, Pirsch, and Robak who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Eighty-Third Day was approved.

ATTORNEY GENERAL'S OPINION

Opinion No. 91047

DATE: May 24, 1991

SUBJECT: Constitutionality of Legislature Act Providing Tax Credits to Producers of Certain Ethanol and Ethanol Coproduct Fuels (LB 754).

REQUESTED BY: Senator Loran Schmit
Nebraska State Legislature

WRITTEN BY: Don Stenberg, Attorney General
Steve Grasz, Deputy Attorney General

You have requested an Attorney General's opinion as to the constitutionality of Legislative Bill 754, an act relating to ethanol fuel. Specifically, you have expressed concern that provisions of LB 754 as amended, together with proposed amendments, would result in a constitutionally impermissible closed class.

LB 754 (the "Bill") provides, among other things, for certain tax credits to be given for each gallon of ethanol or ethanol coproduct produced at a Nebraska plant and to sellers of such Nebraska-produced products. It is our understanding, as stated in your opinion request, only one Nebraska plant currently qualifies for the credits provided for in the Bill. Thus, we must analyze the Bill under article III, §18 of the Constitution of the State of Nebraska.

Article III, §18 provides "The Legislature shall not pass local or special laws in any of the following cases, that is to say: . . . Granting to any corporation, association, or individual any special or exclusive privileges, immunity, or franchise whatever. . . ." Neb.Const. art. III, §18.

A thorough statement of the operation of article III, §18 was set forth recently by the Nebraska Supreme Court in Haman v. Marsh, 237 Neb. 699, 467 N.W.2d 836 (1991).

> By definition, a legislative act is general, and not special, if it operates alike on all persons of a class or on persons who are brought within the relations and circumstances provided for and if the classification so adopted by the Legislature has a basis in reason and is not purely arbitrary. {Citation omitted}. A legislative act that applies only to particular individuals or things of a class is special legislation. {Citation omitted}. General laws embrace the whole or a subject, with their subject matter of common interest to the whole state. Uniformity is required in order to prevent granting to any person, or class of persons, the privileges or immunities which do not belong to all persons. See 2 N. Singer, Statutes and Statutory Construction §40.07 (4th ed. 1986). It is because the legislative process lacks the safegrounds of due process and the tradition of impartiality which restrain the courts from using their powers to dispense special favors that such constitutional prohibitions against special legislation were enacted. {Citation omitted}.

> A legislative act can violate Neb. Const. art. III, §18, as special legislation in one of two ways: (1) by creating a totally arbitrary and unreasonable method of classification, or (2) by creating a permanently closed class. See City of Scottsbluff v. Tiemann, 185 Neb. 256, 175 N.W.2d 74 (1970).

Id. at 709.

Unreasonable Classification

> The term "class legislation" is a characterization of legislation in contravention of Neb. Const. art. III, 18. State ex rel. Taylor v. Hall, 129 Neb. 669, 262 N.W. 835 (1935). It is that which makes improper discrimination by conferring privileges on a class arbitrarily selected from a large number of persons standing in the same relation to the privileges, without reasonable distinction or substantial difference. 16B C.J.S. Constitutional Law §682 (1985).

Id. at 710.

The applicable test for determining the constitutionality of legislative classifications has been set out succinctly by prior case law.

> "A legislative classification, in order to be valid, must be based upon some reason of public policy, some substantial difference of situation or circumstances, that would naturally suggest the justice or expediency of diverse legislation with respect to objects to be classified. Classifications for the purpose of legislation must be real and not illusive; they cannot be based on distinctions without a substantial difference. . . ." . . . "Classification is proper if the special class has some reasonable distinction from other subjects of like general character, which distinction bears some reasonable relation to the legitimate objectives and purposes of the legislation. The question is always whether the things or persons classified by the act form by themselves a proper and legitimate class with reference to the purpose of the act."

Id. at 711 (quoting State ex rel. Douglas v. Marsh, 207 Neb. 598, 609, 300 N.W.2d 181, 187 (1980)).

We find no unreasonable classification problem with the Bill. The class of beneficiaries is based upon a "reason of public policy" and substantial differences in circumstances. See State ex rel. Douglas v. Thone, 204 Neb. 836, 286 N.W.2d 249 (1979). In Thone, the court held a statute which authorized a plan for the development of alcohol plants and facilities in Nebraska did not violate Article III, §18. The court expressly stated the activity authorized (promotion of the use of gasohol) constituted a public purpose. Id. at 842.

Closed Class

The Nebraska Supreme Court, in Haman, also discussed what constitutes a closed class under article III, §18.

"The rule appears to be settled by an almost unbroken line of decisions that a classification which limits the application of the law to a present condition, and leaves no room or opportunity for an increase in the numbers of the class by future growth or development, is special, and a violation of the clause of the constitution above quoted. . . ." City of Scottsbluff v. Tiemann, 185 Neb. 256, 262, 175 N.W.2d 74, 79 (1970) (quoting State v. Kelso, 92 Neb. 628, 139 N.W. 226 (1912)).

LB 754, on its face, does not restrict the class of beneficiaries of the credits to the existing ethanol plant. Rather, the Bill applies to all qualifying fuels "produced in Nebraska." Thus, on its face, the Bill does not violate article III, §18. However, as the Nebraska Supreme Court stated in Haman.

In determining whether a class is closed, this court is not limited to the face of the legislation, but may consider the act's application. See, Axberg v. City of Lincoln, 141 Neb. 55, 2 N.W.2d 613 (1942); Gossman v. State Employees Retirement System, 177 Neb. 326, 129 N.W.2d 97 (1964). In deciding whether a statute legitimately classifies, the court must consider the actual probability that others will come under the act's operation. If the prospect is merely theoretical, and not probable, the act is special legislation. The conditions of entry into the class must not only be possible, but reasonably probable of attainment. Republic Inv. Fund I v. Town of Surprise, 166 Ariz. 143, 800 P.2d 1251 (1990).

Haman, 237 Neb. at 717-718.

Proposed amendment 1472 (AM 1472) to LB 754 would amend Neb.Rev.Stat. §66-1320 to provide that "No new investment may be made or letters of commitment given to an applicant that has not received approval of its final application by April 1, 1991." Section 66-1320 relates to applications for grants or loans under the Ethanol Authority and Development Act to facilitate the construction, acquisition, or expansion of ethanol facilities.

Clearly, nothing in LB 754 prohibits other interested individuals, associations or corporations from entering the ethanol business and receiving the benefits of the credits provided by the Bill. Indeed, a second ethanol plant is reportedly in progress. The possibility of new plants exists with or without continued funding of grants or loans for construction of new plants under §66-1320. Nonetheless, if the Bill is amended so as to cut off such funding for additional plants, a court could find, upon examination of evidence regarding the feasibility of entering the ethanol fuel business without such assistance, that the Bill creates a closed class in light of the improbability of any person or entity benefiting from the bill other than the existing plant or plants.

Consequently, it is our opinion the bill, if amended so as to effectively provide credits only to one or two ethanol plants while substantially reducing the probability of additional future beneficiaries, would be constitutionally suspect under article III, §18.

Sincerely yours,
DON STENBERG
Attorney General
(Signed) Steve Grasz
Deputy Attorney General

3-166-3

RESOLUTIONS

LEGISLATIVE RESOLUTION 192. Introduced by Robak, 22.

WHEREAS, sixteen sixth-grade history students at St. Isidore Elementary School in Columbus qualified to participate in the National History Contest to be held in College Park, Maryland on June 9-13, 1991; and

WHEREAS, one sixth-grade history student at St. Isidore Elementary School has been named as an alternate to participate in the National History Contest; and

WHEREAS, this represents the eight consecutive year and the ninth year overall since 1981 that St. Isidore Elementary School has qualified students for the National History Contest; and

WHEREAS, we should continue to recognize the academic, athletic, and artistic achievements of the youth of our state.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That Cathy Avery, Jami Birkel, Andra Drum, Erin Duffy, Jody Eikmeier, Doug Evans, Miranda Gipfert, Nikki Jazwick, Craig Jones, Chip Kaup, Justin Karsk, Heath Kuszak, Shaun Krzycki, Matt Nosel, Nikki Thomas, Julie Trouba, and Meagan Zach, and instructor Mary Lou Green be congratulated for their achievements in contests on the district and state level, and that they be wished the best of luck in their upcoming contest on the national level.

2. That a copy of this resolution be sent to St. Isidore Elementary School.

Laid over.

LEGISLATIVE RESOLUTION 193. Introduced by Robak, 22.

WHEREAS, Jason Daniels, a fifth-grade history student at Monroe Elementary School, qualified to participate in the National History Contest to be held in College Park, Maryland on June 9-13, 1991; and

WHEREAS, Jason Daniels' qualifying video entry exhibits the history of the Pawnee Indians and the U.S. Indian School in Genoa; and

WHEREAS, we should continue to recognize the academic, athletic, and artistic achievements of the youth of our state.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That Jason Daniels be congratulated for his achievement in the district-level contest and that he be wished the best of luck in his upcoming contest on the national level.

2. That a copy of this resolution be sent to Jason Daniels at the Monroe Elementary School.

Laid over.

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following resolutions: LR 190 and LR 191.

MOTION - Approve Appointments

Mrs. Smith moved the adoption of the report of the General Affairs Committee for the following Governor appointments found in the Journal on page 2459: J. Robert Duncan, Maryanne Harry, Janet Korell, Jacquelyn H. Rosenlof, and Jean Sidwell - Nebraska Arts Council.

Voting in the affirmative, 28:

Abboud	Conway	Hefner	Moore	Schimek
Baack	Coordsen	Hillman	Nelson	Schrock
Beutler	Crosby	Horgan	Peterson	Smith
Beyer	Cudaback	Johnson, L.	Rasmussen	Wesely
Byars	Elmer	Kristensen	Robinson	Will
Chizek	Hall	Landis		

Voting in the negative, 0.

Present and not voting, 6:

Lamb	Morrissey	Rogers	Warner	Wickersham
Lynch				

Excused and not voting, 15:

Ashford	Dierks	Johnson, R.	Pirsch	Schmit
Bernard-Stevens	Haberman	Labedz	Robak	Wehrbein
Chambers	Hartnett	Lindsay	Schellpeper	Withem

These appointments were confirmed with 28 ayes, 0 nays. 6 present and not voting, and 15 excused and not voting.

SPEAKER BAACK PRESIDING

Mr. Hall moved the adoption of the report of the Revenue Committee for the following Governor appointments found in the Journal on page 2465: Robert J. Broomfield, Jack Ostergard, Paul Phelps, and Ivan J. Schmedding - Nebraska Agricultural Land Valuation Advisory Board.

Voting in the affirmative, 26:

Abboud	Crosby	Hillman	Rasmussen	Smith
Baack	Cudaback	Johnson, L.	Robak	Warner
Beyer	Elmer	Landis	Robinson	Wesely
Byars	Hall	Moore	Schimek	Wickersham
Chizek	Hefner	Nelson	Schrock	Will
Coordsen				

Voting in the negative, 0.

Present and not voting, 9:

Beutler	Horgan	Lamb	Morrissey	Rogers
Conway	Kristensen	Lynch	Peterson	

Excused and not voting, 14:

Ashford

Bernard-Stevens	Dierks	Johnson, R.	Pirsch	Wehrbein
Chambers	Haberman	Labedz	Schellpeper	Withem
	Hartnett	Lindsay	Schmit	

These appointments were confirmed with 26 ayes, 0 nays, 9 present and not voting, and 14 excused and not voting.

UNANIMOUS CONSENT - Member Excused

Mr. Lamb asked unanimous consent to be excused until he returns. No objections. So ordered.

BILLS ON FINAL READING

The following bills were read and put upon final passage:

LEGISLATIVE BILL 456.

A BILL FOR AN ACT relating to public health and welfare; to amend sections 28-409, 33-150, 44-2851, 71-101, 71-108, 71-147, 71-147.02, 71-148, 71-150, 71-154, 71-155, 71-161.02, 71-161.03, 71-161.07, 71-161.12, 71-161.13, 71-161.16, 71-161.18, 71-168, 71-171, 71-171.01, 71-1,132.29, 71-1,194, 71-1,195.03, 71-1,200, 71-1,202, 71-1,209, 71-3,171, 71-2803.01, 71-3711, 71-4708, 71-4712, 71-6054, and 71-6111, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to actions against a registration under the Uniform Controlled Substances Act; to provide an exemption relating to credit of fees to the General Fund; to redefine a term; to provide for a Licensee Assistance Program; to create a fund; to change provisions relating to disciplinary actions under the Uniform Licensing Law; to change, provide, and eliminate duties for the Department of Health, the Director of Health, the Bureau of Examining Boards, the Attorney General, the Commission on Medical Qualifications, and county attorneys; to provide for an assurance of compliance; to change provisions relating to certain reports by insurers; to eliminate provisions relating to automatic suspension of a license to practice medicine and surgery due to mental or physical illness; to harmonize provisions; and to repeal the original sections, and also sections 71-1,104.01 to 71-1,104.05, Reissue Revised Statutes of Nebraska, 1943.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 37:

Abboud	Conway	Hillman	Peterson	Schmit
Ashford	Coordsen	Johnson, L.	Pirsch	Schrock
Baack	Crosby	Johnson, R.	Rasmussen	Smith
Bernard-Stevens	Cudaback	Kristensen	Robak	Warner
Beyer	Elmer	Landis	Robinson	Wesely
Byars	Haberman	Lynch	Rogers	Wickersham
Chizek	Hall	Moore	Schimek	Will
	Hefner	Nelson		

Voting in the negative, 0.

Present and not voting, 3:

Beutler	Horgan	Morrissey

Excused and not voting, 9:

Chambers	Hartnett	Lamb	Schellpeper	Withem
Dierks	Labedz	Lindsay	Wehrbein	

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 456A.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 456, Ninety-second Legislature, First Session, 1991.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 38:

Abboud	Byars	Elmer	Johnson, R.	Nelson
Ashford	Chizek	Haberman	Kristensen	Peterson
Baack	Conway	Hall	Lamb	Pirsch
Bernard-Stevens	Coordsen	Hefner	Landis	Rasmussen
Beyer	Crosby	Hillman	Lynch	Robak
	Cudaback	Johnson, L.	Moore	Robinson

Rogers	Schmit	Smith	Wesely	Will
Schimek	Schrock	Warner	Wickersham	

Voting in the negative, 0.

Present and not voting, 3:

Beutler	Horgan	Morrissey

Excused and not voting, 8:

Chambers	Hartnett	Lindsay	Wehrbein	Withem
Dierks	Labedz	Schellpeper		

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 549. With Emergency.

A BILL FOR AN ACT relating to retirement; to amend sections 23-2301, 23-2305 to 23-2310, 23-2312, 23-2317.01, 23-2319, 23-2320, 23-2331, 23-2332, 24-701, 24-703, 24-704, 24-710, 24-711, 72-1237, 72-1243, 77-27,119, 79-1502, 79-1503, 79-1503.01, 79-1509.02, 79-1513, 79-1514.01, 79-1514.06, 79-1516, 79-1522, 79-1523, 79-1553, 81-2015, 81-2018, 81-2019, 81-2020, 81-2021, 81-2022, 81-2028, 81-2029, 81-2034, 84-1302, 84-1305, 84-1308, 84-1309, 84-1310, 84-1310.01, 84-1311, 84-1312, 84-1319, 84-1321, 84-1322, and 84-1331, Reissue Revised Statutes of Nebraska, 1943, and sections 79-1501, 79-1512, 79-1522.01, 79-1529, 79-1531, 79-1533, 79-1536, 79-1548, 79-1549, 79-1552, 79-1556, 81-2014, 81-2017, 81-2026, 81-2031, 84-1301, and 84-1503, Revised Statutes Supplement, 1990; to provide powers and duties for the Public Employees Retirement Board, the Nebraska Investment Council, and the state investment officer; to change provisions relating to membership in the Retirement System for Nebraska Counties, guaranteed investment accounts, investment of funds of certain retirement systems, service credit for certain school employees, a formula annuity retirement allowance, certain applications for disability retirement, the interest rate on certain delinquent contributions, a filing deadline, and certain monthly annuity income; to change terminology; to restrict the personal liability of members of the council; to authorize the Department of Revenue to disclose certain information to the board; to name an act; to rename a system and a fund; to provide for and change certain late fees; to require certain records; to provide for the

suspension of certain transactions and the applicability of a provision on vesting; to eliminate the Legislators' Retirement Act; to eliminate a provision on fixing compensation of school employees; to harmonize provisions; to repeal the original sections, and also sections 50-901 to 50-919 and 79-1507, Reissue Revised Statutes of Nebraska, 1943; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 39:

Abboud	Conway	Hillman	Moore	Rogers
Ashford	Coordsen	Horgan	Morrissey	Schimek
Baack	Crosby	Johnson, L.	Nelson	Schrock
Bernard-Stevens	Cudaback	Johnson, R.	Peterson	Smith
	Elmer	Kristensen	Pirsch	Warner
Beyer	Haberman	Lamb	Rasmussen	Wesely
Byars	Hall	Landis	Robak	Wickersham
Chizek	Hefner	Lynch	Robinson	Will

Voting in the negative, 0.

Present and not voting, 2:

Beutler Schmit

Excused and not voting, 8:

Chambers	Hartnett	Lindsay	Wehrbein	Withem
Dierks	Labedz	Schellpeper		

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

LEGISLATIVE BILL 720. With Emergency.

A BILL FOR AN ACT relating to military service; to amend section 80-401.01, Revised Statutes Supplement, 1990; to define veteran of the Persian Gulf War; to repeal the original section; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 42:

Abboud	Conway	Horgan	Moore	Schimek
Ashford	Coordsen	Johnson, L.	Morrissey	Schmit
Baack	Crosby	Johnson, R.	Nelson	Schrock
Bernard-Stevens	Cudaback	Kristensen	Peterson	Smith
	Elmer	Labedz	Pirsch	Warner
Beutler	Haberman	Lamb	Rasmussen	Wesely
Beyer	Hall	Landis	Robak	Wickersham
Byars	Hefner	Lindsay	Rogers	Will
Chizek	Hillman	Lynch		

Voting in the negative, 0.

Present and not voting, 1:

Robinson

Excused and not voting, 6:

Chambers	Hartnett	Schellpeper	Wehrbein	Withem
Dierks				

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

LEGISLATIVE BILL 840.

A BILL FOR AN ACT relating to cities, villages, and counties; to amend sections 13-315 and 77-3437, Reissue Revised Statutes of Nebraska, 1943; to adopt the Local Option Municipal Economic Development Act; to change provisions relating to appropriations and expenditures; to redefine a term; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 32:

Abboud	Conway	Hefner	Lindsay	Rasmussen
Ashford	Coordsen	Hillman	Lynch	Robinson
Baack	Crosby	Horgan	Moore	Schrock
Bernard-Stevens	Cudaback	Johnson, L.	Morrissey	Smith
Beyer	Dierks	Kristensen	Nelson	Wickersham
Chizek	Elmer	Labedz	Peterson	Will
	Haberman	Lamb		

Voting in the negative, 10:

Beutler	Johnson, R.	Pirsch	Schimek	Warner
Hall	Landis	Robak	Schmit	Wesely

Present and not voting, 2:

Byars Rogers

Excused and not voting, 5:

Chambers	Hartnett	Schellpeper	Wehrbein	Withem

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 425.

A BILL FOR AN ACT relating to public health and welfare; to amend sections 25-1914 and 71-148, Reissue Revised Statutes of Nebraska, 1943; to define terms; to require parental notice and provide for judicial authorization of abortion as prescribed; to provide a penalty; to provide for immunity from liability; to state findings and encourage prosecution of certain crimes; to provide duties relating to informing students; to eliminate a notice requirement; to harmonize provisions; to provide severability; and to repeal the original sections, and also section 28-347, Reissue Revised Statutes of Nebraska, 1943.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 33:

Abboud	Crosby	Horgan	Lynch	Rogers
Beutler	Cudaback	Johnson, L.	Moore	Schellpeper
Beyer	Dierks	Johnson, R.	Peterson	Schmit
Byars	Elmer	Kristensen	Pirsch	Schrock
Chizek	Haberman	Labedz	Robak	Smith
Conway	Hall	Lamb	Robinson	Wickersham
Coordsen	Hefner	Lindsay		

Voting in the negative, 12:

Ashford	Bernard-Stevens	Landis	Rasmussen	Wesely
Baack	Hillman	Morrissey	Schimek	Will
		Nelson	Warner	

Excused and not voting, 4:

Chambers	Hartnett	Wehrbein	Withem

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

SELECT COMMITTEE REPORTS
Enrollment and Review

Correctly Re-Engrossed

The following bills were correctly re-engrossed: 51 and 207.

(Signed) Eric Will, Chairperson

Enrollment and Review Change to LB 51
(Final Reading copy)

The following changes, required to be reported for publication in the Journal, have been made:
ER7089

1. In the R. Johnson amendment, AM1823:

a. On page 5, line 24, "taking of ground water samples," has been struck and "the collection of ground water samples from existing water wells, or the" inserted;

b. On page 6, line 1, "or" has been struck; and in lines 15 and 16 "taking of ground water samples, or" has been struck and "the

collection of ground water samples from existing water wells, or the" inserted; and

c. On page 7, the matter beginning with "provide" in line 5 through "examination" in line 6 has been struck and "require certification of and to provide certain examination requirements" inserted; and the matter beginning with "a" in line 8 through "Act" in line 10 has been struck and "penalties as prescribed" inserted.

Enrollment and Review Change to LB 207
(Final Reading copy)

The following changes, required to be reported for publication in the Journal, have been made:
ER7088

1. On page 13, line 11, "(3)" has been struck and "(2)" inserted; and in line 22 "(4)" has been struck and "(3)" inserted.
2. On page 14, line 5, "(5)" has been struck and "(4)" inserted.

(Signed) Mary E. Sommermeyer
E & R Attorney

GENERAL FILE

LEGISLATIVE BILL 693. Title read. Considered.

Standing Committee amendment, AM0381, printed separately from the Journal and referred to on page 865, lost with 2 ayes, 14 nays, 29 present and not voting, and 4 excused and not voting.

Messrs. Kristensen, Cudaback, Withem, and Moore renewed their pending amendment, AM1703, found in the Journal on page 2065.

Mr. Beutler requested a ruling of the Chair on whether the Kristensen et al. amendment is germane to the bill.

Mr. Kristensen moved to suspend the rules, Rule 7, Section 3(d) to permit consideration of AM1703 to LB 693.

Mr. Kristensen moved for a call of the house. The motion prevailed with 11 ayes, 0 nays, and 38 not voting.

The Kristensen motion to suspend the rules prevailed with 30 ayes, 0 nays, 15 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

PRESIDENT MOUL PRESIDING

The Kristensen et al. amendment, AM1703, found in the Journal on page 2065, was renewed.

Mr. Haberman asked unanimous consent to be excused until he returns. No objections. So ordered.

The Kristensen et al. amendment was adopted with 29 ayes, 0 nays, 18 present and not voting, and 2 excused and not voting.

Pending.

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following bills: 456, 456A, 549, 720, 840, and 425.

GENERAL FILE

LEGISLATIVE BILL 693. Considered.

Advanced to E & R for review with 27 ayes, 0 nays, 20 present and not voting, and 2 excused and not voting.

LEGISLATIVE BILL 618. Title read. Considered.

Mrs. Hillman asked unanimous consent to be excused until she returns. No objections. So ordered.

Standing Committee amendment, AM1898, found in the Journal on page 2298, was considered.

Mr. Conway offered the following amendment to the pending Standing Committee amendment:
AM2044
(Amendments to Standing Committee amendments, AM1898)
1. On page 1, line 1, after "Strike" insert "the", strike "section 1" and insert "sections"; in line 2 strike "section" and insert "sections"; in line 6 strike "federal" and insert "Census of Population by the

United States Department of Commerce, Bureau of the Census"; and in line 7 strike "decennial census".

2. Insert the following new sections:

"Sec. 2. That section 5-107.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

5-107.01. ~~The legislative districts mentioned in section 5-107 are the districts established by sections 5-202 to 5-250.~~ The precincts, townships, and cities mentioned in section 5-107 are the precincts, townships, and cities set out in the 1990 Census of Population by the United States Department of Commerce, Bureau of the Census.

Sec. 3. That original sections 5-107 and 5-107.01, Reissue Revised Statutes of Nebraska, 1943, are repealed.".

The Conway amendment was adopted with 23 ayes, 0 nays, 23 present and not voting, and 3 excused and not voting.

Mr. Conway offered the following amendment to the pending Standing Committee amendment:
AM2140

(Amendments to AM1898)

1. Insert the following new section:

"Sec. 3. The public service commissioner representing Public Service Commission district 3 on the effective date of this act shall represent the new Public Service Commission district 3 as it is established by this legislative bill for the balance of his or her term.".

2. Renumber the remaining sections accordingly.

The Conway amendment was adopted with 22 ayes, 0 nays, 24 present and not voting, and 3 excused and not voting.

The Standing Committee amendment, as amended, was adopted with 26 ayes, 0 nays, 20 present and not voting, and 3 excused and not voting.

Advanced to E & R for review with 29 ayes, 0 nays, 17 present and not voting, and 3 excused and not voting.

LEGISLATIVE BILL 617. Title read. Considered.

Standing Committee amendment, AM2024 found in the Journal on page 2425, was considered.

Mr. Conway offered the following amendment to the pending Standing Committee amendment:
AM2139

(Amendments to AM2024)

1. Insert the following new section:

"Section 1. That section 85-103, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

85-103. The general government of the University of Nebraska shall be vested in a board of eight regents elected from districts as provided ~~in section 85-103.01~~ by law. At the general election in 1972, two persons shall be elected, one from district one for a term of six years, and one from district two for a term of six years; at the general election in 1974, two persons shall be elected, one from district six for a term of six years, and one from district seven for a term of six years; and at the general election in 1976, four persons shall be elected, one from district three for a term of six years, one from district four for a term of six years, one from district five for a term of six years, and one from district eight for a term of six years. At the general elections thereafter, the successors of the members of the board whose terms expire shall be elected for terms of six years~~,~~ or until their successors are elected and qualified. The members representing districts ~~five,~~ six~~,~~ and seven on ~~August 27, 1971~~ the effective date of this act, shall thereafter represent districts seven~~, five,~~ and six, respectively. Vacancies occurring in the board shall be filled by the Governor, and any person appointed to fill a vacancy shall hold his or her office for the unexpired term.".

2. Renumber the remaining sections accordingly.

The Conway amendment was adopted with 23 ayes, 0 nays, 23 present and not voting, and 3 excused and not voting.

The Standing Committee amendment, as amended, was adopted with 26 ayes, 0 nays, 20 present and not voting, and 3 excused and not voting.

Mr. Peterson asked unanimous consent to be excused until he returns. No objections. So ordered.

Advanced to E & R for review with 26 ayes, 0 nays, 20 present and not voting, and 3 excused and not voting.

LEGISLATIVE BILL 619. Title read. Considered.

Standing Committee amendment, AM2025, found in the Journal on page 2428, was considered.

Mr. Conway offered the following amendment to the pending Standing Committee amendment:
AM2141

1. On page 2, line 24, after the period insert "The members representing districts six and seven on the effective date of this act shall thereafter represent districts seven and six, respectively. The member representing district five on the effective date of this act shall represent the new district 5 as it is established by this legislative bill for the balance of his or her term.".

The Conway amendment was adopted with 26 ayes, 0 nays, 20 present and not voting, and 3 excused and not voting.

The Standing Committee amendment, as amended, was adopted with 30 ayes, 0 nays, 17 present and not voting, and 2 excused and not voting.

Advanced to E & R for review with 26 ayes, 0 nays, 21 present and not voting, and 2 excused and not voting.

Messrs. Horgan, Schmit, and R. Johnson asked unanimous consent to be excused until they return. No objections. So ordered.

LEGISLATIVE BILL 615. Title read. Considered.

Standing Committee amendment, AM2010, found in the Journal on page 2392, was considered.

Mr. Conway offered the following amendment to the pending Standing Committee amendment:
AM2043

(Amendments to Standing Committee amendments, AM2010)

1. On page 1, line 2, strike "section" and insert "sections"; in line 6 strike "federal", show as stricken, and insert "Census of Population by the United States Department of Commerce, Bureau of the Census,"; and in line 7 strike the new matter and strike "census," and show as stricken.

2. Insert the following new section:

"Sec. 2. The precincts, townships, and cities mentioned in section 5-101.01 are the precincts, townships, and cities set out in the 1990 Census of Population by the United States Department of Commerce, Bureau of the Census.".

3. Insert the following new amendment:

"2. Renumber the remaining section accordingly.".

The Conway amendment was adopted with 20 ayes, 0 nays, 24 present and not voting, and 5 excused and not voting.

Mr. Robinson offered the following amendment to the pending Standing Committee amendment:
AM2128

(Amendments to AM2010)

1. On page 1, line 16, strike "Gage", show as stricken, and insert "Cass" and strike beginning with "Saline" through the first comma in line 17, and show the old matter as stricken; in line 17 strike "Washington"; in line 18 reinstate the stricken matter and strike the new matter; and in line 19 reinstate the stricken matter.

2. On page 2, lines 1 and 2, strike the new matter and insert "that part of Gage County not included in district 3, and that part of Sarpy County beginning at the northeast corner of Sarpy County, east along the Douglas-Sarpy County line to South 120th Street, south on 120th Street to the Fairview Precinct line, east along the Fairview Precinct line to South 60th Street, south on South 60th Street to the La Platte Part B Precinct line, east along the La Platte Part B Precinct

line to 25th Street, south on 25th Street to Schneekloth Road, west on Schneekloth Road to Dyson Hollow Road, south on Dyson Hollow Road to Annabelle Drive, west on Annabelle Drive to Gate Drive, east on Gate Drive to Kraft Street, south on Kraft Street to the Sarpy-Cass County line, west along the Sarpy-Cass County line to the Platte River, and north along the Platte River to the point of beginning;"; in line 4 strike "and Sarpy,", show the old matter as stricken, and reinstate the stricken matter; in lines 17 through 19 strike the new matter and insert "and that part of Sarpy County not included in district 1; and"; and in line 21 strike "Madison, Pierce" and insert "Jefferson, Saline, Fillmore, Thayer".

3. On page 3, line 7, after "Kimball" insert "and that part of Gage County which includes the cities of Blue Springs and Wymore, the Village of Odell, and the townships of Lincoln, Riverside, Rockford, Sherman, Elm, Sicily, Blue Springs-Wymore, Island Grove, Glenwood, Paddock, Barneston, and Liberty".

Messrs. Cudaback and Abboud asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Robinson moved for a call of the house. The motion prevailed with 23 ayes, 0 nays, and 26 not voting.

Mr. Robinson requested a roll call vote on his amendment.

Voting in the affirmative, 11:

Bernard-Stevens	Hefner	Lamb	Peterson	Robinson
Dierks	Johnson, L.	Lynch	Pirsch	Warner
	Labedz			

Voting in the negative, 26:

Ashford	Chizek	Hillman	Morrissey	Smith
Baack	Conway	Kristensen	Rasmussen	Wehrbein
Beutler	Coordsen	Landis	Rogers	Wesely
Beyer	Hall	Lindsay	Schimek	Wickersham
Byars	Hartnett	Moore	Schrock	Will
Chambers				

Present and not voting, 4:

Crosby Elmer Nelson Robak

Absent and not voting, 2:

Haberman Schellpeper

Excused and not voting, 6:

Abboud Horgan Johnson, R. Schmit Withem
Cudaback

The Robinson amendment lost with 11 ayes, 26 nays, 4 present and not voting, 2 absent and not voting, and 6 excused and not voting.

Pending.

The Chair declared the call raised.

SELECT COMMITTEE REPORTS
Enrollment and Review

Correctly Engrossed

The following bills were correctly engrossed: 167, 170, 256, 256A, 638, 638A, 715, 715A, 830, and 830A.

(Signed) Eric Will, Chairperson

Enrollment and Review Change to LB 167

The following changes, required to be reported for publication in the Journal, have been made:
ER7095
1. In the Landis amendment, AM2013, on page 1, line 15; and page 2, line 11, the last comma has been struck.
2. In the Standing Committee amendment, AM1486, on page 11, line 15, "after" has been struck.

Enrollment and Review Change to LB 638

The following changes, required to be reported for publication in the Journal, have been made:

ER7096

1. In the Standing Committee amendments, AM0946:

a. On page 1, line 16, a comma has been inserted after "Act"; and

b. On page 5, line 22, the matter beginning with "shall" through "team" and all amendments thereto have been struck.

Enrollment and Review Change to LB 715

The following changes, required to be reported for publication in the Journal, have been made:

ER7092

1. In the Kristensen-Beutler amendment, AM1800, on page 1, line 2, an underscored comma has been inserted after "executed"; in line 18 "criterion" has been struck and "criteria" inserted; and in line 19 "of this act" has been inserted after "13".

2. In the Beutler amendment, AM1767:

a. Sections 19 to 22 have been renumbered as sections 20 to 23 respectively;

b. On page 1, line 19, "modification," has been inserted after the first comma and "and" has been inserted after the last comma; and in line 20 ", and modification" has been struck;

c. On page 3, line 10, "for a child support referee" has been inserted after "supplies"; and the matter beginning with "State" in line 21 through "appropriated" in line 22 has been struck and "state" inserted; and

e. On page 4, line 4, the new matter has been struck and "modification," has been inserted after the first comma.

3. In the E & R amendment, AM5129, on page 1, line 11, "18" has been struck and "19" inserted.

4. On page 1, line 1, ", spousal, and medical" has been inserted after "child"; in line 6 "section 43-512" has been struck and "sections 43-512, 43-1608, 43-1609, 43-1610, and 43-1611" inserted; and in line 11 "to add provisions relating to the modification of support; to change provisions relating to child support referees;" has been inserted after the semicolon.

Enrollment and Review Change to LB 830

The following changes, required to be reported for publication in the Journal, have been made:

ER7093

1. In the Wesely-Byars amendment, AM2117:

a. On page 2, line 6, "by" has been inserted after "or "; and in line 7 "and" has been struck; and

b. On page 3, line 5, an underscored comma has been inserted after "officials".

2. Because of the repeal of sections 83-1101 to 83-1139 by LB 830, in the E & R amendment, AM5144:

a. The following new sections have been inserted:

"Sec. 28. That section 23-3402, Revised Statutes Supplement, 1990, be amended to read as follows:

23-3402. (1) It shall be the duty of the public defender to represent all indigent felony defendants within the county he or she serves. The public defender shall represent indigent felony defendants at all critical stages of felony proceedings against them through the stage of sentencing. Sentencing shall include hearings on charges of violation of felony probation. Following the sentencing of any indigent defendant represented by him or her, the public defender may take any direct, collateral, or postconviction appeals to state or federal courts which he or she considers to be meritorious and in the interest of justice and shall file a notice of appeal and proceed with one direct appeal to the Supreme Court of Nebraska upon a timely request after sentencing from any such convicted felony defendant, subject to the public defender's right to apply to the court to withdraw from representation in any appeal which he or she deems to be wholly frivolous.

(2) It shall be the duty of the public defender to represent all indigent persons against whom a petition has been filed with a mental health board as provided in sections 83-1049 to 83-1051.

(3) It shall be the duty of the public defender to represent all indigent persons charged with misdemeanor offenses punishable by imprisonment when appointed by the court.

~~(4) It shall be the duty of the public defender to represent all indigent persons against whom a petition has been filed pursuant to section 83-1125 as provided in section 83-1136.~~

~~(5)~~ Appointment of a public defender shall be by the court in accordance with sections 29-3902 and 29-3903. A public defender shall not represent an indigent person prior to appointment by the court, except that a public defender may represent a person under arrest for investigation or on suspicion. A public defender shall not inquire into a defendant's financial condition for purposes of indigency determination except to make an initial determination of indigency of a person under arrest for investigation or on suspicion. A public defender shall not make a determination of a defendant's indigency, except an initial determination of indigency of a person under arrest for investigation or on suspicion, nor recommend to a court that a defendant be determined or not determined as indigent.

~~(6)~~ (5) For purposes of this section, the definitions found in section 29-3901 shall be used.

Sec. 29. That section 29-3915, Revised Statutes Supplement, 1990, be amended to read as follows:

29-3915. The following persons who are financially unable to obtain counsel shall be entitled to be represented by a judicial district public defender:

(1) A person charged with a felony, including appeals from convictions for a felony;

(2) A person pursuing a postconviction proceeding under ~~the provisions of Chapter 29, article 30,~~ sections 29-3001 to 29-3004 after conviction of a felony, when the public defender after investigation concludes that there may be merit to such a proceeding or when the court in which such proceeding is pending directs the public defender to represent the person;

(3) A minor brought before the juvenile court when neither the minor nor his or her parent or guardian is able to afford counsel; and

(4) A person against whom a petition has been filed with a mental health board as provided in sections 83-1049 to 83-1051. ~~; and~~

~~(5) A person against whom a petition has been filed pursuant to section 83-1125 as provided in section 83-1136.~~

Sec. 30. That section 43-2,113, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

43-2,113. Where a separate juvenile court is established, the county board of the county shall provide suitable rooms and offices for the accommodation of the judge thereof and the officers and employees appointed by such judge or by the probation administrator pursuant to subsection (4) of section 29-2253. Such separate juvenile court, the judge thereof, and the officers and employees of such court shall have the same and exclusive jurisdiction, powers, and duties that are prescribed in the Nebraska Juvenile Code, concurrent jurisdiction under ~~sections 83-223 and 83-1101 to 83-1139~~ section 83-223, and such other jurisdiction, powers, and duties as may hereafter be specifically provided by law. A juvenile court created in a separate juvenile court judicial district or a county court sitting as a juvenile court in all other counties shall have and exercise jurisdiction within such juvenile court judicial district or county court judicial district with the district court in all matters arising under Chapter 42, article 3, when the care, support, custody, or control of minor children under the age of eighteen years is involved. Such cases shall be filed in the district court and may with the consent of the juvenile judge be transferred to the docket of the separate juvenile court or county court. All orders issued by such court which provide for child

support or spousal support~~,~~ as defined in section 42-347~~,~~ shall be governed by sections 42-347 to 42-379 and 43-290 relating to such support. Certified copies of such orders shall be filed by the clerk of the separate juvenile or county court with the clerk of the district court. There shall be no fee charged for the filing of such certified copies.";

b. On page 14, line 1, "Insure" has been struck and "Ensure" inserted;

c. On page 24, line 17, "43-2,113," has been inserted after "sections"; and in line 19 "and sections 23-3402 and 29-3915, Revised Statutes Supplement, 1990," has been inserted after the second comma; and

d. The remaining sections have been renumbered.

3. On page 1, line 2, "43-2,113," has been inserted after "sections"; and in line 4 ", and sections 23-3402 and 29-3915, Revised Statutes Supplement, 1990" has been inserted after "1943".

Enrollment and Review Change to LB 830A

The following changes, required to be reported for publication in the Journal, have been made:
ER7091

1. On page 1, line 4, "; and to reduce and increase certain appropriations" has been inserted after "1991".

(Signed) Mary E. Sommermeyer
E & R Attorney

EXPLANATIONS OF VOTES

Had I been present, I would have voted aye on both LB 425 and LB 840.

(Signed) D. Paul Hartnett

Had I been present, I would have voted nay on the final passage of LB 425.

(Signed) Ernie Chambers

Had I been present, I would have voted yes on LB 425.

(Signed) Roger Wehrbein

PRESENTED TO THE GOVERNOR

Presented to the Governor on May 28, 1991, at 11:20 a.m., were the following bills: 456, 456A, 549, 720, 840, and 425.

(Signed) Pam Moravec, Enrolling Clerk

UNANIMOUS CONSENT - Print in Journal

Mr. Lynch asked unanimous consent to print the following amendment to LB 398 in the Journal. No objections. So ordered.

AM1496

1. Insert the following new sections:

"Sec. 4. That section 2-222, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-222. Any county may proceed under sections 2-221 to 2-231 ~~herein,~~ when such county ~~shall have~~ has accepted the provisions ~~thereof~~ of such sections, which acceptance may be made by the county commissioners or board of supervisors by resolution duly adopted. If, within sixty days after the adoption of a resolution for such purpose, fifteen percent of the qualified voters of the county ~~shall~~ file with the county board a petition requesting that the acceptance of the provisions of ~~said~~ such sections ~~shall~~ be submitted to the voters of the county, the county board shall submit the same to a vote of the people in like manner as the question of voting courthouse bonds may be submitted. During the time such question is pending for the vote of the people no further proceedings shall be had for the establishment of such fair. Whenever ten percent of the qualified voters of the county ~~shall~~ file a petition with the county board asking that the question of the acceptance of the provisions of ~~said~~ such sections be submitted to a vote of the people, it shall be the duty of such board to submit such question to the voters in like manner as the question of voting courthouse bonds may be submitted. If a majority of the votes cast upon the question, when the same is submitted under either of the provisions ~~hereinbefore made, shall be~~ prescribed in this section, are in favor of such proposition, the county board shall immediately proceed to establish such

county fair.

Sec. 5. That section 2-223, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-223. In any county accepting the provisions of sections 2-221 to 2-231, bonds may be voted~~,~~ or a special tax ~~be~~ levied~~, for the purchase and improvement of~~ to hold, purchase, and improve real estate for county fair purposes in like manner as for the building of a courthouse.

Sec. 6. That section 2-224, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-224. ~~Whenever~~ (1) Except as provided in subsection (2) of this section, whenever any county ~~shall have~~ has accepted the provisions of sections 2-221 to 2-231, the county board shall appoint from the residents of the county a county fair board, consisting of nine members who shall in the first instance be appointed as follows: Three for ~~a term~~ terms of one year, three for ~~a term~~ terms of two years, and three for ~~a term~~ terms of three years. Thereafter ~~there~~ three members shall be appointed each year ~~three members~~ for ~~a term~~ terms of three years. Vacancies occurring upon such board shall be filled by the county board. No person while a member of the county board shall be a member of the county fair board, nor shall more than two members of the county fair board be residents of the same township, precinct, or incorporated city or village at the time of appointment.

(2) In counties with a population of three hundred thousand or more persons, the county board shall serve as the county fair board and shall be in charge of the county fair and other lawfully related activities.".

2. On page 3, line 5, after "original" insert "sections 2-222, 2-223, and 2-224, Reissue Revised Statutes of Nebraska, 1943, and"; and in line 6 strike "is" and insert "are".

3. Renumber the remaining section accordingly.

Mr. R. Johnson asked unanimous consent to print the following amendment to LB 142A in the Journal. No objections. So ordered.

(Amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM2098.)

MESSAGE FROM THE GOVERNOR

May 28, 1991

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bill 427 was received in my office on May 23, 1991.

This bill was signed by me on May 28, 1991, and delivered to the Secretary of State.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

VISITORS

Visitors to the Chamber were Senator Cudaback's mother, Lena Cudaback, and Sherry Morrow; two groups of fourth grade students, teachers, and sponsors from King Science Center, Omaha; 31 fourth grade students and teachers from Christ The King School, Omaha; and 30 fourth grade students and teachers from Shoemaker School, Grand Island.

RECESS

At 12:19 p.m., on a motion by Mr. Bernard-Stevens, the Legislature recessed until 1:30 p.m.

AFTER RECESS

The Legislature reconvened at 1:30 p.m., President Moul presiding.

ROLL CALL

The roll was called and all members were present except Messrs. Beutler, Haberman, and Schmit who were excused until they arrive.

GENERAL FILE

LEGISLATIVE BILL 615. Messrs. Conway, Hefner, and Peterson offered the following amendment to the pending Standing Committee amendment:
AM2126

(Amendments to AM2010)

1. On page 1, line 16, strike "Gage," and show as stricken; strike beginning with "Saline" in line 16 through the first comma in line 17 and show the old matter as stricken; in line 18 reinstate the stricken matter; and in line 19 reinstate the stricken "Pierce," and strike the second "and" and show as stricken.

2. On page 2, line 1, before "that" insert "that part of Gage County which includes the precincts of Adams, Blakely, Clatonia, Filley, Grant, Hanover, Highland, Holt, Hooker, Logan, Midland Ward 1, Midland Ward 2, Nemaha, and the City of Beatrice, and"; and in line 21 after "of" insert "Jefferson, Thayer, Saline, Fillmore," and strike "Madison, Pierce,".

3. On page 3, line 7, after "Kimball" insert "and that part of Gage County not located in the first district".

SPEAKER BAACK PRESIDING

PRESIDENT MOUL PRESIDING

Ms. Schimek moved for a call of the house. The motion prevailed with 24 ayes, 0 nays, and 25 not voting.

Ms. Schimek requested a roll call vote on the Conway-Hefner-Peterson amendment.

Voting in the affirmative, 25:

Abboud	Conway	Hefner	Moore	Schellpeper
Ashford	Crosby	Johnson, L.	Peterson	Schrock
Baack	Cudaback	Johnson, R.	Pirsch	Smith
Bernard-Stevens	Dierks	Kristensen	Robinson	Warner
Beyer	Elmer	Lamb	Rogers	Wehrbein

Voting in the negative, 18:

Beutler	Hall	Landis	Rasmussen	Wickersham
Byars	Hartnett	Lindsay	Schimek	Will
Chambers	Hillman	Lynch	Wesely	Withem
Coordsen	Labedz	Morrissey		

Present and not voting, 3:

Chizek	Horgan	Nelson

Absent and not voting, 1:

Robak

Excused and not voting, 2:

Haberman Schmit

The Conway-Hefner-Peterson amendment was adopted with 25 ayes, 18 nays, 3 present and not voting, 1 absent and not voting, and 2 excused and not voting.

The Chair declared the call raised.

The Standing Committee amendment, as amended, was adopted with 26 ayes, 12 nays, 9 present and not voting, and 2 excused and not voting.

Advanced to E & R for review with 33 ayes, 1 nay, 13 present and not voting, and 2 excused and not voting.

LEGISLATIVE BILL 616. Title read. Considered.

Standing Committee amendment, AM2076, found in the Journal on page 2466, was considered.

Mr. Kristensen offered the following amendment to the pending Standing Committee amendment:
AM2119

(Amendments to AM2076)

1. On page 1, line 13, reinstate the stricken "Otoe, Johnson, Nemaha," and reinstate the stricken "and Richardson"; and strike lines 14 through 18 and insert

"and that part of Cass County not located in Supreme Court judicial district 4;".

2. On page 2, reinstate the stricken matter beginning with "Knox" in line 2 through the fourth comma in line 4; and in lines 5 through 11 strike the new matter and insert "Burt, Washington, Boyd, Holt, Antelope, Garfield, Wheeler, Boone, Valley, Greeley, Platte, and Howard;".

3. On page 3, reinstate the stricken matter beginning with "Phelps" in line 12 through the third comma in line 14; and in lines 14 through 19 strike the new matter and insert "Gage, Pawnee, Nance, Merrick, Butler, and Saunders;".

The Kristensen amendment was adopted with 22 ayes, 0 nays, 25 present and not voting, and 2 excused and not voting.

Mr. Conway offered the following amendment to the pending Standing Committee amendment:
AM2133

(Amendments to AM2076)

1. Insert the following new section:

"Sec. 4. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.".

The Conway amendment was adopted with 22 ayes, 1 nay, 24 present and not voting, and 2 excused and not voting.

The Standing Committee amendment, as amended, was adopted with 28 ayes, 1 nay, 19 present and not voting, and 1 excused and not voting.

Advanced to E & R for review with 25 ayes, 2 nays, 21 present and not voting, and 1 excused and not voting.

LEGISLATIVE BILL 614. Title read. Considered.

Standing Committee amendment, AM2096, printed separately from the Journal and referred to on page 2487, was considered.

Mrs. Pirsch offered the following amendment to the pending Standing Committee amendment:
FA174

Amend AM2096

1. Delete new language on Page 15, Line 9 beginning with "Missouri" through new language ending with "the" on Page 15, Line 19.

2. Delete new language on Page 20, Line 22 beginning with "south" through new language ending with "Street," on Page 21, Line 4.

The Pirsch amendment was adopted with 23 ayes, 0 nays, 25 present and not voting, and 1 excused and not voting.

The Standing Committee amendment, as amended, was adopted with 28 ayes, 3 nays, 17 present and not voting, and 1 excused and not voting.

Advanced to E & R for review with 31 ayes, 3 nays, 14 present and not voting, and 1 excused and not voting.

Mr. Haberman asked unanimous consent to be excused until he returns. No objections. So ordered.

STANDING COMMITTEE REPORT
Revenue

LEGISLATIVE RESOLUTION 186CA. Placed on General File as amended.
Standing Committee amendment to LR 186CA:
AM2149

1. Strike the original sections and insert the following new sections:

"Section 1. That at a special election on August 6, 1991, there shall be submitted to the electors of the State of Nebraska for approval the following amendment to the Constitution of Nebraska by amending Article VIII, sections 1, 2, and 4, which is hereby proposed by the Legislature:

CVIII-1 'The necessary revenue of the state and its governmental subdivisions shall be raised by taxation in such manner as the Legislature may direct. ~~Taxes~~ Except as provided in this article, taxes shall be levied by valuation uniformly and proportionately upon all ~~tangible~~ real property and franchises, except that: ~~(1) The Legislature may provide for a different method of taxing motor vehicles and may also establish a~~

~~separate class of motor vehicles consisting of those owned and held for resale by motor vehicle dealers which shall be taxed in the manner and to the extent provided by the Legislature and may also establish a separate class for trucks, trailers, semitrailers, truck-tractors, or combinations thereof, consisting of those owned by residents and nonresidents of this state, and operating in interstate commerce, and may provide reciprocal and proportionate taxation of such vehicles; PROVIDED, that such tax proceeds from motor vehicles taxed in each county shall be allocated to the state, counties, townships, cities, villages, and school districts of such county in the same proportion that the levy of each bears to the total levy of the county on personal tangible property; and (2)~~ the Legislature may provide that agricultural land and horticultural land, as defined by the Legislature, shall constitute a separate and distinct class of property for purposes of taxation and may provide for a different method of taxing agricultural land and horticultural land which results in values that are not uniform and proportionate with all other ~~tangible~~ real property and franchises but which results in values that are uniform and proportionate upon all property within the class of agricultural land and horticultural land. The Legislature may enact laws to provide that the value of land actively devoted to agricultural or horticultural use shall for property tax purposes be that value which such land has for agricultural or horticultural use without regard to any value which such land might have for other purposes or uses and may prescribe standards and methods for the determination of the value of real ~~or other tangible~~ property at uniform and proportionate values. Notwithstanding any other provision of this Constitution, tangible personal property, as defined by the Legislature, unless exempt by this Constitution or by legislation enacted pursuant to Article VIII, section 2, of this Constitution, shall be subject to tax in whole or in part by valuation or otherwise in such manner as the Legislature may direct. Taxes uniform as to class of property or the ownership or use thereof may be levied by valuation or otherwise upon classes of intangible property as the Legislature may determine, and such intangible property held in trust or otherwise

for the purpose of funding pension, profit-sharing, or other employee benefit plans as defined by the Legislature may be declared exempt from taxation. Taxes other than property taxes may be authorized by law. Existing revenue laws shall continue in effect until changed by the Legislature. The Legislature may provide that livestock shall constitute a separate and distinct class of property for purposes of taxation and may further provide for reciprocal and proportionate taxation of livestock located in this state for only part of a year. The Legislature may provide for a different method of taxing motor vehicles and may also establish a separate class of motor vehicles consisting of those owned and held for resale by motor vehicle dealers which shall be taxed in the manner and to the extent provided by the Legislature and may also establish a separate class for trucks, trailers, semitrailers, truck-tractors, or combinations thereof, consisting of those owned by residents and nonresidents of this state, and operating in interstate commerce, and may provide reciprocal and proportionate taxation of such vehicles; PROVIDED, that such tax proceeds from motor vehicles taxed in each county shall be allocated to the counties, townships, cities, villages, and school districts of such county in the same proportion that the levy of each bears to the total levy of the county on taxable property.'

CVIII-2 'The property of the state and its governmental subdivisions shall be exempt from taxation. The Legislature by general law may exempt from taxation property owned by and used exclusively for agricultural and horticultural societies, and property owned and used exclusively for educational, religious, charitable, or cemetery purposes, when such property is not owned or used for financial gain or profit to either the owner or user. Household goods and personal effects, as defined by law, may be exempted from taxation in whole or in part, as may be provided by general law, and the Legislature may prescribe a formula for the determination of value of household goods and personal effects. The Legislature by general law may provide that the increased value of land by reason of shade or ornamental trees planted along the highway shall not be taken into account in the assessment of such land. The

Legislature by general law and upon any terms, conditions, and restrictions it prescribes, may provide that the increased value of real property resulting from improvements designed primarily for energy conservation may be exempt from taxation. The value of a home substantially contributed by ~~the Veterans' Administration of~~ the United States Department of Veterans Affairs for a paraplegic veteran or multiple amputee shall be exempt from taxation during the life of such veteran or until the death or remarriage of his ~~widow or her remarriage~~ or her surviving spouse. The Legislature may exempt from an intangible property tax life insurance and life insurance annuity contracts and any payment connected therewith and any right to pension or retirement payments. ~~The~~ Notwithstanding any other provision of this Constitution, the Legislature may classify personal property in such manner as it sees fit, and may exempt any ~~of~~ such class or classes, or ~~may~~ exempt all personal property from taxation. ~~No property shall be exempt from taxation except as provided in the Constitution.~~ The Legislature may by general law provide that a portion of the value of any residence actually occupied as a homestead by any classification of owners as determined by the Legislature shall be exempt from taxation.'

CVIII-4 'Except as to tax and assessment charges against real property remaining delinquent and unpaid for a period of fifteen years or longer, the Legislature shall have no power to release or discharge any county, city, township, town, or district whatever, or the inhabitants thereof, or any corporation, or the property therein, from their or its proportionate share of taxes to be levied for state purposes, or due any municipal corporation, nor shall commutation for such taxes be authorized in any form whatever; PROVIDED, that the Legislature may provide by law for the payment or cancellation of taxes or assessments against real estate remaining unpaid against real estate owned or acquired by the state or its governmental subdivisions. The release or discharge prohibited by this section shall not be construed or deemed to prevent the exemption or nonuniform taxation, as provided by the Constitution, of classes of property.'.

Sec. 2. That the proposed amendment shall be

submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1. The proposition for the submission of the proposed amendment shall be placed upon the ballot in the following form:

'A constitutional amendment to remove personal property from provisions requiring that taxes be levied by valuation uniformly and proportionately, to authorize the Legislature to provide for the taxation of tangible personal property in such manner as the Legislature may direct, and to harmonize with other constitutional provisions with respect to the exemption or nonuniform taxation of classes of property.

For

Against'.

Sec. 3. That the proposed amendment, if adopted, shall be in force and take effect immediately upon the completion of the canvass of the votes, at which time it shall be the duty of the Governor to proclaim it as a part of the Constitution of Nebraska.".

(Signed) Tim Hall, Chairperson

Government, Military and Veterans Affairs

The Committee on Government, Military and Veterans Affairs desires to report favorably upon the appointment listed below. The Committee suggests the appointment be confirmed by the Legislature and suggests a record vote.

Jesse Cardenas - State Athletic Commissioner

VOTE: Aye: Senators Conway, Coordsen, Lindsay, Robak, Schimek, Schrock, Smith, and Withem.

(Signed) Gerald Conway, Chairperson

RESOLUTIONS

LEGISLATIVE RESOLUTION 194. Introduced by Landis, 46.

WHEREAS, the business of insurance is currently regulated almost entirely by the states; and

WHEREAS, the various states, due to their size, economy, and generally dissimilar needs, require individualized regulation; and

WHEREAS, under the existing regulatory system Nebraska's Director of Insurance has responsibilities to regulate the activities of insurers licensed to transact business in this state; and

WHEREAS, the regulatory responsibilities of the director include issuing certificates of authority to transact business in this state, examining insurers for solvency, regulating unfair trade practices and unfair claims settlement practices, licensing and disciplining agents and brokers, and providing information and assistance to the public; and

WHEREAS, the federal McCarran-Ferguson Act leaves the regulation of the business of insurance to the states; and

WHEREAS, the system of state regulation of the insurance industry has proven to be responsive and effective in its protection of each state's residents; and

WHEREAS, organizations such as the National Conference of Insurance Legislators and the National Association of Insurance Commissioners work cooperatively with state legislatures and state insurance commissioners to address common needs and problems; and

WHEREAS, H.R. 9 and S. 430 which are being considered by the Congress would repeal essential provisions of the McCarran-Ferguson Act; and

WHEREAS, H.R. 9 and S. 430 would result in federal bureaucracies usurping much of the regulatory authority of the director and the policymaking authority of the Legislature.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature hereby respectfully urges the Congress of the United States to reject H.R. 9 and S. 430 or any similar legislation which would infringe upon the authority of Nebraska and every other state to be the principal regulators of insurance companies.

2. That official copies of this resolution be prepared and forwarded to the Speaker of the House of Representatives and President of the Senate of the Congress of the United States and to all members of the Nebraska delegation to the Congress of the United States.

Laid over.

LEGISLATIVE RESOLUTION 195. Introduced by Wesely, 26.

WHEREAS, Family Service of Lincoln is celebrating its one-hundredth anniversary of service to the Lincoln community in 1991; and

WHEREAS, Family Service is a private nonprofit organization the mission of which is to improve the quality of life for families and individuals and to foster social responsibility for disadvantaged and other populations; and

WHEREAS, this mission is accomplished through a variety of programs and services including child care and parenting resources, health and nutrition services and education, individual, family and group counseling, medical referral and transportation services, and volunteer support services; and

WHEREAS, Family Service was the first human service organization chartered in Lincoln, has served many thousands of citizens over its long history, and has consistently been dedicated to providing a wide range of services responding to the ever changing needs of the Lincoln community; and

WHEREAS, the volunteer board of directors and professional staff of Family Service have demonstrated strong leadership in the advocacy and development of programs which serve individuals and families.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature recognizes Family Service of Lincoln for its one hundred years of service.

2. That a copy of this resolution be sent to Family Service of Lincoln.

Laid over.

LEGISLATIVE RESOLUTION 196. Introduced by Lindsay, 9; Abboud, 12; Ashford, 6; Horgan, 4; Hall, 7; Will, 8; Dierks, 40; Hartnett, 45; Moore, 24; Withem, 14.

WHEREAS, the Creighton University baseball team won the West I Regional Collegiate Baseball Tournament; and

WHEREAS, the team's forty-nine victories are the most victories earned in the history of the university's baseball team; and

WHEREAS, by winning the regional tournament, the baseball team advances to its first-ever appearance in the College World Series held in Omaha, Nebraska; and

WHEREAS, the accomplishments of the Creighton University baseball team, Coach Jim Hendry, and the assistant coaches deserve special recognition; and

WHEREAS, all Nebraskans can take pride in the accomplishments of the Creighton University baseball team and root for the home team at the College World Series.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates the Creighton University baseball team and its coaches.

2. That the Legislature wishes the team and coaches continued success at the College World Series.

3. That a copy of this resolution be presented to Coach Jim Hendry and the Creighton University baseball team.

Laid over.

UNANIMOUS CONSENT - Print in Journal

Mrs. Smith asked unanimous consent to print the following amendment to LB 718 in the Journal. No objections. So ordered.

AM1627

(Amendments to Standing Committee amendments, AM0425)

1. Insert the following new sections:

"Section 1. That section 2-1203, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-1203. The commission shall have power to prescribe and enforce rules and regulations governing horseraces and race meetings, licensed as hereinafter provided. Such rules and regulations shall contain criteria to be used by the commission for decisions on approving and revoking track and teleracing facility licenses and setting racing dates. The commission may delegate to a board of stewards such of the commission's powers and duties as may be necessary to carry out and effectuate the purposes of sections 2-1201 to 2-1219. Any decision or action of such board of stewards may be appealed to the commission or reviewed by the commission on its own initiative.

Sec. 4. That section 2-1208, Reissue Revised Statutes of Nebraska, 1943, be amended to read as

follows:

2-1208. For race meetings devoted principally to running races, every corporation or association licensed under the provisions of sections 2-1201 to 2-1218 shall pay the tax imposed by section 2-1208.01 and shall also pay to the State Racing Commission the sum of thirty cents for each person entering the grounds or enclosure of the licensee upon a ticket of admission. If tickets are issued good for more than one day, then the sum of thirty cents shall be paid for each person using such ticket on each day that the same is used. If ~~; and if~~ any free passes or complimentary admission tickets ~~shall be~~ are issued, the licensee shall pay the same tax upon such passes or complimentary tickets as if the same were sold at the regular and usual admission rate, but nothing ~~herein~~ in this section shall be construed to prohibit the issuance of tax-free passes to actual and necessary officials and employees of the licensee or other persons actually working at such racetrack. The ~~; PROVIDED, that the~~ issuance of all such tax-free passes shall be under the regulations or orders of the commission, and a list of all persons to whom such tax-free passes are issued shall be filed with the commission. For race meetings devoted principally to running races, the licensee shall pay to the commission the sum of four hundred dollars for each racing day of each horserace meeting if the racetrack within which such races are conducted is located in a county of two hundred thousand population or more, in counties of more than seventy-five thousand but less than two hundred thousand population, the licensee shall pay to the commission for each racing day the sum of one hundred dollars, and in counties of not more than seventy-five thousand population, the sum of thirty dollars. For race meetings devoted exclusively to harness races or at which the majority of the races conducted each day are harness races, every corporation or association licensed under the provisions of sections 2-1201 to 2-1218 shall pay to the State Racing Commission, for each racing day of each horserace meeting for which a license ~~shall have~~ has been issued, license fees in the amount of only one-fourth of the daily fees respectively ~~hereinbefore~~ prescribed in this section for running race meetings, graduated ~~as~~

~~aforesaid~~ pursuant to this section in accordance with the population of the county in which the race meeting is conducted. No other license tax, permit tax, occupation tax, or excise tax~~,~~ or racing fee, except as provided in this section and in sections 2-1203 and 2-1208.01 and sections 15 and 20 of this act, shall be levied, assessed, or collected from any such licensee by the state or by any county, township, district, city, village, or any other governmental subdivision or body having power to levy, assess, or collect any such tax or fee.

Sec. 5. That section 2-1209, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-1209. Out of the funds received pursuant to section 2-1208 and sections 15 and 20 of this act the expenses of the commissioners, the compensation of the secretary, assistants, and employees and their reasonable expenses, and the other reasonable expenses of the commission, including suitable furniture, equipment, supplies, and office expense, shall first be paid, and the commission shall retain in its hands the further sum of ~~five~~ fifty thousand dollars as a permanent fund out of which to pay its current expenses. No sums shall be paid out by the commission except the same be regularly audited and allowed and the allowance thereof recorded in the minutes of its meetings, and a voucher therefor be signed by its ~~chairman~~ chairperson and secretary.

Sec. 8. That section 2-1222, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-1222. There is hereby created the Racing Commission's Cash Fund~~,~~ from which shall be appropriated such amounts as are available therefrom and as shall be considered incident to the administration of the State Racing Commission's office. The fund shall contain all license fees and gross receipt taxes collected by the commission as provided under sections 2-1201.01, 2-1203, 2-1203.01, 2-1208, 2-1219, 2-1222, and 2-1223 and sections 15 and 20 of this act, but shall not include taxes collected pursuant to section 2-1208.01, and such fee and taxes collected shall be ~~paid~~ remitted to the State Treasurer ~~who shall credit the money~~ for credit to

the ~~state~~ Racing Commission's Cash Fund. Any money in the fund available for investment shall be invested by the state investment officer pursuant to sections ~~72-1234 to 72-1259~~ 72-1237 to 72-1276.

Sec. 20. An amount equivalent to one percent of the amount wagered through telephonic wagering shall be paid to the Department of Revenue by licensed racetracks for credit to the Racing Commission Cash Fund.".

2. On page 1, line 10; page 2, line 23; page 6, lines 4 and 16; page 8, lines 18 and 19; and page 10, lines 7 and 8 and 23, strike "5 to 15" and insert "9 to 20".

3. On page 1, line 14, after the second comma insert "teleracing facility employees, telephone deposit center employees,".

4. On page 11, line 17, strike "operating" and insert "operation"; and in line 18 after the period insert "Each application shall be accompanied by an annual license fee in the amount of three thousand dollars. A teleracing facility license may be renewed upon payment of the annual license fee. All such license fees shall be credited to the Racing Commission's Cash Fund.".

5. On page 12, line 20 strike "market area" and insert "territory"; and in line 22 strike "marketing area" and insert "territory".

6. On page 13, line 2, strike "5" and insert "9" and after "approve" insert "and license".

7. On page 14, line 12, after "sections" insert "2-1203, 2-1208, 2-1209," and strike "and" and insert a comma; and in line 13 after the first comma insert "and 2-1222,".

8. Renumber the remaining sections accordingly.

Mr. Lamb asked unanimous consent to print the following amendment to LB 511 in the Journal. No objections. So ordered.

(Amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM2122.)

Mr. Landis asked unanimous consent to print the following amendment to LB 419 in the Journal. No objections. So ordered.

AM2144

1. Insert the following new section:

"Sec. 43. Sections 1, 2, 7 to 28, and 44 of this act shall become operative October 1, 1991. The other sections of this act shall become operative on their effective date.".

2. In the Hall amendment, AM2111:

a. Renumber section 3 as section 44; and

b. On page 1, line 10, strike "effective date of this act" and insert "operative date of this section".

3. In the Wesely amendment, AM1988, on page 12, lines 7 and 8 and 10 and 11; page 14, line 17; and page 25, line 18, strike "effective date of this act" and insert "operative date of this section".

4. Renumber the remaining sections accordingly.

Messrs. Hall, Warner, and Byars asked unanimous consent to print the following amendment to LB 829 in the Journal. No objections. So ordered.

AM2143

1. In AM5164:

a. Strike section 21 and insert the following new sections:

"Sec. 13. That section 77-1736.04, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-1736.04. (1) If a court of competent jurisdiction by final nonappealable order determines that any property tax or penalty, or any part thereof, is unconstitutional for any reason other than the valuation or equalization of the property, the tax or penalty shall be refunded to the person paying the tax or penalty in accordance with section 14 of this act without the necessity of filing a claim therefor.

A person seeking a refund based upon the improper valuation or equalization of the property for any reason shall have properly protested and appealed such valuation or equalization in the manner provided by law.

(2) When the tax or penalty declared

unconstitutional is applicable either throughout the state or in a political subdivision beyond the geographic jurisdiction of the court making the final order, then a court of competent jurisdiction shall mean the Nebraska Supreme Court or any federal court.

(3) An action seeking the declaration that a tax or penalty is unconstitutional shall be brought within the year that the tax or penalty is levied or assessed. A refund shall be provided only to a person who has instituted legal proceedings to declare the tax or penalty unconstitutional. ~~(1) If by judgment or final order of any court of competent jurisdiction in this state, in an action not pending on appeal or error, it has been or shall be adjudged and determined that any real or personal property tax, assessment, or penalty or any part thereof was unconstitutional for any reason other than the valuation of the property and such judgment or order has not been made in time to prevent the collection or payment of such tax, assessment, or penalty, then such tax, assessment, or penalty, whether expended or not, which has been collected pursuant to such unconstitutional tax, assessment, or penalty for the year such tax, assessment, or penalty is determined to be unconstitutional shall, without the necessity of filing a claim therefor, be repaid and refunded in the county where originally paid to the person paying such tax, assessment, or penalty. When the tax, assessment, or penalty so declared unconstitutional is applicable either throughout the state or in a political subdivision beyond the geographic jurisdiction of the court making such declaration of unconstitutionality, then for the purpose of this section, a judgment or final order shall mean a judgment or final order of the Supreme Court. If the tax, assessment, or penalty has not been distributed by the county treasurer, the refund shall be made as soon as practicable, otherwise the refund shall be made within two years after the final judgment is entered declaring such tax, assessment, or penalty as unconstitutional.~~

~~(2) The county assessor shall determine all such refunds due and certify them to the county board. The county board shall certify the refund to the county treasurer who shall pay the same from funds in his or her possession belonging to any political subdivision to~~

~~the extent that any political subdivision profited from the overpayment of taxes by the taxpayer, except that if the county treasurer does not have sufficient funds in his or her possession belonging to the political subdivision or if the governing body of the political subdivision certifies to the county treasurer that the payment of such refunds at that time would seriously interfere with its governmental functions, then the county treasurer shall register the refund as a claim against such political subdivision and issue the person entitled to the refund a receipt for the registration of the refund, which receipt may be applied upon the payment of any tax falling due after the second next succeeding annual levy is made on behalf of such political subdivision, at which time such registration certificate shall be charged against funds accruing to such political subdivision. It shall be the responsibility of the governing body of each political subdivision to determine the amount of the liability of such political subdivision for refunds and to make provision in its budget therefor. Multiple tax statements issued to a taxpayer may be combined into one claim.~~

~~(3) For purposes of this section, political subdivision shall include the State of Nebraska or any political subdivision thereof, and if the tax, assessment, or penalty was assessed against property valued by the state, county board and county assessor shall mean the Tax Commissioner. The procedure for refund provided for in this section shall be in addition to refund procedures otherwise authorized by law.~~

~~(4) The county treasurer shall mail the refunds or receipts for registered claims by first-class mail to the last-known address of such taxpayer entitled to the refund or registered claim. If a refund or registered claim is not claimed by June 1 of the year following the year of mailing, then the refund or receipt shall be canceled and the resultant amount credited to the various funds originally charged.~~

~~(5) The county treasurer shall not be responsible for seeking out taxpayers entitled to such refunds if the amount of the refund is two dollars or less. A taxpayer requesting a refund or registered claim either by mail or in person in any amount shall be~~

~~paid by the county treasurer.~~

Sec. 14. The following procedure shall apply when making a property tax refund:

(1) Within thirty days of the entry of a final nonappealable order or other action approving a refund, or, for property valued by the state, within thirty days of a recertification of value by the Tax Commissioner pursuant to section 77-1775 or 77-1775.01, the county assessor shall determine the amount of refund due the person entitled to the refund, certify that amount to the county treasurer, and send a copy of such certification to the person entitled to the refund. Within thirty days from the date the county assessor certifies the amount of the refund, the county treasurer shall notify each political subdivision of its respective share of the refund. Notification shall be by first-class mail, postage prepaid, to the last-known address of record of the political subdivision. The county treasurer shall pay the refund from funds in his or her possession belonging to any political subdivision which received any part of the tax or penalty being refunded. If sufficient funds are not available or the political subdivision within thirty days of the mailing of the notice by the county treasurer certifies to the county treasurer that a hardship would result and create a serious interference with its governmental functions if the refund of the tax or penalty is paid, the county treasurer shall register the refund or portion thereof which remains unpaid as a claim against such political subdivision and shall issue the person entitled to the refund a receipt for the registration of the claim. The certification by a political subdivision declaring a hardship shall be binding upon the county treasurer.

(2) The refund of a tax or penalty or the receipt for the registration of a claim made or issued pursuant to this section shall be satisfied in full as soon as practicable, and in no event later than three years from the date the final order or other action approving a refund is entered. The governing body of the political subdivision shall make provisions in its budget for the amount of any refund or claim to be satisfied pursuant to this section. If a receipt for the registration of a claim is given: (a) Such receipt shall be applied to satisfy any tax levied or assessed

by that political subdivision next falling due from the person holding the receipt after the second next succeeding levy is made on behalf of the political subdivision following the final order or other action approving the refund; and (b) to the extent the amount of such receipt exceeds the amount of such tax liability, the unsatisfied balance of the receipt shall be paid and satisfied within the three-year period prescribed in this subsection from a combination of a credit against taxes anticipated to be due to the political subdivision during such period and cash payment from any funds expected to accrue to the political subdivision pursuant to a written plan to be filed by the political subdivision with the county treasurer no later than thirty days after the claim against the political subdivision is first reduced by operation of a credit against taxes due to such political subdivision. If a political subdivision fails to fully satisfy the refund or claim prior to the second next succeeding levy following the entry of a final nonappealable order or other action approving a refund, interest shall accrue on the unpaid balance commencing on the second next succeeding levy following such entry or action at the rate set forth in section 45-103.

(3) The county treasurer shall mail the refund or the receipt by first-class mail, postage prepaid, to the last-known address of the person entitled thereto. Multiple refunds to the same person may be combined into one refund or credit. In the case of a refund of two dollars or less, the county treasurer shall apply the amount as a credit to any tax levied or assessed by the political subdivision next falling due but if no taxes are due, the amount shall be refunded in the manner prescribed in this section.

(4) When the refund involves property valued by the state, the Tax Commissioner shall be authorized to negotiate a settlement of the amount of the refund or claim due pursuant to this section on behalf of the political subdivision from which such refund or claim is due. Any political subdivision which does not agree with the settlement terms as negotiated may reject such terms, and the refund or claim due from the political subdivision then shall be satisfied as set forth in this section as if no such negotiation had occurred.

(5) In the event that the Legislature appropriates state funds to be disbursed for the purposes of satisfying all or any portion of any refund or claim, the Tax Commissioner shall order the disbursement of such refund amount directly to the person entitled to the refund in partial or total satisfaction of such person's claim.

Sec. 15. Section 77-1736.04 and section 14 of this act are expressly intended to apply to all claims for refund of any property taxes currently pending on the operative date of this section.

Sec. 29. There is hereby appropriated (1) $64,642,000 from the General Fund for FY1991-92 and (2) $32,331,000 from the General Fund for FY1992-93 to the State Treasurer, for Program 121, to aid in carrying out the provisions of this act.

No expenditures for permanent and temporary salaries and per diems for state employees shall be made from funds appropriated in this section.

Sec. 30. There is hereby appropriated (1) $600,000 from the General Fund for FY1991-92 and (2) $250,000 from the General Fund for FY1992-93 to the Department of Revenue, for Program 102, to aid in carrying out the provisions of this act.

Total expenditures for permanent and temporary salaries and per diems from funds appropriated in this section shall not exceed $200,000 for FY1991-92 or $100,000 for FY1992-93.";

b. On page 1, line 16; page 13, line 20; and page 92, line 23, after "was" insert "immediately prior to the operative date of this section";

c. On page 9, line 16, after "60-347" insert "and which are not exempt pursuant to this section";

d. On page 11, line 12, strike "77-1736.04", show as stricken, and insert "14 of this act";

e. On page 15, line 15; page 16, lines 21 and 22; page 18, lines 2 and 3; page 19, line 12; and page 20, lines 15 and 16, strike "subsection (2) of section 77-1736.04", show as stricken, and insert "section 14 of this act";

f. On page 20, line 6, after "(2)" insert "Upon receipt of a final nonappealable order, the State Board of Equalization and Assessment shall meet or the Tax Commissioner shall act within thirty days thereof to

order the recertification of valuation of the prevailing party.

(3)"; in line 7 strike "final order shall certify", show as stricken, and insert "recertification order shall recertify"; in line 8 strike "refund to the county treasurer", show as stricken, and insert "valuation or tax to the county assessor"; in line 12 strike "certify", show as stricken, and insert "recertify" and strike "decision", show as stricken, and insert "nonappealable order"; and in line 13 strike "official," show as stricken, and insert "county assessor";

g. On page 21, line 17, strike "or 168" and insert ", 168, 169, or 179"; and in lines 18, 19, and 23 before each occurrence of "property" insert "tangible";

h. On page 22, line 1, strike "or 168" and insert ", 168, 169, or 179";

i. On page 95, line 23, after "year" insert "or, for a governing body which budgeted no revenue to be received from the levy of taxes on real and personal property in such year, the most recent fiscal year prior to such year for which the governing body did budget to receive revenue";

j. On page 101, line 24, after the second comma insert "77-1736.04," and strike "77-27,136,";

k. Correct the operative date provision so that section 77-1736.04 and sections 14, 15, 29, and 30 become operative on their effective date; and

l. Renumber the remaining sections and correct internal references accordingly.

2. In AM2033:

a. On page 9, line 1, strike "Gross" and insert "From October 1, 1991, through September 30, 1992, gross"; and in line 4 after "services" insert ". This subdivision shall not apply to contracts or agreements for such services which were executed prior to October 1, 1991, but for which final payment is not rendered until after such date"; and

b. On page 33, line 17, strike "July" and insert "October".

Mr. Conway asked unanimous consent to print the following amendment to LB 614 in the Journal. No objections. So ordered.

(Amendment on file in the Clerk's Office - Room 2018 - AM2150.)

SELECT FILE

LEGISLATIVE BILL 783. E & R amendment, AM5119, found in the Journal on page 1615, was adopted.

Messrs. Wickersham and Lamb renewed their pending amendment, AM1929, printed separately from the Journal and referred to on page 2218.

The Wickersham-Lamb amendment was adopted with 26 ayes, 1 nay, 21 present and not voting, and 1 excused and not voting.

Mr. Beutler offered the following amendment:
AM2148

(Amendments to AM1929)

1. Insert the following new sections:

"Sec. 29. No investment in any acquiring or operating entity shall be approved unless the council's investment is secured by a first lien on real and personal property the value of which is at least one hundred twenty percent of the amount of the investment.

Sec. 30. No acquisition of property shall be made by the council nor any interest in any acquiring or operating entity purchased unless an independent certified appraiser verifies that the value of the property proposed to be acquired or to be held as security is at least one hundred twenty percent of the purchase price to be paid.".

2. On page 4, lines 1 through 5, strike the new matter.

3. On page 8, line 1, after "council" insert "or its members or agents including tort claims".

4. On page 9, strike beginning with the comma in line 22 through the comma in line 23 and show the old matter as stricken.

5. On page 11, line 7, strike "willful, wanton, or fraudulent" and insert "grossly negligent".

6. On page 19, lines 7 and 8, strike "or, if required by the council," and insert "and".

7. On page 20, line 2, strike "initial".

8. On page 22, line 5, after the period insert:

"Any money in the fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1276.".

9. On page 26, line 6, strike "28" and insert "30".

10. On page 27, line 17, strike "on June 15, 1994" and insert "at such time as the Nebraska Railway Council has repaid the principal amount to the General Fund, which repayment shall take place no later than July 15, 2006"; and in line 21 strike "on June 15, 1995" and insert "at such time as the council has repaid the principal amount to the General Fund, which repayment shall take place no later than July 15, 2007".

11. Renumber the remaining sections accordingly.

SPEAKER BAACK PRESIDING

The Beutler amendment was adopted with 28 ayes, 0 nays, 20 present and not voting, and 1 excused and not voting.

Mr. Beutler offered the following amendment:
AM2057

(Amendments to AM1929)

1. Insert the following new section:

"Sec. 29. Any lease agreement or option to buy entered into pursuant to the authority granted herein shall provide for a fair rate of return as determined by reasonable commercial standards in the industry.".

2. On page 26, line 6, strike "28" and insert "29".

3. Renumber the remaining sections accordingly.

Mmes. Robak, Hillman, Messrs. Coordsen, and R. Johnson asked unanimous consent to be excused until they return. No objections. So ordered.

PRESIDENT MOUL PRESIDING

Mr. Beutler moved for a call of the house. The motion prevailed with 15 ayes, 0 nays, and 34 not voting.

Mr. Beutler requested a roll call vote on his amendment.

Voting in the affirmative, 25:

Abboud	Chambers	Hartnett	Nelson	Smith
Ashford	Chizek	Horgan	Rasmussen	Warner
Baack	Crosby	Landis	Robinson	Wesely
Beutler	Elmer	Lindsay	Schimek	Will
Beyer	Hall	Moore	Schrock	Withem

Voting in the negative, 12:

Bernard-Stevens	Cudaback	Labedz	Peterson	Schellpeper
Conway	Dierks	Lamb	Pirsch	Wickersham
	Hefner	Morrissey		

Present and not voting, 6:

Byars	Kristensen	Lynch	Rogers	Wehrbein
Johnson, L.				

Absent and not voting, 1:

Schmit

Excused and not voting, 5:

Coordsen	Haberman	Hillman	Johnson, R.	Robak

The Beutler amendment was adopted with 25 ayes, 12 nays, 6 present and not voting, 1 absent and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Mr. Lynch moved the previous question. The question is, "Shall the debate now close?" The motion lost with 17 ayes, 1 nay, and 31 not voting.

Ms. Schimek and Mr. Wesely asked unanimous consent to be excused until they return. No objections. So ordered.

SPEAKER BAACK PRESIDING

Mr. Lynch moved the previous question. The question is, "Shall the debate now close?"

Mr. Lynch moved for a call of the house. The motion prevailed with 13 ayes, 0 nays, and 36 not voting.

The motion to cease debate prevailed with 25 ayes, 0 nays, and 24 not voting.

Mr. Chambers requested a roll call vote on the advancement of the bill.

Voting in the affirmative, 29:

Abboud	Elmer	Labedz	Pirsch	Schrock
Byars	Hartnett	Lamb	Rasmussen	Smith
Conway	Hefner	Lynch	Robak	Wehrbein
Coordsen	Hillman	Morrissey	Rogers	Wickersham
Cudaback	Johnson, L.	Nelson	Schellpeper	Will
Dierks	Johnson, R.	Peterson	Schmit	

Voting in the negative, 17:

Ashford	Beutler	Hall	Lindsay	Warner
Baack	Beyer	Horgan	Moore	Wesely
Bernard-Stevens	Chambers	Kristensen	Robinson	Withem
	Crosby	Landis		

Present and not voting, 1:

Chizek

Excused and not voting, 2:

Haberman Schimek

Advanced to E & R for engrossment with 29 ayes, 17 nays, 1 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

RESOLUTION

LEGISLATIVE RESOLUTION 197. Introduced by Schrock, 39; Elmer, 38.

WHEREAS, the Eustis-Farnam High School Lady Tigerbacks track team won the Class D State High School Track Championship in Omaha by scoring in ten of thirteen events in which they qualified with a total of 70 points; and

WHEREAS, this is the first year of cooperative curriculum and activities for the Eustis-Farnam schools in grades seven through twelve; and

WHEREAS, such cooperative curriculum and activities have increased the number of classes offered, the participation in athletics. and the social interaction of the two school; and

WHEREAS, the Legislature should recognize the academic. athletic, and artistic achievements of the youth of our state.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA. FIRST SESSION:

1. That the Eustis-Farnam High School Lady Tigerbacks track team be congratulated for its outstanding effort this season and winning the Class D State High School Track Championship.

2. That a copy of this resolution be sent to Coach Elroy Pierce and the Eustis-Farnam Lady's Tigerbacks track team.

Laid over.

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 829A. Introduced by Will, 8; Hall, 7.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 829. Ninety-second Legislature, First Session, 1991; and to declare an emergency.

UNANIMOUS CONSENT - Print in Journal

Mr. Hall asked unanimous consent to print the following amendment to LR 186CA in the Journal. No objections. So ordered.

FA175

Amendment to the Committee Amendment

1. On page 3, lines 8&9, strike ",section 2"

2. On page 6, lines 6 through 8, reinstate the stricken language and on line 6, before the reinstated "property", insert an underscored "real".

SELECT COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 627. Placed on Select File as amended.
(E & R amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM5167.)

LEGISLATIVE BILL 627A. Placed on Select File.

LEGISLATIVE BILL 669. Placed on Select File as amended.
E & R amendment to LB 669:
AM5166

1. Strike the original sections and all amendments thereto and insert the following new sections:

"Section 1. That section 69-2001, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

69-2001. Sections 69-2001 to 69-2012 and sections 3 and 4 of this act shall be known and may be cited as the Degradable Products Act.

Sec. 2. That section 69-2002, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

69-2002. For purposes of the Degradable Products Act, the definitions found in sections 69-2003 to 69-2007 and sections 3 and 4 of this act shall be used.

Sec. 3. Compostable shall mean materials, products, or packaging capable of undergoing physical, chemical, thermal, or biological degradation in a solid waste composting facility such that the materials, products, or packaging will be converted to soil-like materials which may be returned to the environment without adverse impact.

Sec. 4. Composting shall mean a physical and biological process that can cause organic waste to break down into humus-like material.

Sec. 5. That section 69-2011, Reissue Revised

Statutes of Nebraska, 1943, be amended to read as follows:

69-2011. On and after October 1, 1993, a person shall not sell or offer for sale at retail any disposable diaper which is constructed of a material which is not biodegradable or photodegradable or any disposable diaper which cannot be composted in a solid waste composting facility located in or within fifty miles of the border of Nebraska if the Director of Environmental Control determines that biodegradable or photodegradable disposable diapers or disposable diapers which can be composted in a solid waste composting facility located in or within fifty miles of the border of Nebraska are readily available at a comparable price and quality. The determination of quality shall include a study of the environmental impact and fate of such disposable diapers. The director shall issue his or her determination to the Legislature on or before October 1, 1992. For purposes of this section (1) readily available shall mean available for purchase in sufficient quantities to meet demand through usual retail channels throughout the state and (2) comparable price and quality shall mean at a cost not in excess of five percent above the average price for products of comparable quality which are not compostable, biodegradable, or photodegradable or which cannot be composted in solid waste composting facilities.

Sec. 6. That original sections 69-2001, 69-2002, and 69-2011, Reissue Revised Statutes of Nebraska, 1943, are repealed.".

2. On page 1, line 4, strike "a term" and insert "terms".

LEGISLATIVE BILL 693. Placed on Select File as amended.
E & R amendment to LB 693:
AM5170

1. In the Kristensen, et al., amendment, AM1703, on page 4, line 7, strike "board of trustees" and insert "Board of Trustees of the Nebraska State Colleges".

2. On page 1, strike beginning with "technical" in line 1 through "aid" in line 8 and insert "state colleges; to amend sections 85-322 and 85-323, Reissue Revised Statutes of Nebraska, 1943; to change

provisions relating to expenditures from the State College Buildings Renovation and Land Acquisition Fund; to provide powers and duties for the Board of Trustees of the Nebraska State Colleges"; and strike beginning with the comma in line 9 through "1990" in line 11.

(Signed) Eric Will, Chairperson

SELECT FILE

LEGISLATIVE BILL 783A. Messrs. Wickersham and Lamb withdrew their pending amendment, AM1787, found in the Journal on page 2216.

Mr. Wickersham renewed his pending amendment, AM1942, found in the Journal on page 2387.

The Wickersham amendment was adopted with 26 ayes, 0 nays, 21 present and not voting, and 2 excused and not voting.

Mr. Chambers requested a roll call vote on the advancement of the bill.

Voting in the affirmative, 24:

Byars	Elmer	Lamb	Rasmussen	Smith
Conway	Hartnett	Lynch	Robak	Wehrbein
Coordsen	Hefner	Morrissey	Rogers	Wickersham
Cudaback	Hillman	Nelson	Schmit	Will
Dierks	Johnson, L.	Peterson	Schrock	

Voting in the negative, 18:

Abboud	Bernard-Stevens	Chambers	Johnson, R.	Schellpeper
Ashford	Beutler	Crosby	Kristensen	Warner
Baack	Beyer	Hall	Landis	Wesely
		Horgan	Robinson	Withem

Present and not voting, 6:

Chizek	Lindsay	Moore	Pirsch	Schimek
Labedz				

Excused and not voting, 1:

Haberman

Failed to advance to E & R for engrossment with 24 ayes, 18 nays, 6 present and not voting, and 1 excused and not voting.

Mr. Conway asked unanimous consent to be excused until he returns. No objections. So ordered.

LEGISLATIVE BILL 320. E & R amendment, AM5123, printed separately from the Journal and referred to on page 1636, was adopted.

Mr. Hall renewed his pending amendment, AM1482, found in the Journal on page 1850.

The Hall amendment was adopted with 25 ayes, 1 nay, 21 present and not voting, and 2 excused and not voting.

Mr. Hall asked unanimous consent to replace his pending amendment, AM1469, found in the Journal on page 1851, with a substitute amendment. No objections. So ordered.

Messrs. Conway and Chambers asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Landis offered the following substitute amendment:
AM1597

(Amendments to E & R amendments, AM5123)

1. On page 7, strike beginning with "as" in line 7 through "land" in line 8 and insert "pursuant to section 77-1364"; strike beginning with "for" in line 12 through "markets" in line 14; in line 16 strike ", except that for" and insert ". Beginning in"; in line 17 after "1992" insert an underscored comma; in line 18 after "rate" insert "so that the assessed value of agricultural land and horticultural land shall be eighty percent of market value"; and in line 21 after the period insert "The valuation of agricultural land and horticultural land shall be uniform and proportionate within the class of agricultural land and horticultural land.".

The Landis amendment was adopted with 27 ayes, 0 nays, 19 present and not voting, and 3 excused and not voting.

Mr. Hall renewed his pending amendment, AM1469, found in the Journal on page 1851.

Mr. Hall offered the following amendment to his pending amendment:

FA176

Amend the Hall amendment, AM1469

on pg. 1, line 6 after "1992" add "and each tax year thereafter"

on pg. 3, line 19, after "1992" add "and each tax year thereafter"

on pg. 3, line 23, after "1992" add "and each tax year thereafter."

The Hall amendment was adopted with 26 ayes, 0 nays, 20 present and not voting, and 3 excused and not voting.

Mr. Hall moved for a call of the house. The motion prevailed with 27 ayes, 0 nays, and 22 not voting.

Mr. Hall requested a roll call vote on his pending amendment, as amended.

Voting in the affirmative, 17:

Abboud	Hartnett	Lindsay	Rasmussen	Wesely
Ashford	Hillman	Lynch	Schimek	Will
Chizek	Horgan	Pirsch	Schmit	Withem
Hall	Labedz			

Voting in the negative, 28:

Baack	Coordsen	Johnson, R.	Nelson	Schrock
Bernard-Stevens	Crosby	Kristensen	Peterson	Smith
	Cudaback	Lamb	Robak	Warner
Beutler	Dierks	Landis	Robinson	Wehrbein
Beyer	Hefner	Moore	Rogers	Wickersham
Byars	Johnson, L.	Morrissey	Schellpeper	

Absent and not voting, 1:

Elmer

Excused and not voting, 3:

Chambers Conway Haberman

The Hall amendment, as amended, lost with 17 ayes, 28 nays, 1 absent and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Mr. Elmer asked unanimous consent to be excused until he returns. No objections. So ordered.

Messrs. Hall, Will, and Landis withdrew their pending amendment, AM1653, printed separately from the Journal and referred to on page 2018.

Mr. Hall withdrew his pending amendments, AM1689, AM1690, and AM1674, found in the Journal on pages 2018 and 2019.

Mr. Lamb withdrew his pending amendment, AM1684, found in the Journal on page 2027.

Mr. Hefner withdrew his pending amendment, AM1731, printed separately from the Journal and referred to on page 2071.

Mr. Hall withdrew his pending amendments, AM1737 and AM1738, found in the Journal on page 2071.

Mr. Will withdrew his pending amendment, AM1714, printed separately from the Journal and referred to on page 2098.

Messrs. Rogers and Schmit withdrew their pending amendment, AM1358, on file in the Clerk's Office and referred to on page 2098.

Mr. Schellpeper withdrew his pending amendment, AM1778, found in the Journal on page 2102.

Messrs. Lamb, Schellpeper, and Rogers withdrew their pending amendment, AM1765, on file in the Clerk's Office and referred to on page 2104.

Mrs. Rasmussen withdrew her pending amendment, AM1777, found in the Journal on page 2110.

Mr. Chizek moved to indefinitely postpone LB 320.

Laid over.

Mrs. Rasmussen asked unanimous consent to be excused until she returns. No objections. So ordered.

LEGISLATIVE BILL 754. E & R amendment, AM5122, found in the Journal on page 1636, was adopted.

Mr. R. Johnson offered the following amendment:
AM2056

1. Strike original sections 8 and 9 and all amendments thereto and insert the following new sections:

"Sec. 7. That section 66-1307, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

66-1307. (1) There is hereby created the Ethanol Authority and Development Cash Fund which shall be used by the board to carry out its responsibilities under the Ethanol Authority and Development Act. The fund may be used:

(a) To defray the expenses of the board;

(b) To secure bonds;

(c) To acquire an ethanol or agricultural production facility or a facility related to the processing, marketing, or distribution of ethanol or any products derived from ethanol components, coproducts, or byproducts or to purchase shares of stock or otherwise make an investment in such a facility pursuant to sections 66-1307.01 and 66-1307.02;

(d) To make grants or loans pursuant to sections 66-1317 to 66-1325;

(e) To make grants or loans to facilitate the development or marketing of new, nonfood products derived from ethanol or ethanol components, coproducts, or byproducts;

(f) To provide equity financing for construction of ethanol production and distribution facilities pursuant to Chapter 70; and

(g) As the board may otherwise direct, including the acquisition of equipment or construction, acquisition, or expansion of ethanol or agricultural production facilities, except that not more than three million dollars shall be used to fund ethanol research

and development projects.

The fund shall not be used to pay operating expenses of an applicant but shall only be used for capital investment purposes.

(2) When determining whether to recommend construction of a project for the production and distribution of ethanol or other agricultural byproducts or how funds should be distributed pursuant to the act and sections 70-301, 70-601, 70-601.01, 70-604, 70-604.02, 70-626, 70-628.01 to 70-628.04, 70-631, 70-632, 70-636, 70-637, 70-646, 70-655, 70-657, 70-667, 70-802, 70-1402 to 70-1404, 70-1409, 70-1413, 70-1416, and 70-1417, the board's considerations shall include, but not be limited to, job creation, economic return to the state, size of the plant, byproducts or coproducts, if any, date construction would be commenced and completed, the financial stability of the applicant, and the amount of funds needed to commence construction of the plant or facility.

(3) When awarding grants or loans pursuant to subdivision (1)(e) of this section, the board's considerations shall include, but not be limited to, the jobs to be created by the applicant, the potential commercial success of the product to be developed, the financial stability of the applicant, and the amount of funds requested.

(4) The State Treasurer shall credit to the fund such money as shall be (a) appropriated to the fund by the Legislature, (b) received from the tax levied pursuant to section 66-1308, (c) donated as gifts, bequests, grants, or other contributions to the fund from public or private sources, (d) repaid by cities, counties, villages, or postsecondary educational institutions pursuant to section 66-1324, and (e) received as a return on investment pursuant to sections 66-1307.01 and 66-1307.02. Funds made available by any department or agency of the United States may also be credited to the fund if so directed by the board. Any money in the fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1276. The Department of Revenue shall, at the end of each calendar quarter, notify the State Treasurer of the amount of motor fuel tax that was not collected in the preceding calendar quarter due to

the credit provided in section 66-1326. The State Treasurer shall transfer from the Ethanol Authority and Development Cash Fund to the Highway Trust Fund an amount equal to one-half of such credit through December 31, 1994, and an amount equal to such credit after such date. ~~The amounts shall be transferred through December 31, 1992.~~

Sec. 8. That section 66-1320, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

66-1320. Any application made under section 66-1319 shall be filed with the board. The board shall establish application review procedures.

No new investment may be made or letters of commitment given to an applicant that has not received approval of its final application by April 1, 1991.

Sec. 9. That section 66-1326, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

66-1326. Through December 31, 1997, each producer of ethanol shall receive a credit of ~~twenty~~ ten cents per gallon of ethanol produced in Nebraska~~, which~~ through production in existence on the effective date of this act, and each producer of ethanol shall receive a credit of twenty cents per gallon of ethanol produced in Nebraska through production which was not in existence on such date. The credit shall be in the form of a transferable motor fuel tax credit certificate. The credit shall be given only for ethanol produced at a plant in Nebraska at which all fermentation, distillation, and dehydration takes place. Not less than two million gallons and not more than twenty-five million gallons of ethanol produced annually at a plant shall be eligible for the credit, and the credit may only be claimed by a producer for an eighty-four-month period after the first credit certificate is received. A producer of ethyl tertiary butyl ether shall not receive any ethanol credit pursuant to this section for production of ethyl tertiary butyl ether. The Department of Revenue shall prescribe an application form and procedures for claiming the credit and shall adopt and promulgate rules and regulations to carry out this section.".

2. On page 17, line 24, after the first comma

insert "66-1320,".

3. Renumber the remaining sections accordingly.

Mr. Wehrbein offered the following amendment to the pending R. Johnson amendment:
AM2160

(Amendments to AM2056)

1. Insert the following new section:

"Sec. 6. That section 66-1301, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

66-1301. Sections 66-1301 to 66-1325 and section 10 of this act shall be known and may be cited as the Ethanol Authority and Development Act.

Sec. 10. (1) If at the end of any calendar quarter the amount remaining in the Ethanol Authority and Development Cash Fund is less than three million dollars and if total annual state production of ethanol exceeds seventy-five million gallons, there shall be levied an ethanol producer credit excise tax upon all wheat, corn, and grain sorghum sold through commercial channels in the State of Nebraska. The tax shall be one-half cent per bushel for corn and wheat and one-half cent per hundredweight for grain sorghum. The tax shall continue to be levied until the amount in the fund equals or exceeds ten million dollars. The tax shall then be suspended until the amount of the fund again falls to less than three million dollars, at which time the tax shall again be levied as provided in this section. The tax shall be in addition to any tax or fee imposed pursuant to sections 2-2311, 2-3622, 2-3627, and 2-4012. The tax shall be levied and imposed on the grower at the time of sale or delivery and shall be collected by the first purchaser. No wheat, corn, or grain sorghum shall be subject to the tax more than once.

(2) In the case of a pledge or mortgage of wheat, corn, or grain sorghum as security for a loan under the federal price support program, the ethanol producer credit excise tax shall be deducted from the proceeds of such loan at the time the loan is made.

(3) The ethanol producer credit excise tax shall be deducted whether such wheat, corn, or grain

sorghum is stored in this or any other state.

(4) The ethanol producer credit excise tax shall not apply to the sale of wheat, corn, or grain sorghum to the federal government for ultimate use or consumption by the people of the United States when the State of Nebraska is prohibited from imposing such tax by the Constitution of the United States and laws enacted pursuant thereto.

(5)(a) The purchaser, at the time of settlement, shall deduct the ethanol producer credit excise tax as provided in this section and shall maintain the necessary record of the ethanol producer credit excise tax for each purchase of wheat, corn, or grain sorghum on the grain settlement form or check stub showing payment to the grower for each purchase. Such records maintained by the purchaser shall provide the following information: (i) Name and address of the grower and seller; (ii) the date of the purchase; (iii) the number of bushels or hundredweights, as the case requires, of wheat, corn, and grain sorghum sold; and (iv) the amount of ethanol producer credit excise tax collected on each purchase. Such records shall be open for inspection and audit by authorized representatives of the board during normal business hours observed by the purchaser.

(b) The purchaser shall render and have on file with the board by the last day of each January, April, July, and October on forms prescribed by the board a statement of the number of bushels of wheat, corn, and grain sorghum purchased in Nebraska. At the time the statement is filed, the purchaser shall pay and remit to the board the tax as provided for in this section.

(6) Any person violating any of the provisions of this section shall be guilty of a Class III misdemeanor.".

2. On page 5, line 5, strike "Through December 31, 1997, each", show as stricken, and insert "Each".

Messrs. Peterson and Withem asked unanimous consent to be excused until they return. No objections. So ordered.

Pending.

VISITORS

Visitors to the Chamber were Bill and Linda Somerville, and Kermit, Phyliss, Herman, Delores, and Warren Kalskett; Jo and Dorothy DeLate from Kearney; and Senator Schmit's daughter, Lorin, from Washington, D.C.

ADJOURNMENT

At 8:33 p.m., on a motion by Mr. Wehrbein, the Legislature adjourned until 8:00 a.m., Wednesday, May 29, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

EIGHTY-FIFTH DAY - MAY 29, 1991

LEGISLATIVE JOURNAL

EIGHTY-FIFTH DAY - MAY 29, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

EIGHTY-FIFTH DAY

Legislative Chamber, Lincoln, Nebraska
Wednesday, May 29, 1991

Pursuant to adjournment, the Legislature met at 8:02 a.m., President Moul presiding.

PRAYER

The prayer was offered by Pastor J. Andrew Thompson, Corinth Memorial Baptist Church, Omaha, Nebraska.

ROLL CALL

The roll was called and all members were present except Messrs. Abboud, Morrissey, and Mrs. Robak who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Eighty-Fourth Day was approved.

SPEAKER BAACK PRESIDING

BILLS ON FINAL READING

The following bills were read and put upon final passage:

LEGISLATIVE BILL 843. With Emergency.

A BILL FOR AN ACT relating to appropriations; to state intent; to define terms; to make appropriations for the expenses of Nebraska

State Government for the biennium ending June 30, 1993; to provide an operative date; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 44:

Baack	Coordsen	Hillman	Lynch	Schmit
Bernard-Stevens	Crosby	Horgan	Moore	Schrock
Beutler	Cudaback	Johnson, L.	Nelson	Smith
Beyer	Dierks	Johnson, R.	Pirsch	Warner
Byars	Elmer	Kristensen	Rasmussen	Wehrbein
Chambers	Haberman	Labedz	Robinson	Wesely
Chizek	Hall	Lamb	Rogers	Wickersham
Conway	Hartnett	Landis	Schellpeper	Will
	Hefner	Lindsay	Schimek	Withem

Voting in the negative, 0.

Present and not voting, 2:

Ashford Peterson

Excused and not voting, 3:

Abboud Morrissey Robak

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

Mr. Hall asked unanimous consent to be excused until he returns. No objections. So ordered.

LEGISLATIVE BILL 845. With Emergency.

A BILL FOR AN ACT relating to state employees; to provide for salary increases as prescribed; to define terms; to appropriate funds; to provide duties; to state intent; to provide an operative date; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 46:

Abboud	Coordsen	Johnson, L.	Nelson	Schmit
Ashford	Crosby	Johnson, R.	Peterson	Schrock
Baack	Cudaback	Kristensen	Pirsch	Smith
Bernard-Stevens	Dierks	Labedz	Rasmussen	Warner
	Elmer	Lamb	Robak	Wehrbein
Beutler	Haberman	Landis	Robinson	Wesely
Beyer	Hartnett	Lindsay	Rogers	Wickersham
Chambers	Hefner	Lynch	Schellpeper	Will
Chizek	Hillman	Moore	Schimek	Withem
Conway	Horgan			

Voting in the negative, 0.

Present and not voting, 1:

Byars

Excused and not voting, 2:

Hall Morrissey

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

LEGISLATIVE BILL 846. With Emergency.

A BILL FOR AN ACT relating to state employees; to amend section 84-1611, Revised Statutes Supplement, 1990; to change the state contribution for state employee health insurance; to repeal the original section; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 45:

Abboud	Conway	Hillman	Moore	Schmit
Ashford	Coordsen	Horgan	Nelson	Schrock
Baack	Crosby	Johnson, L.	Peterson	Smith
Bernard-Stevens	Cudaback	Johnson, R.	Pirsch	Warner
Beutler	Dierks	Kristensen	Rasmussen	Wehrbein
Beyer	Elmer	Labedz	Robinson	Wesely
Byars	Haberman	Lamb	Rogers	Wickersham
Chambers	Hartnett	Landis	Schellpeper	Will
Chizek	Hefner	Lindsay	Schimek	Withem

Voting in the negative, 0.

Present and not voting, 2:

Lynch Robak

Excused and not voting, 2:

Hall Morrissey

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

Mr. Dierks asked unanimous consent to be excused until he returns. No objections. So ordered.

LEGISLATIVE BILL 846A. With Emergency.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 846, Ninety-second Legislature, First Session, 1991; to require and authorize the transfer of funds; to state intent; to provide an operative date; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 44:

Abboud	Baack	Bernard-Stevens	Beutler	Byars
Ashford			Beyer	Chizek

Conway	Hillman	Landis	Robak	Smith
Coordsen	Horgan	Lindsay	Robinson	Warner
Crosby	Johnson, L.	Moore	Rogers	Wehrbein
Cudaback	Johnson, R.	Nelson	Schellpeper	Wesely
Elmer	Kristensen	Peterson	Schimek	Wickersham
Haberman	Labedz	Pirsch	Schmit	Will
Hartnett	Lamb	Rasmussen	Schrock	Withem
Hefner				

Voting in the negative, 0.

Present and not voting, 2:

Chambers Lynch

Excused and not voting, 3:

Dierks Hall Morrissey

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

MOTION - Suspend Rules

Mr. Moore moved to suspend the rules, Rule 6, Section 7(b), to permit consideration of LBs 502, 647, 647A, 651, 652, 653, 760, 841, 842, 844, 847, 854, 854A, 855, 855A, 856, 856A, and 857 on Final Reading today.

The Moore motion to suspend the rules prevailed with 31 ayes, 0 nays, 15 present and not voting, and 3 excused and not voting.

BILL ON FINAL READING

The following bill was read and put upon final passage:

LEGISLATIVE BILL 502. With Emergency.

A BILL FOR AN ACT relating to the personnel system; to amend sections 81-1317 and 81-1317.01, Revised Statutes Supplement, 1990; to change provisions relating to terms of employment as prescribed; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 43:

Abboud	Chizek	Hillman	Moore	Schmit
Ashford	Conway	Horgan	Nelson	Schrock
Baack	Coordsen	Johnson, L.	Peterson	Warner
Bernard-Stevens	Crosby	Johnson, R.	Pirsch	Wehrbein
	Cudaback	Kristensen	Rasmussen	Wesely
Beutler	Elmer	Labedz	Robak	Wickersham
Beyer	Haberman	Lamb	Robinson	Will
Byars	Hartnett	Lindsay	Rogers	Withem
Chambers	Hefner	Lynch	Schellpeper	

Voting in the negative, 0.

Present and not voting, 3:

Landis	Schimek	Smith

Excused and not voting, 3:

Dierks	Hall	Morrissey

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

MOTION - Return LB 647 to Select File

Mr. Lindsay moved to return LB 647 to Select File for the following specific amendment:
FA177
Strike the enacting clause.

Mr. Lindsay withdrew his motion to return.

BILLS ON FINAL READING

The following bills were read and put upon final passage:

LEGISLATIVE BILL 647. With Emergency.

A BILL FOR AN ACT relating to postsecondary education; to adopt the Postsecondary Education Award Program Act; to provide severability; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 35:

Abboud	Conway	Hefner	Lynch	Schellpeper
Ashford	Coordsen	Horgan	Moore	Schmit
Baack	Crosby	Johnson, R.	Peterson	Schrock
Bernard-Stevens	Cudaback	Kristensen	Rasmussen	Smith
Beyer	Haberman	Labedz	Robak	Wickersham
Chambers	Hall	Landis	Robinson	Will
Chizek	Hartnett	Lindsay	Rogers	Withem

Voting in the negative, 11:

Beutler	Johnson, L.	Nelson	Schimek	Wehrbein
Elmer	Lamb	Pirsch	Warner	Wesely
Hillman				

Present and not voting, 1:

Byars

Excused and not voting, 2:

Dierks Morrissey

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

LEGISLATIVE BILL 647A. With Emergency.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 647, Ninety-second Legislature, First Session, 1991; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 33:

Abboud	Chizek	Hefner	Lynch	Schmit
Ashford	Conway	Horgan	Moore	Schrock
Baack	Coordsen	Johnson, R.	Peterson	Smith
Bernard-Stevens	Crosby	Kristensen	Rasmussen	Wickersham
	Cudaback	Labedz	Robak	Will
Beyer	Hall	Landis	Robinson	Withem
Chambers	Hartnett	Lindsay	Schellpeper	

Voting in the negative, 13:

Beutler	Hillman	Nelson	Schimek	Wehrbein
Elmer	Johnson, L.	Pirsch	Warner	Wesely
Haberman	Lamb	Rogers		

Present and not voting, 1:

Byars

Excused and not voting, 2:

Dierks Morrissey

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

LEGISLATIVE BILL 651. With Emergency.

A BILL FOR AN ACT relating to state administrative departments; to amend section 81-138.01, Reissue Revised Statutes of Nebraska, 1943; to change a provision relating to encumbrances established in one biennium to be liquidated in a subsequent biennium; to provide an operative date; to repeal the original section; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 45:

Abboud	Crosby	Johnson, L.	Nelson	Schmit
Ashford	Cudaback	Johnson, R.	Peterson	Schrock
Baack	Elmer	Kristensen	Pirsch	Smith
Bernard-Stevens	Haberman	Labedz	Rasmussen	Warner
Beutler	Hall	Lamb	Robak	Wehrbein
Chambers	Hartnett	Landis	Robinson	Wesely
Chizek	Hefner	Lindsay	Rogers	Wickersham
Conway	Hillman	Lynch	Schellpeper	Will
Coordsen	Horgan	Moore	Schimek	Withem

Voting in the negative, 0.

Present and not voting, 2:

Beyer Byars

Excused and not voting, 2:

Dierks Morrissey

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

LEGISLATIVE BILL 652. With Emergency.

A BILL FOR AN ACT relating to appropriations; to make appropriations for the expenses of Nebraska State Government, state aid, capital construction, and postsecondary education for the biennium ending June 30, 1993; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 42:

Abboud	Chizek	Haberman	Johnson, R.	Lynch
Ashford	Conway	Hartnett	Kristensen	Moore
Baack	Coordsen	Hefner	Labedz	Nelson
Bernard-Stevens	Crosby	Hillman	Lamb	Peterson
Beyer	Cudaback	Horgan	Landis	Rasmussen
	Elmer	Johnson, L.	Lindsay	Robak

Robinson	Schimek	Smith	Wesely	Will
Rogers	Schmit	Warner	Wickersham	Withem
Schellpeper	Schrock	Wehrbein		

Voting in the negative, 2:

Beutler Pirsch

Present and not voting, 3:

Byars Chambers Hall

Excused and not voting, 2:

Dierks Morrissey

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

Mr. Hall asked unanimous consent to be excused until he returns. No objections. So ordered.

LEGISLATIVE BILL 653. With Emergency.

A BILL FOR AN ACT relating to state administrative agencies; to amend section 81-1176, Revised Statutes Supplement, 1990; to change the mileage reimbursement rate; to provide an operative date; to repeal the original section; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 42:

Abboud	Chizek	Hefner	Lindsay	Schellpeper
Ashford	Conway	Hillman	Lynch	Schimek
Baack	Coordsen	Horgan	Moore	Schmit
Bernard-Stevens	Crosby	Johnson, L.	Nelson	Schrock
	Cudaback	Kristensen	Rasmussen	Smith
Beutler	Elmer	Labedz	Robak	Warner
Beyer	Haberman	Lamb	Robinson	Wehrbein
Chambers	Hartnett	Landis	Rogers	Wesely

Wickersham Will Withem

Voting in the negative, 1:

Pirsch

Present and not voting, 3:

Byars Johnson, R. Peterson

Excused and not voting, 3:

Dierks Hall Morrissey

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

LEGISLATIVE BILL 760.

A BILL FOR AN ACT relating to appropriations; to appropriate funds for capital construction; and to state intent.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 41:

Abboud	Coordsen	Kristensen	Peterson	Schrock
Ashford	Crosby	Labedz	Pirsch	Smith
Baack	Cudaback	Lamb	Rasmussen	Warner
Bernard-Stevens	Elmer	Landis	Robak	Wehrbein
	Haberman	Lindsay	Robinson	Wesely
Beyer	Hartnett	Lynch	Rogers	Wickersham
Chambers	Hefner	Moore	Schellpeper	Will
Chizek	Hillman	Nelson	Schmit	Withem
Conway	Johnson, L.			

Voting in the negative, 0.

Present and not voting, 5:

Beutler Byars Horgan Johnson, R. Schimek

Excused and not voting, 3:

Dierks Hall Morrissey

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 841. With Emergency.

A BILL FOR AN ACT relating to appropriations; to appropriate funds for the payment of salaries of members of the Nebraska Legislature and payments to be made as provided by Chapter 68, article 6, for the fiscal years ending June 30, 1992, and June 30, 1993; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 44:

Abboud	Conway	Horgan	Nelson	Schmit
Ashford	Coordsen	Johnson, L.	Peterson	Schrock
Baack	Crosby	Kristensen	Pirsch	Smith
Bernard-Stevens	Cudaback	Labedz	Rasmussen	Warner
	Elmer	Lamb	Robak	Wehrbein
Beutler	Haberman	Landis	Robinson	Wesely
Beyer	Hartnett	Lindsay	Rogers	Wickersham
Chambers	Hefner	Lynch	Schellpeper	Will
Chizek	Hillman	Moore	Schimek	Withem

Voting in the negative, 0.

Present and not voting, 2:

Byars Johnson, R.

Excused and not voting, 3:

Dierks Hall Morrissey

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

LEGISLATIVE BILL 842. With Emergency.

A BILL FOR AN ACT relating to appropriations; to appropriate funds for the payment of the salaries and benefits of certain state officers for the fiscal years ending June 30, 1992, and June 30, 1993; to define terms; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 42:

Abboud	Conway	Johnson, L.	Peterson	Schmit
Ashford	Coordsen	Kristensen	Pirsch	Smith
Baack	Crosby	Labedz	Rasmussen	Warner
Bernard-Stevens	Cudaback	Lamb	Robak	Wehrbein
	Elmer	Landis	Robinson	Wesely
Beutler	Haberman	Lindsay	Rogers	Wickersham
Beyer	Hartnett	Lynch	Schellpeper	Will
Chambers	Hefner	Moore	Schimek	Withem
Chizek	Horgan	Nelson		

Voting in the negative, 0.

Present and not voting, 4:

Byars	Hillman	Johnson, R.	Schrock

Excused and not voting, 3:

Dierks	Hall	Morrissey

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

LEGISLATIVE BILL 844. With Emergency.

A BILL FOR AN ACT relating to appropriations; to amend section 90-502, Revised Statutes Supplement, 1990, Laws 1989, LB 651A, section 3, Laws 1989, LB 813, sections 7, 9, 10, 13, 14, 23, 50, and 64, Laws 1989, LB 814, section 57, Laws 1990, LB 240A, section 1,

and Laws 1990, LB 1031, sections 6, 10, 12, 13, 14, 42, 51, 56, and 71; to define terms; to change certain appropriations as prescribed; to provide for deficit appropriations; to appropriate funds for the expenses of state government, postsecondary education, capital construction, and state aid; to transfer funds; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 42:

Abboud	Coordsen	Johnson, L.	Peterson	Schrock
Ashford	Crosby	Johnson, R.	Pirsch	Smith
Baack	Cudaback	Kristensen	Rasmussen	Warner
Bernard-Stevens	Elmer	Lamb	Robak	Wehrbein
	Haberman	Landis	Robinson	Wesely
Beyer	Hartnett	Lindsay	Rogers	Wickersham
Chambers	Hefner	Lynch	Schellpeper	Will
Chizek	Hillman	Moore	Schimek	Withem
Conway	Horgan	Nelson		

Voting in the negative, 0.

Present and not voting, 4:

Beutler	Byars	Labedz	Schmit

Excused and not voting, 3:

Dierks	Hall	Morrissey

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

Mrs. Labedz and Mr. Peterson asked unanimous consent to be excused until they return. No objections. So ordered.

LEGISLATIVE BILL 847. With Emergency.

A BILL FOR AN ACT relating to appropriations; to appropriate funds for capital construction as prescribed; to state intent; to provide an operative date; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 41:

Abboud	Coordsen	Johnson, L.	Nelson	Schrock
Ashford	Crosby	Johnson, R.	Pirsch	Smith
Baack	Cudaback	Kristensen	Rasmussen	Warner
Bernard-Stevens	Elmer	Lamb	Robak	Wehrbein
	Haberman	Landis	Robinson	Wesely
Beyer	Hartnett	Lindsay	Rogers	Wickersham
Chambers	Hefner	Lynch	Schellpeper	Will
Chizek	Hillman	Moore	Schimek	Withem
Conway	Horgan			

Voting in the negative, 0.

Present and not voting, 3:

Beutler	Byars	Schmit

Excused and not voting, 5:

Dierks	Hall	Labedz	Morrissey	Peterson

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

LEGISLATIVE BILL 854. With Emergency.

A BILL FOR AN ACT relating to motor vehicles; to amend sections 75-363 and 75-364, Reissue Revised Statutes of Nebraska, 1943, and sections 60-4,135 and 60-4,148, Revised Statutes Supplement, 1990; to change provisions relating to early issuance of and fees for commercial drivers' licenses and the applicability of the federal Motor Carrier Safety Regulations and the federal Hazardous Material Regulations; to provide operative dates; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 40:

Abboud	Conway	Horgan	Moore	Schrock
Ashford	Crosby	Johnson, L.	Morrissey	Smith
Baack	Cudaback	Johnson, R.	Nelson	Warner
Bernard-Stevens	Elmer	Kristensen	Pirsch	Wehrbein
	Haberman	Lamb	Rasmussen	Wesely
Beutler	Hartnett	Landis	Robak	Wickersham
Beyer	Hefner	Lindsay	Rogers	Will
Chambers	Hillman	Lynch	Schimek	Withem
Chizek				

Voting in the negative, 4:

Byars	Coordsen	Robinson	Schellpeper

Present and not voting, 1:

Schmit

Excused and not voting, 4:

Dierks	Hall	Labedz	Peterson

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

LEGISLATIVE BILL 854A.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 854, Ninety-second Legislature, First Session, 1991.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 43:

Abboud	Conway	Horgan	Morrissey	Schrock
Ashford	Crosby	Johnson, L.	Nelson	Smith
Baack	Cudaback	Johnson, R.	Pirsch	Warner
Bernard-Stevens	Elmer	Kristensen	Rasmussen	Wehrbein
Beyer	Haberman	Lamb	Robak	Wesely
Byars	Hall	Landis	Robinson	Wickersham
Chambers	Hartnett	Lindsay	Rogers	Will
Chizek	Hefner	Lynch	Schellpeper	Withem
	Hillman	Moore	Schimek	

Voting in the negative, 0.

Present and not voting, 3:

Beutler	Coordsen	Schmit

Excused and not voting, 3:

Dierks	Labedz	Peterson

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 855.

A BILL FOR AN ACT relating to teacher's certificates or permits; to amend section 79-1247.07, Reissue Revised Statutes of Nebraska, 1943; to change certificate and permit fees; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 43:

Ashford	Chambers	Haberman	Johnson, R.	Morrissey
Baack	Chizek	Hall	Kristensen	Nelson
Bernard-Stevens	Conway	Hartnett	Lamb	Pirsch
Beutler	Coordsen	Hefner	Landis	Rasmussen
Beyer	Crosby	Hillman	Lindsay	Robak
Byars	Cudaback	Horgan	Lynch	Rogers
	Elmer	Johnson, L.	Moore	Schellpeper

Schimek	Smith	Wehrbein	Wickersham	Withem
Schrock	Warner	Wesely	Will	

Voting in the negative, 0.

Present and not voting, 3:

Abboud	Robinson	Schmit

Excused and not voting, 3:

Dierks	Labedz	Peterson

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 855A.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 855, Ninety-second Legislature, First Session, 1991.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 43:

Abboud	Chizek	Hillman	Moore	Schrock
Ashford	Conway	Horgan	Morrissey	Smith
Baack	Coordsen	Johnson, L.	Nelson	Warner
Bernard-Stevens	Cudaback	Johnson, R.	Pirsch	Wehrbein
	Elmer	Kristensen	Rasmussen	Wesely
Beutler	Haberman	Lamb	Robak	Wickersham
Beyer	Hall	Landis	Rogers	Will
Byars	Hartnett	Lindsay	Schellpeper	Withem
Chambers	Hefner	Lynch	Schimek	

Voting in the negative, 0.

Present and not voting, 3:

Crosby	Robinson	Schmit

Excused and not voting, 3:

Dierks Labedz Peterson

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 856. With Emergency.

A BILL FOR AN ACT relating to the Commission of Industrial Relations; to amend section 48-806, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to compensation of judges of the Commission of Industrial Relations; to repeal the original section; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 42:

Abboud	Chizek	Hillman	Moore	Schellpeper
Ashford	Conway	Horgan	Morrissey	Schimek
Baack	Coordsen	Johnson, L.	Nelson	Schrock
Bernard-Stevens	Crosby	Johnson, R.	Pirsch	Warner
	Cudaback	Kristensen	Rasmussen	Wehrbein
Beutler	Elmer	Lamb	Robak	Wickersham
Beyer	Haberman	Landis	Robinson	Will
Byars	Hartnett	Lindsay	Rogers	Withem
Chambers	Hefner	Lynch		

Voting in the negative, 1:

Smith

Present and not voting, 3:

Hall Schmit Wesely

Excused and not voting, 3:

Dierks Labedz Peterson

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

LEGISLATIVE BILL 856A. With Emergency.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 856, Ninety-second Legislature, First Session, 1991; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 36:

Abboud	Chambers	Horgan	Moore	Schimek
Ashford	Chizek	Johnson, L.	Morrissey	Schrock
Baack	Conway	Johnson, R.	Nelson	Warner
Bernard-Stevens	Coordsen	Kristensen	Rasmussen	Wehrbein
Beutler	Crosby	Landis	Robak	Wickersham
Beyer	Elmer	Lindsay	Robinson	Will
Byars	Hartnett	Lynch	Schellpeper	Withem
	Hefner			

Voting in the negative, 5:

Cudaback	Haberman	Lamb	Pirsch	Smith

Present and not voting, 5:

Hall	Hillman	Rogers	Schmit	Wesely

Excused and not voting, 3:

Dierks	Labedz	Peterson

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

LEGISLATIVE BILL 857.

A BILL FOR AN ACT relating to the Cash Reserve Fund; to amend section 84-612, Revised Statutes Supplement, 1990; to provide duties relating to the transfer of funds; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 43:

Ashford	Conway	Hillman	Moore	Schrock
Baack	Coordsen	Horgan	Morrissey	Smith
Bernard-Stevens	Crosby	Johnson, L.	Nelson	Warner
	Cudaback	Johnson, R.	Rasmussen	Wehrbein
Beutler	Elmer	Kristensen	Robak	Wesely
Beyer	Haberman	Lamb	Robinson	Wickersham
Byars	Hall	Landis	Rogers	Will
Chambers	Hartnett	Lindsay	Schellpeper	Withem
Chizek	Hefner	Lynch	Schimek	

Voting in the negative, 1:

Pirsch

Present and not voting, 2:

Abboud Schmit

Excused and not voting, 3:

Dierks Labedz Peterson

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

UNANIMOUS CONSENT - Print in Journal

Mr. Conway asked unanimous consent to print the following amendment to LB 619 in the Journal. No objections. So ordered.

AM2159

(Amendments to AM5169)

1. On page 4, line 7, strike "158th Circle" and insert "a point on an east-west line extending from

a point halfway between Woolworth Avenue and Pine Street on 158th Street, east along such line to 158th Street,"; in line 8, strike "Circle" and insert "Street"; and in line 15 after the third "Street" insert "and continuing east on an east-west line extending from Charles Street".

Mr. Conway asked unanimous consent to print the following amendment to LB 617 in the Journal. No objections. So ordered.

AM2158

(Amendments to AM5168)

1. On page 3, line 24, strike "158th Circle" and insert "a point on an east-west line extending from a point halfway between Woolworth Avenue and Pine Street on 158th Street, east along such line to 158th Street,".

2. On page 4, line 1, strike "Circle" and insert "Street"; and in line 8 after the third "Street" insert "and continuing east on an east-west line extending from Charles Street".

Mr. Conway asked unanimous consent to print the following amendment to LB 579 in the Journal. No objections. So ordered.

AM2007

(Amendments to Final Reading copy)

1. On page 3, strike beginning with the second "to" in line 14 through the semicolon in line 16.

2. On page 88, lines 10 and 11, strike the new matter and reinstate the stricken matter.

SELECT COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 618. Placed on Select File as amended.
(E & R amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM5171.)

LEGISLATIVE BILL 617. Placed on Select File as amended.
E & R amendment to LB 617:
AM5168

1. Strike the original sections and all amendments thereto and insert the following new sections:

"Section 1. That section 85-103, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

85-103. The general government of the University of Nebraska shall be vested in a board of eight regents elected from districts as provided ~~in section 85-103.01~~ by law. At the general election in 1972, two persons shall be elected, one from district one for a term of six years~~,~~ and one from district two for a term of six years; at the general election in 1974, two persons shall be elected, one from district six for a term of six years~~,~~ and one from district seven for a term of six years; and at the general election in 1976, four persons shall be elected, one from district three for a term of six years, one from district four for a term of six years, one from district five for a term of six years, and one from district eight for a term of six years. At the general elections thereafter, the successors of the members of the board whose terms expire shall be elected for terms of six years~~,~~ or until their successors are elected and qualified. The members representing districts ~~five,~~ six~~,~~ and seven on ~~August 27, 1971~~ the effective date of this act, shall thereafter represent districts seven~~, five,~~ and six, respectively. Vacancies occurring in the board shall be filled by the Governor, and any person appointed to fill a vacancy shall hold his or her office for the unexpired term.

Sec. 2. That section 85-103.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

85-103.01. For the purpose of section 85-103, the state is divided into eight districts. The limits and designations of the eight districts shall be as follows:

District No. 1. That part of Lancaster County not included in regent district 4 and regent district 5; ~~Lancaster County.~~

~~District No. 2. In Douglas County, the following legislative districts: 4, 8, 10, 13, and 31, that part of legislative district 3 lying in Douglas County, in legislative district 20 beginning at the intersection of Interstate Highway 680 and Pacific Street, east on Pacific Street to 105th Street, south on~~

~~105th Street to Pinehurst Avenue, east on Pinehurst Avenue to 102nd Street, south on 102nd Street to West Center Road, west on West Center Road to Interstate Highway 680, north on Interstate Highway 680 to the point of beginning; and in legislative district 12 beginning at the intersection of 96th Street and the Douglas-Sarpy County line, west along the Douglas-Sarpy County line to 144th Street, north on 144th Street to L Street, east on L Street to Interstate Highway 80, south on Interstate Highway 80 to Q Street, east on Q Street to 104th Street, north on 104th Street to Mockingbird Drive, north along Mockingbird Drive to 102nd Street, north on 102nd Street to L Street, east on L Street to 90th Street, south on 90th Street to O Street, west on O Street to 93rd Street, south on 93rd Street to Q Street, west on Q Street to 96th Street, south on 96th Street to the point of beginning.~~

District No. 2. That part of Douglas County beginning at the intersection of the Douglas-Sarpy County line and 168th Street, north on 168th Street to West Center Road, east on West Center Road to Hendricks Road, north on Hendricks Road to 158th Circle, north on 158th Circle to Woolworth Avenue, north on Woolworth Avenue to 155th Street, north on 155th Street to Pacific Street, east on Pacific Street to 90th Street, north on 90th Street to Western Avenue, east and south on Western Avenue to Nicholas Street, east on Nicholas Street to 72nd Street, north on 72nd Street to Hamilton Street, east on Hamilton Street to 33rd Street, north on 33rd Street to Charles Street, east on Charles Street to 16th Street, south on 16th Street to Nicholas Street, east on Nicholas Street to 11th Street, north on 11th Street to Seward Street, east on Seward Street to 6th Street, south and east on 6th Street to Abbott Drive, north on Abbott Drive to the Grace Street Outfall, south along the Grace Street Outfall to the Missouri River, north along the Missouri River to the Douglas-Washington County line, west along the Douglas-Washington County line to the Platte River, south along the Platte River to the Douglas-Sarpy County line, and east along the Douglas-Sarpy County line to the point of beginning;

District No. 3. The counties of Cedar, Dixon, Dakota, Wayne, Thurston, Madison, Stanton, Cuming, Burt, ~~Boone, Nance,~~ Platte, Colfax, Dodge, and Washington; -

District No. 4. The counties of Sarpy, Cass, Otoe, ~~Saline, Jefferson, Gage,~~ Johnson, Nemaha, Pawnee, and Richardson, that part of Douglas County beginning at the intersection of 42nd and Harrison Streets, north on 42nd Street to F Street, east on F Street to the Union Pacific Railroad right-of-way, north along the Union Pacific Railroad right-of-way to Interstate Highway 80, east on Interstate Highway 80 to the Missouri River, south along the Missouri River to Harrison Street, and west on Harrison Street to the point of beginning, and that part of Lancaster County which includes the precincts of Lancaster, Stevens Creek, Grant 1, Grant 2, Grant 3, Stockton, Saltillo 1, Saltillo 2, Nemaha, Buda, South Pass, and Panama; ~~.~~

District No. 5. The counties of ~~Merrick,~~ Polk, Butler, Saunders, ~~Hall, Hamilton,~~ York, Seward, Gosper, Phelps, Kearney, Adams, Clay, Fillmore, Saline, Harlan, Franklin, Webster, Nuckolls, ~~and~~ Thayer, Jefferson, and Gage and that part of Lancaster County which includes the precincts of Elk, Middle Creek, Denton, Yankee Hill, Highland, Centerville, and Olive Branch; ~~.~~

District No. 6. The counties of ~~Sioux, Dawes, Box Butte, Sheridan, Cherry, Brown, Grant, Arthur, Hooker, McPherson, Thomas, Logan, Scotts Bluff, Banner, Morrill, Garden, Kimball, Cheyenne, Deuel, Keith, Perkins, Lincoln, Chase, Hayes, Frontier, Dundy, Hitchcock, and Red Willow.~~ Hamilton, Merrick, Nance, Boone, Antelope, Pierce, Knox, Boyd, Holt, Wheeler, Greeley, Howard, Hall, Buffalo, Sherman, Valley, Garfield, Loup, Rock, Keya Paha, Brown, Blaine, and Custer;

District No. 7. The counties of ~~Keya Paha, Rock, Holt, Boyd, Knox, Cedar, Antelope, Pierce, Blaine, Loup, Garfield, Wheeler, Custer, Valley, Greeley, Sherman, Howard, Dawson, Buffalo, Gosper, Furnas, Phelps, Harlan, Kearney, and Franklin.~~ Furnas, Red Willow, Hitchcock, Dundy, Chase, Hayes, Frontier, Dawson, Lincoln, Perkins, Keith, Deuel, Cheyenne, Kimball, Banner, Scotts Bluff, Morrill, Garden, Arthur, McPherson, Logan, Thomas, Hooker, Grant, Cherry, Sheridan, Dawes, Box Butte, and Sioux; and

District No. 8. ~~In~~ That part of Douglas County~~, the legislative districts of 5, 6, 7, 9, and 11,~~

~~and in legislative districts 12 and 20, that part~~ not included in regent district 2 and regent district 4.

Sec. 3. That section 85-103.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

85-103.02. The precincts, townships, and cities mentioned in section 85-103.01 are the precincts, townships, and cities set out in the ~~1980~~ 1990 Census of Population by the United States Department of Commerce, Bureau of the Census. ~~The legislative districts mentioned in section 85-103.01 are the districts established by sections 5-202 to 5-250.~~

Sec. 4. That original sections 85-103, 85-103.01, and 85-103.02, Reissue Revised Statutes of Nebraska, 1943, are repealed.".

2. On page 1, strike beginning with "section" in line 1 through line 9 and insert "sections 85-103, 85-103.01, and 85-103,02, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to districts for the Board of Regents of the University of Nebraska; to harmonize provisions; and to repeal the original sections.".

LEGISLATIVE BILL 619. Placed on Select File as amended.
E & R amendment to LB 619:
AM5169

1. Strike the original sections and all amendments thereto and insert the following new sections:

"Section 1. That section 79-322, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-322. The State Board of Education shall be composed of eight members who shall be elected ~~by the electors~~ on a nonpartisan ballot from districts as provided ~~in section 79-322.01~~ by law. At the general election in 1968, four persons shall be elected as members to the board, one from district one for a term of four years, one from district two for a term of four years, one from district seven for a term of two years, and one from district eight for a term of two years; at the general election in 1970, two members shall be elected as members of the board, one from district five for a term of four years~~,~~ and one from district six for

a term of four years; and at the general election in 1972, two members shall be elected as members of the board, one from district three for a term of four years, and one from district four for a term of four years. At the general elections thereafter, the members of the board whose terms expire shall be elected for terms of four years, or until their successors are elected and qualified. Vacancies shall be filled as provided for in section 79-324. The members representing districts six and seven on the effective date of this act shall thereafter represent districts seven and six, respectively. The member representing district five on the effective date of this act shall represent the new district five as it is established by this legislative bill for the balance of his or her term. ~~The members serving on March 15, 1967, shall serve until their successors are elected and qualified. The present board shall continue to be composed of six members until the election of additional members in 1968 as provided in this section.~~

Sec. 2. That section 79-322.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-322.01. For the purpose of section 79-322, the state is divided into eight districts. The limits and designations of the eight districts shall be as follows:

District No. 1. That part of Lancaster County not included in State Board of Education district 4 and State Board of Education district 5; ~~Lancaster County.~~

~~District No. 2. In Douglas County, the following legislative districts: 4, 8, 10, 13, and 31, that part of legislative district 3 lying in Douglas County, in legislative district 20 beginning at the intersection of Interstate Highway 680 and Pacific Street, east on Pacific Street to 105th Street, south on 105th Street to Pinehurst Avenue, east on Pinehurst Avenue to 102nd Street, south on 102nd Street to West Center Road, west on West Center Road to Interstate Highway 680, north on Interstate Highway 680 to the point of beginning; and in legislative district 12 beginning at the intersection of 96th Street and the Douglas-Sarpy County line, west along the Douglas-Sarpy County line to 144th Street, north on 144th Street to L~~

~~Street, east on L Street to Interstate Highway 80, south on Interstate Highway 80 to Q Street, east on Q Street to 104th Street, north on 104th Street to Mockingbird Drive, north along Mockingbird Drive to 102nd Street, north on 102nd Street to L Street, east on L Street to 90th Street, south on 90th Street to O Street, west on O Street to 93rd Street, south on 93rd Street to Q Street, west on Q Street to 96th Street, south on 96th Street to the point of beginning.~~

District No. 2. That part of Douglas County beginning at the intersection of the Douglas-Sarpy County line and 168th Street, north on 168th Street to West Center Road, east on West Center Road to Hendricks Road, north on Hendricks Road to 158th Circle, north on 158th Circle to Woolworth Avenue, north on Woolworth Avenue to 155th Street, north on 155th Street to Pacific Street, east on Pacific Street to 90th Street, north on 90th Street to Western Avenue, east and south on Western Avenue to Nicholas Street, east on Nicholas Street to 72nd Street, north on 72nd Street to Hamilton Street, east on Hamilton Street to 33rd Street, north on 33rd Street to Charles Street, east on Charles Street to 16th Street, south on 16th Street to Nicholas Street, east on Nicholas Street to 11th Street, north on 11th Street to Seward Street, east on Seward Street to 6th Street, south and east on 6th Street to Abbott Drive, north on Abbott Drive to the Grace Street Outfall, south along the Grace Street Outfall to the Missouri River, north along the Missouri River to the Douglas-Washington County line, west along the Douglas-Washington County line to the Platte River, south along the Platte River to the Douglas-Sarpy County line, and east along the Douglas-Sarpy County line to the point of beginning;

District No. 3. The counties of Cedar, Dixon, Dakota, Wayne, Thurston, Madison, Stanton, Cuming, Burt, ~~Boone, Nance,~~ Platte, Colfax, Dodge, and Washington; ~~.~~

District No. 4. The counties of Sarpy, Cass, Otoe, ~~Saline, Jefferson, Gage,~~ Johnson, Nemaha, Pawnee, and Richardson, that part of Douglas County beginning at the intersection of 42nd and Harrison Streets, north on 42nd Street to F Street, east on F Street to the Union Pacific Railroad right-of-way, north along the Union Pacific Railroad right-of-way to Interstate Highway 80, east on Interstate Highway 80 to the Missouri River,

south along the Missouri River to Harrison Street, and west on Harrison Street to the point of beginning, and that part of Lancaster County which includes the precincts of Lancaster, Stevens Creek, Grant 1, Grant 2, Grant 3, Stockton, Saltillo 1, Saltillo 2, Nemaha, Buda, South Pass, and Panama; ~~.~~

District No. 5. The counties of ~~Merrick,~~ Polk, Butler, Saunders, ~~Hall, Hamilton,~~ York, Seward, Gosper, Phelps, Kearney, Adams, Clay, Fillmore, Saline, Harlan, Franklin, Webster, Nuckolls, ~~and~~ Thayer, Jefferson, and Gage and that part of Lancaster County which includes the precincts of Elk, Middle Creek, Denton, Yankee Hill, Highland, Centerville, and Olive Branch; ~~.~~

District No. 6. The counties of ~~Sioux, Dawes, Box Butte, Sheridan, Cherry, Brown, Grant, Arthur, Hooker, McPherson, Thomas, Logan, Scotts Bluff, Banner, Morrill, Garden, Kimball, Cheyenne, Deuel, Keith, Perkins, Lincoln, Chase, Hayes, Frontier, Dundy, Hitchcock, and Red Willow.~~ Hamilton, Merrick, Nance, Boone, Antelope, Pierce, Knox, Boyd, Holt, Wheeler, Greeley, Howard, Hall, Buffalo, Sherman, Valley, Garfield, Loup, Rock, Keya Paha, Brown, Blaine, and Custer;

District No. 7. The counties of ~~Keya Paha, Rock, Holt, Boyd, Knox, Cedar, Antelope, Pierce, Blaine, Loup, Garfield, Wheeler, Custer, Valley, Greeley, Sherman, Howard, Dawson, Buffalo, Gosper, Furnas, Phelps, Harlan, Kearney, and Franklin.~~ Furnas, Red Willow, Hitchcock, Dundy, Chase, Hayes, Frontier, Dawson, Lincoln, Perkins, Keith, Deuel, Cheyenne, Kimball, Banner, Scotts Bluff, Morrill, Garden, Arthur, McPherson, Logan, Thomas, Hooker, Grant, Cherry, Sheridan, Dawes, Box Butte, and Sioux; and

District No. 8. ~~In~~ That part of Douglas County~~, the legislative districts of 5, 6, 7, 9, and 11, and in legislative districts 12 and 20, that part~~ not included in State Board of Education district 2 and State Board of Education district 4.

Sec. 3. That section 79-322.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-322.02. The precincts, townships, and cities mentioned in section 79-322.01 are the precincts,

townships, and cities set out in the ~~1980~~ 1990 Census of Population by the United States Department of Commerce, Bureau of the Census. ~~The legislative districts mentioned in section 79-322.01 are the districts established by sections 5-202 to 5-250.~~

Sec. 4. That original sections 79-322, 79-322.01, and 79-322.02, Reissue Revised Statutes of Nebraska, 1943, are repealed.".

2. On page 1, strike beginning with "section" in line 1 through line 8 and insert "sections 79-322, 79-322.01, and 79-322.02, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to the districts for the State Board of Education; and to repeal the original sections.".

LEGISLATIVE BILL 615. Placed on Select File as amended.
E & R amendment to LB 615:
AM5172

1. Strike the original sections and all amendments thereto and insert the following new sections:

"Section 1. That section 5-101.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

5-101.01. Based on the ~~1980 federal census,~~ 1990 Census of Population by the United States Department of Commerce, Bureau of the Census, the State of Nebraska is hereby divided into three districts ~~of~~ for electing Representatives to the Congress of the United States, and each ~~of which districts~~ district shall be entitled to elect one Representative. The limits and designations of the three districts shall be as ~~hereinafter provided~~ follows: ~~The~~

(1) The first district shall contain the counties of Richardson, Nemaha, Otoe, Johnson, Pawnee, ~~Gage,~~ Lancaster, Saunders, ~~Saline, Jefferson, Fillmore,~~ Seward, York, Butler, Dodge, Washington, Colfax, Madison, Burt, Stanton, Cuming, Thurston, Wayne, Pierce, Cedar, Knox, Dixon, and Dakota, ~~and the townships of Salt Creek, South Bend, Greenwood, Elmwood, Tipton, and Stove Creek in Cass County shall constitute the first district. The~~ that part of Gage County which includes the precincts of Adams, Blakely, Clatonia, Filley, Grant, Hanover, Highland, Holt, Hooker, Logan, Midland

Ward 1, Midland Ward 2, and Nemaha and the city of Beatrice, and that part of Cass County not included in the second district;

(2) The second district shall contain the counties of Douglas; and Sarpy; ~~Burt, and Washington, and the county of Cass except the territory in the first district shall constitute the second district. The counties of Hamilton, Clay, Nuckolls, Merrick, Nance, Boone, Antelope, Boyd, Holt, Wheeler, Greeley, Howard, Hall, Platte, Polk, Adams, Webster, Kearney, Franklin, Phelps, Harlan, Gosper, Furnas, Buffalo, Sherman, Valley, Garfield, Keya Paha, Rock, Brown, Blaine, Loup, Custer, Dawson, Lincoln, Frontier, Red Willow, Hayes, Hitchcock, Chase, Dundy, Logan, Thomas, Cherry, Hooker, McPherson, Grant, Arthur, Keith, Perkins, Deuel, Garden, Sheridan, Dawes, Box Butte, Morrill, Cheyenne, Kimball, Banner, Scotts Bluff, Sioux, and Thayer shall constitute the third district~~ and that part of Cass County which includes the North Plattsmouth precinct and the city of Plattsmouth; and

(3) The third district shall contain the counties of Jefferson, Thayer, Saline, Fillmore, Polk, Platte, Antelope, Boone, Nance, Merrick, Hamilton, Clay, Nuckolls, Webster, Adams, Hall, Howard, Greeley, Wheeler, Holt, Boyd, Garfield, Valley, Sherman, Buffalo, Kearney, Franklin, Harlan, Phelps, Furnas, Gosper, Dawson, Custer, Loup, Blaine, Keya Paha, Rock, Brown, Cherry, Thomas, Logan, Lincoln, Frontier, Red Willow, Hitchcock, Hayes, McPherson, Hooker, Grant, Arthur, Keith, Perkins, Chase, Dundy, Deuel, Garden, Sheridan, Cheyenne, Morrill, Box Butte, Dawes, Sioux, Scotts Bluff, Banner, and Kimball and that part of Gage County not included in the first district.

Sec. 2. The precincts, townships, and cities mentioned in section 5-101.01 are the precincts, townships, and cities set out in the 1990 Census of Population by the United States Department of Commerce, Bureau of the Census.

Sec. 3. That original section 5-101.01, Reissue Revised Statutes of Nebraska, 1943, is repealed.".

LEGISLATIVE BILL 616. Placed on Select File as amended.
E & R amendment to LB 616:

AM5173

1. Strike the original sections and all amendments thereto and insert the following new sections:

"Section 1. That section 24-201.02, Revised Statutes Supplement, 1990, be amended to read as follows:

24-201.02. The State of Nebraska is hereby divided into ~~the~~ six Supreme Court judicial districts. ~~described in this section, each of which~~ Each district shall be entitled to one Supreme Court ~~Judge~~ judge. The limits and designations of the six districts shall be as follows:

District No. 1. The counties of Lancaster, ~~Gage,~~ Otoe, Johnson, Nemaha, ~~Pawnee,~~ and Richardson and that part of Cass County not located in Supreme Court judicial district 4;

District No. 2. ~~The counties of Burt and Washington, and in~~ That part of Douglas County~~, that area~~ not included in Supreme Court judicial district 4;

District No. 3. The counties of Boyd, Knox, Cedar, Dixon, Dakota, Holt, Antelope, Pierce, Wayne, Thurston, Garfield, Wheeler, Boone, Madison, Stanton, Cuming, Burt, Valley, Greeley, Howard, Platte, Colfax, Dodge, ~~Butler, Saunders, Antelope, Boone, Platte, Nance, and Merrick.~~ and Washington;

District No. 4. ~~The counties of~~ Sarpy County, ~~and Cass, and in~~ that part of Cass County which includes the North Plattsmouth precinct and the city of Plattsmouth, and that part of Douglas County, beginning at the intersection of the ~~Sarpy-Douglas~~ Douglas-Sarpy County line and 180th Street, north on 180th Street to West Center Road, east on West Center Road to ~~168th Street~~ Interstate Highway 680, north on ~~168th Street~~ Interstate Highway 680 to Pacific Street, east on Pacific Street to ~~20th~~ 22nd Street, south on ~~20th~~ 22nd Street to Pierce Street, east on Pierce Street to ~~16th Street, north on 16th Street to Pacific Street, east on Pacific Street to 11th Street, north on 11th Street to Marcy Street, east on Marcy Street to 7th Street and~~ the Union Pacific ~~railroad tracks~~ Railroad right-of-way, east on the Union Pacific ~~railroad tracks to the Iowa-Nebraska state line~~ Railroad right-of-way to the

Missouri River, south along the ~~Iowa-Nebraska state line~~ Missouri River to the ~~Sarpy-Douglas~~ Douglas-Sarpy County line, and west ~~on~~ along the ~~Sarpy-Douglas~~ Douglas-Sarpy County line to ~~180th Street,~~ the point of beginning; ~~.~~

District No. 5. The counties of ~~Dundy, Hayes, Hitchcock, Frontier, Red Willow, Dawson, Gosper, Furnas,~~ Phelps, Harlan, Kearney, Franklin, Hall, Adams, Webster, Nuckolls, Thayer, Clay, Hamilton, Merrick, Nance, Polk, Butler, Saunders, York, Seward, Fillmore, Saline, Jefferson, ~~and Chase.~~ Gage, and Pawnee; and

District No. 6. The counties of ~~Sioux, Dawes, Box Butte, Sheridan, Cherry, Keya Paha, Brown, Rock, Boyd, Holt, Wheeler, Garfield, Loup, Blaine, Thomas, Hooker, Grant, Garden, Morrill, Scotts Bluff, Banner, Kimball, Cheyenne, Deuel, Arthur, Keith, Perkins, McPherson, Lincoln, Logan, Custer, Valley, Greeley, Sherman, Howard, and Buffalo~~ Sherman, Buffalo, Furnas, Gosper, Dawson, Custer, Loup, Blaine, Rock, Brown, Keya Paha, Cherry, Thomas, Logan, Lincoln, Frontier, Red Willow, Hitchcock, Hayes, McPherson, Hooker, Grant, Arthur, Keith, Perkins, Chase, Dundy, Deuel, Garden, Sheridan, Cheyenne, Morrill, Box Butte, Dawes, Sioux, Scotts Bluff, Banner, and Kimball.

Sec. 2. The precincts, townships, and cities mentioned in section 24-201.02 are the precincts, townships, and cities set out in the 1990 Census of Population by the United States Department of Commerce, Bureau of the Census.

Sec. 3. That original section 24-201.02, Revised Statutes Supplement, 1990, is repealed.

Sec. 4. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.".

2. On page 1, strike beginning with "eliminate" in line 1 through line 4 and insert "amend section 24-201.02, Revised Statutes Supplement, 1990; to change provisions relating to Supreme Court judicial districts; to repeal the original section; and to declare an emergency.".

(Signed) Eric Will, Chairperson

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following bills: 843, 845, 846, 846A, 502, 647, 647A, 651, 652, 653, 760, 841, 842, 844, 847, 854, 854A, 855, 855A, 856, 856A, and 857.

MOTION - Return LB 419 to Select File

Mr. Landis moved to return LB 419 to Select File for his specific amendment, AM2144, found in the Journal on page 2531.

The Landis motion to return prevailed with 26 ayes, 0 nays, 21 present and not voting, and 2 excused and not voting.

PRESIDENT MOUL PRESIDING

SELECT FILE

LEGISLATIVE BILL 419. The Landis specific amendment, AM2144, found in the Journal on page 2531, was adopted with 25 ayes, 0 nays, 22 present and not voting, and 2 excused and not voting.

Advanced to E & R for engrossment.

MOTION - Return LB 419 to Select File

Messrs. Withem and Hall moved to return LB 419 to Select File for the following specific amendment:
AM2166

(Amendments to AM2111)

1. On page 1, line 2, before "The" insert "(1)"; in line 6 strike "(1)" and insert "(a)"; in line 8 strike "(2)" and insert "(b)"; in line 12 strike "(3)" and insert "(c)"; and in line 16 before "A" insert "(2)".

2. On page 2, after line 17, insert the following new subsection:

"(3) An agent or broker shall have access to his or her record for purposes of review. The agent or broker may include a statement of rebuttal to any written complaint included in the record. The agent or broker shall have access to the record only during normal business hours observed by the director.".

The Withem-Hall motion to return prevailed with 25 ayes, 0 nays, 22 present and not voting, and 2 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 419. The Withem-Hall specific amendment, AM2166, found in this day's Journal, was adopted with 26 ayes, 0 nays, 21 present and not voting, and 2 excused and not voting.

Advanced to E & R for engrossment.

GENERAL FILE

LEGISLATIVE BILL 413A. Title read. Considered.

Advanced to E & R for review with 27 ayes, 0 nays, 20 present and not voting, and 2 excused and not voting.

LEGISLATIVE BILL 829A. Title read. Considered.

Advanced to E & R for review with 26 ayes, 0 nays, 21 present and not voting, and 2 excused and not voting.

MESSAGE FROM THE GOVERNOR

May 29, 1991

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol
Lincoln, Nebraska 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bill 425 was received in my office on May 28, 1991.

This bill was signed by me on May 29, 1991, and delivered to the Secretary of State.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

VISITORS

Visitors to the Chamber were a group of fourth grade students from Druid Hill School, Omaha; 95 fourth grade students and teachers from Bryan Elementary, Omaha; and 62 fourth grade students and sponsors from Sandoz Elementary, Omaha.

RECESS

At 11:46 a.m., on a motion by Mr. Baack, the Legislature recessed until 1:30 p.m.

AFTER RECESS

The Legislature reconvened at 1:30 p.m., Speaker Baack presiding.

ROLL CALL

The roll was called and all members were present except Messrs. Ashford, Chambers, Dierks, Haberman, L. Johnson, Kristensen, Landis, Lindsay, Morrissey, Peterson, Rogers, Schellpeper, Schmit, Schrock, Mmes. Labedz, Pirsch, and Smith who were excused until they arrive.

PRESENTED TO THE GOVERNOR

Presented to the Governor on May 29, 1991, at 11:58 a.m., were the following bills: 843, 845, 846, 846A, 502, 647, 647A, 651, 652, 653, 760, 841, 842, 844, 847, 854, 854A, 855, 855A, 856, 856A, and 857.

(Signed) Pam Moravec, Enrolling Clerk

REPORT OF THE EXECUTIVE BOARD

1991 Resolutions Calling For a Study

67 To review current statutes relating to the use of government property by public officials and state employees. Government, Military and Veterans Affairs

78 To review uniform compensation, per diems, and expenses for members of boards and commissions and to generally review how the state compensates persons serving on such boards, commissions, and other bodies. Government, Military and Veterans Affairs

79 To study the feasibility of a uniform publication law for legal notices in the state. Government, Military and Veterans Affairs

80 To review election laws in conjunction with the new State Election Board created by LB 579, 92nd Legislature, 1st Session 1991, complete the rewrite of LB 572, 92nd Legislature, 1st Session 1991, and the recodification of Chapter 32 and other election laws. Government, Military and Veterans Affairs

81 To examine the Iowa study on the merger or consolidation of county and city governments, to study and review current forms of such governments, and to consider alternative forms of government for counties and cities. Government, Military and Veterans Affairs

83 To study all aspects of the firefighters retirement system of cities of the first class and the changes to the system implemented by LB 531 in 1983. Nebraska Retirement Systems

84 To study Nebraska law relating to the operation of motor vehicles by persons under the influence of alcohol or drugs. Transportation

85 To examine the Nebraska Rules of the Road and prepare legislation which will recodify and update the provisions of Chapter 39, Article 6. Transportation

86 To examine the regulation of hazardous material transporters, to focus on the requirements imposed by the Federal Motor Carrier Safety Regulations and the Federal Hazardous Materials Regulations. Transportation

87 To examine and update those provisions of Nebraska law which involve the operation and regulation of railroads by the state. Transportation

88 To examine 900/976 pay per call telephone service, to examine recent efforts undertaken in other states and at the federal level which attempt to promote consumer education

and awareness in regard to 900/976 pay per call telephone service. Transportation

89 To study ways to lower travel expenses for state employees on state business. Government, Military and Veterans Affairs

90 To examine the effect of independent power producers furnishing electricity to retail and wholesale customers with respect to the duplication of facilities and the use of resources. Natural Resources

91 To examine the effect that a beverage container deposit could have on the reduction of waste and on recycling. Natural Resources

92 To conduct an interim study of the accounts of the Ethanol Authority and Development Board, including all expenses of the board. Natural Resources

93 To encourage the Legislature to further pursue the regulation of pet production in Nebraska. Agriculture

94 To study authorizing state or local health departments to provide the necessary review and approval of point of entry water treatment while assuring the protection of public health and safety. Health and Human Services

95 To study the concept and feasibility of a cost-of-living adjustment for members of the school employees retirement system. Nebraska Retirement Systems

96 To examine the Nebraska worker's compensation system to see if any modifications are needed. Business and Labor

97 To study various aspects of the Workers' Compensation Court. Business and Labor

99 To study the feasibility of establishing a voluntary system for accrediting law enforcement agencies in Nebraska. Government, Military and Veterans Affairs

100 To study and develop a proposal for conducting legislative program evaluations. Executive Board

101 To study illegal gambling activities in Nebraska including, but not limited to, illegal gambling devices, bookmaking activities, and foreign lotteries. General Affairs

102 To study the potential impact of Nebraska becoming the sole distributor of pickle cards under the Nebraska Pickle Card Lottery Act. General Affairs

103 To study the State Racing Commission's funding and regulatory responsibilities under Chapter 2, Article 12. To determine inadequacies in funding in relation to regulatory responsibilities and to recommend solutions to the commission's current funding problems. General Affairs

104 To study the impact of legalized for-profit horseracing on the horseracing industry in Nebraska and other forms of legalized gambling. General Affairs

105 To study the potential impact of the legalization of casino gambling in Nebraska and surrounding states. To look at the potential impact of riverboat gambling on the Missouri River and the proposed gambling casino in Council Bluffs. General Affairs

106 To study ways of improving Nebraska's driver's license and state identification card in order to make them more difficult to falsify, alter, or copy. Transportation

107 To examine the scope and effectiveness of current medicaid waivers, the feasibility of expanding them, and any factors inhibiting full utilization of present or future waivers. Health and Human Services

108 To study whether and under what conditions Nebraska should assume administration of the Federal Insecticide, Fungicide, and Rodenticide Act. Agriculture

109 To establish a legislative task force to assess the need for a library automation project within the Public Resource Library Group. Executive Board

110 To study Nebraska laws relating to the railroad industry. Transportation

111 To study the feasibility of providing funding to the three public legal services agencies in Nebraska: Southeast Nebraska Legal Services; Legal Aid of Omaha; and Western Nebraska Legal Services. To review whether it is feasible and constitutional to increase filing and other fees in the Workers' Compensation Court and the other courts of the state to provide funding to the three legal services agencies. Judiciary

112 To address whether there are other industries in our state which suffer unfair competition from out-of-state retailers who attract Nebraska buyers under the pretense that no sales or use tax will be collected. Revenue

113 To study effectiveness of existing state policy with regard to restricted drivers' licenses; how feasible it would be for the state to expand its policy of issuing restricted drivers' licenses; and how feasible it would be for the state to adopt an "extreme inconvenience" statute with regard to restricted drivers' licenses. Transportation

114 To examine methods to reduce the high costs of the use and upkeep of office equipment by the State of Nebraska. Appropriations

115 To study the distribution of judicial resources in Nebraska as the Legislature desires to provide fair and equitable judicial resources to all the citizens of Nebraska. The study shall include but not be limited to district courts and county courts. Judiciary

116 To review the DWI laws of those two states and the desirability of enacting similar statutes in Nebraska as deterrents to driving while under the influence of alcohol or drugs. Transportation

117 To review the desirability of placing limits on the number of consecutive terms in office for elected officials at the national, state, and local levels. Government, Military and Veterans Affairs

118 To study current safety provisions for school crossing areas in Nebraska and to identify any necessary changes in order

to provide the safest possible paths leading to and from elementary and secondary schools. Transportation

119 To review the impact of current state health promotion activities in Nebraska and consider the creation of a Commission on Health Promotion and Physical Fitness. Health and Human Services

120 To conduct a general review of Nebraska statutes relating to the operation of a motor vehicle under the influence of alcohol or other drugs. Transportation

121 To examine the process by which individual counties are admitted to or exit a brand inspection area. Agriculture

122 To develop specific recommendations on how the State of Nebraska and the agriculture industry can serve to create new opportunities for jobs and rural economic development. Agriculture

123 To review existing state agency tourism assistance services and the potential financing sources that could be utilized to develop local tourism capital facilities. Appropriations

124 To study the financing of services provided to persons with developmental disabilities; to recommend a methodology for future allocation of state aid for services provided to persons with developmental disabilities. Appropriations

125 To study the use by state agencies of consultant contracts. To include, but not be limited to, past patterns of expenditures by state agencies for consultant contracts; preliminary estimates of proposed consultant contracts in the 1992-93 biennium, the means of securing such contracts, and statutory and administrative controls in place to manage such contract obligations. Appropriations

126 To examine the feasibility of assessing probation fees against criminal offenders who are sentenced to probation when they are financially able to pay them. Executive Board

127 To examine the revenues and expenditures of selected state agency cash funds receiving user fees or miscellaneous taxes in order to finance agency operations. Appropriations

128 To review the Parenting Act proposed by LB 728 and issues relating to the act. Judiciary

129 To develop specific recommendations on how the State of Nebraska and its tourist industry can more directly support the identification and development of tourist attractions. Appropriations

130 To examine the reasons why Douglas and Scotts Bluff counties represent the two highest teen pregnancy rates in the state. Health and Human Services

131 To consider updating and rewriting Nebraska law regarding credit life insurance and credit health and accident insurance. Banking, Commerce and Insurance

132 To consider updating and rewriting Nebraska law regarding surplus lines insurance business. Banking, Commerce and Insurance

133 To consider updating and rewriting Nebraska law regarding the establishment of title insurance premium rates. Banking, Commerce and Insurance

134 To study ways to structure collective bargaining timelines for school districts and their employees in order to facilitate timely resolution of the bargaining process and assist in completing the task within the budget preparation period. Education

135 To examine issues associated with the Comprehensive Health Insurance Pool, CHIP, in Nebraska. Banking, Commerce and Insurance and Health and Human Services

136 To conduct an examination of the prison privatization issue and assess its primary advantages and limitations. Government, Military and Veterans Affairs

137 To study Nebraska's overall tax system. to examine the relationship between and utilization of sales tax and the income tax as well as local property taxes and user fees. Revenue

138 To research the degree to which the Nebraska State Fairgrounds buildings and grounds area could be used by governmental entities when State Fair activities are not in session. Government, Military and Veterans Affairs

139 To study the issues that resulted in the introduction of LB 487 which proposed a common tax levy for Class I school districts that are part of a Class VI district. Revenue

140 To examine the need for family resource centers in Nebraska. Health and Human Services

141 To study the laws of guardianship in Nebraska and consider: 1) counsel for proposed wards; 2) standards of proof of incapacity; 3) court review of least restrictive alternatives available to the proposed ward; 4) extent of the duties and powers of guardians; and potential reform in the appellate process. Judiciary

142 To study potential sources of funding for the establishment of a random fuels quality testing program within the Dept. of Agriculture. Transportation

143 To propose the final presentation of the final draft of LB 514, 92nd Legislature, 1st Session 1991 (on behalf of various groups within the pharmacy industry of Nebr. to permit them to make use of supportive pharmacy personnel by expanding them to the same authority currently provided in statutes for hospital pharmacies.) Health and Human Services

144 To determine what position and status within state government should be accorded to the Fire Service to insure its continued existence and viability and to insure a stable and appropriate level of state funding so that it might continue to provide the high level of service and assistance to the volunteer fire and rescue organizations that it has over the past few years. Government, Military and Veterans Affairs

145 That the Chairperson of the Natural Resources Committee of Legislature with assistance of committee members and staff designate and oversee a task force broadly representing Nebraska water interests, including representatives from surface water and ground water irrigators, municipal water

users, industrial water users, natural resources districts and the Game and Parks Commission. Natural Resources

146 To examine the need for additional statutory authority to require investigation and remediation of contaminated sites; to examine the need and potential sources for a dedicated fund to be used by the state at contaminated sites for such things as: emergency actions, replacement of contaminated water supplies, long-term remediation and state match for federal sites. Natural Resources

147 To gather, prepare and study material to be used as a basis for developing tax policy changes suggested by the Governor's task force, known as the Revenue Revitalization and Restructuring Committee. Executive Board

148 To examine the workload of University of Nebraska faculty within the context of current role and mission assignments and to develop a faculty activity analysis of the University of Nebraska. Education and Appropriations

149 To examine the relationship and potential conflict between statutory budget limitations and property tax limitations and the Commission of Industrial Relations orders mandating greater increases than allowed under such lids. Education and Business and Labor

150 To examine the role and mission of the Professional Practices Commission. Education

151 To analyze the need for state support of the coalition efforts to provide technical assistance to school districts in developing Global Education curriculum and programs. Education

152 To examine the issue of surplus capacity in electric lines having a rating of less than 34,500 volts for the purpose of wheeling electric power and energy to any distribution power agency. Natural Resources

153 To reauthorize the LR 367 Committee of 1990 to continue the study on child abuse and neglect. Executive Board

154 To repeat the process undertaken under LR 95 in the 1989 interim and provide a forum during the interim period for municipalities and their representatives. Urban Affairs

155 For the Urban Affairs Committee to work with Nebraska municipalities, members of the broader development community, and interested citizens in addressing the issues of municipal expansion, planning and zoning authority, and community development to craft legislation aimed at comprehensively establishing a workable Nebraska plan on municipal growth and governance of expanding fringe areas. Urban Affairs

156 For the Urban Affairs Committee to review recent activity under the Municipal Natural Gas Regulation Act, determine whether changes are appropriate. Urban Affairs

157 That the Urban Affairs Committee investigate various services and activities of Nebraska's cities and villages. Urban Affairs

158 To determine whether it should continue to be the policy of the State of Nebraska that birth and death certificates be open records. Health and Human Services

159 To study ways to make improvements in the delivery of public health services in Nebraska. Health and Human Services

160 To examine the effect of the implementation of the Developmental Disabilities Services Act. Health and Human Services

161 To review human service programs for citizens of the State of Nebraska. Health and Human Services

162 To study bank structure in Nebraska; to examine past public policy decisions and potential effect of possible future public policy decisions regarding bank structure. Banking, Commerce and Insurance

163 To study the feasibility of designating the industry of aquaculture under jurisdiction of Dept. of Agriculture and

develop a statewide plan for the aquaculture industry. Agriculture

164 To conduct a study of the drug and alcohol abuse treatment programs in Nebraska. Health and Human Services

165 To gather information regarding group health care costs as they compare to other states, as they have been affected by regulation or mandating legislation, and as they have affected the costs of health care services. Health and Human Services

166 To study the adequacy of health care service for children in Nebraska; to study ways to increase health care insurance coverage for children and also examine the State of Florida's Florida Health Kids Corporation. Health and Human Services

167 To study the Nebraska Mental Health Commitment Act and need for modification of that act. Health and Human Services

168 To examine the foster care and child protective services system in Nebraska. Health and Human Services

169 To study and review the Administrative Procedure Act to determine if there are needed changes to the act. Government, Military and Veterans Affairs

170 To study the effect of state regulation of travel agencies on the travel business and upon the Office of the Secretary of State with whom travel agencies would be required to register under the provisions of LB 109. Government, Military and Veterans Affairs

171 To examine the effect of sole source "No Substitutes Will Be Considered" restrictions in the public bidding process upon Nebraska-based manufacturers and the effect of the exemption of services from the competitive bidding process upon Nebraska-based service providers. Government, Military and Veterans Affairs

172 To examine the possible development of a Taxpayers Bill of Rights for Nebraska; to examine any Taxpayer Bill of Rights

proposed or adopted by other states or the federal government. Revenue

173 To examine the impact of the Employment and Investment Growth Act on Nebraska's economy. Revenue

174 To examine Nebraska's current and projected energy needs and to explore creating a comprehensive statewide energy plan. Natural Resources

175 To examine additional financing mechanisms that can provide investment capital for start-up entrepreneurs and established small businesses in Nebraska. Banking, Commerce and Insurance

176 To study the issuance of dealer plates for motor vehicles. Transportation

177 To explore the possibility of the State of Nebraska extending liability protection for individuals who volunteer their services for the public good. Judiciary

178 To explore the creation of a tax incentive program to encourage the purchase of recycled products. Revenue

179 To examine the status of Fairview, the 89-year-old country estate of Lincoln's favorite son and three-time presidential candidate William Jennings Bryan. Government, Military and Veterans Affairs

180 To evaluate and develop economic policies and programs on an ongoing and comprehensive basis to assist businesses and communities throughout the state. Banking, Commerce and Insurance

181 To consider possible alternative names for the Dept. of Environmental Control and the Dept. of Public Institutions to better reflect their missions and responsibilities. Government, Military and Veterans Affairs

182 To examine the need for regulation of housing contractors in Nebraska and whether LB 425 currently being held by the Health and Human Services Committee should be enacted into law. Health and Human Services

183 To study the use of multidisciplinary teams to address the issues related to child abuse and neglect in Nebraska. Health and Human Services

184 To examine the adequacy of existing Nebraska inheritance tax laws. Revenue

185 To examine rivers and streams in Nebraska which together with their environments possess outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values and which should be preserved for the benefit and enjoyment of present and future generations. Natural Resources

187 To investigate the efficiency of operations of the public school system of the State of Nebraska. Education

(Signed) Jerome Warner, Chairperson
Executive Board

PRESIDENT MOUL PRESIDING

SELECT FILE

LEGISLATIVE BILL 829. Mr. Warner asked unanimous consent to replace his pending amendment, AM1911, found in the Journal on page 2389, with a substitute amendment. No objections. So ordered.

Mr. Warner withdrew his pending amendment, AM1911, found in the Journal on page 2389.

Mr. L. Johnson asked unanimous consent to have his name added as co-introducer to the Hall, Warner, Byars amendment (AM2143) to LB 829. No objections. So ordered.

Messrs. Hall, Warner, Byars, and L. Johnson renewed their pending substitute amendment, AM2143, found in the Journal on page 2532.

Mr. Hall offered the following amendment to the pending Hall et al. amendment:
FA178
Amend AM2143
Strike new sec. 29 and 30. (the appropriation sections)

The Hall amendment was adopted with 25 ayes, 0 nays, 7 present and not voting, and 17 excused and not voting.

The pending Hall et al. amendment, as amended, was adopted with 25 ayes, 1 nay, 12 present and not voting, and 11 excused and not voting.

Mr. Moore renewed his pending amendment, AM1914, found in the Journal on page 2394.

Mr. Withem moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

Mr. Moore moved for a call of the house. The motion prevailed with 15 ayes, 0 nays, and 34 not voting.

Mr. Moore requested a roll call vote on his amendment.

Voting in the affirmative, 17:

Abboud	Cudaback	Johnson, R.	Moore	Robinson
Beyer	Elmer	Kristensen	Nelson	Schrock
Byars	Hefner	Lamb	Peterson	Smith
Coordsen	Johnson, L.			

Voting in the negative, 28:

Ashford	Chizek	Horgan	Pirsch	Warner
Baack	Conway	Labedz	Rasmussen	Wesely
Bernard-Stevens	Crosby	Landis	Robak	Wickersham
	Hall	Lindsay	Rogers	Will
Beutler	Hartnett	Lynch	Schellpeper	Withem
Chambers	Hillman	Morrissey	Schimek	

Present and not voting, 1:

Wehrbein

Excused and not voting, 3:

Dierks	Haberman	Schmit

The Moore amendment lost with 17 ayes, 28 nays, 1 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Ms. Schimek offered the following amendment:
AM1805

(Amendments to AM1772)

1. Strike section 71 and insert the following new section:

"Sec. 71. That section 77-3439, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-3439. (1) A governing body may increase the anticipated receipts from property taxes by ~~one~~ up to five percent more than the increase permitted by section 77-3438 upon an affirmative vote of at least seventy-five percent of the governing body. In addition, a Community College Board of Governors may increase the anticipated receipts from property taxes by up to five and one-half percent if the community college area has enrollment growth of two and one-half percent or more but less than five percent over the previous year, by up to six percent if such enrollment growth is five percent or more but less than seven and one-half percent, and by up to six and one-half percent if such enrollment growth is seven and one-half percent or more. Any such increase by a Community College Board of Governors shall be made upon an affirmative vote of at least seventy-five percent of the board.

(2) Such vote shall be taken at a public meeting of the governing body following a special public hearing called for the purpose of receiving testimony on such proposed increase. The governing body shall give at least seven calendar days' notice of such public hearing and shall publish such notice at least once in a newspaper of general circulation in the political subdivision.".

Mr. Hall offered the following amendment to the pending Schimek amendment:
FA179

Amend AM1805
on pg. 1, beginning on line 10, strike the words "In addition,"

The Hall amendment was adopted with 26 ayes, 0 nays, 21 present and not voting, and 2 excused and not voting.

Mr. Beutler requested a ruling of the Chair on whether the Schimek amendment is germane to the bill.

The Chair ruled the Schimek amendment is germane to the bill.

Mmes. Smith and Labedz asked unanimous consent to be excused until they return. No objections. So ordered.

The Schimek amendment, as amended, lost with 13 ayes, 19 nays, 13 present and not voting, and 4 excused and not voting.

Messrs. Hall and Will offered the following amendment:
(Amendment printed separately from the Journal and on file in the Bill Room - Room 1102 - AM2169.)

SPEAKER BAACK PRESIDING

Mr. Hefner offered the following amendment to the pending Hall-Will amendment:
FA180
Amend AM2169
on page 9 line 22
strike "not exceed one Hundred thousand dollars" and insert "equal one half the amount otherwise due".
On page 18 line 11 strike "fifty"

Mr. Withem moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

The Hefner amendment lost with 2 ayes, 19 nays, 26 present and not voting, and 2 excused and not voting.

Messrs. Wickersham, Lamb, and Elmer asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Landis moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

The Hall-Will amendment was adopted with 30 ayes, 8 nays, 6 present and not voting, and 5 excused and not voting.

Mr. L. Johnson renewed his pending amendment, AM2055, found in the Journal on page 2456.

Mr. Peterson asked unanimous consent to be excused until he returns. No objections. So ordered.

Mrs. Rasmussen asked unanimous consent to be excused. No objections. So ordered.

Mr. L. Johnson moved for a call of the house. The motion prevailed with 16 ayes, 0 nays, and 33 not voting.

The L. Johnson amendment was adopted with 25 ayes, 0 nays, 18 present and not voting, and 6 excused and not voting.

The Chair declared the call raised.

Mr. Elmer withdrew his pending amendment, AM1873, found in the Journal on page 2182.

Messrs. Moore and Withem offered the following amendment: AM2115

(Amendments to AM5164)

1. On page 94, lines 13 through 15, strike the new matter and reinstate the stricken matter.

2. On page 99, line 7, strike "Beginning", show as stricken, and insert "Except as provided in subsection (2) of this section, beginning"; and strike lines 21 through 24 and insert:

"(2) Notwithstanding any of the provisions of subsection (1) of this section and sections 79-3815 to 79-3821 for budgets adopted for school year 1991-92, the general fund budget of expenditures of each district shall not exceed the general fund budget of expenditures adopted for school year 1990-91 unless a district, pursuant to the procedures and requirements specified in subsection (1) of section 79-3820, by an affirmative vote of seventy-five percent of the school board, votes to exceed such limitation, in which case the budget limitations and all other provisions of subsection (1) of this section and sections 79-3815 to 79-3821 shall

apply.".

3. On page 100, strike line 1.

4. Strike section 29.

5. On page 102, line 2, strike "sections 79-3814 and 79-3815" and insert "section 79-3814".

6. Renumber the remaining sections and correct internal references accordingly.

MR. MORRISSEY PRESIDING

Mr. Withem moved for a call of the house. The motion prevailed with 15 ayes, 0 nays, and 34 not voting.

The Moore-Withem amendment was adopted with 26 ayes, 2 nays, 15 present and not voting, and 6 excused and not voting.

The Chair declared the call raised.

Mr. Moore offered the following amendment:
AM2176

(Amendments to AM2169)

1. Strike section 20 and insert the following new section:

"Sec. 20. For tax years beginning or deemed to begin on or after January 1, 1991, and before January 1, 1992, under the Internal Revenue Code of 1986, as amended, there is hereby imposed on every corporate taxpayer, in addition to the tax imposed by section 77-2734.02, a surcharge equal to fifteen percent of the maximum corporate income tax rate as determined under such section on taxable income in excess of two hundred thousand dollars. The surcharge shall be reported on a form prescribed by the Department of Revenue and shall be due and payable at the same time as the tax returns required by sections 77-2714 to 77-27,123.".

2. On page 19, line 6, after "16" insert ", 20,"; and in line 18 strike "21 and 77-2734.02" and insert "20 and 21".

Ms. Schimek moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

Mr. Hall requested a record vote on the Moore amendment.

Voting in the affirmative, 29:

Abboud	Byars	Hartnett	Kristensen	Schellpeper
Ashford	Conway	Hefner	Lamb	Schimek
Baack	Coordsen	Hillman	Moore	Schrock
Bernard-Stevens	Crosby	Horgan	Nelson	Smith
	Cudaback	Johnson, L.	Pirsch	Wehrbein
Beyer	Elmer	Johnson, R.	Robinson	Wesely

Voting in the negative, 6:

Hall	Lindsay	Morrissey	Will	Withem
Landis				

Present and not voting, 9:

Beutler	Chizek	Lynch	Rogers	Warner
Chambers	Dierks	Robak	Schmit	

Excused and not voting, 5:

Haberman	Labedz	Peterson	Rasmussen	Wickersham

The Moore amendment was adopted with 29 ayes, 6 nays, 9 present and not voting, and 5 excused and not voting.

Mr. Elmer asked unanimous consent to be excused until he returns. No objections. So ordered.

SPEAKER BAACK PRESIDING

Mr. Lynch moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 30 ayes, 0 nays, and 19 not voting.

Advanced to E & R for engrossment.

SELECT COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 614. Placed on Select File as amended.
E & R amendment to LB 614:
AM5174

1. In the Standing Committee amendments, AM2096, on page 52, line 17, strike "Sections 5-201 to 5-252", show as stricken, and insert "This act"; in line 20 strike "sections 5-201 to 5-252", show as stricken, and insert "this act"; and in line 24 after "that" insert "original".

2. On page 1, strike beginning with "eliminate" in line 1 through "85-103.02" in line 5 and insert "amend sections 5-201 to 5-214 and 5-216 to 5-252"; and in line 7 after "1990" insert "; to change provisions relating to legislative districts; to harmonize provisions; to provide an operative date; and to repeal the original sections".

LEGISLATIVE BILL 413A. Placed on Select File.
LEGISLATIVE BILL 829A. Placed on Select File.

(Signed) Eric Will, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 198. Introduced by Dierks, 40.

WHEREAS, the Village of Spencer was founded in central Boyd County in 1891; and

WHEREAS, today Spencer is an active community of five hundred ninety residents; and

WHEREAS, 1991 marks the centennial celebration for the Village of Spencer.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates the Village of Spencer on its centennial celebration.

2. That a copy of this resolution be sent to the Spencer Village Board of Trustees.

Laid over.

UNANIMOUS CONSENT - Print in Journal

Mrs. Rasmussen asked unanimous consent to print the following amendment to LB 701 in the Journal. No objections. So ordered.

AM2162

(Amendments to Final Reading copy)

1. Insert the following new section:

"Sec. 14. It is the purpose of the Early Intervention Act to provide referral and services coordination of only those services offered at the demonstration sites prior to the effective date of this act. The act shall not be construed to create new early intervention or family services or establish an entitlement to such new services.".

2. On page 2, line 1, strike "13" and insert "14".

3. On page 8, line 15, after "agency" insert "and the use of family payment and a sliding fee schedule for services".

Mr. Byars asked unanimous consent to print the following amendment to LB 719 in the Journal. No objections. So ordered.

AM2174

(Amendments to AM2014)

1. On page 24, strike beginning with "currently" in line 3 through "proceedings" in line 5; and in line 5 strike "such date" and insert "the operative date of this section".

MESSAGES FROM THE GOVERNOR

May 29, 1991

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Madam President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Nebraska Educational Telecommunications Commission requiring legislative approval.

Appointee: Donald L. Davis, 1306 North L St., Broken Bow, NE 68822, 308-872-5248 h, 308-872-6441 w.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:fc

May 29, 1991

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Madam President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Nebraska Educational Telecommunications Commission requiring legislative approval.

Appointee: Herb Schimek, 2321 Camelot Ct., Lincoln, NE 68512, 402-423-0262 h, 402-475-7611 w.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:fc

May 29, 1991

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Madam President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Nebraska Educational Telecommunications Commission requiring legislative approval.

Appointee: Beverly B. Fellman, 12206 Leavenworth St., Omaha, NE 68154, 402-333-0674 h, 402-978-7100 w.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:fc

May 29, 1991

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Madam President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Nebraska Educational Telecommunications Commission requiring legislative approval.

Appointee: LaRue Wunderlich, Route 1, Box 72, Roca, NE 68430, 402-794-4525 h, 402-471-2730 w.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:fc

May 29, 1991

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Madam President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Nebraska Educational Telecommunications Commission requiring legislative approval.

Appointee: Dr. Vance D. Rogers (Reappointed), 5912 Rolling Hills Blvd., Lincoln, NE 68512, 402-474-2345 w, 402-423-4560 h.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:fc

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the attached report on the referral of Governor appointments.

Education
Nebraska Educational Telecommunications Commission
Donald L. Davis
Herb Schimek
Beverly B. Fellman
LaRue Wunderlich
Dr. Vance D. Rogers

(Signed) Jerome Warner, Chairperson
Legislative Council
Executive Board

GENERAL FILE

LEGISLATIVE RESOLUTION 186CA. Read. Considered.

Standing Committee amendment, AM2149, found in the Journal on page 2521, was considered.

Mr. Abboud asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Hall asked unanimous consent to replace his pending amendment, FA175, found in the Journal on page 2543, with a substitute amendment. No objections. So ordered.

Mr. Hall withdrew his pending amendment, FA175, found in the Journal on page 2543.

Mr. Hall offered the following substitute amendment to the pending Standing Committee amendment:
AM2156

(Amendments to AM2149)

1. On page 1, line 14, strike ", except that", show as stricken, and insert an underscored period.

2. On page 2, line 10, strike "the", show as stricken, and insert "The".

3. On page 3, line 3, strike "real" and show as stricken; in line 4 strike "property", show as stricken, and insert "land"; and strike beginning with "Article" in line 8 through "Constitution" in line 9 and insert "this article".

4. On page 6, reinstate the stricken matter beginning with "No" in line 6 through line 8; and in line 6 after the reinstated "No" insert "real".

The Hall amendment was adopted with 25 ayes, 0 nays, 18 present and not voting, and 6 excused and not voting.

Mr. Conway offered the following amendment to the pending Standing Committee amendment:
FA181
(AM2149)

1. On page 1, line 14 following the stricken "tangible", strike the balance of the line and insert "franchises and real property, hereby defined as all lands, and all buildings, fixtures, improvements, cabin trailers or mobile homes which have been permanently attached to the real estate upon which they are situated, mines, minerals, quarries, mineral springs and wells, oil and gas wells, overriding royalty interests and production payments with respect to oil or gas leases, units of beneficial interest in trusts, the corpus of which includes any of the foregoing, and privileges thereto"

Mr. Rogers asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Conway withdrew his pending amendment.

Mr. Conway offered the following amendment to the pending Standing Committee amendment:
FA182
Amend AM2149 by inserting on Pg 1 line 14 after franchises, "as defined by the Legislature,"

MR. MORRISSEY PRESIDING

The Conway amendment lost with 8 ayes, 19 nays, 16 present and not voting, and 6 excused and not voting.

Mr. Beutler moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

The Standing Committee amendment, as amended, was adopted with 27 ayes, 0 nays, 16 present and not voting, and 6 excused and not voting.

SPEAKER BAACK PRESIDING

Mr. Lynch offered the following amendment:
(Amendment on file in the Clerk's Office - Room 2018 - AM2161.)

Mr. Lynch withdrew his pending amendment.

Mr. Schmit renewed his pending amendment, AM2006, found in the Journal on page 2409.

Mr. R. Johnson asked unanimous consent to be excused. No objections. So ordered.

Mr. Schmit requested a record vote on his amendment.

Voting in the affirmative, 4:

Haberman Peterson Schmit Will

Voting in the negative, 22:

Baack Beutler Beyer Crosby Cudaback

Hall	Landis	Nelson	Schimek	Wehrbein
Hillman	Lindsay	Pirsch	Schrock	Wickersham
Johnson, L.	Moore	Robak	Warner	Withem
Kristensen	Morrissey			

Present and not voting, 17:

Ashford	Chambers	Dierks	Lamb	Schellpeper
Bernard-Stevens	Chizek	Hartnett	Lynch	Smith
Byars	Conway	Hefner	Robinson	Wesely
	Coordsen	Horgan		

Excused and not voting, 6:

Abboud	Johnson, R.	Labedz	Rasmussen	Rogers
Elmer				

The Schmit amendment lost with 4 ayes, 22 nays, 17 present and not voting, and 6 excused and not voting.

Mr. Warner offered the following amendment:
AM2163
(Amendments to Standing Committee amendment, AM2149)

1. Insert the following new section:

"CVIII-13 'Each exemption from taxation of tangible personal property which is or has been granted by the Legislature shall terminate on January 1, 2002, unless extended by the Legislature for a period of ten years. Each such exemption shall terminate every ten years thereafter unless extended by the Legislature for another ten years. Nothing in this section shall be construed to affect the authority of the Legislature to enact or repeal exemptions from taxation.' ".

2. On page 1, line 6, strike "amendment" and insert "amendments"; and in line 7 after the last comma insert "and by adding a new section 13 to Article VIII," and strike "is" and insert "are".

3. On page 7, lines 7 and 11, strike "amendment" and insert "amendments"; in line 10 strike "proposition" and insert "propositions"; in line 12 strike "form" and insert "forms"; and after line 24 insert:

" 'A constitutional amendment to provide for termination and extension of exemptions from taxation of

tangible personal property.

For

Against'.".

4. On page 8, line 1, after "That" insert "each of" and strike "amendment" and insert "amendments"; and in line 5 strike "it" and insert "them".

Mr. Haberman asked unanimous consent to be excused. No objections. So ordered.

MR. CONWAY PRESIDING

Mr. Lynch offered the following amendment to the pending Warner amendment:

FA183

Amend AM2163

Page 1

On line 4 after "Legislature" insert "prior to Jan. 1, 1984.

On line 4, strike "2002" and insert "1994".

On line 6 after the period insert "All other exemptions from taxation of tangible personal property which is or has been granted by the Legislature shall terminate 10 yrs following its date of enactment."

MR. MORRISSEY PRESIDING

Mr. Lynch withdrew his pending amendment.

Mr. Warner moved for a call of the house. The motion prevailed with 22 ayes, 0 nays, and 27 not voting.

Mr. Warner requested a roll call vote on his amendment.

Voting in the affirmative, 23:

Ashford	Chizek	Horgan	Nelson	Warner
Baack	Conway	Kristensen	Schimek	Wesely
Beutler	Crosby	Landis	Schmit	Will
Beyer	Hall	Lindsay	Smith	Withem
Chambers	Hartnett	Moore		

Voting in the negative, 16:

Bernard-Stevens	Cudaback	Lamb	Peterson	Schrock
Byars	Hefner	Lynch	Pirsch	Wehrbein
Coordsen	Hillman	Morrissey	Schellpeper	Wickersham
	Johnson, L.			

Present and not voting, 3:

Dierks	Robak	Robinson

Excused and not voting, 7:

Abboud	Haberman	Labedz	Rasmussen	Rogers
Elmer	Johnson, R.			

The Warner amendment lost with 23 ayes, 16 nays, 3 present and not voting, and 7 excused and not voting.

Mr. Hefner requested a record vote on the advancement of the resolution.

Voting in the affirmative, 39:

Ashford	Conway	Hillman	Morrissey	Schrock
Baack	Coordsen	Horgan	Nelson	Smith
Bernard-Stevens	Crosby	Johnson, L.	Pirsch	Warner
	Cudaback	Kristensen	Robak	Wehrbein
Beutler	Dierks	Lamb	Robinson	Wesely
Beyer	Hall	Landis	Rogers	Wickersham
Byars	Hartnett	Lindsay	Schellpeper	Will
Chizek	Hefner	Moore	Schimek	Withem

Voting in the negative, 1:

Schmit

Present and not voting, 3:

Chambers	Lynch	Peterson

Excused and not voting, 6:

Abboud	Haberman	Johnson, R.	Labedz	Rasmussen
Elmer				

Advanced to E & R for review with 39 ayes, 1 nay, 3 present and not voting, and 6 excused and not voting.

RESOLUTION

LEGISLATIVE RESOLUTION 199. Introduced by Abboud, 12.

WHEREAS, the Ralston High School Baseball team won the 1991 Class A State High School Baseball Championship on May 17, 1991, and compiled a 16-2 record; and

WHEREAS, the Ralston High School Baseball team and Coach Curt Shockey deserve special recognition for the team work and discipline they displayed throughout the season; and

WHEREAS, Ralston High School previously won the Class A State High School Baseball Championship in 1986, 1987, and 1988; and

WHEREAS, the Legislature should recognize the academic, athletic, and artistic achievements of the youth of our state.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the 1991 Ralston High School Baseball team be congratulated for their exemplary effort this season.

2. That a copy of this resolution be sent to Coach Curt Shockey and the Ralston High School Baseball team.

Laid over.

UNANIMOUS CONSENT - Add Co-Introducer

Mr. Horgan asked unanimous consent to have his name added as co-introducer to LR 186CA. No objections. So ordered.

UNANIMOUS CONSENT - Print in Journal

Mrs. Smith asked unanimous consent to print the following amendment to LB 773 in the Journal. No objections. So ordered.

AM2181

1. Insert the following new sections:

"Sec. 21. That section 77-3512, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-3512. ~~(1)~~ It shall be the duty of each

owner who applies for the homestead exemption provided in sections 77-3507 to 77-3509 to file an application therefor with the county assessor of the county in which the homestead is located after January 1 and on or before April 1. Failure ~~, and failure~~ to do so shall constitute a waiver of the exemption for that year, except that the county board of the county in which the homestead is located may, by majority vote, extend the deadline to on or before April 20. An extension shall not be granted to an applicant who received an extension in the immediately preceding year.

~~(2) It shall be the duty of each owner who applies for the homestead exemption provided in subdivision (1) of section 77-3509.04 to file an application therefor with the county assessor of the county in which the homestead is located on or before September 1, 1989, for tax year 1989. Failure to comply with this subsection shall constitute a waiver of the exemption.~~

Sec. 22. That section 77-3513, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-3513. (1) ~~For the tax year 1988, it shall be the duty of each claimant who wants a homestead exemption provided in sections 77-3507 to 77-3509 to file an application therefor with the county assessor on or before April 1, 1988, and failure to do so shall constitute a waiver of the exemption for such year. The application shall include a certification of disability status as required by sections 77-3508 and 77-3509.~~

~~(2)~~ Except as required by section 77-3514, if an owner is granted a homestead exemption as provided in section 77-3507 or 77-3509 or subdivision (1)(b), (c), (d), or (e) of section 77-3508, no reapplication need be filed for succeeding years, in which case the county assessor and Tax Commissioner shall determine whether the claimant ~~shall qualify~~ qualifies for the homestead exemption in such succeeding years as otherwise provided in sections 77-3501 to 77-3529 as though a claim were made.

~~(3)~~ (2) It shall be the duty of each claimant who wants the homestead exemption provided in subdivision (1)(a) of section 77-3508 to file an application therefor with the county assessor on or

before April 1 of each year. Failure ~~, and failure~~ to do so shall constitute a waiver of the exemption for such year, except that the county board of the county in which the homestead is located may, by majority vote, extend the deadline to on or before April 20. An extension shall not be granted to an applicant who received an extension in the immediately preceding year.

Sec. 23. That section 77-3514, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-3514. ~~Commencing January 1, 1989, a~~ A claimant who is the owner of a homestead which has been granted an exemption under sections 77-3507 to 77-3509, except subdivision (1)(a) of section 77-3508, shall certify to the county assessor ~~by~~ on or before April 1 of each year that a change in the homestead exemption status has occurred or that no change in the homestead exemption status has occurred. The county board of the county in which the homestead is located may, by majority vote, extend the deadline to on or before April 20. An extension shall not be granted to an applicant who received an extension in the immediately preceding year. For purposes of this section, change in the homestead exemption status shall include any change in the name of the owner, ownership, residence, occupancy, marital status, veteran status, or rating by the ~~Veterans' Administration of the~~ United States Department of Veterans Affairs~~,~~ or any other change that would affect the qualification for or type of exemption granted, except income checked by the Tax Commissioner under section 77-3517. In addition, a claimant who is the owner of a homestead which has been granted an exemption under sections 77-3507 to 77-3509 may notify the county assessor by August 15 of each year of any change in the homestead exemption status occurring in the preceding portion of the calendar year as a result of a transfer of the homestead exemption pursuant to sections 77-3509.01 and 77-3509.02. If by his or her failure to give such notice any property owner permits the allowance of the homestead exemption for any year, or in the year of application in the case of transfers pursuant to sections 77-3509.01 and 77-3509.02, after the homestead exemption status of such property has changed, an amount equal to the amount of the taxes

lawfully due but not paid by reason of such unlawful and improper allowance of homestead exemption, together with penalty and interest on such total sum as provided by statute on delinquent ad valorem taxes, shall be due and shall upon entry of the amount thereof on the books of the county treasurer be a lien on such property while unpaid. Such lien may be enforced in the manner provided for liens for other delinquent taxes. Any person who has permitted the improper and unlawful allowance of such homestead exemption on his or her property shall, as an additional penalty, also forfeit his or her right to a homestead exemption on any property in this state for the two succeeding years.

Sec. 24. That section 77-3516, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-3516. The county assessor shall examine each application for homestead exemption filed with him or her for an exemption pursuant to sections 77-3507 to 77-3509 or section 77-3509.04 and shall determine, except for the income test, whether or not such application should be approved or rejected. If the application is approved, the county assessor shall mark the same approved and sign the application and, for applications under section 77-3509.04, shall also make the proper deduction on the assessment rolls. In case he or she finds that the exemption should not be allowed by reason of not being in conformity to law, the county assessor shall mark the application rejected and state thereon the reason for such rejection and sign the application. In any case when the county assessor rejects an application for exemption, he or she shall notify the applicant of such action by mailing written notice to the applicant at the address shown in the application, which notice shall be mailed not later than the fourth Monday in April of each year, except that in cases of a change in ownership or occupancy from January 1 through August 15, ~~or~~ an application under section 77-3509.04, or a late application authorized by the county board, the notice shall be sent within a reasonable time. The notice shall be on forms prescribed by the Tax Commissioner.

Sec. 25. That section 77-3517, Reissue Revised Statutes of Nebraska, 1943, be amended to read

as follows:

77-3517. On or before ~~the third Monday in April of each year~~ May 1, the county assessor shall forward approved applications for homestead exemptions, except for applications under section 77-3509.04, and a copy of the certification of disability status which have been examined pursuant to section 77-3516 to the Tax Commissioner who shall determine from the records of the Department of Revenue whether or not the applicant meets the required income standards and, on or before August 15, certify his or her determinations to the county assessor. The Tax Commissioner may at any time review all other information in order to determine whether the application should be accepted. If the county assessor's and Tax Commissioner's determination is that the application should be accepted, then the county assessor shall make the proper deduction on the assessment rolls. If the Tax Commissioner's determination is that the application does not meet all the requirements, he or she shall notify the applicant of the action by mailing written notice to the applicant at the address shown on the application. Late applications authorized by the county board shall be processed in a similar manner after approval by the county assessor.

Sec. 26. That original sections 77-3512 to 77-3514, 77-3516, and 77-3517, Reissue Revised Statutes of Nebraska, 1943, are repealed.".

2. Correct the operative date provisions so that sections 77-3512 to 77-3514, 77-3516, and 77-3517 become operative on their effective date.

3. Renumber the remaining sections and correct internal references accordingly.

Mrs. Smith asked unanimous consent to print the following amendment to LR 24CA in the Journal. No objections. So ordered.

AM2182

1. On page 2, strike beginning with "a" in line 4 through "other" in line 5 and show the old matter as stricken; and in line 12 strike "the" and insert "Notwithstanding subsection (2) of this section, the".

Mr. Hall asked unanimous consent to print the following amendment to LR 24CA in the Journal. No objections. So ordered.

AM2167

1. Strike the original sections and all amendments thereto and insert the following new sections:

"Section 1. That at the general election in November 1992 there shall be submitted to the electors of the State of Nebraska for approval the following amendment to the Constitution of Nebraska by amending Article III, section 24, which is hereby proposed by the Legislature:

CIII-24 '~~The~~ Except as provided in this section, the Legislature shall not authorize any game of chance~~, nor~~ or any lottery~~,~~ or gift enterprise when the consideration for a chance to participate involves the payment of money for the purchase of property, services, or a chance or admission ticket or requires an expenditure of substantial effort or time. For purposes of this section, entertainment, or an extension thereof, shall not be considered property or services.

The Legislature~~, except that it~~ may authorize and regulate a state lottery and other lotteries, raffles, and gift enterprises ~~which~~ if such other lotteries, raffles, and gift enterprises are intended solely as business promotions or the proceeds of which are to be used solely for charitable or community betterment purposes without profit to the promoter of such lotteries, raffles, or gift enterprises.

Because of the uncertainty of the amount of revenue to be generated from a state lottery, the revenue received from such state lottery shall be credited to a separate lottery account and shall not be credited to the General Fund. The Legislature may annually appropriate an amount from the lottery account for purposes of establishing, promoting, and maintaining the state lottery and for any other purposes approved by a majority of the members of the Legislature notwithstanding any other provision of this Constitution. To the extent that funds in the lottery account are insufficient in any year to meet the legislative appropriation from the fund, the State of Nebraska shall not be responsible for the shortfall and

the Legislature may not appropriate or pledge any funds from the lottery account in any future year.

Nothing in this section shall be construed to prohibit the enactment of laws providing for the licensing and regulation of wagering on the results of horseraces, wherever run, either within or outside of the state, by the parimutuel method, when such wagering is conducted by licensees within a licensed racetrack enclosure, or to prohibit the enactment of laws providing for the licensing and regulation of bingo games conducted by nonprofit associations which have been in existence for a period of five years immediately preceding the application for license, except that bingo games cannot be conducted by agents or lessees of such associations on a percentage basis.'.

Sec. 2. That the proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1. The proposition for the submission of the proposed amendment shall be placed upon the ballot in the following form:

'A constitutional amendment to authorize the Legislature to establish a lottery which is operated and regulated by the state, to provide that the revenue from such lottery be credited to a separate lottery account, and to limit appropriations from the lottery account.

For

Against'.

Sec. 3. That the proposed amendment, if adopted, shall be in force and take effect immediately upon the completion of the canvass of the votes, at which time it shall be the duty of the Governor to proclaim it as a part of the Constitution of Nebraska.".

VISITORS

Visitors to the Chamber were Rick and Teresa Virgil from Weston; 50 fourth grade students and teachers from Crestridge School, Omaha; ten students and teachers from Garden County High School, Oshkosh; and Kenwood and Lillian Markussen from Kentucky, Jerry Markussen from Frankfort, Germany, and Joanna Markussen from Pennsylvania.

The Doctor of the Day was Dr. Donald Larson from Lincoln.

ADJOURNMENT

At 8:02 p.m., on a motion by Mr. Baack, the Legislature adjourned until 8:00 a.m., Thursday, May 30, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

EIGHTY-SIXTH DAY - MAY 30, 1991

LEGISLATIVE JOURNAL

EIGHTY-SIXTH DAY - MAY 30, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

EIGHTY-SIXTH DAY

Legislative Chamber, Lincoln, Nebraska
Thursday, May 30, 1991

Pursuant to adjournment, the Legislature met at 8:02 a.m., Speaker Baack presiding.

PRAYER

The prayer was offered by Pastor Nancy Erickson, Director of Urban Ministries, Interchurch Ministries of Nebraska.

ROLL CALL

The roll was called and all members were present except Messrs. Hartnett and Morrissey who were excused; and Messrs. Abboud, Lindsay, Rogers, and Schmit who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Eighty-Fifth Day was approved.

BILLS ON FINAL READING

The following bills were read and put upon final passage:

LEGISLATIVE BILL 663. With Emergency.

A BILL FOR AN ACT relating to postsecondary education; to amend sections 2-1066, 2-1504.02, 2-1601 to 2-1603, 2-2601, 2-3232, 23-116, 49-506, 49-1493, 54-1515, 54-1601 to 54-1605, 79-1254.02, 81-2,149 to 81-2,154, 85-106, 85-107, 85-120, 85-129, 85-150, 85-151, 85-179.01, 85-180.13, 85-180.14, 85-1,104, 85-1,106, 85-201, 85-202,

85-206 to 85-211, 85-214, 85-215, 85-401 to 85-403, 85-404, 85-408, 85-921, 85-945, 85-952, 85-953, 85-956, 85-958, 85-961 to 85-963, 85-966, 85-969, 85-971, 85-973, 85-975 to 85-979, 85-983, 85-9,103, 85-9,107 to 85-9,109, 85-1007, 85-1008, 85-1102, 85-1103, 85-1105 to 85-1109, and 85-1111, Reissue Revised Statutes of Nebraska, 1943, and sections 2-954, 2-3108, 79-1429, 79-2636, 79-2637, 79-2644, 79-2651, 79-2651.04 to 79-2651.06, 79-2664, 85-121, 85-121.03, 85-121.04, 85-935, 85-943, 85-947.01, 85-948, 85-974, 85-981, 85-9,105, and 85-9,120, Revised Statutes Supplement, 1990; to adopt the Coordinating Commission for Postsecondary Education Act; to create a transition commission and transfer certain powers and duties; to change provisions relating to the colleges and divisions of the University of Nebraska; to provide for the distribution of session laws; to require statements of financial interest; to define and redefine terms; to provide for an association representing community colleges as prescribed; to change provisions relating to community colleges, tribally controlled community colleges, the Nebraska College of Technical Agriculture at Curtis, and the role and mission and program offerings of public postsecondary educational institutions; to provide for the transfer of an information system as prescribed; to eliminate the Nebraska Coordinating Commission for Postsecondary Education, the Transition Coordinating Commission for Postsecondary Education, funds, a joint advisory committee, a power of the Board of Regents of the University of Nebraska, and certain programs and studies; to change terminology relating to technical community colleges and the University of Nebraska; to provide and eliminate duties for the Revisor of Statutes; to harmonize provisions; to provide operative dates; to provide severability; to repeal the original sections, and also sections 85-107.01, 85-181, 85-901, 85-902, 85-903 to 85-909, 85-910.01, 85-911, 85-912, 85-913, 85-915, 85-916.01, 85-916.02, 85-967, 85-972, 85-9,104, and 85-9,106, Reissue Revised Statutes of Nebraska, 1943, sections 79-2650.07, 79-2651.03, 85-902.01, 85-910, 85-940, and 85-9,111 to 85-9,116, Revised Statutes Supplement, 1990, sections 85-9,103 and 85-9,107 to 85-9,109, Reissue Revised Statutes of Nebraska, 1943, as amended by sections 117 and 119 to 121, respectively, Legislative Bill 663, Ninety-second Legislature, First Session, 1991, section 85-9,105, Revised Statutes Supplement, 1990, as amended by section 118, Legislative Bill 663, Ninety-second Legislature, First Session, 1991, and sections 1 to 3, Legislative Bill 663, Ninety-second Legislature, First Session, 1991; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 43:

Ashford	Conway	Hillman	Moore	Schrock
Baack	Coordsen	Horgan	Nelson	Smith
Bernard-Stevens	Crosby	Johnson, L.	Peterson	Warner
	Cudaback	Johnson, R.	Pirsch	Wehrbein
Beutler	Dierks	Kristensen	Rasmussen	Wesely
Beyer	Elmer	Labedz	Robak	Wickersham
Byars	Haberman	Lamb	Robinson	Will
Chambers	Hall	Landis	Schellpeper	Withem
Chizek	Hefner	Lynch	Schimek	

Voting in the negative, 0.

Excused and not voting, 6:

Abboud	Lindsay	Morrissey	Rogers	Schmit
Hartnett				

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

LEGISLATIVE BILL 663A. With Emergency.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 663, Ninety-second Legislature, First Session, 1991; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 43:

Ashford	Beutler	Chizek	Cudaback	Hall
Baack	Beyer	Conway	Dierks	Hefner
Bernard-Stevens	Byars	Coordsen	Elmer	Hillman
	Chambers	Crosby	Haberman	Horgan

Johnson, L.	Landis	Pirsch	Schimek	Wesely
Johnson, R.	Lynch	Rasmussen	Schrock	Wickersham
Kristensen	Moore	Robak	Smith	Will
Labedz	Nelson	Robinson	Warner	Withem
Lamb	Peterson	Schellpeper	Wehrbein	

Voting in the negative, 0.

Excused and not voting, 6:

Abboud	Lindsay	Morrissey	Rogers	Schmit
Hartnett				

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

LEGISLATIVE BILL 57.

A BILL FOR AN ACT relating to public assistance; to provide a personal needs allowance for persons receiving assistance to the aged, blind, and disabled; and to provide an operative date.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 37:

Ashford	Chizek	Hefner	Lynch	Smith
Baack	Conway	Hillman	Nelson	Warner
Bernard-Stevens	Coordsen	Horgan	Rasmussen	Wehrbein
Beutler	Crosby	Johnson, L.	Robak	Wesely
Beyer	Cudaback	Kristensen	Schellpeper	Wickersham
Byars	Dierks	Labedz	Schimek	Will
Chambers	Elmer	Lamb	Schrock	Withem
	Hall	Landis		

Voting in the negative, 3:

Haberman	Moore	Pirsch

Present and not voting, 3:

Johnson, R. Peterson Robinson

Excused and not voting, 6:

Abboud Lindsay Morrissey Rogers Schmit
Hartnett

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 57A.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 57, Ninety-second Legislature, First Session, 1991.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 36:

Ashford	Coordsen	Hillman	Lynch	Smith
Baack	Crosby	Horgan	Nelson	Warner
Beutler	Cudaback	Johnson, L.	Rasmussen	Wehrbein
Beyer	Dierks	Kristensen	Robak	Wesely
Byars	Elmer	Labedz	Schellpeper	Wickersham
Chambers	Hall	Lamb	Schimek	Will
Chizek	Hefner	Landis	Schrock	Withem
Conway				

Voting in the negative, 4:

Bernard-Stevens	Haberman	Moore	Pirsch

Present and not voting, 3:

Johnson, R. Peterson Robinson

Excused and not voting, 6:

Abboud Lindsay Morrissey Rogers Schmit
Hartnett

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 85.

A BILL FOR AN ACT relating to elections; to provide for the inclusion of voter registration cards with individual income tax booklets as prescribed; and to provide duties for the Department of Revenue and the Secretary of State.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 29:

Ashford	Conway	Kristensen	Rasmussen	Smith
Baack	Coordsen	Labedz	Robak	Wesely
Beutler	Dierks	Landis	Robinson	Wickersham
Beyer	Hall	Lynch	Schellpeper	Will
Chambers	Hillman	Moore	Schimek	Withem
Chizek	Horgan	Nelson	Schrock	

Voting in the negative, 15:

Bernard-Stevens	Cudaback	Hefner	Lamb	Schmit
Byars	Elmer	Johnson, L.	Peterson	Warner
Crosby	Haberman	Johnson, R.	Pirsch	Wehrbein

Excused and not voting, 5:

Abboud	Hartnett	Lindsay	Morrissey	Rogers

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 85A.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 85, Ninety-second Legislature, First Session, 1991.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 29:

Ashford	Coordsen	Kristensen	Rasmussen	Smith
Baack	Cudaback	Labedz	Robak	Wesely
Beutler	Dierks	Landis	Robinson	Wickersham
Chambers	Hall	Lynch	Schellpeper	Will
Chizek	Hillman	Moore	Schimek	Withem
Conway	Horgan	Nelson	Schrock	

Voting in the negative, 14:

Bernard-Stevens	Crosby	Hefner	Lamb	Schmit
Byars	Elmer	Johnson, L.	Peterson	Warner
	Haberman	Johnson, R.	Pirsch	Wehrbein

Present and not voting, 1:

Beyer

Excused and not voting, 5:

Abboud	Hartnett	Lindsay	Morrissey	Rogers

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

Mr. Elmer asked unanimous consent to be excused until he returns. No objections. So ordered.

LEGISLATIVE BILL 90.

A BILL FOR AN ACT relating to dispute resolution; to adopt the Dispute Resolution Act.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 37:

Ashford	Crosby	Johnson, R.	Rasmussen	Smith
Baack	Cudaback	Kristensen	Robak	Warner
Beyer	Dierks	Labedz	Robinson	Wehrbein
Byars	Haberman	Landis	Schellpeper	Wesely
Chambers	Hall	Lynch	Schimek	Wickersham
Chizek	Hillman	Nelson	Schmit	Will
Conway	Horgan	Pirsch	Schrock	Withem
Coordsen	Johnson, L.			

Voting in the negative, 5:

Bernard-Stevens	Beutler	Hefner	Lamb	Moore

Present and not voting, 1:

Peterson

Excused and not voting, 6:

Abboud	Hartnett	Lindsay	Morrissey	Rogers
Elmer				

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

Mr. Haberman asked unanimous consent to be excused until he returns. No objections. So ordered.

LEGISLATIVE BILL 90A.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 90, Ninety-second Legislature, First Session, 1991.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 36:

Ashford	Byars	Conway	Cudaback	Hillman
Baack	Chambers	Coordsen	Dierks	Horgan
Beyer	Chizek	Crosby	Hall	Johnson, L.

Johnson, R.	Lynch	Robak	Schrock	Wesely
Kristensen	Nelson	Schellpeper	Smith	Wickersham
Labedz	Pirsch	Schimek	Warner	Will
Landis	Rasmussen	Schmit	Wehrbein	Withem
Lindsay				

Voting in the negative, 5:

Bernard-Stevens	Beutler	Hefner	Lamb	Moore

Present and not voting, 2:

Peterson	Robinson

Excused and not voting, 6:

Abboud	Haberman	Hartnett	Morrissey	Rogers
Elmer				

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 114.

A BILL FOR AN ACT relating to the Commission on Indian Affairs; to amend sections 81-1214 and 81-1218, Reissue Revised Statutes of Nebraska, 1943; to change the membership of the commission; to eliminate provisions for administrative placement of the commission; to change the per diem for members; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 43:

Ashford	Byars	Cudaback	Johnson, L.	Lindsay
Baack	Chambers	Dierks	Johnson, R.	Lynch
Bernard-Stevens	Chizek	Hall	Kristensen	Moore
	Conway	Hefner	Labedz	Nelson
Beutler	Coordsen	Hillman	Lamb	Peterson
Beyer	Crosby	Horgan	Landis	Pirsch

Rasmussen	Schellpeper	Schrock	Wehrbein	Will
Robak	Schimek	Smith	Wesely	Withem
Robinson	Schmit	Warner	Wickersham	

Voting in the negative, 0.

Excused and not voting, 6:

Abboud	Haberman	Hartnett	Morrissey	Rogers
Elmer				

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 114A.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 114, Ninety-second Legislature, First Session, 1991.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 42:

Ashford	Conway	Johnson, R.	Peterson	Schrock
Baack	Coordsen	Kristensen	Pirsch	Smith
Bernard-Stevens	Crosby	Labedz	Rasmussen	Warner
	Cudaback	Lamb	Robak	Wehrbein
Beutler	Dierks	Landis	Robinson	Wesely
Beyer	Hall	Lindsay	Schellpeper	Wickersham
Byars	Hefner	Lynch	Schimek	Will
Chambers	Hillman	Moore	Schmit	Withem
Chizek	Johnson, L.	Nelson		

Voting in the negative, 0.

Present and not voting, 1:

Horgan

Excused and not voting, 6:

Abboud	Haberman	Hartnett	Morrissey	Rogers
Elmer				

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 181. With Emergency.

A BILL FOR AN ACT relating to courts; to amend sections 24-301.02, 24-503, and 24-810, Revised Statutes Supplement, 1990; to increase the number of judges of the district court; to change provisions relating to the number of district court judicial districts, the allocation of district and county court judges, and determination of judicial vacancies; to eliminate the Judicial Resources Commission; to harmonize provisions; to provide severability; to repeal the original sections, and also sections 24-735 to 24-738, Reissue Revised Statutes of Nebraska, 1943; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 36:

Ashford	Conway	Johnson, L.	Nelson	Schmit
Baack	Coordsen	Kristensen	Pirsch	Schrock
Bernard-Stevens	Crosby	Labedz	Rasmussen	Warner
	Dierks	Landis	Robak	Wehrbein
Beutler	Hall	Lindsay	Robinson	Wickersham
Beyer	Hefner	Lynch	Schellpeper	Will
Byars	Hillman	Moore	Schimek	Withem
Chizek	Horgan			

Voting in the negative, 6:

Chambers	Johnson, R.	Lamb	Smith	Wesely
Cudaback				

Present and not voting, 1:

Peterson

Excused and not voting, 6:

Abboud	Haberman	Hartnett	Morrissey	Rogers
Elmer				

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

LEGISLATIVE BILL 181A.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 181, Ninety-second Legislature, First Session, 1991.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 40:

Ashford	Coordsen	Johnson, L.	Moore	Schmit
Baack	Crosby	Johnson, R.	Nelson	Schrock
Bernard-Stevens	Cudaback	Kristensen	Pirsch	Warner
	Dierks	Labedz	Rasmussen	Wehrbein
Beutler	Hall	Lamb	Robak	Wesely
Beyer	Hefner	Landis	Robinson	Wickersham
Byars	Hillman	Lindsay	Schellpeper	Will
Chizek	Horgan	Lynch	Schimek	Withem
Conway				

Voting in the negative, 2:

Chambers Smith

Present and not voting, 1:

Peterson

Excused and not voting, 6:

Abboud	Haberman	Hartnett	Morrissey	Rogers
Elmer				

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 186.

A BILL FOR AN ACT relating to crime victims and witnesses; to amend sections 81-1801 and 81-1806, Reissue Revised Statutes of Nebraska, 1943, and section 81-1848, Revised Statutes Supplement, 1990; to define a term; to authorize service as a hearing officer by an executive director; to provide certain information to victims and witnesses of crime as prescribed; to provide for certain information in the file of a convicted person; to provide duties for the Board of Parole, county attorneys, and the Department of Correctional Services; to require certain convicted persons to submit to testing as prescribed; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 41:

Ashford	Conway	Johnson, L.	Moore	Schrock
Baack	Coordsen	Johnson, R.	Nelson	Smith
Bernard-Stevens	Crosby	Kristensen	Peterson	Warner
	Cudaback	Labedz	Pirsch	Wehrbein
Beutler	Dierks	Lamb	Robak	Wesely
Beyer	Hall	Landis	Schellpeper	Wickersham
Byars	Hefner	Lindsay	Schimek	Will
Chambers	Hillman	Lynch	Schmit	Withem
Chizek	Horgan			

Voting in the negative, 0.

Present and not voting, 2:

Rasmussen Robinson

Excused and not voting, 6:

Abboud	Haberman	Hartnett	Morrissey	Rogers
Elmer				

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 186A.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 186, Ninety-second Legislature, First Session, 1991.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 38:

Ashford	Coordsen	Johnson, L.	Nelson	Smith
Baack	Crosby	Johnson, R.	Peterson	Warner
Bernard-Stevens	Cudaback	Kristensen	Pirsch	Wehrbein
Beutler	Dierks	Labedz	Robak	Wesely
Beyer	Hall	Lamb	Schellpeper	Wickersham
Byars	Hefner	Landis	Schimek	Will
Chizek	Hillman	Lindsay	Schmit	Withem
	Horgan	Lynch	Schrock	

Voting in the negative, 0.

Present and not voting, 5:

Chambers	Conway	Moore	Rasmussen	Robinson

Excused and not voting, 6:

Abboud	Haberman	Hartnett	Morrissey	Rogers
Elmer				

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 200.

A BILL FOR AN ACT relating to horseracing; to amend section 2-1203, Reissue Revised Statutes of Nebraska, 1943; to provide for revocation and suspension of licenses and imposition of fines; to require fingerprinting and criminal history record information checks as prescribed; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 40:

Ashford	Conway	Horgan	Lynch	Schrock
Baack	Coordsen	Johnson, L.	Moore	Smith
Bernard-Stevens	Crosby	Johnson, R.	Nelson	Warner
Beutler	Cudaback	Kristensen	Pirsch	Wehrbein
Beyer	Dierks	Labedz	Robak	Wesely
Byars	Hall	Lamb	Schellpeper	Wickersham
Chambers	Hefner	Landis	Schimek	Will
Chizek	Hillman	Lindsay	Schmit	Withem

Voting in the negative, 0.

Present and not voting, 3:

Peterson	Rasmussen	Robinson

Excused and not voting, 6:

Abboud	Haberman	Hartnett	Morrissey	Rogers
Elmer				

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

MOTION - Suspend Rules

Mr. Withem withdrew his pending motion, found in the Journal on page 1072, to suspend Rule 6, sections 6 (f) and 6 (g) and Rule 8, section 5, to allow LB 209 to be read on Final Reading.

BILLS ON FINAL READING

The following bills were read and put upon final passage:

LEGISLATIVE BILL 209. With Emergency.

A BILL FOR AN ACT relating to higher education; to adopt the Midwestern Higher Education Compact; to provide for certain appointments; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 40:

Ashford	Conway	Johnson, L.	Nelson	Schrock
Baack	Coordsen	Johnson, R.	Pirsch	Smith
Bernard-Stevens	Cudaback	Kristensen	Rasmussen	Warner
Beutler	Dierks	Labedz	Robak	Wehrbein
Beyer	Hall	Lamb	Robinson	Wesely
Byars	Hefner	Landis	Schellpeper	Wickersham
Chambers	Hillman	Lindsay	Schimek	Will
Chizek	Horgan	Lynch	Schmit	Withem

Voting in the negative, 1:

Crosby

Present and not voting, 2:

Moore Peterson

Excused and not voting, 6:

Abboud	Haberman	Hartnett	Morrissey	Rogers
Elmer				

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

LEGISLATIVE BILL 209A.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 209, Ninety-second Legislature, First Session, 1991.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 40:

Ashford	Conway	Johnson, L.	Nelson	Schrock
Baack	Coordsen	Johnson, R.	Pirsch	Smith
Bernard-Stevens	Cudaback	Kristensen	Rasmussen	Warner
Beutler	Dierks	Labedz	Robak	Wehrbein
Beyer	Hall	Lamb	Robinson	Wesely
Byars	Hefner	Landis	Schellpeper	Wickersham
Chambers	Hillman	Lindsay	Schimek	Will
Chizek	Horgan	Lynch	Schmit	Withem

Voting in the negative, 1:

Crosby

Present and not voting, 2:

Moore Peterson

Excused and not voting, 6:

Abboud	Haberman	Hartnett	Morrissey	Rogers
Elmer				

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

Mr. Hefner asked unanimous consent to be excused until he returns. No objections. So ordered.

LEGISLATIVE BILL 400.

A BILL FOR AN ACT relating to public health and welfare; to amend sections 71-1,104, 71-5647, and 71-5649, Reissue Revised Statutes of Nebraska, 1943; to adopt the Rural Health Systems and Professional Incentive Act; to eliminate provisions relating to the Commission on Rural Health Manpower; to eliminate the Nebraska Medical Student Assistance Act; to harmonize provisions; to provide severability; and to repeal the original sections, and also sections

71-5601 to 71-5623, 71-5625 to 71-5631, 71-5632.01 to 71-5636, 71-5639 to 71-5645, and 71-5648, Reissue Revised Statutes of Nebraska, 1943.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 40:

Ashford	Conway	Johnson, L.	Nelson	Schrock
Baack	Coordsen	Johnson, R.	Peterson	Smith
Bernard-Stevens	Crosby	Kristensen	Pirsch	Warner
	Cudaback	Labedz	Rasmussen	Wehrbein
Beutler	Dierks	Lamb	Robak	Wesely
Beyer	Hall	Landis	Robinson	Wickersham
Byars	Hillman	Lindsay	Schellpeper	Will
Chambers	Horgan	Lynch	Schimek	Withem
Chizek				

Voting in the negative, 0.

Present and not voting, 2:

Moore Schmit

Excused and not voting, 7:

Abboud	Haberman	Hefner	Morrissey	Rogers
Elmer	Hartnett			

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 410.

A BILL FOR AN ACT relating to state government; to amend section 81-8,244, Reissue Revised Statutes of Nebraska, 1943; to provide for a deputy public counsel for child welfare services; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 26:

Ashford	Conway	Hall	Lynch	Schmit
Baack	Coordsen	Horgan	Pirsch	Schrock
Beyer	Crosby	Labedz	Rasmussen	Wesely
Byars	Cudaback	Landis	Schellpeper	Will
Chambers	Dierks	Lindsay	Schimek	Withem
Chizek				

Voting in the negative, 12:

Bernard-Stevens	Hillman	Kristensen	Peterson	Warner
Beutler	Johnson, L.	Lamb	Smith	Wehrbein
	Johnson, R.	Nelson		

Present and not voting, 4:

Moore	Robak	Robinson	Wickersham

Excused and not voting, 7:

Abboud	Haberman	Hefner	Morrissey	Rogers
Elmer	Hartnett			

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 410A.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 410, Ninety-second Legislature, First Session, 1991.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 26:

Ashford	Chizek	Dierks	Landis	Pirsch
Baack	Conway	Hall	Lindsay	Rasmussen
Byars	Coordsen	Horgan	Lynch	Robak
Chambers	Cudaback	Labedz	Nelson	Schellpeper

Schimek	Schrock	Wesely	Will	Withem
Schmit				

Voting in the negative, 13:

Bernard-Stevens	Beyer	Johnson, R.	Moore	Warner
	Hillman	Kristensen	Peterson	Wehrbein
Beutler	Johnson, L.	Lamb	Smith	

Present and not voting, 3:

Crosby	Robinson	Wickersham

Excused and not voting, 7:

Abboud	Haberman	Hefner	Morrissey	Rogers
Elmer	Hartnett			

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 420.

A BILL FOR AN ACT relating to motor vehicle operators' licenses; to amend sections 39-669.06, 39-669.22, 39-669.23, 39-669.24, 39-6,110, 60-516, and 60-517, Reissue Revised Statutes of Nebraska, 1943, and sections 39-669.27, 60-487, 60-498 to 60-4,102, and 60-4,125, Revised Statutes Supplement, 1990; to eliminate requirements for certified copies of judgments; to change provisions relating to transmission of judgment records to the Department of Motor Vehicles; to harmonize provisions; to provide an operative date; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 39:

Ashford	Beyer	Crosby	Horgan	Lamb
Baack	Byars	Cudaback	Johnson, L.	Landis
Bernard-Stevens	Chizek	Dierks	Johnson, R.	Lindsay
	Conway	Hall	Kristensen	Lynch
Beutler	Coordsen	Hillman	Labedz	Moore

Nelson	Robinson	Schmit	Warner	Wickersham
Peterson	Schellpeper	Schrock	Wehrbein	Will
Robak	Schimek	Smith	Wesely	Withem

Voting in the negative, 0.

Present and not voting, 3:

Chambers	Pirsch	Rasmussen

Excused and not voting, 7:

Abboud	Haberman	Hefner	Morrissey	Rogers
Elmer	Hartnett			

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 420A.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 420, Ninety-second Legislature, First Session, 1991.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 39:

Ashford	Coordsen	Johnson, R.	Nelson	Schrock
Baack	Crosby	Kristensen	Peterson	Smith
Bernard-Stevens	Cudaback	Labedz	Rasmussen	Warner
	Dierks	Lamb	Robak	Wehrbein
Beutler	Hall	Landis	Robinson	Wesely
Beyer	Hillman	Lindsay	Schellpeper	Wickersham
Byars	Horgan	Lynch	Schimek	Will
Conway	Johnson, L.	Moore	Schmit	Withem

Voting in the negative, 0.

Present and not voting, 3:

Chambers	Chizek	Pirsch

Excused and not voting, 7:

Abboud	Haberman	Hefner	Morrissey	Rogers
Elmer	Hartnett			

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 422. With Emergency.

A BILL FOR AN ACT relating to civil procedure; to amend sections 24-517, 25-2706, 25-2721, and 30-2488, Reissue Revised Statutes of Nebraska, 1943; to change the jurisdictional amount in county court; to authorize the filing of county court judgments in any county court and provide for execution on such judgments; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 42:

Ashford	Conway	Johnson, R.	Peterson	Schrock
Baack	Coordsen	Kristensen	Pirsch	Smith
Bernard-Stevens	Crosby	Labedz	Rasmussen	Warner
	Cudaback	Lamb	Robak	Wehrbein
Beutler	Dierks	Landis	Robinson	Wesely
Beyer	Hall	Lindsay	Schellpeper	Wickersham
Byars	Hillman	Lynch	Schimek	Will
Chambers	Horgan	Moore	Schmit	Withem
Chizek	Johnson, L.	Nelson		

Voting in the negative, 0.

Excused and not voting, 7:

Abboud	Haberman	Hefner	Morrissey	Rogers
Elmer	Hartnett			

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

LEGISLATIVE BILL 433.

A BILL FOR AN ACT relating to medical assistance; to amend section 68-1020, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to eligibility for benefits as prescribed; to provide for case management services for high-risk pregnant women as prescribed; to provide an operative date; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 36:

Ashford	Coordsen	Johnson, R.	Peterson	Smith
Baack	Crosby	Labedz	Rasmussen	Warner
Bernard-Stevens	Cudaback	Lamb	Robak	Wehrbein
Beutler	Dierks	Landis	Robinson	Wesely
Beyer	Hall	Lindsay	Schellpeper	Wickersham
Chambers	Hillman	Lynch	Schmit	Will
Chizek	Horgan	Nelson	Schrock	Withem
	Johnson, L.			

Voting in the negative, 0.

Present and not voting, 6:

Byars	Kristensen	Moore	Pirsch	Schimek
Conway				

Excused and not voting, 7:

Abboud	Haberman	Hefner	Morrissey	Rogers
Elmer	Hartnett			

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 433A.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 433, Ninety-second Legislature, First Session, 1991.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 34:

Ashford	Chizek	Hillman	Lindsay	Schmit
Baack	Conway	Horgan	Lynch	Schrock
Bernard-Stevens	Coordsen	Johnson, L.	Nelson	Smith
	Crosby	Johnson, R.	Peterson	Warner
Beutler	Cudaback	Labedz	Rasmussen	Wehrbein
Beyer	Dierks	Lamb	Robak	Wesely
Chambers	Hall	Landis	Schellpeper	Will

Voting in the negative, 0.

Present and not voting, 8:

Byars	Moore	Robinson	Wickersham	Withem
Kristensen	Pirsch	Schimek		

Excused and not voting, 7:

Abboud	Haberman	Hefner	Morrissey	Rogers
Elmer	Hartnett			

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 444.

A BILL FOR AN ACT relating to sales and use tax; to amend sections 77-2701 and 77-2704, Reissue Revised Statutes of Nebraska, 1943; to change a provision relating to a tax exemption for certain medical equipment and supplies as prescribed; to define terms; to harmonize provisions; to provide an operative date; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 37:

Ashford	Coordsen	Kristensen	Peterson	Schrock
Baack	Crosby	Labedz	Pirsch	Smith
Bernard-Stevens	Cudaback	Lamb	Rasmussen	Warner
	Dierks	Landis	Robak	Wehrbein
Beutler	Hall	Lindsay	Robinson	Wesely
Beyer	Hillman	Lynch	Schellpeper	Wickersham
Chizek	Horgan	Moore	Schimek	Will
Conway	Johnson, L.	Nelson		

Voting in the negative, 0.

Present and not voting, 5:

Byars	Chambers	Johnson, R.	Schmit	Withem

Excused and not voting, 7:

Abboud	Haberman	Hefner	Morrissey	Rogers
Elmer	Hartnett			

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 457.

A BILL FOR AN ACT relating to child and spousal support; to amend sections 42-358, 42-358.02, 42-364, 42-369, 43-512.02 to 43-512.10, 43-1406, 43-1411, 43-1701 to 43-1704, 43-1708, 43-1709, 43-1716 to 43-1728, 43-1730, 43-1734, 43-1735, 43-1737, 43-1740, 43-1743, and 77-27,161, Reissue Revised Statutes of Nebraska, 1943, and sections 43-512 and 60-484, Revised Statutes Supplement, 1990; to change provisions relating to the maintenance of records for, the crediting and allocation of, interest on delinquencies in, the right to, orders for, and the collection of child support payments; to provide for automatic income withholding for child support obligations as prescribed; to define and redefine terms; to provide for medical support as prescribed; to change provisions relating to aid to dependent children payments and paternity actions; to provide and

change provisions relating to income withholding for child, spousal, and medical support; to provide for the use of social security numbers provided on applications for operators' licenses for purposes of child support enforcement; to harmonize provisions; to provide severability; and to repeal the original sections, and also section 43-1408, Reissue Revised Statutes of Nebraska, 1943.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 40:

Ashford	Coordsen	Labedz	Pirsch	Schrock
Baack	Crosby	Lamb	Rasmussen	Smith
Bernard-Stevens	Cudaback	Landis	Robak	Warner
Beutler	Dierks	Lindsay	Robinson	Wehrbein
Beyer	Hall	Lynch	Rogers	Wesely
Byars	Hillman	Moore	Schellpeper	Wickersham
Chizek	Johnson, L.	Nelson	Schimek	Will
Conway	Johnson, R.	Peterson	Schmit	Withem

Voting in the negative, 1:

Kristensen

Present and not voting, 2:

Chambers Horgan

Excused and not voting, 6:

Abboud	Haberman	Hartnett	Hefner	Morrissey
Elmer				

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 457A.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 457, Ninety-second Legislature, First Session, 1991.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 35:

Ashford	Conway	Johnson, L.	Peterson	Schrock
Baack	Coordsen	Labedz	Pirsch	Smith
Bernard-Stevens	Crosby	Lamb	Rasmussen	Warner
Beutler	Cudaback	Landis	Robak	Wehrbein
Beyer	Dierks	Lindsay	Robinson	Wesely
Byars	Hall	Lynch	Rogers	Will
Chizek	Hillman	Nelson	Schimek	Withem

Voting in the negative, 1:

Kristensen

Present and not voting, 7:

Chambers	Johnson, R.	Schellpeper	Schmit	Wickersham
Horgan	Moore			

Excused and not voting, 6:

Abboud	Haberman	Hartnett	Hefner	Morrissey
Elmer				

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 582.

A BILL FOR AN ACT relating to liquors; to amend sections 53-101 and 53-164.01, Revised Statutes Supplement, 1990; to provide for the issuance of licenses to sell alcoholic liquor as prescribed; to change a provision relating to a liquor tax penalty; to provide duties for the Revisor of Statutes; to harmonize provisions; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 38:

Ashford	Conway	Johnson, L.	Pirsch	Smith
Baack	Crosby	Johnson, R.	Rasmussen	Warner
Bernard-Stevens	Cudaback	Kristensen	Robak	Wehrbein
	Dierks	Labedz	Rogers	Wesely
Beutler	Haberman	Lamb	Schellpeper	Wickersham
Beyer	Hall	Landis	Schimek	Will
Byars	Hillman	Lindsay	Schmit	Withem
Chizek	Horgan	Peterson	Schrock	

Voting in the negative, 1:

Nelson

Present and not voting, 5:

Chambers	Coordsen	Lynch	Moore	Robinson

Excused and not voting, 5:

Abboud	Elmer	Hartnett	Hefner	Morrissey

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

MOTION - Return LB 701 to Select File

Mrs. Rasmussen moved to return LB 701 to Select File for her specific amendment, AM2162, found in the Journal on page 2610.

The Rasmussen motion to return prevailed with 27 ayes, 0 nays, 17 present and not voting, and 5 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 701. The Rasmussen specific amendment, AM2162, found in the Journal on page 2610, was adopted with 29 ayes, 0 nays, 15 present and not voting, and 5 excused and not voting.

Advanced to E & R for re-engrossment.

MOTION - Return LB 142 to Select File

Mr. Moore moved to return LB 142 to Select File for the following specific amendment:
FA184
Strike the enacting clause.

Mr. Moore withdrew his motion to return.

BILL ON FINAL READING

The following bill was read and put upon final passage:

LEGISLATIVE BILL 142.

A BILL FOR AN ACT relating to animal damage control; to amend section 81-2,236, Reissue Revised Statutes of Nebraska, 1943; to state intent regarding state funding of the animal damage control program; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 22:

Ashford	Haberman	Lamb	Peterson	Schimek
Chizek	Hall	Landis	Rasmussen	Schmit
Conway	Johnson, R.	Lindsay	Robak	Schrock
Coordsen	Kristensen	Lynch	Rogers	Wehrbein
Cudaback	Labedz			

Voting in the negative, 18:

Baack	Beyer	Johnson, L.	Robinson	Wesely
Bernard-Stevens	Byars	Moore	Schellpeper	Will
	Crosby	Nelson	Smith	Withem
Beutler	Hillman	Pirsch	Warner	

Present and not voting, 4:

Chambers	Dierks	Horgan	Wickersham

Excused and not voting, 5:

Abboud Elmer Hartnett Hefner Morrissey

Having failed to receive a constitutional majority voting in the affirmative, the bill failed to pass.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following bills: 663, 663A, 57, 57A, 85, 85A, 90, 90A, 114, 114A, 181, 181A, 186, 186A, 200, 209, 209A, 400, 410, 410A, 420, 420A, 422, 433, 433A, 444, 457, 457A, and 582.

WITHDRAW - Amendment to LB 142A

Mr. R. Johnson withdrew his pending amendment, AM2098, printed separately from the Journal and referred to on page 2516, to LB 142A.

UNANIMOUS CONSENT - Member Excused

Mr. Haberman asked unanimous consent to be excused until he returns. No objections. So ordered.

MOTION - Return LB 142A to Select File

Mr. R. Johnson moved to return LB 142A to Select File for the following specific amendment:
(Amendment on file in the Clerk's Office - Room 2018 - AM2187.)

Mr. Schmit raised a point of order on whether LB 142A is properly before the Legislature, pursuant to Rule 5, Section 6(g), given the failure of LB 142 on final passage.

The Chair ruled LB 142A is not properly before the Legislature.

MOTION - Reconsider Action on LB 142

Mrs. Smith moved to reconsider the vote on LB 142.

Mrs. Smith asked unanimous consent to withdraw her pending motion. No objections. So ordered.

UNANIMOUS CONSENT - Members Excused

Messrs. Horgan and Chizek asked unanimous consent to be excused until they return. No objections. So ordered.

WITHDRAW - Amendments to LB 297

Mr. Schmit withdrew his pending amendment, AM0565, found in the Journal on page 1134, to LB 297.

Mr. Robinson withdrew his pending amendment, AM1080, found in the Journal on page 1479, to LB 297.

MOTION - Return LB 297 to Select File

Mr. Robinson asked unanimous consent to replace his pending amendment, AM0872, found in the Journal on page 1230, with a substitute amendment. No objections. So ordered.

Mr. Robinson withdrew his pending amendment, AM0872, found in the Journal on page 1230.

Mr. Robinson moved to return LB 297 to Select File for the following substitute specific amendment:
AM1082

(Amendments to Final Reading copy)

1. On page 2, line 16, after the first comma insert "and which has gross receipts of two hundred seventy-five thousand dollars or more annually,".

Mr. Schmit and Mrs. Smith asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Lynch moved the previous question. The question is, "Shall the debate now close?" The motion lost with 18 ayes, 14 nays, and 17 not voting.

The Robinson motion to return lost with 9 ayes, 18 nays, 15 present and not voting, and 7 excused and not voting.

PRESENTED TO THE GOVERNOR

Presented to the Governor on May 30, 1991, at 11:40 a.m., were the following bills: 663, 663A, 57, 57A, 85, 85A, 90, 90A, 114, 114A, 181, 181A, 186, 186A, 200, 209, 209A, 400, 410, 410A, 420, 420A, 422, 433, 433A, 444, 582, 457, and 457A.

(Signed) Pam Moravec, Enrolling Clerk

UNANIMOUS CONSENT - Print in Journal

Mr. Withem asked unanimous consent to print the following amendment to LB 615 in the Journal. No objections. So ordered.

AM2185

(Amendments to E & R amendments, AM5172)

1. On page 1, line 18, reinstate the stricken "Gage," and "Saline,"; in line 20 strike "Madison," and "Pierce," and show as stricken; and in line 21 strike "Knox," and show as stricken.

2. On page 2, strike beginning with "that" in line 3 through "Beatrice" in line 7 and insert "that part of Madison County not included in the third district".

3. On page 3, line 3, strike "Saline."; in line 4 after the first comma insert "Pierce, Knox,"; in line 13 strike "Gage" and insert "Madison"; and in line 14 strike the new matter and insert "which includes the Tilden 2nd Ward precinct".

Mr. Warner asked unanimous consent to print the following amendment to LB 627A in the Journal. No objections. So ordered.

AM2153

1. Insert the following new section:

"Sec. 5. The unexpended appropriation balance existing on June 30, 1991, is hereby reappropriated to the Department of Roads, Program 568, for FY1991-92, to continue the Motor Fuels Tax Study. The amount reappropriated shall not exceed the original appropriation authorized by Laws 1989, LB 813, section 30, as amended by Laws 1990, LB 1031, section 10, to the Department of Roads, Program 568. The unexpended appropriation balance existing on June 30, 1992, is hereby reappropriated to the Department of Roads, Program 568, for FY1992-93.".

2. Renumber the remaining sections accordingly.

VISITORS

Visitors to the Chamber were 30 fourth grade students and teachers from Oak Valley School, Omaha.

RECESS

At 11:54 a.m., on a motion by Mr. Coordsen, the Legislature recessed until 1:30 p.m.

AFTER RECESS

The Legislature reconvened at 1:30 p.m., Speaker Baack presiding.

ROLL CALL

The roll was called and all members were present except Messrs. Hartnett and Morrissey who were excused; and Messrs. Abboud, Ashford, Conway, Cudaback, Haberman, Kristensen, Schmit, and Mrs. Hillman who were excused until they arrive.

SELECT FILE

LEGISLATIVE BILL 773. Mr. Warner withdrew his pending amendment, AM1470, found in the Journal on page 1814.

Mr. Hall withdrew his pending amendment, AM1540, found in the Journal on page 1885.

Mrs. Smith renewed her pending amendment, AM2181, found in the Journal on page 2620.

Mr. Hefner asked unanimous consent to be excused until he returns. No objections. So ordered.

The Smith amendment was adopted with 26 ayes, 1 nay, 12 present and not voting, and 10 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 320. Mr. Chizek withdrew his pending motion, found in the Journal on page 2549, to indefinitely postpone.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 754. Mr. Wehrbein withdrew his pending amendment, AM2160, found in the Journal on page 2553.

Mr. R. Johnson asked unanimous consent to replace his pending amendment, AM2056, found in the Journal on page 2550, with a substitute amendment. No objections. So ordered.

Mr. R. Johnson withdrew his pending amendment, AM2056, found in the Journal on page 2550.

Mr. R. Johnson offered the following substitute amendment:
AM2188

1. Strike the original sections and all amendments thereto and insert the following new sections:

"Section 1. That section 66-410, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

66-410. At the time of filing the statement required by section 66-409, such dealer shall, in addition to the tax imposed pursuant to sections 66-473, 66-474.01, 66-477, and 66-478 and in addition to the other taxes provided for by law, pay a tax of ten and one-half cents per gallon upon all motor vehicle fuels as shown by such statement, except that there shall be no tax on the motor vehicle fuel so reported if the required taxes on the motor vehicle fuel have been paid or if the motor vehicle fuel has been sold to a licensed dealer and the seller was a licensed dealer as described in subdivision (3)(a) or (3)(b) of section 66-401 and was the importer or first receiver of such fuel in this state. Through December 31, ~~1992~~ 1997, gasoline sold in Nebraska which contains a minimum of ten percent blend of an agricultural ethyl alcohol ~~whose~~ the purity ~~shall be~~ of which is at least ninety-nine percent alcohol, excluding denaturant, produced from cereal grains or domestic agricultural commodities shall be subject to a state motor fuel tax which is two cents per gallon less than gasoline which does not contain such a blend. Such

dealers shall remit such tax to the Tax Commissioner.

Sec. 2. That section 66-428, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

66-428. There is hereby levied and imposed an excise tax of ten and one-half cents per gallon, increased by the amounts imposed or determined under sections 66-473, 66-474.01, 66-477, and 66-478, upon the use of all motor vehicle fuels~~,~~ as defined by section 66-401~~,~~ used in this state~~,~~ and due the State of Nebraska under section 66-410 or Chapter 66, article 6, except that through December 31, ~~1992~~ 1997, such excise tax shall be two cents per gallon less on motor vehicle fuel containing a minimum of ten percent blend of agricultural ethyl alcohol produced from cereal grains or domestic agricultural commodities ~~whose~~ the purity of which is ~~shall be~~ at least ninety-nine percent alcohol, excluding denaturant, than on motor vehicle fuel which does not contain such a blend. Users of motor vehicle fuels subject to taxation under this section shall be allowed the same exemptions, deductions, and rights of reimbursement as are authorized and permitted by sections 66-413 and 66-414. For purposes of this section and section 66-429, use shall mean the purchase or consumption of motor vehicle fuels in this state.

Sec. 3. That section 66-467.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

66-467.01. The Tax Commissioner shall transmit monthly to the State Treasurer a report of the number of gallons of tax credit gasoline or motor vehicle fuel for which credits have been approved, and the ~~treasurer~~ State Treasurer shall thereupon transfer from the General Fund to the Agricultural Alcohol Fuel Tax Fund ~~three-fourths of one cent~~ one and one-half cents per gallon approved for credit.

Sec. 4. That section 66-470, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

66-470. All members of the Nebraska Gasohol Committee shall be reimbursed for their actual and necessary expenses ~~actually and necessarily~~ incurred in the performance of their duties as provided in sections 81-1174 to 81-1177. ~~for state employees.~~ The members

shall each receive ~~fifteen~~ sixty dollars for each day while engaged in the performance of committee duties.

Sec. 5. That section 66-1225, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

66-1225. Reformulated gasoline which is sold ~~in Nebraska~~ after January 1, 1992, in ozone nonattainment areas of Nebraska as designated by the federal Environmental Protection Agency shall contain an oxygen content equal to or greater than three and one-tenth percent weight oxygen. ~~and shall contain a maximum aromatic content of not greater than twenty percent.~~

Sec. 6. That section 66-1303, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

66-1303. For purposes of the Ethanol Authority and Development Act, unless the context otherwise requires:

(1) Agricultural production facility shall mean a plant or facility related to the processing, marketing, or distribution of any products derived from grain components, coproducts, or byproducts;

(2) Board shall mean the Ethanol Authority and Development Board;

(3) Capital cost shall mean expenditures which include, but are not limited to, expenditures incurred for design and engineering, for land acquisition and related costs, financing fees, plant construction, and such other appropriate costs incurred prior to the commencement of the operation of an ethanol or agricultural production facility or a facility related to the processing, marketing, or distribution of ethanol or any products derived from ethanol components, coproducts, or byproducts;

(4) Electric supplier shall mean any legal entity supplying, producing, or distributing electricity within the state for sale at wholesale or retail;

(5) Ethanol coproduct shall include ethyl tertiary butyl ether;

(6) Fund shall mean the Ethanol Authority and Development Cash Fund; and

(7) ~~(6)~~ Grain shall mean wheat, corn, and grain sorghum.

Sec. 7. That section 66-1307, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

66-1307. (1) There is hereby created the Ethanol Authority and Development Cash Fund which shall be used by the board to carry out its responsibilities under the Ethanol Authority and Development Act. The fund may be used:

(a) To defray the expenses of the board;

(b) To secure bonds;

(c) To acquire an ethanol or agricultural production facility or a facility related to the processing, marketing, or distribution of ethanol or any products derived from ethanol components, coproducts, or byproducts or to purchase shares of stock or otherwise make an investment in such a facility pursuant to sections 66-1307.01 and 66-1307.02;

(d) To make grants or loans pursuant to sections 66-1317 to 66-1325;

(e) To make grants or loans to facilitate the development or marketing of new, nonfood products derived from ethanol or ethanol components, coproducts, or byproducts;

(f) To provide equity financing for construction of ethanol production and distribution facilities pursuant to Chapter 70; and

(g) As the board may otherwise direct, including the acquisition of equipment or construction, acquisition, or expansion of ethanol or agricultural production facilities, except that not more than three million dollars shall be used to fund ethanol research and development projects.

The fund shall not be used to pay operating expenses of an applicant but shall only be used for capital investment purposes.

(2) When determining whether to recommend construction of a project for the production and distribution of ethanol or other agricultural byproducts or how funds should be distributed pursuant to the act and sections 70-301, 70-601, 70-601.01, 70-604, 70-604.02, 70-626, 70-628.01 to 70-628.04, 70-631, 70-632, 70-636, 70-637, 70-646, 70-655, 70-657, 70-667, 70-802, 70-1402 to 70-1404, 70-1409, 70-1413, 70-1416, and 70-1417, the board's considerations shall include,

but not be limited to, job creation, economic return to the state, size of the plant, byproducts or coproducts, if any, date construction would be commenced and completed, the financial stability of the applicant, and the amount of funds needed to commence construction of the plant or facility.

(3) When awarding grants or loans pursuant to subdivision (1)(e) of this section, the board's considerations shall include, but not be limited to, the jobs to be created by the applicant, the potential commercial success of the product to be developed, the financial stability of the applicant, and the amount of funds requested.

(4) The State Treasurer shall credit to the fund such money as shall be (a) appropriated to the fund by the Legislature, (b) received from the tax levied pursuant to section 66-1308, (c) donated as gifts, bequests, grants, or other contributions to the fund from public or private sources, (d) repaid by cities, counties, villages, or postsecondary educational institutions pursuant to section 66-1324, and (e) received as a return on investment pursuant to sections 66-1307.01 and 66-1307.02. Funds made available by any department or agency of the United States may also be credited to the fund if so directed by the board. Any money in the fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1276. The Department of Revenue shall, at the end of each calendar quarter, notify the State Treasurer of the amount of motor fuel tax that was not collected in the preceding calendar quarter due to the credit provided in section 66-1326. The State Treasurer shall transfer from the Ethanol Authority and Development Cash Fund to the Highway Trust Fund an amount equal to one-half of such credit through December 31, 1994, and an amount equal to such credit after such date. ~~The amounts shall be transferred through December 31, 1992.~~

Sec. 8. That section 66-1308, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

66-1308. ~~There is hereby~~ The State Treasurer shall certify and notify the Corn Development, Utilization, and Marketing Board, Nebraska Wheat

Development, Utilization, and Marketing Board, Grain Sorghum Development, Utilization, and Marketing Board, and Ethanol Authority and Development Board when the balance in the fund becomes less than five million dollars. Beginning January 1 and until December 31 of the year following such certification, there shall be levied an ethanol excise tax upon all wheat, corn, and grain sorghum sold through commercial channels in the State of Nebraska. The tax shall be ~~one and~~ one-half ~~cents~~ cent per bushel for corn and wheat and ~~one and~~ one-half ~~cents~~ cent per hundredweight for grain sorghum, ~~for the period July 1, 1986, to January 1, 1988.~~ The tax shall be in addition to any tax or fee imposed pursuant to sections 2-2311, 2-3623, 2-3627, and 2-4012. The tax shall be levied and imposed on the grower at the time of sale or delivery and shall be collected by the first purchaser. No wheat, corn, or grain sorghum shall be subject to the tax more than once. The tax shall terminate on December 31, 1997.

Sec. 9. That section 66-1320, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

66-1320. Any application made under section 66-1319 shall be filed with the board. The board shall establish application review procedures.

No new investment may be made or letters of commitment given to an applicant that has not received approval of its final application by April 1, 1991.

Sec. 10. Through December 31, 1999, each seller of Nebraska-produced ethyl tertiary butyl ether shall receive a credit of fifty cents per gallon for each gallon of Nebraska-produced ethyl tertiary butyl ether sold, which credit shall be in the form of a transferable income tax credit certificate. The credit shall be given only for ethyl tertiary butyl ether produced at a plant in Nebraska. The credit shall be claimed no later than the due date, including extensions, of the tax return filed for the taxable year of the claimant ending not more than thirty-six months after the taxable year of the claimant in which the certificate is issued. The Department of Revenue shall prescribe an application form and procedures for claiming the credit and shall adopt and promulgate rules and regulations to carry out this section.

Sec. 11. If any section in this act or any part of any section shall be declared invalid or unconstitutional, such declaration shall not affect the validity or constitutionality of the remaining portions thereof.

Sec. 12. That original sections 66-410, 66-428, 66-467.01, 66-470, 66-1225, 66-1303, 66-1307, 66-1308, and 66-1320, Reissue Revised Statutes of Nebraska, 1943, and also section 66-1309, Reissue Revised Statutes of Nebraska, 1943, are repealed.

Sec. 13. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.".

Mr. Peterson asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Schrock offered the following amendment to the pending R. Johnson amendment:
AM2199

(Amendments to AM2188)

1. Strike sections 1 and 2.

2. On page 9, lines 5 through 7, strike the new matter; reinstate the stricken matter beginning with "The" in line 7 through the comma in line 8; and in line 8 after the reinstated comma insert "1997.".

3. Renumber the remaining sections and amend the repealer accordingly.

Mr. Schrock withdrew his pending amendment.

Messrs. Schrock and Coordsen offered the following amendment to the pending R. Johnson amendment:
FA185
AM2188
Strike
Sec 1 & 2 & 3 & 4
Sec 6 & 7 & 8

Pending.

STANDING COMMITTEE REPORTS
Health and Human Services

The Committee on Health and Human Services desires to report upon the appointments listed below. The Committee suggests the appointments be confirmed by the Legislature and suggests a record vote.

Marcia Kushner - Nebraska Commission for the Hearing Impaired
Michael D. Gooch - Nebraska Commission for the Hearing Impaired
Richard McCowin - Nebraska Commission for the Hearing Impaired
Rosemary Hannam - Nebraska Commission for the Hearing Impaired
Robert A. Phillips - Modular Housing Advisory Board

VOTE: Aye: Senators Beyer, Byars, Cudaback, Dierks, Rasmussen, Schellpeper, and Wesely. Nay: None. Absent: None.

(Signed) Don Wesely, Chairperson

General Affairs

The Committee on General Affairs desires to report favorably upon the appointments listed below. The Committee recommends the appointments be confirmed by the Legislature and requests a record vote.

Helen L. Hayes - Nebraska Arts Council
Sterling "Sam" Johnson - State Electrical Board

VOTE: Aye: Senators Cudaback, R. Johnson, Labedz, Rasmussen, Rogers, Smith, and Will. Nay: None. Not voting: None. Absent: Hartnett.

(Signed) Jacklyn Smith, Chairperson

SELECT COMMITTEE REPORTS
Enrollment and Review

Correctly Engrossed

The following bills were correctly engrossed: 419 and 783.

(Signed) Eric Will, Chairperson

Enrollment and Review Change to LB 419

The following changes, required to be reported for publication in the Journal, have been made:
ER7094

1. In the Wesely amendment, AM1988:

a. On page 8, line 5, "employee" has been struck and "employer" inserted;

b. On page 10, line 1, "in" has been struck and "for" inserted;

c. On page 11, line 14, the comma has been struck;

d. On page 13, line 1, "small employer" has been inserted after "the"; and in lines 2 and 8 the commas have been struck;

e. On page 18, line 21, "department" has been struck and "Department of Insurance" inserted;

f. On page 22, line 5, "shall" has been struck and "is required to" inserted; and in line 24 "under an uninsured access coverage policy or contract" has been inserted after "coverage";

g. On page 23, line 3, "employer sponsored or maintained" has been struck; and in line 4 "sponsored or maintained by an employer" has been inserted before the semicolon;

h. On page 24, line 14, "(1)" has been struck; in line 16 "(a)" has been struck and "(1)" inserted; and in line 18 "(b)" has been struck and "(2)" inserted; and

i. On page 25, line 3, "coverage" has been inserted after "access".

2. On page 1, the matter beginning with "public" in line 1 through line 6 and all amendments thereto have been struck and "insurance; to amend sections 44-4001, 44-4225, and 44-4234, Reissue Revised Statutes of Nebraska, 1943, and sections 44-4227 and 44-4228, Revised Statutes Supplement, 1990; to require and provide for the use of records on agents and brokers; to change provisions relating to the Comprehensive Health Insurance Pool; to require studies and a report; to adopt the Small Employer Health Insurance Act and the Health Insurance Access Act; to require the payment of interest on proceeds due under a life insurance policy; to harmonize provisions; to provide duties for the Revisor of Statutes; to appropriate funds; to provide operative dates; to repeal the original sections; and to declare an emergency." inserted.

Enrollment and Review Change to LB 783

The following changes, required to be reported for publication in the Journal, have been made:
ER7097

1. In the Beutler amendment, AM2057:

a. Section 29 has been renumbered as section 15; and

b. On page 1, line 4, "herein" has been struck and "in the Light-Density Railroad Line Assistance Act" inserted.

2. In the Beutler amendment, AM2148:

a. Sections 29 and 30 have been renumbered as sections 16 and 17 respectively; and

b. On page 1, line 17, an underscored comma has been inserted after "agents".

3. In the Lamb-Wickersham amendment, AM1929:

a. On page 9, line 9, "a" has been struck and shown as stricken; in line 10 "term" has been struck, shown as stricken, and "terms" inserted;

b. On page 11, line 2, the comma has been struck; and in line 7 "shall be" has been struck and "is" inserted;

c. On page 17, line 1 "22" has been struck and "25" inserted;

d. On page 25, line 19, the comma has been struck; and in line 20 "27" has been struck and "30" inserted;

e. On page 26, line 5, "17, 19, 22 to 24, and 26 to 28" and all amendments thereto have been struck and "20, 22, 25 to 27, and 29 to 31" inserted; and

f. On page 28, line 4, "74-1407" has been struck and "74-1406" inserted.

4. On page 1, the matter beginning with the second "relating" in line 1 through "1980" in line 3 has been struck and "railroads" inserted; in line 4 "74-1407" has been struck and "74-1406" inserted; in line 7 ", and section 84-612, Revised Statutes Supplement, 1990", has been inserted after "1943"; in line 8 "act" has been struck and "Agriculture and Industrial Branch Rail Line Revitalization Act of 1980" inserted; and in line 13 the second "and" has been struck and a comma inserted.

5. On page 2, the matter in lines 1 through line 5 and all amendments thereto has been struck and "Director-State Engineer, and the state investment officer; to create a fund, rename a fund, and provide for the transfer, expenditure, and investment of funds; to provide for a hiring priority as prescribed; to provide for the confidentiality of certain information; to provide for and to change and eliminate provisions relating to the issuance of bonds; to change provisions relating to the Cash Reserve Fund; to eliminate regional branch rail line councils; to harmonize" inserted; and in line 8 "74-1407," has been inserted after the first comma.

(Signed) Mary E. Sommermeyer
E & R Attorney

UNANIMOUS CONSENT - Print in Journal

Mr. Moore asked unanimous consent to print the following amendment to LB 355 in the Journal. No objections. So ordered.

AM2202

(Amendments to AM1909)

1. On page 5, line 9, strike "three" and insert "four".

Mr. Kristensen asked unanimous consent to print the following amendment to LB 693 in the Journal. No objections. So ordered.

AM2191

(Amendments to AM1703)

1. On page 1, lines 16 and 17, strike the new matter and reinstate the stricken matter.
2. On page 3, lines 19 and 20, strike the new matter.

RESOLUTIONS

LEGISLATIVE RESOLUTION 200. Introduced by Landis, 46.

WHEREAS, the strength and vitality of this nation's financial marketplace has depended in large part upon the separate regulation of state and federally chartered banks; and

WHEREAS, the dual banking system has fostered creativity and innovation at the state level which has often led to the development of banking products, services, and laws which ultimately benefit citizens nationwide; and

WHEREAS, these state-originated innovations include checking accounts, interstate banking, NOW accounts, expedited funds availability, truth-in-savings laws, credit card disclosure laws, and electronic funds transfers; and

WHEREAS, state legislatures and state banking regulators are best able to evaluate and respond to the needs and characteristics of local markets, businesses, and communities; and

WHEREAS, the dual banking system has ensured that states have the authority and flexibility to respond to specific local needs, changes in technology, and increased competition from both foreign businesses and nonbanking entities; and

WHEREAS, under this nation's dual banking system, the President of the United States, the Congress, and federal regulatory

officials have traditionally limited their direct regulation of financial institutions to those organized under federal law; and

WHEREAS, in recognition of the primacy of state legislatures and state bank regulators with respect to the regulation of state-chartered financial institutions, federal law has historically been drafted and interpreted so as to not intrude upon the regulatory authority of state legislatures and state bank regulators; and

WHEREAS, the Nebraska Legislature has always emphasized the need to maintain a safe, sound, and healthy banking industry; and

WHEREAS, the Nebraska Department of Banking and Finance has estimated that it regulates two hundred eighty state-chartered commercial banks having aggregate assets of approximately eight billion, four hundred-thirty million dollars; and

WHEREAS, the citizens, industries, and businesses of Nebraska, and of the entire nation, benefit from the dynamics of the dual banking system and its unique and complimentary system of state and federal banks and regulators, which system is similar to our system of government; and

WHEREAS, congressional proposals which hinder the dual banking system would limit these benefits.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature affirms its continued support for and commitment to any proposals which would strengthen or continue the dual banking system.

2. That the Legislature expresses its opposition to any proposals which would weaken or eliminate the dual banking system.

3. That the Legislature urges the Nebraska congressional delegation and the rest of the United States Congress to prevent or defeat any such proposals.

4. That copies of this resolution be sent to the members of the Nebraska congressional delegation.

Laid over.

LEGISLATIVE RESOLUTION 201. Introduced by Appropriations Committee: Moore, 24, Chairperson; Ashford, 6; Bernard-Stevens, 42; Crosby, 29; Hillman, 48; L. Johnson, 15; Lynch, 13; Robinson, 16; Wehrbein, 2.

WHEREAS, pursuant to a resolution of the Board of Regents of the University of Nebraska dated December 1, 1964, authorizing an

issue of revenue bonds of the Board of Regents of the University of Nebraska, a replacement fund was created; and

WHEREAS, the resolution required the Board of Regents of the University of Nebraska to keep the facilities in good repair, working order and condition, and to make all necessary and proper repairs, renewals, replacements, additions, extensions, and betterments thereto; and

WHEREAS, the facilities include the University Health Center, the Nebraska Unions, and the University of Nebraska-Lincoln residence halls; and

WHEREAS, in order to fulfill the obligation of keeping the facilities in good repair and operating condition and pursuant to the provisions of section 85-408, the Board of Regents of the University of Nebraska is requesting approval for expenditure from the replacement fund in an amount not to exceed three hundred seventy-one thousand seven hundred dollars; and

WHEREAS, the Board of Regents of the University of Nebraska authorized these expenditures from the replacement fund at their May 10, 1991, meeting.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That pursuant to the provisions of section 85-408, the Legislature hereby approves the expenditure by the Board of Regents of the University of Nebraska of an amount not to exceed three hundred seventy-one thousand seven hundred dollars from the replacement fund for the necessary facility renovations, replacements, and additional equipment.

Laid over.

SELECT FILE

LEGISLATIVE BILL 754. The Schrock-Coordsen pending amendment, FA185, to the pending R. Johnson amendment, AM2188, found in this day's Journal, was renewed.

Mrs. Labedz asked unanimous consent to be excused until she returns. No objections. So ordered.

Mr. Lynch moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 1 nay, and 23 not voting.

Mr. Schrock moved for a call of the house. The motion prevailed with 13 ayes, 1 nay, and 35 not voting.

Mr. Schrock requested a roll call vote on the Schrock-Coordsen amendment.

Voting in the affirmative, 25:

Baack	Conway	Elmer	Johnson, R.	Schellpeper
Bernard-Stevens	Coordsen	Hall	Lamb	Schrock
Beutler	Crosby	Hefner	Landis	Wehrbein
Beyer	Cudaback	Hillman	Robak	Wesely
Byars	Dierks	Johnson, L.	Robinson	Wickersham

Voting in the negative, 4:

Kristensen	Moore	Schmit	Warner

Present and not voting, 14:

Ashford	Horgan	Nelson	Rasmussen	Smith
Chambers	Lindsay	Peterson	Rogers	Withem
Chizek	Lynch	Pirsch	Schimek	

Absent and not voting, 1:

Will

Excused and not voting, 5:

Abboud	Haberman	Hartnett	Labedz	Morrissey

The Schrock-Coordsen amendment was adopted with 25 ayes, 4 nays, 14 present and not voting, 1 absent and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Mr. Coordsen moved to bracket LB 754 until Jan. 13, 1992.

MR. CONWAY PRESIDING

Mr. Coordsen withdrew his pending motion to bracket.

Mr. Moore offered the following amendment to the pending R. Johnson amendment:
AM2203

(Amendments to AM2188)

1. Insert the following new section:

"Sec. 11. That section 66-1326, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

66-1326. Through December 31, 1997, each producer of ethanol shall receive a credit of ~~twenty~~ ten cents per gallon of ethanol produced in Nebraska, which credit shall be in the form of a transferable motor fuel tax credit certificate. The credit shall be given only for ethanol produced at a plant in Nebraska at which all fermentation, distillation, and dehydration takes place. Not less than two million gallons and not more than twenty-five million gallons of ethanol produced annually at a plant shall be eligible for the credit, and the credit may only be claimed by a producer for an eighty-four-month period after the first credit certificate is received. The Department of Revenue shall prescribe an application form and procedures for claiming the credit and shall adopt and promulgate rules and regulations to carry out this section.".

2. On page 11, line 18, strike "and 66-1320" and insert "66-1320, and 66-1326".

3. Renumber the remaining sections accordingly.

Mr. Lamb asked unanimous consent to be excused until he returns. No objections. So ordered.

Mrs. Crosby moved the previous question. The question is, "Shall the debate now close?"

Mrs. Crosby moved for a call of the house. The motion prevailed with 19 ayes, 0 nays, and 30 not voting.

The motion to cease debate prevailed with 25 ayes, 1 nay, and 23 not voting.

Mr. Moore requested a roll call vote on his pending amendment.

Voting in the affirmative, 18:

Beyer	Crosby	Johnson, L.	Schellpeper	Wehrbein
Chambers	Cudaback	Landis	Schrock	Wesely
Conway	Dierks	Moore	Warner	Wickersham
Coordsen	Hillman	Robinson		

Voting in the negative, 11:

Ashford	Byars	Johnson, R.	Lindsay	Schmit
Baack	Hall	Kristensen	Rasmussen	Smith
Bernard-Stevens				

Present and not voting, 13:

Beutler	Horgan	Peterson	Rogers	Will
Chizek	Lynch	Pirsch	Schimek	Withem
Hefner	Nelson	Robak		

Absent and not voting, 1:

Elmer

Excused and not voting, 6:

Abboud	Hartnett	Labedz	Lamb	Morrissey
Haberman				

The Moore amendment lost with 18 ayes, 11 nays, 13 present and not voting, 1 absent and not voting, and 6 excused and not voting.

The Chair declared the call raised.

Messrs. Peterson, Coordsen, and Elmer asked unanimous consent to be excused until they return. No objections. So ordered.

The pending R. Johnson amendment, as amended, was adopted with 25 ayes, 2 nays, 15 present and not voting, and 7 excused and not voting.

Mr. Schmit offered the following amendment:
AM2198
1 1. Strike the original sections and all

amendments thereto and insert the following new sections:

"Section 1. That section 66-410, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

66-410. At the time of filing the statement required by section 66-409, such dealer shall, in addition to the tax imposed pursuant to sections 66-473, 66-474.01, 66-477, and 66-478 and in addition to the other taxes provided for by law, pay a tax of ten and one-half cents per gallon upon all motor vehicle fuels as shown by such statement, except that there shall be no tax on the motor vehicle fuel so reported if the required taxes on the motor vehicle fuel have been paid or if the motor vehicle fuel has been sold to a licensed dealer and the seller was a licensed dealer as described in subdivision (3)(a) or (3)(b) of section 66-401 and was the importer or first receiver of such fuel in this state. Through December 31, ~~1992~~ 1997, gasoline sold in Nebraska which contains a minimum of ten percent blend of an agricultural ethyl alcohol ~~whose~~ the purity ~~shall be~~ of which is at least ninety-nine percent alcohol, excluding denaturant, produced from cereal grains or domestic agricultural commodities shall be subject to a state motor fuel tax which is two cents per gallon less than gasoline which does not contain such a blend. Such dealers shall remit such tax to the Tax Commissioner.

Sec. 2. That section 66-428, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

66-428. There is hereby levied and imposed an excise tax of ten and one-half cents per gallon, increased by the amounts imposed or determined under sections 66-473, 66-474.01, 66-477, and 66-478, upon the use of all motor vehicle fuels, as defined by section 66-401, used in this state, and due the State of Nebraska under section 66-410 or Chapter 66, article 6, except that through December 31, ~~1992~~ 1997, such excise tax shall be two cents per gallon less on motor vehicle fuel containing a minimum of ten percent blend of agricultural ethyl alcohol produced from cereal grains or domestic agricultural commodities ~~whose~~ the purity of which is ~~shall be~~ at least ninety-nine percent alcohol, excluding denaturant, than on motor vehicle fuel which

does not contain such a blend. Users of motor vehicle fuels subject to taxation under this section shall be allowed the same exemptions, deductions, and rights of reimbursement as are authorized and permitted by sections 66-413 and 66-414. For purposes of this section and section 66-429, use shall mean the purchase or consumption of motor vehicle fuels in this state.

Sec. 3. That section 66-467.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

66-467.01. The Tax Commissioner shall transmit monthly to the State Treasurer a report of the number of gallons of tax credit gasoline or motor vehicle fuel for which credits have been approved, and the ~~treasurer~~ State Treasurer shall thereupon transfer from the General Fund to the Agricultural Alcohol Fuel Tax Fund ~~three-fourths of one cent~~ one and one-half cents per gallon approved for credit.

Sec. 4. That section 66-470, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

66-470. All members of the Nebraska Gasohol Committee shall be reimbursed for their actual and necessary expenses ~~actually and necessarily~~ incurred in the performance of their duties as provided in sections 81-1174 to 81-1177. ~~for state employees.~~ The members shall each receive ~~fifteen~~ sixty dollars for each day while engaged in the performance of committee duties.

Sec. 5. That section 66-1225, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

66-1225. Reformulated gasoline which is sold ~~in Nebraska~~ after January 1, 1992, in ozone nonattainment areas of Nebraska as designated by the federal Environmental Protection Agency shall contain an oxygen content equal to or greater than three and one-tenth percent weight oxygen. ~~and shall contain a maximum aromatic content of not greater than twenty percent.~~

Sec. 6. That section 66-1303, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

66-1303. For purposes of the Ethanol Authority and Development Act, unless the context

otherwise requires:

(1) Agricultural production facility shall mean a plant or facility related to the processing, marketing, or distribution of any products derived from grain components, coproducts, or byproducts;

(2) Board shall mean the Ethanol Authority and Development Board;

(3) Capital cost shall mean expenditures which include, but are not limited to, expenditures incurred for design and engineering, for land acquisition and related costs, financing fees, plant construction, and such other appropriate costs incurred prior to the commencement of the operation of an ethanol or agricultural production facility or a facility related to the processing, marketing, or distribution of ethanol or any products derived from ethanol components, coproducts, or byproducts;

(4) Electric supplier shall mean any legal entity supplying, producing, or distributing electricity within the state for sale at wholesale or retail;

(5) Ethanol coproduct shall include ethyl tertiary butyl ether;

(6) Fund shall mean the Ethanol Authority and Development Cash Fund; and

(7) ~~(6)~~ Grain shall mean wheat, corn, and grain sorghum.

Sec. 7. That section 66-1307, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

66-1307. (1) There is hereby created the Ethanol Authority and Development Cash Fund which shall be used by the board to carry out its responsibilities under the Ethanol Authority and Development Act. The fund may be used:

(a) To defray the expenses of the board;

(b) To secure bonds;

(c) To acquire an ethanol or agricultural production facility or a facility related to the processing, marketing, or distribution of ethanol or any products derived from ethanol components, coproducts, or byproducts or to purchase shares of stock or otherwise make an investment in such a facility pursuant to sections 66-1307.01 and 66-1307.02;

(d) To make grants or loans pursuant to

sections 66-1317 to 66-1325;

(e) To make grants or loans to facilitate the development or marketing of new, nonfood products derived from ethanol or ethanol components, coproducts, or byproducts;

(f) To provide equity financing for construction of ethanol production and distribution facilities pursuant to Chapter 70; and

(g) As the board may otherwise direct, including the acquisition of equipment or construction, acquisition, or expansion of ethanol or agricultural production facilities, except that not more than three million dollars shall be used to fund ethanol research and development projects.

The fund shall not be used to pay operating expenses of an applicant but shall only be used for capital investment purposes.

(2) When determining whether to recommend construction of a project for the production and distribution of ethanol or other agricultural byproducts or how funds should be distributed pursuant to the act and sections 70-301, 70-601, 70-601.01, 70-604, 70-604.02, 70-626, 70-628.01 to 70-628.04, 70-631, 70-632, 70-636, 70-637, 70-646, 70-655, 70-657, 70-667, 70-802, 70-1402 to 70-1404, 70-1409, 70-1413, 70-1416, and 70-1417, the board's considerations shall include, but not be limited to, job creation, economic return to the state, size of the plant, byproducts or coproducts, if any, date construction would be commenced and completed, the financial stability of the applicant, and the amount of funds needed to commence construction of the plant or facility.

(3) When awarding grants or loans pursuant to subdivision (1)(e) of this section, the board's considerations shall include, but not be limited to, the jobs to be created by the applicant, the potential commercial success of the product to be developed, the financial stability of the applicant, and the amount of funds requested.

(4) The State Treasurer shall credit to the fund such money as shall be (a) appropriated to the fund by the Legislature, (b) received from the tax levied pursuant to section 66-1308, (c) donated as gifts, bequests, grants, or other contributions to the fund

from public or private sources, (d) repaid by cities, counties, villages, or postsecondary educational institutions pursuant to section 66-1324, and (e) received as a return on investment pursuant to sections 66-1307.01 and 66-1307.02. Funds made available by any department or agency of the United States may also be credited to the fund if so directed by the board. Any money in the fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1276. The Department of Revenue shall, at the end of each calendar quarter, notify the State Treasurer of the amount of motor fuel tax that was not collected in the preceding calendar quarter due to the credit provided in section 66-1326. The State Treasurer shall transfer from the Ethanol Authority and Development Cash Fund to the Highway Trust Fund an amount equal to one-half of such credit. ~~The amounts shall be transferred through December 31, 1992.~~

Sec. 8. That section 66-1326, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

66-1326. Through ~~December 31, 1997~~ June 30, 1991, each producer of ethanol shall receive a credit of twenty cents per gallon of ethanol produced in Nebraska~~,~~ ~~which~~ through production in existence on the effective date of this act. On and after such date, each producer of ethanol shall receive a credit of twenty cents per gallon of ethanol produced in Nebraska through production which was not in existence on such date for eighty-four months from the date production was commenced. The credit shall be in the form of a transferable motor fuel tax credit certificate. The credit shall be given only for ethanol produced at a plant in Nebraska at which all fermentation, distillation, and dehydration takes place. Not less than two million gallons and not more than twenty-five million gallons of ethanol produced annually at a plant shall be eligible for the credit, and the credit may only be claimed by a producer for an eighty-four-month period after the first credit certificate is received. The Department of Revenue shall prescribe an application form and procedures for claiming the credit and shall adopt and promulgate rules and regulations to carry out this section.

Sec. 9. Through December 31, 1999, each seller of Nebraska-produced ethyl tertiary butyl ether shall receive a credit of fifty cents per gallon for each gallon of Nebraska-produced ethyl tertiary butyl ether sold, which credit shall be in the form of a transferable income tax credit certificate. The credit shall be given only for ethyl tertiary butyl ether produced at a plant in Nebraska. The credit shall be claimed no later than the due date, including extensions, of the tax return filed for the taxable year of the claimant ending not more than thirty-six months after the taxable year of the claimant in which the certificate is issued. The Department of Revenue shall prescribe an application form and procedures for claiming the credit and shall adopt and promulgate rules and regulations to carry out this section.

Sec. 10. That section 77-27,189, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-27,189. A qualifying business shall mean any business engaged in the activities listed in subdivisions (2)(a) to ~~(g)~~ (h) of this section or in the storage, warehousing, distribution, transportation, or sale of tangible personal property, except that qualifying business shall not include any business activity in which eighty percent or more of the total sales are sales to the ultimate consumer of tangible personal property which is not (1) assembled, fabricated, manufactured, or processed by the taxpayer or (2) used by the purchaser in any of the following activities:

(a) The assembly, fabrication, manufacture, or processing of tangible personal property;

(b) The feeding or raising of livestock;

(c) The conducting of research, development, or testing for scientific, agricultural, animal husbandry, or industrial purposes;

(d) The performance of data processing, telecommunication, insurance, or financial services;

(e) Farming or ranching;

(f) The marketing of ethanol and ethanol components, coproducts, which shall include ethyl tertiary butyl ether, or byproducts;

(g) The administrative management or the

headquarters of any of the activities listed in subdivisions (a) to ~~(e)~~ (f) of this subdivision or any activity excluded solely because of its retail sales; or

(h) ~~(g)~~ Any combination of the activities listed in this section.

Sec. 11. If any section in this act or any part of any section shall be declared invalid or unconstitutional, such declaration shall not affect the validity or constitutionality of the remaining portions thereof.

Sec. 12. That original sections 66-410, 66-428, 66-467.01, 66-470, 66-1225, 66-1303, 66-1307, 66-1326, and 77-27,189, Reissue Revised Statutes of Nebraska, 1943, are repealed.

Sec. 14. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.".

Pending.

Mr. Lindsay asked unanimous consent to be excused until he returns. No objections. So ordered.

SPEAKER BAACK PRESIDING

Mr. Coordsen asked unanimous consent to bracket LB 754 until June 3, 1991.

Mr. R. Johnson objected.

Mr. Coordsen moved to bracket LB 754 until June 3, 1991.

Mrs. Crosby moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

The Coordsen motion to bracket prevailed with 25 ayes, 1 nay, 16 present and not voting, and 7 excused and not voting.

MOTION - Suspend Rules

Mr. Withem moved to suspend the rules, Rule 3, Section 13, to permit scheduling of a public hearing by the Education Committee on certain gubernatorial appointments.

The Withem motion to suspend the rules prevailed with 30 ayes, 0 nays, 12 present and not voting, and 7 excused and not voting.

NOTICE OF COMMITTEE HEARING
Education

Governor Appointments Tuesday, June 4, 1991 1:15 p.m.
Nebraska Educational Telecommunications Commission
Dr. Vance D. Rogers
Beverly B. Fellman
Herb Schimek
Donald L. Davis
L. LaRue Wunderlich

(Signed) Ron Withem, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 202. Introduced by Landis, 46; Schimek, 27; Warner, 25; Crosby, 29; Wesely, 26; Beutler, 28.

WHEREAS, Cooper Park is Lincoln's first and oldest park, established as a public green in 1867 and used as a community pasture by early foreign immigrant groups; and

WHEREAS, this particular use, most notably by Germans from Russia, is an event with deep cultural roots among that group; and

WHEREAS, the first major improvements to the park were executed by Jens Jensen, a nationally noted landscape architect, and whose early and significant involvement established the Cooper Square as a potential National Historic Landscape in its own right; and

WHEREAS, Cooper Park is listed in the National Register of Historic Places as part of the South Bottoms Historic District; and

WHEREAS, the state recognizes the need to provide educational opportunities in facilities which allow for growth in the population and programmatic expansion; and

WHEREAS, educational opportunities in the southwest part of Lincoln are enhanced by a neighborhood school; and

WHEREAS, significant dissension has arisen between the residents of the South Salt Creek neighborhood and the Lincoln School Board over the proposed planned use of Cooper Park area for the expansion of Park Elementary School; and

WHEREAS, the Lancaster County District Court has invalidated a contract between the City of Lincoln and the Lincoln Public Schools which would have allowed the continued construction of the controversial school recreation area in the park; and

WHEREAS, the Attorney General has determined that title to Cooper Park remains in the State of Nebraska; and

WHEREAS, it is appropriate for local disputes to be resolved by those most directly involved;

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That local residents and the local school board be encouraged to begin immediate negotiations to reach an equitable agreement regarding Cooper Park.

2. If negotiations are not successfully concluded by September 1, 1991, it is the intent and responsibility of the Legislature to resolve this dispute.

Laid over.

UNANIMOUS CONSENT - Print in Journal

Mr. Landis asked unanimous consent to print the following amendment to LB 614 in the Journal. No objections. So ordered.

AM2179

(Amendments to AM2186)

1. On page 35, line 10, strike "11th" and insert "15th"; and strike line 14 and insert "Street to O Street, east on O Street to 9th Street, north on 9th Street to Interstate Highway 180, north on Interstate Highway 180 to Salt Creek, northeast along Salt Creek to 14th Street,".

2. On page 37, line 4, before the first "13th" insert "33rd Street, north on 33rd Street to R Street, west on R Street to 27th Street, south on 27th Street to O Street, west on O Street to"; and in lines 7 and 8 strike "11th" and insert "15th".

3. On page 52, line 2, before the first "35th" insert "27th Street, north on 27th Street to R Street, east on R Street to 33rd Street, south on 33rd Street to O Street, east on O Street to"; and strike the new matter in lines 20 and 21 and insert "south on 14th Street to Salt Creek, southwest along Salt Creek to

Interstate Highway 180, south on Interstate Highway 180 to 9th Street, south on 9th Street to O Street, and east on O Street to".

Mr. Kristensen asked unanimous consent to print the following amendment to LB 167 in the Journal. No objections. So ordered.

AM2093

(Amendments to Standing Committee amendments, AM1486)

1. Insert the following new section:

"Sec. 25. Employee benefit plans established pursuant to the Political Subdivisions Self-Funding Benefits Act shall comply with section 44-1615.01 in the same way as group insurance contracts and health maintenance agreements.".

2. On page 1, line 3, strike "26" and insert "27".

3. On page 12, line 4, strike "25" and insert "26".

4. On page 14, line 3, strike "26" and insert "27".

5. Renumber the remaining sections accordingly.

Mr. Hefner asked unanimous consent to print the following amendment to LB 355 in the Journal. No objections. So ordered.

AM2130

(Amendments to AM1909)

1. On page 1, line 12, after "handgun" insert "from a manufacturer, importer, or dealer licensed pursuant to 18 U.S.C. 923"; and in line 15 strike "person" and insert "licensed manufacturer, importer, or dealer".

2. On page 2, line 2, after the semicolon insert "or"; in line 6 strike "; or" and insert an underscored period; strike lines 7 through 9; and in line 11 after "handgun" insert "from a licensed manufacturer, importer, or dealer".

Mr. Hefner asked unanimous consent to print the following amendment to LB 355 in the Journal. No objections. So ordered.

AM2131

(Amendments to AM1909)

1. On page 3, line 3 after "certificate" insert "to purchase, lease, rent, or receive transfer of a handgun from a licensed manufacturer, importer, or dealer"; and in line 6 before "A" insert "An applicant under twenty-one years of age but at least eighteen years of age shall receive a certificate permitting the purchase, lease, rent, or receipt of a handgun from a person not licensed pursuant to 18 U.S.C. 923 if he or she is not prohibited from possessing a handgun by 18 U.S.C. 922.".

SELECT COMMITTEE REPORTS
Enrollment and Review

Correctly Re-Engrossed

The following bill was correctly re-engrossed: 701.

LEGISLATIVE RESOLUTION 186CA. Placed on Select File as amended.
E & R amendment to LR 186CA:
AM5175

1. In the Hall amendment, AM2156, on page 1, line 12 strike "line 8; and" and insert " 'in' in line 7;"; and in line 13 before the period insert "; in line 7 after the reinstated 'in' insert 'this'; and in line 8 reinstate the stricken matter".

2. In the Standing Committee amendments, AM2149, on page 7, line 5, strike "the" and insert "this".

(Signed) Eric Will, Chairperson

SELECT FILE

LEGISLATIVE BILL 714. Mr. Beutler renewed his pending amendment, AM0723, found in the Journal on page 1767.

The Beutler amendment was adopted with 25 ayes, 0 nays, 17 present and not voting, and 7 excused and not voting.

Messrs. R. Johnson and Bernard-Stevens asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Wickersham renewed his pending amendment, AM1726, found in the Journal on page 2049.

Mr. Haberman offered the following amendment to the pending Wickersham amendment:
FA186
Amend AM1726
exempt hunters from any damage to users of trail on the trail during hunting season

Mr. Lynch moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 28 ayes, 0 nays, and 21 not voting.

The Haberman amendment lost with 2 ayes, 14 nays, 26 present and not voting, and 7 excused and not voting.

PRESIDENT MOUL PRESIDING

Mr. Schmit asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Lynch moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 5 nays, and 19 not voting.

Mr. Wickersham moved for a call of the house. The motion prevailed with 17 ayes, 0 nays, and 32 not voting.

Mr. Beutler requested a roll call vote on the Wickersham amendment.

Voting in the affirmative, 23:

Beyer	Haberman	Lynch	Robak	Smith
Byars	Hefner	Moore	Rogers	Warner
Coordsen	Hillman	Nelson	Schellpeper	Wehrbein
Cudaback	Johnson, L.	Peterson	Schrock	Wickersham
Dierks	Lamb	Pirsch		

Voting in the negative, 17:

Ashford	Beutler	Chizek	Crosby	Horgan
Baack	Chambers	Conway	Hall	Kristensen

Labedz	Rasmussen	Wesely	Will	Withem
Landis	Schimek			

Present and not voting, 2:

Bernard-Stevens	Robinson

Excused and not voting, 7:

Abboud	Hartnett	Lindsay	Morrissey	Schmit
Elmer	Johnson, R.			

The Wickersham amendment lost with 23 ayes, 17 nays, 2 present and not voting, and 7 excused and not voting.

The Chair declared the call raised.

Mr. Coordsen renewed his pending amendment, AM1672, found in the Journal on page 2049.

Messrs. Peterson, Haberman, and Mrs. Robak asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Beutler offered the following amendment to the pending Coordsen amendment:
FA187
Amend AM1672 as follows:
Delete the words "all the" in line 7 and replace them with the word "affected"
In line 2 add the words "abandoned railroad right of way" after the word "Whenever"

The Beutler amendment was adopted with 26 ayes, 0 nays, 14 present and not voting, and 9 excused and not voting.

The Coordsen amendment, as amended, was adopted with 25 ayes, 0 nays, 15 present and not voting, and 9 excused and not voting.

Mr. Elmer moved to reconsider the Wickersham amendment, AM1726, considered in this day's Journal.

Mr. Conway and Mrs. Labedz asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Elmer moved for a call of the house. The motion prevailed with 15 ayes, 0 nays, and 34 not voting.

Mr. Elmer requested a roll call vote on his motion to reconsider.

Voting in the affirmative, 21:

Beyer	Elmer	Johnson, R.	Pirsch	Schrock
Byars	Hefner	Lamb	Rogers	Warner
Coordsen	Hillman	Moore	Schellpeper	Wehrbein
Cudaback	Johnson, L.	Nelson	Schmit	Wickersham
Dierks				

Voting in the negative, 16:

Ashford	Beutler	Hall	Landis	Wesely
Baack	Chambers	Horgan	Rasmussen	Will
Bernard-Stevens	Chizek	Kristensen	Schimek	Withem
	Crosby			

Present and not voting, 3:

Lynch	Robinson	Smith

Excused and not voting, 9:

Abboud	Haberman	Labedz	Morrissey	Robak
Conway	Hartnett	Lindsay	Peterson	

The Elmer motion to reconsider lost with 21 ayes, 16 nays, 3 present and not voting, and 9 excused and not voting.

The Chair declared the call raised.

Mr. Wehrbein renewed his pending amendment, AM1728, found in the Journal on page 2070.

Mr. Wehrbein offered the following amendment to his pending amendment:
FA188

Amend AM1728 by inserting a period after the word "trespassing" in line 7 and striking the remaining language through the period in line 12

The Wehrbein amendment was adopted with 25 ayes, 0 nays, 15 present and not voting, and 9 excused and not voting.

Mr. Beutler offered the following amendment to the pending Wehrbein amendment:
FA189
Amend AM1728 as follows:
On line 4 delete the language "at one-half mile intervals along such trail" and substitute the language "at appropriate entry points"

The Beutler amendment was adopted with 26 ayes, 0 nays, 14 present and not voting, and 9 excused and not voting.

The Wehrbein amendment, as amended, was adopted with 26 ayes, 0 nays, 15 present and not voting, and 8 excused and not voting.

Mr. Wehrbein offered the following amendment:
FA190
Page 2, line 15, strike "any direct"
line 16, strike "appropriations by the Legislature and".

The Wehrbein amendment lost with 7 ayes, 13 nays, 21 present and not voting, and 8 excused and not voting.

Mr. Schmit asked unanimous consent to be excused until he returns. No objections. So ordered.

Advanced to E & R for engrossment with 25 ayes, 9 nays, 8 present and not voting, and 7 excused and not voting.

LEGISLATIVE BILL 714A. Advanced to E & R for engrossment.

Messrs. Landis and Ashford asked unanimous consent to be excused until they return. No objections. So ordered.

UNANIMOUS CONSENT - Print in Journal

Mr. Elmer asked unanimous consent to print the following amendment to LB 748 in the Journal. No objections. So ordered.

AM2197

(Amendments to AM1712)

1. Insert the following new section:

"Section 1. That section 71-3508.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-3508.02. ~~(1) In addition to the provisions of the Low-Level Radioactive Waste Disposal Act, the state may accept or acquire, by gift, transfer, or purchase, from another governmental agency or private person, suitable sites including land and appurtenances for the management of low-level radioactive waste. Sites received by gift or transfer shall be subject to approval and acceptance by the Legislature.~~

~~(2)~~ (1) Lands and appurtenances which are used for the management of low-level radioactive waste shall be acquired in fee simple absolute and used exclusively for such purpose until the department determines that such exclusive use is not required to protect the occupational and public health and safety or the environment. Before such site is leased for other use, the radioactive waste history of the site shall be recorded in the permanent land records of the site. ~~All radioactive material accepted by the site operator or by any agent of the site operator for management on a radioactive waste management site shall become the property of the state.~~

~~(3)~~ (2) The department may contract with third parties for management of a low-level radioactive waste site, ~~acquired pursuant to subsection (2) of this section or which is already owned by the state.~~ A contract operator shall be subject to the surety and long-term care funding provisions of section 71-3508.04 and to appropriate licensing by the federal Nuclear Regulatory Commission or by the department.

~~(4) The department shall not approve any application for a license to receive radioactive waste from other persons for disposal on land not owned by the state or federal government.~~".

2. On page 4, line 16, strike "section" and insert "sections 71-3508.02 and".

3. Renumber the remaining sections accordingly.

Mr. Wesely asked unanimous consent to print the following amendment to LB 327 in the Journal. No objections. So ordered.

AM2196

1. On page 13, line 4, before "A" insert "(1)"; and after line 9 insert the following new subsection:

"(2) A sentence of life imprisonment without possibility of parole imposed pursuant to section 8 of this act shall include a requirement that the person sentenced spend a specified percentage of his or her incarceration engaged in onsite employment supervised by the Department of Correctional Services, with the earnings to be contributed directly to the survivors of the victim or to a victims' support fund as restitution for the capital offense.".

SELECT FILE

LEGISLATIVE BILL 795. The pending Hall amendment, AM1927, considered on pages 2212 and 2230, was renewed.

Mr. Hall offered the following amendment to his pending amendment:

AM1978

1. Strike the original sections and insert the following new sections:

"Section 1. That section 9-607, Revised Statutes Supplement, 1990, be amended to read as follows:

9-607. (1) Lottery shall mean a gambling scheme in which:

(a) The ~~the~~ players pay or agree to pay something of value for an opportunity to win; ~~,~~

(b) ~~winning~~ Winning opportunities are represented by tickets; ~~,~~

(c) ~~winners~~ Winners are solely determined by one of the following three methods:

(i) By a random drawing of tickets differentiated by sequential enumeration from a receptacle by hand whereby each ticket has an equal chance of being chosen in the drawing;

(ii) ~~by~~ By rubbing or scraping a spot or spots on a disposable instant game ticket to reveal numbers, letters, symbols, or configurations, or any combination thereof, previously specified as winning numbers, letters, symbols, or configurations or a winning

combination; or

(iii) By ~~by~~ use of a game known as keno in which a player selects ~~up to twenty~~ numbers from a total of eighty numbers on a ticket or a player-accessed device and a computer, other electronic selection device, or electrically operated blower machine which is not player activated randomly selects up to ~~twenty~~ twenty-two numbers from the same pool of eighty numbers and the winning players are determined by the correct matching of the numbers selected by the players with the numbers randomly selected by the computer, other electronic selection device, or electrically operated blower machine. For purposes of this subdivision a player-accessed device which plays the game of keno shall meet all of the following criteria:

(A) The player-accessed device shall be located on a premises conducting a live keno game pursuant to the Nebraska County and City Lottery Act;

(B) Player-accessed devices shall be located at no more than three locations per licensed lottery operator;

(C) Each licensed lottery operator shall operate no more than sixty player-accessed devices; and

(D) In addition to the tax imposed in section 9-648, fifty percent of the gross proceeds, after the payment of prizes and expenses as defined in section 9-605, from the operation of such player-accessed devices shall be remitted to the Charitable Gaming Operations Fund; ~~,~~ and

(d) ~~the~~ The holders of the winning tickets are to receive cash or prizes redeemable for cash. Selection of a winner or winners shall be predicated solely on chance.

(2) Lottery shall not include (a) any gambling scheme which uses any mechanical gaming device, computer gaming device, electronic gaming device, or video gaming device, other than a device specifically authorized in subsection (1) of this section, which has the capability of awarding something of value, free games redeemable for something of value, or tickets or stubs redeemable for something of value, (b) any activity authorized or regulated under the Nebraska Bingo Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act, section

9-701, or Chapter 2, article 12, or (c) any activity prohibited under Chapter 28, article 11.

(3) Notwithstanding subsections (1) and (2) of this section, any county, city, or village lottery operation in existence and operating on March 1, 1989, which would not meet the requirements of subsection (1) of this section or the requirement in section 9-625 that only one scheme or type of lottery be conducted may continue in operation until January 1, 1991. Such operation shall be restricted to operation upon the same terms as existed on March 1, 1989, and the operation of the lottery shall comply with the other provisions of the Nebraska County and City Lottery Act.

2. That original section 9-607, Revised Statutes Supplement, 1990, is repealed.".

3. Strike the Hall amendment, AM1650.

Mr. Conway asked unanimous consent to be excused until he returns. No objections. So ordered.

SPEAKER BAACK PRESIDING

Mr. Chambers asked unanimous consent to be excused. No objections. So ordered.

Mr. Peterson asked unanimous consent to be excused until he returns. No objections. So ordered.

PRESIDENT MOUL PRESIDING

Mr. Hall moved for a call of the house. The motion prevailed with 15 ayes, 0 nays, and 34 not voting.

Mr. Hall requested a roll call vote on his amendment.

Voting in the affirmative, 14:

Baack	Chizek	Labedz	Robak	Schmit
Bernard-Stevens	Hall	Lynch	Rogers	Warner
	Hillman	Pirsch	Schellpeper	Withem

Voting in the negative, 20:

Beyer	Byars	Coordsen	Crosby	Cudaback

Dierks	Johnson, L.	Lamb	Schimek	Wehrbein
Hefner	Johnson, R.	Nelson	Schrock	Wesely
Horgan	Kristensen	Robinson	Smith	Will

Present and not voting, 5:

Beutler	Elmer	Moore	Rasmussen	Wickersham

Excused and not voting, 10:

Abboud	Chambers	Haberman	Landis	Morrissey
Ashford	Conway	Hartnett	Lindsay	Peterson

The Hall amendment lost with 14 ayes, 20 nays, 5 present and not voting, and 10 excused and not voting.

The Chair declared the call raised.

Mr. Lamb asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Hall withdrew his pending amendment, AM1927, considered on pages 2212, 2230, and in this day's Journal.

Mr. Lynch renewed the Hartnett-Lynch amendment, AM1960, found in the Journal on page 2342.

Mr. Hall moved for a call of the house. The motion prevailed with 17 ayes, 0 nays, and 32 not voting.

The Hartnett-Lynch amendment was adopted with 26 ayes, 7 nays, 7 present and not voting, and 9 excused and not voting.

The Chair declared the call raised.

Mrs. Smith withdrew her pending amendment, AM1943, found in the Journal on page 2343.

Mrs. Smith and Mr. Hall offered the following amendment:
AM2217

1. Insert the following new sections:

"Sec. 6. If any section in this act or any part of any section shall be declared invalid or unconstitutional, such declaration shall not affect the

validity or constitutionality of the remaining portions thereof.

Sec. 8. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.".

2. Renumber remaining sections accordingly.

The Smith-Hall amendment was adopted with 28 ayes, 0 nays, 12 present and not voting, and 9 excused and not voting.

Mr. R. Johnson asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Moore offered the following amendment:
AM2189

1. Insert the following new section:

"Sec. 6. That section 9-648, Revised Statutes Supplement, 1990, be amended to read as follows:

9-648. Any county, city, or village which conducts a lottery shall submit to the department on a quarterly basis a tax of ~~two~~ four percent of the gross proceeds. Such tax shall be remitted not later than thirty days from the close of the preceding quarter on forms provided by the department and shall be credited to the Charitable Gaming Operations Fund. All deficiencies of the tax imposed by this section shall accrue interest and be subject to a penalty as provided for sales and use taxes in the Nebraska Revenue Act of 1967.".

2. Renumber the remaining sections and correct internal references and the repealer accordingly.

Mr. Moore moved for a call of the house. The motion prevailed with 20 ayes, 0 nays, and 29 not voting.

Mr. Moore requested a roll call vote on his amendment.

Voting in the affirmative, 20:

Bernard-Stevens	Coordsen	Hefner	Moore	Schrock
Beutler	Crosby	Johnson, L.	Peterson	Smith
Byars	Cudaback	Kristensen	Schellpeper	Warner
	Elmer	Lamb	Schmit	Wehrbein

Wesely

Voting in the negative, 17:

Ashford	Conway	Labedz	Rasmussen	Wickersham
Baack	Hall	Nelson	Robak	Will
Beyer	Hillman	Pirsch	Rogers	Withem
Chizek	Horgan			

Present and not voting, 4:

Dierks	Lynch	Robinson	Schimek

Excused and not voting, 8:

Abboud	Haberman	Johnson, R.	Lindsay	Morrissey
Chambers	Hartnett	Landis		

The Moore amendment lost with 20 ayes, 17 nays, 4 present and not voting, and 8 excused and not voting.

The Chair declared the call raised.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 91. E & R amendment, AM5138, found in the Journal on page 1966, was adopted.

Mr. Withem renewed his pending amendment, AM1658, found in the Journal on page 2061.

Mrs. Crosby moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

The Withem amendment was adopted with 33 ayes, 0 nays, 8 present and not voting, and 8 excused and not voting.

Mr. Hefner renewed his pending amendment, AM1812, found in the Journal on page 2136.

Mrs. Rasmussen moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 27 ayes, 0 nays, and 22 not voting.

SPEAKER BAACK PRESIDING

The Hefner amendment lost with 7 ayes, 21 nays, 15 present and not voting, and 6 excused and not voting.

Mr. Hefner withdrew his pending amendment, AM1541, found in the Journal on page 1981.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 91A. Advanced to E & R for engrossment.

UNANIMOUS CONSENT - Print in Journal

Mr. Wesely asked unanimous consent to print the following amendment to LB 703A in the Journal. No objections. So ordered.

AM2223

(Amendments to Final Reading copy)

1. Strike original sections 1 and 2 and insert the following new sections:

"Section 1. There is hereby appropriated $12,550 from the Bureau of Examining Boards' Cash Fund for FY1991-92 to the Department of Health, for Program 178, to aid in carrying out the provisions of Legislative Bill 703, Ninety-second Legislature, First Session, 1991.

No expenditures for permanent and temporary salaries and per diems for state employees shall be made from funds appropriated in this section.

Sec. 2. There is hereby appropriated (1) $32,984 from the General Fund and $12,863 from the Department of Health Cash Fund for FY1991-92 and (2) $30,876 from the General Fund and $9,995 from the Department of Health Cash Fund for FY1992-93 to the Department of Health, for Program 177, to aid in carrying out the provisions of Legislative Bill 703, Ninety-second Legislature, First Session, 1991.

Total expenditures for permanent and temporary salaries and per diems from funds appropriated in this section shall not exceed $26,894 for FY1991-92 or $28,270 for FY1992-93.".

Mrs. Robak, Messrs. Dierks, and Rogers asked unanimous consent to print the following amendment to LB 614 in the Journal. No objections. So ordered.

AM2216

(Amendments to AM2186)

1. On page 29, strike beginning with "Madison" in line 14 through "Grove" in line 15 and insert "Boone County which includes the precinct of Beaver".

2. On page 47, line 8, reinstate the stricken "and" and strike "and"; in line 9 strike "Wheeler,"; in line 10 strike "districts 18 and 22" and insert "district 18"; and in line 24 reinstate the stricken "Wheeler,".

3. On page 48, line 1, strike "Boone" and strike the first comma and show as stricken; and in line 3 after the comma insert "that part of Boone County not included in legislative district 22,".

VISITORS

Visitors to the Chamber were Senator Peterson's daughter and grandson, Julie Fischer and Ty, from Grand Island; and Jennifer Thietje and Jason Tollefson from Norfolk and Mrs. JoAnne Thietje from Fremont.

ADJOURNMENT

At 9:59 p.m., on a motion by Mr. Hall, the Legislature adjourned until 8:00 a.m., Friday, May 31, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

EIGHTY-SEVENTH DAY - MAY 31, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

EIGHTY-SEVENTH DAY

Legislative Chamber, Lincoln, Nebraska
Friday, May 31, 1991

Pursuant to adjournment, the Legislature met at 8:02 a.m., Speaker Baack presiding.

PRAYER

The prayer was offered by Rev. Harland Johnson, Chaplain Coordinator.

ROLL CALL

The roll was called and all members were present except Messrs. Hartnett, Horgan, and Morrissey who are excused; and Messrs. Abboud, Beyer, Chambers, Haberman, Hall, Landis, Wesely, and Mrs. Rasmussen who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Eighty-Sixth Day was approved.

SELECT COMMITTEE REPORTS
Enrollment and Review

Correctly Engrossed

The following bill was correctly engrossed: 320.

(Signed) Eric Will, Chairperson

BILLS ON FINAL READING

The following bills were read and put upon final passage:

LEGISLATIVE BILL 732.

A BILL FOR AN ACT relating to courts; to amend sections 2-4613, 7-111, 8-190, 8-196, 8-221, 8-334, 12-528, 13-512, 15-1205, 17-414, 18-2432, 19-705, 19-2204, 19-4607, 19-4619, 19-4620, 24-101, 24-106, 24-201.03, 24-203, 24-204, 24-209, 24-211, 24-337.01, 24-701, 24-703, 24-714, 24-729, 24-739, 25-1002, 25-1010, 25-1064, 25-1081, 25-1090, 25-1140, 25-1148, 25-1315.03, 25-1542, 25-1911, 25-1912, 25-1913, 25-1914, 25-1915, 25-1916, 25-1919, 25-1920, 25-1923, 25-1924, 25-1925, 25-1926, 25-1930, 25-1935, 25-1936, 25-1937, 25-21,167, 25-21,213, 25-2728, 27-1101, 29-116, 29-812, 29-824, 29-901, 29-2301, 29-2302, 29-2305, 29-2306, 29-2308, 29-2315.01, 29-2316, 29-2320, 29-2321, 29-2322, 29-2323, 29-2324, 29-3002, 29-3302, 31-433, 32-421.01, 32-4,101, 32-517, 32-706, 32-1039, 32-1040, 33-103, 33-145, 39-1719, 42-351, 42-358, 46-210, 46-229.05, 46-238, 46-554, 46-646, 48-125, 48-182, 48-185, 48-188, 48-640, 48-808, 48-812, 49-506, 49-617, 55-445, 59-823, 70-604.06, 70-1016, 70-1325, 70-1326, 70-1327, 70-1328, 75-106, 75-121, 75-134, 75-136, 75-136.01, 75-137, 75-138, 75-139, 75-143, 76-719, 77-509, 77-510, 77-615, 77-1510, 77-1609, 77-1610, 77-1736.04, 79-4,205, 79-1068, 79-3354, 81-1379, 81-1383, 81-1385, 81-1387, 83-471, 83-4,133, 83-1043, and 86-811, Reissue Revised Statutes of Nebraska, 1943, and sections 8-1736, 23-3402, 24-1002, 29-3903, 43-287.06, 43-2,106, 43-2,126, 60-4,105, 81-8,216, 83-1133, 84-205, and 84-918, Revised Statutes Supplement, 1990; to create the Court of Appeals; to provide judges for the court; to provide powers and duties; to change appeal procedures as prescribed; to change provisions relating to the Clerk of the Supreme Court and the Reporter of the Supreme Court; to eliminate a restriction on writs of certiorari; to change provisions relating to standards of review and to courts; to provide for distribution of certain publications; to harmonize provisions; to eliminate provisions relating to certain county judges and the Appellate Division of the District Court; and to repeal the original sections, and also sections 24-351 to 24-354, 24-821, and 24-822, Reissue Revised Statutes of Nebraska, 1943.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 34:

Ashford	Crosby	Johnson, R.	Nelson	Schrock
Baack	Cudaback	Kristensen	Pirsch	Warner
Beutler	Dierks	Labedz	Robak	Wehrbein
Byars	Elmer	Lamb	Robinson	Wickersham
Chizek	Hefner	Lindsay	Rogers	Will
Conway	Hillman	Lynch	Schellpeper	Withem
Coordsen	Johnson, L.	Moore	Schmit	

Voting in the negative, 3:

Bernard-Stevens	Schimek	Smith

Present and not voting, 1:

Peterson

Excused and not voting, 11:

Abboud	Haberman	Hartnett	Landis	Rasmussen
Beyer	Hall	Horgan	Morrissey	Wesely
Chambers				

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 732A.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 732, Ninety-second Legislature, First Session, 1991.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 34:

Ashford	Byars	Cudaback	Johnson, L.	Lindsay
Baack	Chizek	Dierks	Johnson, R.	Lynch
Bernard-Stevens	Conway	Elmer	Kristensen	Moore
Beutler	Coordsen	Hefner	Labedz	Nelson
	Crosby	Hillman	Lamb	Pirsch

Robak	Rogers	Schrock	Wehrbein	Will
Robinson	Schmit	Warner	Wickersham	Withem

Voting in the negative, 3:

Schellpeper	Schimek	Smith

Present and not voting, 1:

Peterson

Excused and not voting, 11:

Abboud	Haberman	Hartnett	Landis	Rasmussen
Beyer	Hall	Horgan	Morrissey	Wesely
Chambers				

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 724.

A BILL FOR AN ACT relating to school nurses; to require the Department of Health to employ a school nurse consultant; and to provide powers and duties.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 31:

Ashford	Coordsen	Johnson, R.	Peterson	Schmit
Baack	Crosby	Kristensen	Robak	Schrock
Bernard-Stevens	Cudaback	Labedz	Robinson	Warner
Byars	Dierks	Lamb	Rogers	Wickersham
Chizek	Elmer	Lindsay	Schellpeper	Will
Conway	Hefner	Lynch	Schimek	Withem
	Johnson, L.			

Voting in the negative, 6:

Hillman	Nelson	Pirsch	Smith	Wehrbein
Moore				

Present and not voting, 1:

Beutler

Excused and not voting, 11:

Abboud	Haberman	Hartnett	Landis	Rasmussen
Beyer	Hall	Horgan	Morrissey	Wesely
Chambers				

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 724A.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 724, Ninety-second Legislature, First Session, 1991.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 27:

Ashford	Crosby	Labedz	Robinson	Schrock
Baack	Cudaback	Lamb	Rogers	Warner
Byars	Dierks	Lindsay	Schellpeper	Wesely
Chizek	Hefner	Lynch	Schimek	Will
Conway	Johnson, L.	Robak	Schmit	Withem
Coordsen	Kristensen			

Voting in the negative, 11:

Bernard-Stevens	Hillman	Nelson	Pirsch	Wehrbein
	Johnson, R.	Peterson	Smith	Wickersham
Elmer	Moore			

Present and not voting, 1:

Beutler

Excused and not voting, 10:

Abboud	Chambers	Hall	Horgan	Morrissey
Beyer	Haberman	Hartnett	Landis	Rasmussen

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

Mr. Conway asked unanimous consent to be excused until he returns. No objections. So ordered.

LEGISLATIVE BILL 727. With Emergency.

A BILL FOR AN ACT relating to sales and use taxes; to amend section 77-2702, Reissue Revised Statutes of Nebraska, 1943; to redefine occasional sale; to provide an operative date; to repeal the original section; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 38:

Ashford	Crosby	Kristensen	Pirsch	Smith
Baack	Cudaback	Labedz	Robak	Warner
Bernard-Stevens	Dierks	Lamb	Robinson	Wehrbein
	Elmer	Lindsay	Rogers	Wesely
Beutler	Hefner	Lynch	Schellpeper	Wickersham
Byars	Hillman	Moore	Schimek	Will
Chizek	Johnson, L.	Nelson	Schmit	Withem
Coordsen	Johnson, R.	Peterson	Schrock	

Voting in the negative, 0.

Excused and not voting, 11:

Abboud	Conway	Hall	Horgan	Morrissey
Beyer	Haberman	Hartnett	Landis	Rasmussen
Chambers				

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

LEGISLATIVE BILL 825.

A BILL FOR AN ACT relating to housing; to amend sections 18-1724, 20-105 to 20-107, 20-109, 20-110, 20-112, 20-113, 20-121, 20-125, 20-139, and 71-1528, Reissue Revised Statutes of Nebraska, 1943, and sections 20-168 and 48-1116, Revised Statutes Supplement, 1990; to rename an act; to define and redefine terms; to prohibit discriminatory actions based on handicap or familial status; to provide exemptions; to require that certain new structures be accessible to and usable by handicapped persons as prescribed; to provide powers, duties, and penalties; to authorize administrative proceedings and civil actions; to change provisions relating to local enforcement of civil rights; to change the investment powers of housing authorities; to require a comprehensive housing affordability strategy; to eliminate provisions relating to group homes and discriminatory housing practices; to harmonize provisions; to provide severability; and to repeal the original sections, and also sections 18-1745 to 18-1747, 20-108, 20-114, 20-115, and 20-117 to 20-120, Reissue Revised Statutes of Nebraska, 1943, and sections 18-1744 and 20-116, Revised Statutes Supplement, 1990.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 37:

Ashford	Crosby	Kristensen	Pirsch	Smith
Baack	Cudaback	Labedz	Robak	Warner
Bernard-Stevens	Dierks	Lamb	Rogers	Wehrbein
Byars	Elmer	Lindsay	Schellpeper	Wesely
Chambers	Hefner	Lynch	Schimek	Wickersham
Chizek	Hillman	Moore	Schmit	Will
Coordsen	Johnson, L.	Nelson	Schrock	Withem
	Johnson, R.	Peterson		

Voting in the negative, 0.

Present and not voting, 2:

Beutler Robinson

Excused and not voting, 10:

Abboud	Conway	Hall	Horgan	Morrissey
Beyer	Haberman	Hartnett	Landis	Rasmussen

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 825A.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 825, Ninety-second Legislature, First Session, 1991.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 37:

Ashford	Crosby	Kristensen	Pirsch	Smith
Baack	Cudaback	Labedz	Robak	Warner
Bernard-Stevens	Dierks	Lamb	Rogers	Wehrbein
Byars	Elmer	Lindsay	Schellpeper	Wesely
Chambers	Hefner	Lynch	Schimek	Wickersham
Chizek	Hillman	Moore	Schmit	Will
Coordsen	Johnson, L.	Nelson	Schrock	Withem
	Johnson, R.	Peterson		

Voting in the negative, 0.

Present and not voting, 2:

Beutler	Robinson

Excused and not voting, 10:

Abboud	Conway	Hall	Horgan	Morrissey
Beyer	Haberman	Hartnett	Landis	Rasmussen

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 51.

A BILL FOR AN ACT relating to ground water; to amend sections 46-657, 46-673.05, 46-673.08, 46-673.09, 46-673.10, 46-673.13, 46-674, 46-674.06 to 46-674.10, 46-674.12, 46-674.14, 46-674.18, 46-674.19, 46-1201, 46-1203, 46-1223, 46-1231, 46-1238, and 46-1240, Reissue Revised Statutes of Nebraska, 1943; to define and redefine terms; to change provisions relating to management areas and special protection areas; to require the amendment of ground water management plans to address water quality as prescribed and authorize management areas for protection of water quality; to provide powers and duties; to require certification of and to provide certain examination requirements for water well monitoring supervisors; to restrict the opening or breaking of the seal of water wells as prescribed; to change penalties as prescribed; to harmonize provisions; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 39:

Ashford	Chizek	Hillman	Lynch	Schimek
Baack	Conway	Johnson, L.	Moore	Schmit
Bernard-Stevens	Coordsen	Johnson, R.	Nelson	Schrock
	Crosby	Kristensen	Peterson	Smith
Beutler	Cudaback	Labedz	Pirsch	Wehrbein
Beyer	Dierks	Lamb	Robak	Wesely
Byars	Elmer	Landis	Rogers	Wickersham
Chambers	Hefner	Lindsay	Schellpeper	Will

Voting in the negative, 0.

Present and not voting, 3:

Robinson	Warner	Withem

Excused and not voting, 7:

Abboud	Hall	Horgan	Morrissey	Rasmussen
Haberman	Hartnett			

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 51A.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 51, Ninety-second Legislature, First Session, 1991.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 41:

Ashford	Conway	Johnson, R.	Nelson	Schrock
Baack	Coordsen	Kristensen	Peterson	Smith
Bernard-Stevens	Crosby	Labedz	Pirsch	Warner
	Cudaback	Lamb	Robak	Wehrbein
Beutler	Dierks	Landis	Rogers	Wesely
Beyer	Elmer	Lindsay	Schellpeper	Wickersham
Byars	Hefner	Lynch	Schimek	Will
Chambers	Hillman	Moore	Schmit	Withem
Chizek	Johnson, L.			

Voting in the negative, 0.

Present and not voting, 1:

Robinson

Excused and not voting, 7:

Abboud	Hall	Horgan	Morrissey	Rasmussen
Haberman	Hartnett			

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

Mr. Schmit asked unanimous consent to be excused until he returns. No objections. So ordered.

LEGISLATIVE BILL 170.

A BILL FOR AN ACT relating to rules of the road; to amend section 39-6,181, Reissue Revised Statutes of Nebraska, 1943; to

change provisions relating to limitations on certain load weights as prescribed; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 29:

Ashford	Conway	Hefner	Lindsay	Robinson
Baack	Coordsen	Hillman	Lynch	Rogers
Bernard-Stevens	Crosby	Johnson, L.	Nelson	Schellpeper
Byars	Cudaback	Kristensen	Peterson	Schrock
Chizek	Elmer	Labedz	Pirsch	Wehrbein
	Hall	Lamb	Robak	Wickersham

Voting in the negative, 12:

Beutler	Johnson, R.	Schimek	Warner	Will
Beyer	Landis	Smith	Wesely	Withem
Chambers	Moore			

Present and not voting, 1:

Dierks

Excused and not voting, 7:

Abboud	Hartnett	Morrissey	Rasmussen	Schmit
Haberman	Horgan			

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 207. With Emergency.

A BILL FOR AN ACT relating to schools and school districts; to amend sections 79-488.04 and 79-1103.05, Reissue Revised Statutes of Nebraska, 1943, and sections 79-3403, 79-3405, 79-3407, 79-3409, and 79-3410, Revised Statutes Supplement, 1990; to change and eliminate provisions relating to payment of nonresident high school tuition as prescribed; to change provisions relating to participation in the enrollment option program, acceptance of applications and waiver of deadlines relating to the program, and transportation

reimbursement under the program; to harmonize provisions; to provide operative dates; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 44:

Ashford	Conway	Hillman	Moore	Schmit
Baack	Coordsen	Johnson, L.	Nelson	Schrock
Bernard-Stevens	Crosby	Johnson, R.	Peterson	Smith
	Cudaback	Kristensen	Pirsch	Warner
Beutler	Dierks	Labedz	Robak	Wehrbein
Beyer	Elmer	Lamb	Robinson	Wesely
Byars	Haberman	Landis	Rogers	Wickersham
Chambers	Hall	Lindsay	Schellpeper	Will
Chizek	Hefner	Lynch	Schimek	Withem

Voting in the negative, 0.

Excused and not voting, 5:

Abboud	Hartnett	Horgan	Morrissey	Rasmussen

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

ATTORNEY GENERAL'S OPINION

Opinion No. 91049

DATE: May 30, 1991

SUBJECT: LB 614; Does Proposed Redistricting Plan Violate the Federal Voting Rights Act or Pertinent State and Federal Constitutional Provisions?

REQUESTED BY: Senator Emil Beyer
Nebraska State Legislature

WRITTEN BY: Don Stenberg, Attorney General
Dale A. Comer, Assistant Attorney General

LB 614 is a current redistricting bill proposing new legislative districts in the State of Nebraska. As amended by the Government, Military, and Veterans Affairs Committee of the Legislature, LB 614 would establish various legislative districts in conformance with the 1990 census, including Legislative District No. 8 with a total population of 31,647, Legislative District No. 11 with a total population of 31,598, and Legislative District No. 13 with a total population of 31,880. Each of those latter legislative districts would be located in Douglas County, and those legislative districts would have the following percentages of African American residents: District No. 8--13.10 percent, District No. 11--73.40 percent, and District No. 13--27.26 percent.

You are apparently concerned that the composition of District 11 might involve the practice of "packing" where protected minority residents are packed into one district so as to diminish their potential influence in other districts. Conversely, you are concerned that the composition of Districts 13 and 8 might involve "cracking" where the voting strength of minority residents is diluted by placing them in separate districts rather than in one particular district where their influence might be maximized. You have, therefore, requested our opinion as to whether either of these practices might violate the Voting Rights Act of 1965, the Federal Constitution, or the Nebraska Constitution. We assume that your question is posed with respect to Legislative Districts 8, 11, and 13 as established by LB 614.

Section 2 of the Federal Voting Rights Act of 1965, as amended in 1982, provides as follows:

> (a) No voting qualification or prerequisite to voting or standard, practice, or procedure shall be imposed or applied by any State or political subdivision in a manner which results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color, or in contravention of the guarantees set forth in section 4(f)(2), as provided in subsection (b).
>
> (b) A violation of subsection (a) is established if, based on the totality of the circumstances, it is shown that the political processes leading to nomination or election in the State or political subdivision are not equally open to participation by members of a class of citizens protected by subsection (a) in that its members have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice. The extent to which members of a protected class

have been elected to office in the State or political subdivision is one circumstance which may be considered: Provided, That nothing in this section establishes a right to have members of a protected class elected in numbers equal to their proportion in the population.

Section 2 is codified at 42 U.S.C. § 1973. The United States Supreme Court had occasion to deal with Section 2 of the Voting Rights Act in Thornburg v. Gingles, 478 U.S. 30 (1986). That case establishes the criteria for proving a violation of Section 2.

In Thornburg, the Supreme Court indicated that Section 2 prohibits states from imposing any voting procedures which result in the denial or abridgement of the right to vote of any citizen who is a member of a protected class of racial or language minorities. Id. at 43. The essence of a Section 2 claim "is that a certain electoral law, practice or structure interacts with social or historical conditions to cause an inequity in the opportunities enjoyed by black and white voters to elect their preferred representatives." Id. at 47. Section 2 is violated when the "totality of circumstances" indicates that the political processes leading to nomination or election are not equally open to members of a protected class. Id. at 43. Whether the political processes are equally open depends upon a "searching practical evaluation" of the "past and present reality" and on a "functional" view of the political process. Id. at 45.

Thornburg and subsequent cases in this area have indicated that three factors must initially be established in a Section 2 action for that case to proceed. Thornburg v. Gingles, supra; Solomon v. Liberty County Florida, 899 F.2d 1012 (11th Cir. 1990) Jeffers v. Clinton, 730 F.Supp. 196 (E.D. Ark. 1989) Neal v. Coleburn, 689 F.Supp. 1426 (E.D. Va. 1988). First, the plaintiff minority must show that it is sufficiently large and geographically compact to constitute a majority in a single-member district. Thornburg, 478 U.S. at 50. Second, the minority group in question must be able to show that it is politically cohesive. Thornburg, 478 U.S. at 51. Third, the minority group must be able to show that the white majority votes sufficiently as a block to enable it, in the absence of special circumstances, to usually defeat the minority's preferred candidate. Thornburg, 478 U.S. at 51.

If this threshold showing is met, then there are a number of other factors which a court may consider in determining whether the "totality of circumstances" indicates that a violation of Section 2 of the Voting Rights Act has occurred. Those factors, set out in the Senate Report which accompanied the 1982 amendment to the Voting Rights Act, include:

{t}he history of voting-related discrimination in the State or political subdivision; the extent to which voting in the elections of

> the State or political subdivision is racially polarized; the extent to which the State or political subdivision has used voting practices or procedures that tend to enhance the opportunity for discrimination against the minority group, such as unusually large election districts, majority vote requirements, and prohibitions against bullet voting; the exclusion of members of the minority group from candidate slating processees; the extent to which minority group members bear the effects of past discrimination in areas such as education, employment, and health, which hinder their ability to participate effectively in the political process; the use of overt or subtle racial appeals in political campaigns; and the extent to which members of the minority group have been elected to public office in the jurisdiction. The Report notes also that evidence demonstrating that elected officials are unresponsive to the particularized needs of the members of the minority group and that the policy underlying the State's or the political subdivision's use of the contested practice or structure is tenuous may have probative value.

Thornburg, 478 U.S. at 44-45 (citations omitted). In sum, the process for determining whether a violation of Section 2 of the Voting Rights Act has occurred is a complex endeavor, and can be described as follows:

> If lines are drawn that limit the number of majority-black single-member districts, and reasonably compact and contiguous majority-black districts could have been drawn, and if racial cohesiveness in voting is so great that, as a practical matter, black voters' preferences for black candidates are frustrated by this system of apportionment, the outlines of a Section 2 theory are made out. Whether such a claim will succeed depends on the particular factual context, including all of the factors that Thornburg, Smith, and the legislative history of Section 2 say are relevant.

Jeffers v. Clinton, supra, 730 F.Supp. at 205.

In the present instance, we believe that "packing" a legislative district or "cracking" minority voters among several legislative districts would constitute a violation of the Voting Rights Act of 1965 if the facts surrounding such activities were to establish the threshold criteria and other factors set out in the Thornburg case and subsequent authorities. However, the factual determination required by those cases is clearly an intense, fact-driven determination.[1] We obviously do not have such detailed facts before us with respect to the proposed legislative districts in Omaha and the "past and present reality" of any discrimination in those areas. As a result, we cannot provide any definitive answer as to whether the proposed legislative

districts in LB 614 violate the Voting Rights Act of 1965. Such a determination would necessarily turn on a multitude of facts that we simply do not have available.

We would note, however, with respect to your concern regarding "packing" in District 11, that, in at least two instances, courts have held that 80 percent minorities in a particular district are not automatically unreasonable or cause for concern with respect to Section 2 of the Voting Rights Act. Latino Political Action Committee, Inc. v. City of Boston, 784 F.2d 409 (1st Cir. 1986) Rybicki v. State of Board of Elections, 574 F.Supp. 1147 (N.D. Ill. E. Div. 1983). On this basis, 73.4 percent minorities in District 11 would appear acceptable.

You have also asked whether the situation involving minority concentrations in proposed Districts 8, 11, or 13 violates the Federal Constitution. As a rule, discriminatory apportionment practices involve a violation of the Fourteenth and Fifteenth Amendments to the United States Constitution dealing with equal protection and the right of citizens to vote. To show a violation of either the Fourteenth or Fifteenth Amendments, it is necessary to establish that there was purposeful discrimination or racially motivated discriminatory intent. City of Mobile, Alabama v. Bolden, 446 U.S. 55 (1980) Whitfield v. Democratic Party of the State of Arkansas, 890 F.2d 1423 (8th Cir. 1989). We have no reason to believe that Legislative Districts 8, 11, and 13 in LB 614 were designed with racially motivated discriminatory intent. In any event, we are aware of no facts which would support such a showing, and, in the absence of such a factual determination, we cannot state whether the districts proposed by LB 614 violate the Federal Constitution.

Finally, you ask whether LB 614 violates our Nebraska Constitution. Article III, Sections 5 and 7 of the Nebraska Constitution deal with redistricting in Nebraska. The various Nebraska cases dealing with those provisions primarily concern numerical equality among legislative districts and the mechanics of drawing district boundaries. See Buller v. City of Omaha, 164 Neb. 435, 82 N.W.2d 578 (1957); Rogers v. Morgan, 127 Neb. 456, 256 N.W. 1 (1934). The proposed legislative districts at issue here have a very slight variance in total population, and we believe that they would comply with the requirements of numerical equality. Beyond those cases dealing with simple numerical equality, we have been unable to find any Nebraska cases which involve violations of the equal protection guarantees of our State Constitution in the context of racial discrimination and redistricting. However, there is at least some indication that such an equal protection violation under our State Constitution would involve purposeful discrimination as is the

case in the federal authorities cited above. State v. Bird Head, 204 Neb. 807, 285 N.W.2d 698 (1979). Absent such purposeful discrimination, there would be no violation of our State Constitution.

[1] For example, in Jeffers v. Clinton, 730 F.Supp. 196 (E.D. Ark. 1989), a case under Section 2, the court heard evidence for twelve days. Id. at 198. Similarly, in Garza v. County of Los Angles, 918 F.2d 763 (9th Cir. 1990), the district court held a three month bench trial. Id. at 766.

Sincerely yours,
DON STENBERG
Attorney General
(Signed) Dale A. Comer
Assistant Attorney General

05-09-14.91
cc: Patrick J. O'Donnell
Clerk of the Legislature

EXPLANATION OF VOTE

Had I been present, I would have voted "nay" on LBs 732 and 732A.

(Signed) Ernie Chambers

REPORT OF REGISTERED LOBBYISTS

In accordance with LB 987, passed in the 1976 session of the Legislature and amended by LB 4 and LB 41 in the 1977 session of the Legislature, the attached is a list of all Lobbyists who have registered as of May 30, 1991. Further lists listing additional lobbyists who have registered will be filed weekly.

(Signed) Patrick J. O'Donnell
Clerk of the Legislature

Crosby, Guenzel, Davis, Kessner & Kuester	
Buntain, Anne - Lincoln	Crosby, Guenzel, Davis, Kessner & Kuester
Erickson & Sederstrom, P.C.	
Thone, Charles - Lincoln	Nebraska Press Association
McCullough, Mardy - Lincoln	American Heart Association-Nebraska Affilliate (Withdrawn 91/05/24)
McLaurin, Michael K. - Omaha (Withdrawn 91/05/11)	UNO Student Government

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following bills: 732, 732A, 724, 724A, 727, 825, 825A, 51, 51A, 170, and 207.

SELECT FILE

LEGISLATIVE BILL 618. E & R amendment, AM5171, printed separately from the Journal and referred to on page 2577, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 617. E & R amendment, AM5168, found in the Journal on page 2577, was adopted.

Mr. Conway renewed his pending amendment, AM2158, found in the Journal on page 2577.

The Conway amendment was adopted with 25 ayes, 0 nays, 19 present and not voting, and 5 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 619. E & R amendment, AM5169, found in the Journal on page 2581, was adopted.

Mr. Conway renewed his pending amendment, AM2159, found in the Journal on page 2576.

The Conway amendment was adopted with 26 ayes, 0 nays, 17 present and not voting, and 6 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 615. E & R amendment, AM5172, found in the Journal on page 2585, was adopted.

Mr. Withem renewed his pending amendment, AM2185, found in the Journal on page 2659.

MR. WARNER PRESIDING

Mr. Robinson moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

Mr. Withem moved for a call of the house. The motion prevailed with 18 ayes, 0 nays, and 31 not voting.

Mr. Withem requested a roll call vote on his amendment.

Voting in the affirmative, 20:

Beutler	Dierks	Landis	Robak	Wesely
Byars	Hall	Lindsay	Schellpeper	Wickersham
Chizek	Hillman	Lynch	Schimek	Will
Coordsen	Labedz	Nelson	Smith	Withem

Voting in the negative, 20:

Baack	Crosby	Hefner	Lamb	Rogers
Bernard-Stevens	Cudaback	Johnson, L.	Moore	Schrock
Beyer	Elmer	Johnson, R.	Peterson	Warner
Conway	Haberman	Kristensen	Pirsch	Wehrbein

Present and not voting, 3:

Ashford	Chambers	Robinson

Excused and not voting, 6:

Abboud	Horgan	Morrissey	Rasmussen	Schmit
Hartnett				

The Withem amendment lost with 20 ayes, 20 nays, 3 present and not voting, and 6 excused and not voting.

The Chair declared the call raised.

Mr. Moore moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 0 nays, and 23 not voting.

Mr. Conway moved for a call of the house. The motion prevailed with 21 ayes, 0 nays, and 28 not voting.

Mr. Wesely requested a roll call vote on the advancement of the bill.

Voting in the affirmative, 25:

Ashford	Crosby	Hefner	Lamb	Rogers
Baack	Cudaback	Johnson, L.	Moore	Schrock
Bernard-Stevens	Dierks	Johnson, R.	Peterson	Smith
Beyer	Elmer	Kristensen	Pirsch	Warner
Conway	Haberman	Labedz	Robinson	Wehrbein

Voting in the negative, 11:

Beutler	Hillman	Lindsay	Schimek	Wickersham
Byars	Landis	Robak	Wesely	Will
Coordsen				

Present and not voting, 7:

Chambers	Hall	Nelson	Schellpeper	Withem
Chizek	Lynch			

Excused and not voting, 6:

Abboud	Horgan	Morrissey	Rasmussen	Schmit
Hartnett				

Advanced to E & R for engrossment with 25 ayes, 11 nays, 7 present and not voting, and 6 excused and not voting.

The Chair declared the call raised.

PRESIDENT MOUL PRESIDING

LEGISLATIVE BILL 616. E & R amendment, AM5173, found in the Journal on page 2586, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 614. E & R amendment, AM5174, found in the Journal on page 2609, was adopted.

Mr. Conway withdrew his pending amendment, AM2150, on file in the Clerk's Office and referred to on page 2538.

Mr. Elmer offered the following amendment:
(Amendment on file in the Clerk's Office - Room 2018 - AM2155.)

Mr. Will moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

Mr. Elmer moved for a call of the house. The motion prevailed with 27 ayes, 0 nays, and 22 not voting.

Mr. Elmer requested a roll call vote on his amendment.

Voting in the affirmative, 18:

Beyer	Elmer	Labedz	Pirsch	Smith
Coordsen	Hefner	Lamb	Schellpeper	Warner
Cudaback	Johnson, L.	Nelson	Schrock	Wehrbein
Dierks	Johnson, R.	Peterson		

Voting in the negative, 21:

Ashford	Byars	Hillman	Lynch	Schmit
Baack	Chambers	Kristensen	Rasmussen	Wesely
Bernard-Stevens	Chizek	Landis	Robak	Will
	Conway	Lindsay	Schimek	Withem
Beutler	Hall			

Present and not voting, 5:

Crosby	Haberman	Robinson	Rogers	Wickersham

Absent and not voting, 1:

Moore

Excused and not voting, 4:

Abboud	Hartnett	Horgan	Morrissey

The Elmer amendment lost with 18 ayes, 21 nays, 5 present and not voting, 1 absent and not voting, and 4 excused and not voting.

Pending.

The Chair declared the call raised.

PRESENTED TO THE GOVERNOR

Presented to the Governor on May 31, 1991, at 11:05 a.m., were the following bills: 732, 732A, 724, 724A, 727, 825, 825A, 51, 51A, 170, and 207.

(Signed) Jan Loder, Enrolling Clerk

MESSAGE FROM THE GOVERNOR

May 31, 1991

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 456, 456A, and 549 were received in my office on May 28, 1991.

These bills were signed by me on May 31, 1991, and delivered to the Secretary of State.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

ATTORNEY GENERAL'S OPINION

Opinion No. 91050

DATE: May 31, 1991

SUBJECT: Constitutionality of Bill Appropriating Funds to Pay Commonwealth Depositors After Legally Amending the State Tort Claims Act to Permit Large Tort Claims to be Heard by the Legislature Rather than the State Claims Board.

REQUESTED BY: Senator Loran Schmit
Nebraska State Legislature

WRITTEN BY: Don Stenberg, Attorney General
John R. Thompson, Deputy Attorney General

In your May 21, 1991 letter you asked for clarification of certain aspects of Opinion No. 91042 to Senator Coordsen dated May 20, 1991. More specifically, you asked whether the Legislature could constitutionally appropriate money to pay certain large tort claims after finding that the State of Nebraska was liable for damages incurred by the claimants. Your question assumes that tort claims of $5 million or more could constitutionally be heard directly by the Legislature and that a process was enacted to do so.

We believe the answer to your question is yes. However, we also believe we should offer some further comments for your consideration.

If a majority of the Legislature wishes to pay additional funds to Commonwealth Depositors to reimburse them for their losses, it should do so in a manner that will be sustained by the courts. Otherwise the result will be additional unsuccessful litigation and disappointment. As we have previously stated, a constitutional amendment would be one way to constitutionally authorize additional payment.

If the Legislature pursues the tort claim process as you have proposed, you should be aware of the following legal issues which you will need to deal with concerning Tort Claim No. 91-310, which is the apparent subject of your proposed appropriation.

1. Under current state law, payment as you suggest in your question would be legal only to the extent that there is tort liability of the State of Nebraska which is not barred by the two-year statute of limitations, Neb.Rev.Stat. §81-8,227 (1990 Cum. Supp.). It would be important that the Legislature in its findings and deliberations make an adequate record to show the specific acts of negligence of the State of Nebraska employees, when these acts occurred, how these acts caused the loss, and a detailed computation of the damages caused by such negligence since the District Court of Lancaster County would still be required to review the legislative appropriation under Neb.Rev.Stat. §81-8,211 (1990 Cum. Supp.) and since a court challenge similar to the one in Haman v. Marsh, 237 Neb. 699, ___ N.W.2nd ___(1991), might also be initiated.

2. State liability for tort claims is limited to negligent or wrongful acts or omissions by employees of the state, Neb.Rev.Stat. §81-8,210(4) (1990 Cum. Supp.). Tort Claim No. 91-310 primarily alleges negligent acts or omissions of the Commonwealth receiver, who for the past four years has been Mr. Badami. Mr. Badami is not and has not been an employee of the state. If the Legislature is of the opinion that the state is liable for Mr. Badami's acts, it should make a factual record to support that determination.

We raise these issues not to stand in the way of any payments to Commonwealth depositors, but to suggest that if a majority of the Legislature sincerely wants to reimburse Commonwealth depositors in some additional amount, it is in the best interests of everyone concerned to find legal and constitutional procedures for doing so. In that context, we would again refer you to Opinion No. 91036 dated May 6, 1991 to Senator Chris Beutler with respect to amendments to LR 24CA which discusses some legal ways for accomplishing that purpose. We also suggest that should any such payment be made, there should be detailed procedures for payment and releases to insure that the interests of the depositors and the State of Nebraska are both adequately protected.

In conclusion, we express no legal opinion regarding the tort liability of the state in this case. That is a decision in the first instance for the State Claims Board, or under your proposal, for the Legislature to make. The Attorney General's office will legally defend such action (or nonaction) as the Board or the Legislature may take concerning this claim.

Sincerely,
DON STENBERG
Attorney General
(Signed) John R. Thompson
Deputy Attorney General

cc: Patrick O'Donnell
Clerk of the Legislature

RECESS

At 11:56 a.m., on a motion by Mr. Schrock, the Legislature recessed until 1:30 p.m.

AFTER RECESS

The Legislature reconvened at 1:31 p.m., President Moul presiding.

ROLL CALL

The roll was called and all members were present except Messrs. Abboud, Hartnett, and Morrissey who were excused; and Messrs. Lynch, Robinson, Mmes. Labedz, and Pirsch who were excused until they arrive.

SELECT COMMITTEE REPORTS
Enrollment and Review

Correctly Engrossed

The following bills were correctly engrossed: 714 and 714A.

(Signed) Eric Will, Chairperson

Enrollment and Review Change to LB 714

The following changes, required to be reported for publication in the Journal, have been made:
ER7099

1. In the Wehrbein amendment, AM1728, on page 1, line 2, "7" has been struck and "8" inserted.

(Signed) Mary E. Sommermeyer
E & R Attorney

MESSAGE FROM THE GOVERNOR

May 31, 1991

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 502e, 651e, 653e, and 857 were received in my office on May 29, 1991; and Legislative Bills 422e and 582 were received on May 30, 1991.

These bills were signed by me on May 31, 1991, and delivered to the Secretary of State.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

SELECT FILE

LEGISLATIVE BILL 614. Mr. Schrock offered the following amendment:
AM2193

(Amendments to AM2186)

1. Strike original sections 20, 35, 36, 37, 38, 39, 41, 42, 44, 45, 48, and 50 and insert the following new sections:

"Sec. 20. That section 5-220, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

5-220. District No. 19 shall ~~consist of~~ contain the counties of ~~Knox,~~ Dixon and Cedar, and Pierce, and that part of Wayne County which includes the precincts of Hoskins, Garfield, Sherman, Deer Creek, and Wilbur, the city of Sholes, the city of Carroll, and the city of Hoskins, and that part of Knox County not included in legislative district 40. ~~; and in Wayne County the precincts of Sherman and Deer Creek.~~

Sec. 35. That section 5-235, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

5-235. District No. 34 shall ~~consist of~~ contain the counties of Merrick, Hamilton, and Clay~~; in Polk County that area not lying in legislative district 24, and in Hall County the townships of Doniphan and South Platte~~ and that part of Hall County which includes the townships of Doniphan, Alda, Washington 1, Washington 2, Center 1, Center 2, Center 3, Center 4, Center 5, Grand Island 1, and Grand Island 2.

Sec. 36. That section 5-236, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

5-236. District No. 35 shall ~~consist of the following territory in~~ contain that part of Hall County~~: The city of Grand Island~~ not included in legislative districts 33, 34, and 41.

Sec. 37. That section 5-237, Reissue Revised Statutes of Nebraska, 1943, be amended to read as

follows:

5-237. District No. 36 shall ~~consist of Buffalo County, except that area lying in legislative district 37, and in Hall County the townships of Jackson, Martin, Wood River, Alda, Washington, and Center 2~~ contain the county of Sherman, that part of Buffalo County not included in legislative district 37, that part of Hall County which includes the precincts of Lake, Mayfield, Prairie Creek, and South Loup, that part of Phelps County which includes the townships of Cottonwood A, Cottonwood B, Center, Anderson, Sheridan, and Diwide, the city of Funk, and Holdrege Ward 1, and that part of Custer County which includes the townships of Ansley, Algernon, and Elk Creek, the city of Ansley, and the city of Mason City.

Sec. 38. That section 5-238, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

5-238. District No. 37 shall contain ~~consist of the following territory in Buffalo County: The township of Collins, and in the city of Kearney, Ward 1 and Ward 2; and~~ the counties of Kearney, Franklin, and Webster, ~~and Nuckolls~~ that part of Buffalo County which includes the townships of Collins, Center, Platte, Kearney 1-A, Kearney 1-B, Kearney 2-1, Kearney 2-2, Kearney 2-3A, Kearney 2-3B, Kearney 3-1, Kearney 3-2, Kearney 3-3, Kearney 3-4, Kearney 3-5, Kearney 3-6, Kearney 4-1, Kearney 4-2, Kearney 4-3, and Kearney 4-4, and that part of Nuckolls County not included in district 32.

Sec. 39. That section 5-239, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

5-239. District No. 38 shall ~~consist of the counties of Frontier, Gosper, Red Willow, Furnas, and Harlan; and in Lincoln County, the precincts of Wallace, Dickens, Sellers, Medicine, Well, Payne, Gaslin, Peckham, and that part of Maxwell lying south of the South Branch of the Platte River~~ contain the counties of Dawson and Harlan, that part of Phelps County not included in legislative district 36, and that part of Gosper County not included in legislative district 44.

Sec. 41. That section 5-241, Reissue Revised Statutes of Nebraska, 1943, be amended to read as

follows:

5-241. District No. 40 shall ~~consist of~~ contain the counties of Boyd, Holt, ~~and~~ Antelope, and Wheeler, that part of Madison County not included in legislative districts 18 and 22, and that part of Knox County which includes the townships of Miller, Raymond, Western, Washington, Walnut Grove, Bohemia, Jefferson, Logan, Sparta, and Verdigre, and the city of Verdigre, and the city of Niobrara. ~~; and in the county of Boone, the precincts of Oakland, North Branch, Shell Creek, Bonanza, Ashland, Midland, Weitzel, Dublin, Roselma, Boone, Cedar, and Manchester, and the city of Albion.~~

Sec. 42. That section 5-242, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

5-242. District No. 41 shall ~~consist of~~ contain the counties of Rock, Loup, Garfield, ~~Wheeler,~~ Valley, Boone, Greeley, ~~Sherman,~~ and Howard, and that part of Custer County which includes the townships of Comstock, Milburn, West Union, Sargent, Corner, Lillian, Douglas Grove, Westerville, Spring Creek, and Myrtle, and the city of Sargent. ~~; and in Hall County the townships of South Loup, Mayfield, Prairie Creek, Lake, Cameron, Harrison, and the north part of Center, known as Center 1 township; and in Custer County the townships of Milburn, West Union, Sargent, Corner, Comstock, Douglas Grove, and Spring Creek.~~

Sec. 44. That section 5-244, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

5-244. District No. 43 shall ~~consist of~~ contain the counties of Sheridan, Cherry, ~~Hooker,~~ Logan, Keya Paha, Brown, Blaine, Arthur, ~~Rock,~~ Thomas, Hooker, Grant, and McPherson and that part of Custer County not included in legislative district 41. ~~; and in Custer County the townships of Hayes, Victoria, Lillian, Arnold, Cliff, Kilfoil, Broken Bow, Garfield, Triumph, Ryno, Westerville, Berwyn, Myrtle, Custer, East Custer, Ansley, Algernon, Wayne, Grant, Wood River, Loup, Elk Creek, Elm, and Delight, and the city of Broken Bow.~~

Sec. 45. That section 5-245, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

5-245. District No. 44 shall ~~consist of~~

contain the counties of ~~Deuel, Arthur, Grant, Keith, Perkins,~~ Chase, Dundy, Hitchcock, ~~and~~ Hayes, Frontier, Red Willow, and Furnas and that part of Gosper County which includes the precincts of West Muddy, Elk Creek, Union, and Highland. ~~; and Sutherland precinct in Lincoln County.~~

Sec. 48. That section 5-248, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

5-248. District No. 47 shall ~~consist of~~ contain the counties of Cheyenne, ~~Morrill,~~ Kimball, Banner, ~~and~~ Garden, Deuel, Keith, and Perkins and that part of Morrill County which includes the precincts of Gilchrist, Broadwater, East Camp Clarke, and Redington and the city of Broadwater. ~~; and in Scotts Bluff County, the precincts of Ford, Kiowa, Dewey, Tabor, Castle Rock, and Highland.~~

Sec. 50. That section 5-250, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

5-250. District No. 49 shall ~~consist of~~ contain the counties of Sioux, Dawes, ~~Sheridan,~~ and Box Butte, that part of Morrill County not included in legislative district 47, and that part of Scotts Bluff County which includes the precincts of Funston, Dewey Tabor, Highland, Castle Rock A, and Castle Rock B, the city of Minature, the city of Melbeta, and the city of McGrew.".

2. On page 43, line 5, strike "41" and insert "36".

Mr. Schrock moved for a call of the house. The motion prevailed with 16 ayes, 0 nays, and 33 not voting.

Mr. Schrock requested a roll call vote on his amendment.

Voting in the affirmative, 16:

Beutler	Elmer	Lamb	Robak	Schrock
Crosby	Hefner	Nelson	Robinson	Smith
Cudaback	Johnson, L.	Peterson	Schmit	Wehrbein
Dierks				

Voting in the negative, 12:

Ashford	Bernard-Stevens	Chambers	Landis	Wesely
Baack	Byars	Coordsen	Moore	Withem
		Hall	Warner	

Present and not voting, 16:

Beyer	Hillman	Kristensen	Rasmussen	Schimek
Chizek	Horgan	Lindsay	Rogers	Wickersham
Conway	Johnson, R.	Pirsch	Schellpeper	Will
Haberman				

Excused and not voting, 5:

Abboud	Hartnett	Labedz	Lynch	Morrissey

The Schrock amendment lost with 16 ayes, 12 nays, 16 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Mr. Conway offered the following amendment:
(Amendment on file in the Clerk's Office - Room 2018 - AM2186.)

Messrs. Conway, Landis, Lindsay, and Mrs. Robak offered the following amendment to the pending Conway amendment:
AM2229

(Amendments to AM2186)

1. On page 9, strike beginning with the second "to" in line 23 through line 24.

2. On page 10, strike lines 1 through 3 and insert "to 57th Street, north on 57th Street to Leavenworth Street, east on Leavenworth Street to 52nd Street, north on 52nd Street to Howard Street, west on Howard Street to Happy Hollow Boulevard, north on Happy Hollow Boulevard to".

3. On page 14, strike beginning with the first "52nd" in line 16 through the second comma in line 20 and insert "Happy Hollow Boulevard, south on Happy Hollow Boulevard to Howard Street, east on Howard Street to 52nd Street, south on 52nd Street to Leavenworth Street, west on Leavenworth Street to 57th Street, south on 57th Street to Pacific Street,".

4. On page 29, strike beginning with

"Madison" in line 18 through "Grove" in line 19 and insert "Boone County which includes the precinct of Beaver".

5. On page 35, line 17, strike "11th" and insert "15th"; and strike line 21 and insert "Street to O Street, east on O Street to 9th Street, north on 9th Street to Interstate Highway 180, north on Interstate Highway 180 to Salt Creek, northeast along Salt Creek to 14th Street,".

6. On page 37, line 11, before the first "13th" insert "33rd Street, north on 33rd Street to R Street, west on R Street to 27th Street, south on 27th Street to O Street, west on O Street to"; and in lines 14 and 15 strike "11th" and insert "15th".

7. On page 47, line 16, reinstate the stricken "and" and strike "and"; in line 17 strike "Wheeler,"; and in line 18 strike "districts 18 and 22" and insert "district 18".

8. On page 48, line 8, reinstate the stricken "Wheeler,"; in line 9, strike "Boone" and strike the first comma and show as stricken; and in line 11 after the comma insert "that part of Boone County not included in legislative district 22,".

9. On page 52, line 11, before the first "35th" insert "27th Street, north on 27th Street to R Street, east on R Street to 33rd Street, south on 33rd Street to O Street, east on O Street to".

10. On page 53, strike the new matter in lines 8 and 9 and insert "Street to Salt Creek, southwest along Salt Creek to Interstate Highway 180, south on Interstate Highway 180 to 9th Street, south on 9th Street to O Street, and east on O Street to".

The Conway et al. amendment was adopted with 27 ayes, 0 nays, 17 present and not voting, and 5 excused and not voting.

The Conway amendment, as amended, was adopted with 29 ayes, 0 nays, 15 present and not voting, and 5 excused and not voting.

Mr. Landis withdrew his pending amendment, AM2179, found in the Journal on page 2685.

Mrs. Robak, Messrs. Dierks, and Rogers withdrew their pending amendment, AM2216, found in the Journal on page 2700.

Mr. Elmer offered the following amendment:
FA191

1. To strike sections 39 and 45 and insert the following new sections:

"Sec. 39. That sections 5-239, Revised Statutes of Nebraska 1943, be amended to read as follows:

5-239 District 38 shall contain the counties of Gosper, Phelps, Harlan, Franklin, Webster, that part of Furnas not contained in district 44 and that part of Nuckolls not contained in district 32

Sec. 45 That section 5-245, Revised Statutes of Nebraska be amended to read as follows:

5-245 District 44 shall contain the counties of Perkins, Chase, Dundy, Hayes, Hitchcock, Frontier, Red Willow and that part of Furnas containing the precincts of Cambridge, Wilsonville, Holbrook and Hendley.

2. On page 55, line 20, after the period, insert:

"Members of the Legislature elected to serve a district moved when the Legislature is redistricted shall continue to serve in office and represent that district until the end of his or her term, pursuant to article 3, Section 7 of the Nebraska Constitution."

Mr. Elmer withdrew his pending amendment.

Mr. Dierks offered the following amendment:
(Amendment on file in the Clerk's Office - Room 2018 - AM2225.)

Mr. Dierks moved for a call of the house. The motion prevailed with 19 ayes, 0 nays, and 30 not voting.

Mr. Dierks requested a roll call vote on his amendment.

Voting in the affirmative, 20:

Byars	Cudaback	Hefner	Lamb	Schellpeper
Conway	Dierks	Johnson, R.	Nelson	Schrock
Coordsen	Elmer	Kristensen	Peterson	Smith
Crosby	Haberman	Labedz	Robinson	Wehrbein

Voting in the negative, 19:

Ashford	Bernard-Stevens	Chambers	Hillman	Pirsch
Baack	Beutler	Chizek	Landis	Rasmussen
		Hall	Lindsay	Schimek

Schmit	Wesely	Wickersham	Will	Withem	Warner

Present and not voting, 7:

Beyer	Johnson, L.	Moore	Robak	Rogers	Horgan
Lynch					

Excused and not voting, 3:

Abboud	Hartnett	Morrissey

The Dierks amendment lost with 20 ayes, 19 nays, 7 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Mrs. Nelson and Mr. Haberman asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Conway offered the following amendment:
FA192
Amend amendment, AM2186
1. On page 25, line 9, after "Blaine," insert "that part of Burt County containing a portion of the Omaha Indian Reservation,".

The Conway amendment was adopted with 28 ayes, 1 nay, 15 present and not voting, and 5 excused and not voting.

Messrs. Beyer and Withem offered the following amendment:
FA193
Amend district #21 - delete area in Sarpy County from Harrison Street south on 204th to Cornhusker west on Cornhusker to 216th Street, south on 216th to Burlington Northern right-of-way southwest to a point on an east/west line one-half mile south of Schram Road, west on that line to the Platte River, north to Harrison, east on Harrison to point of beginning.
Add back into District #3.

The Beyer-Withem amendment was adopted with 25 ayes, 0 nays, 19 present and not voting, and 5 excused and not voting.

Mr. Dierks requested a machine vote on the advancement of the bill.

Advanced to E & R for engrossment with 27 ayes, 9 nays, 8 present and not voting, and 5 excused and not voting.

LEGISLATIVE RESOLUTION 186CA. E & R amendment, AM5175, found in the Journal on page 2687, was adopted.

Mr. Warner offered the following amendment:
AM2240

1. Insert the following new section:

"CVIII-13 'Each exemption from taxation of tangible personal property which is or has been granted by the Legislature shall terminate on January 1, 2003, unless extended by the Legislature for a period of ten years or less in the biennium prior to such date. Each such exemption and any new exemption granted since the last extension shall terminate every ten years, or a lesser number of years set by the Legislature, after the last termination date unless extended by the Legislature for another ten years or less. Nothing in this section shall be construed to affect the authority of the Legislature to enact or repeal exemptions from taxation.' ".

2. On page 1, line 6, strike "amendment" and insert "amendments"; and in line 7 after the last comma insert "and by adding a new section 13 to Article VIII," and strike "is" and insert "are".

3. On page 7, lines 7 and 11, strike "amendment" and insert "amendments"; in line 10 strike "proposition" and insert "propositions"; in line 12 strike "form" and insert "forms"; and after line 24 insert:

" 'A constitutional amendment to provide for termination and extension of exemptions from taxation of tangible personal property.

For

Against'.".

4. On page 8, line 1, after "That" insert "each of" and strike "amendment" and insert "amendments"; and in line 5 strike "it" and insert "them".

Mr. Wesely moved the previous question. The question is, "Shall the debate now close?"

Mr. Wesely moved for a call of the house. The motion prevailed with 13 ayes, 0 nays, and 36 not voting.

The motion to cease debate prevailed with 25 ayes, 0 nays, and 24 not voting.

Mr. Warner requested a roll call vote on his amendment.

Voting in the affirmative, 33:

Ashford	Chambers	Haberman	Landis	Schmit
Baack	Chizek	Hall	Lindsay	Warner
Bernard-Stevens	Coordsen	Hillman	Lynch	Wesely
Beutler	Crosby	Horgan	Moore	Wickersham
Beyer	Cudaback	Johnson, R.	Pirsch	Will
Byars	Dierks	Kristensen	Rasmussen	Withem
	Elmer	Labedz	Robak	

Voting in the negative, 9:

Conway	Johnson, L.	Rogers	Schrock	Wehrbein
Hefner	Lamb	Schellpeper	Smith	

Present and not voting, 3:

Peterson	Robinson	Schimek

Excused and not voting, 4:

Abboud	Hartnett	Morrissey	Nelson

The Warner amendment was adopted with 33 ayes, 9 nays, 3 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

Mr. Conway asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Hall offered the following amendment:
AM2248
1. In AM2149:
a. On page 1, line 7, strike ", 2, and 4" and insert "and 2";

b. On page 6, strike lines 13 through 24; and

c. On page 7, strike beginning with line 1 through the single quotation mark in line 6; in line 16 strike the comma and insert "and"; and strike beginning with the comma in line 19 through "property" in line 22.

2. On page 1, line 3, strike ", 2, and 4" and insert "and 2".

The Hall amendment was adopted with 26 ayes, 0 nays, 18 present and not voting, and 5 excused and not voting.

Messrs. Lindsay, Will, and Withem offered the following amendment: FA194

1. On page 6, line 3, after "Legislature" insert ", by three-fifths vote of its members,".

Mrs. Labedz asked unanimous consent to be excused until she returns. No objections. So ordered.

SPEAKER BAACK PRESIDING

Mr. Robinson moved the previous question. The question is, "Shall the debate now close?"

Mr. Robinson moved for a call of the house. The motion prevailed with 17 ayes, 0 nays, and 32 not voting.

The motion to cease debate prevailed with 25 ayes, 5 nays, and 19 not voting.

Mr. Lynch requested a record vote on the Lindsay-Will-Withem amendment.

Voting in the affirmative, 14:

Ashford	Hall	Lindsay	Rasmussen	Will
Chambers	Johnson, R.	Lynch	Schimek	Withem
Chizek	Landis	Pirsch	Wesely	

Voting in the negative, 26:

Baack	Beutler	Coordsen	Elmer	Hillman
Bernard-Stevens	Beyer	Crosby	Haberman	Horgan
	Byars	Cudaback	Hefner	Johnson, L.

Kristensen	Peterson	Rogers	Schrock	Wehrbein
Lamb	Robak	Schellpeper	Warner	Wickersham
Moore	Robinson			

Present and not voting, 4:

Dierks	Nelson	Schmit	Smith

Excused and not voting, 5:

Abboud	Conway	Hartnett	Labedz	Morrissey

The Lindsay-Will-Withem amendment lost with 14 ayes, 26 nays, 4 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Messrs. Schmit and Lindsay asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Warner offered the following amendment:
FA195
(Amendment to AM2240)
On page 1, line 1, after "taxation" insert "by valuation" in line 7, after the second "exemption" insert "from taxation by valuation of tangible personal property"

The Warner amendment was adopted with 26 ayes, 0 nays, 16 present and not voting, and 7 excused and not voting.

Mr. Ashford asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Haberman moved the previous question. The question is, "Shall the debate now close?" The motion lost with 15 ayes, 12 nays, and 22 not voting.

Mr. Hall moved to suspend the rules, Rule 4 Section 2 so as to permit the final vote on LR 186CA today.

Mr. Hall withdrew his pending motion to suspend the rules.

Mr. Chambers moved to indefinitely postpone LR 186CA.

PRESIDENT MOUL PRESIDING

Mr. Coordsen asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Chambers moved for a call of the house. The motion prevailed with 14 ayes, 0 nays, and 35 not voting.

Mr. Chambers requested a roll call vote on his motion to indefinitely postpone

Voting in the affirmative, 3:

Chambers	Crosby	Lynch

Voting in the negative, 36:

Baack	Dierks	Johnson, R.	Peterson	Schimek
Bernard-Stevens	Elmer	Kristensen	Pirsch	Schrock
Beutler	Haberman	Labedz	Rasmussen	Smith
Beyer	Hall	Lamb	Robak	Warner
Byars	Hefner	Landis	Robinson	Wehrbein
Chizek	Hillman	Moore	Rogers	Wesely
Cudaback	Horgan	Nelson	Schellpeper	Wickersham
	Johnson, L.			

Present and not voting, 2:

Will	Withem

Excused and not voting, 8:

Abboud	Conway	Hartnett	Morrissey	Schmit
Ashford	Coordsen	Lindsay		

The Chambers motion to indefinitely postpone lost with 3 ayes, 36 nays, 2 present and not voting, and 8 excused and not voting.

The Chair declared the call raised.

Mr. Lamb moved for a call of the house. The motion prevailed with 33 ayes, 0 nays, and 16 not voting.

Mr. Chambers requested a roll call vote on the advancement of the resolution.

Voting in the affirmative, 34:

Baack	Dierks	Johnson, L.	Nelson	Schimek
Bernard-Stevens	Elmer	Johnson, R.	Peterson	Schrock
Beutler	Haberman	Kristensen	Rasmussen	Smith
Beyer	Hall	Labedz	Robak	Warner
Byars	Hefner	Lamb	Robinson	Wehrbein
Cudaback	Hillman	Landis	Rogers	Wesely
	Horgan	Moore	Schellpeper	Wickersham

Voting in the negative, 4:

Chambers	Crosby	Lynch	Withem

Present and not voting, 3:

Chizek	Pirsch	Will

Excused and not voting, 8:

Abboud	Conway	Hartnett	Morrissey	Schmit
Ashford	Coordsen	Lindsay		

Advanced to E & R for engrossment with 34 ayes, 4 nays, 3 present and not voting, and 8 excused and not voting.

The Chair declared the call raised.

MESSAGE FROM THE GOVERNOR

May 31, 1991

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 200 and 444 were received in my office on May 30, 1991.

These bills were signed by me on May 31, 1991, and delivered to the Secretary of State.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

UNANIMOUS CONSENT - Print in Journal

Mrs. Smith asked unanimous consent to print the following amendment to LB 718 in the Journal. No objections. So ordered.

AM2239

(Amendments to AM1627)

1. Strike section 20.

2. On page 4, lines 1 and 11; page 5, line 12, strike "sections 15 and 20" and insert "section 15".

3. On page 6, line 4, strike "20" and insert "19".

4. Renumber the remaining sections accordingly.

SELECT FILE

LEGISLATIVE BILL 783A. Considered.

Messrs. Lynch, R. Johnson, and Withem asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Haberman moved the previous question. The question is, "Shall the debate now close?"

Mr. Haberman moved for a call of the house. The motion prevailed with 13 ayes, 0 nays, and 36 not voting.

Mr. Bernard-Stevens requested a roll call vote on the motion to cease debate.

Voting in the affirmative, 27:

Byars	Cudaback	Hall	Labedz	Pirsch
Conway	Dierks	Hefner	Lamb	Rasmussen
Coordsen	Elmer	Hillman	Nelson	Robak
Crosby	Haberman	Johnson, L.	Peterson	Robinson

Rogers	Schrock	Wehrbein	Wesely	Wickersham
Schellpeper	Smith			

Voting in the negative, 9:

Bernard-Stevens	Beutler	Chizek	Landis	Warner
	Chambers	Horgan	Moore	Will

Present and not voting, 5:

Baack	Beyer	Kristensen	Lynch	Schimek

Excused and not voting, 8:

Abboud	Hartnett	Lindsay	Schmit	Withem
Ashford	Johnson, R.	Morrissey		

The motion to cease debate prevailed with 27 ayes, 9 nays, 5 present and not voting, and 8 excused and not voting.

Mr. Chambers requested a roll call vote on the advancement of the bill.

Voting in the affirmative, 26:

Byars	Haberman	Labedz	Pirsch	Schrock
Conway	Hefner	Lamb	Rasmussen	Smith
Coordsen	Hillman	Lynch	Robak	Wehrbein
Cudaback	Horgan	Nelson	Rogers	Wesely
Dierks	Johnson, L.	Peterson	Schellpeper	Wickersham
Elmer				

Voting in the negative, 11:

Baack	Beutler	Crosby	Kristensen	Moore
Bernard-Stevens	Beyer	Hall	Landis	Warner
	Chambers			

Present and not voting, 4:

Chizek	Robinson	Schimek	Will

Excused and not voting, 8:

Abboud	Hartnett	Lindsay	Schmit	Withem
Ashford	Johnson, R.	Morrissey		

Advanced to E & R for engrossment with 26 ayes, 11 nays, 4 present and not voting, and 8 excused and not voting.

The Chair declared the call raised.

Messrs. Haberman and Lynch asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Elmer asked unanimous consent to be excused. No objections. So ordered.

SPEAKER BAACK PRESIDING

LEGISLATIVE RESOLUTION 24CA. Mr. Hall withdrew his pending amendment, AM1558, found in the Journal on page 1895.

Mrs. Smith renewed her pending amendment, AM1717, found in the Journal on page 2033.

Mrs. Smith moved for a call of the house. The motion prevailed with 6 ayes, 0 nays, and 43 not voting.

The Smith amendment was adopted with 25 ayes, 0 nays, 14 present and not voting, and 10 excused and not voting.

The Chair declared the call raised.

Mrs. Smith withdrew the pending Hartnett amendment, AM0776, found in the Journal on page 2343.

Mrs. Smith withdrew her pending amendment, AM2182, found in the Journal on page 2624.

Mr. Hall asked unanimous consent to replace his pending amendment, AM2167, found in the Journal on page 2625, with a substitute amendment. No objections. So ordered.

Mr. Hall withdrew his pending amendment, AM2167, found in the Journal on page 2625.

Mr. Hall offered the following substitute amendment:

AM2236

1. Strike the original sections and all amendments thereto and insert the following new sections:

"Section 1. That at the general election in November 1992 there shall be submitted to the electors of the State of Nebraska for approval the following amendment to the Constitution of Nebraska by amending Article III, section 24, which is hereby proposed by the Legislature:

CIII-24 'The Except as provided in this section, the Legislature shall not authorize any game of chance, nor or any lottery, or gift enterprise when the consideration for a chance to participate involves the payment of money for the purchase of property, services, or a chance or admission ticket or requires an expenditure of substantial effort or time.

The Legislature, except that it may authorize and regulate a state lottery and other lotteries, raffles, and gift enterprises which if such other lotteries, raffles, and gift enterprises are intended solely as business promotions or the proceeds of which are to be used solely for charitable or community betterment purposes without profit to the promoter of such lotteries, raffles, or gift enterprises. No type of lottery game shall be conducted as part of the state lottery unless the game has been approved by a majority of the members of the Legislature.

Because of the uncertainty of the amount of revenue to be generated from a state lottery, the revenue received from such state lottery shall be credited to a separate lottery account and shall not be credited to the General Fund. The Legislature may annually appropriate an amount from the lottery account for purposes of establishing, promoting, and maintaining the state lottery and for any other purposes approved by a majority of the members of the Legislature. No appropriation from the lottery account shall be made in excess of the amount in the lottery account, and the Legislature may not appropriate or pledge any funds from the lottery account in any future year. Article I, sections 16 and 25, Article III, section 18, and Article XIII, section 3, of this Constitution shall not limit in any way the discretion of the Legislature in

appropriating money from the lottery account.

Nothing in this section shall be construed to prohibit the enactment of laws providing for the licensing and regulation of wagering on the results of horseraces, wherever run, either within or outside of the state, by the parimutuel method, when such wagering is conducted by licensees within a licensed racetrack enclosure, or to prohibit the enactment of laws providing for the licensing and regulation of bingo games conducted by nonprofit associations which have been in existence for a period of five years immediately preceding the application for license, except that bingo games cannot be conducted by agents or lessees of such associations on a percentage basis.'.

Sec. 2. That the proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1. The proposition for the submission of the proposed amendment shall be placed upon the ballot in the following form:

'A constitutional amendment to authorize the Legislature to establish a lottery which is operated and regulated by the state, to provide that the revenue from such lottery be credited to a separate lottery account, and to limit appropriations from the lottery account.

For

Against'.

Sec. 3. That the proposed amendment, if adopted, shall be in force and take effect immediately upon the completion of the canvass of the votes, at which time it shall be the duty of the Governor to proclaim it as a part of the Constitution of Nebraska.".

Mrs. Smith offered the following amendment to the pending Hall amendment:

FA196

Amend AM2236:

On page 2, line 5, after "the" insert "type of".

The Smith amendment was adopted with 25 ayes, 0 nays, 17 present and not voting, and 7 excused and not voting.

Mrs. Smith offered the following amendment to the pending Hall amendment:
FA197
strike the new lang. p. 2 starting after the period, line 19, through line 23.

MR. LANDIS PRESIDING

Mr. Conway asked unanimous consent to be excused until he returns. No objections. So ordered.

Mrs. Smith moved for a call of the house. The motion prevailed with 29 ayes, 0 nays, and 20 not voting.

Mrs. Smith requested a roll call vote on her amendment.

Voting in the affirmative, 22:

Beyer	Hefner	Kristensen	Robak	Schrock
Byars	Hillman	Lamb	Robinson	Smith
Chambers	Horgan	Peterson	Rogers	Wehrbein
Cudaback	Johnson, L.	Pirsch	Schellpeper	Wickersham
Dierks	Johnson, R.			

Voting in the negative, 14:

Baack	Coordsen	Labedz	Moore	Wesely
Beutler	Crosby	Landis	Schimek	Will
Chizek	Hall	Lynch	Warner	

Present and not voting, 3:

Ashford	Nelson	Withem

Absent and not voting, 2:

Bernard-Stevens	Rasmussen

Excused and not voting, 8:

Abboud	Elmer	Hartnett	Morrissey	Schmit
Conway	Haberman	Lindsay		

The Smith amendment lost with 22 ayes, 14 nays, 3 present and not voting, 2 absent and not voting, and 8 excused and not voting.

The Chair declared the call raised.

Mr. Moore offered the following amendment to the pending Hall amendment:
FA198
Amend AM2236
On page 2, line 12, strike "annually"
On page 2, line 15, strike beginning with "No", through the period in line 19.

Mr. Rogers asked unanimous consent to be excused until he returns. No objections. So ordered.

PRESIDENT MOUL PRESIDING

Mr. Moore withdrew his pending amendment, FA198.

Mr. Hall asked unanimous consent to withdraw his pending amendment, AM2236. No objections. So ordered.

Mrs. Smith offered the following amendment:
AM2254
1. On page 2, line 19, after the period insert "The Legislature shall authorize a lottery game or games for the exclusive use of a city or county lottery authorized under subsection (2) of this section, and such lottery game or games shall not be approved for use as part of a state lottery authorized under this subsection.".
2. On page 3, line 16, after "state" insert "and to authorize a lottery game or games for the exclusive use of a city or county lottery".

Mr. Baack asked unanimous consent to be excused until he returns. No objections. So ordered.

The Smith amendment lost with 5 ayes, 15 nays, 19 present and not voting, and 10 excused and not voting.

Mr. R. Johnson asked unanimous consent to be excused until he returns. No objections. So ordered.

Messrs. Beutler, Landis, Wesely, Warner, Mrs. Crosby, and Ms. Schimek offered the following amendment:
AM2205

1. On page 1, line 1, strike "an amendment" and insert "amendments"; and in line 3 after "24" insert ", and by adding a new section 30 to Article III".

2. Strike original sections 1 to 3 and insert the following new sections:

"Section 1. That at the general election in November 1992 there shall be submitted to the electors of the State of Nebraska for approval the following amendments to the Constitution of Nebraska by amending Article III, section 24, and by adding a new section 30 to Article III, which are hereby proposed by the Legislature:

CIII-24 'The (1) Except as provided in this section, the Legislature shall not authorize any game of chance, nor or any lottery, or gift enterprise when the consideration for a chance to participate involves the payment of money for the purchase of property, services, or a chance or admission ticket or requires an expenditure of substantial effort or time.

(2) The Legislature , except that it may authorize and regulate a state lottery pursuant to subsection (3) of this section and other lotteries, raffles, and gift enterprises which are intended solely as business promotions or the proceeds of which are to be used solely for charitable or community betterment purposes without profit to the promoter of such lotteries, raffles, or gift enterprises.

(3) The Legislature may establish a lottery to be operated and regulated by the State of Nebraska. The proceeds of the lottery shall be appropriated by the Legislature for the costs of establishing and maintaining the lottery and for other purposes as directed by the Legislature. No lottery game shall be conducted as part of the lottery unless the game has been approved by a majority of the members of the Legislature.

(4) Nothing in this section shall be construed to prohibit (a) the enactment of laws providing for the licensing and regulation of wagering on the results of horseraces, wherever run, either within or outside of the state, by the parimutuel method, when such wagering

is conducted by licensees within a licensed racetrack enclosure~~,~~ or ~~to prohibit~~ (b) the enactment of laws providing for the licensing and regulation of bingo games conducted by nonprofit associations which have been in existence for a period of five years immediately preceding the application for license, except that bingo games cannot be conducted by agents or lessees of such associations on a percentage basis.'

CIII-30 'If the Legislature establishes a lottery operated and regulated by the state pursuant to this Constitution, the Legislature may use the proceeds or a portion of the proceeds from such lottery to compensate depositors of industrial loan and investment companies for unreimbursed losses of guaranteed deposits held by industrial loan and investment companies which filed for bankruptcy or entered receivership after November 1, 1983, notwithstanding any other provision of this Constitution'.

Sec. 2. That the proposed amendments shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1. The proposition for the submission of the proposed amendments shall be placed upon the ballot in the following forms:

'A constitutional amendment to authorize the Legislature to establish a lottery which is operated and regulated by the state.

For

Against'.

'A constitutional amendment to authorize the Legislature to use the proceeds, or a portion thereof, from the state lottery to compensate depositors of industrial loan and investment companies for unreimbursed losses of guaranteed deposits held by industrial loan and investment companies which filed for bankruptcy or entered receivership after November 1, 1983.

For

Against'.

Sec. 3. That either of the proposed amendments, if adopted, shall be in force and take effect immediately upon the completion of the canvass of the votes, at which time it shall be the duty of the

17 Governor to proclaim it or them as a part of the
18 Constitution of Nebraska.".

Messrs. Cudaback and Schrock asked unanimous consent to be excused. No objections. So ordered.

Mr. Chambers offered the following amendment to the pending Beutler et al. amendment:
FA199
Amend Beutler Amendment (AM2205)
The Legislature shall not be empowered to make appropriations to compensate such depositors pursuant to this provision after July 1, 1997. (P. 3, line 14, after "Constitution", ADD)

Mr. Hall moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

The Chambers amendment was adopted with 25 ayes, 0 nays, 14 present and not voting, and 10 excused and not voting.

Mr. Beutler moved for a call of the house. The motion prevailed with 21 ayes, 0 nays, and 28 not voting.

The Beutler et al. amendment, as amended, was adopted with 26 ayes, 6 nays, 8 present and not voting, and 9 excused and not voting.

The Chair declared the call raised.

Mrs. Rasmussen asked unanimous consent to be excused until she returns. No objections. So ordered.

Mr. Chambers offered the following amendment:
FA200
Page 3, line 7, after "basis", strike the period and add: ", or to prohibit the enactment of laws providing for the licensing and regulation of wagering on sporting events."

SPEAKER BAACK PRESIDING

Mr. Landis moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

Mr. Chambers withdrew his pending amendment.

Mrs. Smith offered the following amendment:
FA201
Amend AM2205:
On page 2, line 13, after "the" insert "type of".

The Smith amendment was adopted with 25 ayes, 0 nays, 14 present and not voting, and 10 excused and not voting.

Mr. Chambers offered the following amendment:
FA202
To be added as a separate ballot proposition, add the following: "Nothing in this Constitution shall prohibit the enactment of laws providing for the licensing and regulation of wagering on sporting events."

The Chambers amendment lost with 10 ayes, 17 nays, 13 present and not voting, and 9 excused and not voting.

Mr. Hefner requested a machine vote on the advancement of the resolution.

Advanced to E & R for engrossment with 26 ayes, 7 nays, 7 present and not voting, and 9 excused and not voting.

LEGISLATIVE BILL 669. E & R amendment, AM5166, found in the Journal on page 2544, was adopted.

Mr. Ashford requested a machine vote on the advancement of the bill.

Mr. R. Johnson moved for a call of the house. The motion prevailed with 19 ayes, 0 nays, and 30 not voting.

Mr. R. Johnson requested a roll call vote on the advancement of the bill.

Voting in the affirmative, 16:

Baack	Johnson, R.	Moore	Rogers	Warner
Conway	Kristensen	Peterson	Schellpeper	Wehrbein
Hefner	Labedz	Pirsch	Smith	Wickersham
Hillman				

Voting in the negative, 11:

Ashford	Chambers	Landis	Schimek	Will
Bernard-Stevens	Hall	Robinson	Wesely	Withem
	Johnson, L.			

Present and not voting, 13:

Beutler	Chizek	Dierks	Lynch	Rasmussen
Beyer	Coordsen	Horgan	Nelson	Robak
Byars	Crosby	Lamb		

Excused and not voting, 9:

Abboud	Elmer	Hartnett	Morrissey	Schrock
Cudaback	Haberman	Lindsay	Schmit	

Failed to advance to E & R for engrossment with 16 ayes, 11 nays, 13 present and not voting, and 9 excused and not voting.

SELECT COMMITTEE REPORTS
Enrollment and Review

Correctly Engrossed

The following bills were correctly engrossed: 91, 91A, 615, 616, 617, 618, 619, 773, 783A, and 795.

(Signed) Eric Will, Chairperson

Enrollment and Review Change to LB 91

The following changes, required to be reported for publication in the Journal, have been made:
ER7102

1. In the Withem amendment, AM1658:

a. On page 2, line 13, "as provided in this section" has been struck; and

b. On page 4, line 8, "populations of students" has been struck and "population" inserted; in line 10 "the" and "of students" have been struck; in line 11 "in" has been inserted after "Participating"; in line 12 the first comma has been struck and "in" has been inserted

after the last comma; and in line 14 "in" has been inserted after the second "or".

2. In the E & R amendment, AM5138, on page 5, line 16, "to provide for salary enhancement plans as prescribed;" has been inserted after the first semicolon.

Enrollment and Review Change to LB 91A

The following changes, required to be reported for publication in the Journal, have been made:
ER7103

1. On page 1, line 4, "; and to provide for administrative transfers" has been inserted after "1991".

Enrollment and Review Change to LB 615

The following changes, required to be reported for publication in the Journal, have been made:
ER7106

1. In the E & R amendments, AM5172, on page 3, lines 15 and 16 and 17, ", townships," has been struck.

Enrollment and Review Change to LB 616

The following changes, required to be reported for publication in the Journal, have been made:
ER7107

1. In the E & R amendment, AM5173, on page 3, lines 22 and 23 and 24, "precincts, townships, and cities" has been struck and "precinct and city" inserted.

Enrollment and Review Change to LB 617

The following changes, required to be reported for publication in the Journal, have been made:
ER7104

1. In the E & R amendment, AM5168:

a. On page 6, line 24, ", townships, and" has been struck and shown as stricken; and

b. On page 7, line 1, "cities" has been struck and shown as stricken; and the matter beginning with the comma in line 1 through "cities" in line 2 has been struck and shown as stricken.

Enrollment and Review Change to LB 619

The following changes, required to be reported for publication in the Journal, have been made:
ER7105

1. In the E & R amendment, AM5169, on page 7, lines 8 and 9 and 10, ", townships, and cities" has been struck and shown as stricken.

Enrollment and Review Change to LB 773

The following changes, required to be reported for publication in the Journal, have been made:
ER7100

1. In the Smith amendment, AM2181, section 26 has been renumbered as section 40.

2. To aid potential correlation with section 1, LB727:

a. In the Hall amendment, AM1037, on page 1, line 4, "fees charged by" has been inserted after "(iii)"; and

b. On page 19, line 22, "(i)" has been inserted after "include" and "(i)" has been struck and shown as stricken; and in line 24 "fees charged by" has been inserted after "(ii)".

3. In the Conway amendment, FA122, on page 1, line 4, "that" has been struck and "those" inserted.

4. In the Conway amendment, AM1303:

a. On page 1, line 19; and page 3, line 2, "Fund" has been inserted after "Education";

b. On page 3, line 10; and page 4, line 2, "effective date of this act" has been struck and "operative date of this section" inserted;

c. On page 4, lines 9, 10, 12, 13, 14, and 15, each comma has been struck, the old ones shown as stricken, and an underscored semicolon inserted;

d. On page 5, line 24, "26" has been struck and "31" inserted;

e. On page 9, line 2; page 10, line 20; page 11, lines 7, 13, and 20; page 14, line 9; page 15, line 13; page 18, lines 15 and 21 and 22; page 19, line 15; and page 20, line 16, "26, 27, and 33" has been struck and "31, 32, and 38" inserted; and

f. On page 15, line 15, the comma has been struck.

5. Original sections 12, 15, 16, and 17 and all amendments thereto have been struck and the following new sections inserted:

"Sec. 18. That section 77-2792, Reissue Revised Statutes of Nebraska, 1943, as amended by section 2, Legislative Bill 240, Ninety-second Legislature, First Session, 1991, be amended to read as follows:

77-2792. (1) The Tax Commissioner ~~is authorized to~~ may abate the unpaid portion of the assessment of any income tax or any liability in respect thereto~~,~~ which (a) is excessive in amount, (b) is assessed after the expiration of the period of limitations properly applicable thereto, ~~or~~ (c) is erroneously or illegally assessed, or (d) is the result of an inconsistent position under section 1311 of the Internal Revenue Code of 1986.

(2) No claim for abatement shall be filed by a taxpayer in respect to an assessment of any income tax imposed under the Nebraska Revenue Act of 1967.

(3) The Tax Commissioner ~~is authorized to~~ may abate the unpaid portion of the assessment of any tax~~,~~ or any liability in respect thereto~~,~~ if he or she determines under uniform rules prescribed by him or her that the administration and collection costs involved would not warrant collection of the amount due.

(4) In all proceedings under the Nebraska Revenue Act of 1967, the Tax Commissioner may act for and on behalf of the people of the State of Nebraska. The Tax Commissioner in his or her discretion may waive all or part of any penalties provided by such act but may not waive the minimum interest on delinquent taxes at the rate specified in section 45-104.01, as such rate may from time to time be adjusted by the Legislature, except as provided in this section.

(5) The Tax Commissioner may abate interest when:

(a) The interest is attributable to error or unreasonable delay in performing a ministerial duty by the Department of Revenue or to erroneous written advice given to the taxpayer by the Tax Commissioner or an employee of the department acting in his or her official capacity when the written advice was a direct response to a request from the taxpayer and the taxpayer reasonably relied upon the advice;

(b) The interest is attributable to an amount previously refunded by the Tax Commissioner for the period interest on such amount was not allowed under section 77-2794;

(c) The interest is attributable to the recovery of an amount erroneously refunded by the Tax Commissioner for the period the amount was actually held by the state, and the first ninety days after such amount was refunded, when such refund was not requested or caused by information provided by the taxpayer; or

(d) The interest on the related federal amount was abated by the Internal Revenue Service.

Sec. 39. Sections 1 to 10, 26 to 38, and 41 of this act shall become operative on October 1, 1991. Sections 11 to 20 and 42 of this act shall be operative for all taxable years beginning or deemed to begin on or after January 1, 1991, under the Internal Revenue Code of

1986, as amended. The other sections of this act shall be operative on their effective date.

Sec. 41. That original sections 28-429, 28-1439.02 to 28-1439.05, 77-2701, 77-2702, 77-2711, 77-4301, 77-4303, 77-4307 to 77-4309, 77-4311 to 77-4313, 77-4315, and 77-4316, Reissue Revised Statutes of Nebraska, 1943, and section 77-2704, Reissue Revised Statutes of Nebraska, 1943, as amended by section 14, Legislative Bill 244, Ninety-second Legislature, First Session, 1991, are repealed.

Sec. 42. That original sections 77-2715.08, 77-2715.09, 77-2716, 77-2717, 77-2727, 77-2734.01, 77-2768, 77-27,114, and 77-27,131, Reissue Revised Statutes of Nebraska, 1943, and section 77-2792, Reissue Revised Statutes of Nebraska, 1943, as amended by section 2, Legislative Bill 240, Ninety-second Legislature, First Session, 1991, are repealed.".

6. The matter beginning with "sections" on page 1, line 2 through page 2, line 3, and all amendments thereto have been struck and "sections 28-429, 28-1439.02 to 28-1439.05, 77-2701, 77-2702, 77-2711, 77-2715.08, 77-2715.09, 77-2716, 77-2717, 77-2727, 77-2734.01, 77-2768, 77-27,114, 77-27,131, 77-3512 to 77-3514, 77-3516, 77-3517, 77-4301, 77-4303, 77-4307 to 77-4309, 77-4311 to 77-4313, 77-4315, and 77-4316, Reissue Revised Statutes of Nebraska, 1943, section 77-2704, Reissue Revised Statutes of Nebraska, 1943, as amended by section 14, Legislative Bill 244, Ninety-second Legislature, First Session, 1991, and section 77-2792, Reissue Revised Statutes of Nebraska, 1943, as amended by section 2, Legislative Bill 240, Ninety-second Legislature, First Session, 1991; to change provisions relating to disclosure of certain information; to define and redefine terms; to change and provide exemptions from the sales and use tax; to authorize the waiver of certain interest and penalties; to change adjustments to income; to change provisions relating to taxation of trusts, partnerships, and certain corporations; to change the minimum tax amount required to be remitted; to change a provision relating to abatement of tax; to change a penalty provision; to change tax procedures; to authorize extension of filing deadlines for homestead exemptions; to change provisions relating to taxes on marijuana and controlled substances and provide for distribution of the proceeds; to provide for drug education activities; to create and rename funds; to harmonize provisions; to provide operative dates; and to repeal the original sections." inserted.

Enrollment and Review Change to LB 783A

The following changes, required to be reported for publication in the Journal, have been made:

ER7109

1. On page 1, line 4, "to lapse an appropriation;" has been inserted after the semicolon.

Enrollment and Review Change to LB 795

The following changes, required to be reported for publication in the Journal, have been made:

ER7101

1. In the Smith-Hall amendment, AM2217, sections 6 and 8 have been renumbered as sections 10 and 12 respectively.

2. In the Hartnett-Lynch amendment, AM1960, on page 2, line 1, an underscored comma has been inserted after "premises".

3. In the R. Johnson amendment, AM1707:

a. Sections 3 and 4 have been renumbered as sections 6 and 8 respectively;

b. On page 2, line 1, "3" has been struck and "6" inserted; and

c. Amendment 2 has been struck.

4. In the Wesely amendment, FA159, "class" has been struck.

5. In the Lindsay amendment, AM1444:

a. Sections 3 and 5 have been renumbered as sections 5 and 9 respectively;

b. On page 1, the matter beginning with "Pursuant" in line 2 through "5" in line 3 has been struck and "As authorized in section 9" inserted; and

c. Amendment 2 has been struck.

5. In the Hall amendment, AM1650:

a. Section 1 has been renumbered as section 7;

b. On page 2, line 12, the comma has been struck; and in line 14 "electronically" has been struck and "electrically" inserted; and

c. On page 3, lines 20 and 21 have been struck.

6. All repealers and all amendments thereto have been struck and the following new sections inserted:

"Sec. 4. That section 9-601, Revised Statutes Supplement, 1990, as amended by section 54, Legislative Bill 427, Ninety-second Legislature, First Session, 1991, be amended to read as follows:

9-601. Sections 9-601 to 9-653, ~~and~~ section 64 of this act, and sections 5 and 6 of this act shall be known and may be cited as the Nebraska County and City Lottery Act.

Sec. 11. That original sections 9-301, 9-329.03, 9-607, and 9-629, Revised Statutes Supplement, 1990, and section 9-601, Revised Statutes Supplement, 1990, as amended by section 54, Legislative Bill 427, Ninety-second Legislature, First Session, 1991, are repealed.".

7. On page 1, the matter beginning with "the" in line 1 through line 11 has been struck and "gaming and sports; to amend sections 9-301, 9-329.03, 9-607, and 9-629, Revised Statutes Supplement, 1990, and section 9-601, Revised Statutes Supplement, 1990, as amended by section 54, Legislative Bill 427, Ninety-second Legislature, First Session, 1991; to require orders involving pickle card operators to be issued as prescribed; to eliminate a revenue requirement pertaining to pickle card operators; to provide for the use of county and city lottery proceeds for purposes related to baseball and horseracing; to create a fund; to change provisions relating to the determination of county and city lottery winners; to authorize the acquisition and operation of a professional baseball organization by certain cities; to harmonize provisions; to provide severability; to repeal the original sections; and to declare an emergency." inserted.

(Signed) Mary E. Sommermeyer
E & R Attorney

UNANIMOUS CONSENT - Print in Journal

Mr. Hall asked unanimous consent to print the following amendment to LB 829 in the Journal. No objections. So ordered.

AM2235

1. In AM2169:

a. Strike section 21 and all amendments thereto and insert the following new section:

"Sec. 24. (1) For 1992, there is hereby levied on all corporations subject to the occupation tax prescribed in sections 21-303 to 21-306 or corporations exempt therefrom pursuant to section 21-321 a fee of one hundred fifty dollars per corporation to be levied and collected in the same manner as the occupation tax prescribed in sections 21-301 to 21-325.

(2) For 1992, there shall be a special assessment of one hundred fifty dollars on all nonprofit corporations in Nebraska except corporations exempt under section 501(c)(3) of the Internal Revenue Code of 1986, as amended. On January 1, 1992, the Secretary of State shall cause to be mailed by first-class mail to the last-named registered agent at the last-known address of each nonprofit corporation subject to Chapter 21, article 19, a notice stating that the fee of one hundred fifty dollars is to be paid on June 1, 1992, or

that verification that the corporation is an exempt corporation pursuant to section 501(c)(3) of the Internal Revenue Code, as amended, should be provided by such date. If the fee is not paid or the verification is not provided by such date, a delinquent corporation shall be automatically dissolved for the failure to so pay or provide and the Secretary of State shall dissolve the corporation and make such entry and showing upon the records of his or her office. The fee shall be levied and collected in the same manner as provided in Chapter 21, article 19.";

b. On page 9, lines 15 and 16, strike "source or fuel" and insert "sources or fuels"; and in line 22 strike "source" and insert "sources or fuels";

c. On page 10, line 2, after "hospital" insert ". Any taxpayer who has paid more than one hundred thousand dollars of tax on such energy sources or fuels at one location shall be entitled to a refund of any amount paid in excess of one hundred thousand dollars. A refund shall be made pursuant to section 77-2708"; and

d. On page 19, strike lines 5 and 6.

2. Renumber the remaining sections and correct internal references accordingly.

3. Correct the operative date provision to reflect that the section added by this amendment becomes operative on its effective date.

Mr. Hall asked unanimous consent to print the following amendment to LB 829 in the Journal. No objections. So ordered.

AM2252

(Amendments to AM5164)

1. On page 21, line 19, after "income" insert ", other than motor vehicles required to be registered under sections 60-301 to 60-347"; and in line 24 after "income" insert ", other than motor vehicles required to be registered under sections 60-301 to 60-347,".

2. On page 23, line 13, after "(5)" insert "In addition to the surcharge imposed by subsection (1) of this section, there is hereby imposed a surcharge of two percent of all depreciation of railroad operating property as described in section 77-602, the property of public service entities as defined in section 77-801.01, and the property of air carriers as defined in section

77-1244. The surcharge imposed by this subsection shall be levied and collected in the same manner as the surcharge imposed by subsection (1) of this section;

(6)".

MOTION - Adjournment

Mr. Hefner moved to adjourn until 9:00 a.m., Monday, June 3, 1991. The motion lost with 19 ayes, 20 nays, 1 present and not voting. and 9 excused and not voting.

The Chair declared the call raised.

UNANIMOUS CONSENT - Member Excused

Mr. Peterson asked unanimous consent to be excused. No objections. So ordered.

SELECT FILE

LEGISLATIVE BILL 849. E & R amendment, AM5159, found in the Journal on page 2139, was adopted.

Mr. Beutler withdrew his pending amendment, AM1647, found in the Journal on page 1982.

Mrs. Pirsch asked unanimous consent to be excused. No objections. So ordered.

Mr. R. Johnson asked unanimous consent to replace his pending amendment, AM1511, found in the Journal on page 1982, with a substitute amendment. No objections. So ordered.

Mr. R. Johnson withdrew his pending amendment, AM1511, found in the Journal on page 1982.

Mr. R. Johnson offered the following substitute amendment:
AM2232

(Amendments to Standing Committee amendments, AM1071)

1. In the Standing Committee amendments, AM1071, on page 14, after line 6, insert the following new subsection:

(6) The Thoroughbred Racing Assistance Fund is hereby created. The fund shall consist of the money to

be transferred to such fund pursuant to subsection (1) of this section. The Thoroughbred Racing Assistance Fund shall be for the purpose of supplementing purses for live thoroughbred racing in Nebraska. Twenty-five percent of the fund shall be distributed as purse supplements and breeder and stallion awards for Nebraska-bred horses as defined and registered pursuant to section 2-1213 at the racetrack where the funds were generated. The fund shall be distributed by the State Racing Commission to the licensed race tracks based proportionately on the percentage of the live race handle of the prior year."; in line 7 strike "(4)" and all amendments thereto and insert "(7)"; in line 9 before "available" insert ", or the Thoroughbred Racing Assistance Fund"; and in line 12 strike "(5)" and all amendments thereto and insert "(8)".

2. In the Abboud amendment, AM1654, on page 1, line 16, strike "or".

3. In the E & R amendment, AM5159, on page 1, line 4, strike "and" and after the last quotation mark insert "; and in line 6 after 'section' insert ', and two percent of such money shall be transferred to the Thoroughbred Racing Assistance Fund to be used as provided in subsection (6) of this section'"; and in line 12 and 14 strike "forty-nine" and insert "forty-eight".

MR. CONWAY PRESIDING

Mr. Landis asked unanimous consent to be excused. No objections. So ordered.

Mr. Schellpeper offered the following amendment to the pending R. Johnson amendment:
FA203
Amend AM2232 to state 1% to horsemen
1% to race tracks

The Schellpeper amendment lost with 10 ayes, 9 nays, 19 present and not voting, and 11 excused and not voting.

Pending.

VISITORS

Visitors to the Chamber were Mrs. Clare Hungate and Mrs. Jim Hungate.

ADJOURNMENT

At 9:46 p.m., on a motion by Mr. Withem, the Legislature adjourned until 9:00 a.m., Monday, June 3, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

EIGHTY-EIGHTH DAY - JUNE 3, 1991

LEGISLATIVE JOURNAL

EIGHTY-EIGHTH DAY - JUNE 3, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

EIGHTY-EIGHTH DAY

Legislative Chamber, Lincoln, Nebraska
Monday, June 3, 1991

Pursuant to adjournment, the Legislature met at 9:02 a.m., Speaker Baack presiding.

PRAYER

The prayer was offered by Pastor Lucille L. Fritz-Schoup, Northeast Community Church, United Church of Christ, Lincoln, Nebraska.

ROLL CALL

The roll was called and all members were present except Mr. Haberman who was excused; and Messrs. Bernard-Stevens, Beyer, Chambers, Conway, Hall, Landis, Schmit, and Mrs. Pirsch who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Eighty-Seventh Day was approved.

SELECT COMMITTEE REPORTS
Enrollment and Review

Correctly Engrossed

The following resolutions were correctly engrossed: LR 24CA and LR 186CA.

(Signed) Eric Will, Chairperson

Enrollment and Review Change to LR 24CA

The following changes, required to be reported for publication in the Journal, have been made:
ER7111

1. In the Smith amendment, FA201, "the second" has been inserted after "after".

2. In the Beutler, et al., amendment, AM2205, on page 4, line 3, ", if it establishes a state lottery pursuant to the Constitution," has been inserted after "Legislature"; and in line 4 "from the state lottery" has been struck.

Enrollment and Review Change to LR 186CA

The following changes, required to be reported for publication in the Journal, have been made:
ER7110

1. In the Warner amendment, AM2240, on page 2, line 4, "by valuation" has been inserted after "taxation"; in line 9 "each" has been struck and "either" inserted; and in line 11 "it or" has been inserted before "them".

2. On page 1, line 1, "an amendment" has been struck and "amendments" inserted; and in line 3 ", and by adding a new section 13 to Article VIII" has been inserted before the period.

(Signed) Mary E. Sommermeyer
E & R Attorney

BILL ON FINAL READING

The following bill was read and put upon final passage:

LEGISLATIVE BILL 703. With Emergency.

A BILL FOR AN ACT relating to public health and welfare; to amend sections 71-125, 71-131, 71-132, 71-138, 71-162, 71-1,132.06, 71-1,132.11, 71-1,147.03, 71-1,147.05, 71-1,147.07, 71-1,147.08, 71-382, 71-503.01, 71-601, 71-605.02, 71-612, 71-617.15, 71-627, 71-634, 71-1559, 71-2618, 71-3508.04, 71-3702 to 71-3706, 71-3708 to 71-3710, 71-3713, 71-3714, 71-4604.01, 71-4624, 71-6303, 71-6601 to 71-6603, 71-6605 to 71-6607, 71-6609, 71-6612, 71-6614, 71-6615, 77-2602, 81-216.27, 81-638, 81-643, 81-644, 81-645, 81-647, and 81-649, Reissue Revised Statutes of Nebraska, 1943, sections 44-32,163, 81-642, and 81-648, Revised Statutes Supplement, 1990,

and section 71-2017.01, Reissue Revised Statutes of Nebraska, 1943, as amended by section 4, Legislative Bill 244, Ninety-second Legislature, First Session, 1991; to adopt the Critical Incident Stress Debriefing Act; to change and eliminate provisions relating to examinations, fees, and funds; to permit disclosure of certain confidential reports as prescribed; to change provisions relating to the scope of nursing, immunity, birth certificates, home health aides, and the cancer registry; to state intent; to define, redefine, and eliminate terms; to rename sanitarians, a board, and a fund; to provide penalties; to provide duties for the office of mental retardation or Department of Public Institutions and the Board of Nursing; to eliminate provisions relating to home health aides and special care providers; to harmonize provisions; to provide operative dates; to provide severability; to repeal the original sections, and also sections 71-126, 71-6502, 71-6604, 71-6610, 71-6611, 71-6613, and 83-1,143.04, Reissue Revised Statutes of Nebraska, 1943; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 40:

Abboud	Dierks	Kristensen	Peterson	Schrock
Ashford	Elmer	Labedz	Rasmussen	Smith
Baack	Hartnett	Lamb	Robak	Warner
Byars	Hefner	Lindsay	Robinson	Wehrbein
Chizek	Hillman	Lynch	Rogers	Wesely
Coordsen	Horgan	Moore	Schellpeper	Wickersham
Crosby	Johnson, L.	Morrissey	Schimek	Will
Cudaback	Johnson, R.	Nelson	Schmit	Withem

Voting in the negative, 0.

Present and not voting, 1:

Beutler

Excused and not voting, 8:

Bernard-Stevens	Beyer	Conway	Hall	Pirsch
	Chambers	Haberman	Landis	

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

WITHDRAW - Amendment to LB 703A

Mr. Wesely withdrew his pending amendment, AM2223, found in the Journal on page 2699, to LB 703A.

BILLS ON FINAL READING

The following bills were read and put upon final passage:

LEGISLATIVE BILL 703A.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 703, Ninety-second Legislature, First Session, 1991.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 40:

Abboud	Dierks	Kristensen	Peterson	Schrock
Ashford	Elmer	Labedz	Rasmussen	Smith
Baack	Hartnett	Lamb	Robak	Warner
Byars	Hefner	Lindsay	Robinson	Wehrbein
Chizek	Hillman	Lynch	Rogers	Wesely
Coordsen	Horgan	Moore	Schellpeper	Wickersham
Crosby	Johnson, L.	Morrissey	Schimek	Will
Cudaback	Johnson, R.	Nelson	Schmit	Withem

Voting in the negative, 0.

Present and not voting, 1:

Beutler

Excused and not voting, 8:

Bernard-Stevens	Beyer	Conway	Hall	Pirsch
	Chambers	Haberman	Landis	

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 256.

A BILL FOR AN ACT relating to public health; to define terms; to provide for a statewide program of screening mammography, conditions for reimbursement, appeals, reports, fees, records, and immunity from liability; to create the Mammography Screening Cash Fund; and to establish the Mammography Screening Committee.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 40:

Abboud	Cudaback	Johnson, L.	Nelson	Schmit
Ashford	Dierks	Johnson, R.	Peterson	Schrock
Baack	Elmer	Kristensen	Rasmussen	Smith
Beutler	Hall	Labedz	Robak	Warner
Byars	Hartnett	Lamb	Robinson	Wehrbein
Chizek	Hefner	Lindsay	Rogers	Wesely
Coordsen	Hillman	Moore	Schellpeper	Will
Crosby	Horgan	Morrissey	Schimek	Withem

Voting in the negative, 0.

Present and not voting, 2:

Lynch Wickersham

Excused and not voting, 7:

Bernard-Stevens	Beyer	Conway	Landis	Pirsch
	Chambers	Haberman		

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 256A.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 256, Ninety-second Legislature, First Session, 1991.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 40:

Abboud	Cudaback	Johnson, L.	Nelson	Schrock
Ashford	Dierks	Johnson, R.	Peterson	Smith
Baack	Elmer	Kristensen	Rasmussen	Warner
Beutler	Hall	Labedz	Robinson	Wehrbein
Byars	Hartnett	Lamb	Rogers	Wesely
Chizek	Hefner	Lindsay	Schellpeper	Wickersham
Coordsen	Hillman	Lynch	Schimek	Will
Crosby	Horgan	Morrissey	Schmit	Withem

Voting in the negative, 0.

Present and not voting, 2:

Moore Robak

Excused and not voting, 7:

Bernard-Stevens	Beyer	Conway	Landis	Pirsch
	Chambers	Haberman		

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 638. With Emergency.

A BILL FOR AN ACT relating to education; to adopt the Children with Disabilities and Family Service System Act; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 41:

Abboud	Dierks	Johnson, R.	Nelson	Schmit
Ashford	Elmer	Kristensen	Peterson	Smith
Baack	Hall	Labedz	Rasmussen	Warner
Beutler	Hartnett	Lamb	Robak	Wehrbein
Byars	Hefner	Lindsay	Robinson	Wesely
Chizek	Hillman	Lynch	Rogers	Wickersham
Coordsen	Horgan	Moore	Schellpeper	Will
Crosby	Johnson, L.	Morrissey	Schimek	Withem
Cudaback				

Voting in the negative, 0.

Present and not voting, 1:

Schrock

Excused and not voting, 7:

Bernard-Stevens	Beyer	Conway	Landis	Pirsch
	Chambers	Haberman		

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

LEGISLATIVE BILL 638A. With Emergency.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 638, Ninety-second Legislature, First Session, 1991; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 42:

Abboud	Chizek	Elmer	Horgan	Lamb
Ashford	Coordsen	Hall	Johnson, L.	Lindsay
Baack	Crosby	Hartnett	Johnson, R.	Lynch
Beutler	Cudaback	Hefner	Kristensen	Moore
Byars	Dierks	Hillman	Labedz	Morrissey

Nelson	Robinson	Schmit	Warner	Wickersham
Peterson	Rogers	Schrock	Wehrbein	Will
Rasmussen	Schellpeper	Smith	Wesely	Withem
Robak	Schimek			

Voting in the negative, 0.

Excused and not voting, 7:

Bernard-Stevens	Beyer	Conway	Landis	Pirsch
	Chambers	Haberman		

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

MOTION - Return LB 715 to Select File

Mr. Schmit moved to return LB 715 to Select File for the following specific amendment:
FA204
Strike the enacting clause.

Mr. Schmit withdrew his motion to return.

Mrs. Labedz asked unanimous consent to be excused until she returns. No objections. So ordered.

BILLS ON FINAL READING

The following bills were read and put upon final passage:

LEGISLATIVE BILL 715.

A BILL FOR AN ACT relating to child, spousal, and medical support; to amend sections 42-364, 42-368, 42-371, 42-792, 42-793, 42-7,101, 43-512.03, 43-512.05, 43-512.06, 43-512.08, 43-512.10, and 43-1727, Reissue Revised Statutes of Nebraska, 1943, and sections 43-512, 43-1608, 43-1609, 43-1610, and 43-1611, Revised Statutes Supplement, 1990; to provide for review and adjustment of child support orders in certain cases; to change provisions for release and priority of certain liens; to provide powers and duties for county attorneys, authorized attorneys, and the Department of Social Services; to add provisions relating to the modification of support; to

change provisions relating to child support referees; to harmonize provisions; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 39:

Abboud	Cudaback	Johnson, L.	Nelson	Schrock
Ashford	Dierks	Johnson, R.	Pirsch	Smith
Baack	Elmer	Kristensen	Rasmussen	Warner
Beutler	Hall	Lamb	Robak	Wehrbein
Byars	Hartnett	Lindsay	Robinson	Wesely
Chizek	Hefner	Lynch	Rogers	Wickersham
Coordsen	Hillman	Moore	Schellpeper	Will
Crosby	Horgan	Morrissey	Schimek	

Voting in the negative, 1:

Schmit

Present and not voting, 2:

Peterson Withem

Excused and not voting, 7:

Bernard-Stevens	Beyer Chambers	Conway Haberman	Labedz	Landis

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 715A.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 715, Ninety-second Legislature, First Session, 1991.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 40:

Abboud	Cudaback	Johnson, L.	Morrissey	Schimek
Ashford	Dierks	Johnson, R.	Nelson	Schrock
Baack	Elmer	Kristensen	Pirsch	Smith
Beutler	Hall	Lamb	Rasmussen	Warner
Byars	Hartnett	Landis	Robak	Wehrbein
Chizek	Hefner	Lindsay	Robinson	Wesely
Coordsen	Hillman	Lynch	Rogers	Wickersham
Crosby	Horgan	Moore	Schellpeper	Will

Voting in the negative, 1:

Schmit

Present and not voting, 2:

Peterson Withem

Excused and not voting, 6:

Bernard-Stevens	Beyer Chambers	Conway	Haberman	Labedz

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 830.

A BILL FOR AN ACT relating to developmental disabilities; to amend sections 43-2,113, 68-1204, 71-5014, and 83-1,143.06, Reissue Revised Statutes of Nebraska, 1943, and sections 23-3402 and 29-3915, Revised Statutes Supplement, 1990; to adopt the Developmental Disabilities Services Act; to provide for interagency agreements and the granting of certain authority; to rename the mental retardation regions; to eliminate provisions relating to the office of mental retardation and determination of mental retardation; to harmonize provisions; and to repeal the original sections, and also sections 83-1,141 to 83-1,143, 83-1,143.02 to 83-1,143.05, 83-1,143.07 to 83-1,144.01, 83-1,146, 83-1101 to 83-1130, 83-1132, and 83-1134 to 83-1139, Reissue Revised Statutes of Nebraska, 1943, sections 83-1131 and 83-1133, Revised Statutes Supplement, 1990, and section 83-1,143.01, Reissue Revised Statutes of Nebraska, 1943, as amended

by section 11, Legislative Bill 81, Ninety-second Legislature, First Session, 1991.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 29:

Ashford	Hall	Landis	Robak	Wehrbein
Byars	Hartnett	Lindsay	Rogers	Wesely
Chizek	Hefner	Lynch	Schellpeper	Wickersham
Crosby	Horgan	Morrissey	Schimek	Will
Cudaback	Labedz	Nelson	Schmit	Withem
Dierks	Lamb	Rasmussen	Warner	

Voting in the negative, 14:

Abboud	Beutler	Johnson, L.	Moore	Schrock
Baack	Elmer	Johnson, R.	Pirsch	Smith
Bernard-Stevens	Hillman	Kristensen	Robinson	

Present and not voting, 2:

Coordsen Peterson

Excused and not voting, 4:

Beyer Chambers Conway Haberman

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 830A.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 830, Ninety-second Legislature, First Session, 1991; and to reduce and increase certain appropriations.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 29:

Ashford	Dierks	Lamb	Rasmussen	Wehrbein
Byars	Hall	Landis	Robak	Wesely
Chizek	Hartnett	Lindsay	Rogers	Wickersham
Coordsen	Hefner	Lynch	Schellpeper	Will
Crosby	Horgan	Morrissey	Schimek	Withem
Cudaback	Labedz	Nelson	Warner	

Voting in the negative, 14:

Abboud	Beutler	Johnson, L.	Moore	Schrock
Baack	Elmer	Johnson, R.	Pirsch	Smith
Bernard-Stevens	Hillman	Kristensen	Robinson	

Present and not voting, 2:

Peterson Schmit

Excused and not voting, 4:

Beyer Chambers Conway Haberman

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

MOTION - Suspend Rules

Mr. Lynch moved to suspend the rules, Rule 6, Section 7(b) to permit consideration of LBs 419, 701, and 701A on Final Reading today.

The Lynch motion to suspend the rules prevailed with 36 ayes, 0 nays, 9 present and not voting, and 4 excused and not voting.

BILLS ON FINAL READING

The following bills were read and put upon final passage:

LEGISLATIVE BILL 419. With Emergency.

A BILL FOR AN ACT relating to insurance; to amend sections 44-4001, 44-4225, and 44-4234, Reissue Revised Statutes of

Nebraska, 1943, and sections 44-4227 and 44-4228, Revised Statutes Supplement, 1990; to require and provide for the use of records on agents and brokers; to change provisions relating to the Comprehensive Health Insurance Pool; to require studies and a report; to adopt the Small Employer Health Insurance Act and the Health Insurance Access Act; to require the payment of interest on proceeds due under a life insurance policy; to harmonize provisions; to provide duties for the Revisor of Statutes; to appropriate funds; to provide operative dates; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 44:

Abboud	Cudaback	Johnson, R.	Nelson	Schmit
Ashford	Dierks	Kristensen	Peterson	Schrock
Baack	Elmer	Labedz	Pirsch	Smith
Bernard-Stevens	Hall	Lamb	Rasmussen	Warner
	Hartnett	Landis	Robak	Wehrbein
Beutler	Hefner	Lindsay	Robinson	Wesely
Chizek	Hillman	Lynch	Rogers	Wickersham
Coordsen	Horgan	Moore	Schellpeper	Will
Crosby	Johnson, L.	Morrissey	Schimek	Withem

Voting in the negative, 0.

Present and not voting, 1:

Byars

Excused and not voting, 4:

Beyer	Chambers	Conway	Haberman

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

LEGISLATIVE BILL 701.

A BILL FOR AN ACT relating to children; to adopt the Early Intervention Act.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 40:

Abboud	Crosby	Horgan	Pirsch	Schrock
Ashford	Cudaback	Kristensen	Rasmussen	Smith
Baack	Dierks	Labedz	Robak	Warner
Bernard-Stevens	Elmer	Landis	Robinson	Wehrbein
Beutler	Hall	Lindsay	Rogers	Wesely
Byars	Hartnett	Lynch	Schellpeper	Wickersham
Chizek	Hefner	Morrissey	Schimek	Will
Coordsen	Hillman	Nelson	Schmit	Withem

Voting in the negative, 3:

Johnson, L. Lamb Moore

Present and not voting, 2:

Johnson, R. Peterson

Excused and not voting, 4:

Beyer Chambers Conway Haberman

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 701A.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 701, Ninety-second Legislature, First Session, 1991; to provide for a transfer of funds; and to decrease an appropriation.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 38:

Abboud	Chizek	Hillman	Pirsch	Smith
Ashford	Coordsen	Horgan	Rasmussen	Warner
Baack	Crosby	Kristensen	Robinson	Wehrbein
Bernard-Stevens	Cudaback	Labedz	Rogers	Wesely
Beutler	Dierks	Landis	Schellpeper	Wickersham
Beyer	Hall	Lindsay	Schimek	Will
Byars	Hartnett	Lynch	Schmit	Withem
	Hefner	Nelson	Schrock	

Voting in the negative, 4:

Elmer	Johnson, L.	Lamb	Moore

Present and not voting, 4:

Johnson, R.	Morrissey	Peterson	Robak

Excused and not voting, 3:

Chambers	Conway	Haberman

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following bills: 703, 703A, 256, 256A, 638, 638A, 715, 715A, 830, 830A, 419, 701, and 701A.

MESSAGE FROM THE GOVERNOR

June 3, 1991

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 720e and 840 were received in my office on May 28, 1991.

These bills were signed by me on June 3, 1991, and delivered to the Secretary of State.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

GENERAL FILE

LEGISLATIVE BILL 262. Title read. Considered.

Standing Committee amendment, AM0145, found in the Journal on page 561, was considered.

Mr. Wickersham asked unanimous consent to be excused until he returns. No objections. So ordered.

PRESIDENT MOUL PRESIDING

The Standing Committee amendment lost with 0 ayes, 13 nays, 32 present and not voting, and 4 excused and not voting.

Mr. Warner withdrew his pending amendment, AM0191, found in the Journal on page 1011.

Messrs. Kristensen and Warner withdrew their pending amendment, AM1925, found in the Journal on page 2422.

Mr. Kristensen offered the following amendment:
(Amendment on file in the Clerk's Office - Room 2018 - AM2253.)

Mrs. Hillman asked unanimous consent to be excused until she returns. No objections. So ordered.

Mr. Ashford moved the previous question. The question is, "Shall the debate now close?"

Mr. Ashford moved for a call of the house. The motion prevailed with 14 ayes, 0 nays, and 35 not voting.

The motion to cease debate prevailed with 25 ayes, 1 nay, and 23 not voting.

The Kristensen amendment was adopted with 30 ayes, 3 nays, 12 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

Mr. Peterson asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Abboud offered the following amendment:
FA205
Strike section 8 of the Kristensen amendment, AM2253.

Mr. Abboud moved for a call of the house. The motion prevailed with 15 ayes, 0 nays, and 34 not voting.

Mr. Abboud requested a roll call vote on his amendment.

Voting in the affirmative, 9:

Abboud	Chambers	Lynch	Rasmussen	Will
Beutler	Hall	Morrissey	Wesely	

Voting in the negative, 29:

Ashford	Chizek	Hartnett	Lindsay	Schellpeper
Baack	Coordsen	Horgan	Nelson	Schimek
Bernard-Stevens	Crosby	Johnson, R.	Pirsch	Smith
	Cudaback	Kristensen	Robak	Warner
Beyer	Dierks	Lamb	Robinson	Wehrbein
Byars	Elmer	Landis	Rogers	Withem

Present and not voting, 6:

Hefner	Labedz	Moore	Schmit	Schrock
Johnson, L.				

Excused and not voting, 5:

Conway	Haberman	Hillman	Peterson	Wickersham

The Abboud amendment lost with 9 ayes, 29 nays, 6 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Messrs. Schmit, Rogers, Robinson, Wesely, R. Johnson, Ms. Schimek, Mmes. Labedz, and Nelson asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Abboud offered the following amendment:
FA206
Strike Section 11 of the Kristensen amendment, AM2253.

Pending.

MOTION - Return LB 829 to Select File

Mr. Hall moved to return LB 829 to Select File for his specific amendment, AM2235, found in the Journal on page 2757.

The Hall motion to return prevailed with 25 ayes, 0 nays, 12 present and not voting, and 12 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 829. The Hall specific amendment, AM2235, found in the Journal on page 2757, was adopted with 26 ayes, 0 nays, 11 present and not voting, and 12 excused and not voting.

Advanced to E & R for engrossment.

MOTION - Return LB 829 to Select File

Mr. Hall moved to return LB 829 to Select File for his specific amendment, AM2252, found in the Journal on page 2758.

Pending.

RECESS

At 12:03 p.m., on a motion by Mr. L. Johnson, the Legislature recessed until 1:30 p.m.

AFTER RECESS

The Legislature reconvened at 1:30 p.m., President Moul presiding.

ROLL CALL

The roll was called and all members were present except Mr. Haberman who was excused; and Messrs. Abboud, Ashford, Beutler, Conway, Horgan, R. Johnson, Kristensen, Peterson, Robinson, Schmit, Schrock, Wesely, Mmes. Nelson, Rasmussen, Robak, and Smith who were excused until they arrive.

PRESENTED TO THE GOVERNOR

Presented to the Governor on June 3, 1991, at 11:18 a.m., were the following bills: 703, 703A, 256, 256A, 638, 638A, 715, 715A, 830, 830A, 419, 701, and 701A.

(Signed) Jan Loder, Enrolling Clerk

MOTION - Return LB 829 to Select File

Mr. Hall renewed his pending motion, found in this day's Journal, to return LB 829 to Select File for his specific amendment, AM2252, found in the Journal on page 2758.

The Hall motion to return prevailed with 25 ayes, 0 nays, 8 present and not voting, and 16 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 829. The Hall specific amendment, AM2252, found in the Journal on page 2758, was adopted with 26 ayes, 2 nays, 6 present and not voting, and 15 excused and not voting.

Advanced to E & R for engrossment.

MOTION - Return LB 829 to Select File

Mr. Withem moved to return LB 829 to Select File for the following specific amendment:
AM2260

1. Insert the following new section:

"Sec. 31. That section 79-3809, Revised Statutes Supplement, 1990, be amended to read as follows:

79-3809. Commencing in 1994, on ~~On~~ or before March 1 of each year the Department of Revenue shall

compute and certify to the State Department of Education the adjusted valuation of each district for the second preceding tax year by application of an adjustment factor for each class of property in each such district so that the valuation of property for each district, for purposes of determining state aid pursuant to the Tax Equity and Educational Opportunities Support Act, shall reflect as nearly as possible actual value as required by law and the Constitution of Nebraska. Establishment of the adjustment factors shall be based on the best available assessment practices.".

2. Correct the operative date provision and repealer to reflect that section 79-3809 becomes operative on its effective date.

3. Renumber the remaining sections and correct internal references accordingly.

The Withem motion to return prevailed with 25 ayes, 0 nays, 13 present and not voting, and 11 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 829. The Withem specific amendment, AM2260, found in this day's Journal, was adopted with 25 ayes, 0 nays, 19 present and not voting, and 5 excused and not voting.

Advanced to E & R for engrossment.

MOTION - Return LB 829 to Select File

Mr. Moore moved to return LB 829 to Select File for the following specific amendment:
AM2249

1. Strike AM2169 and all amendments thereto.
2. Strike AM2176.
3. Strike AM2033 and all amendments thereto.
4. Strike AM2020 and all amendments thereto.
5. In AM5164:

a. Strike sections 17 and 19 and insert the following new sections:

"Sec. 17. That section 77-2701.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-2701.01. Pursuant to section 77-2715.01,

for all taxable years beginning or deemed to begin on or after January 1, 1990, under the Internal Revenue Code of 1986, as amended, the rate of the income tax levied pursuant to section 77-2715 shall be three and forty-three-hundredths percent. Pursuant to section 77-2715.01, for all taxable years beginning or deemed to begin on or after January 1, 1991, under the Internal Revenue Code of 1986, as amended, the rate of the income tax levied pursuant to section 77-2715 shall be three and ~~seventy-hundredths~~ eighty-three-hundredths percent.

Sec. 20. That section 77-2715.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-2715.02. (1) Whenever the primary rate is changed by the Legislature under section 77-2715.01, the Tax Commissioner shall update the rate schedules required in subsection (2) of this section to reflect the new primary rate and shall publish such updated schedules.

(2) The following rate schedules are hereby established for the Nebraska individual income tax and shall be in the following form:

(a) The income amounts for columns A, B, and E shall be the same as for the federal rate schedules in effect for tax year 1987;

(b) The amount in column C shall be the total amount of the tax imposed on income less than the amount in column A;

(c) The amount in column D shall be the rate on the income in excess of the amount in column E;

(d) The primary rate set by Legislature shall be multiplied by the following factors to compute the tax rates for column D. The factors for the brackets, from lowest to highest bracket, shall be .64, .98, 1.52, ~~1.87~~ 2.08, and ~~1.87~~ 2.28;

(e) The amounts for column C shall be rounded to the nearest dollar, and the amounts in column D shall be rounded to hundredths of one percent; and

(f) One rate schedule shall be established for each federal filing status.

(3) The tax rate schedules shall use the format set forth in this subsection.

A	B	C	D	E
Taxable income	but not	pay	plus	of the

over over amount over
(4) The tax rate applied to other federal taxes included in the computation of the Nebraska individual income tax shall be seven times the primary rate.
(5) The Tax Commissioner shall prepare, from the rate schedules, tax tables which can be used by a majority of the taxpayers to determine their Nebraska tax liability. The design of the tax tables shall be determined by the Tax Commissioner. The size of the tax table brackets may change as the level of income changes. The difference in tax between two tax table brackets shall not exceed fifteen dollars. The Tax Commissioner may build the personal exemptions and standard deduction amounts into the tax tables.
(6) The Tax Commissioner may require by rule and regulation that all taxpayers shall use the tax tables if their income is less than the maximum income included in the tax tables.";
b. On page 21, line 8, strike "two" and insert "one and sixty-five-hundredths";
c. On page 67, line 10, strike "July" and insert "October"; and in line 11 strike "June" and insert "September";
d. On page 87, line 18, strike "July" and insert "October"; and in line 19 strike "June" and insert "September";
e. On page 101, strike lines 15 through 20 and insert "are";
f. Correct the operative date provision and repealers so that sections 77-2701.01 and 77-2715.02 become operative for tax years beginning or deemed to begin on or after January 1, 1991, and so that sections 77-2703 and 77-2708 become operative on October 1,1991; and
g. Renumber the remaining sections accordingly.

Messrs. Ashford and Conway asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Moore requested a record vote on his motion to return.

Voting in the affirmative, 10:

Byars	Elmer	Kristensen	Moore	Schellpeper
Cudaback	Johnson, R.	Lamb	Robinson	Schmit

Voting in the negative, 20:

Chizek	Hartnett	Labedz	Pirsch	Warner
Crosby	Hefner	Landis	Robak	Wesely
Dierks	Hillman	Lynch	Schrock	Will
Hall	Johnson, L.	Morrissey	Smith	Withem

Present and not voting, 16:

Abboud	Beutler	Horgan	Peterson	Schimek
Baack	Beyer	Lindsay	Rasmussen	Wehrbein
Bernard-Stevens	Chambers	Nelson	Rogers	Wickersham
	Coordsen			

Excused and not voting, 3:

Ashford	Conway	Haberman

The Moore motion to return lost with 10 ayes, 20 nays, 16 present and not voting, and 3 excused and not voting.

Mr. Hall moved to return LB 829 to Select File for the following specific amendment:
AM2266

1. In AM2235, on page 1, strike beginning with "For" in line 4 through line 10 and insert "For 1992, in addition to the occupation tax imposed in sections 21-301 to 21-325, there is hereby levied on all corporations subject to the occupation tax and all corporations exempt from the occupation tax pursuant to section 21-321 an additional fee of one hundred fifty dollars per corporation to be levied and collected in the same manner as the occupation tax.".

2. In AM2169, on page 1, line 3, strike "Any" and insert "Notwithstanding any other statutory provision relating to the refund of any tax or penalty, any"; and in line 6 strike ", assessment,".

3. In AM2143, on page 8, strike beginning with "In" in line 16 through line 21 and all amendments thereto and insert "If a refund is not claimed by June 1

of the year following the year of mailing, the refund shall be canceled and the resultant amount credited to the various funds originally charged;".

4. In AM5164:

a. Insert the following new section:

"Sec. 8. That section 77-510, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-510. The exclusive method for appealing an order of the State Board of Equalization and Assessment shall be as set forth in this section. From ~~any~~ a final decision of the ~~State Board of Equalization and Assessment~~ board with respect to the valuation or equalization of any real or personal property, any person, county, or municipality affected thereby ~~may~~ shall prosecute an appeal to the Supreme Court. Upon demand therefor, the board shall prepare and certify a transcript of its records and proceedings involved in such decision. Notice of intention to obtain a review shall be filed within ten days from the date of the order by the board~~,~~ and when docketed the cause shall be given precedence by the Supreme Court over all civil cases.";

b. On page 92, line 21, strike "personal" and after "tax" insert ", excluding any penalty assessed,"; and

c. On page 93, line 1, after the period insert "For personal property tax statements prepared for tax year 1991, the county shall notify each taxpayer on his or her personal property tax statement of: (a) The total amount of property valuation assessed; (b) the reduction in valuation as a result of personal property which was immediately prior to the operative date of this section subject to tax for tax year 1991 but which is exempt from tax solely because of the changes made to section 77-202 by this legislative bill; (c) the net valuation; (d) the total amount of property tax levied; (e) the reduction in tax; and (f) the net tax due."; and in line 2 strike "personal" and after "tax" insert ", excluding any penalty assessed,".

5. Renumber the remaining sections and correct internal references accordingly.

6. Correct the operative date provision and repealer so that section 77-510 becomes operative on its

16 effective date.

Mrs. Labedz asked unanimous consent to be excused until she returns. No objections. So ordered.

The Hall motion to return prevailed with 26 ayes, 0 nays, 19 present and not voting, and 4 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 829. The Hall specific amendment, AM2266. found in this day's Journal, was adopted with 27 ayes, 0 nays, 18 present and not voting, and 4 excused and not voting.

Advanced to E & R for engrossment.

MOTION - Return LB 829 to Select File

Mr. Moore moved to return LB 829 to Select File for the following specific amendment:
AM2237

(Amendments to AM5164)

1. On page 93, line 6, after "state" insert ", except that if the funds appropriated in Legislative Bill 829A Ninety-second Legislature, First Session, 1991, are insufficient to pay the total amount of tax lost, the amount paid shall be prorated as determined by the Tax Commissioner".

The Moore motion to return prevailed with 27 ayes, 2 nays, 16 present and not voting, and 4 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 829. The Moore specific amendment, AM2237, found in this day's Journal was adopted with 25 ayes, 3 nays, 17 present and not voting, and 4 excused and not voting.

Advanced to E & R for engrossment.

MOTION - Return LB 829 to Select File

Mr. Horgan moved to return LB 829 to Select File for the following specific amendment:

FA207
Amend AM5164
Page 21, line 8, strike "two" and add "two and three-tenths percent."

Mr. Hartnett moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

The Horgan motion to return lost with 9 ayes, 18 nays, 20 present and not voting, and 2 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 829A. Mr. Will offered the following amendment:
AM2275

1. Strike original section 3 and insert the following new section:

"Sec. 3. The FY1991-92 General Fund appropriation to the Department of Revenue, for Program 102, is hereby reduced by $593,790 to reflect the changes in responsibility made by Legislative Bill 829, Ninety-second Legislature, First Session, 1991.

The amount authorized for permanent and temporary salaries and per diems for the Department of Revenue, Program 102, is hereby reduced by $348,875 for FY1991-92.

The FY1992-93 General Fund appropriation to the Department of Revenue, for Program 102, is hereby reduced by $439,674 to reflect the changes in responsibility made by Legislative Bill 829, Ninety-second Legislature, First Session, 1991.

The amount authorized for permanent and temporary salaries and per diems for the Department of Revenue, Program 102, is hereby reduced by $369,807 for FY1992-93.".

2. On page 2, line 11, strike "$600,000" and insert "$576,196"; and in line 12 strike "$250,000 and insert "$201,559"; in line 18 strike "$200,000 and insert "$193,598"; and in line 19 strike "$100,000" and insert "$45,580".

The Will amendment was adopted with 28 ayes, 0 nays, 19 present and not voting, and 2 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 849. Mr. R. Johnson withdrew his pending amendment, AM2232, found in the Journal on page 2759.

Mr. Warner renewed his pending amendment, AM1680, found in the Journal on page 2045.

Mr. Peterson asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Warner moved for a call of the house. The motion prevailed with 15 ayes, 0 nays, and 34 not voting.

Mr. Warner requested a roll call vote on his amendment.

Voting in the affirmative, 31:

Abboud	Byars	Hefner	Landis	Schimek
Ashford	Chambers	Hillman	Nelson	Smith
Baack	Coordsen	Horgan	Pirsch	Warner
Bernard-Stevens	Crosby	Johnson, R.	Rasmussen	Wehrbein
Beutler	Cudaback	Kristensen	Robinson	Wesely
Beyer	Dierks	Lamb	Rogers	Wickersham
	Elmer			

Voting in the negative, 9:

Chizek	Hartnett	Lindsay	Robak	Withem
Hall	Labedz	Morrissey	Will	

Present and not voting, 5:

Johnson, L.	Lynch	Schellpeper	Schmit	Schrock

Absent and not voting, 1:

Moore

Excused and not voting, 3:

Conway Haberman Peterson

The Warner amendment was adopted with 31 ayes, 9 nays, 5 present and not voting, 1 absent and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Mr. Bernard-Stevens asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Warner renewed his pending amendment, AM1679, found in the Journal on page 2045.

Mr. Lynch asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Warner withdrew his pending amendment, AM1679, found in the Journal on page 2045.

Mr. Lynch withdrew his pending amendment, AM1752, found in the Journal on page 2136.

Mrs. Smith and Mr. Will renewed their pending amendment, AM1954, found in the Journal on page 2321.

The Smith-Will amendment was adopted with 26 ayes, 0 nays, 18 present and not voting, and 5 excused and not voting.

Mrs. Smith, Messrs. Will, and Hartnett renewed their pending amendment, AM1718, found in the Journal on page 2374.

Mrs. Smith moved for a call of the house. The motion prevailed with 14 ayes, 1 nay, and 34 not voting.

Mrs. Smith requested a roll call vote on the Smith-Will-Hartnett amendment.

Voting in the affirmative, 28:

Baack	Byars	Hartnett	Johnson, L.	Lindsay
Bernard-Stevens	Crosby	Hefner	Kristensen	Nelson
Beutler	Cudaback	Hillman	Lamb	Pirsch
	Dierks	Horgan	Landis	Rasmussen

Robak	Schrock	Warner	Wickersham	Withem
Schimek	Smith	Wehrbein	Will	

Voting in the negative, 10:

Abboud	Chambers	Johnson, R.	Robinson	Schmit
Beyer	Hall	Morrissey	Rogers	Wesely

Present and not voting, 7:

Ashford	Coordsen	Labedz	Moore	Schellpeper
Chizek	Elmer			

Excused and not voting, 4:

Conway	Haberman	Lynch	Peterson

The Smith-Will-Hartnett amendment was adopted with 28 ayes, 10 nays, 7 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

Mr. Hall offered the following amendment:
(Amendment on file in the Clerk's Office - Room 2018 - AM1546.)

SPEAKER BAACK PRESIDING

Mr. Hall moved for a call of the house. The motion prevailed with 13 ayes, 0 nays, and 36 not voting.

Mr. Hall requested a roll call vote on his amendment.

Voting in the affirmative, 12:

Baack	Chizek	Hillman	Robak	Schmit
Bernard-Stevens	Elmer	Labedz	Schellpeper	Warner
	Hall	Lindsay		

Voting in the negative, 28:

Abboud	Crosby	Hefner	Lamb	Nelson
Beutler	Cudaback	Horgan	Landis	Pirsch
Beyer	Dierks	Johnson, L.	Moore	Robinson
Byars	Hartnett	Kristensen	Morrissey	Rogers

Schimek	Smith	Wesely	Will	Withem
Schrock	Wehrbein	Wickersham		

Present and not voting, 5:

Ashford	Chambers	Coordsen	Johnson, R.	Rasmussen

Excused and not voting, 4:

Conway	Haberman	Lynch	Peterson

The Hall amendment lost with 12 ayes, 28 nays, 5 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

Mr. Chambers asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Hall offered the following amendment:
(Amendment on file in the Clerk's Office - Room 2018 - AM2224.)

Mr. Hall withdrew his pending amendment.

Mr. Hall offered the following amendment:
FA208
Amend AM1071 Committee amendment.
Strike subsection 1 of Sec. 11 on page 9.
Renumber the remaining subsections.

Mr. Ashford moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

PRESIDENT MOUL PRESIDING

The Hall amendment was adopted with 31 ayes, 0 nays, 13 present and not voting, and 5 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 72. E & R amendment, AM5147, found in the Journal on page 2143, was adopted.

Mr. Landis withdrew his pending amendment, AM1991, found in the Journal on page 2365.

Mr. Chizek asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. R. Johnson offered the following amendment:
FA209
Add the following new section:
Since an emergency exists, this act shall be in full force and take effect from and after its passage and approval, according to law.

Mr. Beutler moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

The R. Johnson amendment was adopted with 29 ayes, 0 nays, 14 present and not voting, and 6 excused and not voting.

Mr. Beutler moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

Mr. Dierks moved for a call of the house. The motion prevailed with 16 ayes, 0 nays, and 33 not voting.

Mr. Dierks requested a roll call vote on the advancement of the bill.

Voting in the affirmative, 24:

Abboud	Dierks	Labedz	Rogers	Wesely
Ashford	Hall	Landis	Schellpeper	Wickersham
Chambers	Hartnett	Lindsay	Schimek	Will
Coordsen	Horgan	Morrissey	Schrock	Withem
Cudaback	Kristensen	Rasmussen	Smith	

Voting in the negative, 19:

Baack	Beyer	Hefner	Lamb	Robinson
Bernard-Stevens	Byars	Hillman	Moore	Schmit
Beutler	Crosby	Johnson, L.	Pirsch	Warner
	Elmer	Johnson, R.	Robak	Wehrbein

Present and not voting, 1:

Nelson

Excused and not voting, 5:

Chizek Conway Haberman Lynch Peterson

Failed to advance to E & R for engrossment with 24 ayes, 19 nays, 1 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

LEGISLATIVE BILL 748. E & R amendment, AM5162, found in the Journal on page 2175, was adopted.

Mr. Elmer renewed his pending amendment, AM2197, found in the Journal on page 2691.

The Elmer amendment was adopted with 28 ayes, 0 nays, 16 present and not voting, and 5 excused and not voting.

Mr. Abboud offered the following amendment:
FA210

1. Insert the following new section:

"Sec. 8. That section 81-15,112.01, Revised Statutes Supplement, 1990, be amended to read as follows:

81-15,112.01. (1) The limitations contained in subsection (2) of section 25-224 shall not apply to actions for property damage, bodily injury, or death arising out of the disposal of low-level radioactive waste.

(2) Any person engaged in the disposal of low-level radioactive waste shall be subject to strict liability in tort for property damage, bodily injury, or death resulting from such disposal.".

2. On page 26, line 23, after the last comma insert "81-15,112.01,".

3. Renumber the remaining sections accordingly.

Mrs. Nelson asked unanimous consent to be excused until she returns. No objections. So ordered.

Mr. Kristensen requested a ruling of the Chair on whether the Abboud amendment is germane to the bill.

The Chair ruled the Abboud amendment is not germane to the bill.

Mr. Abboud challenged the ruling of the Chair. The question is, "Shall the Chair be overruled?"

Mr. Abboud withdrew his motion to overrule the Chair.

Mr. Abboud withdrew his pending amendment, FA210.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 355. E & R amendment, AM5165, found in the Journal on page 2368, was adopted.

Messrs. Ashford and Schellpeper renewed their pending amendment, AM2102, found in the Journal on page 2451.

The Ashford-Schellpeper amendment was adopted with 28 ayes, 0 nays, 16 present and not voting, and 5 excused and not voting.

Mr. Moore renewed his pending amendment, AM2202, found in the Journal on page 2671.

Mr. Moore moved for a call of the house. The motion prevailed with 13 ayes, 1 nay, and 35 not voting.

Mr. Moore requested a roll call vote on his amendment.

Voting in the affirmative, 17:

Bernard-Stevens	Crosby	Hillman	Moore	Rogers
Byars	Cudaback	Johnson, L.	Pirsch	Schrock
Coordsen	Elmer	Kristensen	Robinson	Wickersham
	Hefner	Lamb		

Voting in the negative, 23:

Abboud	Chambers	Horgan	Nelson	Wehrbein
Ashford	Chizek	Johnson, R.	Rasmussen	Wesely
Baack	Conway	Landis	Schimek	Will
Beutler	Hall	Lindsay	Warner	Withem
Beyer	Hartnett	Morrissey		

Present and not voting, 6:

Dierks	Labedz	Robak	Schellpeper	Schmit

Smith

Excused and not voting, 3:

Haberman Lynch Peterson

The Moore amendment lost with 17 ayes, 23 nays, 6 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Mr. Schellpeper offered the following amendment:
AM2210

(Amendments to AM2102)

1. Strike amendment 3 and renumber the remaining amendments.

2. On page 7, strike line 12 and insert: "not apply to:

(1) Any handgun, including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system, manufactured in or before 1898;

(2) Any replica of any firearm described in subdivision (1) of this section if such replica is not designed or redesigned to use rimfire or conventional centerfire fixed ammunition and uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade; and

(3) Any firearm which is a curio or relic as defined by 27 C.F.R. 178.11.".

3. On page 9, line 3, strike "district" and insert "county".

The Schellpeper amendment was adopted with 25 ayes, 0 nays, 21 present and not voting, and 3 excused and not voting.

Mr. Schellpeper offered the following amendment:
AM2209

(Amendments to AM1909)

1. Strike section 8 and all amendments thereto and insert the following new section:

"Sec. 8. It is the intent of the Legislature that the Nebraska State Patrol implement an expedited

program of upgrading Nebraska's automated criminal record history files to be utilized for, among other law enforcement purposes, an instant criminal record check on handgun purchasers when buying a handgun from a licensed importer, manufacturer, or dealer so that such instant criminal record check may be implemented as soon as possible on or after January 1, 1995.

The patrol's automated arrest and conviction records shall be reviewed annually by the Superintendent of Law Enforcement and Public Safety, who shall report the status of such records within thirty days of such review to the Governor and the Clerk of the Legislature. The instant criminal record check system shall be implemented by the patrol on or after January 1, 1995, when, as determined by the Superintendent of Law Enforcement and Public Safety, eighty-five percent of the Nebraska arrest and conviction records since January 1, 1965, available to the patrol are included in the patrol's automated system. Not less than thirty days prior to implementation and enforcement of the instant check system, the patrol shall send written notice to all licensed importers, manufacturers, and dealers outlining the procedures and toll-free number described in sections 9 to 22 of this act.

Upon implementation of the instant criminal record check system, a person who desires to purchase, lease, rent, or receive transfer of a handgun from a licensed importer, manufacturer, or dealer may elect to obtain such handgun either under sections 1 to 7 of this act or under sections 9 to 22 of this act.".

The Schellpeper amendment was adopted with 26 ayes, 0 nays, 20 present and not voting, and 3 excused and not voting.

SPEAKER BAACK PRESIDING

Mr. Hefner withdrew his pending amendments, AM2130 and AM2131, found in the Journal on page 2686.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 627. E & R amendment, AM5167, printed separately from the Journal and referred on page 2544, was adopted.

Mr. Warner offered the following amendment:
AM2244

(Amendments to AM1776)

1. On page 92, line 7, after "Agricultural" insert ", quarrying,".

2. On page 119, line 5, strike "Any" and insert "Until January 1, 1994, any motor vehicle fuel importer or special fuel importer who neglects or refuses to file the report or return due for any period or to pay the tax due for any period within the time prescribed for the filing of such report or return or the payment of such tax or who wrongfully claims an exemption, under the motor fuel laws, shall be subject to the larger of:

(a) The penalty in subsection (1) of this section; or

(b)(i) A penalty of ten percent of the tax not paid if the act was committed through negligence;

(ii) A penalty of fifteen percent of the tax not paid if the act was committed in intentional disregard of the law, rules, or regulations;

(iii) A penalty of fifty percent of the tax not paid if the act was committed with intent to evade the tax; or

(iv) A penalty of one hundred percent of the tax not paid if the act involved fraud and was committed with intent to evade the tax.

(3) On and after January 1, 1994, any"; in line 15 after "occurrence" insert "within a five-year period"; in line 20 after "third" insert "or subsequent"; and in line 21 strike "(3)" and insert "(4)".

3. On page 120, line 4, strike "(4) The" and insert "(5) Until January 1, 1994, the"; and in line 6 after "that" insert "the failure to file or pay is not due to negligence, intentional disregard of the law, rules, or regulations, intentional evasion of the tax, or fraud committed with intent to evade the tax or that", after "should" insert "otherwise", and after the period insert "On and after January 1, 1994, the department may in its discretion waive any and all penalties incurred upon sufficient showing by the taxpayer that such penalties should be waived.".

4. On page 147, strike beginning with "(1)"

in line 2 through "(2)" in line 11; strike beginning with the comma in line 15 through "Act" in line 20; and in line 24 strike "(a)" and insert "(1)".

5. On page 148, line 1, strike "(b)" and insert "(2)"; in line 3 strike "(c)" and insert "(3)"; and in line 7 after the last comma insert "as amended by Laws 1990, LB1031, section 10,".

The Warner amendment was adopted with 30 ayes, 0 nays, 16 present and not voting, and 3 excused and not voting.

Mr. Warner offered the following amendment:
AM2234

(Amendments to AM1776)

1. Insert the following new section:

"Sec. 134. That section 66-1225, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

66-1225. Reformulated gasoline which is sold ~~in Nebraska~~ after January 1, 1992, in ozone nonattainment areas of Nebraska as designated by the federal Environmental Protection Agency shall contain an oxygen content equal to or greater than three and one-tenth percent weight oxygen. ~~and shall contain a maximum aromatic content of not greater than twenty percent.~~".

2. On page 149, line 15, after "66-1216," insert "66-1225,".

3. Correct the operative date provision so that section 66-1225 becomes operative January 1, 1992.

4. Renumber the remaining sections and correct internal references accordingly.

The Warner amendment was adopted with 25 ayes, 0 nays, 21 present and not voting, and 3 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 627A. Mr. Warner renewed his pending amendment, AM2153, found in the Journal on page 2659.

The Warner amendment was adopted with 26 ayes, 0 nays, 20 present and not voting, and 3 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 511. E & R amendment, AM5163, found in the Journal on page 2346, was adopted.

Mr. Lamb withdrew his pending amendment, AM2122, printed separately from the Journal and referred to on page 2531.

Mr. Withem moved to suspend the rules, Rule 6, Section 3(g), and Rule 7, Section 3(d), to permit consideration of AM2277 to LB 511.

The Withem motion to suspend the rules prevailed with 30 ayes, 3 nays, 13 present and not voting, and 3 excused and not voting.

Mr. Withem offered the following amendment:
(Amendment on file in the Clerk's Office - Room 2018 - AM2277.)

Messrs. Landis and Lindsay asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Wickersham offered the following amendment to the pending Withem amendment:
AM2283

(Amendments to AM2277)

1. Strike sections 59, 95, and 98.

2. Renumber the remaining sections and correct internal references accordingly.

Mr. Robinson moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

The Wickersham amendment was adopted with 25 ayes, 2 nays, 17 present and not voting, and 5 excused and not voting.

Mr. Schrock offered the following amendment to the pending Withem amendment:
AM2287

(Amendments to AM2277)

1. Strike section 17 and insert the following new section:

"Sec. 17. That section 79-402.16, Revised Statutes Supplement, 1990, be amended to read as follows:

79-402.16. A petition for affiliation pursuant to sections 79-402, 79-402.03, and 79-402.04 and a plan for affiliation pursuant to section 79-426.08 shall contain (1) a description and map of the proposed boundaries of the affiliated school system and (2) terms of the affiliation, including (a) coordination of elementary curriculum subject to section 79-4,158.01 and (b) provision for the establishment and maintenance of an advisory committee as prescribed by section 79-4,105.01. An affiliation plan or petition may include provisions allowing parents to continue educating their children in the district in which they currently have children enrolled with reimbursement to be paid to the receiving district from the affiliated ~~school system~~ high school district based on the per pupil cost for high school students of such districts as reported on the preceding year's annual financial report.".

The Schrock amendment was adopted with 25 ayes, 0 nays, 19 present and not voting, and 5 excused and not voting.

Mr. Wesely offered the following amendment to the pending Withem amendment:
FA211

(Amendments to AM5130)

1. insert the following new paragraph:

"The committee shall also, on or before March 1, 1992, make a report to the Governor, the Legislature, and the State Department of Education on the possible financial effects on school districts of the following: Reduced agricultural land valuations; personal property tax reductions; future projected increases or decreases in student enrollment; and the further implementation of Laws 1989, LB 183, and Laws 1990, LB 259. The committee shall also consider and report on the possible financial effects on school districts regarding various options with respect to the following: Daily membership tiers; computation of financial changes resulting in moving various tier midpoints; and the relocation of school districts into various combinations.".

Mr. Wesely withdrew his pending amendment.

Mr. Beutler offered the following amendment to the pending Withem amendment:
AM2292

(Amendments to AM2277)

1. Insert the following new section:

"Sec. 61. In error proceedings to reverse, vacate, or modify a final order by a school board made pursuant to sections 79-12,107 to 79-12,121, the school district, school board, or both may be named as defendants in error in such proceedings. Such proceedings shall not be defeated nor shall the court be deprived of subject matter jurisdiction because the petitioner named the school board rather that the school district or the school district rather than the school board as the defendant in error.

This section shall apply to all error proceedings currently pending in the district court or the Supreme Court on the operative date of this section and to error proceedings commenced after such date.".

2. Renumber the remaining sections and correct internal references accordingly.

3. Correct the operative date provision to reflect that the section added by this amendment shall become operative on its effective date.

PRESIDENT MOUL PRESIDING

Mr. Bernard-Stevens requested a ruling of the Chair on whether the Beutler amendment is germane to the Withem amendment.

The Chair ruled the Beutler amendment is germane to the Withem amendment.

Mr. Kristensen moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

Mr. Beutler moved for a call of the house. The motion prevailed with 17 ayes, 0 nays, and 32 not voting.

Mr. Moore requested a roll call vote on the Beutler amendment.

Voting in the affirmative, 27:

Abboud	Chizek	Hillman	Nelson	Schrock
Ashford	Conway	Horgan	Rasmussen	Smith
Bernard-Stevens	Crosby	Labedz	Robinson	Wesely
	Cudaback	Landis	Rogers	Wickersham
Beutler	Elmer	Lindsay	Schimek	Will
Chambers	Hall	Morrissey		

Voting in the negative, 9:

Byars	Johnson, L.	Lamb	Pirsch	Warner
Hefner	Kristensen	Moore	Schmit	

Present and not voting, 12:

Baack	Dierks	Lynch	Robak	Wehrbein
Beyer	Hartnett	Peterson	Schellpeper	Withem
Coordsen	Johnson, R.			

Excused and not voting, 1:

Haberman

The Beutler amendment was adopted with 27 ayes, 9 nays, 12 present and not voting, and 1 excused and not voting.

The Chair declared the call raised.

Messrs. Hall and Landis asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Byars offered the following amendment to the pending Withem amendment:
FA212

Amend the Beutler amendment to AM2277 in paragraph (2) to strike beginning with "currently" through "proceedings" and strike "such date" and insert "the operative date of this section"

Mr. Byars withdrew his pending amendment.

The Withem amendment, as amended, was adopted with 25 ayes, 1 nay, 20 present and not voting, and 3 excused and not voting.

Advanced to E & R for engrossment.

STANDING COMMITTEE REPORT
Agriculture

The Committee on Agriculture desires to report favorably upon the appointments listed below. The Committee suggests the appointments be confirmed by the Legislature and suggests a record vote.

Jeffrey L. Pickering - Nebraska Dry Bean Commission
Garold N. Batterman - Nebraska Dry Bean Commission
Leonard J. Treinen, Jr. - Nebraska Dry Bean Commission

VOTE: AYE: Senators Rogers, Chambers, Cudaback, Elmer, Hefner, and Morrissey. NAY: None. ABSENT: Senators Coordsen and Schellpeper.

(Signed) Carson Rogers, Chairperson

UNANIMOUS CONSENT - Print in Journal

Mr. Lamb asked unanimous consent to print the following amendment to LB 719 in the Journal. No objections. So ordered.

AM2286

1. Strike the original sections and all amendments thereto and insert the following new sections:

"Section 1. The Legislature finds that there are rivers and streams in Nebraska which, with their immediate environments, possess outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values and which should be preserved and protected for the benefit and enjoyment of present and future generations. The Legislature further finds that the Nebraska Natural Resources Commission is the most appropriate agency for providing such protection and that current Nebraska law does not provide the commission with sufficient capability to provide such protection. Current statutory authority needs to be expanded and additional authority needs to be provided to allow the appropriate protective measures.

Sec. 2. (1) The Nebraska Natural Resources Commission may designate as a protected stream all or a

portion of any river or stream which possesses one or more of the values recognized in section 1 of this act and for which the commission concludes that protection of those values is in the public interest. The commission shall make such designation by adopting a resolution specifying the upper and lower ends of the reach or reaches so designated, the reasons and purposes for the designation, and the use restrictions within the protected stream corridor necessary to protect such river or stream.

(2) The designation and the use restrictions shall have the full force and effect of law until changed by the commission or the Legislature.

(3) After the resolution has been adopted, the counties in which all or a part of a protected stream corridor is located shall enforce the use restrictions specified in the resolution. Any city or village which has zoning jurisdiction over all or a part of a protected stream corridor shall enforce the use restrictions specified in the resolution.

(4) For purposes of this section, protected stream corridor shall mean all of the portion of the river or stream and all land within one-half mile of each side of the designated reach of the river or stream as measured from the ordinary high-water mark.

Sec. 3. The Nebraska Natural Resources Commission, on its own motion or upon the request of any county presented in the form of a duly adopted resolution by the county, shall investigate all or any portion of a river or stream to determine if it possesses one or more of the values recognized in section 1 of this act.

Prior to adopting a resolution designating a protected stream pursuant to section 2 of this act, the commission shall hold a public hearing. Public notice of the hearing shall be given at least once each week for two consecutive weeks prior to the hearing date in a newspaper of general circulation.

Sec. 4. That section 2-1507, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-1507. In addition to the duties and powers otherwise conferred by law upon the Nebraska Natural Resources Commission, it shall have the following duties

and powers: (1) To offer such assistance as may be appropriate to the Water Management Board and to the supervisors or directors of any subdivision of government with responsibilities in the area of natural resources conservation, development, and use in the carrying out of any of their powers and programs; (2) to keep the supervisors or directors of each such subdivision informed of the activities and experience of all other such subdivisions and to facilitate cooperation and an interchange of advice and experience between such subdivisions; (3) to coordinate the programs of such subdivisions so far as this may be done by advice and consultation; (4) to secure the cooperation and assistance of the United States and any of its agencies, and of agencies of this state, in the work of such subdivisions; (5) to disseminate information throughout the state concerning the activities and programs of such subdivisions; (6) to plan, develop, and promote the implementation of a comprehensive program of resource development, conservation, and utilization for the soil and water resources of this state in cooperation with other local, state, and federal agencies and organizations; (7) when necessary for the proper administration of the functions of the department, to rent or lease space outside the State Capitol; ~~and~~ (8) to assist such local governmental organizations as villages, towns, cities, counties, and natural resources districts in securing, planning, and developing information on flood plains to be used in developing regulations and ordinances on proper use of these flood plains; and (9) to carry out sections 1 to 3 of this act relating to protected streams.

Sec. 5. That original section 2-1507, Reissue Revised Statutes of Nebraska, 1943, is repealed.".

2. On page 1, strike beginning with "schools" in line 1 through line 5 and all amendments thereto and insert "rivers and streams; to amend section 2-1507, Reissue Revised Statutes of Nebraska, 1943; to state findings; to authorize the Nebraska Natural Resources Commission to designate protected streams; to require enforcement of use restrictions; to harmonize provisions; and to repeal the original section".

MOTION - Return LB 617 to Select File

Mr. Conway moved to return LB 617 to Select File for the following specific amendment:
AM2258

(Amendments to Final Reading copy)

1. On page 4, lines 23 and 24, strike "to Nicholas Street, east on Nicholas Street".

2. On page 5, lines 2 and 3, strike "and continuing east on an east-west line extending from Charles Street" and insert "to 22nd Street, south on 22nd Street to Charles Street, east on Charles Street to 21st Street, north on 21st Street to Charles Plaza, east on Charles Plaza to 20th Street, north on 20th Street to Charles Street, east on Charles Street"; in line 22 after the first "Street" insert "to Q Street, west on Q Street to 42nd Street, north on 42nd Street"; and in lines 22 and 23 and 23 and 24 strike "Union Pacific" and insert "Burlington Northern".

The Conway motion to return prevailed with 25 ayes, 0 nays, 21 present and not voting, and 3 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 617. The Conway specific amendment, AM2258, found in this day's Journal, was adopted with 25 ayes, 0 nays, 21 present and not voting, and 3 excused and not voting.

Advanced to E & R for re-engrossment.

MOTION - Return LB 619 to Select File

Mr. Conway moved to return LB 619 to Select File for the following specific amendment:
AM2259

(Amendments to Final Reading copy)

1. On page 5, lines 5 and 6, strike "to Nicholas Street, east on Nicholas Street"; and in lines 9 and 10 strike "and continuing east on an east-west line extending from Charles Street" and insert "to 22nd Street, south on 22nd Street to Charles Street, east on Charles Street to 21st Street, north on 21st Street to Charles Plaza, east on Charles Plaza to 20th Street, north on 20th Street to Charles Street, east on Charles

Street".

2. On page 6, line 4, after the first "Street" insert "to Q Street, west on Q Street to 42nd Street, north on 42nd Street"; and in lines 4 and 5 and 5 and 6 strike "Union Pacific" and insert "Burlington Northern".

The Conway motion to return prevailed with 25 ayes, 0 nays, 21 present and not voting, and 3 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 619. The Conway specific amendment, AM2259, found in this day's Journal, was adopted with 26 ayes, 0 nays, 20 present and not voting, and 3 excused and not voting.

Advanced to E & R for re-engrossment.

MOTION - Return LB 616 to Select File

Mr. Conway moved to return LB 616 to Select File for the following specific amendment:
AM2256

(Amendments to Final Reading copy)

1. On page 3, line 8, after "to" insert "Turner Boulevard, southeast and northwest on Turner Boulevard to Pacific Street, east on Pacific Street to" and strike the new matter and reinstate the stricken matter; and in lines 9 through 11 reinstate the stricken matter.

The Conway motion to return prevailed with 25 ayes, 0 nays, 21 present and not voting, and 3 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 616. The Conway specific amendment, AM2256, found in this day's Journal, was adopted with 25 ayes, 0 nays, 22 present and not voting, and 2 excused and not voting.

Advanced to E & R for re-engrossment.

MOTION - Return LB 615 to Select File

Mr. Withem moved to return LB 615 to Select File for the following specific amendment:
AM2247

(Amendments to Final Reading copy)

1. On page 2, line 15, reinstate the stricken "Gage," and "Saline,"; in line 17 strike "Madison," and "Pierce," and show as stricken; in line 18 strike "Knox," and show as stricken; and strike beginning with "that" in line 21 through "Beatrice" in line 25 and insert "that part of Madison County not included in the third district".

3. On page 3, line 20, strike "Saline,"; and in line 21 after the first comma insert "Pierce, Knox,".

4. On page 4, line 5, strike "Gage" and insert "Madison"; and in line 6 strike the new matter and insert "which includes the Tilden 2nd Ward precinct".

Mr. Withem moved for a call of the house. The motion prevailed with 27 ayes, 0 nays, and 22 not voting.

Mr. Conway requested a roll call vote on the Withem motion to return.

Voting in the affirmative, 27:

Beutler	Hall	Lindsay	Rasmussen	Smith
Byars	Hartnett	Lynch	Robak	Wesely
Chambers	Hillman	Morrissey	Schellpeper	Wickersham
Chizek	Horgan	Nelson	Schimek	Will
Coordsen	Labedz	Pirsch	Schmit	Withem
Dierks	Landis			

Voting in the negative, 17:

Abboud	Cudaback	Kristensen	Peterson	Schrock
Baack	Hefner	Lamb	Robinson	Warner
Conway	Johnson, L.	Moore	Rogers	Wehrbein
Crosby	Johnson, R.			

Present and not voting, 4:

Ashford	Bernard-Stevens	Beyer	Elmer

Excused and not voting, 1:

Haberman

The Withem motion to return prevailed with 27 ayes, 17 nays, 4 present and not voting, and 1 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 615. The Withem specific amendment, AM2247, found in this day's Journal, was considered.

Mr. Wesely moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 33 ayes, 0 nays, and 16 not voting.

Mr. Hefner requested a record vote on the Withem specific amendment.

Voting in the affirmative, 26:

Beutler	Hall	Landis	Rasmussen	Smith
Byars	Hartnett	Lindsay	Robak	Wesely
Chambers	Hillman	Lynch	Schellpeper	Wickersham
Chizek	Horgan	Morrissey	Schimek	Will
Coordsen	Labedz	Nelson	Schmit	Withem
Dierks				

Voting in the negative, 20:

Abboud	Conway	Johnson, L.	Moore	Rogers
Baack	Crosby	Johnson, R.	Peterson	Schrock
Bernard-Stevens	Cudaback	Kristensen	Pirsch	Warner
Beyer	Hefner	Lamb	Robinson	Wehrbein

Present and not voting, 2:

Ashford Elmer

Excused and not voting, 1:

Haberman

The Withem specific amendment was adopted with 26 ayes, 20 nays, 2 present and not voting, and 1 excused and not voting.

Mr. Conway requested a machine vote on the re-advancement of the bill.

Voting in the affirmative, 25:

Beutler	Dierks	Labedz	Nelson	Smith
Byars	Hall	Landis	Rasmussen	Wesely
Chambers	Hartnett	Lindsay	Robak	Wickersham
Chizek	Hillman	Lynch	Schellpeper	Will
Coordsen	Horgan	Morrissey	Schimek	Withem

Voting in the negative, 20:

Abboud	Beyer	Hefner	Lamb	Robinson
Ashford	Conway	Johnson, L.	Moore	Schrock
Baack	Crosby	Johnson, R.	Peterson	Warner
Bernard-Stevens	Cudaback	Kristensen	Pirsch	Wehrbein

Present and not voting, 3:

Elmer	Rogers	Schmit

Excused and not voting, 1:

Haberman

Advanced to E & R for re-engrossment with 25 ayes, 20 nays, 3 present and not voting, and 1 excused and not voting.

MOTION - Return LB 615 to Select File

Mr. Conway moved to return LB 615 to Select File for the following specific amendment:
AM2294

(Amendments to Final Reading copy)

1. On page 2, line 18, strike "Knox." and show as stricken and after the third comma insert "Gage,"; and in lines 21 and through 25 strike the new matter and insert "that part of Knox County which

includes the precincts of Herrick, Addison, Peoria, Morton, North Frankfort, Frankfort, Eastern, Dolphin, Dowling, Lincoln, Bloomfield Ward 1, Bloomfield Ward 2, Crofton Ward 1, Crofton Ward 2, and Wausa Village, and that part of Cass County not included in".

2. On page 4, line 5, strike "Gage" and insert "Knox".

Mrs. Robak moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 0 nays, and 23 not voting.

The Conway motion to return lost with 22 ayes, 25 nays, 1 present and not voting, and 1 excused and not voting.

The Chair declared the call raised.

Messrs. Schmit and Landis asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Peterson moved to return LB 615 to Select File for the following specific amendment:
AM2295

(Amendments to AM2247)

1. On page 1, line 2, strike " 'Madison,' and"; strike beginning with "and" in line 5 through the quotation marks in line 7; strike beginning with "line" in line 10 through the quotation marks in line 13 and insert "strike beginning with 'and' in line 5 through 'district' in line 6".

Mrs. Robak moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 0 nays, and 23 not voting.

The Peterson motion to return prevailed with 26 ayes, 0 nays, 20 present and not voting, and 3 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 615. The Peterson specific amendment, AM2295, found in this day's Journal, was considered.

Mrs. Robak moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

The Peterson specific amendment was adopted with 26 ayes, 0 nays, 20 present and not voting, and 3 excused and not voting.

Advanced to E & R for re-engrossment.

MOTION - Return LB 614 to Select File

Mr. Conway moved to return LB 614 to Select File for the following specific amendment:
(Amendment on file in the Clerk's Office - Room 2018 - AM2285.)

The Conway motion to return prevailed with 26 ayes, 0 nays, 20 present and not voting, and 3 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 614. The Conway specific amendment, AM2285, on file in the Clerk's Office, was adopted with 28 ayes, 0 nays, 18 present and not voting, and 3 excused and not voting.

Advanced to E & R for engrossment.

Mr. Peterson asked unanimous consent to be excused until he returns. No objections. So ordered.

SPEAKER BAACK PRESIDING

MOTION - Return LB 579A to Select File

Messrs. Moore and Hall moved to return LB 579A to Select File for the following specific amendment:
AM2279

1. Insert the following new section:

"Sec. 2. If the Legislature calls a special election for the purpose of proposing an amendment to the Constitution pursuant to Legislative Resolution 186CA, Ninety-second Legislature, First Session, 1991, there is hereby appropriated $600,000 from the General Fund for FY1991-92 to the State Election Board, for Program 47, to be used pursuant to section 49-237.".

2. On page 1, line 4, after the semicolon insert "to appropriate funds to the State Election Board as prescribed;".

3. Renumber the remaining sections accordingly.

Messrs. Moore and Hall withdrew their pending motion to return.

Messrs. Moore and Hall moved to return LB 579A to Select File for the following specific amendment:
AM2300

(Amendments to Final Reading copy)

1. Insert the following new section:

"Sec. 3. (1) If Legislative Bill 579, Ninety-second Legislature, First Session, 1991, becomes law, and if the Legislature calls a special election for the purpose of proposing an amendment to the Constitution pursuant to Legislative Resolution 186CA, Ninety-second Legislature, First Session, 1991, there is hereby appropriated $600,000 from the General Fund for FY1991-92 to the State Election Board, for Program 47, to be used pursuant to section 49-237.

(2) If Legislative Bill 579, Ninety-second Legislature, First Session, 1991, does not become law, and if the Legislature calls a special election for the purpose of proposing an amendment to the Constitution pursuant to Legislative Resolution 186CA, Ninety-second Legislature, First Session, 1991, there is hereby appropriated $600,000 from the General Fund for FY1991-92 to the Secretary of State, for Program 85, to be used pursuant to section 49-237.".

2. On page 1, line 4, after the semicolon insert "to appropriate funds to be used pursuant to section 49-237 as prescribed;".

3. Renumber the remaining section accordingly.

The Moore-Hall motion to return prevailed with 25 ayes, 1 nay, 19 present and not voting, and 4 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 579A. The Moore-Hall specific amendment, AM2300, found in this day's Journal, was adopted with 28 ayes, 0 nays, 18 present and not voting, and 3 excused and not voting.

Advanced to E & R for re-engrossment.

LEGISLATIVE BILL 413. E & R amendment, AM5141, found in the Journal on page 1968, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 413A. Mr. Baack moved to indefinitely postpone.

The Baack motion to indefinitely postpone prevailed with 31 ayes, 0 nays, 15 present and not voting, and 3 excused and not voting.

LEGISLATIVE BILL 813. E & R amendment, AM5143, found in the Journal on page 1998, was adopted.

Messrs. Beutler and Conway withdrew their pending amendment, AM1640, found in the Journal on page 2027.

Mr. Morrissey withdrew his pending amendment, AM1995, found in the Journal on page 2374.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 693. E & R amendment, AM5170, found in the Journal on page 2545, was adopted.

Mr. Kristensen withdrew his pending amendment, AM2191, found in the Journal on page 2671.

Advanced to E & R for engrossment.

WITHDRAW - Amendment to LB 297

Mr. Coordsen withdrew his pending amendment, FA78, found in the Journal on page 1398, to LB 297.

MOTION - Return LB 297 to Select File

Mr. Hefner moved to return LB 297 to Select File for his specific amendment, AM1041, found in the Journal on page 1426.

Mr. Hefner requested a roll call vote on his motion to return.

Voting in the affirmative, 17:

Abboud	Cudaback	Johnson, R.	Moore	Robinson
Beyer	Elmer	Kristensen	Peterson	Rogers
Coordsen	Hefner	Lamb	Pirsch	Smith
Crosby	Johnson, L.			

Voting in the negative, 24:

Ashford	Byars	Hall	Lindsay	Warner
Baack	Chambers	Hillman	Morrissey	Wesely
Bernard-Stevens	Chizek	Horgan	Rasmussen	Wickersham
	Conway	Labedz	Schimek	Will
Beutler	Dierks	Landis	Schmit	Withem

Present and not voting, 7:

Hartnett	Nelson	Schellpeper	Schrock	Wehrbein
Lynch	Robak			

Excused and not voting, 1:

Haberman

The Hefner motion to return lost with 17 ayes, 24 nays, 7 present and not voting, and 1 excused and not voting.

BILLS ON FINAL READING

The following bills were read and put upon final passage:

LEGISLATIVE BILL 297. With Emergency.

A BILL FOR AN ACT relating to the Wage and Hour Act; to amend sections 48-1202 and 48-1209, Reissue Revised Statutes of Nebraska, 1943, and section 48-1203, Revised Statutes Supplement, 1990; to change the minimum wage rates as prescribed; to provide a training wage rate; to harmonize provisions; to provide an operative date; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 34:

Ashford	Chizek	Hillman	Morrissey	Smith
Baack	Conway	Horgan	Nelson	Warner
Bernard-Stevens	Coordsen	Johnson, R.	Rasmussen	Wehrbein
	Crosby	Labedz	Schellpeper	Wesely
Beutler	Dierks	Landis	Schimek	Wickersham
Byars	Hall	Lindsay	Schmit	Will
Chambers	Hartnett	Moore	Schrock	Withem

Voting in the negative, 12:

Abboud	Elmer	Kristensen	Peterson	Robinson
Beyer	Hefner	Lamb	Pirsch	Rogers
Cudaback	Johnson, L.			

Present and not voting, 2:

Lynch Robak

Excused and not voting, 1:

Haberman

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

LEGISLATIVE BILL 297A. With Emergency.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 297, Ninety-second Legislature, First Session, 1991; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 34:

Ashford	Bernard-Stevens	Byars	Chizek	Coordsen
Baack		Chambers	Conway	Crosby

Dierks	Johnson, R.	Moore	Schellpeper	Warner
Hall	Kristensen	Morrissey	Schimek	Wehrbein
Hartnett	Labedz	Nelson	Schmit	Wesely
Hillman	Landis	Rasmussen	Schrock	Wickersham
Horgan	Lindsay	Robak	Smith	Will

Voting in the negative, 11:

Abboud	Elmer	Johnson, L.	Peterson	Robinson
Beyer	Hefner	Lamb	Pirsch	Rogers
Cudaback				

Present and not voting, 3:

Beutler	Lynch	Withem

Excused and not voting, 1:

Haberman

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

MOTION - Return LB 167 to Select File

Mr. Kristensen moved to return LB 167 to Select File for his specific amendment, AM2093, found in the Journal on page 2686.

Mr. Kristensen withdrew his pending motion to return.

Mr. Lynch moved to return LB 167 to Select File for the reoffered specific amendment, AM2093, found in the Journal on page 2686.

Mr. Beutler moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

Mr. Lynch requested a roll call vote on his motion to return.

Voting in the affirmative, 17:

Abboud	Crosby	Dierks	Horgan	Labedz
Chizek	Cudaback	Hartnett	Johnson, R.	Lamb

Lindsay	Pirsch	Rogers	Schmit	Schrock
Lynch	Robinson			

Voting in the negative, 9:

Beyer	Chambers	Hefner	Johnson, L.	Nelson
Byars	Hall	Hillman	Morrissey	

Present and not voting, 22:

Ashford	Conway	Moore	Schimek	Wesely
Baack	Coordsen	Peterson	Smith	Wickersham
Bernard-Stevens	Elmer	Rasmussen	Warner	Will
	Kristensen	Robak	Wehrbein	Withem
Beutler	Landis	Schellpeper		

Excused and not voting, 1:

Haberman

The Lynch motion to return lost with 17 ayes, 9 nays, 22 present and not voting, and 1 excused and not voting.

Mr. Lynch asked unanimous consent to be excused until he returns. No objections. So ordered.

BILL ON FINAL READING

The following bill was read and put upon final passage:

LEGISLATIVE BILL 167. With Emergency.

A BILL FOR AN ACT relating to public employees; to amend section 44-1615, Reissue Revised Statutes of Nebraska, 1943; to adopt the Political Subdivisions Self-Funding Benefits Act; to harmonize provisions; to provide a duty for the Revisor of Statutes; to provide severability; to repeal the original section; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 33:

Ashford	Chambers	Hefner	Moore	Robinson
Baack	Conway	Hillman	Morrissey	Schellpeper
Bernard-Stevens	Coordsen	Johnson, L.	Nelson	Schrock
	Crosby	Johnson, R.	Peterson	Warner
Beutler	Cudaback	Kristensen	Pirsch	Wehrbein
Beyer	Dierks	Lamb	Rasmussen	Wickersham
Byars	Elmer	Landis	Robak	

Voting in the negative, 11:

Abboud	Horgan	Lindsay	Schimek	Wesely
Chizek	Labedz	Rogers	Schmit	Will
Hall				

Present and not voting, 3:

Hartnett	Smith	Withem

Excused and not voting, 2:

Haberman	Lynch

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

WITHDRAW - Amendment to LB 579

Mr. Conway withdrew his pending amendment, AM2007, found in the Journal on page 2577, to LB 579.

MOTION - Return LB 579 to Select File

Mrs. Pirsch moved to return LB 579 to Select File for the following specific amendment:
FA213
Strike the enacting clause.

SPEAKER BAACK PRESIDING

Mrs. Pirsch withdrew her pending motion to return.

Messrs. Abboud and Schmit asked unanimous consent to be excused until they return. No objections. So ordered.

PRESIDENT MOUL PRESIDING

MOTION - Suspend Rules

Mr. Baack moved to suspend the rules, Rule 5, Section 6(f) and (g) to permit consideration of LB 579 on Final Reading.

Mr. Moore moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

Mmes. Labedz and Robak asked unanimous consent to be excused until they return. No objections. So ordered.

The Baack motion to suspend the rules prevailed with 32 ayes, 0 nays, 12 present and not voting, and 5 excused and not voting.

Mr. R. Johnson asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Elmer and Mrs. Labedz asked unanimous consent to be excused. No objections. So ordered.

SPEAKER BAACK PRESIDING

BILL ON FINAL READING

The following bill was read and put upon final passage:

LEGISLATIVE BILL 579. With Emergency.

A BILL FOR AN ACT relating to elections; to amend sections 2-2434, 2-2435, 2-2437, 2-2447, 2-3214, 2-3225, 17-202, 17-216, 19-404, 19-3002, 19-3051, 22-202, 23-1203, 24-814, 24-815, 32-203, 32-216, 32-216.02, 32-217, 32-220, 32-221, 32-222, 32-224, 32-226, 32-228, 32-303, 32-402.01, 32-420.01, 32-420.02, 32-421.01, 32-422.01, 32-424, 32-429, 32-430.01, 32-438, 32-471, 32-4,101, 32-4,102, 32-4,104, 32-4,105, 32-4,107, 32-4,108, 32-4,136, 32-4,142, 32-504, 32-504.01, 32-510, 32-511, 32-512, 32-514, 32-517, 32-519, 32-519.01, 32-520, 32-524, 32-525, 32-526, 32-526.01, 32-526.02, 32-528, 32-529, 32-530, 32-530.01, 32-534, 32-535, 32-537, 32-542, 32-542.02,

32-542.03, 32-545, 32-549, 32-556, 32-561, 32-702, 32-703, 32-703.01, 32-705.01, 32-708, 32-709, 32-711, 32-712, 32-713, 32-714, 32-829, 32-830, 32-833, 32-848, 32-849, 32-1001.32 to 32-1001.36, 32-1001.40, 32-1001.45, 32-1042, 32-1043, 32-1055, 32-1056, 43-2,112, 43-2,127, 46-531, 49-202, 49-204, 49-214, 49-218, 49-219, 49-237, 49-238, 54-2106, 54-2117, 70-604.03, 70-610, 70-611, 70-612, 70-615, 70-619, 79-464, and 79-2646, Reissue Revised Statutes of Nebraska, 1943, sections 2-3213, 5-108.02, 23-343.25, 29-3913, 32-4,103, 32-4,150, 32-4,152, 32-704, 32-705, 32-1403, 32-1406, 79-2203, and 79-2647, Revised Statutes Supplement, 1990, and sections 32-425 and 32-4,155, Reissue Revised Statutes of Nebraska, 1943, as amended by sections 1 and 2, respectively, Legislative Bill 20, Ninety-second Legislature, First Session, 1991; to create the State Election Board and the position of State Election Commissioner; to provide for membership on the board; to provide powers and duties; to change, transfer, and eliminate provisions relating to forms and procedures for voter registration as prescribed; to change provisions relating to training for and powers of deputy registrars; to provide a duty for supervisors of registration; to eliminate provisions relating to an advisory committee; to change and provide duties for election commissioners and county clerks; to provide a residency requirement for public service commissioner candidates; to change, transfer, and eliminate duties of the Secretary of State relating to elections and petitions; to change the membership of the board of state canvassers; to change provisions relating to elections in multiple-county public power districts; to eliminate a penalty; to harmonize provisions; to provide operative dates; to repeal the original sections, and also sections 32-223 and 32-1051 to 32-1054, Reissue Revised Statutes of Nebraska, 1943, and sections 54-2106 and 54-2117, Reissue Revised Statutes of Nebraska, 1943, as amended by sections 130 and 131, respectively, Legislative Bill 579, Ninety-second Legislature, First Session, 1991; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 26:

Ashford	Chizek	Hillman	Moore	Schimek
Baack	Conway	Horgan	Morrissey	Smith
Beutler	Dierks	Johnson, R.	Nelson	Wesely
Byars	Hall	Landis	Rasmussen	Wickersham
Chambers	Hartnett	Lindsay	Schellpeper	Will

Withem

Voting in the negative, 16:

Abboud	Coordsen	Johnson, L.	Peterson	Rogers
Bernard-Stevens	Crosby	Lamb	Pirsch	Warner
Beyer	Cudaback	Lynch	Robinson	Wehrbein
	Hefner			

Present and not voting, 2:

Kristensen Schrock

Excused and not voting, 5:

Elmer	Haberman	Labedz	Robak	Schmit

Having failed to receive a constitutional two-thirds majority voting in the affirmative, the bill failed to pass with the emergency clause attached. The question is, "Shall the bill pass with the emergency clause stricken?"

Voting in the affirmative, 31:

Abboud	Chambers	Hillman	Lynch	Schimek
Ashford	Chizek	Horgan	Moore	Smith
Baack	Conway	Johnson, R.	Morrissey	Wesely
Bernard-Stevens	Coordsen	Kristensen	Nelson	Wickersham
Beutler	Dierks	Landis	Rasmussen	Will
Byars	Hall	Lindsay	Schellpeper	Withem
	Hartnett			

Voting in the negative, 12:

Beyer	Hefner	Peterson	Robinson	Warner
Crosby	Johnson, L.	Pirsch	Rogers	Wehrbein
Cudaback	Lamb			

Present and not voting, 1:

Schrock

Excused and not voting, 5:

Elmer Haberman Labedz Robak Schmit

A constitutional majority having voted in the affirmative, the bill was declared passed with the emergency clause stricken.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following bills: 297, 297A, 167, and 579.

SELECT COMMITTEE REPORTS
Enrollment and Review

Correctly Re-Engrossed

The following bills were correctly re-engrossed: 579A, 615, 616, 617, and 619.

Correctly Engrossed

The following bills were correctly engrossed: 355, 413, 511, 614, 627, 627A, 693, 748, 813, 829, 829A, and 849.

Correctly Enrolled

The following bill was correctly enrolled: 579.

(Signed) Eric Will, Chairperson

Enrollment and Review Change to LB 615
(Second Final Reading)

The following changes, required to be reported for publication in the Journal, have been made:
ER7118

1. In the Peterson amendment, AM2295, on page 1, line 5, "the second" has been inserted after "with".

2. On page 2, line 18, the underscored comma has been struck; and in line 25 the comma has been struck.

Enrollment and Review Change to LB 627A

The following changes, required to be reported for publication in the Journal, have been made:
ER7117

1. On page 1, line 5, "to reappropriate funds to continue a tax study;" has been inserted after the semicolon.

Enrollment and Review Change to LB 355

The following changes, required to be reported for publication in the Journal, have been made:
ER7116

1. In the Schellpeper amendment, AM2209:

a. On page 1, line 6, "record" has been struck; in lines 7, 10, and 17 "history" has been inserted after "criminal"; and in line 14 the comma has been struck; and

b. On page 2, line 9, "history" has been inserted after "criminal".

2. In the Ashford-Schellpeper amendment, AM2102:

a. On page 2, line 19, "Inform the licensee either" has been struck and "Either" inserted and "inform the licensee" has been inserted after "(i)";

b. On page 4, line 1, "record" has been inserted after "history"; in line 2 "(1)" has been struck and "(2)(a)" inserted; in line 9 a comma has been inserted after number; and in line 10 the first comma has been struck;

c. On page 6, line 10, "of this act" has been inserted after "9"; and

d. On page 9, line 7, "provided" has been struck and "if" inserted.

3. In the E & R amendment, AM5165, on page 2, line 6, "a review" has been struck and "upgrading" inserted.

Enrollment and Review Change to LB 748

The following changes, required to be reported for publication in the Journal, have been made:
ER7114

1. In the E & R amendments, AM5162, on page 1, line 6, "section" has been struck and "sections 71-3508.02 and" inserted; and in line 8 "and eliminate" has been inserted after "change".

Enrollment and Review Change to LB 829A

The following changes, required to be reported for publication in the Journal, have been made:
ER7113

1. On page 1, line 5 has been struck and "reduce an appropriation." inserted.

(Signed) Mary E. Sommermeyer
E & R Attorney

UNANIMOUS CONSENT - Print in Journal

Messrs. Wesely, Beutler, Landis, Ms. Schimek, and Mrs. Crosby asked unanimous consent to print the following amendment to LR 24CA in the Journal. No objections. So ordered.

AM2270

(Amendments to Final Reading copy)

1. On page 1, line 1, strike "amendments" and insert "an amendment"; and strike beginning with the comma in line 3 through "III" in line 4.

2. Strike the original sections and insert the following new sections:

"Section 1. That at the general election in November 1992 there shall be submitted to the electors of the State of Nebraska for approval the following amendment to the Constitution of Nebraska by amending Article III, section 24, which is hereby proposed by the Legislature:

CIII-24 'The (1) Except as provided in this section, the Legislature shall not authorize any game of chance, nor or any lottery, or gift enterprise when the consideration for a chance to participate involves the payment of money for the purchase of property, services, or a chance or admission ticket or requires an expenditure of substantial effort or time.

(2) The Legislature , except that it may authorize and regulate a state lottery pursuant to subsection (3) of this section and other lotteries, raffles, and gift enterprises which are intended solely as business promotions or the proceeds of which are to be used solely for charitable or community betterment purposes without profit to the promoter of such lotteries, raffles, or gift enterprises.

(3) The Legislature may establish a lottery to be operated and regulated by the State of Nebraska. The proceeds of the lottery shall be appropriated by the Legislature for the costs of establishing and

maintaining the lottery and for other purposes as directed by the Legislature. The Legislature may use the proceeds or a portion of the proceeds from such lottery to compensate depositors of industrial loan and investment companies for unreimbursed losses of guaranteed deposits held by industrial loan and investment companies which filed for bankruptcy or entered receivership after November 1, 1983. No lottery game shall be conducted as part of the lottery unless the type of game has been approved by a majority of the members of the Legislature.

(4) Nothing in this section shall be construed to prohibit (a) the enactment of laws providing for the licensing and regulation of wagering on the results of horseraces, wherever run, either within or outside of the state, by the parimutuel method, when such wagering is conducted by licensees within a licensed racetrack enclosure, or ~~to prohibit~~ (b) the enactment of laws providing for the licensing and regulation of bingo games conducted by nonprofit associations which have been in existence for a period of five years immediately preceding the application for license, except that bingo games cannot be conducted by agents or lessees of such associations on a percentage basis.'.

Sec. 2. That the proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1. The proposition for the submission of the proposed amendment shall be placed upon the ballot in the following form:

'A constitutional amendment to authorize the Legislature to establish a lottery which is operated and regulated by the state and to provide for the use of the proceeds of the lottery, including for payments to depositors of industrial loan and investment companies.

For

Against'.

Sec. 3. That the proposed amendment, if adopted, shall be in force and take effect immediately upon the completion of the canvass of the votes, at which time it shall be the duty of the Governor to proclaim it as a part of the Constitution of Nebraska.".

Enrollment and Review Change to LB 829

The following changes, required to be reported for publication in the Journal, have been made:
ER7198

1. In the Moore amendment, AM2237, on page 1, line 3, a comma has been inserted after "829A".

2. In the Hall amendment, AM2266, on page 3, subdivisions (a) through (f) have been renumbered as (1) through (6):

3. In the Hall amendment, AM2252, on page 1, line 15, the semicolon has been struck and an underscored period inserted.

4. In the Moore amendment, AM2176, section 20 has been renumbered as section 24.

5. In the Hall-Will amendment, AM2169:

a. Section 18 has been renumbered as section 22;

b. On page 13, line 21, the stricken colon has been reinstated; and

c. On page 19, line 3, "(3)" has been struck and "(4)" inserted.

6. In the Hall et al. amendment, AM2143:

a. On page 1, line 15, the paragraphing has been eliminated:

b. On page 5, line 20; and page 7, line 4, the comma has been struck;

c. On page 6, line 24; and page 8, lines 11 and 21, the period has been struck and an underscored semicolon inserted;

d. On page 7, lines 10 and 16, paragraphing has been inserted before the left parenthesis; and in line 16 "to" has been struck and "To" inserted;

e. On page 8, line 5, paragraphing has been inserted after the period;

f. On page 9, line 7, the period has been struck and "; and" inserted; and

g. On page 11, the matter beginning with "State" in line 1 through "Assessment" in line 2 has been struck and "board" inserted.

7. In the E & R amendment, AM5164:

a. On page 20, line 9, "whom" has been struck and shown as stricken and "which" inserted;

b. On page 100, line 19, "taxable" has been struck and "tax" inserted; and in line 24 "July" has been struck and "October" inserted;

c. On page 102, in line 22 "time limitations on" has been struck; and

d. On page 103, line 2, ", a corporate income tax surcharge, and a corporation fee and assessment" has been inserted after "surcharge"; in line 4 "eliminate" has been struck and "change provisions relating to" inserted and "for certain" has been struck; in

line 5 "personal property" has been struck and "to provide for reimbursement to political subdivisions;" has been inserted after the semicolon; the matter beginning with "aid" in line 5 through "and" in line 6 has been struck; and in line 7 "to change provisions relating to valuation adjustments under the Tax Equity and Educational Opportunities Support Act;" has been inserted after the second semicolon.

8. The title and repealer have been amended accordingly, sections have been renumbered, and internal references amended as required.

9. Other E & R changes have been made as required.

Enrollment and Review Change to LB 849

The following changes, required to be reported for publication in the Journal, have been made:

ER7115

1. In lieu of the Hall amendment, FA208, in the Standing Committee amendment, AM1071:

a. Original section 68 and all amendments thereto have been struck;

b. On page 9, the matter beginning with "(1)" in line 5 through "(2)" in line 8 has been struck; and

c. The remaining sections have been renumbered accordingly.

2. In the E & R amendments, AM5159:

a. On page 1, line 2, the second "and" has been struck; and in line 4 "; and in line 6 strike the period" has been inserted before the period;

b. On page 6, line 23, "; in line 10" has been struck and a period inserted; and line 24 has been struck; and

c. On page 7, lines 1 through 4 have been struck; in line 6 "and" has been inserted after the first semicolon; and the matter beginning with the second "in" in line 6 through the quotation marks in line 19 has been struck.

3. On page 1, line 9, "to redefine a term;" has been inserted after the first semicolon; and "to provide inseverability;" has been inserted after the second semicolon.

4. Sections have been correlated with LB 427, Ninety-second Legislature, First Session, 1991, and title and repealer changes made accordingly.

5. Other E & R changes have been made as required.

Enrollment and Review Change to LB 511

The following changes, required to be reported for publication in the Journal, have been made:
ER7119

1. In the Beutler amendment, AM2292, on page 1, line 14, "operative date of this section" has been struck and "effective date of this act" inserted.

2. In the Withem amendment, AM2277:

a. On page 45, line 1, "rates" has been struck and shown as stricken and "amount" inserted;

b. On page 152, line 24, "719" has been struck and "511" inserted;

c. On page 153, line 2, "1992" has been struck, shown as stricken, and "1993" inserted; and

d. Section 94 has been renumbered as section 93.

3. On page 1, the matter beginning with "scenic" in line 1 through line 9 has been struck and "education; to amend sections 43-2007, 77-3437, 77-3438, 77-3441, 79-436, 79-445, 79-446.01 to 79-448, 79-497, 79-498, 79-506 to 79-506.04, 79-548.01, 79-1247.07, 79-1254.02, 79-1914, 79-2212, 79-3304, and 79-3336, Reissue Revised Statutes of Nebraska, 1943, sections 10-716.01, 23-3306, 79-101.01, 79-101.02, 79-201.09, 79-402, 79-402.03, 79-402.04, 79-402.13 to 79-402.20, 79-426.02, 79-426.19, 79-426.28, 79-437.03, 79-438.08, 79-438.12, 79-449.01, 79-451, 79-458, 79-494, 79-4,102 to 79-4,104, 79-4,105.01, 79-4,158.01, 79-4,159, 79-4,222, 79-4,224, 79-701, 79-1103, 79-1247.05, 79-1303, 79-1304, 79-1369, 79-2203, 79-3415, 79-3703, 79-3803, 79-3804, 79-3806 to 79-3811, 79-3813, 79-3815 to 79-3820, and 79-3822 to 79-3824, Revised Statutes Supplement, 1990, Laws 1988, LB 940, section 19, and Laws 1988, LB 940, section 18, as amended by Laws 1990, LB 259, section 34; to change, add, and eliminate duties of the Commissioner of Education, State Board of Education, State Department of Education, county superintendents, county treasurers, and secretaries of school boards; to require proof of identity and age of certain children; to define and redefine terms; to change, add, and eliminate provisions relating to budget limitations and statements, affiliation, reorganization, and depopulation of school districts, nonresident high school tuition, reports, the effect of a census, acquisition of facilities by Class II school districts, contract renewal, certain error proceedings, withholding payments to school districts, reimbursement of certain special education and enrollment option program costs, and the Tax Equity and Educational Opportunities Support Act; to eliminate provisions relating to career certification levels for teachers, an entry-year assistance program, and certification for administrators; to provide for substitute teaching certificates or permits and for waiver of a fee; to eliminate a prohibition on payment of state

apportionment of certain funds; to provide for membership and withdrawal from educational service units for certain Class I districts; to eliminate provisions relating to transportation of nonresident students, satellite programs for accoustically handicapped children, and funding for school district affiliation; to eliminate the Nebraska Mathematics and Science Teacher Tuition Assistance Act; to harmonize provisions; to provide severability; to repeal the original sections, and also sections 79-493, 79-4,160, 79-1247.15, 79-12,142 to 79-12,144, 79-12,146 to 79-12,152, and 79-1912, Reissue Revised Statutes of Nebraska, 1943, and sections 79-438.09 to 79-438.11, 79-4,223, and 79-12,145, Revised Statutes Supplement, 1990; and to declare an emergency." inserted.

4. Other E & R changes have been made as required.

(Signed) Mary E. Sommermeyer
E & R Attorney

VISITORS

Visitors to the Chamber were former Lt. Governor McGinley from New York City; and Karen, Derek, and Laura Maurstad from Beatrice.

ADJOURNMENT

At 11:57 p.m., on a motion by Mrs. Pirsch, the Legislature adjourned until 9:00 a.m., Tuesday, June 4, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

EIGHTY-NINTH DAY - JUNE 4, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

EIGHTY-NINTH DAY

Legislative Chamber, Lincoln, Nebraska
Tuesday, June 4, 1991

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Moul presiding.

PRAYER

The prayer was offered by Pastor Dan Flanagan, St. Paul Methodist Church, Lincoln, Nebraska.

ROLL CALL

The roll was called and all members were present except Mr. Haberman who was excused; and Messrs. Ashford, Baack, Chambers, Conway, R. Johnson, Kristensen, Landis, Moore, Morrissey, Peterson, Robinson, Schellpeper, Schmit, Wehrbein, Withem, and Mrs. Labedz who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

Page 2789, line 18, strike "2374" and insert "2321".
The Journal for the Eighty-Eighth Day was approved as corrected.

SELECT COMMITTEE REPORT
Enrollment and Review

Enrollment and Review Change to LB 627

The following changes, required to be reported for publication in the Journal, have been made:
ER7120

1. In the Standing Committee amendment, AM1776, on page 149, line 10, "66-605.03," has been inserted after the fifth comma; in line 16, "and" has been inserted after the first comma and "66-1521, and 66-1522," has been struck; and in line 18, "and sections 66-1521 and 66-1522, Reissue Revised Statutes of Nebraska, 1943, as amended by sections 14 and 15, respectively, Legislative Bill 409, Ninety-second Legislature, First Session, 1991," has been inserted before "and".

2. In the E & R amendment, AM5167, on page 16, line 3 "66-1225," has been inserted after the first comma.

3. On page 1, line 18, "to change provisions relating to reformulated gasoline;" has been inserted after the second semicolon.

(Signed) Mary E. Sommermeyer
E & R Attorney

PRESENTED TO THE GOVERNOR

Presented to the Governor on June 4, 1991, at 8:35 a.m., were the following bills: 297, 297A, 167, and 579.

(Signed) Pam Moravec, Enrolling Clerk

RESOLUTIONS

LEGISLATIVE RESOLUTION 192. Read. Considered.

LR 192 was adopted with 18 ayes, 0 nays, and 31 not voting.

LEGISLATIVE RESOLUTION 193. Read. Considered.

LR 193 was adopted with 20 ayes, 0 nays, and 29 not voting.

LEGISLATIVE RESOLUTION 195. Read. Considered.

LR 195 was adopted with 22 ayes, 0 nays, and 27 not voting.

LEGISLATIVE RESOLUTION 196. Read. Considered.

LR 196 was adopted with 21 ayes, 0 nays, and 28 not voting.

Mr. Baack asked unanimous consent to be excused until he returns. No objections. So ordered.

LEGISLATIVE RESOLUTION 197. Read. Considered.

LR 197 was adopted with 22 ayes, 0 nays, and 27 not voting.

LEGISLATIVE RESOLUTION 198. Read. Considered.

LR 198 was adopted with 20 ayes, 0 nays, and 29 not voting.

LEGISLATIVE RESOLUTION 199. Read. Considered.

LR 199 was adopted with 25 ayes, 0 nays, and 24 not voting.

LEGISLATIVE RESOLUTION 201. Read. Considered.

LR 201 was adopted with 22 ayes, 0 nays, and 27 not voting.

LEGISLATIVE RESOLUTION 194. Read. Considered.

Mr. Wesely offered the following amendment:
FA214
In the 7th WHEREAS paragraph include after the word "Legislators" add "the National Conference of State Legislatures"

The Wesely amendment was adopted with 26 ayes, 0 nays, 17 present and not voting, and 6 excused and not voting.

LR 194, as amended, was adopted with 23 ayes, 0 nays, and 26 not voting.

LEGISLATIVE RESOLUTION 200. Read. Considered.

LR 200 was adopted with 26 ayes, 0 nays, and 23 not voting.

LEGISLATIVE RESOLUTION 202. Read. Considered.

LR 202 was adopted with 27 ayes, 1 nay, and 21 not voting.

MOTION - Approve Appointments

Mr. Conway moved the adoption of the report of the Government, Military and Veterans Affairs Committee for the following Governor appointment found in the Journal on page 2525: Jesse Cardenas - State Athletic Commissioner.

Voting in the affirmative, 27:

Abboud	Beyer	Hall	Rasmussen	Smith
Ashford	Byars	Hefner	Robak	Warner
Baack	Coordsen	Hillman	Rogers	Wehrbein
Bernard-Stevens	Cudaback	Johnson, L.	Schellpeper	Wesely
Beutler	Dierks	Kristensen	Schrock	Will
	Elmer	Labedz		

Voting in the negative, 0.

Present and not voting, 19:

Chizek	Horgan	Lindsay	Nelson	Schimek
Conway	Johnson, R.	Lynch	Peterson	Wickersham
Crosby	Lamb	Moore	Pirsch	Withem
Hartnett	Landis	Morrissey	Robinson	

Excused and not voting, 3:

Chambers	Haberman	Schmit

The appointment was confirmed with 27 ayes, 0 nays, 19 present and not voting, and 3 excused and not voting.

Mr. Wesely moved the adoption of the report of the Health and Human Services Committee for the following Governor appointments found in the Journal on page 2668: Marcia Kushner, Michael D. Gooch, Richard McCowin, and Rosemary Hannam - Nebraska Commission for the Hearing Impaired; and Robert A. Phillips - Modular Housing Advisory Board.

Voting in the affirmative, 26:

Abboud	Cudaback	Hillman	Robak	Smith
Baack	Dierks	Johnson, L.	Rogers	Warner
Beyer	Elmer	Lynch	Schellpeper	Wehrbein
Byars	Hartnett	Peterson	Schimek	Wesely
Coordsen	Hefner	Rasmussen	Schrock	Will
Crosby				

Voting in the negative, 0.

Present and not voting, 20:

Ashford	Conway	Kristensen	Lindsay	Pirsch
Bernard-Stevens	Hall	Labedz	Moore	Robinson
Beutler	Horgan	Lamb	Morrissey	Wickersham
Chizek	Johnson, R.	Landis	Nelson	Withem

Excused and not voting, 3:

Chambers Haberman Schmit

These appointments were confirmed with 26 ayes, 0 nays, 20 present and not voting, and 3 excused and not voting.

Mrs. Smith moved the adoption of the report of the General Affairs Committee for the following Governor appointments found in the Journal on page 2668: Helen L. Hayes - Nebraska Arts Council; and Sterling "Sam" Johnson - State Electrical Board.

Voting in the affirmative, 27:

Ashford	Byars	Hartnett	Robak	Smith
Baack	Conway	Hefner	Rogers	Warner
Bernard-Stevens	Coordsen	Hillman	Schellpeper	Wehrbein
Beutler	Crosby	Johnson, L.	Schimek	Wesely
Beyer	Cudaback	Lamb	Schrock	Will
	Dierks	Lynch		

Voting in the negative, 0.

Present and not voting, 19:

Abboud	Horgan	Landis	Nelson	Robinson
Chizek	Johnson, R.	Lindsay	Peterson	Wickersham
Elmer	Kristensen	Moore	Pirsch	Withem
Hall	Labedz	Morrissey	Rasmussen	

Excused and not voting, 3:

Chambers Haberman Schmit

These appointments were confirmed with 27 ayes, 0 nays, 19 present and not voting, and 3 excused and not voting.

Mr. Rogers moved the adoption of the report of the Agriculture Committee for the following Governor appointments found in the Journal on page 2803: Jeffrey L. Pickering, Garold N. Batterman, and Leonard J. Treinen, Jr. - Nebraska Dry Bean Commission.

Voting in the affirmative, 31:

Abboud	Coordsen	Hefner	Peterson	Smith
Ashford	Crosby	Hillman	Pirsch	Warner
Baack	Cudaback	Horgan	Robak	Wehrbein
Bernard-Stevens	Dierks	Johnson, L.	Rogers	Wesely
Beyer	Elmer	Labedz	Schellpeper	Will
Byars	Hall	Lynch	Schrock	Withem
	Hartnett			

Voting in the negative, 0.

Present and not voting, 15:

Beutler	Johnson, R.	Landis	Morrissey	Robinson
Chizek	Kristensen	Lindsay	Nelson	Schimek
Conway	Lamb	Moore	Rasmussen	Wickersham

Excused and not voting, 3:

Chambers	Haberman	Schmit

These appointments were confirmed with 31 ayes, 0 nays, 15 present and not voting, and 3 excused and not voting.

MOTION - Suspend Rules

Mr. Lynch moved to suspend the rules, Rule 6, Section 7, to permit consideration of LBs 91, 91A, 320, 714, 714A, 773, 783, 783A, 795, and LR 186CA on Final Reading today.

The Lynch motion to suspend the rules prevailed with 30 ayes, 0 nays, 16 present and not voting, and 3 excused and not voting.

BILLS ON FINAL READING

The following bills were read and put upon final passage:

LEGISLATIVE BILL 91.

A BILL FOR AN ACT relating to the Help Education Lead to Prosperity Act; to amend sections 79-3501 and 79-3505, Revised Statutes Supplement, 1990; to change a provision relating to the values used to determine the distribution of funds; to change provisions relating to distribution of funds; to provide for salary enhancement plans as prescribed; to provide for the treatment of funds; to provide a limitation on appropriation of revenue; to eliminate a termination date; to harmonize provisions; and to repeal the original sections, and also section 79-3511, Revised Statutes Supplement, 1990.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 39:

Ashford	Conway	Horgan	Morrissey	Schrock
Baack	Coordsen	Johnson, L.	Pirsch	Smith
Bernard-Stevens	Crosby	Johnson, R.	Rasmussen	Warner
	Cudaback	Kristensen	Robak	Wehrbein
Beutler	Dierks	Labedz	Robinson	Wesely
Beyer	Elmer	Landis	Schellpeper	Wickersham
Byars	Hall	Lynch	Schimek	Will
Chizek	Hartnett	Moore	Schmit	Withem

Voting in the negative, 4:

Abboud	Hefner	Lamb	Peterson

Present and not voting, 3:

Hillman	Nelson	Rogers

Excused and not voting, 3:

Chambers	Haberman	Lindsay

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 91A.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 91, Ninety-second Legislature, First Session, 1991; and to provide for administrative transfers.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 40:

Abboud	Conway	Horgan	Morrissey	Schrock
Ashford	Coordsen	Johnson, L.	Pirsch	Smith
Baack	Crosby	Johnson, R.	Rasmussen	Warner
Bernard-Stevens	Cudaback	Kristensen	Robak	Wehrbein
Beutler	Dierks	Labedz	Robinson	Wesely
Beyer	Elmer	Landis	Schellpeper	Wickersham
Byars	Hall	Lynch	Schimek	Will
Chizek	Hartnett	Moore	Schmit	Withem

Voting in the negative, 3:

Hefner	Lamb	Peterson

Present and not voting, 3:

Hillman	Nelson	Rogers

Excused and not voting, 3:

Chambers	Haberman	Lindsay

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 320.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-1301.01, 77-1301.13, 77-1344, 77-1359, 77-1361, 77-1363, 77-1367, 77-1504, and 77-1506.02, Reissue Revised Statutes of Nebraska, 1943, and section 77-112 and 77-201, Reissue Revised Statutes of Nebraska, 1943, as amended by sections 1 and 2, respectively, Legislative Bill 404, Ninety-second Legislature, First

Session, 1991; to change the method of measuring the actual value of agricultural and horticultural land; to change and eliminate provisions relating to adjustments to valuations; to change provisions relating to classification of certain land; to change powers and duties of county boards of equalization; to harmonize provisions; to eliminate findings and a duty of the Tax Commissioner; and to repeal the original sections, and also sections 77-506.01, 77-1369, and 77-1370, Reissue Revised Statutes of Nebraska, 1943.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 36:

Abboud	Coordsen	Johnson, R.	Nelson	Schimek
Baack	Crosby	Kristensen	Peterson	Schrock
Bernard-Stevens	Cudaback	Labedz	Pirsch	Smith
	Dierks	Lamb	Robak	Warner
Beutler	Elmer	Landis	Robinson	Wehrbein
Beyer	Hefner	Moore	Rogers	Wesely
Byars	Hillman	Morrissey	Schellpeper	Wickersham
Conway	Johnson, L.			

Voting in the negative, 7:

Ashford	Hall	Schmit	Will	Withem
Chizek	Horgan			

Present and not voting, 3:

Hartnett	Lynch	Rasmussen

Excused and not voting, 3:

Chambers	Haberman	Lindsay

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

MOTION - Return LB 714 to Select File

Mr. Wehrbein moved to return LB 714 to Select File for the following specific amendment:

FA215
Strike the enacting clause.

Mr. Wehrbein withdrew his motion to return.

Mr. Schmit moved to return LB 714 to Select File for the following specific amendment:
FA216
Strike the enacting clause.

Mr. Schmit withdrew his motion to return.

BILLS ON FINAL READING

The following bills were read and put upon final passage:

LEGISLATIVE BILL 714. With Emergency.

A BILL FOR AN ACT relating to the Game and Parks Commission; to adopt the Trail Development Assistance Act; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 29:

Abboud	Conway	Hillman	Moore	Schrock
Ashford	Crosby	Horgan	Morrissey	Smith
Bernard-Stevens	Cudaback	Johnson, R.	Nelson	Warner
Beutler	Dierks	Landis	Rasmussen	Wesely
Chizek	Hall	Lindsay	Robinson	Will
	Hartnett	Lynch	Schimek	Withem

Voting in the negative, 16:

Baack	Hefner	Lamb	Robak	Schmit
Beyer	Johnson, L.	Peterson	Rogers	Wehrbein
Byars	Kristensen	Pirsch	Schellpeper	Wickersham
Coordsen				

Present and not voting, 2:

Elmer Labedz

Excused and not voting, 2:

Chambers Haberman

Having failed to receive a constitutional two-thirds majority voting in the affirmative, the bill failed to pass with the emergency clause attached. The question is, "Shall the bill pass with the emergency clause stricken?"

Voting in the affirmative, 29:

Abboud	Conway	Hillman	Moore	Schrock
Ashford	Crosby	Horgan	Morrissey	Smith
Bernard-Stevens	Cudaback	Johnson, R.	Nelson	Warner
	Dierks	Landis	Rasmussen	Wesely
Beutler	Hall	Lindsay	Robinson	Will
Chizek	Hartnett	Lynch	Schimek	Withem

Voting in the negative, 16:

Baack	Hefner	Lamb	Robak	Schmit
Beyer	Johnson, L.	Peterson	Rogers	Wehrbein
Byars	Kristensen	Pirsch	Schellpeper	Wickersham
Coordsen				

Present and not voting, 2:

Elmer Labedz

Excused and not voting, 2:

Chambers Haberman

A constitutional majority having voted in the affirmative, the bill was declared passed with the emergency clause stricken.

LEGISLATIVE BILL 714A. With Emergency.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 714, Ninety-second Legislature, First Session, 1991; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 26:

Abboud	Cudaback	Johnson, R.	Moore	Schrock
Ashford	Hall	Kristensen	Morrissey	Warner
Beutler	Hartnett	Landis	Rasmussen	Wesely
Chizek	Hillman	Lindsay	Robinson	Will
Conway	Horgan	Lynch	Schimek	Withem
Crosby				

Voting in the negative, 17:

Baack	Byars	Nelson	Rogers	Smith
Bernard-Stevens	Coordsen	Peterson	Schellpeper	Wehrbein
Beyer	Johnson, L.	Pirsch	Schmit	Wickersham
	Lamb	Robak		

Present and not voting, 4:

Dierks	Elmer	Hefner	Labedz

Excused and not voting, 2:

Chambers	Haberman

Having failed to receive a constitutional two-thirds majority voting in the affirmative, the bill failed to pass with the emergency clause attached. The question is, "Shall the bill pass with the emergency clause stricken?"

Voting in the affirmative, 30:

Abboud	Conway	Hillman	Lynch	Schrock
Ashford	Crosby	Horgan	Moore	Smith
Baack	Cudaback	Johnson, R.	Morrissey	Warner
Bernard-Stevens	Dierks	Kristensen	Rasmussen	Wesely
Beutler	Hall	Landis	Robinson	Will
Chizek	Hartnett	Lindsay	Schimek	Withem

Voting in the negative, 13:

Beyer	Lamb	Pirsch	Schellpeper	Wehrbein
Byars	Nelson	Robak	Schmit	Wickersham
Coordsen	Peterson	Rogers		

Present and not voting, 4:

Elmer	Hefner	Johnson, L.	Labedz

Excused and not voting, 2:

Chambers	Haberman

A constitutional majority having voted in the affirmative, the bill was declared passed with the emergency clause stricken.

Mrs. Smith asked unanimous consent to be excused until she returns. No objections. So ordered.

LEGISLATIVE BILL 773.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 28-429, 28-1439.02 to 28-1439.05, 77-2701, 77-2702, 77-2711, 77-2715.08, 77-2715.09, 77-2716, 77-2717, 77-2727, 77-2734.01, 77-2768, 77-27,114, 77-27,131, 77-3512 to 77-3514, 77-3516, 77-3517, 77-4301, 77-4303, 77-4307 to 77-4309, 77-4311 to 77-4313, 77-4315, and 77-4316, Reissue Revised Statutes of Nebraska, 1943, section 77-2704, Reissue Revised Statutes of Nebraska, 1943, as amended by section 14, Legislative Bill 244, Ninety-second Legislature, First Session, 1991, and section 77-2792, Reissue Revised Statutes of Nebraska, 1943, as amended by section 2, Legislative Bill 240, Ninety-second Legislature, First Session, 1991; to change provisions relating to disclosure of certain information; to define and redefine terms; to change and provide exemptions from the sales and use tax; to authorize the waiver of certain interest and penalties; to change adjustments to income; to change provisions relating to taxation of trusts, partnerships, and certain corporations; to change the minimum tax amount required to be remitted; to change a provision relating to abatement of tax; to change a penalty provision; to change tax procedures; to authorize extension of filing deadlines for homestead exemptions; to change provisions relating to taxes on marijuana and controlled substances and provide for distribution of the proceeds; to provide for drug education activities; to create and rename funds; to

harmonize provisions; to provide operative dates; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 40:

Abboud	Cudaback	Johnson, L.	Moore	Rogers
Ashford	Dierks	Johnson, R.	Morrissey	Schellpeper
Baack	Elmer	Kristensen	Nelson	Schrock
Bernard-Stevens	Hall	Labedz	Peterson	Wehrbein
	Hartnett	Lamb	Pirsch	Wesely
Beyer	Hefner	Landis	Rasmussen	Wickersham
Chizek	Hillman	Lindsay	Robak	Will
Conway	Horgan	Lynch	Robinson	Withem
Coordsen				

Voting in the negative, 3:

Crosby	Schmit	Warner

Present and not voting, 3:

Beutler	Byars	Schimek

Excused and not voting, 3:

Chambers	Haberman	Smith

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

Mr. Landis asked unanimous consent to be excused until he returns. No objections. So ordered.

SELECT COMMITTEE REPORTS
Enrollment and Review

Correctly Enrolled

The following bills were correctly enrolled: 714 and 714A.

(Signed) Eric Will, Chairperson

MOTION - Return LB 783 to Select File

Mr. Kristensen moved to return LB 783 to Select File for the following specific amendment:
FA217
Strike the enacting clause.

SPEAKER BAACK PRESIDING

PRESIDENT MOUL PRESIDING

Mr. Kristensen withdrew his motion to return.

BILL ON FINAL READING

The following bill was read and put upon final passage:

LEGISLATIVE BILL 783. With Emergency.

A BILL FOR AN ACT relating to railroads; to amend sections 74-1401, 74-1402, 74-1404 to 74-1406, 74-1410, 74-1413 to 74-1415, 74-1420 to 74-1422, 74-1427, and 74-1429, Reissue Revised Statutes of Nebraska, 1943, and section 84-612, Revised Statutes Supplement, 1990; to restate findings and intent; to define, redefine, and eliminate terms; to rename the Agriculture and Industrial Branch Rail Line Revitalization Act of 1980; to rename and revise the membership, duties, and powers of the Branch Rail Revitalization Council as prescribed; to create a division of railroads in the Department of Roads; to provide powers and duties for the division, the Director-State Engineer, and the state investment officer; to create a fund, rename a fund, and provide for the transfer, expenditure, and investment of funds; to provide for hiring priority as prescribed; to provide for the confidentiality of certain information; to provide for and to change and eliminate provisions relating to the issuance of bonds; to change provisions relating to the Cash Reserve Fund; to eliminate regional branch rail line councils; to harmonize provisions; to provide severability; and to repeal the original sections, and also sections 74-1403, 74-1407, 74-1408, 74-1409, 74-1411, 74-1412, 74-1416 to 74-1419, 74-1423 to 74-1426, and 74-1428, Reissue Revised Statutes of Nebraska, 1943.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 28:

Abboud	Cudaback	Labedz	Pirsch	Schrock
Ashford	Dierks	Lamb	Rasmussen	Smith
Byars	Elmer	Lynch	Robak	Wehrbein
Conway	Hefner	Morrissey	Schimek	Wesely
Coordsen	Hillman	Nelson	Schmit	Wickersham
Crosby	Johnson, L.	Peterson		

Voting in the negative, 17:

Baack	Beyer	Hartnett	Lindsay	Warner
Bernard-Stevens	Chambers	Johnson, R.	Moore	Will
	Chizek	Kristensen	Robinson	Withem
Beutler	Hall	Landis		

Present and not voting, 3:

Horgan	Rogers	Schellpeper

Excused and not voting, 1:

Haberman

Having failed to receive a constitutional two-thirds majority voting in the affirmative, the bill failed to pass with the emergency clause attached. The question is, "Shall the bill pass with the emergency clause stricken?"

Voting in the affirmative, 27:

Abboud	Cudaback	Johnson, L.	Peterson	Schmit
Ashford	Dierks	Labedz	Pirsch	Schrock
Byars	Elmer	Lamb	Rasmussen	Smith
Conway	Hefner	Lynch	Robak	Wehrbein
Coordsen	Hillman	Morrissey	Schimek	Wickersham
Crosby	Horgan			

Voting in the negative, 19:

Baack	Beyer	Johnson, R.	Moore	Warner
Bernard-Stevens	Chambers	Kristensen	Nelson	Wesely
Beutler	Hall	Landis	Robinson	Will
	Hartnett	Lindsay	Schellpeper	Withem

Present and not voting, 2:

Chizek Rogers

Excused and not voting, 1:

Haberman

A constitutional majority having voted in the affirmative, the bill was declared passed with the emergency clause stricken.

MOTION - Bracket LB 783A

Mr. Morrissey moved to bracket LB 783A until January 1, 1992.

Messrs. Chizek and Ashford asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Lynch moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

Mr. Morrissey withdrew his motion to bracket.

BILL ON FINAL READING

The following bill was read and put upon final passage:

LEGISLATIVE BILL 783A. With Emergency.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 783, Ninety-second Legislature, First Session, 1991; to lapse an appropriation; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 21:

Abboud	Dierks	Johnson, L.	Peterson	Schmit
Byars	Elmer	Labedz	Pirsch	Schrock
Conway	Hefner	Lamb	Rasmussen	Wehrbein
Coordsen	Hillman	Lynch	Robak	Wickersham
Cudaback				

Voting in the negative, 19:

Baack	Chizek	Kristensen	Robinson	Wesely
Beutler	Hall	Landis	Schimek	Will
Beyer	Hartnett	Lindsay	Smith	Withem
Chambers	Johnson, R.	Moore	Warner	

Present and not voting, 7:

Bernard-Stevens	Crosby	Morrissey	Rogers	Schellpeper
	Horgan	Nelson		

Excused and not voting, 2:

Ashford	Haberman

Having failed to receive a constitutional two-thirds majority voting in the affirmative, the bill failed to pass with the emergency clause attached. The question is, "Shall the bill pass with the emergency clause stricken?"

Mr. Lamb requested a roll call vote.

Voting in the affirmative, 24:

Abboud	Dierks	Labedz	Pirsch	Smith
Byars	Elmer	Lamb	Rasmussen	Wehrbein
Conway	Hefner	Lynch	Robak	Wesely
Coordsen	Hillman	Nelson	Schmit	Wickersham
Cudaback	Johnson, L.	Peterson	Schrock	

Voting in the negative, 20:

Baack	Chambers	Hartnett	Kristensen	Moore
Beutler	Chizek	Horgan	Landis	Robinson
Beyer	Hall	Johnson, R.	Lindsay	Rogers

Schellpeper	Schimek	Warner	Will	Withem

Present and not voting, 3:

Bernard-Stevens	Crosby	Morrissey

Excused and not voting, 2:

Ashford	Haberman

Having failed to receive a constitutional majority voting in the affirmative with the emergency clause stricken, the bill failed to pass.

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following bills: 91, 91A, 320, 714, 714A, and 773.

EXPLANATION OF VOTE

Had I been present for the vote on LB 91 and LB 91A, I would have voted yes.
Had I been present for the vote on LB 320, I would have voted no.

(Signed) John Lindsay

RESOLUTION

LEGISLATIVE RESOLUTION 203. Introduced by Abboud, 12; Lindsay, 9; Rasmussen, 20; Labedz, 5.

WHEREAS, the Creighton Prep High School boys' golf team won the Class A Boys' State High School Golf Championship; and

WHEREAS, the championship was the final victory of an outstanding season; and

WHEREAS, the Legislature should recognize the academic, athletic, and artistic achievements of the youth of our state.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Creighton Prep High School boys' golf team, consisting of Tom Rowen, Mark Dahir, Brian Marshall, Andy

Sibbernsen, and Tom Kelley be congratulated for their exemplary effort this season and for winning the Class A Boys' State High School Golf Championship.

2. That a copy of this resolution be sent to Coach Virgil Beckman and the Creighton Prep High School boys' golf team.

Laid over.

VISITORS

Visitors to the Chamber were a group from Ralston and Omaha.

RECESS

At 12:18 p.m., on a motion by Mr. Baack, the Legislature recessed until 1:30 p.m.

AFTER RECESS

The Legislature reconvened at 1:30 p.m., President Moul presiding.

ROLL CALL

The roll was called and all members were present except Mr. Haberman who was excused; and Messrs. R. Johnson and Peterson who were excused until they arrive.

PRESENTED TO THE GOVERNOR

Presented to the Governor on June 4, 1991, at 1:00 p.m., were the following bills: 91, 91A, 320, 714, 714A, and 773.

(Signed) Pam Moravec, Enrolling Clerk

SELECT COMMITTEE REPORTS
Enrollment and Review

Correctly Enrolled

The following bill was correctly enrolled: 783.

(Signed) Eric Will, Chairperson

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following resolutions: LRs 192. 193, 194, 195, 196, 197, 198, 199, 200, 201, and 202.

MOTION - Reconsider Action on LB 783A

Mr. Ashford moved to reconsider the vote on LB 783A.

Mr. Abboud asked unanimous consent to be excused until he returns. No objections. So ordered.

Mrs. Crosby moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 0 nays, and 23 not voting.

Mr. Lamb requested a roll call vote on the Ashford motion to reconsider.

Voting in the affirmative, 28:

Abboud	Cudaback	Johnson, R.	Pirsch	Schrock
Ashford	Dierks	Labedz	Rasmussen	Smith
Byars	Elmer	Lamb	Robak	Wehrbein
Conway	Hefner	Lynch	Schimek	Wesely
Coordsen	Hillman	Nelson	Schmit	Wickersham
Crosby	Johnson, L.	Peterson		

Voting in the negative, 20:

Baack	Chambers	Horgan	Moore	Schellpeper
Bernard-Stevens	Chizek	Kristensen	Morrissey	Warner
Beutler	Hall	Landis	Robinson	Will
Beyer	Hartnett	Lindsay	Rogers	Withem

Excused and not voting, 1:

Haberman

The Ashford motion to reconsider lost with 28 ayes, 20 nays, and 1 excused and not voting.

BILL ON FINAL READING

The following bill was read and put upon final passage:

LEGISLATIVE BILL 795. With Emergency.

A BILL FOR AN ACT relating to gaming and sports; to amend sections 9-301, 9-329.03, 9-607, and 9-629, Revised Statutes Supplement, 1990, and section 9-601, Revised Statutes Supplement, 1990, as amended by section 54, Legislative Bill 427, Ninety-second Legislature, First Session, 1991; to require orders involving pickle card operators to be issued as prescribed; to eliminate a revenue requirement pertaining to pickle card operators; to provide for the use of county and city lottery proceeds for purposes related to baseball and horseracing; to create a fund; to change provisions relating to the determination of county and city lottery winners; to authorize the acquisition and operation of a professional baseball organization by certain cities; to harmonize provisions; to provide severability; to repeal the original sections; and to declare an emergency.

Mr. Hall requested a roll call vote.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 36:

Ashford	Cudaback	Johnson, R.	Moore	Schrock
Baack	Dierks	Kristensen	Morrissey	Smith
Bernard-Stevens	Hall	Labedz	Nelson	Wehrbein
Byars	Hartnett	Lamb	Rasmussen	Wesely
Chizek	Hefner	Landis	Robak	Wickersham
Conway	Hillman	Lindsay	Schellpeper	Will
Coordsen	Horgan	Lynch	Schmit	Withem
	Johnson, L.			

Voting in the negative, 10:

Abboud	Chambers	Elmer	Pirsch	Rogers
Beyer	Crosby	Peterson	Robinson	Warner

Present and not voting, 2:

Beutler Schimek

Excused and not voting, 1:

Haberman

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

MOTION - Return LR 186CA to Select File

Mr. Schmit moved to return LR 186CA to Select File for the following specific amendment:
AM2301

(Amendments to Final Reading copy)

1. Strike original sections 1 and 2 and insert the following new sections:

"Section 1. That at a special election on August 6, 1991, there shall be submitted to the electors of the State of Nebraska for approval the following amendment to the Constitution of Nebraska by amending Article VIII, section 1, which is hereby proposed by the Legislature:

CVIII-1 'The necessary revenue of the state and its governmental subdivisions shall be raised by taxation in such manner as the Legislature may direct. ~~Taxes shall be levied by valuation uniformly and proportionately upon all tangible property and franchises, except that: (1) The Legislature may provide for a different method of taxing motor vehicles and may also establish a separate class of motor vehicles consisting of those owned and held for resale by motor vehicle dealers which shall be taxed in the manner and to the extent provided by the Legislature and may also establish a separate class for trucks, trailers, semitrailers, truck-tractors, or combinations thereof, consisting of those owned by residents and nonresidents of this state, and operating in interstate commerce, and may provide reciprocal and proportionate taxation of such vehicles; PROVIDED, that such tax proceeds from motor vehicles taxed in each county shall be allocated to the state, counties, townships, cities, villages, and school districts of such county in the~~

~~same proportion that the levy of each bears to the total levy of the county on personal tangible property; and (2) the Legislature may provide that agricultural land and horticultural land, as defined by the Legislature, shall constitute a separate and distinct class of property for purposes of taxation and may provide for a different method of taxing agricultural land and horticultural land which results in values that are not uniform and proportionate with all other tangible property and franchises but which results in values that are uniform and proportionate upon all property within the class of agricultural land and horticultural land. The Legislature may enact laws to provide that the value of land actively devoted to agricultural or horticultural use shall for property tax purposes be that value which such land has for agricultural or horticultural use without regard to any value which such land might have for other purposes or uses and may prescribe standards and methods for the determination of the value of real or other tangible property at uniform and proportionate values. Taxes uniform as to class of property or the ownership or use thereof may be levied by valuation or otherwise upon classes of intangible property as the Legislature may determine, and such intangible property held in trust or otherwise for the purpose of funding pension, profit-sharing, or other employee benefit plans as defined by the Legislature may be declared exempt from taxation. Taxes other than property taxes may be authorized by law. Existing revenue laws shall continue in effect until changed by the Legislature. The Legislature may provide that livestock shall constitute a separate and distinct class of property for purposes of taxation and may further provide for reciprocal and proportionate taxation of livestock located in this state for only part of a year.~~'.

Sec. 2. That the proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1. The proposition for the submission of the proposed amendment shall be placed upon the ballot in the following form:

'A constitutional amendment to authorize the Legislature to provide for taxation in such

manner as it may direct.
For
Against'.".

2. On page 1, line 1, strike "amendments" and insert "amendment"; and strike lines 3 and 4 and insert "section 1.".

3. On page 8, line 7, strike "either of"; in line 8, strike "amendments" and insert "amendment"; and in line 11 strike "or them".

SPEAKER BAACK PRESIDING

Mr. Schmit withdrew his motion to return.

RESOLUTION ON FINAL READING

The following resolution was read and put upon final passage:

LEGISLATIVE RESOLUTION 186CA.

A Resolution to propose amendments to the Constitution of Nebraska by amending Article VIII, sections 1 and 2, and by adding a new section 13 to Article VIII.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

Section 1. That at a special election on August 6, 1991, there shall be submitted to the electors of the State of Nebraska for approval the following amendments to the Constitution of Nebraska by amending Article VIII, sections 1 and 2, and by adding a new section 13 to Article VIII, which are hereby proposed by the Legislature:

CVIII-1 "The necessary revenue of the state and its governmental subdivisions shall be raised by taxation in such manner as the Legislature may direct. ~~Taxes~~ Except as provided in this article, taxes shall be levied by valuation uniformly and proportionately upon all ~~tangible~~ real property and franchises. ~~, except that: (1) The Legislature may provide for a different method of taxing motor vehicles and may also establish a separate class of motor vehicles consisting of those owned and held for resale by motor vehicle dealers which shall be taxed in the manner and to the extent provided by the Legislature and may also establish a separate class for trucks, trailers, semitrailers, truck-tractors, or combinations thereof, consisting of those owned by residents and nonresidents of this state, and operating in interstate commerce, and may provide reciprocal and~~

~~proportionate taxation of such vehicles; PROVIDED, that such tax proceeds from motor vehicles taxed in each county shall be allocated to the state, counties, townships, cities, villages, and school districts of such county in the same proportion that the levy of each bears to the total levy of the county on personal tangible property; and (2) the~~ The Legislature may provide that agricultural land and horticultural land, as defined by the Legislature, shall constitute a separate and distinct class of property for purposes of taxation and may provide for a different method of taxing agricultural land and horticultural land which results in values that are not uniform and proportionate with all other ~~tangible~~ real property and franchises but which results in values that are uniform and proportionate upon all property within the class of agricultural land and horticultural land. The Legislature may enact laws to provide that the value of land actively devoted to agricultural or horticultural use shall for property tax purposes be that value which such land has for agricultural or horticultural use without regard to any value which such land might have for other purposes or uses and may prescribe standards and methods for the determination of the value of ~~real or other tangible property~~ land at uniform and proportionate values. Notwithstanding any other provision of this Constitution, tangible personal property, as defined by the Legislature, unless exempt by this Constitution or by legislation enacted pursuant to this article, shall be subject to tax in whole or in part by valuation or otherwise in such manner as the Legislature may direct. Taxes uniform as to class of property or the ownership or use thereof may be levied by valuation or otherwise upon classes of intangible property as the Legislature may determine, and such intangible property held in trust or otherwise for the purpose of funding pension, profit-sharing, or other employee benefit plans as defined by the Legislature may be declared exempt from taxation. Taxes other than property taxes may be authorized by law. Existing revenue laws shall continue in effect until changed by the Legislature. The Legislature may provide that livestock shall constitute a separate and distinct class of property for purposes of taxation and may further provide for reciprocal and proportionate taxation of livestock located in this state for only part of a year. The Legislature may provide for a different method of taxing motor vehicles and may also establish a separate class of motor vehicles consisting of those owned and held for resale by motor vehicle dealers which shall be taxed in the manner and to the extent provided by the Legislature and may also establish a separate class for trucks, trailers, semitrailers, truck-tractors, or combinations thereof, consisting of those owned by residents and nonresidents of this state, and operating in interstate commerce, and may provide

reciprocal and proportionate taxation of such vehicles; PROVIDED, that such tax proceeds from motor vehicles taxed in each county shall be allocated to the counties, townships, cities, villages, and school districts of such county in the same proportion that the levy of each bears to the total levy of the county on taxable property."

CVIII-2 "The property of the state and its governmental subdivisions shall be exempt from taxation. The Legislature by general law may exempt from taxation property owned by and used exclusively for agricultural and horticultural societies, and property owned and used exclusively for educational, religious, charitable, or cemetery purposes, when such property is not owned or used for financial gain or profit to either the owner or user. Household goods and personal effects, as defined by law, may be exempted from taxation in whole or in part, as may be provided by general law, and the Legislature may prescribe a formula for the determination of value of household goods and personal effects. The Legislature by general law may provide that the increased value of land by reason of shade or ornamental trees planted along the highway shall not be taken into account in the assessment of such land. The Legislature by general law and upon any terms, conditions, and restrictions it prescribes, may provide that the increased value of real property resulting from improvements designed primarily for energy conservation may be exempt from taxation. The value of a home substantially contributed by ~~the Veterans' Administration of~~ the United States Department of Veterans Affairs for a paraplegic veteran or multiple amputee shall be exempt from taxation during the life of such veteran or until the death or remarriage of his ~~widow or her remarriage~~ or her surviving spouse. The Legislature may exempt from an intangible property tax life insurance and life insurance annuity contracts and any payment connected therewith and any right to pension or retirement payments. ~~The~~ Notwithstanding any other provision of this Constitution, the Legislature may classify personal property in such manner as it sees fit, and may exempt any ~~of~~ such class or classes, or ~~may~~ exempt all personal property from taxation. No real property shall be exempt from taxation except as provided in this ~~the~~ Constitution. The Legislature may by general law provide that a portion of the value of any residence actually occupied as a homestead by any classification of owners as determined by the Legislature shall be exempt from taxation."

CVIII-13 "Each exemption from taxation by valuation of tangible personal property which is or has been granted by the Legislature shall terminate on January 1, 2003, unless extended by the Legislature for a period of ten years or less in the biennium prior to such date. Each such exemption and any new exemption from taxation by

valuation of tangible personal property granted since the last extension shall terminate every ten years, or a lesser number of years set by the Legislature, after the last termination date unless extended by the Legislature for another ten years or less. Nothing in this section shall be construed to affect the authority of the Legislature to enact or repeal exemptions from taxation.".

Sec. 2. That the proposed amendments shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1. The propositions for the submission of the proposed amendments shall be placed upon the ballot in the following forms:

"A constitutional amendment to remove personal property from provisions requiring that taxes be levied by valuation uniformly and proportionately and to authorize the Legislature to provide for the taxation of tangible personal property in such manner as the Legislature may direct.

For

Against".

"A constitutional amendment to provide for termination and extension of exemptions from taxation by valuation of tangible personal property.

For

Against".

Sec. 3. That either of the proposed amendments, if adopted, shall be in force and take effect immediately upon the completion of the canvass of the votes, at which time it shall be the duty of the Governor to proclaim it or them as a part of the Constitution of Nebraska.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the resolution pass?' "

Voting in the affirmative, 34:

Ashford	Coordsen	Horgan	Morrissey	Schimek
Baack	Crosby	Johnson, R.	Nelson	Schrock
Bernard-Stevens	Cudaback	Kristensen	Rasmussen	Smith
	Dierks	Labedz	Robak	Warner
Beutler	Elmer	Lamb	Robinson	Wehrbein
Beyer	Hefner	Landis	Rogers	Wesely
Byars	Hillman	Moore	Schellpeper	Wickersham

Voting in the negative, 10:

Abboud	Conway	Lindsay	Pirsch	Will
Chizek	Hall	Lynch	Schmit	Withem

Present and not voting, 4:

Chambers	Hartnett	Johnson, L.	Peterson

Excused and not voting, 1:

Haberman

Having failed to receive a constitutional four-fifths majority voting in the affirmative, the resolution failed to pass for the special election.

MOTION - Bracket LR 186CA

Messrs. Hall and Baack asked unanimous consent to bracket LR 186CA until Wednesday, June 5, 1991, at 9:00 a.m.

Mr. Chambers objected.

Messrs. Hall and Baack moved to bracket LR 186CA until Wednesday, June 5, 1991, at 9:00 a.m.

The Hall-Baack motion to bracket prevailed with 34 ayes, 4 nays, 10 present and not voting, and 1 excused and not voting.

Mrs. Robak asked unanimous consent to be excused until she returns. No objections. So ordered.

BILLS ON FINAL READING

The following bills were read and put upon final passage:

LEGISLATIVE BILL 67.

A BILL FOR AN ACT relating to nonhazardous solid waste disposal systems; to amend section 81-1528, Reissue Revised Statutes of Nebraska, 1943; to provide for applicability and require the adoption of rules and regulations; to limit an exemption from certain licensing and control provisions for cities of the second class and villages; to

require certain plans; to provide a duty for the Revisor of Statutes; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 47:

Abboud	Conway	Horgan	Morrissey	Schmit
Ashford	Coordsen	Johnson, L.	Nelson	Schrock
Baack	Crosby	Johnson, R.	Peterson	Smith
Bernard-Stevens	Cudaback	Kristensen	Pirsch	Warner
Beutler	Dierks	Labedz	Rasmussen	Wehrbein
Beyer	Elmer	Lamb	Robinson	Wesely
Byars	Hall	Landis	Rogers	Wickersham
Chambers	Hartnett	Lindsay	Schellpeper	Will
Chizek	Hefner	Lynch	Schimek	Withem
	Hillman	Moore		

Voting in the negative, 0.

Excused and not voting, 2:

Haberman Robak

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 67A.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 67, Ninety-second Legislature, First Session, 1991.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 47:

Abboud	Bernard-Stevens	Beyer	Chizek	Crosby
Ashford	Beutler	Byars	Conway	Cudaback
Baack		Chambers	Coordsen	Dierks

Elmer	Johnson, R.	Moore	Rogers	Warner
Hall	Kristensen	Morrissey	Schellpeper	Wehrbein
Hartnett	Labedz	Nelson	Schimek	Wesely
Hefner	Lamb	Peterson	Schmit	Wickersham
Hillman	Landis	Pirsch	Schrock	Will
Horgan	Lindsay	Rasmussen	Smith	Withem
Johnson, L.	Lynch	Robinson		

Voting in the negative, 0.

Excused and not voting, 2:

Haberman Robak

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 625.

A BILL FOR AN ACT relating to community colleges; to amend section 46, Legislative Bill 663, Ninety-second Legislature, First Session, 1991; to change provisions relating to coordination of community colleges; to require compliance with public meeting requirements as prescribed; to provide an operative date; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 48:

Abboud	Conway	Horgan	Morrissey	Schmit
Ashford	Coordsen	Johnson, L.	Nelson	Schrock
Baack	Crosby	Johnson, R.	Peterson	Smith
Bernard-Stevens	Cudaback	Kristensen	Pirsch	Warner
Beutler	Dierks	Labedz	Rasmussen	Wehrbein
Beyer	Elmer	Lamb	Robak	Wesely
Byars	Hall	Landis	Robinson	Wickersham
Chambers	Hartnett	Lindsay	Rogers	Will
Chizek	Hefner	Lynch	Schellpeper	Withem
	Hillman	Moore	Schimek	

Voting in the negative, 0.

Excused and not voting, 1:

Haberman

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

STANDING COMMITTEE REPORT
Education

The Committee on Education desires to report favorably upon the appointments listed below. The Committee suggests the appointments be confirmed by the Legislature and suggests a record vote.

Nebraska Educational Telecommunications Commission
Beverly D. Fellman
Donald L. Davis
Herb Schimek
LaRue Wunderlich
Dr. Vance D. Rogers

VOTE: Aye: Senators Withem, Nelson, Schrock, Beutler, Dierks, Warner, and Chizek. Nay: None. Absent: Lamb.

(Signed) Ron Withem, Chairperson

UNANIMOUS CONSENT - Print in Journal

Messrs. Hall, Lindsay, Will, Chizek, Withem, Abboud, Hartnett, Lynch, Mmes. Rasmussen, and Pirsch asked unanimous consent to print the following amendment to LR 186CA in the Journal. No objections. So ordered.

AM2273

(Amendments to Final Reading copy)

1. On page 7, line 8, after the period insert "Each extension and any new exemption from taxation by valuation of tangible personal property shall be granted only upon approval by three-fifths of the members of the Legislature.".

Mr. Warner asked unanimous consent to print the following amendment to LR 186CA in the Journal. No objections. So ordered.

AM2296

(Amendments to Final Reading copy)

1. Insert the following new section:

"CIII-30 'No revenue bill or state appropriation shall be approved by the Legislature unless by the vote of three-fifths of all the members elected. The Legislature shall define the term revenue bill for purposes of this section. The term shall be defined to include all bills which reduce or expand the tax or fee base or the collection of tax and fee revenue.' ".

2. On page 1, lines 4 and 13, after "VIII" insert "and a new section 30 to Article III".

3. On page 8, after line 6 insert:

" 'A constitutional amendment to require the vote of three-fifths of the members of the Legislature to approve revenue bills and state appropriations and to require the Legislature to define the term revenue bill.

For

Against'.".

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following bills: 783, 795, 67, 67A, and 625.

SELECT FILE

LEGISLATIVE BILL 719. E & R amendment, AM5130, printed separately from the Journal and referred to on page 1941, was adopted.

Mr. Beutler withdrew his pending amendment, AM1302, found in the Journal on page 1757.

Mr. Moore asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Hall withdrew his pending amendment, AM1395, found in the Journal on page 1767.

Mr. Baack withdrew his pending amendment, AM1304, printed separately from the Journal and referred to on page 1779.

Mrs. Nelson withdrew her pending amendment, AM1518, found in the Journal on page 1957.

Mr. Schrock withdrew his pending amendment, AM1641, found in the Journal on page 1995.

Mr. Withem withdrew his pending amendments, AM1719 and AM1422, found in the Journal on pages 2072 and 2098.

Mr. Hefner withdrew his pending amendment, AM1763, found in the Journal on page 2106.

Mr. Lynch withdrew his pending amendment, AM1840, found in the Journal on page 2149.

Messrs. Beutler and Withem withdrew their pending amendment, AM1900, found in the Journal on page 2194.

Mr. Cudaback withdrew his pending amendment, AM1875, found in the Journal on page 2297.

Mr. Withem withdrew his pending amendment, AM2014, printed separately from the Journal and referred to on page 2487.

Mr. Hartnett withdrew his pending amendment, AM2063, found in the Journal on page 2422.

Mr. Byars withdrew his pending amendment, AM2174, found in the Journal on page 2611.

Mr. Will withdrew his pending amendment, AM1577, found in the Journal on page 1972.

Mr. Lamb moved to suspend the rules, Rule 6, Section 3(g), and Rule 7, Section 3(d), to permit consideration of AM2286 to LB 719.

The Lamb motion to suspend the rules prevailed with 30 ayes, 0 nays, 17 present and not voting, and 2 excused and not voting.

Mr. Lamb offered the following amendment:

AM2286

1. Strike the original sections and all amendments thereto and insert the following new sections:

"Section 1. The Legislature finds that there are rivers and streams in Nebraska which, with their immediate environments, possess outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values and which should be preserved and protected for the benefit and enjoyment of present and future generations. The Legislature further finds that the Nebraska Natural Resources Commission is the most appropriate agency for providing such protection and that current Nebraska law does not provide the commission with sufficient capability to provide such protection. Current statutory authority needs to be expanded and additional authority needs to be provided to allow the appropriate protective measures.

Sec. 2. (1) The Nebraska Natural Resources Commission may designate as a protected stream all or a portion of any river or stream which possesses one or more of the values recognized in section 1 of this act and for which the commission concludes that protection of those values is in the public interest. The commission shall make such designation by adopting a resolution specifying the upper and lower ends of the reach or reaches so designated, the reasons and purposes for the designation, and the use restrictions within the protected stream corridor necessary to protect such river or stream.

(2) The designation and the use restrictions shall have the full force and effect of law until changed by the commission or the Legislature.

(3) After the resolution has been adopted, the counties in which all or a part of a protected stream corridor is located shall enforce the use restrictions specified in the resolution. Any city or village which has zoning jurisdiction over all or a part of a protected stream corridor shall enforce the use restrictions specified in the resolution.

(4) For purposes of this section, protected stream corridor shall mean all of the portion of the river or stream and all land within one-half mile of

each side of the designated reach of the river or stream as measured from the ordinary high-water mark.

Sec. 3. The Nebraska Natural Resources Commission, on its own motion or upon the request of any county presented in the form of a duly adopted resolution by the county, shall investigate all or any portion of a river or stream to determine if it possesses one or more of the values recognized in section 1 of this act.

Prior to adopting a resolution designating a protected stream pursuant to section 2 of this act, the commission shall hold a public hearing. Public notice of the hearing shall be given at least once each week for two consecutive weeks prior to the hearing date in a newspaper of general circulation.

Sec. 4. That section 2-1507, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-1507. In addition to the duties and powers otherwise conferred by law upon the Nebraska Natural Resources Commission, it shall have the following duties and powers: (1) To offer such assistance as may be appropriate to the Water Management Board and to the supervisors or directors of any subdivision of government with responsibilities in the area of natural resources conservation, development, and use in the carrying out of any of their powers and programs; (2) to keep the supervisors or directors of each such subdivision informed of the activities and experience of all other such subdivisions and to facilitate cooperation and an interchange of advice and experience between such subdivisions; (3) to coordinate the programs of such subdivisions so far as this may be done by advice and consultation; (4) to secure the cooperation and assistance of the United States and any of its agencies, and of agencies of this state, in the work of such subdivisions; (5) to disseminate information throughout the state concerning the activities and programs of such subdivisions; (6) to plan, develop, and promote the implementation of a comprehensive program of resource development, conservation, and utilization for the soil and water resources of this state in cooperation with other local, state, and federal agencies and organizations; (7) when

necessary for the proper administration of the functions of the department, to rent or lease space outside the State Capitol; ~~and~~ (8) to assist such local governmental organizations as villages, towns, cities, counties, and natural resources districts in securing, planning, and developing information on flood plains to be used in developing regulations and ordinances on proper use of these flood plains; and (9) to carry out sections 1 to 3 of this act relating to protected streams.

Sec. 5. That original section 2-1507, Reissue Revised Statutes of Nebraska, 1943, is repealed.".

2. On page 1, strike beginning with "schools" in line 1 through line 5 and all amendments thereto and insert "rivers and streams; to amend section 2-1507, Reissue Revised Statutes of Nebraska, 1943; to state findings; to authorize the Nebraska Natural Resources Commission to designate protected streams; to require enforcement of use restrictions; to harmonize provisions; and to repeal the original section".

MR. WARNER PRESIDING

The Lamb amendment was adopted with 26 ayes, 1 nay, 20 present and not voting, and 2 excused and not voting.

Passed over.

Mr. R. Johnson asked unanimous consent to be excused until he returns. No objections. So ordered.

GENERAL FILE

LEGISLATIVE BILL 577. Mr. Wehrbein withdrew his pending amendment, AM1569, found in the Journal on page 1931.

Messrs. Hall and Bernard-Stevens withdrew their pending amendment, AM1732, found in the Journal on page 2148.

Mr. Chambers renewed his pending motion, found in the Journal on page 2026, to reconsider the Bernard-Stevens amendment, (AM1666), to LB 577, adopted May 8, 1991.

Mrs. Robak, Messrs. Withem, and Schellpeper asked unanimous consent to be excused until they return. No objections. So ordered.

The Chambers motion to reconsider prevailed with 25 ayes, 0 nays, 19 present and not voting, and 5 excused and not voting.

Mr. Bernard-Stevens withdrew the reconsidered amendment, AM1666, found in the Journal on page 1995.

Messrs. Hall and Bernard-Stevens withdrew their pending amendment, AM1910, found in the Journal on page 2218.

Pending.

UNANIMOUS CONSENT - Add Co-Introducer

Mr. Lamb asked unanimous consent to have his name added as co-introducer to LB 719. No objections. So ordered.

PRESENTED TO THE GOVERNOR

Presented to the Governor on June 4, 1991, at 3:45 p.m., were the following bills: 783, 795, 67, 67A, and 625.

(Signed) Pam Moravec, Enrolling Clerk

MOTION - Adjournment

Mr. Dierks moved to adjourn until 9:00 a.m., Wednesday, June 5, 1991.

Mr. Dierks moved for a call of the house. The motion prevailed with 21 ayes, 0 nays, and 28 not voting.

Mr. Dierks requested a roll call vote on his motion to adjourn.

Voting in the affirmative, 17:

Beutler	Dierks	Morrissey	Pirsch	Smith
Byars	Hefner	Nelson	Robak	Wehrbein
Crosby	Johnson, L.	Peterson	Robinson	Wesely
Cudaback	Lamb			

Voting in the negative, 25:

Ashford	Bernard-	Beyer	Conway	Hall
Baack	Stevens	Chizek	Coordsen	Hartnett

Hillman	Labedz	Lynch	Rogers	Warner
Horgan	Landis	Moore	Schellpeper	Wickersham
Johnson, R.	Lindsay	Rasmussen	Schimek	Will
Kristensen				

Present and not voting, 3:

Chambers	Elmer	Schrock

Absent and not voting, 1:

Abboud

Excused and not voting, 3:

Haberman	Schmit	Withem

The motion to adjourn lost with 17 ayes, 25 nays, 3 present and not voting, 1 absent and not voting, and 3 excused and not voting.

PRESIDENT MOUL PRESIDING

The Chair declared the call raised.

GENERAL FILE

LEGISLATIVE BILL 577. Considered.

Mr. R. Johnson moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

Mrs. Crosby asked unanimous consent to be excused. No objections. So ordered.

Mr. Baack moved for a call of the house. The motion prevailed with 23 ayes, 0 nays, and 26 not voting.

Mr. Baack requested a roll call vote on the advancement of the bill.

Voting in the affirmative, 20:

Abboud	Baack	Bernard-	Beyer	Conway
Ashford		Stevens	Chizek	Elmer

Hall	Johnson, R.	Lindsay	Moore	Wickersham
Hillman	Kristensen	Lynch	Schmit	Will
Horgan	Landis			

Voting in the negative, 21:

Byars	Johnson, L.	Nelson	Rogers	Smith
Chambers	Labedz	Peterson	Schellpeper	Warner
Cudaback	Lamb	Rasmussen	Schimek	Wehrbein
Dierks	Morrissey	Robinson	Schrock	Wesely
Hefner				

Present and not voting, 5:

Beutler	Coordsen	Hartnett	Pirsch	Robak

Excused and not voting, 3:

Crosby	Haberman	Withem

Failed to advance to E & R for review with 20 ayes, 21 nays, 5 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

ATTORNEY GENERAL'S OPINION

Opinion No. 91051

DATE: June 4, 1991

SUBJECT: Legislative Resolution 24CA; Will Certain Proposed Constitutional Language Allow Payment of Industrial Savings Depositors Out of State Lottery Proceeds?

REQUESTED BY: Senator Loran Schmit
Nebraska State Legislature

WRITTEN BY: Don Stenberg, Attorney General
Dale A. Comer, Assistant Attorney General

Legislative Resolution 24CA would propose constitutional amendments to the voters of Nebraska with respect to the operation

of a state lottery. Under Section 1 of Legislative Resolution 24CA, the following language would be added to Article III, Section 24 of our state constitution:

> The Legislature may establish a lottery to be operated and regulated by the State of Nebraska. The proceeds of the lottery shall be appropriated by the Legislature for the costs of establishing and maintaining the lottery and for other purposes as directed by the Legislature. No lottery game shall be conducted as part of the lottery unless the type of game has been approved by a majority of the members of the Legislature.

Section 1 of Legislative Resolution 24CA would also add the following additional language to Article III of the Nebraska Constitution:

> If the Legislature establishes a lottery operated and regulated by the state pursuant to this Constitution, the Legislature may use the proceeds or a portion of the proceeds from such lottery to compensate depositors of industrial loan and investment companies for unreimbursed losses of guaranteed deposits held by industrial loan and investment companies which filed for bankruptcy or entered receivership after November 1, 1983, notwithstanding any other provision of this Constitution. The Legislature shall not be empowered to make appropriations to compensate such depositors pursuant to this provision after July 1, 1997.

Section 2 of Legislative Resolution 24CA apparently contemplates that these two proposed constitutional amendments shall be submitted to the citizens of this state separately, so as to allow the voters to make a decision independently on both provisions.

You have now requested our opinion concerning two questions involving Legislative Resolution 24CA. We received your opinion request at 2:00 p.m. on the afternoon of the 88th day of the current 90-day legislative session. Moreover, your request states, "since this issue will be up almost immediately, please respond as quickly as possible." Obviously, these time frames do not allow any deliberate consideration of the issues which you have raised. Nevertheless, we will endeavor to respond to your opinion request.

You first ask whether the language in Legislative Resolution 24CA which allows the spending of lottery funds "for other purposes as directed by the Legislature" would allow the Legislature to spend lottery money for purposes which would otherwise be prohibited by the constitutional provisions cited in Haman v. Marsh, 237 Neb. 699, ___ N.W.2d ___ (1991). In Haman, our state supreme court indicated that a previous plan for the repayment of depositors who lost funds when certain industrial savings institutions failed was

unconstitutional as a violation of Article III, Section 18 of the Nebraska Constitution prohibiting special legislation, and Article XIII, Section 3 of the Nebraska Constitution prohibiting lending the credit of the state.

In Nebraska, constitutional amendments added to our state constitution must be construed and harmonized with all other provisions of the constitution so as to give effect to every section and clause as well as to the whole instrument. Banner County v. State Board. of Equalization and Assessment, 226 Neb. 236, 411 N.W.2d 35 (1987). As a result, the initial portion of Legislative Resolution 24CA quoted above would be read in conjunction and in harmony with Article III, Section 18 and Article XIII, Section 3 of the Nebraska Constitution. That language would not suspend those constitutional provisions unless it specifically so provided in some fashion. The proposed language at issue allowing payment of lottery funds "for other purposes as directed by the Legislature" does not, standing alone, suspend the operation of Article III, Section 18 and Article XIII, Section 3. Therefore, if only the initial portion of Legislative Resolution 24CA were added to the Nebraska Constitution, those other constitutional provisions would remain in effect, and the Legislature could not spend lottery money for purposes prohibited in Haman.

You next ask if the Legislature would be specifically prohibited from paying money for Commonwealth purposes under the first portion of Legislative Resolution 24CA quoted above should the initial lottery proposal be enacted by the voters and should the provision dealing with Commonwealth fail. For the reasons discussed above, we believe that the initial portion of Legislative Resolution 24CA is insufficient to allow payment of depositors of industrial savings institutions from lottery proceeds. This would be even more true if the voters were to specifically reject the Commonwealth payment proposal in the second part of Legislative Resolution 24CA. Therefore, for depositors to be paid under Legislative Resolution 24CA, the citizens of Nebraska must pass that portion of the proposed constitutional amendments making provision for such payment.

Sincerely yours,
DON STENBERG
Attorney General
(Signed) Dale A. Comer
Assistant Attorney General

cc: Patrick O'Donnell
Clerk of the Legislature

5-1-7.14

Opinion No. 91052

June 3, 1991

Senator Douglas A. Kristensen
District No. 37
State Capitol
Lincoln, NE 68509

Dear Senator Kristensen:

Because of the very short time remaining before adjournment of the Legislature, we have chosen to answer your request letter dated May 30, 1991, with this letter (unofficial) opinion, enclosing copies of certain previous official opinions which we think have bearing on your questions.

Your first question is: What is the nature and status of the Nebraska Railway Council as established by LB 783 of the 1991 session, as amended? Because section 12 there provides that it is a body politic and corporate and not a state agency, we believe the Council is not an agency of the state. Our courts have, in the past, talked of quasi-public entities. This is a term which covers a multitude of situations, and we believe that it is probably the proper terminology for the Council. The term "quasi-public entity", however does not necessarily mean that it is a part of the state.

Your second question is whether the language contained in section 12, together with other sections, suffices to shield the state from liability. We believe that it does, especially with the Beutler amendment (No. 2539). Your attention is directed to Opinion No. 277 dated April 4, 1980, having to do with distribution of gasoline tax revenues. It indicates that it is the activity rather than the name of an organization which determines public or private character and that Legislative intent is to be given great weight. The purpose of the Council is to facilitate the operation of a common carrier, and we believe it goes without saying that this would be a public purpose. This section deals with Article XIII, section 3 rather than Article XI, section 1, but the latter also turns on the question of public or private character. We also believe that the public nature of providing the services of a common carrier is easily distinguished from a private purpose such as was commented upon in Opinion No. 66, dated April 5, 1983, indicating that public funds could not be used for the erection of signs advertising specific private businesses. In any event,

we believe an appropriation to the Council would not be improper. See Opinion No. 89049, dated May 11, 1989, which is attached.

Your third and fourth questions deal with an agency which might be set up to contract with the Council to run a railroad. But LB 783 does not provide for such an agency. It only establishes the Nebraska Railway Council and the Division of Railroads.

Because there is no provision for the operating body, its form cannot be anticipated. It is speculative to presume municipalities or governmental subdivisions would be a part of it. For this reason, we feel that it would be premature to address the third and fourth questions at this time.

We hope that this very rushed response to your inquiry is of assistance to you.

Very truly yours,
DON STENBERG
Attorney General
(Signed) Warren D. Lichty, Jr.
Assistant Attorney General

WDL/pv
Attachments

UNANIMOUS CONSENT - Print in Journal

Mr. Kristensen moved that pursuant to Article 3, Section 10 of the Nebraska Constitution the 92nd Legislature, First Session extend its Session for two days only for the sole purpose of considering LB 829 and LB 829A.

Laid over.

VISITORS

Visitors to the Chamber were former Senator Dick Fellman and his wife, Bev.

The Doctor of the Day was Dr. Jeff Gotschall from Columbus.

ADJOURNMENT

At 4:43 p.m., on a motion by Mr. Baack, the Legislature adjourned until 9:00 a.m., Wednesday, June 5, 1991.

Patrick J. O'Donnell
Clerk of the Legislature

NINETIETH DAY - JUNE 5, 1991

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

NINETIETH DAY

Legislative Chamber, Lincoln, Nebraska
Wednesday, June 5, 1991

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Moul presiding.

PRAYER

The prayer was offered by Rev. Harland Johnson, Chaplain Coordinator.

ROLL CALL

The roll was called and all members were present except Mr. Haberman who was excused; and Messrs. Conway, Dierks, Hall, R. Johnson, Kristensen, Lindsay, Morrissey, Peterson, Rogers, Schmit, Mmes. Labedz, Pirsch, Robak, and Ms. Schimek who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Eighty-Ninth Day was approved.

MESSAGES FROM THE GOVERNOR

June 4, 1991

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 846e, 846Ae, 841e, 842e, 844e, 847e, 854e, 854A, 855, 855A, 856e, and 856Ae were received in my office on May 29, 1991.

These bills were signed by me on June 4, 1991, and delivered to the Secretary of State.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

June 4, 1991

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Madam President and Senators:

I have returned LB 843 without my signature and with my objections.

At my inauguration as Governor, I already had a high regard for the Legislature as an institution and for individual Senators. That respect has grown even more during the session as I have watched the Legislature work. Like any major issue, the budget which you have enacted reflects tremendous effort undertaken with the best interests of our citizens uppermost in mind, even though it does not mesh always with my own priorities which I presented to you in January.

The main defect in LB 843 and the other budget bills, collectively, stems not from these differences in priorities but from a clear sense of fiscal realities. The nature of the legislative process makes it difficult for Senators to reject fellow Senators' spending proposals in the face of strong and effective arguments as separate issues. A Governor's duty in the last hectic days of the session is to treat all the spending measures as a single package and make those reductions which are necessary to balance the budget. Accordingly, I have made line-item vetoes in LB 843 which total $3,362,752 in FY92 and $3,101,690 in FY93. These reductions in LB 843, together with other vetoes, are essential if we are to hold spending to a sustainable level. The economy and state general fund revenues are still highly uncertain. Every item added back into the budget increases the chances that we will spend ourselves into a special session for

mid-year budget cuts which are far more disruptive than a budget that is disciplined from the start.

The attached table lists the specific items in LB 843 which are part of my veto. It is not my purpose to chastise the Legislature for wanting to fund them or to assert that none has any merit. Instead, this list represents the outcome of an intense and comprehensive review of all the spending bills that have passed. Those items on this list and other lists pertaining to other bills are there because of a reassessment of their need, questions about their efficacy, a reluctance to expand state government in the current fiscal environment, or a decision that the program just did not rank sufficiently high as a priority.

Without a doubt, there are choices I made which will disappoint individual Senators and citizens. For that, I can only express my regret. As you consider these line-item reductions to the budget, I only request that you keep the total fiscal picture in mind and assign, as I do, the highest priority to fiscally responsible government.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:jrs

LB 843 -- SUMMARY OF VETOES

AGENCY	DESCRIPTION	FY 92 AMOUNT	FY 93 AMOUNT
05--Supreme Court			
	Computer System Depreciation Fund	509,690	625,428
	Offset Across the Board Cuts	333,734	333,734
10--Auditor			
	Computers	25,000	25,000
13--Education			
	Childhood Ed Pilot Programs	320,000	320,000
	Replace Declining Fed Funds--Voc Ed	135,000	135,000
23--Labor			
	Omaha Elevator Inspectors	28,217	90,000
25--Public Institutions			
	Mental Retardation Aid	345,000	345,000

26--Social Services		
Cars for New Child Welfare Workers	70,000	70,000
37--Workers Comp. Court		
Maintain Mainframe Data Base	23,000	23,000
51--University		
Optometry Contracts (UNL)	50,510	90,510
68--Mexican American Commission		
New Research Analyst Position	25,475	26,892
72--Economic Development		
R & D Authority	1,480,000	1,000,000
77--Commission of Industrial Relations		
Second Base Reduction	17,126	17,126
TOTAL	3,362,752	3,101,690

June 4, 1991

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Madam President and Senators:

I am returning LB 845 with my signature but with line-item reductions. I have reduced the appropriation to the Legislative Council by the amount added on the legislative floor for legislative employees. The precedent of treating legislative employees differently from other State employees at a time when we are making across-the-board budget reductions and asking unions to live with less is poor public policy. In addition with a proposed reappropriation of nearly $2 million dollars to the Council this additional funding should not be necessary.

I ask your support in sustaining this veto of funds.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:jrs

June 4, 1991

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Madam President and Senators:

I am signing LB 647 but returning LB 647A with line item reductions.

Nebraska students and their families are finding it increasingly difficulty to finance their educational pursuits. Students who choose to attend an independent college or university, whether because the school fits their needs better or because distances and obligations dictate that option, face a particularly difficult situation providing the higher levels of tuition. It is important to me that we continue to allow needy Nebraskans to have a choice regarding postsecondary education.

Resources available for the biennium, however, are severely limited. For that reason, I am vetoing $125,000 from the appropriation for FY 1991-92 and $375,000 from the amount in FY 1992-93. This will leave a $125,000 program for each year of the biennium. It will be possible for the Coordinating Commission to develop the mechanics for the program and begin providing scholarships to students for the fall of 1991.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:jrj

June 4, 1991

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Madam President and Senators:

I am returning LB 652 with my signature, but with specific line-item reductions.

LB 652 has been referred to as the "trailer" bill, apparently since the appropriations it includes do not have the same priority as items in the mainline budget bills. For that reason, and because of our overall fiscal situation, I have eliminated most of the items included in LB 652. You have received a summary of my budget vetoes which includes the items in LB 652 that have been reduced or eliminated.

Among the items that have been retained are the regional fiberoptic network that will allow several schools in the Sandhills to access advanced subjects via two-way video. This will provide a valuable test of that technology. Also, I have not eliminated funding for the Rural Health Education Network (RHEN) at the University of Nebraska Medical Center. When combined with our previous investments in NEB*SAT, our ability to deliver education to health professionals will be greatly expanded. These investments in technology represent a wise use of our limited resources to improve the lives of many Nebraskans.

Aside from these limited areas of improvement, the magnitude of the reductions I have made to LB 652 are a good indicator of our need to control State expenses while the economy is recovering. I ask for your assistance in this effort.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:jr

June 4, 1991

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Madam President and Senators:

I am hereby returning LB 760 with my objections and line-item reductions. The appropriations contained in LB 760 had to be reduced in order to insure some funding will be available before FY 95/96 for necessary construction for the Department of Corrections. The bill would have created over $20.0 million of obligations on the Cigarette Tax Fund and on the State General Fund through FY

94/95, and would have implied a commitment beyond that of at least $17.1 million for the Medical Center's project.

I have therefore left only two projects in the bill: the Beadle project at the University of Nebraska--Lincoln and the Copeland Hall project at Kearney State College. The former project is extremely important to the University's research mission, and is largely funded by over $17.5 million of Federal Funds and over $2.5 million of private and internally reallocated University funds. The $6.5 million of State funds is critical to the successful completion of the project.

Included in the State appropriation for the George W. Beadle Center for Genetics and Biomaterials Research is a fulfillment of the non-federal match requirements, in the form of the Utility Extension and Greenhouses. Any additional funds which may become necessary to fulfill the non-federal match requirements or to complete any additional components of the project should come from private funds, local funds, or funds reallocated by the University from other sources. Within the total State, Federal, Local, Private, and University funds available for this project, there is included funding for the additional chilling capacity necessary for the project. Since the University has indicated additional boiler and generator capacity is not necessary, it is not included in the total funds available for this project, and it is expected that no request for such additional capacity will be forthcoming from the University in the foreseeable future.

The latter project at Kearney is necessary to meet the minimum increased space requirements necessitated by enrollment growth and accompanying increases in the number of faculty. It was an extremely difficult decision to not allow the Institute of Agriculture and Natural Resources' projects to remain in LB 760, but funds are simply not available. Since the planning funds for those projects totals only a little over $76,000, there is no objection to the University using alternative funding sources to complete the plans. The projects could then be reviewed in coming years when funds may become available for construction.

I ask your support in sustaining these reductions in an effort to attain an orderly approach to all the State's construction needs in the coming years.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EBN:jr

June 4, 1991

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol
Lincoln, Nebraska 68509

Dear Madam President and Senators:

I am return LB 410 and LB 410A without my signature and with my objections.

LB 410 places in statute the position of a "deputy public counsel for child welfare services". The bill also indicates certain specific duties for that position, apparently in addition to the existing duties of Public Counsel.

Despite the best intentions of the sponsors of LB 410, this is not a wise course. If the Legislature is of the opinion that the Public Counsel needs additional staff or powers, then that question should be addressed broadly. LB 410, in my opinion, does not provide for prudent use of scare State resources.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

June 4, 1991

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol
Lincoln, Nebraska 68509

Dear Madam President and Senators:

I am returning LB 433 and LB 433A without my signature and with my objection.

LB 433 expands eligibility for the Medicaid Program beyond current federal requirements. For example, the federal government requires us to include pregnant women and children with incomes less than 133% of the federal poverty level, and allows the states the option of including persons up to 185% of that level. LB 433 establishes the 185% eligibility point as the State minimum. The 185% level is also established for children up to age 18 while the federal requirement for this group is 100% of the poverty level. LB 433 also creates a new State mandate for case management services at a cost of several hundred thousand dollars annually.

We have gradually increased Medicaid eligibility in response to federal mandates for several years. Many additional groups of Nebraskans have been added and reimbursement levels to providers have been increased. Our overall State financial picture simply does not allow for adding new persons at this time. Despite pleas from the National Governors' Association and other groups, Congress continues to plan expansions of the Medicaid program.

It is imperative that we maintain control of those programs that have the greatest impact on our State Budget. Medicaid must be at the top of that list. Let's keep our options open so that we may structure Medicaid in a manner consistent with our fiscal situation.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

June 4, 1991

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol
Lincoln, Nebraska 68509

Dear Madam President and Senators:

I am returning LB 724 and LB 724A without my signature and with my objections.

LB 724 creates in statutes, a position of a school nurse consultant within the Department of Health and LB 724A provides funding for that provision from the State General Fund.

My veto is based both on policy and fiscal considerations. Despite the best intentions of the sponsors of LB 724, the bill, in my opinion, does not provide for the most prudent use of currently available scarce state resources. In addition, statutory changes are not needed to undertake such an activity within the Department of Health provided an alternative funding source can be identified for the state nurse consultant position.

I urge you to sustain my veto.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

EXPLANATION OF VOTE

Had I been present, I would have voted "Nay" on advancement of LB 577.

(Signed) LaVon K. Crosby

RESOLUTION

LEGISLATIVE RESOLUTION 203. Read. Considered.

LR 203 was adopted with 22 ayes, 0 nays, and 27 not voting.

MOTION - Approve Appointments

Mr. Withem moved the adoption of the report of the Education Committee for the following Governor appointments found in the Journal on page 2862: Beverly D. Fellman, Donald L. Davis, Herb Schimek, LaRue Wunderlich, and Dr. Vance D. Rogers - Nebraska Educational Telecommunications Commission.

Voting in the affirmative, 28:

Abboud	Byars	Horgan	Rasmussen	Wehrbein
Ashford	Coordsen	Johnson, L.	Robak	Wesely
Baack	Cudaback	Lamb	Robinson	Wickersham
Bernard-Stevens	Elmer	Lindsay	Schrock	Will
	Hartnett	Lynch	Smith	Withem
Beyer	Hefner	Nelson	Warner	

Voting in the negative, 0.

Present and not voting, 10:

Beutler	Chizek	Hillman	Moore	Schellpeper
Chambers	Crosby	Landis	Peterson	Schmit

Excused and not voting, 11:

Conway	Hall	Kristensen	Morrissey	Rogers
Dierks	Johnson, R.	Labedz	Pirsch	Schimek
Haberman				

These appointments were confirmed with 28 ayes, 0 nays, 10 present and not voting, and 11 excused and not voting.

MOTION - Suspend Rules

Mr. Baack moved to suspend the rules, Rule 6, Section 7(b) to permit consideration of the bills on Final Reading today.

The Baack motion to suspend the rules prevailed with 30 ayes, 0 nays, 8 present and not voting, and 11 excused and not voting.

MOTION - Return LR 24CA to Select File

Messrs. Wesely, Beutler, Landis, Ms. Schimek, and Mrs. Crosby moved to return LR 24CA to Select File for their specific amendment, AM2270, found in the Journal on page 2825.

Mr. Conway asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Beutler moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 28 ayes, 0 nays, and 21 not voting.

The Wesely et al. motion to return lost with 5 ayes, 27 nays, 11 present and not voting, and 6 excused and not voting.

Mr. Schmit moved to return LR 24CA to Select File for the following specific amendment:
AM2271

(Amendments to Final Reading copy)

1. On page 1, line 1, strike "amendments" and insert "an amendment"; strike beginning with the comma in line 3 through "III" in line 4; in line 11, strike "amendments" and insert "amendment"; and strike beginning with "and" in line 12 through "are" in line 13 and insert "which is".

2. On page 3 strike beginning with "CIII-30" in line 11 through the quotation marks in line 23; and in line 24 strike "amendments" and insert "amendment".

3. On page 4, line 3, strike "amendments" and insert "amendment"; strike lines 10 through 21; and strike beginning with "either" in line 22 through "amendments" in line 23 and insert "the proposed amendment".

4. On page 5, line 1, strike "or them".

Mr. Schmit withdrew his motion to return.

Mrs. Smith moved to return LR 24CA to Select File for the following specific amendment:
AM2299

(Amendments to AM2270)

1. On page 2, strike beginning with "The" in line 12 through the period in line 18.

2. On page 3, strike beginning with the comma in line 21 through "companies" in line 22.

Mrs. Smith withdrew her motion to return.

Mr. Will moved to return LR 24CA to Select File for the following specific amendment:
FA218

Strike Section 1.

Mr. Will withdrew his motion to return.

ENROLLED RESOLUTION

LEGISLATIVE RESOLUTION 194. Introduced by Landis, 46.

WHEREAS, the business of insurance is currently regulated almost entirely by the states; and

WHEREAS, the various states, due to their size, economy, and generally dissimilar needs, require individualized regulation; and

WHEREAS, under the existing regulatory system Nebraska's Director of Insurance has responsibilities to regulate the activities of insurers licensed to transact business in this state; and

WHEREAS, the regulatory responsibilities of the director include issuing certificates of authority to transact business in this state, examining insurers for solvency, regulating unfair trade practices and unfair claims settlement practices, licensing and disciplining agents and brokers, and providing information and assistance to the public; and

WHEREAS, the federal McCarran-Ferguson Act leaves the regulation of the business of insurance to the states; and

WHEREAS, the system of state regulation of the insurance industry has proven to be responsive and effective in its protection of each state's residents; and

WHEREAS, organizations such as the National Conference of Insurance Legislators, the National Conference of State Legislatures, and the National Association of Insurance Commissioners work cooperatively with state legislatures and state insurance commissioners to address common needs and problems; and

WHEREAS, H.R. 9 and S. 430 which are being considered by the Congress would repeal essential provisions of the McCarran-Ferguson Act; and

WHEREAS, H.R. 9 and S. 430 would result in federal bureaucracies usurping much of the regulatory authority of the director and the policymaking authority of the Legislature.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature hereby respectfully urges the Congress of the United States to reject H.R. 9 and S. 430 or any similar legislation which would infringe upon the authority of Nebraska and every other state to be the principal regulators of insurance companies.

2. That official copies of this resolution be prepared and forwarded to the Speaker of the House of Representatives and President of the Senate of the Congress of the United States and to all members of the Nebraska delegation to the Congress of the United States.

SELECT COMMITTEE REPORT
Enrollment and Review

Correctly Enrolled

The following resolution was correctly enrolled: LR 194.

(Signed) Eric Will, Chairperson

RESOLUTION ON FINAL READING

The following resolution was read and put upon final passage:

LEGISLATIVE RESOLUTION 24CA.

A Resolution to propose amendments to the Constitution of Nebraska by amending Article III, section 24, and by adding a new section 30 to Article III.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

Section 1. That at the general election in November 1992 there shall be submitted to the electors of the State of Nebraska for approval the following amendments to the Constitution of Nebraska by amending Article III, section 24, and by adding a new section 30 to Article III, which are hereby proposed by the Legislature:

CIII-24 "~~The~~ (1) Except as provided in this section, the Legislature shall not authorize any game of chance~~, nor~~ or any lottery~~,~~ or gift enterprise when the consideration for a chance to participate involves the payment of money for the purchase of property, services, or a chance or admission ticket or requires an expenditure of substantial effort or time.

(2) The Legislature~~, except that it~~ may authorize and regulate a state lottery pursuant to subsection (3) of this section and other lotteries, raffles, and gift enterprises which are intended solely as business promotions or the proceeds of which are to be used solely for charitable or community betterment purposes without profit to the promoter of such lotteries, raffles, or gift enterprises.

(3) The Legislature may establish a lottery to be operated and regulated by the State of Nebraska. The proceeds of the lottery shall be appropriated by the Legislature for the costs of establishing and maintaining the lottery and for other purposes as directed by the Legislature. No lottery game shall be conducted as part of the lottery unless the type of game has been approved by a majority of the members of the Legislature.

(4) Nothing in this section shall be construed to prohibit (a) the enactment of laws providing for the licensing and regulation of wagering on the results of horseraces, wherever run, either within or outside of the state, by the parimutuel method, when such wagering is conducted by licensees within a licensed racetrack enclosure~~,~~ or ~~to prohibit~~ (b) the enactment of laws providing for the licensing and regulation of bingo games conducted by nonprofit associations which have been in existence for a period of five years immediately preceding the application for license, except that bingo games cannot be conducted by agents or lessees of such associations on a percentage basis."

CIII-30 "If the Legislature establishes a lottery operated and regulated by the state pursuant to this Constitution, the Legislature may use the proceeds or a portion of the proceeds from such lottery to compensate depositors of industrial loan and investment companies for unreimbursed losses of guaranteed deposits held by industrial loan and investment companies which filed for bankruptcy

or entered receivership after November 1, 1983, notwithstanding any other provision of this Constitution. The Legislature shall not be empowered to make appropriations to compensate such depositors pursuant to this provision after July 1, 1997.".

Sec. 2. That the proposed amendments shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1. The proposition for the submission of the proposed amendments shall be placed upon the ballot in the following forms:

"A constitutional amendment to authorize the Legislature to establish a lottery which is operated and regulated by the state.

For

Against".

"A constitutional amendment to authorize the Legislature, if it establishes a state lottery pursuant to the Constitution, to use the proceeds, or a portion thereof, to compensate depositors of industrial loan and investment companies for unreimbursed losses of guaranteed deposits held by industrial loan and investment companies which filed for bankruptcy or entered receivership after November 1, 1983.

For

Against".

Sec. 3. That either of the proposed amendments, if adopted, shall be in force and take effect immediately upon the completion of the canvass of the votes, at which time it shall be the duty of the Governor to proclaim it or them as a part of the Constitution of Nebraska.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the resolution pass?' "

Voting in the affirmative, 34:

Abboud	Chizek	Hartnett	Lynch	Schmit
Ashford	Coordsen	Hillman	Morrissey	Smith
Baack	Crosby	Horgan	Rasmussen	Warner
Bernard-Stevens	Cudaback	Kristensen	Robak	Wesely
Beutler	Dierks	Labedz	Robinson	Wickersham
Byars	Elmer	Landis	Schellpeper	Will
	Hall	Lindsay	Schimek	Withem

Voting in the negative, 10:

Beyer	Hefner	Lamb	Peterson	Rogers
Chambers	Johnson, L.	Nelson	Pirsch	Wehrbein

Present and not voting, 2:

Moore Schrock

Excused and not voting, 3:

Conway Haberman Johnson, R.

A constitutional three-fifths majority having voted in the affirmative, the resolution was declared passed for the general election.

MOTION - Reconsider Action on LR 24CA

Mr. Schmit moved to reconsider the passage of LR 24CA.

Mr. Schmit withdrew his motion to reconsider.

BILLS ON FINAL READING

The following bills were read and put upon final passage:

LEGISLATIVE BILL 355.

A BILL FOR AN ACT relating to handguns; to state intent; to require a certificate for the purchase, lease, rental, or transfer of a handgun; to provide exceptions; to provide for application procedures, an investigation, time limits, and an appeal; to provide penalties; to provide for upgrading of automated criminal history files, procedures for a criminal history record check, and an annual report; to provide powers and duties for the Nebraska State Patrol; to provide for the effect of city and village ordinances; and to define terms.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 34:

Abboud	Conway	Kristensen	Pirsch	Warner
Ashford	Crosby	Landis	Rasmussen	Wehrbein
Baack	Cudaback	Lindsay	Rogers	Wesely
Beutler	Dierks	Lynch	Schellpeper	Wickersham
Byars	Hall	Moore	Schimek	Will
Chambers	Hartnett	Morrissey	Schrock	Withem
Chizek	Hillman	Nelson	Smith	

Voting in the negative, 11:

Bernard-Stevens	Coordsen	Johnson, L.	Peterson	Robinson
Beyer	Elmer	Lamb	Robak	Schmit
	Hefner			

Present and not voting, 2:

Horgan Labedz

Excused and not voting, 2:

Haberman Johnson, R.

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 413.

A BILL FOR AN ACT relating to the Environmental Protection Act; to amend section 81-1508, Reissue Revised Statutes of Nebraska, 1943; to change penalty provisions as prescribed; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 45:

Abboud	Beyer	Crosby	Hefner	Labedz
Ashford	Byars	Cudaback	Hillman	Lamb
Baack	Chambers	Dierks	Horgan	Landis
Bernard-Stevens	Chizek	Elmer	Johnson, L.	Lindsay
	Conway	Hall	Johnson, R.	Lynch
Beutler	Coordsen	Hartnett	Kristensen	Morrissey

Nelson	Robinson	Schimek	Warner	Wickersham
Peterson	Rogers	Schrock	Wehrbein	Will
Rasmussen	Schellpeper	Smith	Wesely	Withem
Robak				

Voting in the negative, 1:

Schmit

Present and not voting, 2:

Moore Pirsch

Excused and not voting, 1:

Haberman

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 511. With Emergency.

A BILL FOR AN ACT relating to education; to amend sections 43-2007, 77-3437, 77-3438, 77-3441, 79-436, 79-445, 79-446.01 to 79-448, 79-497, 79-498, 79-506 to 79-506.04, 79-548.01, 79-1247.07, 79-1254.02, 79-1914, 79-2212, 79-3304, and 79-3336, Reissue Revised Statutes of Nebraska, 1943, sections 10-716.01, 23-3306, 79-101.01, 79-101.02, 79-201.09, 79-402, 79-402.03, 79-402.04, 79-402.13 to 79-402.20, 79-426.02, 79-426.19, 79-426.28, 79-437.03, 79-438.08, 79-438.12, 79-449.01, 79-451, 79-458, 79-494, 79-4,102 to 79-4,104, 79-4,105.01, 79-4,158.01, 79-4,159, 79-4,222, 79-4,224, 79-701, 79-1103, 79-1247.05, 79-1303, 79-1304, 79-1369, 79-2203, 79-3415, 79-3703, 79-3803, 79-3804, 79-3806 to 79-3811, 79-3813, 79-3815 to 79-3820, and 79-3822 to 79-3824, Revised Statutes Supplement, 1990, Laws 1988, LB 940, section 19, and Laws 1988, LB 940, section 18, as amended by Laws 1990, LB 259, section 34; to change, add, and eliminate duties of the Commissioner of Education, State Board of Education, State Department of Education, county superintendents, county treasurers, and secretaries of school boards; to require proof of identity and age of certain children; to define and redefine terms; to change, add, and eliminate provisions relating to budget limitations and statements, affiliation, reorganization, and depopulation of school districts, nonresident high school tuition, reports, the effect of a census, acquisition of facilities by Class II

school districts, contract renewal, certain error proceedings, withholding payments to school districts, reimbursement of certain special education and enrollment option program costs, and the Tax Equity and Educational Opportunities Support Act; to provide for appropriations; to eliminate provisions relating to career certification levels for teachers, an entry-year assistance program, and certification for administrators; to provide for substitute teaching certificates or permits and for waiver of a fee; to eliminate a prohibition on payment of state apportionment of certain funds; to provide for membership and withdrawal from educational service units for certain Class I districts; to eliminate provisions relating to transportation of nonresident students, satellite programs for accoustically handicapped children, and funding for school district affiliation; to eliminate the Nebraska Mathematics and Science Teacher Tuition Assistance Act; to harmonize provisions; to provide severability; to repeal the original sections, and also sections 79-493, 79-4,160, 79-1247.15, 79-12,142 to 79-12,144, 79-12,146 to 79-12,152, and 79-1912, Reissue Revised Statutes of Nebraska, 1943, and sections 79-438.09 to 79-438.11, 79-4,223, and 79-12,145, Revised Statutes Supplement, 1990; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 47:

Abboud	Coordsen	Johnson, L.	Nelson	Schmit
Ashford	Crosby	Johnson, R.	Peterson	Schrock
Baack	Cudaback	Kristensen	Pirsch	Smith
Bernard-Stevens	Dierks	Labedz	Rasmussen	Warner
Beutler	Elmer	Lamb	Robak	Wehrbein
Beyer	Hall	Landis	Robinson	Wesely
Byars	Hartnett	Lindsay	Rogers	Wickersham
Chizek	Hefner	Lynch	Schellpeper	Will
Conway	Hillman	Moore	Schimek	Withem
	Horgan	Morrissey		

Voting in the negative, 0.

Present and not voting, 1:

Chambers

Excused and not voting, 1:

Haberman

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

LEGISLATIVE BILL 579A. With Emergency.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 579, Ninety-second Legislature, First Session, 1991; to reduce an appropriation; to appropriate funds to be used pursuant to section 49-237 as prescribed; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 37:

Abboud	Coordsen	Johnson, R.	Nelson	Smith
Baack	Cudaback	Kristensen	Rasmussen	Warner
Bernard-Stevens	Dierks	Labedz	Robinson	Wehrbein
Byars	Elmer	Landis	Rogers	Wesely
Chambers	Hall	Lindsay	Schellpeper	Wickersham
Chizek	Hartnett	Lynch	Schimek	Will
Conway	Hillman	Moore	Schrock	Withem
	Horgan	Morrissey		

Voting in the negative, 8:

Crosby	Johnson, L.	Peterson	Robak	Schmit
Hefner	Lamb	Pirsch		

Present and not voting, 3:

Ashford	Beutler	Beyer

Excused and not voting, 1:

Haberman

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

MOTION - Return LB 614 to Select File

Mr. Cudaback moved to return LB 614 to Select File for the following specific amendment:
FA219
Strike the enacting clause.

Mr. Cudaback withdrew his motion to return.

Mr. Peterson moved to return LB 614 to Select File for the following specific amendment:
FA220
Strike the enacting clause.

Mr. Peterson withdrew his motion to return.

SPEAKER BAACK PRESIDING

BILLS ON FINAL READING

The following bills were read and put upon final passage:

LEGISLATIVE BILL 614.

A BILL FOR AN ACT relating to redistricting; to amend sections 5-201 to 5-214 and 5-216 to 5-252, Reissue Revised Statutes of Nebraska, 1943, and section 5-215, Revised Statutes Supplement, 1990; to change provisions relating to legislative districts; to harmonize provisions; to provide an operative date; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 37:

Abboud	Bernard-Stevens	Beyer	Conway	Hall
Ashford		Chambers	Coordsen	Hartnett
Baack	Beutler	Chizek	Crosby	Hillman

Horgan	Lindsay	Pirsch	Schmit	Wesely
Johnson, R.	Lynch	Rasmussen	Smith	Wickersham
Kristensen	Moore	Robak	Warner	Will
Labedz	Morrissey	Rogers	Wehrbein	Withem
Landis	Nelson	Schimek		

Voting in the negative, 10:

Byars	Dierks	Hefner	Lamb	Robinson
Cudaback	Elmer	Johnson, L.	Peterson	Schellpeper

Present and not voting, 1:

Schrock

Excused and not voting, 1:

Haberman

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

PRESIDENT MOUL PRESIDING

LEGISLATIVE BILL 615.

A BILL FOR AN ACT relating to redistricting; to amend section 5-101.01, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to congressional districts; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 25:

Beutler	Dierks	Labedz	Nelson	Smith
Byars	Hall	Landis	Rasmussen	Wesely
Chambers	Hartnett	Lindsay	Robak	Wickersham
Chizek	Hillman	Lynch	Schellpeper	Will
Coordsen	Horgan	Morrissey	Schimek	Withem

Voting in the negative, 21:

Abboud	Beyer	Hefner	Lamb	Robinson
Ashford	Conway	Johnson, L.	Moore	Rogers
Baack	Crosby	Johnson, R.	Peterson	Schrock
Bernard-Stevens	Cudaback	Kristensen	Pirsch	Wehrbein
	Elmer			

Present and not voting, 2:

Schmit Warner

Excused and not voting, 1:

Haberman

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 616. With Emergency.

A BILL FOR AN ACT relating to redistricting; to amend section 24-201.02, Revised Statutes Supplement, 1990; to change provisions relating to Supreme Court judicial districts; to repeal the original section; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 44:

Abboud	Conway	Hillman	Lynch	Schmit
Ashford	Coordsen	Horgan	Morrissey	Schrock
Baack	Crosby	Johnson, L.	Nelson	Smith
Bernard-Stevens	Cudaback	Johnson, R.	Pirsch	Warner
	Dierks	Kristensen	Rasmussen	Wehrbein
Beutler	Elmer	Labedz	Robak	Wesely
Beyer	Hall	Lamb	Rogers	Wickersham
Chambers	Hartnett	Landis	Schellpeper	Will
Chizek	Hefner	Lindsay	Schimek	Withem

Voting in the negative, 0.

Present and not voting, 4:

Byars Moore Peterson Robinson

Excused and not voting, 1:

Haberman

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following resolution and bills: LR 24CA, LB 355, LB 413, LB 511, LB 579A, LB 614, LB 615, and LB 616.

BILLS ON FINAL READING

The following bills were read and put upon final passage:

LEGISLATIVE BILL 617.

A BILL FOR AN ACT relating to redistricting; to amend sections 85-103, 85-103.01, and 85-103.02, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to districts for the Board of Regents of the University of Nebraska; to harmonize provisions; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 42:

Abboud	Conway	Hefner	Landis	Schellpeper
Baack	Coordsen	Hillman	Lindsay	Schimek
Bernard-Stevens	Crosby	Horgan	Morrissey	Schmit
Beutler	Cudaback	Johnson, L.	Nelson	Schrock
Beyer	Dierks	Johnson, R.	Pirsch	Smith
Chambers	Elmer	Kristensen	Rasmussen	Warner
Chizek	Hall	Labedz	Robak	Wehrbein
	Hartnett	Lamb	Robinson	Wesely

Wickersham	Will	Withem

Voting in the negative, 0.

Present and not voting, 6:

Ashford	Lynch	Moore	Peterson	Rogers
Byars				

Excused and not voting, 1:

Haberman

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 618.

A BILL FOR AN ACT relating to redistricting; to amend sections 5-107 and 5-107.01, Reissue Revised Statutes of Nebraska, 1943, and section 86-803, Reissue Revised Statutes of Nebraska, 1943, as amended by section 1, Legislative Bill 286, Ninety-second Legislature, First Session, 1991; to change and transfer provisions relating to public service commissioner districts; to provide for representation of a district; to harmonize provisions; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 46:

Abboud	Coordsen	Johnson, L.	Morrissey	Schmit
Baack	Crosby	Johnson, R.	Nelson	Schrock
Bernard-Stevens	Cudaback	Kristensen	Pirsch	Smith
Beutler	Dierks	Labedz	Rasmussen	Warner
Beyer	Elmer	Lamb	Robak	Wehrbein
Byars	Hall	Landis	Robinson	Wesely
Chambers	Hartnett	Lindsay	Rogers	Wickersham
Chizek	Hefner	Lynch	Schellpeper	Will
Conway	Hillman	Moore	Schimek	Withem
	Horgan			

Voting in the negative, 0.

Present and not voting, 2:

Ashford Peterson

Excused and not voting, 1:

Haberman

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 619.

A BILL FOR AN ACT relating to redistricting; to amend sections 79-322, 79-322.01, and 79-322.02, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to the districts for the State Board of Education; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 45:

Abboud	Coordsen	Johnson, L.	Morrissey	Schmit
Baack	Cudaback	Johnson, R.	Nelson	Schrock
Bernard-Stevens	Dierks	Kristensen	Pirsch	Smith
Beutler	Elmer	Labedz	Rasmussen	Warner
Beyer	Hall	Lamb	Robak	Wehrbein
Byars	Hartnett	Landis	Robinson	Wesely
Chambers	Hefner	Lindsay	Rogers	Wickersham
Chizek	Hillman	Lynch	Schellpeper	Will
Conway	Horgan	Moore	Schimek	Withem

Voting in the negative, 0.

Present and not voting, 3:

Ashford Crosby Peterson

Excused and not voting, 1:

Haberman

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following resolution and bills: LR 203, LB 617, LB 618, and LB 619.

RECESS

At 11:52 a.m., on a motion by Mr. Baack, the Legislature recessed until 1:30 p.m.

AFTER RECESS

The Legislature reconvened at 1:30 p.m., President Moul presiding.

ROLL CALL

The roll was called and all members were present except Mr. Haberman who was excused; and Messrs. Ashford, Conway, R. Johnson, Kristensen, Moore, Robinson, Rogers, and Schmit who were excused until they arrive.

SPEAKER BAACK PRESIDING

PRESENTED TO THE SECRETARY OF STATE

Presented to the Secretary of State on June 5, 1991, at 12:18 p.m., was the following resolution: LR 24CA.

(Signed) Pam Moravec, Enrolling Clerk

PRESENTED TO THE GOVERNOR

Presented to the Governor on June 5, 1991, at 12:15 p.m., were the following bills: 355, 413, 511, 579A, 614, 615, 616, 617, 618, and 619.

(Signed) Pam Moravec, Enrolling Clerk

MESSAGE FROM THE GOVERNOR

June 5, 1991

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 57, 57A, 85, 85A, 90, 90A, 114, 114A, 209e, 209A, 400, 420, 420A, 457, and 457A were received in my office on May 30, 1991; and Legislative Bills 256, 256A, 419e 701, 701A, 703e, 703A, 715, and 715A were received on June 3, 1991.

These bills were signed by me on June 5, 1991, and delivered to the Secretary of State.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

BILLS ON FINAL READING

The following bills were read and put upon final passage:

LEGISLATIVE BILL 627. With Emergency.

A BILL FOR AN ACT relating to motor fuel taxes; to amend sections 3-148, 3-149, 3-150, 60-328.02, 60-328.03, 60-1303, 60-1306, 66-401, 66-402, 66-403, 66-404, 66-407, 66-408, 66-409, 66-410, 66-410.01, 66-410.02, 66-410.03, 66-410.04, 66-410.05, 66-411, 66-412, 66-414, 66-421, 66-426.01, 66-428, 66-429, 66-433, 66-434, 66-435, 66-436, 66-437, 66-438, 66-439, 66-440, 66-441, 66-445, 66-446, 66-447, 66-448, 66-449, 66-449.01, 66-450, 66-452, 66-458, 66-459, 66-460, 66-461, 66-461.01, 66-462, 66-465, 66-467.01, 66-473, 66-474, 66-474.01, 66-475, 66-477, 66-478, 66-479, 66-481, 66-501, 66-502, 66-503, 66-505, 66-512, 66-514, 66-515, 66-516, 66-517, 66-518, 66-520, 66-601, 66-602, 66-605, 66-605.01, 66-605.02, 66-605.03, 66-605.04, 66-606.01, 66-607, 66-608, 66-609, 66-610.01, 66-610.02, 66-610.03, 66-610.04, 66-610.06, 66-612, 66-613, 66-616, 66-617, 66-618, 66-619, 66-620, 66-629, 66-632, 66-633, 66-634.01, 66-638, 66-639, 66-641, 66-642, 66-643, 66-644, 66-645, 66-646.01, 66-1216, 66-1225, 66-1403, 66-1406, 66-1414, and 66-1505, Reissue Revised Statutes of Nebraska, 1943, sections 39-2215 and 81-1577.01, Revised

Statutes Supplement, 1990, and sections 66-1521 and 66-1522, Reissue Revised Statutes of Nebraska, 1943, as amended by sections 14 and 15, respectively, Legislative Bill 409, Ninety-second Legislature, First Session, 1991; to change, provide, transfer, and eliminate provisions relating to motor vehicle fuel tax, transportation of fuels, and special fuel tax; to provide powers and duties for the Department of Revenue, the Department of Agriculture, the Attorney General, and the Nebraska State Patrol; to provide penalties; to change provisions relating to reformulated gasoline; to create a division and a fund; to adopt standards for certain fuels; to harmonize provisions; to provide an operative date; to repeal the original sections, and also sections 66-406, 66-410.06, 66-410.07, 66-413, 66-418, 66-418.01, 66-418.03, 66-419, 66-427, 66-430, 66-431, 66-432, 66-443, 66-451, 66-453, 66-454, 66-455, 66-456, 66-457, 66-464, 66-466, 66-520.01, 66-522, 66-524, 66-603, 66-606, 66-610.05, 66-611, 66-614, 66-615, 66-621, 66-623, 66-624, 66-625, 66-626, 66-627, 66-630, 66-631, 66-636, 66-637, 66-637.01, 66-646, and 66-649, Reissue Revised Statutes of Nebraska, 1943; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 45:

Ashford	Crosby	Johnson, R.	Nelson	Schmit
Baack	Cudaback	Kristensen	Peterson	Schrock
Bernard-Stevens	Elmer	Labedz	Pirsch	Smith
	Hall	Lamb	Rasmussen	Warner
Beutler	Hartnett	Landis	Robak	Wehrbein
Beyer	Hefner	Lindsay	Robinson	Wesely
Byars	Hillman	Lynch	Rogers	Wickersham
Chizek	Horgan	Moore	Schellpeper	Will
Conway	Johnson, L.	Morrissey	Schimek	Withem
Coordsen				

Voting in the negative, 0.

Present and not voting, 3:

Abboud	Chambers	Dierks

Excused and not voting, 1:

Haberman

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

LEGISLATIVE BILL 627A. With Emergency.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 627, Ninety-second Legislature, First Session, 1991; to provide for certain fund transfers; to reappropriate funds to continue a tax study; to reduce appropriations; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 43:

Abboud	Conway	Horgan	Morrissey	Schmit
Ashford	Coordsen	Johnson, L.	Nelson	Schrock
Baack	Crosby	Johnson, R.	Peterson	Warner
Bernard-Stevens	Cudaback	Kristensen	Pirsch	Wehrbein
	Elmer	Labedz	Rasmussen	Wesely
Beutler	Hall	Lamb	Robak	Wickersham
Beyer	Hartnett	Landis	Robinson	Will
Byars	Hefner	Lindsay	Rogers	Withem
Chizek	Hillman	Moore	Schellpeper	

Voting in the negative, 0.

Present and not voting, 5:

Chambers	Dierks	Lynch	Schimek	Smith

Excused and not voting, 1:

Haberman

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

LEGISLATIVE BILL 693.

A BILL FOR AN ACT relating to state colleges; to amend sections 85-322 and 85-323, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to expenditures from the State College Buildings Renovation and Land Acquisition Fund; to provide powers and duties for the Board of Trustees of the Nebraska State Colleges; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 44:

Abboud	Coordsen	Horgan	Morrissey	Schmit
Ashford	Crosby	Johnson, L.	Nelson	Schrock
Baack	Cudaback	Johnson, R.	Pirsch	Smith
Bernard-Stevens	Dierks	Kristensen	Rasmussen	Warner
	Elmer	Labedz	Robak	Wehrbein
Beyer	Hall	Landis	Robinson	Wesely
Byars	Hartnett	Lindsay	Rogers	Wickersham
Chizek	Hefner	Lynch	Schellpeper	Will
Conway	Hillman	Moore	Schimek	Withem

Voting in the negative, 0.

Present and not voting, 4:

Beutler	Chambers	Lamb	Peterson

Excused and not voting, 1:

Haberman

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 813.

A BILL FOR AN ACT relating to solid waste disposal; to define terms; to require site approval by a city, village, or county prior to the submission of an application to the Department of Environmental

Control for a solid waste disposal area or solid waste processing facility; to provide for an application, service and publication of notice, hearings, appeals, fees, time limits on construction of such areas or facilities, and duties for the district court as prescribed; and to provide for a notation on a deed as prescribed.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 47:

Abboud	Coordsen	Johnson, L.	Nelson	Schmit
Ashford	Crosby	Johnson, R.	Peterson	Schrock
Baack	Cudaback	Kristensen	Pirsch	Smith
Bernard-Stevens	Dierks	Labedz	Rasmussen	Warner
Beutler	Elmer	Lamb	Robak	Wehrbein
Beyer	Hall	Landis	Robinson	Wesely
Byars	Hartnett	Lindsay	Rogers	Wickersham
Chizek	Hefner	Lynch	Schellpeper	Will
Conway	Hillman	Moore	Schimek	Withem
	Horgan	Morrissey		

Voting in the negative, 0.

Present and not voting, 1:

Chambers

Excused and not voting, 1:

Haberman

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

MOTION - Return LB 829 to Select File

Mr. Kristensen moved to return LB 829 to Select File for the following specific amendment:
AM2304

(Amendments to Final Reading copy)

1. On page 33, line 15, after "two" insert "and three-tenths".

2. On page 35, strike lines 23 through 25.
3. On page 36, strike lines 1 through 7; and
in line 8 strike "(6)" and insert "(5)".

PRESIDENT MOUL PRESIDING

Mr. Landis asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Hartnett moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 10 nays, and 14 not voting.

Mr. Kristensen withdrew his motion to return.

BILLS ON FINAL READING

The following bills were read and put upon final passage:

LEGISLATIVE BILL 829. With Emergency.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 13-509, 25-208, 25-218, 25-21,149, 77-103, 77-105, 77-202, 77-510, 77-1510, 77-1613.01, 77-1727, 77-1734.01, 77-1735, 77-1736.04, 77-1775, 77-1775.01, 77-2701, 77-2703, 77-2708, and 77-3437 to 77-3441, Reissue Revised Statutes of Nebraska, 1943, sections 79-3809 and 79-3814, Revised Statutes Supplement, 1990, and section 77-2704, Reissue Revised Statutes of Nebraska, 1943, as amended by section 14, Legislative Bill 244, Ninety-second Legislature, First Session, 1991; to change provisions relating to actions involving certain taxes; to redefine and eliminate terms; to exempt certain personal property from tax; to change provisions relating to refunds and credits; to provide for a depreciation surcharge, a corporate income tax surcharge, and a corporation fee and assessment; to reduce the sales and use tax collection fee; to change provisions relating to sales and use tax exemptions; to provide for reimbursement to political subdivisions; to change provisions relating to property tax receipts limitations; to change provisions relating to valuation adjustments under the Tax Equity and Educational Opportunities Support Act; to extend a termination date; to eliminate a provision on refunds of illegally assessed taxes; to harmonize provisions; to provide operative dates; to provide severability; to repeal the original sections, and also section

77-1736.10, Reissue Revised Statutes of Nebraska, 1943; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 35:

Ashford	Crosby	Hillman	Nelson	Schrock
Baack	Cudaback	Labedz	Peterson	Smith
Beyer	Dierks	Lamb	Rasmussen	Warner
Byars	Elmer	Landis	Robak	Wehrbein
Chambers	Hall	Lindsay	Rogers	Wickersham
Chizek	Hartnett	Lynch	Schellpeper	Will
Conway	Hefner	Morrissey	Schimek	Withem

Voting in the negative, 12:

Abboud	Beutler	Johnson, L.	Moore	Robinson
Bernard-Stevens	Coordsen	Johnson, R.	Pirsch	Schmit
	Horgan	Kristensen		

Present and not voting, 1:

Wesely

Excused and not voting, 1:

Haberman

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

LEGISLATIVE BILL 829A.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 829, Ninety-second Legislature, First Session, 1991; and to reduce an appropriation.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 38:

Ashford	Conway	Hefner	Nelson	Smith
Baack	Coordsen	Hillman	Peterson	Warner
Bernard-Stevens	Crosby	Labedz	Rasmussen	Wehrbein
Beyer	Cudaback	Lamb	Robak	Wesely
Byars	Dierks	Landis	Rogers	Wickersham
Chambers	Elmer	Lindsay	Schellpeper	Will
Chizek	Hall	Lynch	Schimek	Withem
	Hartnett	Morrissey	Schrock	

Voting in the negative, 10:

Abboud	Horgan	Johnson, R.	Moore	Robinson
Beutler	Johnson, L.	Kristensen	Pirsch	Schmit

Excused and not voting, 1:

Haberman

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

MOTION - Suspend Rules

Messrs. Moore and Will moved to suspend Rule 5, Section 6(f) and (g) to allow LB 849 to be read.

The Moore-Will motion prevailed with 40 ayes, 0 nays, 8 present and not voting, and 1 excused and not voting.

MOTION - Return LB 849 to Select File

Mr. Schmit moved to return LB 849 to Select File for the following specific amendment:
FA221
Strike the enacting clause.

Mr. Schmit withdrew his motion to return.

BILL ON FINAL READING

The following bill was read and put upon final passage:

LEGISLATIVE BILL 849.

A BILL FOR AN ACT relating to lotteries; to amend sections 9-204, 9-312, 9-315, 9-402, 9-411, 9-415, 9-422, 9-502, 9-507, 14-102, 15-258, 16-226, 17-120, 17-207, 28-1101, 28-1105, and 28-1113, Reissue Revised Statutes of Nebraska, 1943, sections 9-607 and 9-629, Revised Statutes Supplement, 1990, section 9-509, Reissue Revised Statutes of Nebraska, 1943, as amended by section 53, Legislative Bill 427, Ninety-second Legislature, First Session, 1991, and sections 9-1,104, 9-226, 9-322, and 9-620, Revised Statutes Supplement, 1990, as amended by sections 2, 10, 30, and 56, respectively, Legislative Bill 427, Ninety-second Legislature, First Session, 1991; to adopt the State Lottery Act; to redefine a term; to harmonize provisions; to provide inseverability; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 26:

Ashford	Chizek	Labedz	Rasmussen	Smith
Baack	Cudaback	Landis	Robak	Wesely
Bernard-Stevens	Elmer	Lindsay	Schellpeper	Wickersham
Beutler	Hall	Lynch	Schimek	Will
Byars	Hartnett	Morrissey	Schmit	Withem
	Horgan			

Voting in the negative, 18:

Abboud	Crosby	Johnson, L.	Nelson	Robinson
Beyer	Dierks	Johnson, R.	Peterson	Rogers
Chambers	Hefner	Kristensen	Pirsch	Wehrbein
Coordsen	Hillman	Lamb		

Present and not voting, 4:

Conway	Moore	Schrock	Warner

Excused and not voting, 1:

Haberman

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following bills: 627, 627A, 693, 813, 829, 829A, and 849.

RESOLUTION

LEGISLATIVE RESOLUTION 204. Introduced by Appropriations Committee: Moore, 24, Chairperson; Ashford, 6; Bernard-Stevens, 42; Crosby, 29; Hillman, 48; L. Johnson, 15; Lynch, 13; Robinson, 16; Wehrbein, 2.

PURPOSE: The Appropriations Committee of the Legislature during the 1991 Legislative session and in the process of developing its budget recommendation to the Legislature for a budget in the 1991-1993 biennium has determined that there are areas worthy of further examination in preparation for the development of revisions to the budget enacted by the Ninety-second Legislature, First Session, and for the development of future biennial budget recommendations. Such areas include, but are not limited to the following:

1. The policies governing the distribution of emergency aid to local governmental units from the Governor's Emergency Fund as a result of natural disasters and the funding of such appropriations;

2. Insuring state-owned facilities and equipment, self insurance, and the potential for umbrella coverages with high deductibles for catastrophic loss coverage;

3. The relative burden of costs for a commercial driver's license;

4. The distribution of transit aid to transit systems and what proportion state aid represents to the total funding of each transit system in conjunction with federal aid, fares, and other funding sources;

5. A cooperative review with the Clerk of the Legislature as to reports required from state agencies, boards, and commissions with the objective of ensuring the timely receipt of such reports;

6. The statutory provisions for authorization of expenditure of revenue bond surplus and the authorization of new revenue bond

issues by the University of Nebraska and the State Colleges in Nebraska; and

7. The impact of across-the-board budget reductions to the 1991-93 biennial budget as proposed by the Appropriations Committee of the Legislature and state agency plans to manage within those constraints in FY1992-93.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Appropriations Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

EXPLANATION OF VOTE

Had I been present, I would not have supported the advancement of LR 24CA.

Had I been present, I would have supported the advancement of LB 355.

(Signed) Rod Johnson

APPROPRIATIONS COMMITTEE REPORTS

Pursuant to Rule 6, Section 14, the Appropriations Committee has reviewed the Governor's line-item vetoes of LB 843 in the exhibit attached to this report. Subsequent to the review, the Committee has by a nine to zero vote decided to not make a recommendation regarding override of line-item vetoes.

Pursuant to Rule 6, Section 14, the Appropriations Committee has reviewed the Governor's line-item vetoes of LB 845. Subsequent to the review, the Committee has by a nine to zero vote decided to not make a recommendation regarding override of line-item vetoes.

Pursuant to Rule 6, Section 14, the Appropriations Committee has reviewed the Governor's line-item vetoes of LB 647A. Subsequent to

the review, the Committee has by a nine to zero vote decided to not make a recommendation regarding override of line-item vetoes.

Pursuant to Rule 6, Section 14, the Appropriations Committee has reviewed the Governor's line-item vetoes of LB 652 in the exhibit attached to this report. Subsequent to the review, the Committee has by a nine to zero vote decided to not make a recommendation regarding override of line-item vetoes.

Pursuant to Rule 6, Section 14, the Appropriations Committee has reviewed the Governor's line-item vetoes of LB 760. Subsequent to the review, the Committee has by an eight to one vote decided to override all line-item vetoes contained in LB 760.

(Signed) Scott Moore, Chairperson
Appropriations Committee

PRESIDENT MOUL PRESIDING

UNANIMOUS CONSENT - Members Excused

Messrs. Peterson and R. Johnson asked unanimous consent to be excused until they return. No objections. So ordered.

MOTION - Override Line-Item Veto on LB 843

Mr. Coordsen moved to override the Governor's veto by adding back $23,000 in both fiscal year 1991-92 and fiscal year 1992-93 on page 88, line 24 of LB 843.

Mr. Coordsen moved for a call of the house. The motion prevailed with 18 ayes, 0 nays, and 31 not voting.

Mr. Coordsen requested a roll call vote on his motion to override.

Whereupon the President stated: "The question shall be, 'Shall that portion of the bill pass notwithstanding the line-item objections of the Governor?' "

Voting in the affirmative, 21:

Abboud	Chizek	Crosby	Horgan	Lynch
Ashford	Conway	Hall	Labedz	Nelson
Chambers	Coordsen	Hartnett	Lindsay	Rasmussen

Robinson	Schrock	Wickersham	Will	Withem
Schmit				

Voting in the negative, 18:

Baack	Beyer	Johnson, L.	Moore	Warner
Bernard-Stevens	Byars	Kristensen	Rogers	Wehrbein
Beutler	Cudaback	Lamb	Schimek	Wesely
	Hillman	Landis	Smith	

Present and not voting, 5:

Dierks	Elmer	Morrissey	Robak	Schellpeper

Absent and not voting, 2:

Hefner Pirsch

Excused and not voting, 3:

Haberman Johnson, R. Peterson

Having failed to receive a constitutional three-fifths majority voting in the affirmative, that portion of the bill failed to pass notwithstanding the line-item objections of the Governor.

The Chair declared the call raised.

MOTION - Override Line-Item Veto on LB 843

Mr. Withem and Mrs. Rasmussen moved to override the Governor's line-item veto contained in LB 843, section 15, Program 440.

Mr. Lamb asked unanimous consent to be excused until he returns. No objections. So ordered.

Mrs. Rasmussen moved for a call of the house. The motion prevailed with 24 ayes, 0 nays, and 25 not voting.

Mrs. Rasmussen requested a roll call vote on the Withem-Rasmussen motion to override.

Whereupon the President stated: "The question shall be, 'Shall that portion of the bill pass notwithstanding the line-item objections of the Governor?' "

Voting in the affirmative, 28:

Abboud	Crosby	Horgan	Nelson	Schrock
Ashford	Cudaback	Labedz	Rasmussen	Wesely
Byars	Dierks	Landis	Robak	Wickersham
Chambers	Hall	Lindsay	Robinson	Will
Chizek	Hartnett	Lynch	Schmit	Withem
Conway	Hillman	Morrissey		

Voting in the negative, 17:

Baack	Beyer	Johnson, L.	Rogers	Smith
Bernard-Stevens	Coordsen	Kristensen	Schellpeper	Warner
Beutler	Elmer	Moore	Schimek	Wehrbein
	Hefner	Pirsch		

Excused and not voting, 4:

Haberman	Johnson, R.	Lamb	Peterson

Having failed to receive a constitutional three-fifths majority voting in the affirmative, that portion of the bill failed to pass notwithstanding the line-item objections of the Governor.

MOTION - Override Line-Item Veto on LB 843

Mr. Lynch moved to override the Governor's line-item veto of LB 843 contained in section 27, agency 25, Program 424, aid to community mental retardation programs, FY92, $345,000, FY93, $345,000.

Mr. Lynch moved for a call of the house. The motion prevailed with 29 ayes, 0 nays, and 20 not voting.

Mr. Lynch requested a roll call vote on his motion to override.

Whereupon the President stated: "The question shall be, 'Shall that portion of the bill pass notwithstanding the line-item objections of the Governor?' "

Voting in the affirmative, 31:

Abboud	Chizek	Hartnett	Lynch	Schmit
Ashford	Conway	Horgan	Morrissey	Schrock
Bernard-Stevens	Coordsen	Johnson, L.	Rasmussen	Smith
Beyer	Crosby	Labedz	Robinson	Wehrbein
Byars	Cudaback	Landis	Rogers	Will
Chambers	Dierks	Lindsay	Schimek	Withem
	Hall			

Voting in the negative, 10:

Baack	Hefner	Moore	Robak	Warner
Beutler	Hillman	Pirsch	Schellpeper	Wickersham

Present and not voting, 4:

Elmer	Kristensen	Nelson	Wesely

Excused and not voting, 4:

Haberman	Johnson, R.	Lamb	Peterson

Having received a constitutional three-fifths majority voting in the affirmative, that portion of the bill passed notwithstanding the line-item objections of the Governor.

The Chair declared the call raised.

MOTION - Override Line-Item Veto on LB 843

Mr. Bernard-Stevens moved to override the Governor's line-item veto on LB 843 of $843,424 for fiscal years 91-92 and $959,162 for fiscal years 92-93 of computer systems depreciation fund and the offset of across the board cuts contained in Section 8 of LB 843.

Mr. Bernard-Stevens withdrew his motion to override.

MOTION - Override Line-Item Veto on LB 843

Mrs. Crosby moved to override the Governor's line-item veto in LB 843, Agency 72, Program 604 for FY1992-93 only. ($1,000,000 General Funds)

Mrs. Labedz and Mr. Hefner asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Byars moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 27 ayes, 1 nay, and 21 not voting.

Mrs. Crosby moved for a call of the house. The motion prevailed with 24 ayes, 0 nays, and 25 not voting.

Mrs. Crosby requested a roll call vote on her motion to override.

Whereupon the President stated: "The question shall be, 'Shall that portion of the bill pass notwithstanding the line-item objections of the Governor?' "

Voting in the affirmative, 14:

Abboud	Crosby	Hillman	Lindsay	Robak
Byars	Cudaback	Johnson, R.	Lynch	Rogers
Chambers	Hartnett	Lamb	Nelson	

Voting in the negative, 29:

Ashford	Conway	Kristensen	Pirsch	Warner
Baack	Coordsen	Labedz	Schellpeper	Wehrbein
Bernard-Stevens	Elmer	Landis	Schimek	Wesely
	Hall	Moore	Schmit	Wickersham
Beutler	Horgan	Morrissey	Schrock	Will
Beyer	Johnson, L.	Peterson	Smith	Withem

Present and not voting, 4:

Chizek	Dierks	Rasmussen	Robinson

Excused and not voting, 2:

Haberman Hefner

Having failed to receive a constitutional three-fifths majority voting in the affirmative, that portion of the bill failed to pass notwithstanding the line-item objections of the Governor.

The Chair declared the call raised.

SPEAKER BAACK PRESIDING

MOTION - Override Line-Item Veto on LB 845

Mr. Chambers moved to override the Governor's line-item vetoes contained in LB 845, Section 1, on page 2, lines 5 through 25 and page 3, lines 1 through 14.

Mr. Beutler moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 27 ayes, 0 nays, and 22 not voting.

Mr. Chambers moved for a call of the house. The motion prevailed with 20 ayes, 0 nays, and 29 not voting.

Mr. Chambers requested a roll call vote on his motion to override.

Whereupon the President stated: "The question shall be, 'Shall that portion of the bill pass notwithstanding the line-item objections of the Governor?' "

Voting in the affirmative, 17:

Baack	Chizek	Hall	Lynch	Robak
Bernard-Stevens	Conway	Hartnett	Morrissey	Schmit
Chambers	Crosby	Hillman	Rasmussen	Withem
	Dierks	Kristensen		

Voting in the negative, 28:

Abboud	Cudaback	Lamb	Pirsch	Smith
Ashford	Hefner	Landis	Rogers	Warner
Beutler	Horgan	Lindsay	Schellpeper	Wehrbein
Beyer	Johnson, L.	Moore	Schimek	Wesely
Byars	Johnson, R.	Nelson	Schrock	Wickersham
Coordsen	Labedz	Peterson		

Present and not voting, 2:

Robinson Will

Absent and not voting, 1:

Elmer

Excused and not voting, 1:

Haberman

Having failed to receive a constitutional three-fifths majority voting in the affirmative, that portion of the bill failed to pass notwithstanding the line-item objections of the Governor.

The Chair declared the call raised.

MOTION - Override Line-Item Veto on LB 647A

Mr. Lindsay moved to override the Governor's line-item veto contained in LB 647A, specifically the line-item veto of the amount appropriated in Section 1 of the bill for FY1991-92 to the Nebraska Coordinating Commission for Postsecondary Education, for Program 650.

Mr. Withem moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 0 nays, and 23 not voting.

Mr. Lindsay moved for a call of the house. The motion prevailed with 32 ayes, 0 nays, and 17 not voting.

Mr. Lindsay requested a roll call vote on his motion to override.

Whereupon the President stated: "The question shall be, 'Shall that portion of the bill pass notwithstanding the line-item objections of the Governor?' "

Voting in the affirmative, 27:

Abboud	Chizek	Hartnett	Lindsay	Schmit
Bernard-Stevens	Coordsen	Horgan	Lynch	Schrock
Beyer	Crosby	Johnson, R.	Peterson	Smith
Byars	Cudaback	Kristensen	Rasmussen	Will
Chambers	Dierks	Labedz	Robinson	Withem
	Hall	Landis		

Voting in the negative, 17:

Baack	Hillman	Pirsch	Schellpeper	Wehrbein
Beutler	Johnson, L.	Robak	Schimek	Wesely
Elmer	Lamb	Rogers	Warner	Wickersham
Hefner	Nelson			

Present and not voting, 4:

Ashford	Conway	Moore	Morrissey

Excused and not voting, 1:

Haberman

Having failed to receive a constitutional three-fifths majority voting in the affirmative, that portion of the bill failed to pass notwithstanding the line-item objections of the Governor.

The Chair declared the call raised.

Mr. Peterson asked unanimous consent to be excused until he returns. No objections. So ordered.

MOTION - Override Line-Item Veto on LB 652

Mr. Lynch moved to override the Governor's line-item veto of LB 652 contained in section 16, agency 27, Program 305, Transit Aid, FY92, $500,000, FY93, $500,000.

PRESIDENT MOUL PRESIDING

Mr. Withem moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

Mr. Withem moved for a call of the house. The motion prevailed with 26 ayes, 0 nays, and 23 not voting.

Mr. Lynch requested a roll call vote on his motion to override.

Whereupon the President stated: "The question shall be, 'Shall that portion of the bill pass notwithstanding the line-item objections of the Governor?' "

Voting in the affirmative, 30:

Abboud	Conway	Hartnett	Lindsay	Robinson
Bernard-Stevens	Coordsen	Hillman	Lynch	Schmit
Beutler	Crosby	Horgan	Nelson	Schrock
Byars	Cudaback	Kristensen	Pirsch	Smith
Chambers	Dierks	Labedz	Rasmussen	Will
Chizek	Hall	Lamb	Robak	Withem

Voting in the negative, 11:

Baack	Landis	Peterson	Schellpeper	Warner
Beyer	Moore	Rogers	Schimek	Wesely
Hefner				

Present and not voting, 7:

Ashford	Johnson, L.	Morrissey	Wehrbein	Wickersham
Elmer	Johnson, R.			

Excused and not voting, 1:

Haberman

Having received a constitutional three-fifths majority voting in the affirmative, that portion of the bill passed notwithstanding the line-item objections of the Governor.

The Chair declared the call raised.

Messrs. Peterson and R. Johnson asked unanimous consent to be excused until they return. No objections. So ordered.

MOTION - Override Line-Item Veto on LB 652

Mr. Lynch moved to override the Governor's line-item veto of LB 652 contained in section 13, agency 25, Program 424, aid to community mental retardation programs, FY92, $355,000, FY93 $355,000.

Whereupon the President stated: "The question shall be, 'Shall that portion of the bill pass notwithstanding the line-item objections of the Governor?' "

Voting in the affirmative, 14:

Beyer	Chizek	Hall	Morrissey	Schmit
Byars	Crosby	Lindsay	Robak	Will
Chambers	Dierks	Lynch	Rogers	

Voting in the negative, 17:

Abboud	Beutler	Hillman	Nelson	Smith
Baack	Coordsen	Johnson, L.	Pirsch	Warner
Bernard-Stevens	Cudaback	Kristensen	Schimek	Wehrbein
	Hefner	Moore		

Present and not voting, 15:

Ashford	Hartnett	Lamb	Robinson	Wesely
Conway	Horgan	Landis	Schellpeper	Wickersham
Elmer	Labedz	Rasmussen	Schrock	Withem

Excused and not voting, 3:

Haberman Johnson, R. Peterson

Having failed to receive a constitutional three-fifths majority voting in the affirmative, that portion of the bill failed to pass notwithstanding the line-item objections of the Governor.

MOTION - Override Line-Item Veto on LB 652

Mr. Lynch moved to override the Governor's line-item veto of LB 652 contained in section 15, agency 26, Program 347, to increase rates paid to respite care and adult day care providers, FY92 $375,000, FY93, $375,000.

Mr. Lynch withdrew his motion to override.

MOTION - Override Line-Item Veto on LB 652

Mr. Robinson moved to override the Governor's line-item veto of the $75,000 for 91-92 and $75,000 for 92-93 for the Bureau of Business Research at UN-L in Item 51 in LB 652.

Ms. Schimek moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 10 nays, and 14 not voting.

Whereupon the President stated: "The question shall be, 'Shall that portion of the bill pass notwithstanding the line-item objections of the Governor?' "

Voting in the affirmative, 8:

Chizek	Hefner	Horgan	Robinson	Warner
Crosby	Hillman	Johnson, L.		

Voting in the negative, 19:

Abboud	Conway	Moore	Rasmussen	Smith
Ashford	Hall	Morrissey	Robak	Wesely
Baack	Hartnett	Nelson	Schimek	Will
Beyer	Lindsay	Pirsch	Schrock	

Present and not voting, 19:

Bernard-Stevens	Chambers	Elmer	Landis	Schmit
	Coordsen	Kristensen	Lynch	Wehrbein
Beutler	Cudaback	Labedz	Rogers	Wickersham
Byars	Dierks	Lamb	Schellpeper	Withem

Excused and not voting, 3:

Haberman	Johnson, R.	Peterson

Having failed to receive a constitutional three-fifths majority voting in the affirmative, that portion of the bill failed to pass notwithstanding the line-item objections of the Governor.

MOTION - Override Line-Item Veto on LB 652

Mr. Chizek moved that section 26 of LB 652, appropriation of $65,000 to the State Patrol for an automated fingerprint system, become law notwithstanding the objections of the Governor.

Mr. Chizek withdrew his motion to override.

MOTION - Override Line-Item Veto on LB 652

Mr. Chambers moved to override the Governor's line-item veto in LB 652 of Agency 72, Economic Development, North Omaha Funding, in Section 30, on Page 17.

Mr. Chambers moved for a call of the house. The motion prevailed with 33 ayes, 0 nays, and 16 not voting.

Mr. Chambers requested a roll call vote on his motion to override.

Whereupon the President stated: "The question shall be, 'Shall that portion of the bill pass notwithstanding the line-item objections of the Governor?' "

Voting in the affirmative, 30:

Abboud	Chizek	Hartnett	Lynch	Rogers
Baack	Conway	Horgan	Morrissey	Schimek
Bernard-Stevens	Crosby	Labedz	Nelson	Schmit
Beyer	Cudaback	Lamb	Rasmussen	Smith
Byars	Dierks	Landis	Robak	Will
Chambers	Hall	Lindsay	Robinson	Withem

Voting in the negative, 11:

Ashford	Hillman	Moore	Pirsch	Schrock
Beutler	Johnson, L.	Peterson	Schellpeper	Wickersham
Hefner				

Present and not voting, 7:

Coordsen	Johnson, R.	Warner	Wehrbein	Wesely
Elmer	Kristensen			

Excused and not voting, 1:

Haberman

Having received a constitutional three-fifths majority voting in the affirmative, that portion of the bill passed notwithstanding the line-item objections of the Governor.

MOTION - Override Line-Item Veto on LB 652

Mrs. Crosby and Mr. Chambers moved to override the Governor's veto in LB 652, section 11, to the Department of Health, for Program 514, to provide for Pap tests and Chlamydia testing and treatment.

1991-92	1992-93	total
$185,000	$185,000	$370,000

Whereupon the President stated: "The question shall be, 'Shall that portion of the bill pass notwithstanding the line-item objections of the Governor?' "

Voting in the affirmative, 34:

Ashford	Conway	Hillman	Morrissey	Smith
Baack	Coordsen	Horgan	Nelson	Warner
Bernard-Stevens	Crosby	Kristensen	Rasmussen	Wehrbein
	Cudaback	Labedz	Robak	Wesely
Byars	Dierks	Lamb	Robinson	Wickersham
Chambers	Hall	Landis	Rogers	Will
Chizek	Hartnett	Lynch	Schmit	Withem

Voting in the negative, 1:

Pirsch

Present and not voting, 13:

Abboud	Elmer	Johnson, R.	Peterson	Schimek
Beutler	Hefner	Lindsay	Schellpeper	Schrock
Beyer	Johnson, L.	Moore		

Excused and not voting, 1:

Haberman

Having received a constitutional three-fifths majority voting in the affirmative, that portion of the bill passed notwithstanding the line-item objections of the Governor.

MOTION - Override Line-Item Veto on LB 652

Mrs. Crosby moved to override the Governor's line-item veto in LB 652, Section 14 for the Department of Social Services for

Program 347 for $250,000 for fiscal year 1991-92 for Domestic Violence Program notwithstanding action by the Governor.

Mr. Withem moved for a call of the house. The motion prevailed with 22 ayes, 0 nays, and 27 not voting.

Mrs. Crosby requested a roll call vote on her motion to override.

Whereupon the President stated: "The question shall be, 'Shall that portion of the bill pass notwithstanding the line-item objections of the Governor?' "

Voting in the affirmative, 27:

Baack	Crosby	Labedz	Robak	Smith
Bernard-Stevens	Dierks	Landis	Robinson	Wesely
Byars	Hall	Lynch	Rogers	Wickersham
Chambers	Hartnett	Morrissey	Schimek	Will
Conway	Hillman	Nelson	Schmit	Withem
	Kristensen	Rasmussen		

Voting in the negative, 12:

Abboud	Coordsen	Johnson, R.	Moore	Warner
Ashford	Cudaback	Lamb	Pirsch	Wehrbein
Beutler	Hefner			

Present and not voting, 9:

Beyer	Elmer	Johnson, L.	Peterson	Schrock
Chizek	Horgan	Lindsay	Schellpeper	

Excused and not voting, 1:

Haberman

Having failed to receive a constitutional three-fifths majority voting in the affirmative, that portion of the bill failed to pass notwithstanding the line-item objections of the Governor.

The Chair declared the call raised.

MOTION - Override Line-Item Veto on LB 652

Mr. Landis moved to override the Governor's line-item veto of 25,000 in FY91-92, for Agency 5, Supreme Court, for the Gender Bias Task Force.

Mr. Dierks asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. R. Johnson moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 28 ayes, 0 nays, and 21 not voting.

Whereupon the President stated: "The question shall be, 'Shall that portion of the bill pass notwithstanding the line-item objections of the Governor?' "

Voting in the affirmative, 15:

Beutler	Crosby	Lindsay	Rasmussen	Wickersham
Byars	Hillman	Lynch	Schimek	Will
Conway	Landis	Morrissey	Schmit	Withem

Voting in the negative, 18:

Abboud	Beyer	Horgan	Pirsch	Smith
Ashford	Chambers	Johnson, L.	Robak	Warner
Bernard-Stevens	Cudaback	Johnson, R.	Robinson	Wehrbein
	Hefner	Moore	Schrock	

Present and not voting, 14:

Baack	Elmer	Kristensen	Nelson	Schellpeper
Chizek	Hall	Labedz	Peterson	Wesely
Coordsen	Hartnett	Lamb	Rogers	

Excused and not voting, 2:

Dierks	Haberman

Having failed to receive a constitutional three-fifths majority voting in the affirmative, that portion of the bill failed to pass notwithstanding the line-item objections of the Governor.

MOTION - Override Veto on LB 760

The Appropriations Committee moved that LB 760 become law notwithstanding the line-item vetoes contained therein.

Mr. R. Johnson moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

Mr. Moore moved for a call of the house. The motion prevailed with 31 ayes, 0 nays, and 18 not voting.

Mr. Moore requested a roll call vote on the motion to override.

Whereupon the President stated: "The question shall be, 'Shall the bill pass notwithstanding the objections of the Governor?' "

Voting in the affirmative, 33:

Ashford	Chizek	Hartnett	Landis	Schmit
Baack	Conway	Hefner	Lynch	Schrock
Bernard-Stevens	Coordsen	Hillman	Moore	Wehrbein
	Crosby	Horgan	Rasmussen	Wickersham
Beyer	Dierks	Johnson, L.	Robinson	Will
Byars	Elmer	Kristensen	Rogers	Withem
Chambers	Hall	Lamb	Schimek	

Voting in the negative, 11:

Abboud	Johnson, R.	Nelson	Schellpeper	Warner
Beutler	Morrissey	Pirsch	Smith	Wesely
Cudaback				

Present and not voting, 4:

Labedz	Lindsay	Peterson	Robak

Excused and not voting, 1:

Haberman

Having received a constitutional three-fifths majority voting in the affirmative, the bill passed notwithstanding the objections of the Governor.

COMMUNICATION

June 5, 1991

The Honorable Allen Beermann
Secretary of State
2300 State Capitol Building
Lincoln, NE 68509

Dear Mr. Beermann:

Pursuant to the provisions of 84-503, R.R.S., we are forwarding LB 843 with a certificate attached thereto signed by the President of the Legislature, certifying the passage of certain line-item vetoes as set forth on the attached certificate, notwithstanding the objections of the Governor.

Sincerely,
(Signed) Patrick J. O'Donnell
Clerk of the Legislature

PJO:r
Enc.

CERTIFICATE

Legislative Bill 843, having been returned by the Governor with his signature, but with certain items therein line-item vetoed, the Legislature by the constitutional majority has overridden said line-item vetoes as follows:
Section 27, Agency 25, Program 424, aid to community mental retardation programs.

(Signed) Dennis Baack
Acting President of the Legislature

COMMUNICATIONS

June 5, 1991

The Honorable Allen Beermann
Secretary of State
2300 State Capitol Building
Lincoln, NE 68509

Dear Mr. Beermann:

Inasmuch as the Legislature did not override the line-item veto by Governor Nelson on LB 845, I am delivering the bill for filing in the form and amounts as prescribed by the Governor.

Sincerely,
(Signed) Patrick J. O'Donnell
Clerk of the Legislature

PJO:r

June 5, 1991

The Honorable Allen Beermann
Secretary of State
2300 State Capitol Building
Lincoln, NE 68509

Dear Mr. Beermann:

Inasmuch as the Legislature did not override the line-item vetoes by Governor Nelson on LB 647A, I am delivering the bill for filing in the form and amounts as prescribed by the Governor.

Sincerely,
(Signed) Patrick J. O'Donnell
Clerk of the Legislature

PJO:r

June 5, 1991

The Honorable Allen Beermann
Secretary of State
2300 State Capitol Building
Lincoln, NE 68509

Dear Mr. Beermann:

Pursuant to the provisions of 84-503, R.R.S., we are forwarding LB 652 with a certificate attached thereto signed by the President of the Legislature, certifying the passage of certain line-item vetoes as set forth on the attached certificate, notwithstanding the objections of the Governor.

Sincerely,
(Signed) Patrick J. O'Donnell
Clerk of the Legislature

PJO:r
Enc.

CERTIFICATE

Legislative Bill 652, having been returned by the Governor with his signature, but with certain items therein line-item vetoed, the Legislature by the constitutional majority has overridden said line-item vetoes as follows:
Section 16, Agency 27, Program 305, Transit Aid
Section 30, Agency 72, Program 604, Economic Development, North Omaha Funding
Section 11, Agency 20, Program 514, Dept. of Health, for pap/chlamydia testing

(Signed) Dennis Baack
Acting President of the Legislature

COMMUNICATION

June 5, 1991

The Honorable Allen Beermann
Secretary of State
2300 State Capitol Building
Lincoln, NE 68509

Dear Mr. Beermann:

Pursuant to the provisions of 84-503, R.R.S., we are forwarding LB 760 with a certificate attached thereto signed by the President of the Legislature, certifying the passage of LB 760, notwithstanding the objections of the Governor.

Sincerely,
(Signed) Patrick J. O'Donnell
Clerk of the Legislature

PJO:r
Enc.

CERTIFICATE

Legislative Bill 760, having been returned by the Governor with his objections thereto, and after reconsideration having passed the Legislature by the constitutional majority has become law this fifth day of June, 1991.

(Signed) Dennis Baack
Acting President of the Legislature

COMMUNICATIONS

June 5, 1991

The Honorable Allen Beermann
Secretary of State
2300 State Capitol Building
Lincoln, NE 68509

Dear Mr. Beermann:

Inasmuch as the Legislature did not override the veto by Governor Nelson on LB 433 and LB 433A, I am delivering the bill for filing.

Sincerely,
(Signed) Patrick J. O'Donnell
Clerk of the Legislature

PJO:r
Enc.

June 5, 1991

The Honorable Allen Beermann
Secretary of State
2300 State Capitol Building
Lincoln, NE 68509

Dear Mr. Beermann:

Inasmuch as the Legislature did not override the veto by Governor Nelson on LB 410 and LB 410A, I am delivering the bill for filing.

Sincerely,
(Signed) Patrick J. O'Donnell
Clerk of the Legislature

PJO:r
Enc.

June 5, 1991

The Honorable Allen Beermann
Secretary of State
2300 State Capitol Building
Lincoln, NE 68509

Dear Mr. Beermann:

Inasmuch as the Legislature did not override the veto by Governor Nelson on LB 724 and LB 724A, I am delivering the bill for filing.

Sincerely,
(Signed) Patrick J. O'Donnell
Clerk of the Legislature

PJO:r
Enc.

PRESENTED TO THE GOVERNOR

Presented to the Governor on June 5, 1991, at 5:40 p.m., were the following bills: 627, 627A, 693, 813, 829, 829A, and 849.

(Signed) Pam Moravec, Enrolling Clerk

EXPLANATION OF VOTE

Had I been present for the vote on LB 724 and LB 724A, I would have voted yes.

(Signed) Tom Horgan

MOTION - Return LR 186CA to Select File

Messrs. Lindsay, Hall, Will, Chizek, Withem, Abboud, Hartnett, Lynch, Mmes. Rasmussen, and Pirsch moved to return LR 186CA to Select File for their specific amendment, AM2273, found in the Journal on page 2862.

Mrs. Robak moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 28 ayes, 1 nay, and 20 not voting.

Mr. Lindsay requested a record vote on the motion to return.

Voting in the affirmative, 17:

Abboud	Hall	Lynch	Rasmussen	Wesely
Ashford	Hartnett	Morrissey	Schimek	Will
Chizek	Labedz	Pirsch	Smith	Withem
Conway	Lindsay			

Voting in the negative, 25:

Baack	Crosby	Johnson, L.	Moore	Rogers
Bernard-Stevens	Cudaback	Johnson, R.	Nelson	Schellpeper
Beutler	Dierks	Kristensen	Peterson	Warner
Beyer	Elmer	Lamb	Robak	Wehrbein
Byars	Horgan	Landis	Robinson	Wickersham

Present and not voting, 5:

Chambers	Hefner	Hillman	Schmit	Schrock

Excused and not voting, 2:

Coordsen Haberman

The Lindsay et al. motion to return lost with 17 ayes, 25 nays, 5 present and not voting, and 2 excused and not voting.

Mr. Chambers asked unanimous consent to be excused. No objections. So ordered.

Mr. Warner moved to return LR 186CA to Select File for his specific amendment, AM2296, found in the Journal on page 2863.

PRESIDENT MOUL PRESIDING

Mr. R. Johnson moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 29 ayes, 0 nays, and 20 not voting.

Mr. Warner moved for a call of the house. The motion prevailed with 16 ayes, 0 nays, and 33 not voting.

Mr. Warner requested a roll call vote on his motion to return.

Voting in the affirmative, 19:

Abboud	Crosby	Lamb	Robinson	Smith
Ashford	Cudaback	Moore	Rogers	Warner
Beyer	Elmer	Nelson	Schimek	Wehrbein
Byars	Kristensen	Pirsch	Schrock	

Voting in the negative, 15:

Beutler	Horgan	Landis	Morrissey	Wickersham
Hall	Johnson, R.	Lindsay	Schellpeper	Will
Hefner	Labedz	Lynch	Wesely	Withem

Present and not voting, 13:

Baack	Chizek	Dierks	Johnson, L.	Robak
Bernard-Stevens	Conway	Hartnett	Peterson	Schmit
	Coordsen	Hillman	Rasmussen	

Excused and not voting, 2:

Chambers Haberman

The Warner motion to return lost with 19 ayes, 15 nays, 13 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

Mr. R. Johnson asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Schmit moved to return LR 186CA to Select File for the following specific amendment:
AM2305

(Amendments to Final Reading copy)

1. Strike original sections 1 and 2 and insert the following new sections:

"Section 1. That at a special election on

August 6, 1991, there shall be submitted to the electors of the State of Nebraska for approval the following amendment to the Constitution of Nebraska by amending Article VIII, section 1, which is hereby proposed by the Legislature:

CVIII-1 'The necessary revenue of the state and its governmental subdivisions shall be raised by taxation in such manner as the Legislature may direct. ~~Taxes shall be levied by valuation uniformly and proportionately upon all tangible property and franchises, except that: (1) The Legislature may provide for a different method of taxing motor vehicles and may also establish a separate class of motor vehicles consisting of those owned and held for resale by motor vehicle dealers which shall be taxed in the manner and to the extent provided by the Legislature and may also establish a separate class for trucks, trailers, semitrailers, truck-tractors, or combinations thereof, consisting of those owned by residents and nonresidents of this state, and operating in interstate commerce, and may provide reciprocal and proportionate taxation of such vehicles; PROVIDED, that such tax proceeds from motor vehicles taxed in each county shall be allocated to the state, counties, townships, cities, villages, and school districts of such county in the same proportion that the levy of each bears to the total levy of the county on personal tangible property; and (2) the Legislature may provide that agricultural land and horticultural land, as defined by the Legislature, shall constitute a separate and distinct class of property for purposes of taxation and may provide for a different method of taxing agricultural land and horticultural land which results in values that are not uniform and proportionate with all other tangible property and franchises but which results in values that are uniform and proportionate upon all property within the class of agricultural land and horticultural land. The Legislature may enact laws to provide that the value of land actively devoted to agricultural or horticultural use shall for property tax purposes be that value which such land has for agricultural or horticultural use without regard to any value which such land might have for other purposes or uses and may prescribe standards and methods for the determination of~~

~~the value of real or other tangible property at uniform and proportionate values. Taxes uniform as to class of property or the ownership or use thereof may be levied by valuation or otherwise upon classes of intangible property as the Legislature may determine, and such intangible property held in trust or otherwise for the purpose of funding pension, profit-sharing, or other employee benefit plans as defined by the Legislature may be declared exempt from taxation. Taxes other than property taxes may be authorized by law. Existing revenue laws shall continue in effect until changed by the Legislature. The Legislature may provide that livestock shall constitute a separate and distinct class of property for purposes of taxation and may further provide for reciprocal and proportionate taxation of livestock located in this state for only part of a year.~~'.

Sec. 2. That the proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1. The proposition for the submission of the proposed amendment shall be placed upon the ballot in the following form:

'A constitutional amendment to authorize the Legislature to provide for taxation in such manner as it may direct.

For

Against'.".

2. On page 1, line 1, strike "amendments" and insert "an amendment"; and strike lines 3 and 4 and insert "section 1.".

3. On page 8, line 7, strike "either of"; in line 8 strike "amendments" and insert "amendment"; and in line 11 strike "or them".

Mrs. Robak moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 3 nays, and 21 not voting.

Mr. Schmit withdrew his motion to return.

MOTION - Reconsider Action on LR 186CA

Mr. Hall moved to reconsider the Final Reading vote on LR 186CA calling for the special election in August 1991.

Mr. Lamb moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 36 ayes, 0 nays, and 13 not voting.

The Hall motion to reconsider prevailed with 38 ayes, 0 nays, 9 present and not voting, and 2 excused and not voting.

RESOLUTION ON FINAL READING

The following resolution was put upon final passage:

LEGISLATIVE RESOLUTION 186CA.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the resolution pass?' "

Voting in the affirmative, 35:

Ashford	Cudaback	Kristensen	Peterson	Schimek
Baack	Dierks	Labedz	Pirsch	Schrock
Beutler	Elmer	Lamb	Rasmussen	Smith
Beyer	Hefner	Landis	Robak	Warner
Byars	Hillman	Moore	Robinson	Wehrbein
Coordsen	Horgan	Morrissey	Rogers	Wesely
Crosby	Johnson, R.	Nelson	Schellpeper	Wickersham

Voting in the negative, 12:

Abboud	Chizek	Hartnett	Lynch	Will
Bernard-Stevens	Conway	Johnson, L.	Schmit	Withem
	Hall	Lindsay		

Excused and not voting, 2:

Chambers Haberman

Having failed to receive a constitutional four-fifths majority voting in the affirmative, the resolution failed to pass for the special election.

MOTION - Reconsider Action on LR 186CA

Mr. Warner moved to reconsider the Lindsay motion to return LR 186CA to Select File for specific amendment, AM2273.

Mr. Lamb moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 30 ayes, 0 nays, and 19 not voting.

The Warner motion to reconsider prevailed with 28 ayes, 14 nays, 5 present and not voting, and 2 excused and not voting.

Mrs. Labedz asked unanimous consent to be excused. No objections. So ordered.

MOTION - Return LR 186CA to Select File

Mr. Warner moved to return LR 186CA to Select File for the Lindsay et al. specific amendment, AM2273, found in the Journal on page 2862 and considered in this day's Journal.

Mr. Abboud moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 27 ayes, 2 nays, and 20 not voting.

The Warner motion to return lost with 23 ayes, 22 nays, 1 present and not voting, and 3 excused and not voting.

UNANIMOUS CONSENT - Bracket LR 186CA

Mr. Withem asked unanimous consent to bracket LR 186CA until June 10, 1991. No objections. So ordered.

MESSAGE FROM THE GOVERNOR

June 5, 1991

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 181e, 181A, 186, 186A, 663e, and 663Ae were received in my office on May 30, 1991.

These bills were signed by me on June 5, 1991, and delivered to the Secretary of State.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

MOTION - Overrule Speaker's Agenda

Mr. Morrissey moved to change the Speaker's agenda by considering LB 748 on Final Reading today.

Mr. Hall moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 0 nays, and 23 not voting.

Mr. Morrissey requested a record vote on his motion to change the Speaker's agenda.

Voting in the affirmative, 17:

Ashford	Hall	Morrissey	Schimek	Wesely
Crosby	Hartnett	Pirsch	Schmit	Wickersham
Cudaback	Lindsay	Rasmussen	Smith	Withem
Dierks	Lynch			

Voting in the negative, 18:

Abboud	Beutler	Coordsen	Johnson, L.	Robak
Baack	Beyer	Elmer	Johnson, R.	Schellpeper
Bernard-Stevens	Byars	Hefner	Moore	Wehrbein
	Conway	Hillman	Peterson	

Present and not voting, 11:

Chizek	Lamb	Nelson	Rogers	Warner
Horgan	Landis	Robinson	Schrock	Will
Kristensen				

Excused and not voting, 3:

Chambers	Haberman	Labedz

The Morrissey motion to change the Speaker's agenda lost with 17 ayes, 18 nays, 11 present and not voting, and 3 excused and not voting.

MOTION - Overrule Speaker's Agenda

Mr. Lamb moved to overrule the Speaker's agenda and take up LB 783A.

Mrs. Robak moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 34 ayes, 0 nays, and 15 not voting.

Mr. Lamb moved for a call of the house. The motion prevailed with 29 ayes, 0 nays, and 20 not voting.

Mr. Lamb requested a roll call vote on his motion to overrule the Speaker's agenda.

Voting in the affirmative, 29:

Abboud	Cudaback	Kristensen	Peterson	Schmit
Ashford	Dierks	Labedz	Pirsch	Schrock
Byars	Elmer	Lamb	Rasmussen	Smith
Chizek	Hefner	Landis	Robak	Wehrbein
Conway	Hillman	Lynch	Robinson	Wickersham
Crosby	Johnson, L.	Nelson	Schellpeper	

Voting in the negative, 16:

Baack	Beyer	Horgan	Moore	Warner
Bernard-Stevens	Coordsen	Johnson, R.	Morrissey	Will
Beutler	Hall	Lindsay	Rogers	Withem
	Hartnett			

Present and not voting, 2:

Schimek Wesely

Excused and not voting, 2:

Chambers Haberman

The Lamb motion to overrule the Speaker's agenda lost with 29 ayes, 16 nays, 2 present and not voting, and 2 excused and not voting.

MOTION - Advise Governor

Mr. Horgan moved that a committee of five be appointed to advise the Governor that the Ninety-Second Legislature, First Session, of the Nebraska State Legislature is about to complete its work, and to return with any message the Governor may have for the Legislature.

The motion prevailed.

The Chair appointed Messrs. Ashford, Wickersham, Moore, Ms. Schimek, and Mrs. Rasmussen to serve on said Committee.

The Committee returned and escorted Governor Ben Nelson to the rostrum where he delivered a message to the members.

The Committee escorted the Governor from the Chamber.

VISITORS

Visitors to the Chamber were Randy Meyer from Omaha; Mrs. Pat Murphy from Omaha; and Steve Svoboda from Lincoln.

MOTION - Journal

Mr. Landis moved that the Journal for the Ninetieth Day, as prepared by the Clerk, be approved.

The motion prevailed.

MOTION - Journal, Session Laws, and Index

Mr. Schrock moved that the Legislature approve the preparation and printing of the permanent Legislative Journal, Session Laws, and Index by Patrick J. O'Donnell and that he be directed to send to each member of the Legislature a copy of the loose-leaf session laws and of the permanent Journal and Session Laws.

The motion prevailed.

MOTION - Adjourn Sine Die

Mr. Baack moved that the Ninety-Second Legislature, First Session of the Legislature, having finished all business before it, now at 11:57 p.m. adjourn sine die.

The motion prevailed.

Patrick J. O'Donnell
Clerk of the Legislature

RECEIVED AFTER ADJOURNMENT

LEGISLATIVE JOURNAL

RECEIVED AFTER ADJOURNMENT

LEGISLATIVE JOURNAL

NINETY-SECOND LEGISLATURE
FIRST SESSION

MESSAGES FROM THE GOVERNOR

June 6, 1991

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 732, 732A, 727e, 825, 825A, 51, 51A, and 207e were received in my office on May 31, 1991.

These bills were signed by me on June 6, 1991, and delivered to the Secretary of State.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

June 6, 1991

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. O'Donnell:

I have returned LB 170 without my signature and with my objections.

The exclusion from the permit process places the state out of compliance with federal law and thus jeopardizes federal funds.

LB 170 allows overweight trucks to travel on the Interstate. Federal law 23 USCS 127 states that the maximum gross weight on the interstate SHALL be 20,000 lbs on one axle. Further, the federal law states that no federal funds will be authorized to any state out of compliance with the federal interstate weight law.

The other concern is one of safety. Without the information and guidance from the Department of Roads provided in the permitting process, overweight trucks would be traveling routes that might include bridges that would not sustain the weight or consistently travel the same roads causing additional stress when truck traffic might be better distributed by the Department.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

June 7, 1991

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol
Lincoln, Nebraska 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills LB 830 and 830A were received in my office on June 3, 1991.

I have signed these bills with the understanding that my approval does not commit the State to assume any additional funding responsibility in the 1993-95 biennium and beyond for the entitlement of services or case coordination that is to begin on July, 1993 or 1994.

Implementation of the provisions of LB 830 should identify alternate funding sources or reallocation of resources from the current appropriation to fund services to the new population group covered by the bill.

These bills were signed by me on June 7, 1991 and delivered to the Secretary of State.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

June 7, 1991

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol
Lincoln, Nebraska 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 67, 67A, 320, 625, and 773 were received in my office on June 4, 1991.

These bills were signed by me on June 7, 1991, and delivered to the Secretary of State.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

June 7, 1991

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol
Lincoln, Nebraska 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 355, 413, 627, 627A, 693, 813, and 849 were received in my office on June 5, 1991.

These bills were signed by me on June 7, 1991, and delivered to the Secretary of State.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

June 7, 1991

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol
Lincoln, Nebraska 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 167, 297, 297A, 638, and 638A were received in my office on June 3, 1991.

These bills were signed by me on June 7, 1991, and delivered to the Secretary of State.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

June 7, 1991

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol Bldg.
Lincoln, NE 68509

Dear Madam President and Senators:

I am returning LB 579 and LB 579A without my signature and with my objections.

LB 579 would create the State Election Board to oversee state election laws. While some provisions of the bill may be meritorious, an additional bureaucracy would be created that would be costly. Also, provisions of legislation such as this need to be looked at in conjunction with re-codification of the election laws.

In addition to appropriating funds for the State Election Board, LB 579A included funds for the special election had LR 186CA passed. If funds are needed for a special election, the appropriation authorized in LB 579A could not be used because this appropriation is conditioned upon the passage of LR 186CA. For this reason, I am also return LB 579A without my signature and with my objection.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

June 10, 1991

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 783, 714, and 714A were received in my office on June 4, 1991; and Legislative Bills 829e, 829A, and 511 were received on June 5, 1991.

These bills were signed by me on June 10, 1991, and delivered to the Secretary of State.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

June 10, 1991

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 615, 616, 617, 618, and 619 were received in my office on June 5, 1991. These bills were signed by me on June 10, 1991, and delivered to the Secretary of State.

I have allowed legislation creating new boundaries for legislative districts, LB 614, to become law without my signature. In reviewing the new district boundaries for members of the Unicameral, a number of questions emerge with respect to the commonality of interest in several districts, particularly those in southwest Nebraska. I have also received a number of complaints from citizens about the configuration of the new districts.

Although there is some justification and sentiment for vetoing LB 614, based on the final legislative vote (37-10) it is unlikely that an improved plan would be developed were I to veto the bill and call the Legislature into special session. I have, therefore, allowed the bill to become law without my signature.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

ATTORNEY GENERAL'S OPINION

Opinion No. 91052

DATE: June 5, 1991

SUBJECT: The status of Attorney General Opinion #20, 1983 and Attorney General Opinion #27, 1983 relating to the authority of the Nebraska Legislature to direct the sale of public school lands.

REQUESTED BY: Senator Cudaback

WRITTEN BY: Don Stenberg, Attorney General
David Edward Cygan,
Assistant Attorney General

You have requested that this office review two earlier Attorney General Opinions relating to the authority of the Nebraska Legislature to direct the sale of public school lands and their application to LB 223.

In Opinion No. 20 (#83020), which became official on February 9, 1983, the question of whether the Legislature could constitutionally direct and limit the sale or rental of School Trust Lands as proposed by certain sections of the then pending legislation was reviewed. The opinion responded in the negative, stating that, to the extent such sections would purport to assume direct control over the public school lands and remove the Board of Educational Lands and Funds' exclusive management and control thereof, said sections would be unconstitutional, null and void.

In Opinion No. 27 (#83027), which became official on February 18, 1983, the issue was whether existing constitutional provisions would allow the Legislature to direct that School Trust Lands be sold "under favorable conditions". The opinion responded in the negative, stating that management and control of Nebraska's School Trust Lands, "including the responsibility for deciding whether or not such lands should be sold," is vested exclusively in the Board of Educational Lands and Funds.

Both of these opinions heavily relied upon the case Belker v. Board of Educational Lands and Funds, 184 Neb. 620, 171 N.W.2d 156 (1969) aff'd on rehearing, 185 Neb. 270, 175 N.W.2d 63 (1970). Belker was a case brought against the State seeking to enjoin the enforcement of two state statutes (Neb.Rev.State. §§72-257 and 72-258 (Rev.Supp. 1967)) as void and unconstitutional. Both statutes directed the Board of Educational Lands and Funds to sell at public auction all lands now owned or hereafter acquired by the State for

educational purposes at the expiration of the present leases. In reviewing the constitutionality of the statute, four of the judges were of the opinion that the statute was unconstitutional as challenged. Three of the judges were of the opinion that it was constitutional. Pursuant to art. V, §2 of the Constitution of Nebraska, no legislative statutes shall be held unconstitutional except by a concurrence of five judges. Thus, although the majority of the court found the act unconstitutional, the requisite number of five judges reaching such a finding was not met. Therefore, the decision of the court was that the statutes were constitutional.

The court's decision in Belker expressly states:

> The central issue in this case, and the only real issue, is whether the Legislature is authorized to direct the sale of all school lands. It is our opinion that the constitutional provision which vests the general management of all school lands and funds and the Board of Educational Lands and Funds 'under the direction of the Legislature' authorized the Legislature to direct the sale of school lands.

Any portion of Opinion 83027 which may be construed to stand for the proposition that the Legislature cannot constitutionally direct the sale of public school lands is incorrect. Therefore, it is within the authority of the Legislature to direct the sale of public school lands under such conditions as the Legislature shall provide. It must be noted, however, the general management of the lands is vested in the Board of Educational Lands and Funds. As noted in Attorney General Opinion #83020, the Legislature may not assume direct control over educational lands. The power of the Legislature to direct the sale of educational lands is not without limits. In directing the sale of trust property, the Legislature may not require the sale in a manner which would cause the Board to violate the fiduciary duties which bind the management of educational lands by the Board. Article VII, §8 of the Constitution of the State of Nebraska states that,

> All funds belonging to the State for educational purposes, the interest and income whereof only are to be used, shall be deemed trust funds . . . notwithstanding any other provision in the Constitution, such funds shall be invested as the Legislature may by statute provide.

Consequently, the State as trustee of the lands and of the income therefrom, is required to administer the trust estate under the rules of law applicable to trustees acting in a fiduciary capacity. Probst v. Board of Educational Lands and Funds, 156 Neb. 226, 55 N.W.2d 653 (1952); See also State ex rel. Ebke v. Board of Educational Lands and Funds, 159 Neb. 79, 65 N.W.2d 392 (1954), and Banks v. State, 181 Neb. 106, 147 N.W.2d 132 (1966).

While LB 223 may be constitutional to the extent that it permits the Legislature to direct the sales of school lands, section 1 of LB 223 is violative of the fiduciary duty placed upon the Board by Article VII, §6 of the Nebraska Constitution. Section 1 of LB 223 directs that the Board of Educational Lands and Funds shall enter into "contracts for the sale" of all Educational Lands over which the Board has general management and control upon the expiration of any leases existing on the effective date of this act. Art. VII, §6 of the Nebraska Constitution provides that no lands now owned or hereafter acquired by the State for educational purposes shall be sold except at public auction under such conditions as the Legislature shall provide. Therefore, sales of these lands by contract as provided by §1 of LB 223 is unconstitutional. The specific procedures for the sale of trust lands already being in the statutes, we cannot give an opinion concerning whether they meet constitutional fiduciary requirements.

Sincerely yours,
DON STENBERG
Attorney General
(Signed) David Edward Cygan
Deputy Attorney General

3-173-3

MESSAGES FROM THE GOVERNOR

June 6, 1991

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Madam President and Senators:

I have returned LB 91 with my signature and LB 91A with my signature, but with line item reductions for Fiscal Year 92/93.

Now that the Legislature has completed its decisions on the State Budget for the next biennium, it has presented me with a document that is not balanced. A number of factors have made it necessary for me to reduce the second year's funding in LB 91A by $8,000,000. These factors include:

a. Net receipts for the current fiscal year have fallen over fourteen million dollars behind projections;

b. The Legislature did not adopt my recommendation for funding LB 829, resulting in a deficit position for that bill alone of four million dollars;
c. The Legislature overrode my vetoes in an amount exceeding $2,500,000 for the next biennium; and
d. The Legislature did not adopt my funding strategy for continuing teacher salary enhancement.

To elaborate on the final point, when I presented my Budget Recommendation to the Legislature in January it included a proposal to fund the costs of continuing teacher salary payments out of the revenues of LB 1059. That proposal was rejected by the Legislature; in fact, specific language was included to prevent that funding option. If the State is to continue the teacher salary enhancements in the future, it may be necessary to examine funding sources again.

The reduction of funding for the second year of the biennium for LB 91A is necessary for us to meet mandatory reserve requirements. The reduction of $8 million is the minimum necessary to balance the budget.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

June 10, 1991

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bill 795 was received in my office on June 4, 1991.

This bill was signed by me on June 10, 1991, and delivered to the Secretary of State.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

MESSAGES FROM THE SECRETARY OF STATE

June 6, 1991

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol
Room 2018
Lincoln, NE 68509

Dear Mr. O'Donnell:

Please be advised that I have received this date, June 6, 1991, Engrossed Legislative Bill 170, passed by the 92nd Legislature of Nebraska at its First Session on the 31st day of May, 1991.

This letter is also to inform you that Governor E. Benjamin Nelson returned LB 170 to my office without his signature and with his objections. Further, I hereby inform you that attached to LB 170 unsigned by the Governor was a copy of his veto message which has been filed with LB 170 in my office and made a part of public record.

Finally, I would respectfully request that a copy of this letter be placed in the official Legislative Journal for the 92nd Legislature, First Session just concluded.

Respectfully submitted,
(Signed) ALLEN J. BEERMANN
Secretary of State

AJB:lat

June 6, 1991

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol
Lincoln, Nebraska

Dear Mr. O'Donnell:

I have received your cover letters dated June 5, 1991, attached to Legislative Bills 410, 410A, 433, 433A, 724 and 724A. Your letters and the attached legislative bills, numbers 410, 410A, 433, 433A, 724 and 724A were filed in the office of Secretary of State on Thursday, June 6, 1991 at 8:10 a.m. Your letters indicate that the Legislature did not override the vetoes by Governor Nelson on Legislative Bills 410, 410A, 433, 433A, 724 and 724A.

I respectfully request that you place a copy of this letter in the Journal for this Session, just concluded.

Finally, Legislative Bills 410, 410A, 433, 433A, 724 and 724A will stand vetoed and will be filed in this office and made a part of the public record, along with copies of the Governor's veto messages dated as indicated on the Governor's messages.

Respectfully acknowledged,
(Signed) ALLEN J. BEERMANN
Secretary of State

CERTIFICATE

STATE OF NEBRASKA

United States of America,)
) ss. Department of State
State of Nebraska)

I, Allen J. Beermann, Secretary of State of the State of Nebraska do hereby certify that Legislative Bills 410, 410A, 433, 433A, 724 and 724A were filed in the office of Secretary of State on Thursday, June 6, 1991 at 8:10 a.m. The Legislature did not override the vetoes by Governor Nelson on Legislative Bills 410, 410A, 433, 433A, 724 and 724A.

Finally, Legislative Bills 410, 410A, 433, 433A, 724 and 724A will stand vetoed and will be filed in this office and made a part of the public record, along with copies of the Governor's veto messages dated as indicated on the Governor's messages.

In Testimony Whereof, I have hereunto set my hand and affixed the Great Seal of the State of Nebraska.

Done at Lincoln this sixth day of June in the year of our Lord, one thousand nine hundred and ninety-one.

(SEAL) Allen J. Beermann, Secretary of State

MESSAGE FROM THE SECRETARY OF STATE

June 6, 1991

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol

Lincoln, NE 68509

Dear Mr. O'Donnell:

I hereby acknowledge receipt of your letter dated June 5, 1991. as a cover letter attached to Legislative Bill 647A. Your letter and the attached Legislative Bill 647A was filed in the office of Secretary of State at 8:13 a.m. on Thursday, June 6, 1991. Your letter indicates that inasmuch as the Legislature did not override the line-item veto by Governor Nelson on Legislative Bill 647A you are delivering the bill for filing in the form and amounts as prescribed by the Governor. I respectfully request of you to place a copy of this letter in the official Legislative Journal for the session just concluded of the Ninety-second Legislature, first session.

Finally, Legislative Bill 647A will be filed in the office of Secretary of State and made a part of the public record.

Respectfully submitted,
(Signed) ALLEN J. BEERMANN
Secretary of State

CERTIFICATE

STATE OF NEBRASKA

United States of America,)
) ss. Department of State
State of Nebraska)

I, Allen J. Beermann, Secretary of State of the State of Nebraska do hereby certify that Legislative Bill 647A was filed in the office of Secretary of State, along with a cover letter attached from the Clerk of the Legislature indicating that inasmuch as the Legislature did not override the line-item veto by Governor Nelson, Legislative Bill 647A was delivered for filing in the form and amount as prescribed by the Governor.

Finally, Legislative Bill 647A will be filed in the office of Secretary of State and made a part of the public record.

In Testimony Whereof, I have hereunto set my hand and affixed the Great Seal of the State of Nebraska.

Done at Lincoln this sixth day of June in the year of our Lord, one thousand nine hundred and ninety-one.

(SEAL) Allen J. Beermann, Secretary of State

MESSAGE FROM THE SECRETARY OF STATE

June 6, 1991

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. O'Donnell:

I hereby acknowledge receipt of your letter dated June 5, 1991 as a cover letter attached to Legislative Bill 845. Your letter and the attached Legislative Bill 845 were filed in the office of Secretary of State at 8:15 a.m. on Thursday, June 6, 1991. Your letter indicates that inasmuch as the Legislature did not override the line-item veto by Governor Nelson on Legislative Bill 845, you are delivering the bill for filing in the form and amounts as prescribed by the Governor. I respectfully request of you to place a copy of this letter in the official Legislative Journal for the session just concluded of the Ninety-second Legislature, first session.

Finally, Legislative Bill 845 will be filed in the office of Secretary of State and made a part of the public record.

Respectfully submitted,
(Signed) ALLEN J. BEERMANN
Secretary of State

CERTIFICATE

STATE OF NEBRASKA

United States of America,)
) ss. Department of State
State of Nebraska)

I, Allen J. Beermann, Secretary of State of the State of Nebraska do hereby certify that Legislative Bill 845 was filed in the office of Secretary of State, along with a cover letter attached from the Clerk

of the Legislature indicating that inasmuch as the Legislature did not override the line-item veto by Governor Nelson, Legislative Bill 845 was delivered for filing in the form and amount as prescribed by the Governor.

Finally, Legislative Bill 845 will be filed in the office of Secretary of State and made a part of the public record.

In Testimony Whereof, I have hereunto set my hand and affixed the Great Seal of the State of Nebraska.

Done at Lincoln this sixth day of June in the year of our Lord, one thousand nine hundred and ninety-one.

(SEAL) Allen J. Beermann, Secretary of State

MESSAGE FROM THE SECRETARY OF STATE

June 6, 1991

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. O'Donnell:

This letter is to acknowledge that I have received on June 6, 1991 at 8:13 a.m. Legislative Bill 652. Along with Legislative Bill 652, I hereby acknowledge receipt of your cover letter dated June 5, 1991 and a certificate signed by Dennis Baack, President of the Legislature, the contents of which are as follows:

Legislative Bill 652, having been returned by the Governor with his signature, but with certain items therein line-item vetoed, the Legislature by the constitutional majority has overridden said line-item vetoes as follows:

Section 16, Agency 27, Program 305, Transit Aid

Section 30, Agency 72, Program 604, Economic Development, North Omaha Funding

Section 11, Agency 20, Program 514, Dept. of Health, for pap/chlamydia testing

Further, I hereby acknowledge that Legislative Bill 652, cover letter, certificate and a copy of the Governor's message have all been

filed in the office of Secretary of State as a matter of record on the day and hour stated above.

Respectfully submitted,
(Signed) ALLEN J. BEERMANN
Secretary of State

CERTIFICATE

STATE OF NEBRASKA

United States of America,)
) ss. Department of State
State of Nebraska)

I, Allen J. Beermann, Secretary of State of the State of Nebraska do hereby certify that I have received on June 6, 1991 at 8:13 a.m. Legislative Bill 652. Along with Legislative Bill 652, I hereby acknowledge receipt of a cover letter from the Clerk of the Legislature dated June 5, 1991 and a certificate signed by Dennis Baack, President of the Legislature, the contents of which are as follows:

> Legislative Bill 652, having been returned by the Governor with his signature, but with certain items therein line-item vetoed, the Legislature by the constitutional majority has overridden said line-item vetoes as follows:
>
> Section 16, Agency 27, Program 305, Transit Aid
> Section 30, Agency 72, Program 604, Economic Development, North Omaha Funding
> Section 11, Agency 20, Program 514, Dept. of Health, for pap/chlamydia testing

Finally, I hereby acknowledge that Legislative Bill 652, cover letter, certificate and a copy of the Governor's message have all been filed in the office of Secretary of State as a matter of record on the day and hour stated above.

In Testimony Whereof, I have hereunto set my hand and affixed the Great Seal of the State of Nebraska.

Done at Lincoln this sixth day of June in the year of our Lord, one thousand nine hundred and ninety-one.

(SEAL) Allen J. Beermann, Secretary of State

MESSAGE FROM THE SECRETARY OF STATE

June 6, 1991

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. O'Donnell:

This letter is to acknowledge that I have received on June 6, 1991 at 8:13 a.m. Legislative Bill 760. Along with Legislative Bill 760, I hereby acknowledge receipt of your cover letter dated June 5, 1991 and a certificate signed by Dennis Baack, President of the Legislature, the contents of which are as follows:

> Legislative Bill 760, having been returned by the Governor with his objections thereto, and after reconsideration having passed the Legislature by the constitutional majority, has become law this fifth day of June, 1991.

Further, I hereby acknowledge that Legislative Bill 760, cover letter, certificate and a copy of the Governor's message have all been filed in the office of Secretary of State as a matter of record on the day and hour stated above.

Respectfully submitted,
(Signed) ALLEN J. BEERMANN
Secretary of State

CERTIFICATE

STATE OF NEBRASKA

United States of America,)
) ss. Department of State
State of Nebraska)

I, Allen J. Beermann, Secretary of State of the State of Nebraska do hereby certify that I have received on June 6, 1991 at 8:13 a.m. Legislative Bill 760. Along with Legislative Bill 760, I hereby acknowledge receipt of a cover letter from the Clerk of the

Legislature dated June 5, 1991 and a certificate signed by Dennis Baack, President of the Legislature, the contents of which are as follows:

> Legislative Bill 760, having been returned by the Governor with his objections thereto, and after reconsideration having passed the Legislature by the constitutional majority, has become law this fifth day of June, 1991.

Finally, I hereby acknowledge that Legislative Bill 760, cover letter, certificate and a copy of the Governor's message have all been filed in the office of Secretary of State as a matter of record on the day and hour stated above.

In Testimony Whereof, I have hereunto set my hand and affixed the Great Seal of the State of Nebraska.

Done at Lincoln this sixth day of June in the year of our Lord, one thousand nine hundred and ninety-one.

(SEAL) Allen J. Beermann, Secretary of State

MESSAGE FROM THE SECRETARY OF STATE

June 6, 1991

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. O'Donnell:

This letter is to acknowledge that I have received on June 6, 1991 at 8:16 a.m., Legislative Bill 843. Along with Legislative Bill 843, I hereby acknowledge receipt of your cover letter dated June 5, 1991 and a certificate signed by Dennis Baack, President of the Legislature, the contents of which are as follows:

> Legislative Bill 843, having been returned by the Governor with his signature, but with certain items therein line-item vetoed, the Legislature by the constitutional majority has overridden said line-item vetoes as follows:
> Section 27, Agency 25, Program 424, aid to community mental retardation programs.

Further, I hereby acknowledge that Legislative Bill 843, cover letter, certificate and a copy of the Governor's message have all been filed in the office of Secretary of State as a matter of record on the day and hour stated above.

Respectfully submitted.
(Signed) ALLEN J. BEERMANN
Secretary of State

CERTIFICATE

STATE OF NEBRASKA

United States of America,)
) ss. Department of State
State of Nebraska)

I, Allen J. Beermann, Secretary of State of the State of Nebraska do hereby certify that I have received on June 6, 1991 at 8:16 a.m., Legislative Bill 843. Along with Legislative Bill 843, I hereby acknowledge receipt of a cover letter from the Clerk of the Legislature dated June 5, 1991 and a certificate signed by Dennis Baack, President of the Legislature, the contents of which are as follows:

> Legislative Bill 843, having been returned by the Governor with his signature, but with certain items therein line-item vetoed, the Legislature by the constitutional majority has overridden said line-item vetoes as follows:
>
> Section 27, Agency 25, Program 424, aid to community mental retardation programs.

Finally, I hereby acknowledge that Legislative Bill 843, cover letter, certificate and a copy of the Governor's message have all been filed in the office of Secretary of State as a matter of record on the day and hour stated above.

In Testimony Whereof, I have hereunto set my hand and affixed the Great Seal of the State of Nebraska.

Done at Lincoln this sixth day of June in the year of our Lord, one thousand nine hundred and ninety-one.

(SEAL) Allen J. Beermann, Secretary of State

MESSAGES FROM THE SECRETARY OF STATE

June 10, 1991

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. O'Donnell:

Please be advised that I have received on June 7, 1991 Engrossed Legislative Bills 579 and 579A, passed by the Ninety-second Legislature of Nebraska at its first session on the fifth day of June, 1991.

This letter is also to inform you that Governor E. Benjamin Nelson returned Legislative Bills 579 and 579A to my office without his signature and with his objections. Further, I hereby inform you that attached to Legislative Bills 579 and 579A, unsigned by the Governor, was a copy of his veto message which has been filed with Legislative Bills 579 and 579A in my office and made a part of public record.

Finally, I would respectfully request that a copy of this letter be placed in the official Legislative Journal for the Ninety-second Legislature, first session just concluded.

Respectfully submitted,
(Signed) ALLEN J. BEERMANN
Secretary of State

June 11, 1991

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. O'Donnell:

This letter is to advise you and to have placed in the Legislative Journal that Legislative Bill 91A was passed by the Ninety-first Legislature at its first session and was presented to the Governor.

I have received from Governor E. Benjamin Nelson Legislative Bill 91A with his signature but with line-item reductions. This bill was received in the office of Secretary of State on June 10 at 5:17 p.m.

I would respectfully request that a copy of this letter indicating that Legislative Bill 91A was delivered to the office of Secretary of State and is a matter of public record.

Respectfully submitted.
(Signed) ALLEN J. BEERMANN
Secretary of State

CERTIFICATE

I, Patrick J. O'Donnell, Clerk of the Legislature, hereby certify that the foregoing communications are true and correct copies of letters provided concerning action on bills after adjournment of the Ninety-Second Legislature, First Session, and other correspondence.

Patrick J. O'Donnell
Clerk of the Legislature

June 11, 1991
Lincoln, Nebraska