

January 29, 1981

LB 534, 535

PRESIDENT: Any objections? Hearing none, so ordered.

CLERK: Mr. President, I have, pursuant to certain Nebraska Revised Statutes actuarial evaluation of the following retirement systems: State Patrolmen's Retirement System, Nebraska Judges Retirement System, Nebraska School Retirement System, Nebraska State Employees Retirement System, Nebraska County Employees Retirement System. Those will be on file in my office.

Mr. President, new bills, LB 534. (Read title.) LB 535. (Read title.) (See pages 357 and 358, Legislative Journal.)

PRESIDENT: Senator Lowell Johnson, would you like to make an announcement and a presentation to the Legislature. Senator Johnson.

SENATOR L. JOHNSON: Mr. President and fellow members of the Nebraska Legislature, it is my privilege this morning to introduce you all to a popping good product from Popcorn Village in my home town of North Bend, the Popcorn Capital of the World. The Blevins Pop Corn Company is the kind owner of your bag of popcorn this morning and it is one of our most valuable industries in North Bend with a major payroll for our city. Popcorn is also one of the major products of Nebraska and our great state led the nation in 1980 production with over 180 million pounds from 61,000 acres. This harvest represented 34% of production in the U.S, and our own farm at North Bend diverts about 25% of our productive capacity to the production of popcorn. The Blevins Pop Corn Company processed about 30 million pounds of popcorn last year in North Bend and has shipped worldwide to such countries as Japan, Thailand, England, Venezuela and to all of our armed forces centers everywhere. So please have a popping good time this morning with this truly North Bend, Nebraska, product.

PRESIDENT: We have Senator Don Wagner who wants to either add to the commercial or add some words to the commercial. Senator Wagner.

SENATOR WAGNER: Mr. Speaker, I just would like to tell Senator Johnson that that popcorn was grown in North Loup, Nebraska. So you can import it down here and bring it out. That is real fine, and we do have the Blevins Pop Corn up there, too, Senator Johnson. Thank you very kindly. We will be kind of like in competition here but we can also work together.

SENATOR L. JOHNSON: Mr. President, I will respond to that

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LB 174, 89, 181,
534, 535

SENATOR FENGER: Mr. Speaker, I would urge consideration of adoption of LB 174 at this time.

SENATOR CLARK: All those in favor of advancement of the bill please vote aye, opposed no.

CLERK: Senator Clark voting aye.

SENATOR CLARK: Record the vote.

CLERK: 26 ayes, 3 nays on the motion to advance the bill, Mr. President.

SENATOR CLARK: Motion carried. Bill is advanced. We will now have the changing of the guard.

CLERK: Mr. President, while the guard is changing, I have a report from Constitutional Revision and Recreation Committee reporting LB 534 as indefinitely postponed; and LB 535 advanced to General File. That is signed by Senator Labeledz.

Mr. President, your committee on Public Works whose chairman is Senator Kremer reports LB 181 to General File with amendments. Signed by Senator Kremer.

Mr. President, I have a gubernatorial appointment confirmation list submitted by the Constitution Revision and Recreation Committee.

Mr. President, LB 89 is a bill introduced by Senator Shirley Marsh. (Read title.) The bill was first read on January 12, referred to the Judiciary Committee for hearing. The bill was advanced to General File. I have no amendments on the bill, Mr. President.

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: Senator Marsh.

SENATOR MARSH: Mr. Speaker and members of the Legislature, I move that LB 89 be advanced to E & R Initial. The purpose of LB 89 is to add a judge to the Third Judicial District. I will share some supporting evidence of why there is a statistical need. I will share some information about the unique nature of the caseload in this district which requires that we have another judge available in the Third District to assure efficient administration of justice. The Third Judicial District consists of Lancaster County, Lancaster County, an area of 845 square miles, and the 1980 census shows a population of approximately 192,000 people.

people live under, the tax they put on food in some cities like Omaha for instance is considerable and those people do not get their full rebate and I don't care how you try to send it back to them. So I think we ought to look at the problem a little more seriously than a fifteen minute pass-over and kiss it goodbye and say, look folks, we helped you one more year. Senator Maresh, I will have an amendment on Select File.

PRESIDENT: Amendment on the desk. Read the amendment.

CLERK: Mr. President, the first amendment is offered by Senator Beutler and that is to increase the credit to \$34.

PRESIDENT: The Chair recognizes Senator Beutler.

SENATOR BEUTLER: Mr. Speaker and members of the Legislature, here we go into our annual auction again and I think from the testimony that I heard last year that it should have been up to \$34 and I don't want to go through all that testimony again but the amendment is basically to raise it a couple additional dollars and rather than take a lot of time on it I would just ask for the Legislature's consideration of that. Thank you.

PRESIDENT: Senator Maresh, the Clerk advises me that there are about three amendments on the bill already and since it will never survive the fifteen minute rule, he is wondering if you would prefer just to lay it over and take it up at another time?

SENATOR MARESH: Mr. President, that is what I was afraid of, that people are going to jeopardize the people of Nebraska to get an increase. That is what happened two years ago. If we would not have had all that wrangle about increasing more than the bill allowed for we would have got the bill passed but...so I guess if they do not want to give the people of the State of Nebraska what is coming to them, that is...the people of the State of Nebraska are the ones that are going to stand the loss.

PRESIDENT: So you want to pass it over at this time and take it up at a regular time, all right. So at the introducer's request we will go on to the next bill on consent calendar which is LB 535 and before we do that, Mr. Clerk, the Chair would like to introduce some 50 seniors from Cathedral High in Omaha from Senator Hoagland's district, with Tim Cannon, Martha Heck and Rich Garrigan, their teachers. They are up here in the North balcony. Would you welcome Cathedral High of Omaha. Welcome to your Legislature. The next bill, Mr. Clerk, on consent calendar then is LB 535.

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LB 535, 233, 245, 253, 278

CLERK: Mr. President, if I may right before that, Senator Lamb would like to print amendments to LB 245; Senator DeCamp to LB 253; Revenue reports LB 233 to General File with amendments and LB 278 to General File with amendments, (Signed) Senator Carsten, Chair. (See pages 1162-1163 of the Legislative Journal.)

Mr. President, LB 535 was offered by Senator Warner. (Read.) The bill was first read on January 29, referred to Constitutional Revision Committee. The bill was advanced to General File.

PRESIDENT: The Chair recognizes Senator Warner.

SENATOR WARNER: Mr. President, let me first tell you what LB 535 does not do. LB 535 does not put the issue of biennial sessions on the ballot. As a matter of fact, it has no reference to biennial sessions. What it does do is two other things. It would permit the Legislature during the odd session, adopt a biennial budget, which then could be amended, altered just as we would do a bill now in the even number years. Budgets are already submitted on a biennial basis. They have been that way forever and there is no change there. The provisions of the Constitution would permit us to do that portion if we wanted to now but I think it would, personally I support on a program basis, biennial budget so that you give an agency clear instructions as to a policy matter decided by the Legislature, those programs that should be expanded over the two year or reduced in its scope over a two year period. You still make annual adjustments for inflation or whatever other factors you want to affecting salaries so it makes no change there. It would require 33 votes to do the second year funding just as it requires 33 votes now for every budget bill so there is no impact there. The purpose is solely one, in my opinion, to permit the Legislature for a longer period of time to indicate to an agency the programs that they want to expand or the programs we want to reduce. That brings greater efficiency and orderliness. The second part of the amendment permits an A bill or funding for a new program to be extended as far out as four years and I would suggest that if you adopt that portion that you will go a long ways, in fact, you will eliminate the problem we have had since we went to annual sessions in that if you want to pass legislation that has incremental increases in funding, this would allow you to enact and authorize expenditure for up to a four year period with the incremental increase such as we have had in a number of areas would be spelled out into the budget, into the appropriations. It would then be automatically be considered by the Board of Equalization for setting rates. If you remember the problem we have had with

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expressed obligations in the past. That would be eliminated because if it becomes an appropriation it still can be changed by each session of the Legislature upwards or down just as it is now with the same number of votes and I would urge that the amendment be advanced and adopted because its effect is solely, in my opinion, is solely one of giving the Legislature better management of the policies they want implemented than what is available to us now under the Constitution.

PRESIDENT: Amendment on the desk.

CLERK: Mr. President, Senator Koch moves to amend the bill, "to strike the new language on page 2, lines 6 and 7, and reinsert the stricken language."

PRESIDENT: The Chair recognizes Senator Koch.

SENATOR KOCH: Mr. Speaker and members of the body, it is seldom I disagree with Senator Warner who knows the finances of this state much better than I do and most of us in this body but oftentimes when I speak to people they ask me one question. Why isn't government more efficient in their operation and why can't they operate like the private sector? Now Senator Warner might be able to argue against this amendment and I hope he does if he feels like he wants to. When you get down to operating the state, particularly in a time of change such as we witness each year, I can't understand why we want to go to sort of a biennial budgeting operation even though we still maintain the option of the even numbered years in making adjustments to the budget. Large businesses I am sure, do not establish biennial budgets. The businesses I am in we establish annual budgets and oftentimes we miss our mark but it is always a pretty good guideline to us. I know the Appropriation Committee spends hours and hours and hours in looking at dollars and programs and agencies and I empathize with them because that has to be a tedious job. That is one reason I would never seek the Appropriations Committee position but there are those in here who seek it because it does have stature and you do have an awful lot to say about other agencies and legislation. Look over in Final Reading. Everything stops there if it has got an A bill with it and that lives at the mercy of the Appropriations Committee because we try to balance or try to stay within some kind of limitation. I just believe that this body has to stay with an annual function of budgeting even though we may have the option of changing it every other year because if we want to move to a biennial session I think this may be the first step. Then this may be the step towards that meeting every two years and I strongly believe that is what has happened to this country over the

ages. When we talk about the chains of the federal government it has happened for one reason. It is because we have had too many part-time legislatures meeting on twenty, thirty, forty days or operating on some other constraint where we can not sit down and logically come to conclusions and oftentimes work out of frustration, panic and lack of information. I cannot support this proposed legislation even though one part I do like and that is the four year program part of it and I agree with Senator Warner, oftentimes we have had bills where we have tried to state legislative intent and the Attorney General says, what is legislative intent? And we say we think it is rather clear we intend to do this for several years. Now that part of the amendment would remove that cloud of the Attorney General's refusal to accept legislative intent or express obligation but I believe if this body does not look seriously at 535 the precedent is before us. We can well be moving back to some state to what I think is an archaic system of biennial session. In fact, if I had my way this Legislature would be seeking from the people the right to operate with a greater number of days so we can do our job to a higher degree and more skillful in being able to react to things before they hit us rather than always reacting out of crises. To get back to my point about the federal government, the federal government seize power because the states and subdivisions of government allowed them to seize it because we are part-time public officials. We made errors, not of commission but errors of omission because we did not spend enough time at the business of governing. So suddenly here sits the federal government with super powers and we get on our knees and wail at the power of the muddy Potomac and that is what has happened to us and for us to take a step backwards in terms of what I think are clear obligations to meet annually, confer, consider important issues and budget is an important issue and I know it takes time in the Appropriations Committee but we all chose to come here to serve a role and I don't think we should try to make it any easier but instead we should say to the people, we need more time to sit down and think and review and research and arrive at good legislation regardless if it is appropriations or some other legislation we are dealing with. I ask us to maintain a position of an annual budgeting process and accept only the second part of this proposed constitutional amendment.

PRESIDENT: Before we go on to the next speaker the Chair would like to introduce Carroll Carsten, from North Platte, son of Senator Cal Carsten sitting with Ruth here under the south balcony. Carroll, would you stand and, Ruth, welcome to the Legislature, Carroll. Senator Kahle, do you wish to speak to the amendment to the Koch amendment?

SENATOR KAHLE: Mr. President, members, I rise to support Senator Koch, I think. I would like to ask a question or two of Senator Warner if he would yield. Would this mean that the Appropriations Committee would do much less on the second year than it is doing now and just review perhaps lightly the appropriations from the year before?

SENATOR WARNER: Senator Kahle, as I visualize it it would primarily be identical to what we do now. Now there are two things done in the budget process. One, the Legislature puts funds as a matter of policy into certain programs. The second thing we do for the budget is provide the money for mechanics for salaries, for goods, whatever that is purchased to implement that policy. What I am saying is that from a program basis you ought to alert an agency more than three months ahead of time that you are going to make a policy change from a program basis. There is absolutely nothing in this that prohibits us nor would it be...have any effect on what we do annually to adjust salaries, to adjust for the price of travel, whatever those incremental things are that goes into providing the people for the services. Programs though we would be indicating further ahead and that is just good management. You don't decide what corn to plant the day before you go to the field. You do it several months ahead of time what you are going to do.

SENATOR KAHLE: Aren't you already doing that to a degree?

SENATOR WARNER: That is right. That is what I am telling you. This does not make...I do not do this as a substantive change from the process we now have but it would enable us to be a little firmer on a program basis.

SENATOR KAHLE: Thank you, Senator Warner. Well I have mixed emotions and I think that perhaps all this does is put a rubber stamp on what is already being done but I guess I see this as a poor time to go in this direction because of the changing times. I think next year, for instance, we may have an awfully lot to look over that we have changed this year or appropriated and I know what Senator Warner is saying and they are going to do that anyhow so I guess I don't see any real need for this legislation. The fluid state of the federal funds right now alone makes me think that we certainly are going to have to watch very closely. We are going to have to determine what of the programs that the federal government is cutting back on that the state wants to fund and of course we are going to have to determine, I think, that to a degree, is going to determine how much the counties and cities are going to have to fund for programs if they

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want to keep them. So beings we are in such a fluid state right now I would just as soon continue on the way we are for another couple of years anyhow to see how this thing really works out. Thank you.

PRESIDENT: The Chair recognizes Senator Kremer. Senator Kremer, do you wish to speak to the amendment? No, all right. Senator Dworak, do you wish to speak to the amendment, the Koch amendment? We only have a couple minutes on this bill.

SENATOR DWORAK: I will pass in the interest of time because I think the amendment should be voted down. I think it is a good concept and I think some people are reading some fear into this thing that are not there. We are referring only to the appropriations process and no way are we looking at sessions every two years.

PRESIDENT: All right then, Senator Koch, do you wish to close on your amendment?

SENATOR KOCH: Thank you, Mr. Speaker. Senator Dworak might have misunderstood me. I just said this may be a step toward a biennial session because we are going to the people and we are saying biennial budgeting which means the major budget is constructed once every two years in the odd numbered years and sure you have some latitude. Now if we are going to go through the process of what we are doing now I don't know why we want this type of amendment in the Constitution. I can't detect the flaws of our budgeting process that obviously we must be making under the present conditions I have served since I have been here. This body may be back in a special session before this year is over even though we go home in June. If you are paying close attention to what the federal program is and the incisions that are being made in terms of funds and we have considerable number of federal dollars coming back to the state, we are going to have to make some adjustments in our budgeting procedure and they are going to be considerable. Looking in the area that I pay considerable attention to in education, we are going to lose somewhere around twenty-five to thirty million dollars. It depends what that last line is going to be in terms of hot lunch monies, in terms of a number of other factors, vocational education monies, you name it, Title I, they are all in there. This state has either got to make up its mind then that we are going to let local governments pick up all that cost or we are going to help supplement it and I can't believe the people on this floor who have a very strong rural interest, one of the biggest cut is the food lunch program and that food comes from those who produce the food on the farms in this state. It is a severe cut and it is across

the nation and so what the schools are going to do, they are going to increase their lunches up to thirty cents or more. Many of the people who deserve those lunches are going to be cut out. We all know that nutrition has a close degree of relationship to learning and yet we are going to have to accept that I suppose and go back to sack lunches or honey sandwiches like I carried when I was in District #69 out by Campbell, Nebraska, and I tell you even though it was a honey sandwich, it wasn't all that nutritional if you ate it every day. Getting back to this point, I believe if we go to biennial budgeting that certain agencies are going to suffer. We know there are certain agencies in this state who receive first priority. They do that all the time. I won't name them but they do. Other agencies sit there and sort of take the crumbs from the table. I believe these agencies will suffer even more because we may give a deficit appropriation to them the next year but the point is, they are behind in the first place. So here we are, we are going to give them a few more dollars to sort of satisfy their immediate need. I really believe that if we are going to function properly that budgeting should be an annual process. It should be totally reviewed and should be placed before this body at a certain time for our consideration. I cannot see where this proposed constitutional amendment is going to improve the budgeting procedure of the State of Nebraska. In fact, in my opinion, it is a step backwards and I ask for the adoption of this amendment.

PRESIDENT: The motion before the House is the adoption of the Koch amendment to LB 535. All those in favor vote aye, opposed nay. Have you all voted? Have you all voted? Senator Koch, there are five excused. Senator Koch, what do you wish to do? Time is up on the bill anyway but we want to take this vote and then we will. Senator Koch, I am going to call for...unless you want to have a roll call. Do you want a Call of the House or what do you want to do?

SENATOR KOCH: Mr. Speaker, I think we are being lulled asleep again on Friday morning and we know we are going to work right through the noon hour and that bothers people to lose a lunch, particularly if it is free but I am going to ask for a Call of the House and a record vote on this because I think it is important.

PRESIDENT: All right, okay, a Call of the House has been asked. All those in favor of a Call of the House vote aye, opposed nay. Record the vote.

CLERK: 22 ayes, 0 nays to go under Call, Mr. President.

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PRESIDENT: All right, the House is under Call. The Sergeant at Arms will see to it that all members are returned to their desks. All members will register your presence and the House is under Call. All other persons will leave the floor of the Legislature and, Senator Koch, I understand you want a roll call vote when we get all the members here. Senator Koch, did you just want a record vote of this or did you want a... what?

SENATOR KOCH: Mr. Speaker, I would ask for a roll call.

PRESIDENT: Okay, all right. Senators Beyer, Chronister, Fenger, Johnson and Hoagland are excused. That is Vard Johnson. So we are looking for Senator Newell, Senator Chambers, Senator Haberman, Senator Labedz, Senator Cullan, Burrows, Lamb, Maresh, Hefner. The House is under Call. Members will stay in the Chamber and will return to your desks. We are looking for Senators Cullan, Labedz, Lamb, I think that is it. Okay, Senator Koch, are you ready then for...all members...would you like to have the amendment read one more time so that those who have not been here realize we are on LB 535 and we are considering the Koch amendment and the vote is on adopting the Koch amendment. Mr. Clerk, will you read one more time the Koch amendment and then we will have a roll call vote.

CLERK: (Read Koch amendment as found on page 1163 of the Legislative Journal.)

PRESIDENT: All right, we will proceed then with the motion. All in favor vote aye, opposed nay and we will have a roll call vote at this time.

CLERK: (Read roll call vote as found on page 1163 of the Legislative Journal.) 17 ayes, 27 nays, Mr. President.

PRESIDENT: Motion fails. That...time, Senator Warner, is up on it so this will just stay on General File right where it is. Senator Warner.

SENATOR WARNER: Could I just take a second to suggest to the Speaker that why don't we have all constitutional amendments come up in January. There is no election until November of '82 and I don't think you need to waste time with any constitutional amendment until January of '82. You might think about that.

PRESIDENT: A very good suggestion. Senator Goodrich, yes, Senator Goodrich.