

February 17, 1982

LB 69, 259, 413,
684, 967, 968

SPEAKER MARVEL: The motion is carried. The bill is introduced.

CLERK: Mr. President, new bills, LB 967 by the Business and Labor Committee and signed by its members. (Read by title for the first time as found on page 718 of the Legislative Journal. Also read LB 968.)

Mr. President, Senator Witala and Senator Kilgarin ask unanimous consent to add their name to 259 as cointroducers.

SPEAKER MARVEL: No objections, so ordered.

CLERK: Mr. President, I have a new resolution, LR 233. (Read as found on page 719 of the Legislative Journal.) The resolution is offered by Senator Newell. It will be referred to the Reference Committee for reference, Mr. President.

Mr. President, I have a notice of Revenue Committee Executive session upon adjournment today in Room 1520. That is Revenue Committee upon adjournment today in Room 1520

Senator Marsh would move to reconsider the Legislature's action in failing to pass LB 69 on Final Reading. That will be laid over. (See page 719 of the Journal.)

Mr. President, I have a motion from Senator VonMinden that LB 684 be placed on General File pursuant to Rule 3, Section 18(b). That too will be laid over.

SPEAKER MARVEL: The next item of business is LB 413.

CLERK: Mr. President, Senator Chambers pursuant to our rules has made a motion to reconsider the Final Reading vote on LB 413. The motion is found on page 592 of the Legislative Journal.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, this bill on Final Reading failed to muster 25 votes so what I am asking that you do is vote to reconsider. It will take 30 votes to do so. Let the bill be brought back to Final Reading or revived on Final Reading, let it stay there until any questions you have can be answered because I think there has been a lot of confusion about exactly what this bill does. Now I wrote to Colonel Kohmetscher and pointed out to him that some statements he made in a letter to Senator Nichol go contrary to the training that the state patrol uses with reference to radar and in a letter that I got from Colonel Kohmetscher which I have circulated to you this morning, he says, "Naturally our training does

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PRESIDENT LUEDTKE PRESIDING

PRESIDENT: Roll call. Record the vote, Mr. Clerk, or the presence, I mean.

CLERK: There is a quorum present, Mr. President.

PRESIDENT: A quorum being present, are there any corrections to the Journal?

CLERK: I have no corrections, Mr. President.

PRESIDENT: The Journal will stand as published. Are there any other messages, reports or announcements?

CLERK: Mr. President, I have a report from the Department of Roads. That will be on file in my office.

The Committee on Business and Labor whose chairman is Senator Barrett instructs me to report LB 967 advance to General File with committee amendments attached; LB 968 as indefinitely postponed, both of those signed by Senator Barrett.

A new resolution, LR 248 offered by the Administrative Rules Committee calls for an interim study into the feasibility of employing an independent hearing examiners system for state agencies in Nebraska. (See page 1149 of the Journal.)

Your committee on Enrollment and Review respectfully reports we have carefully examined and engrossed LB 69 and find the same correctly engrossed; 359, 428, 571, 623, 659, 705, 724, 779 all correctly engrossed, those signed by Senator Kilgarin as Chair. (See page 1151 of the Legislative Journal.)

Mr. President, your committee on Enrollment and Review respectfully reports we have carefully examined and reviewed LB 652 and recommend that same be placed on Select File with E & R amendments attached; 522 E & R amendments attached; 568 E & R amendments attached. Those are signed by Senator Kilgarin as Chair. (See pages 1150-1151 of the Legislative Journal.)

Your committee on Public Works whose chairman is Senator Kremer reports LB 785 advance to General File and LR 212 advance to General File. Those are signed by Senator Kremer. (See page 1152 of the Legislative Journal.)

I also have a committee on Public Works report on a gubernatorial confirmation hearing.

And, Mr. President, Senator Beutler would like to add his name to LB 577 as cointroducer.

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LB 761, 967

answer any questions and any detail that you may want from any of the members of the Appropriations or the staff. So unless there are questions to save time in order to get to some of the other matters I will just move the bill be advanced knowing that it will be considered and can be considered on Select File.

SENATOR CLARK: The question is the advancement of 761. Is there any debate? If not, all those in favor vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

SENATOR CLARK: Record the vote.

CLERK: 32 ayes, 0 nays, Mr. President, on the motion to advance LB 761.

SENATOR CLARK: The bill is declared advanced. Number 967.

CLERK: Mr. President, LB 967 was introduced by the Business and Labor Committee. (Read title.) The bill was read on February 17, referred to Business and Labor, was advanced to General File. There are committee amendments pending, Mr. President.

SENATOR CLARK: Before I call on Senator Barrett I'd like to introduce 30 fifth grade students from St. Mary's Catholic High School in Lincoln. Kathy Kelly is the teacher. They are in the North balcony and they are in Senator Landis' district. Will you stand and be recognized, please. Welcome to the Legislature. Senator Barrett, on the committee amendments.

SENATOR BARRETT: Thank you, Mr. President and members of the body, the committee amendment to LB 967 simply includes two bills, two claims, which were left off the original bill, 967. The first claim is claim # 31 which was omitted from the original bill in error and the other claim is #72. This claim was approved at the February 26 board meeting of the Claims Board which was immediately following the drafting of the original bill. So I would move, therefore, that the committee amendment to LB 967 be adopted.

SENATOR CLARK: The question before the House is the adoption of the committee amendments. Is there any discussion? If not, all those in favor vote aye, opposed vote nay. I'd like to announce that there is 40 Waterloo Elementary School children here from Waterloo, Nebraska, from Senator Wiitala's district. Will you stand and be recognized, please. Hold up your hands. Welcome to the Legislature. Have you all voted?

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LB 967

On the committee amendments.

CLERK: Senator Clark voting yes.

SENATOR CLARK: Record the vote.

CLERK: 27 ayes, 4 nays, Mr. President, on adoption of the committee amendments.

SENATOR CLARK: The committee amendments are adopted. Now on the bill, Senator Barrett.

SENATOR BARRETT: Thank you, Mr. President. LB 967 as amended is now the annual exercise which the Legislature goes through each year in making appropriations for the payment of miscellaneous claims against the State of Nebraska as have been approved by the State Claims Board and now asking for approval of the Legislature. The bill provides how payment shall be made, declares an emergency. Each claim is specifically enumerated in the bill and the total amount of the miscellaneous claims, of course, as you can see, is slightly in excess of \$385,000. If there are any questions I would be glad to specifically try to answer them.

SENATOR CLARK: We have Senator Vickers first for you.

SENATOR VICKERS: Mr. President, members, I sat there and watched the vote on the committee amendments with amazement. I didn't vote for the committee amendments even though I am a member of that committee and in the end I would have if it had needed to be to get the 25th vote because I recognize that these bills need to be paid. But we're dealing with the budget issues the last couple, three days and we've been talking about some pretty large items and we've also been talking about some relatively small items and the committee amendments, if you'll turn to the standing committee amendment in your bill book, indicated that claim #072 against the Governor paid a Bruce G. and Annette E. Mason and it gives an address, out of the general fund of \$85,000 and 27 members of this Legislature, without asking one question, voted for that amendment. That's...I find that hard to understand. As a member of the committee I raised the questions about that. I have got a copy of the United States District Court order ordering us to pay it and before I was convinced that we have no choice but to pay the \$85,000 but an \$85,000 check from the State of Nebraska would be a pretty good deal for any couple in this state it seems to me and I'd sure love to put in a claim and seeing how easy it is to get it passed, maybe I might try that one of these times. The fact of the matter is, I'm kidding you. No, I'm not. I'm serious but

the fact of the matter is that this claim we do have to pay it. I have researched it and found out that it is a claim as I indicated for attorney services and the District Court says, State of Nebraska, you have to pay it, and I'm told if we don't pay it, I'm told by Paul Douglas that if we don't pay it then this couple can garnishee some of the state's equipment, vehicles, cars or other state owned materials, cash or whatever, in order to get the \$85,000. So we do have to pay it but I just needed to chastise this body just a little bit to so easily roll over and stamp "paid" a request for 85,000 bucks without even too many people raising their eyebrows when we're dealing with a budget. Senator Koch just got through asking for a million dollars transferred from sales and income back to property taxes and that was turned down. Strange things happen in this body.

SENATOR CLARK: Senator Koch.

SENATOR KOCH: Mr. Chairman, I have a question of Senator Barrett if he would yield.

SENATOR CLARK: Senator Barrett, will you yield?

SENATOR BARRETT: Yes.

SENATOR KOCH: Senator Barrett, as I look at this claims report I see against Kearney State College, pay the City of Kearney \$245,000. Now I want to ask you what that claim is all about. Is that a friendly claim out there? There is two people in cahoots?

SENATOR BARRETT: No, Senator Koch, that is a claim for the installation of water lines to Kearney State College.

SENATOR KOCH: It was service performed by the city then to the college?

SENATOR BARRETT: Including material, labor, engineering.

SENATOR KOCH: The Legislature approved this?

SENATOR BARRETT: The project was completed in '82, mmm hmm.

SENATOR KOCH: Okay, now Douglas County, claim #035 that Senator Vickers was talking about. Why was that claim brought against the State of Nebraska? What damage did we do to two people?

SENATOR BARRETT: That was a claim for plaintiffs costs, attorneys costs principally, in an action in the United

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States District Court resulting from some costs to plaintiffs' attorneys in an action in Douglas County. The Douglas County Board of Commissioners passed a resolution paying, authorizing the payment of the attorneys fees, costs and so forth and they were ordered by the court as an agent by the State of Nebraska to pay it. They turned around and billed the State of Nebraska. The Attorney General has responded that it appears that the cost of defending the state's statutes in this case should be authorized, payment should be made.

SENATOR KOCH: Thank you, Senator Barrett. I just wanted to make sure that these claims were appropriate but I would remind the body that this state is in severe fiscal responsibility and I think we ought to defer this and have a deficit appropriation next year.

SENATOR CLARK: Senator Vard Johnson.

SENATOR V. JOHNSON: Mr. Speaker, members of the body, I was really going to ask Senator Barrett almost the same questions I think that both Senator Vickers and Senator Koch asked. Let me make sure I do understand one thing though, Senator Barrett. The claim of \$85,000 for Bruce and Annette Mason I assume is for the legal work that they did on the Horacek case involving the Beatrice State Development Center. Isn't that correct? I think that is where they would have gotten the \$85,000 fee.

SENATOR BARRETT: Claim #072, Senator Johnson.

SENATOR V. JOHNSON: Yes, Beatrice. It was a civil rights action as I recall.

SENATOR V. JOHNSON: Right.

SENATOR BARRETT: Yes.

SENATOR V. JOHNSON: And the truth of the matter is the state is liable because the court said so. Isn't that right?

SENATOR BARRETT: Well the federal court ordered the defendants to pay the attorneys.

SENATOR V. JOHNSON: And we're the defendant.

SENATOR BARRETT: That is right.

SENATOR V. JOHNSON: So we've got to pay it.

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SENATOR BARRETT: That is right. A judgement can be brought and the state would have to pay.

SENATOR V. JOHNSON: Now claim #035, the one to pay to Douglas County, Nebraska, that is also an attorney's fee and isn't that in connection with the civil rights action commenced by Dr. William Orr against the State of Nebraska challenging the constitutionality of some abortion statutes that we passed?

SENATOR BARRETT: I believe that is correct, Senator Johnson.

SENATOR V. JOHNSON: And the courts have held they were unconstitutional ENHSA has ordered Douglas County to pay the fee and they in turn are asking the state to pay the fee?

SENATOR BARRETT: That is correct.

SENATOR V. JOHNSON: And we're legally liable. Isn't that right?

SENATOR BARRETT: That is correct.

SENATOR V. JOHNSON: Thank you very much.

SENATOR CLARK: Senator Warner.

SENATOR WARNER: Mr. President, I just wanted to comment on, I guess on Senator Vickers, because I voted no on the adoption of the amendment until I quickly ran over and asked Bill and what he told us, you know, we have no choice so there's no point...and I assume all the rest of you knew that that voted yes. I just didn't happen to know it. Well I'm sure most of you did but aside from that, I want to comment on the judgments, that is the attorney fees that are court ordered and just remind you that Senator Remmers had a bill that has been passed, I believe, and set up a separate fund to be reimbursed after the fact as a claims bill but as these lawsuits develop and if we get more of them on a civil rights basis and if the state has to pay the cost, I think it is important that as we pass legislation that has potential for a civil rights action as far as the federal government is concerned, in federal court rather, that we identify those dollar amounts very clearly and here is a case where \$170,000 of tax funds are being used. I'm not arguing whether it is right or wrong what we did but I think it is important that we understand in the future these will be handled in a separate fashion and I think that is going to at least call our attention to the passage of legislation that has questionable constitutional problems as far as a civil rights action in a federal court so the issue will

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LB 967, 760

not probably come up again other than we'll be very keenly and pointedly reminded each time we do it and I think that is going to be a help.

SENATOR CLARK: Senator Labeledz.

SENATOR LABEDZ: Thank you, Mr. President, members of the Legislature, before Senator Johnson got up I wanted to explain too, that the \$85,000 claim against the state by Douglas County and it was a court case filed on the unconstitutionality of an abortion bill that was passed by the Nebraska Legislature. The suit was brought forth by Women's Services and Ladies Center which are the two abortion clinics in Omaha. I appeared at Douglas County when they had a board meeting authorizing the payment of the \$85,000, objected then and unfortunately I still have it at home but I have a list of the charges of the \$85,000 and I will have that for you on Select File because some of it was simply outrageous, ten hours for lobbying the state senators here in Lincoln which had nothing to do with the case. I believe the attorneys at that time were lobbying here on another bill, yet they were charging it against a case that was being filed in court. At that time I do give the courts credit because their first claim was for \$123,000 and the court cut it down to \$85,000 which the Douglas County Board did approve and did pay and what they are asking for now is reimbursement from the state and the Attorney General did approve of that and I realize it has to be paid but because of my objections I will vote no on the bill as I did in committee when it was advanced to the floor. Thank you.

SENATOR CLARK: Any further discussion on the bill? If not, Senator Barrett, do you wish to close?

SENATOR BARRETT: I'll waive closing, Mr. President, and simply ask that the bill as amended be advanced to E & R Initial.

SENATOR CLARK: The question before the House is the advancement of 967. All those in favor vote aye, opposed vote nay. Have you all voted? Record the vote.

CLERK: 25 ayes, 2 nays, Mr. President, on the motion to advance the bill.

SENATOR CLARK: The bill is advanced. We will now go to the Revenue Committee priority bill order, 760.

CLERK: Mr. President, LB 760 was a bill introduced by the Speaker at the request of the Governor. (Title read.) The

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LB 522A, 605, 714, 753,
754, 760, 761, 942,
966, 967, 970, 970A

SENATOR CLARK PRESIDING

SENATOR CLARK: The Legislature will come to order. The prayer this morning by Father Edmund Placek of the Sacred Heart Catholic Church, Burwell.

FATHER PLACEK: (Prayer offered.)

SENATOR CLARK: The state officers of the Knights of Columbus are here for the occasion of the centennial of the Knights of Columbus. I think they are going to see the Governor and have him declare it that. We also have three visitors from Australia. They are under the South balcony. David McConnell, Helen McConnell, and Marilyn Handley. Would you stand and be recognized please. Senator Lamb has 7 students from Newport, Nebraska grade school, Pam Peterson, the teacher, and they are in the North balcony. Would you stand and be recognized please? Welcome to the Legislature, all of you. Roll call. Could we all check in, please. We have the Benson Republican Women's Club in the North balcony. Would you stand and be recognized please? Welcome to you to the Legislature. The Clerk will record.

CLERK: There is a quorum present, Mr. President.

SENATOR CLARK: Are there any corrections to the Journal?

CLERK: I have no corrections, Mr. President.

SENATOR CLARK: Do you have any messages, reports, or announcements?

CLERK: Yes, sir, I do, a series of things. Mr. President, your committee on Enrollment and Review respectfully reports they have examined and reviewed LB 754 and recommend that same be placed on Select File; 522A Select File; LB 942 Select File with amendments; LB 966 Select File with amendments; LB 970 Select File; LB 970A Select File with amendments; LB 761 Select File with amendments; LB 967 Select File; LB 760 Select File; LB 753 Select File. Those are all signed by Senator Kilgarin as Chair, Mr. President.

Mr. President, your committee on Public Health and Welfare offers a report on gubernatorial confirmation hearing.

Mr. President, your committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 605 and find the same correctly engrossed; and LB 714 correctly engrossed.

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LB 408, 760, 816, 967

SENATOR CLARK: The bill is advanced. We will now go to item five, Select File.

CLERK: Mr. President, if I may right before that, Senator Haberman would like to print amendments to 408 and 816.

Mr. President with respect to Select File, LB 967, I have no amendments to the bill.

SENATOR CLARK: Senator Kilgarin. The advancement of 967.

SENATOR KILGARIN: Are there E & R amendments?

SENATOR CLARK: No.

SENATOR KILGARIN: I move we advance LB 967.

SENATOR CLARK: You heard the motion. All those in favor say aye, opposed. The bill is advanced. LB 760.

CLERK: Mr. President, I have no E & R amendments, I...

SENATOR CLARK: The Call is raised.

CLERK: I do have an amendment from Senator DeCamp. On page 677 of the Journal.

SENATOR CLARK: Senator DeCamp.

SENATOR DeCAMP: Mr. President, I'll withdraw that. They have settled on the committee amendments, this would cut a little more, I'll just withdraw it.

SENATOR CLARK: That amendment is withdrawn. The next amendment.

CLERK: Mr. President, I now have an amendment offered by Senators Wesely and Clark. It is referred to on page 1264 of the Journal. You will find it in your Bill Books, it is Request #2842.

SENATOR CLARK: Senator Wesely.

SENATOR WESELY: This is an amendment that was originally carried by Senator Schmit and there were some concerns that Senator Schmit had with the amendment that were brought to Senator Clark and myself. We have since revised the proposal to try and deal with some of those concerns. What the amendment would do is an attempt to try to provide an incentive

April 6, 1982

LB 933, 609A, 714A, 760,
967

PRESIDENT: All right, let's just do it, otherwise we are going to go on and on and on with this thing. Let's.... roll call vote, Mr. Clerk, proceed. Everybody is here now.

CLERK: (Read the roll call vote as found on pages 1691 and 1692 of the Legislative Journal.) 22 ayes, 21 nays, Mr. President, on the rule suspension.

PRESIDENT: The motion failed. All right, the Clerk will read some matters in.

CLERK: Mr. President, your Committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 609A and find the same correctly engrossed; 714A correctly engrossed; 760 and 967 all correctly engrossed.

PRESIDENT: All right, Senator Lamb, you want to take off until when now....how long do you want to recess till? 1:30, okay. Senator Lamb moves to recess then until 1:30. All those in favor signify by saying aye. Opposed nay. We are in recess until 1:30.

Edited by


LaVera Benischek

April 13, 1982

LB 378, 378A, 693,
750, 966, 967

ASSISTANT CLERK: (Read LB 966 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 966 pass with the emergency clause attached. All those in favor vote aye, opposed nay. Have you all voted? Record the vote.

CLERK: (Read record vote as found on page 1853 of the Legislative Journal.) 30 ayes, 18 nays, Mr. President.

PRESIDENT: The motion fails. The bill fails to receive the sufficient constitutional majority to pass with the emergency clause attached. The question now is, shall LB 966 pass without the emergency clause attached. All those in favor vote aye, opposed nay. Record the vote.

CLERK: (Read record vote as found on page 1854 of the Legislative Journal.) 29 ayes, 17 nays, 2 present and not voting, 1 excused and not voting, Mr. President.

PRESIDENT: LB 966 passes without the emergency clause attached. The next bill on Final Reading, Mr. Clerk, is LB 967.

CLERK: (Read LB 967 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 967 with the emergency clause attached. All those in favor vote aye, opposed nay. Record the vote.

CLERK: (Read record vote as found on pages 1854-1855 of the Legislative Journal.) 44 ayes, 0 nays, 1 excused and not voting, 4 present and not voting, Mr. President.

PRESIDENT: LB 967 passes with the emergency clause attached. Do you have some things to read in at this time, Mr. Clerk?

CLERK: Mr. President, the bills passed on Final Reading are now ready for your signature.

PRESIDENT: While the Legislature is in session and capable of transacting business I propose to sign and I do sign LB 967, LB 378, LB 378A, LB 693, LB 760.

SENATOR CLARK PRESIDING

SENATOR CLARK: We are now ready for item #5, Select File, special order # 816.

SENATOR CLARK PRESIDING

SENATOR CLARK: . . .check in please. Could we get everyone checked in please. Record.

CLERK: Quorum present, Mr. President.

SENATOR CLARK: All right, we are ready for item number five, Public Health and Welfare report on gubernatorial appointments.

CLERK: Mr. President, if I may right before that, your Committee on Enrollment and Review respectfully reports that they have carefully examined and examined LB 967 and find the same correctly enrolled. That is signed by Senator Kilgarin as Chair.

Mr. President, the first gubernatorial appointment report I have is for Public Health and Welfare it is on page 1414 of the Journal.

SENATOR CLARK: Senator Cullan.

SENATOR CULLAN: Mr. President, members of the Legislature, I would move to adopt the committee report which is found on page 1414 of the Journal. The Public Health and Welfare Committee held hearings on individuals to the Commission on the Hearing Impaired and the Rural Health Manpower Commission and the Advisory Committee to the Departments of Public Welfare, Institutions and Corrections. There were no votes against any of the confirmations. If you like more information I could provide it but at this time I would just urge you to support the committee recommendation.

SENATOR CLARK: Motion before the House is to approve the appointments. Is there any discussion? Senator Newell's light is on but I don't see him here. All right, all those who approve of the appointments will vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

SENATOR CLARK: Have you all voted? It takes 25 votes. Record the vote.

CLERK: 26 ayes, 0 nays, Mr. President, on the adoption of the Public Health and Welfare report.

LR 212, 266, 268, 269, 272, 274, 277,
278, 287, 292, 293, 295, 298, 304,
313, 316, 331, 359, 380, 388, 389
LB 278, 378, 378A, 480, 568, 602A,
604, 629, 629A, 669A, 688, 693, 708, 760,
835, 909, 967, 522, 212, 212A, 255, 255A

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RECESS

PRESIDENT LUEDTKI PRESIDING

PRESIDENT: Has everybody recorded your presence?
Record the presence, Mr. Clerk.

CLERK: Quorum present, Mr. President. Mr. President, I have a reference report from the Executive Board referring a gubernatorial appointment. (Page 1971 of the Legislative Journal.)

Mr. President, new resolutions. LR 388 offered by Senators Cullan and Newell. (Read LR 388 as found on pages 1973 and 1974 of the Legislative Journal.) Mr. President, 389 offered by Senator Wesely. (Read LR 389 as found on page 1974 of the Legislative Journal.)

Mr. President, I have an Attorney General's Opinion addressed to Senator Koch. That will be inserted in the Journal. (See pages 1974 through 1976 of the Legislative Journal regarding LB 602A.) That is on LB....Bingo, that is right, senator.

Mr. President, I have a message from the Governor addressed to the Legislature. (Read message. Pages 1976-77 of the Journal regarding LB 669A.)

Mr. President, two other communications from the Governor addressed to the Clerk. (Read communications regarding LBs 278, 378, 378A, 480, 568, 604, 629, 629A, 688, 693, 708, 760, 835, 909, 967. Page 1977 of the Journal.) A second letter to the Clerk, Mr. President. (Read letter regarding LBs 609, 609A, 669, 714, 714A, 854, 854A. Page 177 of the Journal.)

Mr. President, I have a gubernatorial appointment of Mr. Robert Borgmann to the Motor Vehicle Industry Licensing Board. (See page 1978 of the Journal.)

Mr. President, the bills that we have read on Final Reading this morning are now ready for your signature as well as the resolutions that were passed Wednesday of this week by the Legislature.

PRESIDENT: While the Legislature is in session and capable of transacting business I propose to sign and I do sign LR 212, LR 266 and LR 268, 269, 272, 274, 277, 278, 287, 292, 293, 295, 298, 304, 313, 316, 331, 359, and 380. And the LBs are engrossed legislative bills 522, 212, 212A, 255, and 255A. Okay, as I understand it we