

January 11, 1989

LB 341-372

LR 3, 5

able to assist other agencies, other investigating committees, other individuals who are involved. I have pledged my cooperation to some of them with whom I have visited. I know that Senator Chambers feels the same way. I know that other members of the committee feel the same way. I hope that we are all pursuing the same goals, same objectives and that we can work together. I want to say again that this committee will act with propriety, honesty and integrity. We intend to obtain the best counsel we possibly can and we intend to protect the rights of the innocent and to pursue those who might have been less than innocent. Mr. President and members, I ask for a positive vote on the resolution.

PRESIDENT: That was the closing. The question is the adoption of the resolution. All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please. Record, Mr. Clerk, please.

CLERK: 32 ayes, 0 nays, Mr. President, on adoption of LR 5.

PRESIDENT: The resolution is adopted. You have some new bills, Mr. Clerk.

CLERK: Mr. President, I do. New bills. Mr. President, Senator Labedz would like to have a meeting of the Reference Committee now in the Senate Lounge. Referencing Committee in the Senate Lounge, Mr. President, right now. Senate Lounge for Referencing Committee. New bills. (Read by title for the first time LBs 341-355 as found on pages 183-87 of the Legislative Journal.)

PRESIDENT: We will be at ease for a few minutes for referencing and receiving a few more bills.

EASE

PRESIDENT: (Microphone not activated) and capable of transacting business. I propose to sign and do sign LR 3. Would you like to continue, Mr. Clerk, please.

CLERK: Yes, Mr. President, thank you. New bills. (Read by title for the first time LBs 356-372 as found on pages 187-91 of the Legislative Journal.)

Mr. President, I have a new resolution offered by Senator Hall.

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LB 121, 183, 214, 320, 326, 334, 354  
362, 473, 489

want to just...? I would move that we adjourn until tomorrow morning at nine o'clock.

SPEAKER BARRETT: You have heard the motion to adjourn. Mr. Clerk, do you have anything for the record?

CLERK: Mr. President, yes, I do, thank you. Your Committee on Banking, Commerce and Insurance, whose Chair is Senator Landis, to whom was referred LB 214, instructs me to report the same back to the Legislature with the recommendation it be advanced to General File with amendments; LB 320, General File with amendments; LB 326, General File with amendments; LB 334, General File with amendments. Those are signed by Senator Landis as Chair. (See pages 566-71 of the Legislative Journal.)

Your Committee on Health and Human Services whose Chair is Senator Wesely, to whom was referred LB 354, instructs me to report the same back to the Legislature with the recommendation it be advanced to General File; LB 362, General File; LB 489 to General File, all signed by Senator Wesely. (See page 571 of the Legislative Journal.)

I have a series of notices of hearings from the Appropriations Committee, Mr. President, all signed by Senator Warner as Chair of the committee. Mr. President, a series of unanimous consent requests. Senator Withem to add his name to LB 183; Senator Korshoj to LB 473, Senator Smith to LB 121. That's all that I have, Mr. President.

SPEAKER BARRETT: Thank you. The question is the adjournment of the body until tomorrow morning at nine o'clock. Those in favor say aye. Opposed nay. Carried. We are adjourned. (Gavel.)

Proofed by:

  
Sandy Ryan

SPEAKER BARRETT: Thank you, Mr. Clerk. Proceeding immediately then to General File, LB 362.

CLERK: Mr. President, LB 362 was a bill introduced by Senators Wesely, Withem and Ashford. (Title read.) The bill was introduced on January 11, referred to Health Committee for public hearing. The bill was advanced to General File. I have no amendments to the bill, Mr. President.

SENATOR LABEDZ PRESIDING

SENATOR LABEDZ: Senator Wesely.

SENATOR WESELY: Thank you.

SENATOR LABEDZ: LB 362.

SENATOR WESELY: Thank you, Madam President. Members of the Legislature, LB 362 was legislation following up on two pieces of legislation passed by the Nebraska Legislature last year and two pieces of legislation passed and signed into law by the Congress of the United States. Let me deal first with the welfare reform aspect of this legislation and give you a quick summation of it and then go to the spousal impoverishment issue. On the welfare reform side of things, this Legislature last year passed LB 518. That bill provided for a continuation of child care and Medicaid health coverage for individuals moving off of welfare and into the work force. We provided that transition assistance, if you recall, last year to that degree, three months for child care, one year for the health benefits. The Congress followed the action of this Legislature and mandated that this transition type benefits would be made available but the difference between what they provide and what we provided last year is that instead of three months, as we call for, they require 12 months. So this bill would take the three-month extension of child care benefits that we passed last year and extend it to 12 months. In addition last year, the medical benefits that we provided for for 12 months had a contribution formula included and that would be eliminated under the provisions of the federal law, so no longer would you have that contribution mandate, but under the federal law you'd just have that coverage provided, period. The bill that was passed was the Family Support Act, the federal act, or another term, most wildly used term would be the Welfare Reform bill. So we come

into compliance in this regard and we need to do that, it's a mandate. On the spousal impoverishment income question, we passed a bill, LB 419, last year that extended the amount of income and assets that individuals could retain when they had a spouse that was placed in a nursing home situation. If you recall on the income side, we raised the income you could retain as a well spouse before your money went in to support the spouse in an institution; we raised it from somewhere in the range of \$350 or so up to \$475 a month. The provisions of the federal act, the Medicare Catastrophic Coverage Act that was passed last year, made major changes in this area and increases that \$475 figure we have, substantially, to a minimum of retention of at least \$786 later on this year which then would increase over time to a higher level than that. It does have a maximum amount of \$1,500 under that federal law that could be retained, but as you recall, we were talking about \$475 per month as a maximum and the federal is a \$1,500 maximum but again, that is the federal mandate and there is little we can do about it. In addition, on the resource side this Legislature determined that we would allow a splitting of assets. If you recall, last year we had a problem in that area and we allowed that split to be fifty-fifty between the well spouse and the institutionalized spouse up to \$50,000, or in other words, up to \$25,000 could be kept by the well spouse and 25,000 for the institutionalized spouse. What the Congress has done is mandated the fifty-fifty split and provided...what they call for is a \$12,500 minimum but under this legislation we have maintained a \$25,000 minimum so that is higher than mandated by the federal government. But the federal government also doesn't have the maximum of 25,000 which we had. They provide for \$60,000 maximum for half of the assets when you split them. So, in other words, in an example, under the old system that we passed under 419 last year, if you had \$30,000 in assets, you would be able to split that in half and keep \$15,000. Under this new bill, you'd be able to keep \$25,000. If you had \$50,000 in assets, you would be the same under the old and the new, you'd have \$25,000 in either case. If you had \$100,000 in assets under the bill we passed last year, you'd have the maximum of \$25,000 you could keep. Under this legislation, you would be able to keep \$50,000 and, again, the maximum would be 60,000. In other words, if you had \$120,000 in assets, you'd be able to keep 60,000. If you had \$500,000 in assets, you'd only be able to keep \$60,000. The other thing is, in addition to the asset split, you also are allowed to retain the home you're in, and equity value of \$4,500 in a motor vehicle and up to \$3,000 in a burial trust fund.

Burial spaces would be retained and a cash value of \$1,500 for life insurance. In summation, what we do here under this legislation is come in compliance with federal mandates under two bills that they passed. We provide for the transition benefit changes that are called for, we provide for the asset and income splits that are called for. We feel that this piece of legislation is needed and, of course, it does conform in some degree with what we passed last year but the federal government did take what we did and extend it far beyond what we had originally passed, but I would ask for support at this point in advancing this piece of legislation onto Select File and hopefully then, to Final Reading and passage.

SENATOR LABEDZ: Thank you, Senator Wesely. On the discussion of LB 362 advancement, Senator Nelson.

SENATOR NELSON: Senator Wesely, could I ask you a couple questions, please? I appreciate all of your explanation and so on and I think I understand, so on, and I, too, have compared the new Medicare Catastrophic Coverage Act. I think you're probably more familiar with this than I am, but there is a good possibility that that act will be repealed within the next year. Is it necessary that all of this be passed this year to conform with that and then as you know, growing daily, that act is under considerable...

SENATOR LABEDZ: Senator Wesely.

SENATOR NELSON: ...dissatis...people are more and more dissatisfied with it and, as I say, to postpone the implementation or repeal the entire act.

SENATOR WESELY: Yeah, I don't think they are going to repeal the entire act. They are concerned about fees that the older citizens are having to pay under that act and that is looking to be repealed but, as for these provisions, I don't see them being repealed and, in addition, we have to pass these this session because the mandate calls for them to be implemented this fall. We don't have any choice.

SENATOR NELSON: Thank you.

SENATOR LABEDZ: Thank you, Senator Nelson. Any further discussion on LB 362? Senator Wesely, there are no further lights on. Would you like to close on LB 362?

SENATOR WESELY: Thank you, Madam President. You know, Senator Nelson, or anybody else, if you have questions about this, I would be happy to go into more detail. It is a complicated area and it is one we dealt with I think quite well last year, but the federal government has seen what we did and some other states and they have moved forward and they've taken what we have done and extended it beyond that and so we've got to have this legislation to come into compliance. So I'd ask for the advancement and support for this bill.

SENATOR LABEDZ: Thank you, Senator Wesely. Senator Wesely was closing on the advancement of LB 362. All those in favor of advancement vote aye, opposed nay. Have you all voted? Please vote. Have you all voted? Senator Wesely.

SENATOR WESELY: Madam President, it looks like I think everybody has voted who is here. We're going to need to have a call of the house, evidently, so I'd ask for a call of the house.

SENATOR LABEDZ: The question is, shall the house go under call? Record, Mr. Clerk.

CLERK: 8 ayes, 0 nays to go under call, Madam President.

SENATOR LABEDZ: The house is under call. Members, return to their seats, record your presence. The house is under call. All members return to their seats and record your presence. Senator Dierks, would you please check in. Senator Smith.

SENATOR WESELY: Could we take call ins? I'd authorize call ins at this point.

SENATOR LABEDZ: Senator Wesely has requested call ins. Would you please record your presence and we will accept call ins.

CLERK: Senator Baack voting yes. Senator Chambers voting yes.

SENATOR LABEDZ: Senator Warner, would you please check in. We're looking for Senator Barrett, Senator Goodrich, Senator Bernard-Stevens.

CLERK: Senator Wehrbein voting yes. Senator Beyer voting yes. Senator Lindsay voting yes. Senator Goodrich voting yes.

SENATOR LABEDZ: Record the vote, Mr. Clerk.

CLERK: 25 ayes, 0 nays, Madam President, on the advancement of LB 362.

SENATOR LABEDZ: LB 362 is advanced. Mr. Clerk...raise the call. Mr. Clerk, LB 362A.

CLERK: Madam President, 362A offered by Senator Wesely. (Read title.)

SENATOR LABEDZ: Senator Wesely.

SENATOR WESELY: Thank you, Madam President. Some people weren't here earlier and let me reiterate where we're at. LB 362 is the bill we need to pass to come into compliance with two bills that Congress passed last year, one dealing with welfare reform, one dealing with catastrophic coverage. The only differences in what is mandated by the federal government and what this bill provides for is in the minimums allowed on the resource asset retention under the spousal impoverishment issue which we passed last year in LB 419. There we provide that you can keep \$25,000, the Congress only had a minimum of \$12,500. The Congress also has a maximum of \$60,000, which we have to have to keep us in compliance. Otherwise, we are attempting, through this legislation, to meet that federal mandate and it's important that we do that this year. One other item. The A bill is slightly different than the budget bill that the Governor introduced that does provide for this, having the mandate that we have to provide for it, it is in the Governor's budget. There was information that has come out since the budget was developed and even probably since the A bill was developed and we're going to continue to work with Senator Warner and the Appropriations Committee in how we get all the figures together. But nevertheless we do need to have the A bill to go along with the bill. If you have any questions again, I'll be happy to answer them.

SENATOR LABEDZ: Thank you, Senator Wesely. Senator Smith, on the advancement of LB 362A.

SENATOR SMITH: Thank you, Madam President. I would like to ask Senator Wesely, and he did do some clarifying because I told him I had some concerns. I want to make it very clear, Senator

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LB 320, 326, 334, 354, 354A, 362, 362A  
365, 489

County senators supported it and some of them opposed it. So it was very difficult for me, being 150 miles from Douglas County, to know exactly what to do and this is why I held out for the amendment that it be brought up to a vote, both whether they would allow Douglas County to purchase Ak-Sar-Ben, and also if Douglas County had to issue bonds to do this, it would have to be brought up to a vote of Douglas County voters. So I just...and I'm going to support Senator Labedz in withdrawing this now.

PRESIDENT: Thank you. Senator Labedz, would this be your closing, Senator Labedz?

SENATOR LABEDZ: Yes.

PRESIDENT: All right.

SENATOR LABEDZ: Thank you, Mr. President. I failed to also thank the senators of the Ag Committee that supported the bill in the committee hearing and every time they had an exec session and I do appreciate that fact. And Senator Hefner is right, it did allow a vote of the people as the committee amended the bill and perhaps it may come back again. In fact, I know it will and I appreciate the fact that Senator Johnson has offered the county board an interim study on the issue, and as I say again, I appreciate the fact, the support that I got and the co-sponsors also of LB 365. I urge the affirmative vote on the withdrawal of LB 365.

PRESIDENT: Thank you. The question is, shall LB 365 be withdrawn? All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 33 ayes, 0 nays, Mr. President, on the motion to withdraw LB 365.

PRESIDENT: LB 365 is withdrawn. Would you like to read in some things, Mr. Clerk, please?

CLERK: Mr. President, your Committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 320 and recommend that same be placed on Select File with E & R amendments attached, LB 326 Select File E & R amendments, LB 334 Select File with E & R, LB 354 Select File, LB 354A Select File, LB 362 Select File, LB 362A Select File, LB 489



File.

CLERK: Mr. President...

SPEAKER BARRETT: The call is raised. Excuse me, the call is raised.

CLERK: ...LB 362 is on Select File. I have no E & R. I do have an amendment to the bill by Senator Smith.

SPEAKER BARRETT: Senator Jacklyn Smith, please.

SENATOR SMITH: Thank you, Mr. Chairman. I don't know, you have got me so flustered, I am afraid to stand up right now. First of all I would like to ask, this has not been printed, has it, this amendment? Pat, has this been printed?

CLERK: No, Senator, it hasn't. I can read it very quickly if you would like me to do that.

SENATOR SMITH: I wish you would because I don't have a copy of it here.

CLERK: Senator Smith's amendment reads as follows, Mr. President: On page 13, line 9, strike "twenty-five" and insert "twelve".

SENATOR SMITH: Okay, thank you. It is a very, very short amendment. It just simply, as he says, strikes twenty-five and inserts twelve, and what that means is that this amendment will reduce the community spouse resource allowance from 25,000 to \$12,000; \$12,000 is right now the federal minimum amount that we could lower it to. Since the state already is generous in other areas including assets up to \$60,000, and possibly up to 1,550 monthly allowance, as far as home resources and so on is concerned, it is reasonable to keep the amount of resources the spouse is allowed to keep in the home at the federal minimum. Some of the other things, as you remember, that they are going to be provided is a home in which they reside with no cap on the value of that home, and I mean no cap, we've just discovered. They could have a home worth any amount of money and be able to keep that home. They could have equity value on one motor vehicle up to \$4,500 worth, and they could have, according to the other bill that we are putting on the floor, \$4,000 in an irrevocable burial trust fund, which will go up to \$5,000. So

based on that, I believe what we have here based, you know, the federal level has placed this requirement on us, but it appears to be almost a bill for the wealthy. So this is the only thing that we can do is lower the \$25,000 then down to \$12,000 of the resource allowance, and I would ask for your support on this amendment.

SPEAKER BARRETT: Thank you. Discussion on the Smith amendment to LB 362. Senator Wesely, please.

SENATOR WESELY: Thank you. Mr. Speaker, members, I would support the Smith amendment, although it will reduce the amount the original bill calls for in protection of assets for individuals. Having reviewed the situation since our discussion on General File, the bill we passed last year did for the first time protect well spouses in terms of assets and income. Well, I guess they did have some protection before that in terms of income, but it did increase their income protection and their asset protection, and then the Congress's changes building on that base were much greater than we had called for last year, and so, really, the \$25,000 minimum, although it can be justified, I think, at the same time, considering all the other improvements in terms of what we protect in income and what we protect in assets, I guess I could live with reducing it down to \$12,000. We discussed it with Senator Withem, and he felt, he is not here, but he felt that that would be okay. And, so, let me again give you...back up a little bit about this bill. Federal reform in welfare occurred last year. It came after we passed our spousal impoverishment and our ADC coverage changes. We are following up with LB 362 to implement the extensions beyond what we did last year to match up with the federal program. We need to do that. We have got to do that. The only difference in this bill with what we have to do in terms of minimums by the federal government is the particular point Senator Smith is raising. That is the minimum...

SPEAKER BARRETT: Excuse me, Senator Wesely. (Gavel.) The house is not in order. Okay.

SENATOR WESELY: Thank you, Mr. Speaker. The only, again, the only difference in the issues of what we have any option on in this whole piece of legislation is the very question Senator Smith raises because the minimum under the federal standards is \$12,000. That is to say you get half of the assets. You divide the assets in half, but you get at least 12,000. So let's say

your have \$15,000 in assets. You get 12,000 and the 3,000 would go to the care of your spouse in a nursing home, for instance. You would then go up, say, 20,000 in assets, again, you would keep 12,000 and 8,000 would go into care for the spouse in the nursing home. Then at 25,000, from that point up in assets, you would just start splitting it in half. So, then you would go up to 120,000 in assets, you would be able to keep 60,000, and 60,000 would go to the care of your spouse, and then from that point on, above that in assets, you couldn't keep it. Everything would go toward the care of your spouse in the nursing home. So that is really where we are at on it, and the savings on this amendment on this bill, it is now calling for about 1.6 million in General Fund money. That is matched by a 2.35 million in federal. It would drop it by over \$600,000. So by adopting this amendment, Senator Smith is saving us \$600,000 that I have got a few ideas that could be perhaps better spent on some other programs we have pending. So, I think in terms of priorities, there are better spending priorities for that money, and it is a significant amount of money, and so, at this time, I would support the amendment and suggest you support it as well.

SPEAKER BARRETT: Thank you. We are operating at a bit of a handicap this morning. About half of our console up here is not operational. Is there anyone else that would care to speak to the amendment, would you please raise your hand so that we can double-check our system? Anyone else? Senator Beck, thank you.

SENATOR BECK: Thank you, Mr. President and members of the body. I would rise to support Senator Smith's amendment, and with the idea that it might be a cost savings to the taxpayer, I think we could all spend it, but I like her amendment very much and I think we should pass this immediately.

SPEAKER BARRETT: Thank you. Senator Schmit, please. Senator Schmit, excuse me. Would you please push your button, the Chair button, is it on? Okay, thank you very much. Proceed.

SENATOR SCHMIT: Mr. President and members, I will support the amendment and support the bill. I just want to point out, however, that no matter how well-intended you work on these kinds of issues, it doesn't prevent the individual who knows they have some difficulty from protecting assets in other ways. I am not sure just what the answer is except that I would just like to remind you that the amount of assets we are talking about here could dissipate very rapidly given the present cost

of care, and so, although this is a well-intended effort to hold down the cost of this kind of care, I just want to remind you that eventually it isn't going to make any difference anyway.

SPEAKER BARRETT: Senator Moore, did you care to discuss the amendment? Thank you. Senator Crosby, on the Smith amendment, please.

SENATOR CROSBY: Thank you, Mr. Speaker. I would just like to ask Senator Smith a question, if she would just answer quickly for me.

SPEAKER BARRETT: Senator Smith, would you respond, please?

SENATOR SMITH: Yes.

SENATOR CROSBY: I guess, I read through this again to be sure I understand it, and I watched last year when Senator Withem's bill went through, what do you consider \$25,000 worth of assets. What is included? Is that cash assets? I know it says what the Social Security says, but what, in your own mind, what do you think?

SENATOR SMITH: Assets to me would be anything over and above their monthly income allowance, the home, the car, the burial expense fund, those kind of things.

SENATOR CROSBY: Okay.

SENATOR SMITH: Or you could (interruption) your savings...

SENATOR CROSBY: Savings or...

SENATOR SMITH: Up to \$25,000, interest returns,...

SENATOR CROSBY: Anything you can turn into cash?

SENATOR SMITH: Yeah, which would be assets, something that they could convert, yes.

SENATOR CROSBY: Okay, thank you.

SPEAKER BARRETT: Thank you. Any other discussion on the amendment? Senator Smith, would you care to close?

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LB 362A, 362

SENATOR SMITH: All I would say in closing is that I hope people will support the amendment, and I will just echo something that I heard Senator Warner say to Senator Wesely. He said why don't we just save the money instead of thinking of other ways to spend it.

SPEAKER BARRETT: Thank you. The question before the body is the adoption of the Smith amendment to LB 362. Those in favor vote aye, opposed nay. Have you all voted? Please record.

CLERK: 26 ayes, 0 nays, Mr. President, on adoption of Senator Smith's amendment.

SPEAKER BARRETT: The amendment is adopted. Anything else on the bill, Mr. Clerk?

CLERK: I have nothing further on the bill, Mr. President.

SPEAKER BARRETT: Senator Lindsay, please, would you care to advance the bill?

SENATOR LINDSAY: Mr. President, I move that LB 362 as amended be advanced to E & R for Engrossing.

SPEAKER BARRETT: You have heard the motion posed by Senator Lindsay to advance LB 362 to E & R for Engrossing as amended. Those in favor say aye. Opposed no. The ayes have it. The motion carried. The bill is advanced. To the A bill, LB 362A.

CLERK: Mr. President, on the A bill, I have no E & R but I do have an amendment to the bill from Senator Wesely.

SENATOR WESELY: Thank you, Mr. Speaker, members. With the adoption of the Smith amendment on the last bill, we need to reduce the A bill by the six hundred and some thousand that I mentioned. So this amendment would reduce that General Fund and other appropriate adjustments in the funding of the bill. I would move for the adoption of the amendment.

SPEAKER BARRETT: Thank you. Is there discussion on the motion to advance the A bill? Seeing none. Those in favor of that motion, say aye. Excuse me, on the amendment, excuse me, vote aye. Those opposed to the adoption of the amendment vote no. Record, please.

March 6, 1989

LB 87, 318, 340, 362, 362A, 390, 440  
489, 541, 545A, 563, 587, 605, 661  
687, 728, 793, 809  
LR 16, 44, 45

SPEAKER BARRETT: With your permission, perhaps the Clerk could read some items in before we take a vote, Senator Goodrich? Thank you.

ASSISTANT CLERK: Mr. President, your Committee on Business and Labor, whose Chairperson is Senator Coordsen, reports LB 541 to General File with amendments; LB 605, indefinitely postponed. Committee on Enrollment and Review reports LB 318 as correctly Engrossed; LB 362, LB 362A, LB 440, LB 489. (See pages 993-97 of the Legislative Journal.)

New resolutions. (Read brief descriptions of LR 44 and LR 45 for first time. See pages 997-98 of the Legislative Journal.)

I have a notice of committee hearing from the Business and Labor Committee on gubernatorial appointments. Your Committee on Revenue, whose Chairperson is Senator Hall, reports LB 793 to General File; LB 390, indefinitely postponed; LB 563, indefinitely postponed; LB 661, indefinitely postponed; LB 687, indefinitely postponed; LB 728 and LR 16CA, indefinitely postponed. (See page 998 of the Legislative Journal.)

I have amendments to LB 587 from Senator Schmit to be printed; and from Senator Pirsch to LB 87. New A bill, LB 545A, from Senator Baack. (Read by title for the first time. See page 999 of the Legislative Journal.)

Amendments to be printed to LB 340 from Senator Chambers. Unanimous consent request from Senator Pirsch to add her name as a co-sponsor of LB 809, and an announcement from Senator Rod Johnson that the Agriculture Committee will meet in a brief Executive Session under the north balcony, immediately following adjournment today. That's all that I have, Mr. President. (See page 1000 of the Legislative Journal.)

SPEAKER BARRETT: Thank you. You've heard the motion to adjourn offered by Senator Goodrich. Those in favor say aye. Opposed no. Ayes have it, motion carried. We are adjourned until tomorrow morning.

Proofed by:

Marilyn Zank  
Marilyn Zank

May 17, 1989

LB 44, 44A, 49, 49A, 134, 158, 158A  
162, 162A, 175, 175A, 182, 182A, 198  
211, 228, 228A, 308, 309, 309A, 362  
377, 429  
LR 88

Mr. President, bills read on Final Reading today have been presented to the Governor. (Re: LB 44, LB 44A, LB 49, LB 49A, LB 134, LB 158, LB 158A, LB 162, LB 162A, LB 175, LB 175A, LB 182, LB 182A, LB 198, LB 228 and LB 228A. See page 2482 of the Legislative Journal.)

Mr. President, amendments to be printed, Senator Hall to LB 211, Senator Ashford to LB 362, Senator Weihing to LB 377, Senator Lynch to LB 377. (See pages 2482-88 of the Legislative Journal.)

Enrollment and Review reports LB 308 as correctly engrossed, LB 309 and LB 309A as correctly engrossed.

And, Mr. President, I have a communication from the Chair of the Reference Committee rereferring study resolution LR 88 from the Banking Committee to the General Affairs Committee. That is signed by Senator Labedz as Chair. And that is all that I have, Mr. President.

PRESIDENT: We'll go to Final Reading on number 9. We'll start with LB 429, but we need to get into our seats and get ready for Final Reading, please. Mr. Clerk, LB 429.

CLERK: The first motion...I have motions on 429, the first is by Senator Wesely. Senator Wesely would move to return the bill, the purpose being to strike the enacting clause.

PRESIDENT: Senator Wesely, please.

SENATOR WESELY: I will withdraw that amendment at this time.

PRESIDENT: All right, it is withdrawn.

CLERK: Mr. President, Senator Moore and Lindsay would move to return the bill for a specific amendment. (Moore-Lindsay amendment appears on page 2489 of the Journal.)

PRESIDENT: Senator Moore, please.

SENATOR MOORE: Well, it's another one of those cows to the ring and see who bought her this time. This time it's one of my old rangy old cow. This one I believe in. This is the Bergan Mercy amendment. Now 429 is a bill dealing with certificate of need, 429 introduced by Senator Baack and the intention of this bill I

PRESIDENT: The amendment is adopted. Senator Nelson.

SENATOR NELSON: I ask to move the bill.

PRESIDENT: Any further discussion? If not, the question is the advancement of the bill. All those in favor say aye. Opposed nay. It is advanced. LB 362.

CLERK: LB 362, Mr. President, Senator Ashford would move to return the bill for a specific amendment. (The Ashford amendment appears on page 2482 of the Legislative Journal.)

PRESIDENT: Senator Ashford, please.

SENATOR ASHFORD: Thank you, Mr. President, and members, this amendment deals with the emergency assistance program which is...currently provides assistance to needy families with minor children who are threatened with a crisis situation when there are no other resources available through other assistance programs. Funding is provided by a combination of 50 percent federal and 50 percent county funds. Recently, the federal representatives of the Department of Health and Human Services reviewed our particular...the way we structure our emergency assistance program. In this case, as I mentioned, the state's current program is administered by the counties and the counties pay the 50 percent match requirement. The counties pay approximately \$250,000 and the remaining amount for the program is federal funds of two hundred...approximately \$250,000 per year. However, after the audit was completed it was determined that the federal government, in order to continue to provide the match and to avoid imposition of federal sanctions, it was necessary that the program actually be administered directly by the Department of Social Services rather than by each individual county. The amendment to LB 362 is an amendment which simply adds the words "emergency assistance" to the...to the portion of the bill to make it clear that the Department of Social Services will be the administering arm for this program. The statute which requires the counties to provide that the funding will continue and it will enable the county...or the program to continue to get its 250,000, approximately \$250,000 in federal fund match, the program...this is basically a technical change to comply with federal rules and regulations. And I would move...ask that the bill be returned to Select File for the purpose of making that amendment. Thank you.



PRESIDENT: Senator Wesely, please.

SENATOR WESELY: Yeah, Mr. President and members, I would support the amendment. I think Senator Ashford did summarize it accurately. The federal government is asking us to do this. We do, I believe, have to take this step. It would place on the state the administrative responsibility for this program, continue to have the counties fund half of the cost of the program but I don't know that we have any option at this point other than proceed with this amendment. So I would...I would support the amendment.

PRESIDENT: Thank you. Senator Warner, please.

SENATOR WARNER: Yeah, Mr. President and members of the Legislature, initially, perhaps I would ask a question of Senator Ashford.

PRESIDENT: Senator Ashford, please.

SENATOR ASHFORD: Okay, hopefully, I can answer it. I'm trying to find the actual amendment here.

SENATOR WARNER: Well, I'm not concerned about the actual amendment as I am concerned about the concept that I think I understood you to say and that is it may be only complying with the federal audit and I certainly understand that. But what I would question is whether or not the state can administer under our State Constitution the prohibition of property tax for a state purpose, whether it can administer the \$250,000 that is raised through property tax at the local level. I would have a strong doubt in my mind, at least, that that is possible and it may well be that the way it's drafted that somehow or other it is. But in some instances, at least, that issue may result in a county refusing to pay on that basis and if one does, they all will, and then you have a program with no money. And if there is a (interruption).

SENATOR ASHFORD: Yes, I think that the department...I believe the department...and maybe Senator Wesely can help out on this, but I believe the Department of Social Services can contract for those services to be provided still by the county and that that would be appropriate to do.

SENATOR WARNER: I...if the...that's different than what I heard

you say.

SENATOR ASHFORD: All right. I believe that...

SENATOR WARNER: If there is a contract, there is not a problem.

SENATOR ASHFORD: All right, thank you, Senator Warner. I believe that's the intent unless Senator Wesely has a different view about that. Of course, that's not my time so I don't know. Maybe Senator Wesely can answer that question.

SENATOR WESELY: I...actually, I think Senator Warner has raised a legitimate question. It's the same question I raised. You...you can't have the state handling a program paid for by the counties. You can't have property taxes paying for a state program. This amendment was brought to us by the administration, actually brought to Senator Ashford and I asked the same question. I'm not sure I have had it answered satisfactorily. I would think that you may be right, Senator Warner. As for the contracting, I don't think that's the case, Senator Ashford. I think we're...to have the state administer this program, that's a condition of the federal money so what the situation is, let me be very honest with you, Senator Warner, is that the counties have agreed evidently in negotiations with the administration to allow the state to take over administration to satisfy the federal mandate and yet continue to have county monies funding half of the program. That's what I understand the agreement is. I'm not so sure that can be done, myself.

SENATOR WARNER: Thank you, Senator Wesely. I guess it's always unfortunate we have these complicated issues at the end but it always comes out that way and it just can't be helped. But I...it would...I would have some serious concern that to adopt this I guess you could build in a deficit. I don't know that the authorization for that is there but it would seem to me that even an agreement between the city...the counties and the state, I would assume, could not circumvent the Constitution. So I'm not...I'm trying to make sure that I understand the effect, is all I'm doing, Senator Ashford.

SENATOR ASHFORD: Well, I...could I...

PRESIDENT: One minute.

SENATOR ASHFORD: ...I think what I said in answer to your question is, you know, theoretically correct. Basically, the counties will continue to provide the substance...they will basically continue to administer the program. The only difference will be that the...there will be a state worker who will...who will sign off on a general assis...or an emergency assistance application as a way of getting around the...this federal requirement or as a way of compliance with this federal requirement as long as there is a state sign-off on the application. The county would actually still continue to do the same...the same work that they are doing now. There would simply be a sign-off on the state level. Now...

PRESIDENT: Time has expired.

SENATOR ASHFORD: ...I understand the point. I guess I will have to think about it between...and talk, figure it out between now and...

PRESIDENT: Okay. Senator Wesely, did you wish to speak on it?

SENATOR WESELY: Mr. President and members, this...this issue was brought to me and I did not carry the amendment because I thought state money ought to take over this program. I thought we were heading ourselves into trouble by having the state take over the administration of this program without state funding. I think that's simply my view. Perhaps we can get by with the amendment as it is and I'm willing to support it. But I think, ultimately, the state ought to constitutionally have to take over the funding of the program at \$250,000. So I think, Senator Warner, I think you are absolutely right and, Senator Ashford, maybe you have a better idea of where we're at but my interpretation of the situation is that we can go forward with your proposal but I think, ultimately, we'll have to end up paying for it. That's all. I give you my time.

SENATOR ASHFORD: It's not my proposal and you're the expert in Social Services. So if you think there is a problem, then I think there is a problem. I should have brought it to you, you know.

PRESIDENT: Senator Ashford, would you like to close?

SENATOR ASHFORD: Okay, I think that I will...yeah, I will just close and say that at this point I understand Senator Warner's

issue and though I think that we do need to make the statute change in order to ensure the federal funds, that federal funds continue for the program and then we'll have to deal with the funding next year. But, at this point, I think the issue has been raised and we need to look at it but I certainly encourage the body to...to advance the amendment now and we'll look at it, see where we go with it.

PRESIDENT: The question is to return the bill to Select File. All those in favor vote aye, opposed nay. Ladies and gentlemen, I need a little help, please. Thank you. Record, Mr. Clerk, please.

CLERK: 26 ayes, 0 nays on the motion to return the bill, Mr. President.

PRESIDENT: The bill is returned. Now we're on the motion. Senator Ashford.

SENATOR ASHFORD: I move the amendment, Mr. President. I think that we have discussed it enough.

PRESIDENT: Thank you, Senator Warner, please.

SENATOR WARNER: Well, I just would...another question or two, I guess, if you happen to know or are aware, Senator Ashford, is the 250,000...is that...that is the amount of direct aid, I assume, that is required for the program to the individual aid and I assume there is an administrative cost outside of that.

SENATOR ASHFORD: Yes, that's...and I don't know the percentages but, yes, there is a history of cost.

SENATOR WARNER: The assumption, I suppose, we're doing here is that the...that the state will absorb...the counties are going to continue to do the administrative cost...

SENATOR ASHFORD: Yeah.

SENATOR WARNER: ...with the state just signing off?

SENATOR ASHFORD: That's my understanding, Senator Warner, that the counties will...that there is...the state will not absorb any of the cost other than whatever the cost would be of checking off or signing off on the particular form at this

point.

SENATOR WARNER: Do you know...

SENATOR ASHFORD: And maybe...

SENATOR WARNER: ...as I recall, the state gets audited too for compliance with a lot of these programs and, in the event that there is error in their determination of eligibility and those kinds of factors, does the state...I assume the state would have to make up since they would be technically responsible for those errors should they occur. I am assuming this.

SENATOR ASHFORD: I think that's correct. I think that once that...that responsibility would attach, Senator Warner. I mean, if they are...if they are doing the checking off, they would have responsibility to...

SENATOR WARNER: I'm not real anxious to absorb more cost but...but as I'm listening to the discussion I'm almost wondering if it would have been simpler just to adopt...adopt it and fund it and not worry about what...maybe I'm worrying about a problem that doesn't exist but I can't believe that somebody would not refuse to pay.

PRESIDENT: Thank you. Senator Wesely, please.

SENATOR WESELY: Thank you, Mr. President, and members, I'm sorry about the confusion. I feel fairly clearly that Senator Warner is right. We tried to work something out on this amendment. I think the better course of action...and I haven't had time to talk to Senator Ashford about this. Senator Ashford, I think what we ought to do, frankly, is either reject your amendment at this point and go with another amendment that takes over both the administration and the funding of the program or adopt your amendment and then adopt this second amendment to follow up. I think we have a constitutional problem here. I really feel that way. So I guess what I'm saying is I would ask that either we...I guess we have to vote on this amendment but I'm suggesting we reject the amendment, go back to Final Reading and the return for an amendment that I've got which would take over the county function of not only administration but funding. It's the clean, direct, clear way to deal with the problem. It's...I just can't see how we can make this work the way it's being proposed right now. And,

Senator Warner, you were right in raising those questions.

PRESIDENT: Senator Ashford, would you like to close, please?

SENATOR ASHFORD: I will tell you what I'm going to...what I'm going to do at this point. I think rather than...I'm just going to withdraw the amendment at this point, Mr. President.

PRESIDENT: Okay, it is withdrawn. Senator Warner.

SENATOR WARNER: Wasn't it returned?

PRESIDENT: Pardon me?

SENATOR WARNER: Have you not voted on the return? Would it make more sense, Mr. President, or Senator Ashford, to return it and leave it set there pending this adoption? Well, you can't...

SENATOR ASHFORD: I'm going to withdraw the amendment.

PRESIDENT: Okay, Senator Ashford, would you like to make a motion to readvance the bill?

SENATOR ASHFORD: Yeah, and then I will move to readvance the bill.

PRESIDENT: Okay, you have heard the motion. Any discussion? If not, all those in favor say aye. Opposed nay. It is readvanced. Anything further on that bill, Mr. Clerk?

CLERK: Mr. President, Senator Wesely would move to return the bill for a specific amendment. (The Wesely amendment 1676 appears on pages 2586-87 of the Legislative Journal.)

PRESIDENT: Senator Wesely, please.

SENATOR WESELY: Thank you, Mr. President. This would do what Senator Ashford is talking about plus deal with the question that Senator Warner raised, would have the state take over the...not only the administration but funding for the program. It needs to be done by...in terms of both the federal government and the Constitution. Senator Ashford is right, it's just the agreement that had been worked out simply would eventually fall apart. And we might as well just take care of it now. He was

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right, it's just we need to do this, I think. So I would move to return the bill and take care of this problem.

PRESIDENT: Thank you. The question is, shall the bill be returned? All those in favor vote aye, opposed nay. Need a little help, ladies and gentlemen, please. Thank you. Record, Mr. Clerk.

CLERK: 26 ayes, 0 nays, Mr. President, on the motion to return the bill.

PRESIDENT: The bill is returned. Senator Wesely.

SENATOR WESELY: Okay, again, Mr. President, this takes care of the emergency assistance problem with the state taking over administration as well as the funding. The counties would be saved \$250,000. The state would have to pick that up but I don't see any other alternative. So I would move the adoption of the amendment.

PRESIDENT: Thank you. The question is the adoption of the Wesely amendment. All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 25 ayes, 0 nays, Mr. President, on adoption of Senator Wesely's amendment.

PRESIDENT: The Wesely amendment is adopted. Senator Wesely, would you like to readvance the bill?

SENATOR WESELY: I move to return to readvance the bill, please.

PRESIDENT: You have heard the motion. All in favor say aye. Opposed nay. It is advanced. Anything further on the bill, Mr. Clerk?

CLERK: No, Mr. President, but I understand because of that action the A bill needs to be addressed. Consequently, Senator Wesely would move to return LB 362A for a specific amendment. (The Wesely amendment appears on page 2588 of the Legislative Journal.)

PRESIDENT: All right, 362A then. Senator Wesely.

SENATOR WESELY: Thank you. This would fund then the amendment

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LB 177, 187A, 209, 279, 285, 285A, 289A  
362, 362A, 651A, 761A, 781

question is the striking of the enacting clause. Those in favor vote aye, opposed nay. Record.

CLERK: 35 ayes, 0 nays, Mr. President, to strike the enacting clause.

SPEAKER BARRETT: Thank you. Motion is adopted. The amendment is adopted. The enacting clause is stricken.

CLERK: Mr. President, if I may, your Committee on Enrollment and Review respectfully reports that they have carefully examined and engrossed Legislative Bill 177 and fine the same correctly engrossed LB 187A, LB 279, LB 289A, LB 362, LB 362A, LB 651A, and LB 781, all signed by Senator Lindsay as Chair.

Mr. President, the Enrollment Clerk has presented to the Governor LB 285 and LB 285A read earlier this evening on Final Reading.

SPEAKER BARRETT: Mr. Clerk.

CLERK: Mr. President, I have one final item. I have a unanimous consent request to unbracket LB 209, which has been pending on Final Reading.

SPEAKER BARRETT: Thank you. If there are no objections, so ordered. I have just been advised that E & R, the Bill Drafters, have done an amazingly good job and they are to be congratulated. They've been working hard on all of the bills. They've been processed and have been returned to the floor in order that adjournment might be possible should it be the will of the body. With that announcement, we can proceed into Final Reading now if that is the body's desire. We can adjourn until Monday morning at nine o'clock. Monday will be dedicated to Final Reading in its entirety, Final Reading all day. I think we need to say thank you to the Bill Drafters for the work that they have done. It is up to the body. Senator Hall.

SENATOR HALL: Mr. President, I would move that we adjourn until Monday morning at 9:00 a.m..

SPEAKER BARRETT: You've heard the motion to adjourn until Monday morning at nine o'clock. Those in favor please vote aye, opposed nay. Record, please. Members take your seats for Final Reading. Motion fails. (See vote of 7 ayes, 31 nays, as found



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LB 357, 357A, 362A, 362

CLERK: (Record vote read. See page 2699 of the Legislative Journal.) 33 ayes, 14 nays, 1 present and not voting, 1 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 357 passes. LB 357AE.

CLERK: (Read LB 357A on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 357A with the emergency clause attached pass? All in favor vote aye, opposed nay. Have you all voted? Please record. Correction, 33 votes are necessary. I'm sorry. Have you all voted? Record, please.

CLERK: (Record vote read. See page 2700 of the Legislative Journal.) 34 ayes, 13 nays, 1 present and not voting, 1 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 357AE passes. LB 362.

CLERK: (Read LB 362 on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 362 pass? Those in favor vote aye, opposed nay. Record, please.

CLERK: (Record vote read. See page 2701 of the Legislative Journal.) 48 ayes, 0 nays, 1 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 362 passes. LB 362A.

ASSISTANT CLERK: (Read LB 362A on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 362A pass? Those in favor vote aye, opposed nay. Have you all voted? Record.

ASSISTANT CLERK: (Record vote read. See page 2702 of the Legislative Journal.) The vote is 46 ayes, 0 nays, 2 present and not voting, 1 excused and not voting, Mr. President.

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LB 272A, 311, 355, 355A, 357, 357A, 362  
362A, 377

where others have not a lack of priority or a responsibility for this issue, but a higher priority elsewhere which is endangered if this bill passes. In a Legislature of Timmy Hall's I'd run this bill in a minute, but that's not the situation today and, frankly, I need to live to fight another day and that's why I make this motion. I move to bracket 272 (sic) until next year.

SPEAKER BARRETT: Thank you. You've heard the motion to bracket the bill until January 3 of 1990. Those in favor of the bracketing motion vote yes, those opposed vote no. Have you all voted? Please record.

ASSISTANT CLERK: 25 ayes, 21 nays to bracket the bill until January 3, 1990, Mr. President.

SPEAKER BARRETT: The bracketing motion is adopted. The bill is bracketed. While the Legislature is in session and capable of transacting business, I propose and I do sign LB 355 and LB 355A, LB 357 and LB 357A, LB 362 and LB 362A, LB 311 and LB 377. (See page 2707 of the Legislative Journal.) Anything for the record, Mr. Clerk?

ASSISTANT CLERK: I have nothing for the record, Mr. President.

SPEAKER BARRETT: Senator Hefner, please.

SENATOR HEFNER: Mr. President, I move that we recess till one-thirty.

SPEAKER BARRETT: You've heard the motion to recess until one-thirty. All in favor say aye. Opposed no. Ayes have it, we are recessed until one-thirty.

RECESS

PRESIDENT NICHOL PRESIDING

PRESIDENT: (Microphone not activated.) ...balcony, Senator Wehrbein has some guests. We have 40 fourth graders from Nebraska City, and their teachers. Would you folks please stand so we may welcome you to the Legislature? All of you students, please stand. Thank you for visiting us today. If you would start making your way to your seats, please, we would begin