

January 19, 1989

LB 94, 247, 570, 576, 683-808

as yet, please contact Joanne immediately. If you don't have the bill that you are expecting, please contact the Bill Drafters Office immediately. Mr. Clerk.

CLERK: Mr. President, for the record, I have received a reference report referring LBs 496-599 including resolutions 8-12, all of which are constitutional amendments.

Mr. President, your Committee on Banking, Commerce and Insurance to whom we referred LB 94 instructs me to report the same back to the Legislature with the recommendation that it be advanced to General File with amendments attached. (See pages 320-21 of the Legislative Journal.)

Mr. President, I have hearing notices from the Judiciary Committee signed by Senator Chizek as Chair, and a second hearing notice from Judiciary as well as a third hearing notice from Judiciary, all signed by Senator Chizek.

Mr. President, new bills. (Read LBs 683-726 by title for the first time. See pages 321-30 of the Legislative Journal.)

Mr. President, a request to add names, Senator Korshoj to LB 570, Senator Smith to LB 576, Senator Baack to 570 and Senator Barrett to LB 247.

SPEAKER BARRETT: Stand at ease.

EASE

SPEAKER BARRETT: More bills, Mr. Clerk.

ASSISTANT CLERK: Thank you, Mr. President. (Read LBs 727-776 by title for the first time. See pages 331-42 of the Legislative Journal.)

EASE

SPEAKER BARRETT: More bill introductions.

ASSISTANT CLERK: Thank you, Mr. President. (Read LBs 777-808 by title for the first time. See pages 343-50 of the Legislative Journal.)

CLERK: Mr. President, I have reports. Your Committee on

February 1, 1989. LB 61, 90, 114, 183, 263, 264, 327
349, 389, 408, 412, 612, 744
LR 21, 22

Education gives notice of change of hearing location regarding LB 89 as well as notice of hearing. I also have notice of hearings from the Government, Military and Veterans Affairs Committee. That is signed by Senator Baack as Chair.

Your Committee on Government, Military and Veterans Affairs whose Chair is Senator Baack to whom was referred LB 263 instructs me to report the same back to the Legislature with the recommendation it be advanced to General File. LB 327 General File with amendments, LB 408 General File with amendments, LB 389 indefinitely postponed. Those are signed by Senator Baack. (See pages 536-37 of the Legislative Journal.)

Education Committee whose Chair is Senator Withem reports LB 744 to General File, LB 183 General File with amendments, LB 264 indefinitely postponed, LB 612 indefinitely postponed. Those are signed by Senator Withem as Chair. (See pages 537-42 of the Legislative Journal.)

Business and Labor Committee whose Chair is Senator Coordsen reports LB 412 to General File with amendments. It is signed by Senator Coordsen as Chair. (See page 542 of the Legislative Journal.)

Banking Committee whose Chair is Senator Landis reports LB 61 to General File and LB 349 to General File with amendments. Those are signed by Senator Landis as Chair of the Banking Committee. (See page 542 of the Legislative Journal.)

Mr. President, in addition to those items, resolutions, LR 21 by Senators Beyer, Goodrich, and Senator Abboud asking the Legislature to express its sympathy to the family of Opal Peterson. That will be laid over, Mr. President. (See page 543 of the Legislative Journal.) LR 22 by Senator Dierks asking the Legislature to recognize July 1, 1989 as Centennial Day for the Village of Elgin. (See page 544 of the Legislative Journal.)

Mr. President, Senator Lynch would move that LB 90 be placed on General File notwithstanding the actions of the Natural Resources Committee, Mr. President. That will be laid over. (See page 543 of the Legislative Journal.)

I have amendments to be printed from Senator Schellpeper to LB 114. (See page 543 of the Legislative Journal.) That is all that I have at this time, Mr. President.

I have a hearing notice or cancellation of hearing notice by General Affairs. Senator Landis would like to print amendments to LB 361. (See page 884 of the Legislative Journal.)

Senator Rod Johnson would like to withdraw LB 748. That will be laid over. And two gubernatorial appointee confirmation hearing reports offered by Natural Resources. Those, as well, will be laid over, Mr. President. That is all that I have.

SPEAKER BARRETT: Thank you. Moving to General File, LB 744.

CLERK: Mr. President, LB 744 was a bill that was introduced by Senator Withem. (Read title.) The bill was introduced on January 19, referred to the Education Committee, advanced to General File. I have no amendments to the bill, Mr. President.

SPEAKER BARRETT: The Chair recognizes the Chair of the Education Committee, Senator Withem.

SENATOR WITHEM: Thank you, Mr. Speaker, members of the body. LB 744 is a bill concerning which I have passed out a couple of handouts, that you haven't been inundated with handouts yet this morning, so you probably ought to be able to find them. What the bill deals with is, in a general sense, it is one of several bills that have come from the Education Committee this year dealing with the rather fuzzy issue, difficult issue to grab a hold of, but incredibly important issue, that of quality education, and helping us as public policy makers both at the state level and at the local level get a handle on how well our schools are doing. Before I get into specifics of the bill, I would like to share just some general views on this question of quality of education in Nebraska. One of the problems I think we have as a Legislature, as a state, policy makers in the area of education, is we tend to have an overly smug view, I think, of the quality of education that we offer our young people in this state. We look at some very isolated, very, in many cases, misleading statistics, such as, college entrance examinations, graduation rates, things along that line, to prove to us that we have quality education. When you get deeper into what is quality education, what indicators do we have that point to quality, they really aren't there. If you will look at some of the quotes you have on your sheet, your sheet here, it will indicate that any number of people that have taken a look at quality education in Nebraska have drawn the conclusion that we just don't have enough data available about our schools to make

good policy choices. The tax...the Nebraska Comprehensive Tax Study from the Syracuse University drew this conclusion. Interestingly enough, Dr. Jonathan Sher, who was hired by the smaller high schools in Nebraska, the NRCSA group, to come into Nebraska to make a determination on quality of the small schools, everybody was expecting, well, if he is hired by the small schools to comment on their quality, he is going to conclude that the data is there to prove that they are good. He indicated he could not. He could not find the data to support the assertion that small schools are good schools, nor could he find the data to support the conclusion that big schools are better. Data just wasn't available. In LR 181, was a study resolution that we passed a couple of years ago, set up a study by the Education Committee to look at the question of quality education, again, the conclusion is the data just does not exist to make a determination. The recommendation of the Performance-based Accreditation Study Committee by the Department of Education drew a similar conclusion. We, as a Legislature, have had some involvement in this also. When we passed LB 944 a few years ago, our Quality Education Reform Act, we made it a responsibility of the Department of Education to move our accreditation standards away from input factors over to output factors. In other words, have them work toward a quality education in determining the quality of our schools. They have been working on that, and one of their conclusions is, we need more data in order to support the work of moving toward that performance-based accreditation. Last year, we passed a resolution,...

SPEAKER BARRETT: One minute.

SENATOR WITHEM: ...one of the last things that we did as a body was directing the Department of Education to improve their data collection abilities. LB 940, last year, we mandated that they improve their accreditation requirements. All of these things, we have been moving the Department of Education toward a system of providing greater accountability to the Legislature concerning the question of whether our young people are doing well in schools. What LB 744 does is it creates the Education Data Center within the Department of Education. The duties of that center will be to be a collection point for statistical information concerning the quality of schools in our state, will provide information back to the Legislature, and will also publish a report to the Legislature on an annual basis concerning the level of quality in Nebraska schools. It creates

an advisory committee to help with the determination of what these indicators are, and this committee will develop a plan to improve the data system collection within our state. That is what 744 does. It is a relatively modest bill. It is asking the Department of Education to provide us and other policy makers in the state more data concerning the quality of education in our state, concerning the level of achievement of our young people. With that, if there are any questions, I would be happy to respond to them.

SPEAKER BARRETT: Thank you, sir. Discussion, Senators Moore, Labeledz, and Hartnett. Senator Moore.

SENATOR MOORE: Mr. Speaker, members of the body, I would like to ask Senator Withem a few questions if he would so yield.

SPEAKER BARRETT: Senator Withem.

SENATOR WITHEM: Yes.

SENATOR MOORE: Senator Withem, on this sheet you passed out to us regarding comparing Nebraska to the other states, and what they do, how many of these things that we now...are not available, are not applicable to Nebraska would be applicable if we passed LB 77...744, excuse me?

SENATOR WITHEM: I cannot answer that question, Senator Moore. LB 744 provides a mechanism to create an accountability system. That accountability system will be created by the advisory committee and by the data collection center within the department. Hopefully, they would move toward answering a lot of these questions here, but whether specifically it will include student testing or whether it won't, and the reporting of those numbers, that is a policy decision that the Department of Education is currently attempting to make and will not be made by this particular bill.

SENATOR MOORE: Okay, I guess my first concern is that maybe, that maybe we have the cart before the horse. In some ways I am wondering if we need to pass LB 337 by the Education Committee that requires a statewide test first. Otherwise, I don't know how you can compare data as there is no comparable data out there. And I guess my second question to you, and you can have the balance of my time to explain it, is will 744 eventually lead to some sort of statewide accountability measures, is that

your goal in this? Or will it do that?

SENATOR WITHEM: That is my goal, Senator Moore. I would like to see a statewide accountability system in the area of education. We don't have that now. We need that. And did you say, do I have the balance of your time to attempt to answer that.

SENATOR MOORE: Yes.

SENATOR WITHEM: Okay, the Department of Education is responding to requests that they have heard coming from the Legislature, I think including legislation you have introduced, legislation I have introduced, the passage of LB 940, and the passage of 944. They are moving toward an accountability system at this point through changing their accreditation requirements from being input based, counting the number of library books, the number of degrees the teachers have, the number of administrators that are in a building, toward a system where they are looking at the performance of students, and they are painstakingly going through that process. It is a fairly difficult process. That process of establishing that accountability system is going on. This gathering the data from the schools concerning lots of things, student achievement, student performance, number of people that are attending schools, lots of different data that just currently is not available is needed to support that effort of going to their performance-based accreditation system.

SPEAKER BARRETT: Senator Labedz, please, followed by Senators Hartnett, Withem, and Smith.

SENATOR LABEDZ: Thank you, Mr. President. Senator Withem, I would have a question for you if you will yield.

SENATOR WITHEM: Certainly.

SENATOR LABEDZ: In at least two sections in the bill, there are references to collection and reporting of data about school financing. I assume those references are intended to mean public school financing only, am I correct?

SENATOR WITHEM: Oh, certainly, and frequently when we draft bills, we say schools and don't take that into account. If an amendment is needed to clarify that, I would be happy to support that.

SENATOR LABEDZ: Thank you, Senator Withem. I don't think it would be appropriate to mandate data collection relative to the financing of nonpublic schools. Thank you.

SPEAKER BARRETT: Senator Hartnett.

SENATOR HARTNETT: Mr. Speaker, members of the body, I guess I support in context what Senator Withem is trying to do here, and as I gather, and I will ask some questions of Senator Withem, where did you disappear to...

SPEAKER BARRETT: Senator Withem, will you respond.

SENATOR HARTNETT: You are not off the griddle yet. It is going to be stored in the State Department of Education, Senator Withem, in Lincoln?

SENATOR WITHEM: Yeah, stored isn't the term that excites me very much because that is...hopefully, it is going to be used...

SENATOR HARTNETT: Well, I guess what my fear is that is what it is going to be. It will be another little book that will be, you know, someplace.

SENATOR WITHEM: If you want me to respond to that...

SENATOR HARTNETT: Yeah, if you would, yeah.

SENATOR WITHEM: Just let me tell you from my perspective as the Chair of the Education Committee over the last three years, there have been countless times when I have had questions about our education system that I could not get answers to, or the only time you could get answers to them is after...the one guy they have over there that knows how the computer operates has spent countless hours putting in a new program and taking it out. We have gone through a school reorganization committee over the last two or three years with countless questions dealing with education as it relates to size of schools, for instance. School Finance Committee, we have spent countless hours seeking answers to questions and be told the data just doesn't exist to answer those questions. I would use this data a great deal, and I would hope that other members, who from time to time have cause to ask questions of the Department of Education, would get a better opportunity to get their questions

answered if it where there.

SENATOR HARTNETT: In other words, what you are saying, Senator Withem, is that the information that is going to be collected would be used more by this body than a parent or something like that because we have the choice bill creeping through the system this year to decide which school to go to? Is that what you see the use of this material is by a body like this, or rather than a parent?

SENATOR WITHEM: Yeah.

SENATOR HARTNETT: And, you know, I agree with, you know, your concept, Senator Withem, and the Education Committee. I don't serve...I have a very strong interest in education, I guess, but do you also see that, I have to remember the century, but I remember when, you know, the gifted students, them being, it used to be the national testing that, you know, School A will say, you know, Kearney, I am looking at Senator Langford here, that Kearney is the greatest schools because they do all this, and looking at Senator Kristensen, Minden is not bad. You know, we kind of get into...I am a superintendent, I am waving the flag for Kearney, and if I am down at Minden, I am just using those as examples, and they are not doing too good with graduation and so forth, and we kind of hide the data, is that it? Will it be used by public, like superintendents? I should look at the pay end, too. Is that how you see it, Ron, as schools kind of using it to vie for...or not, or just more of a roll...used more by this body and by...not more used at the state level rather than the local level?

SENATOR WITHEM: I see this information, Senator Hartnett, being used by policy makers at all levels. Now whether or not the data gets reported in a school by school comparison sort of results is a policy decision that the Department...the State Board is grappling with at this point and I don't know whether it will be reported in that fashion or not, but I see it as being useful to a local school board, for instance,...

SPEAKER BARRETT: One minute.

SENATOR WITHEM: ...when they want to know how well the average student in the State of Nebraska is doing on math tests, whether they need to improve their math program or whether their math program is adequate, whether State Board of Education,

hopefully, can use this data when it continues to update its accreditation requirements. This information will be available to policy makers primarily.

SENATOR HARTNETT: Okay, thank you.

SPEAKER BARRETT: Senator Withem, yours is the next light, if you would like to continue the discussion.

SENATOR WITHEM: I will pass.

SPEAKER BARRETT: Thank you. Senator Smith, discussion on LB 744, Senator Moore next.

SENATOR SMITH: Thank you, Mr. Speaker. I would like to ask Senator Withem a couple of questions if I might.

SPEAKER BARRETT: Senator Withem.

SENATOR SMITH: Senator Withem, in looking through the material that you provided to us here and going through the summary of the bill, and so on, and listening to your conversation, I guess I have a couple of questions. One of them is, on the State Accountability System sheet that you handed out where you are showing information about what some states require versus what other states do or do not, and I am wondering, do these other states that seem to have the information that they are looking for, also have a separate Educational Data Collection System, or is that a part of their department?

SENATOR WITHEM: I don't know, Senator Smith.

SENATOR SMITH: Well, you know, I guess that leads me to my other question then, Ron, where you were talking about on the other handout the fourth paragraph down where you are talking about the Information Management System within the State Department of Education should be reorganized to collect and analyze information that will contribute to an annual report to the public on the state of education in Nebraska. Could this be done in the department, I guess I am wondering why aren't they doing more of this, why, since they do receive data, don't they, of all of this kind of information to the department, can't they generate that?

SENATOR WITHEM: It is a matter of, and I know this is a story

we hear all the time on appropriation types of issues, it is a matter of personnel and funding. They don't have the personnel available, and I think I can attest to that on the occasions...

SENATOR SMITH: Because of the fact that you have tried to get information?

SENATOR WITHEM: Yeah, when I have tried to get, it is a painstaking process. They attempt to be cooperative, nobody stonewalls over there I don't think, but just the information is very slow in coming out, and it takes a little bit of money to gather data and to send out reports, to get all that information put together when it comes back in. Whether it has to be an independently identified data center with a label on the door or not, that is, you know, debatable.

SENATOR SMITH: It might be better if you did have based on the fact that you can't find that information when you want it now. You know, the other thing that I am wondering about...

SPEAKER BARRETT: Senator Smith, excuse me, would you speak into the microphone. It is very difficult to hear the question. Thank you.

SENATOR SMITH: Oh, I am sorry. The other thing that I am wondering is, Ron, all of the material, the information, when I taught school years ago and what I heard county school boards talking about all the data that they were having to provide to the Department of Education, I would have thought all of that was being compiled somewhere in the department and being used for a purpose, and, evidently, you are saying that it has not been?

SENATOR WITHEM: Yeah, I think it might be kind of interesting to look at one of the handouts that I passed out. We gather a lot of data now but it is fairly easily collected data, doesn't necessarily relate all that well to education quality sorts of issues. When we did this LR 181 study a couple of years ago, we asked school people what kind of data is important to you to make a determination on quality education, and they gave us several points. Then we looked at what is most important, what is least important. Then we looked at what kind of data is currently being gathered. The lists were kind of reversed. What we are now gathering isn't terribly important in making quality education determinations. What isn't being gathered is

what they would like to know.

SENATOR SMITH: Ron, could it be possible that we need to take a look at what they have been asking to be gathered historically and doing some revisions there, rather than letting them continue to gather this information, which is evidently unusable anyway or not necessarily of any value, and do some of the other things that we are talking about needing?

SENATOR WITHEM: Yeah, that is part of the process within this bill to analyze what is available now and make some changes if they need to be made.

SENATOR SMITH: A good idea, thank you.

SPEAKER BARRETT: Senator Moore, please, followed by Senator Scofield.

SENATOR MOORE: Mr. Speaker and members, the first time I rose I guess I had not looked at the pink sheet on this bill yet, and after looking at the fiscal note, I still like the concept of the bill but I... Senator Smith kind of already asked Senator Withem these questions, but the question I have to say involve the... right now the State Department of Education has a \$23.9 million total budget for operations, 9.6 of which is General Funded. Why, Senator Withem, do we need to spend another million dollars getting additional information if the information we are presently collecting is not worthwhile? I guess I still like this bill but I wonder if you would be willing to work between now and Select File, the first question is, are you totally comfortable with this fiscal note, and the second question is, is there a way we could work together to try and lower it and still accomplish the same goal?

SENATOR WITHEM: No and yes, is that an okay answer.

SENATOR MOORE: It is fine with me.

SPEAKER BARRETT: Senator Scofield.

SENATOR SCOFIELD: Thank you, Mr. President and members. I think I just want to pick up where Senator Smith started and Senator Moore proceeded. We have, of course, the Department of Education coming before the Appropriations Committee to review their budget, and I would welcome your advice, Senator Withem,

as we review...there is at least one issue I can recall that will allow us to get at the kinds of questions that Senator Smith is raising, and maybe we want to look at, I have learned a new term over the weekend, "restructuring". Maybe we can and maybe we can't restructure the department to get at this with some positive impacts I'd hope on this fiscal note, but I need to start, I guess, to look at this. Do we anticipate acquiring existing software someplace out there, Senator Withem, or I see on the fiscal note you have got some additional people on there that would obviously be people with specialized levels of skills? Can you respond to that a little bit more as far as what kinds of software or other materials that we might be looking at that we don't have that we are going to have to do to get where you want to be?

SENATOR WITHEM: I don't believe there is a portion of the request in here dealing with computer software. No, there is not.

SENATOR SCOFIELD: That is a possibility though, I suppose.

SENATOR WITHEM: Sure.

SENATOR SCOFIELD: The other thing I wonder, is there, I guess it would be the responsibility of this stated committee to come up with a format so that it is something that schools can respond to and that wouldn't be a burdensome process for schools to respond to, is that a correct assumption?

SENATOR WITHEM: Yeah, it would be.

SENATOR SCOFIELD: As I look at the makeup of that committee, I see you have three members there, public and private schools, I wonder if this thing isn't a little heavily weighted toward the researcher's side to really get at maybe what would be the most useful to those policy makers out at the local level, and I realize the delicacy of balancing this so that you don't have a whole roomful of people, but I get...what I really want to ask is, is between now and Select, are you willing to reconsider at least the makeup of that committee?

SENATOR WITHEM: Yeah, I certainly am. Committees tend to get, the makeup of committees when you draft bills tend to get pulled out of the air, and there, obviously, is a lot of input that could be gathered that would help change that probably.

SENATOR SCOFIELD: I feel, and I guess with that I will simply leave it in saying you may want to work with us before the department hearing comes up to try to see if we can devise some questions that would get at some of the questions that have been raised here, and also I would like to work with you on a possible amendment on the makeup of that committee. Thank you.

SPEAKER BARRETT: Senator Hartnett, please.

SENATOR HARTNETT: Mr. Speaker, members of the body, I think it was a question of Senator Smith and maybe, you know, and of Senator Moore, their comments, Senator Moore looks...he is in the purse strings idea on the body, but we are adding money to the State Department of Education, and what I see is we are putting an additional burden on the local districts to collect all this information. Are you going to say that each district, the Hastings Public Schools or Bellevue or Papillion, we are going to provide money to hire another clerk or something that they can do this because you are putting, what is it, \$300,000 into the bill for the State Department of Education to collect and codify the information, are you going to do something at the local level? Because I think the recommend of the Governor was simply to keep the money at the same level, and we are asking the local boards of education, local superintendents, and local administrators to do more data collection, and most of them will tell you it is, you know, kind of a pain in the something right now, and we are just simply asking for more and more information without additional funding. You know, maybe the State Department of Education needs the funding, but also the other level, Senator Withem, just a comment or a question or....

SENATOR WITHEM: Yeah, I guess I could respond to that Senator Hartnett, maybe rather vigorously, because the tone of that question is one that has gotten me more and more upset with local school districts who are not at all reluctant to come down here and ask for more money at every turn. You saw them in front of the Appropriations Committee a couple of weeks asking for more state aid. But the minute you start asking them to justify what it is they are doing out there when they get young people in the class room, and are they, in fact, doing...providing the types of services that those youngsters are going to need, and you ask them to start justifying their existence, they come up with a multitude of excuses as to why they can't do it. So, no, this bill does not appropriate any

additional sums of money to local school districts in order for them to prove that they are doing a quality job, or to let us identify the deficiencies where they need additional assistance. The bill does, I will point out again the specific language in page 5, Section 5, page 5, subparagraph (e), one of the things that the advisory committee is to be working on is a consolidation of education data to minimize the reporting burden on intermediate and local education agencies. For instance, it is not unusual for a specific piece of data to be reported on four or five different forms that come into the department at different times and then not have it to be available to a researcher who wishes to access that data, but...nor does it provide additional money to local school districts, they do an adequate job of asking for that on their own without putting it into this particular bill.

SPEAKER BARRETT: Thank you. There are no other lights on. Senator Withem, would you care to summarize.

SENATOR WITHEM: Yeah, I would be happy to. Just a couple of messages I am hearing with the questions, and they are good questions. They are questions that I have about the process. They are questions that others have about the process, but the questions I keep hearing are, does this cost too much money? And I guess in response, particularly to people like Senator Moore who each year brings us a bill on education accountability that is far more severe than this, these things don't happen without money. You have got to provide some funds in order to get this information. If you think you are going to create an education accountability system in our state that gets us all kinds of information about the quality of our schools and we are going to be able to do it on, you know, a shoestring, it is probably not going to happen. But any state that has quality data collection in education spends some money to do it. Am I totally comfortable with the fiscal note in here? No, I am not, and I would certainly be happy to work with other people to see if we can identify the places in here where we may be able to do the same job but not spend the same sum of money. Do I think the Department of Education can do this with its current personnel? I really don't. I may have thought that a year ago or two years ago, but, and, Scott, you have been on this committee, too. You have seen the multitudes of data that come out on that School Finance Review Committee, and the fact that there is still lots of questions that we would like to have answers to that we don't, and you have seen this guy who

actually had a full head of hair when he started on this project, Scott, who has been working as our staff person, who is really going above and beyond the call of duty to provide this information to us that we need to have. Is it going to be burdensome to local districts? I hope not, but, again, I am, you know, again getting frustrated with the arguments that I hear from local school people that come in in the form of everything is fine in our education system, we are doing perfectly, but give us some more money. We are not going to do anything different with it, or do anything more with it, and besides if we do, you are not going to be able to find out, because we don't have an accountability system in place anyway, and that is kind of the message that we tend to get from local school districts in this state. This is part of the process, I think, of letting us grow up as a Legislature, state policy makers, to do a better job of determining whether the statutes we pass and the changes we make in policy really make a difference in quality education or whether they don't. I would urge you to advance 744 to Select File, and I will work with Senator Moore, and Senator Scofield, Senator Labedz, and the other 45 of you, too, if you want to come on into the room when we are working on changes in this bill.

SPEAKER BARRETT: Thank you. The question is the advancement of LB 744 to E & R Initial. Those in favor of that motion vote aye, opposed nay. Voting on the advancement of the bill. Please vote if you care to vote. Have you all voted? Senator Withem.

SENATOR WITHEM: (Mike off) and call in votes.

SPEAKER BARRETT: Clear the board. Members are voting on placing themselves under call. Those in favor vote aye, opposed nay. Record.

CLERK: 15 ayes, 1 nay to go under call, Mr. President.

SPEAKER BARRETT: The house is under call. Members return to your seats and record your presence. Those outside the Legislative Chamber, please return and record your presence. Call in votes have been authorized.

CLERK: Senator Hall voting yes. Senator Wehrbein voting yes. Senator Lowell Johnson voting yes. Senator Hefner voting yes. Senator Smith voting yes. Senator Beyer voting yes.

SPEAKER BARRETT: Record.

CLERK: 25 ayes, 1 nay, Mr. President, on advancement.

SPEAKER BARRETT: The bill is advanced. The call is raised.
LB 336, Mr. Clerk.

CLERK: Mr. President, LB 336 was a bill introduced by the Education Committee. It is signed by its members. (Read title.) The bill was introduced on January 11, referred to the Education Committee for public hearing. The bill was advanced to General File. I have committee amendments by the Education Committee pending, Mr. President.

SPEAKER BARRETT: Senator Withem, on the committee amendments, please.

SENATOR WITHEM: Yes, Mr. Speaker, the committee amendments I'll very simply explain. This is a bill on the term school district...school restructuring. Keep in mind this is a term that is the generic term to what is going on in the area of education reform and improvement across our country today. It has absolutely nothing to do with the bugaboo term in the Nebraska Legislature, that of reorganization, has nothing whatsoever to do with reorganization. What the bill calls for is four model schools funded in our state that wish to pursue restructuring programs and a number of forums throughout the state that will discuss the concept of school district, school restructuring. The committee amendments are clerical in nature primarily. Number one is we used the term rural forums. What we meant is local forums and we strike the word "rural" and put in the word "local". Secondly, when these grant applications go in we want to make sure that they include within them provisions for teachers being able to participate in the planning process, that a needs assessment take place along with developing a restructure plan and it clarifies that the model programs will be appropriated to the State Department of Education. That money won't stay at the State Department of Education, it will go out to local school districts that are successful in this getting their grants accepted. With that, if there are any questions, I'd be happy to respond to them.

SPEAKER BARRETT: Thank you. Questions on the committee amendments. Seeing none, those in favor of the adoption of the

March 2, 1989

LB 336, 744
LR 38

PRESIDENT NICHOL PRESIDING

PRESIDENT: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber. We have with us this morning, as our chaplain of the day, Pastor Richard Carlson who is chaplain at Union College here in Lincoln. Would you please rise for the invocation.

PASTOR CARLSON: (Prayer offered.)

PRESIDENT: Thank you, Pastor Carlson, we appreciate it. Roll call, please.

CLERK: I have a quorum present, Mr. President.

PRESIDENT: Thank you. Any corrections to the Journal today?

CLERK: No corrections, Mr. President.

PRESIDENT: Very good. Any messages, reports or announcements?

CLERK: Mr. President, Enrollment and Review reports LB 744 to Select File with E & R amendments attached; and LB 336 to Select File with E & R amendments attached. And I believe that is all that I have. (See pages 937-38 of the Legislative Journal.)

PRESIDENT: Very good. We'll move on to resolutions, LR 38.

CLERK: Mr. President, the first item on LR 38 is a request from Senators Ashford and Abboud to add their names as co-introducers. Mr. President, LR 38 is found on page 918 of the Journal. It congratulates the Creighton Blue Jay basketball team for having won the Missouri Valley regular season basketball championship. Mr. President, the resolution was offered on March 1. I do have an amendment to the resolution by Senator Ashford. (Ashford amendment appears on page 938 of the Legislative Journal.)

PRESIDENT: Senator Hartnett, are you aware of the Ashford amendment?

SENATOR HARTNETT: No.

PRESIDENT: Are you ready to handle it, or is anybody else willing to handle it?

March 13, 1989

LB 95, 140, 257, 280, 289, 311, 330
336, 387, 395, 438, 444, 478, 561
588, 603, 606, 643, 683, 705, 710
721, 736, 739, 744, 761, 762, 767
769, 780, 807

indefinitely postponed; LB 478, indefinitely postponed; LB 561, indefinitely postponed; LB 387, indefinitely postponed, all those signed by Senator Chizek as Chair of the Judiciary Committee. (See pages 1081-82 of the Legislative Journal. Journal page 1082 shows LB 721 as indefinitely postponed.)

Mr. President, a series of priority bill designations. Senator Hall would like to designate LB 762 as a committee priority. Senator Hartnett designates LB 95 and LB 444 as Urban Affairs priority bills. Senator Hartnett chooses LB 603 as his personal priority bill. LB 739 has been selected by Senator Hannibal; LB 606 by Senator Schimek; LB 761 and LB 289 by the Natural Resources Committee, and LB 807 by Senator Schmit, personally. LB 769 by Senator Labedz; LB 705 by Senator Ashford; LB 438 by Senator Wehrbein; LB 710 by Senator Scofield; LB 643 by Senator Bernard-Stevens; LB 588 by Senator Chambers; LB 739 by Senator Hannibal; LB 330 by Senator Pirsch; LB 767 by Senator Smith; LB 736 and LB 780 by General Affairs Committee; LB 395 by Senator Peterson. Senator Lamb selected Transportation Committee's LB 280 as a priority bill. LB 311 has been selected by Senator Landis as his personal priority bill; LB 683 by Senator Schellpeper.

Mr. President, I have a series of amendments to be printed. LB 744 by Senator Withem; LB 336 and LB 257, those by Senator Withem. (See pages 1083-88 of the Legislative Journal.)

I have an Attorney General's Opinion addressed to Senator Haberman regarding an issue raised by Senator Haberman. (See pages 1088-90 of the Legislative Journal.)

Mr. President, Natural Resources Committee will have an Executive Session at eleven-fifteen in the senate lounge, and the Banking Committee will have an Executive Session at eleven o'clock in the senate lounge. Banking at eleven o'clock, Natural Resources at eleven-fifteen. That's all that I have, Mr. President.

SPEAKER BARRETT: Thank you, Mr. Clerk. Proceeding then to Select File, LB 140.

CLERK: Mr. President, 140 is on Select File. Mr. President, the bill has been considered on Select File. On March 2nd the Enrollment and Review amendments were adopted. There was an amendment to the bill by Senator Chizek that was adopted.

March 14, 1989

LB 155, 744

PRESIDENT: Senator Lindsay.

SENATOR LINDSAY: I move that LB 155 as amended be advanced.

PRESIDENT: You've heard the motion. All in favor say aye. Opposed nay. It is advanced. LB 744.

CLERK: 744, Senator, the first item I have are E & R amendments.

PRESIDENT: Senator Lindsay.

SENATOR LINDSAY: Mr. President, I would move the adoption of the E & R amendments to LB 744.

PRESIDENT: You've heard the motion. All in favor say aye. Opposed nay. They are adopted.

CLERK: Mr. President, Senator Withem would move to amend. The amendments are on page 1083 of the Journal.

PRESIDENT: Senator Withem, please.

SENATOR WITHEM: Yes, Mr. President, members of the body, this is, I believe AM801, is that correct?

CLERK: Yes, sir.

SENATOR WITHEM: Okay, AM801 to this bill is the Education Data Center Act that we debated on Select File a couple of weeks ago. It had a good, thorough discussion of the bill on General File. A number of concerns were brought to my attention. These amendments are my attempt to deal with those. The amendments has been distributed and I'll just walk you through it. The first part of it is merely technical, making the term Nebraska define the elementary-secondary schools so we know we're talking only about our own state. Secondly, Senator Labedz raised the question on General File as to whether we were going to be studying the financing of private schools. I indicated that was my intent to do so. This amendment inserts the word "public" after...before the schools that we're talking about studying their finances. Senator Scofield, I believe it was, indicated wanting to see more input by school officials. We have an advisory committee that is established. It originally had three

individuals dealing with elementary-secondary from elementary-secondary education. This expands that to six. And finally we had some concerns from Senator Moore and others about the fiscal impact of the bill. This amendment does two things with fiscal impact. One, the bill originally provided for funding a staff position of the Department of Education that would be a legislative liaison. That individual exists today, is funded today. We felt it not proper probably for the funding of that individual to be picked up by this bill so it deletes that reference. Finally, we cut down the fiscal impact that would have been \$300,000 this first year to \$220,000 and where it would have been \$615,000 in the second year, we cut that to \$473,000. The cuts are primarily a result of, first of all, the deletion of the agency coordinator, some minor reductions and we are cutting down the assessment of the number of students that would be taking this National Assessment for Educational Progress test. We'd originally estimated it would be \$10 per student. We're estimating we could probably do that for \$7 per student. We are talking about testing in 100 schools, 60 students per school. These will be randomly selected schools and randomly selected students. The purpose of it is to get an assessment of how well our students in the state are doing. I hope this reduction to the A bill and these other changes meet with the approval of the body. I would urge you to support the amendment and I will answer any questions.

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

CLERK: 25 ayes, 1 nay, Mr. President, on adoption of Senator Withem's amendment.

PRESIDENT: The amendment is adopted. Anything further on the bill?

CLERK: Nothing further, Mr. President.

PRESIDENT: Senator Lindsay, please.

SENATOR LINDSAY: Mr. President, I would move that LB 744 as amended be advanced.

PRESIDENT: You've heard the motion. All in favor say aye. Opposed nay. It is advanced. LB 336.

March 17, 1989

LB 155, 326, 334, 336, 440, 441, 489
516, 556, 623, 744
LR 58, 59

return to your seats, we will continue with Final Reading, please. While the Legislature is in session and capable of transacting business, I propose to sign and do sign LB 556, LB 516, LB 489, LB 440, LB 334, LB 326. Okay, Mr. Clerk.

ASSISTANT CLERK: (Read LB 441 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 441 pass with the emergency clause attached? All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

ASSISTANT CLERK: (Record vote read. See pages 1205-06 of the Legislative Journal.) The vote is 40 ayes, 0 nays, 4 present and not voting, 5 excused and not voting, Mr. President.

PRESIDENT: LB 441 passes with the emergency clause attached. While the Legislature is in session and capable of transacting business, I propose to sign and do sign LB 441 with the emergency clause attached. Mr. Clerk, do you have something for the record?

CLERK: Mr. President, I do. Your Committee on Enrollment and Review respectfully reports they have carefully reviewed and examined LB 155 and find the same correctly engrossed; LB 336; LB 623, and LB 744, all reported correctly engrossed. (See pages 1206-07 of the Legislative Journal.)

Mr. President, I have a report of registered lobbyists for this past week.

New resolution, Mr. President, LR 58, by Senator Rod Johnson. (Read brief description of LR 58 as found on page 1209 of the Legislative Journal.) That will be laid over. LR 59, by Senator Rod Johnson. (Read brief description of LR 59 as found on page 1209 of the Legislative Journal.) That's all that I have, Mr. President.

I do, excuse me, I do have one other item. Hearing notice, confirmation hearing notice from the Judiciary Committee. (See page 1210 of the Legislative Journal.) That's all that I have, Mr. President.

PRESIDENT: Thank you. I would like to introduce some guests in the north balcony. Senators Barrett, Baack, Elmer, Haberman,

collect cash from the customer but must send a bill to his customer's employer. Further, the store manager is responsible for planning each customer's meals. If he errs in judging what is best, his customer can sue him. Also, the store must keep careful records of each can of peas sold by brand name, by size, by number of peas in each can, the customer's age, and the employer of the customer. Similar reports are required on every product he sells. The store must certify in writing that each customer needs groceries before permitting them to enter the store. The store must have a committee to establish a shopping time limit for each customer. Any customer permitted to shop longer than the pre-established time may not be required to pay for his or her groceries. The store must have written approval of government authorities before adding or deleting any product or brand. The store must have a master's degree in marketing. There are many more regulations which the hospitals are subjected to but this is enough to help you understand why costs of medical care in the United States have gone up much faster and much higher than the price of groceries. I would urge the defeat of this counterproductive amendment.

SPEAKER BARRETT: Thank you. Senator Warner.

SENATOR WARNER: Mr. President, members of the Legislature, I would rise to support the amendment. I, periodically, every session, at least I tend to feel guilty about something I should have done and I didn't do, and, frankly, I feel a little guilty not having gotten in with this a little sooner and provide some support to Senator Wesely and others of you who have been trying to stress with this...are being stressed with this issue. As I understand, what we are talking about is some information. We have got LB 611 going across up here. It is to provide information so you know where income tax and be able to finance schools. We have got LB 744 that I get calls about every day. It is to provide information about how our educational system is working. We spent \$350,000 for the Syracuse study. One of the things it said is we didn't have adequate information. It is a bill that won't be acted on this day, it is up on General File, to help provide that. All that we are doing here is trying to provide some information for informed decisions. You know, for the life of me, what is wrong with that? Your choice is simple. Either you do some statistical, informed decision or you rely on some hired hand that is paid to tell you what somebody wants you to think. This is simple. Support Senator Wesely's amendment, provide some data that informed decisions can be made. I see

May 3, 1989

LB 744, 767, 813
LR 104

SENATOR SMITH: A record vote.

SPEAKER BARRETT: And a record vote has been requested, thank you. Senator Schimek is apparently on her way. May we proceed Senator Smith?

SENATOR SMITH: Yes.

SPEAKER BARRETT: Thank you. Members, return to your seats for a roll call. The question is the adoption of the Smith amendment. Mr. Clerk.

CLERK: (Roll call vote taken. See pages 2046-47 of the Legislative Journal.) 27 ayes, 13 nays, Mr. President.

SPEAKER BARRETT: The amendment is adopted. The call is raised. For the record, Mr. Clerk.

CLERK: Mr. President, I have amendments to be printed. Senator Withem has amendments to LB 744; Senator Smith to LB 767. (See pages 2048-50 of the Legislative Journal.)

A new resolution, Mr. President, LR 104 by Senator Hartnett. (Read brief explanation. See pages 2047-48 of the Legislative Journal.) That is all that I have, Mr. President.

SPEAKER BARRETT: Thank you. Next motion.

CLERK: Mr. President, the next motion I have, Senator Schmit, Senator, I have your two amendments, the State Patrol amendments. Do you want to pass those over? The next amendment, Mr. President, is by Senator Wesely.

SPEAKER BARRETT: Senator Wesely.

CLERK: Your amendment is on page 2037, Senator.

SENATOR WESELY: Mr. Speaker, members, this amendment deals with the problem of emergency protective custody services in the State of Nebraska. I want to give you just a brief outline of the issue, and I don't know that I am going to pursue this amendment, but I do think we need to recognize a problem, and I do plan again to work with the Appropriations Committee on this issue. We did pass a bill a couple of years ago.

May 10, 1989

LB 89, 744, 761, 767A, 767

them some more control over it. And I was visiting privately with Senator Lynch, I guess what we have discovered in Bellevue, and I know where his problems there with his Little Vikings is that the bill also says if you are running a lottery you can't run another type of gambling operation, so we have discovered in our...or the people that run the keno operation in Bellevue that the pickle sales are the largest for our volunteer fire department, which is done at the keno operation. So I think that maybe as Douglas County thinks about moving into this area, but I think we have crafted, I think, through the work of our Chairman, Senator Smith has done a good job of bringing legislation, and I think we need to look at again, maybe in another year, at the pickles.

SPEAKER BARRETT: Senator Smith, please. Thank you. Senator Withem. Senator Withem on the advancement of the bill.

SENATOR WITHEM: Call the question.

SPEAKER BARRETT: Thank you. That won't be necessary. Anything further, Senator Smith, on the advancement of the bill?

SENATOR SMITH: No. Let's just move the bill. Thank you.

SPEAKER BARRETT: Thank you. The question is the advancement of LB 767 to E & R engrossing. Those in favor say aye. Opposed no. The ayes have it. Motion carried. The bill is advanced. Anything for the record, Mr. Clerk?

CLERK: Mr. President, I have a reference report referring gubernatorial appointment for confirmation hearing; amendments to LB 761 by Senator McFarland; Senator Withem to LB 744; Senator Moore to LB 89. (See pages 2269-71 of the Legislative Journal.) That is all that I have, Mr. President.

SPEAKER BARRETT: To the A bill.

CLERK: I have no amendments to LB 767A, Mr. President.

SPEAKER BARRETT: Senator Lindsay.

SENATOR LINDSAY: Mr. President, I would move the advancement of LB 767A.

SPEAKER BARRETT: Shall LB 767A be advanced.? All in favor say

May 15, 1989

LB 340A, 744

SENATOR CHAMBERS: Right, because, see, originally what the Historical Society has indicated is that to do the cataloging, the research and the other things, which should probably be a one-time operation, will be done during those first two years. Then that kind of work won't have to be done anymore.

SENATOR PIRSCH: Okay. Thank you.

SENATOR CHAMBERS: Okay.

SPEAKER BARRETT: There are no other lights. Senator Chambers, anything further? Thank you. The question is the adoption of the Chambers' amendment to LB 340A. All in favor vote aye, opposed nay. Please record.

CLERK: 27 ayes, no nays, Mr. President, on the adoption of the amendment.

SPEAKER BARRETT: The amendment is adopted. Senator Chambers.

SENATOR CHAMBERS: I move that LB 340A be readvanced.

SPEAKER BARRETT: Thank you. Shall LB 340A be readvanced? Those in favor say aye. Opposed no. Carried. The bill is readvanced. Mr. Clerk.

CLERK: Mr. President, the next bill I have is LB 744. Senator Withem would move to return LB 744. Senator, let me make...I have a note here that you had an amendment printed, you want to withdraw that earlier amendment.

SPEAKER BARRETT: Withdrawn.

CLERK: Mr. President, Senator Withem would move to return and the amendment is on page 2269 in the Journal, Mr. President.

SPEAKER BARRETT: Senator Withem, please.

SENATOR WITHEM: Thank you, Mr. Speaker and members of the body, the two amendments, the one that was withdrawn and the one on LB 2269...on page 2269 are very similar. There have been some additions that have been suggested in a conversation that I had with Senator Beck a week or two ago that have made the version on page 2269 preferable, in my mind, so that is the page on which you can find this amendment and follow along if you care

to. Before I get into this specific amendment, a comment or two on what 744 does and why I think it's maybe one of the three or four most important bills dealing with education policy before the Legislature this session. We, each year, are called upon as policymakers in our state to make countless decisions about education, about what will improve education quality, what will...things we want to avoid that might deplete education quality, what...how we want to see our schools behave and what we want to see happen to our young people. We have found in the last three or four years that there is an amazingly lack of concrete information that helps us evaluate our school system and helps us make a determination whether those young people coming through our system are, in fact, receiving a quality education. You may, if you were an early riser this morning, have seen an article that appeared with my name on it in the Omaha World-Herald this morning, commenting on the Secretary of Education's comments relevant to the so-called "Wall Chart", the Wall Chart being the...the report put out each year by the Secretary of Education. And even that Wall Chart gives us precious little information about how well our schools are really doing. LB 7...and then this Legislature has in the last three or four years made repeated requests to our Department of Education to improve its data collection abilities. We have passed legislation in 994 requiring a performance based accreditation system. We have done studies of the amount of data available on education. We have reviewed independent studies from outside individuals, outside consultants, and we passed a legislative resolution last year urging the department to do a better job of collecting data. LB 744 is the bill then that was introduced this year to bring this about. I might also comment that we have, as an Education Committee, heard proposals from other legislators calling for a far, far stricter accountability system than you would see in LB 744. The committee has chosen to advance a bill that is less onerous to local school districts than some of those other proposals, yet one that we think will provide information and data that will be helpful to us in evaluating our school system. Since LB 744 went to Final Reading, there have been people in this state who have, in my opinion, I will say it's my opinion, been misinterpreting what the effects of LB 744 will be. They have expressed a number of concerns to me and other members of the Legislature...I know some members of the Legislature have said they have received more comments on this piece of legislation than they have on any other bill this session. I would like to say that, you know, the concerns that were expressed were not

real in the bill. The bill did not do those sorts of things, even in it's current state. However, the fact that it does not necessarily do those things, the fact that some people have read it to believe that it might infringe on privacy and impact on home schoolers and those other sorts of things doesn't make those concerns any less real. These are sincere individuals in our state who have sincere concerns and then they deserve to be heard and I think they have been, because what we're doing is we're adopting...I am suggesting we adopt some amendments to the bill that do the following things. Number one, there was a concern about confidentiality and privacy in LB 744. This amendment, on page 2269, will provide that no data will be collected on individual students. The way it will operate, even the testing portion of this bill, the students will...that are taking a test, and I point out that it's voluntary that they subject themselves to this test, and their parents can opt them out of it, but if they do, their names will not appear on the paper and even when the teacher picks up the papers the teacher won't know which papers belong to which students. There will be no individual student data collected. Further, the amendments provide that all data will be subject to applicable state and federal privacy laws. State and federal privacy laws are very specific in this area, not allowing any of this information to be collected and reported on individual students. The second part of the amendment is that schools that this Legislature has chosen to exempt, it gives certain exemptions from state accreditation requirements, will not be subjected...we will not use this bill, LB 744, to backdoor those procedures that were established several years ago. I mean, those procedures that were on the books will stay on the books and there are some things that home schools and nonaccredited private schools, religious schools, are expected to do. This amendment does not lessen any of those but what this says is this bill cannot be used to increase, to put any new restrictions on the operation of the Rule 13 schools. Point three indicates that the data that we collect will be on academic performance of students. There were some concerns that the NAEP, the National Association of...National Assessment of Education Progress test will be collecting a lot of personal information about students, about their...their religious beliefs, about their...their values, their parents' values, all of those types of things. This amendment stipulates that it will be academic performance that we are testing, not gathering lots of personal data about young people. Finally, this was a concern brought to us by Senator Beck that some language in the bill, the way it is currently

written, would seem to imply that the goal of 744 is to move toward a state curriculum and to give the state added authority over curriculum of local school districts. That was not the intent of 744. The language that we have chosen to add to this amendment will further...will strike the language, can manage state...talking about managing state or local policies on education, takes that language out and says, it allows local schools to make decisions about local curriculum objectives, provides guidance to the State Board of Education in regard to state concerns about education. So that's what the amendments do. I will be happy to respond to any questions anybody might have, either about the amendments to 744 or about the intent of 744 and what the bill does.

SPEAKER BARRETT: Thank you. We're on the motion to return the bill. Senator Moore, followed by Senator Crosby.

SENATOR MOORE: Yes, Mr. Speaker and members, if Senator Withem would yield to some questions, please.

SPEAKER BARRETT: Senator Withem.

SENATOR WITHEM: I would be delighted to, Senator Moore.

SENATOR WITHEM: Senator Withem, the first question...I am asking this because I honestly don't know, but...

SENATOR WITHEM: That's a good reason to ask a question, Senator Moore.

SENATOR MOORE: The reason I'm asking it is the newest fiscal note on this bill, the 3/22 fiscal note, has that been the original A bill for this bill? Correct?

SENATOR WITHEM: Pardon me?

SENATOR MOORE: I mean, there is no A bill for this...I'm going to ask you the question and then I'll get to the question (interruption).

SENATOR WITHEM: Yeah, as I remember the drafting of the bill, the appropriation is made in the bill language itself.

SENATOR MOORE: Okay, but are you going to change that language to reflect the newest fiscal note at some point in time?

SENATOR WITHEM: I said it was good for you to ask questions when you don't know the answers, you probably should ask...I don't know, it has not been brought to my attention that there is a new fiscal note and whether there is a need to reevaluate the appropriation on the bill.

SENATOR MOORE: Well, the language in the bill far exceeds the \$220,000 fiscal note that is the most recent fiscal note. So we can talk about that later, I thought that's not in this amendment and maybe we should talk about that.

SENATOR WITHEM: Sure. Yeah, I think we should probably.

SENATOR MOORE: It wasn't my intention to ask you a question you didn't know the answer to either, but that was kind of fun.

SENATOR WITHEM: You did a good job though, that was good.

SENATOR MOORE: But on...more specifically, on your amendment, obviously, there has been a great deal of concern by a variety of people, rightly or wrongly, about the NAEP test. Correct?

SENATOR WITHEM: Yeah, the NAEP test has kind of been the center of the storm on this measure.

SENATOR MOORE: Yes, and, really, your amendment does not really...the bill itself doesn't really address that, that's just what the...how the...that is the test the department would choose to administer. Is that correct?

SENATOR WITHEM: Yes, and I might add that they already have the authority to do so under current statute but that is the test they have indicated that they will use as part of their gathering data that this bill calls for.

SENATOR MOORE: Is...I guess the question I want to ask you is, is there a reason it has to be that test? I mean, you and I agree, at least, that we...I feel maybe some statewide testing of students, I guess I...the opponents of this bill have made a great deal of difference between tests...assessment tests and achievement tests and I guess I was under the understanding, in my own simple mind, that we're talking about an achievement test here like the Iowa basic skills but I...we're not really talking about a test quite like that, we're talking about an assessment

test. If there is a difference, I will give you the balance of my time to explain the difference. And, two, give me the reason why it is that we have to use the NAEP test and is there a possibility that there would be another test that certain people would not find so offensive? And you can have the balance of my time to dance with those questions.

SENATOR WITHEM: Okay, thank you very much, Senator Moore. Yes, it would be possible to use another test and I think that will be a decision that the department will be making, along with this Advisory Board that this bill establishes which is charged with kind of charting our data collection policy in the state. The reason, I think, the department is looking at the NAEP test is because the NAEP test is, first of all, chartered by Congress of the United States. Its specific design is to recognize the problems in the current Wall Chart that we have. It is designed to get specific...some information that's comparable on a nationwide basis, that we could give everybody the Iowa basic test or the California test or one of the other tests, but the problem is that there is no test that is used on a nationwide basis to determine student achievement. The difference between an assessment test and an achievement test, frankly, Senator Moore, that escapes me. The NAEP test, I might also just point out to people, there has been a lot of concern that that test is not available to people. People in here that have taken the L...L...Law School Aptitude Test, the ACT test, the SAT test,...

SPEAKER BARRETT: One minute.

SENATOR WITHEM: ...any of these other tests, would know that if you would ask them, if you could see a copy of that test before you took it, you'd probably get laughed out of the building. It's a test to test what students know about a given area and they just don't make those tests available. However, I do understand the Director of NAEP has made an offer to come to Nebraska with a copy of the test and not let people have that test but to allow people to come in and take a look at it to see that there is nothing sinister in it. The test is...the one that they're developing right now is a mathematics test to see how well students do in the area of mathematics. So your question was, can we use something other than a NAEP test? Sure, we can. At this point, the NAEP test is one that's being developed on a national basis to be the...kind of the state of the art for determining student achievement. Senator Moore, by the way, I punched my light when I thought I was taking maybe a

little bit too much of your time. If you have additional questions or comments, we can continue this when my light time comes on.

SPEAKER BARRETT: Senator Crosby.

SENATOR CROSBY: Thank you, Mr. Speaker. I just have a couple of questions, too, Senator Withem, because I have had calls, oddly enough, from people who really...who don't even have children in school but have read about this and they have different feelings. For instance, you mentioned that it's a national test, NAEP is, through Congressional action and I think a lot of people feel that that's the long arm of the federal government reaching into our school districts. So I think that is one of the big things that has originated a lot of this concern. My questions, just a couple, for instance, you said that they are going to eliminate...this amendment will eliminate all those personal questions about families and so on, for instance, I saw something that one of the questions was, did your parents finish school? Did they do well in math? Are those kind of...that kind of thing not going to be?

SENATOR WITHEM: Those specific questions, I guess, I do not interpret those in the area of nonacademic types of questions.

SENATOR CROSBY: Okay.

SENATOR WITHEM: The concerns that I had heard were that they will be asking about...about values, religious preferences, even some concerns about sexual types of overtones. I think the question about education achievement of parents, particularly when it's not reported on an individual basis, if I take the test and I report that my father finished eighth grade, nobody is going to know when they see that test that Ron Withem's father only finished eighth grade.

SENATOR CROSBY: Uh-huh.

SENATOR WITHEM: What they're going to know is that in Nebraska there was one person that took that test whose father only finished eighth grade so it won't come back reflected on me. It will be aggregated and we will know at the end of that how many students' parents had only finished eighth grade and how that impacts on their ability to achieve in an educational environment. I mean, that's the goal.

May 15, 1989

LB 744

SENATOR CROSBY: The other...see, originally, too, a lot of the questions I get also have to do with the cost of it because they add that up and it does add up to more than a million over the four. Right?

SENATOR WITHEM: More than a million.

SENATOR CROSBY: Well, the figures on...the yearly figures...

SENATOR WITHEM: Oh, okay.

SENATOR CROSBY: ...for the cost. I mean, no matter where the money comes from or who pays it, people do...that sounds like a lot of money for them for this reason. And I will ask you this. This has been...this has been asked of me. Why do the local schools...isn't there any way that they already know who are in their classes and without taking some kind of test like this, why some students do better than others and does not the Department of Education gather any other information or have any other way of establishing these norms that you're looking for as to why students do better in certain things or do not?

SENATOR WITHEM: Yeah. First of all, I guess the dollar figure we are talking about, we spend roughly a billion dollars in elementary secondary education in this state and we have precious little knowledge about whether that investment of a billion dollars a year is an effective investment. I think that's an indictment and 26 percent of those dollars come from the state government. We, on the state level, do not know whether those dollars are successful for educating kids or whether they're not. So the dollar figure doesn't concern me. Secondly, are there other ways of achieving this? Yeah, there are and I guess I again point out that the NAEP test is not stipulated in LB 744. What is created in 744 is a creation of a data center, a creation of an advisory committee to determine what data needs to be collected and they and the department, together, will determine what the strategy is. So if there is a more effective way that is considered to be less intrusive, they will be able to do that.

SENATOR CROSBY: Now my other quick question and then if I have any time left, you can...

SPEAKER BARRETT: One minute.

May 15, 1989

LB 744

SENATOR CROSBY: ...you may have it. The...this isn't...I mean, these aren't seniors, you start early taking these tests so it helps the child as he or she goes along in school. Right?

SENATOR WITHEM: That's the goal behind it is to...and, again, these are not individually diagnostic tests. They are not...true, the schools do give tests to students when they enter kindergarten. They give tests several times throughout the year to diagnose individual students. What this is doing is an attempt for us to gather information on our...on our schools, on our student achievement and lots of other areas in order for us, as the state policymakers, to guide us in the area of making policy decisions.

SENATOR CROSBY: Thank you, Senator Withem.

SPEAKER BARRETT: Senator Haberman.

SENATOR HABERMAN: Mr. President and members of the body, I would like to state that I have been following the green sheet with great interest and that's why it's put out. The green sheet states that 744 is going to cost \$1,600,000. I would like to ask Senator Moore a question, please.

SPEAKER BARRETT: Senator Moore.

SENATOR HABERMAN: Senator Moore, is there an A bill for 744? Will there be an A bill for 744? And, if not, why not?

SENATOR MOORE: Well, I do not know the answer to that. Maybe Senator Withem can answer your question better than I can, but I'm trying to figure out where you get a million six. You're adding up all four years is where you're getting a million six.

SENATOR HABERMAN: You bet. Well, sure, just like you go up to the forty...LB 44 or you go to all of them, LB 89, LB 187, they all go four years, so I'm going to assume...

SENATOR MOORE: Well, the A bills do not go four years, they only go two years.

SENATOR HABERMAN: Well, but it's on the green sheet. Senator Withem.

May 15, 1989

LB 744

SENATOR MOORE: Maybe Senator Withem or Senator Hannibal can have a better answer than I do, Senator Haberman.

SENATOR HABERMAN: Well, I will ask Senator Hannibal, he's on Appropriations Committee, and then I'll talk to Senator Withem.

SENATOR HANNIBAL: Yes, I didn't hear the question.

SENATOR HABERMAN: The question is, is there an A bill for 744? Will there be an A bill for 744? And, if not, why not?

SENATOR HANNIBAL: There is no A bill for 744. The reason why is there is legal specific appropriations language within the bill which does happen at times, from time to time. If you have specific appropriation language within the substantive bill, you do not need an A bill. When you have intent for appropriation in the substantive bill that then will require a separate A bill.

SENATOR HABERMAN: So what you're saying then, Senator Hannibal, if a bill is written correctly with the proper language in that bill, it doesn't need an A bill. Is that what you're saying?

SENATOR HANNIBAL: It becomes a substantive bill and an appropriations bill at the same time.

SENATOR HABERMAN: Yeah, it doesn't need an A bill.

SENATOR HANNIBAL: It wouldn't need a separate A bill, that's correct.

SENATOR HABERMAN: Who can introduce A bills?

SENATOR HANNIBAL: Anybody.

SENATOR HABERMAN: Anyone can introduce A bills. Is that correct?

SENATOR HANNIBAL: Sure.

SENATOR HABERMAN: Are there any other legislations, to your knowledge, before us that have a million six or doesn't have an A bill that's going to cost a lot of money?

SENATOR HANNIBAL: As I understand it, the Education Committee

May 15, 1989

LB 744

sometimes does write their bills so that they have the appropriations built right into it. I'm not familiar enough to know exactly what other kinds of bills are on our file right now. However, I would point out that you have made mention of this idea of the cumulative effect over four years. I think it's a very good point and I don't want to take all of your time, but any time we have an appropriation for this year that is an ongoing appropriation, whether it be one employee or one program or 10 employees that you talked about, Senator Lamb, last time, it is important that we look...that it is an ongoing expenditure as opposed to a one-time shot. As a matter of fact, if you want to take it out, you could say your salary is \$100,000, as a state senator, providing you're going to be here for the next eight years.

SENATOR HABERMAN: I plan on being here the next eight years. Senator Withem, would you answer a question, please.

SENATOR WITHEM: Certainly.

SENATOR HABERMAN: Senator Withem, was the bill written and is the bill written to include the costs of LB 744?

SENATOR WITHEM: Section 6, page 5, of the Final Reading copy of the bill contains the appropriation.

SENATOR HABERMAN: Section 6...

SENATOR WITHEM: Page 5 of the bill.

SENATOR HABERMAN: For how many years?

SENATOR WITHEM: For two years, as all of our appropriation bills are for two years.

SENATOR HABERMAN: At the end of the two years...

SPEAKER BARRETT: One minute.

SENATOR HABERMAN: ...then does the Appropriations Committee automatically add the 473,000 for '90-91, '91-92 and the 473,000 for '92-93, or do you come back in and ask for that fund?

SENATOR WITHEM: My understanding is...and I have my light on if we need to continue this on longer, Senator Haberman, we can do

so. My understanding is that any bill that is on Final Reading that establishes an appropriation has a two-year appropriation. At the conclusion of that two years, unless the bill...substantive language sunsets, as this does not, then it is...the department administering the program goes before the Appropriations Committee with a recommendation for a funding level. The Appropriations Committee then makes a determination as to what they think is an appropriate level. That comes to the Legislature. Any member of the Legislature can amend it upward or downward or out and the Legislature then in the 1991 session...

SPEAKER BARRETT: Time.

SENATOR WITHEM: ...will pass their appropriation. I will continue this on on my time if we need to.

SPEAKER BARRETT: Senator Withem, your light is the next light. Would you care to continue?

SENATOR WITHEM: Yeah, I would be happy to. So it is not an automatic ongoing appropriation but it will be in the department's budgetary request as to what level they would need. There are some programs that are on statute that the Appropriations Committee, I believe, has recommended zero appropriation level for. This could conceivably be one of those although I would doubt it. I would hope not. If the...and this is my time now, I have been quizzed by three senators, Senators Haberman, Moore and Crosby. If any of them want to use some of my time to continue the discussion, I would be happy to. And I think Senator Haberman may have a question so I would yield the beginning of my time to Senator Haberman.

SPEAKER BARRETT: Senator Haberman.

SENATOR HABERMAN: Yes, Senator Withem, so I can explain what you just said, if a piece of legislation has the proper language and the funds in there and it's passed, that's for two years, and at the end of two years the Appropriations Committee has to appropriate those funds and if they appropriate those funds, then we, as a body, try to take it out or just leave it in there. So the first two years is, you might say, home free without the Appropriations Committee being involved in it and then the next biennial budget they deal with it. Is that what you said?

SENATOR WITHEM: That's my understanding. Senator Hannibal, I don't know if you would agree with that assessment or not.

SPEAKER BARRETT: Senator Hannibal.

SENATOR HANNIBAL: Yes, Senator Haberman, as with all bills, after...we only appropriate now for a biennium, two years, and nobody can delegate the responsi...we can't put responsibility on future legislatures so every two years we come up and rebuild an entire budget. This, once it becomes part of the Department of Education's budget, it will come to us in the form of a continuation budget. We then would have the ability to eliminate this program from our budgetary process, leave it in the program or expand it. If we eliminate the funding, however, and not eliminate the mandate that is caused by the substantive part of the legislation, then you're saying to the Department of Education you still will do this program, however, we're going to give you no funds to do it. But that, certainly, is a prerogative of the Legislature.

SENATOR WITHEM: ...Senator Moore, do you have a question? I yield additional amount of my time to Senator Moore for purposes of a question or comment.

SENATOR MOORE: Yes, Senator Withem, I really...it's not my choice to get into this debate here but I am wondering how do you get around Rule 5, Section 6(f) if you don't have an A bill with this bill, in your opinion? I would like to hear your explanation on how you do that.

SENATOR WITHEM: You know, I guess, again, Senator Moore, that I will indicate that this is not an abnormal procedure. There have been a number of bills passed since I have come to the body in which the appropriation is contained within the substantive language of the bill as opposed to a separate and distinct A bill. I'm not familiar with the exact wording of the rule that you quoted so I can't comment but I am familiar with...you know, the only bill where we had a problem with that was the Commonwealth bill and in the Commonwealth bill it wasn't because it was in the appropriations...or the substantive language of the bill, it was the fact that the language as hereby appropriated did not include...did not stay in the bill any place.

SENATOR MOORE: Okay, can I have one other question, Ron?

SENATOR WITHEM: You bet.

SENATOR MOORE: Back to the subject of the amendment, there have been a variety of concerns that the cost of administering the NAEP test would far exceed what is, at least, in the most recent fiscal note, \$220,000, I mean, if the department would mandate this test over another test, is there a possibility that this data collection center would create some costs on the local level?

SPEAKER BARRETT: One minute.

SENATOR WITHEM: It's possible, I would assume, that if either we, as a Legislature, or the department were, through rule and reg, to create a requirement on the local districts and not provide the funding, that, yeah, that could. I don't necessarily envision that happening. But you're asking, could it happen? Yes, it could happen.

SENATOR MOORE: You don't envision that it would cost the local school board anything, the limitation in this bill? Is that what you said?

SENATOR WITHEM: The time that it takes to...the bill talks about data collection. One of the requirements of the bill is that the Advisory Committee and the department will use every effort to consolidate information that's now coming in. There is information that now flows in. It's not particularly useful. The intent of the bill is that they will do their best to consolidate some of those efforts so it will not include additional burdens on local school districts.

SPEAKER BARRETT: Time. Senator Haberman, your light is still on. Do you care to speak any more? Thank you. Senator Hannibal.

SENATOR HANNIBAL: Mr. Speaker and members, I would allow Senator Withem to continue his answer first and then I have a few comments to make.

SPEAKER BARRETT: Senator Withem.

SENATOR WITHEM: Okay, thank you. Just, basically, Senator

Moore's question was, do I envision this costing extra...school districts extra dollars? It may include...it may involve some additional responsibilities, I would point out, for the benefit of the body, far, far less than the bills you have introduced in the last few years dealing with this area of accountability on the local school districts. The cost of the test itself is built into the appropriation and that's so that the test will not have to be purchased at the local level if the bill passes at its current level. Thank you, Senator Hannibal, I yield back the remainder of your time.

SPEAKER BARRETT: Senator Hannibal.

SENATOR HANNIBAL: Thank you. I don't want to get involved with the merits of the amendment, however, I think it is...we have had kind of a technical argument come up as to whether you need an A bill separate or not. And Senator Moore pointed out the section of rules that suggests that all bills that have a fiscal impact like this would have an A bill, why then can you have, as Senator Haberman was asking, why can you have a bill that has an A bill in it? Senator Withem has said that there have been bills before...as I read, that have done that very thing. As I read Section 6 of Rule 5 very quickly, and I'm not an expert on rules by any means, I have the distinct impression that this rule is set so that no bills of substantive measures that have definite prescribed fiscal impacts would be passed without having those impacts or those programs specifically appropriated. This bill does not do that. This bill has substantive issues and it has a direct appropriation with it, so it does not, in my estimation, violate the rule. For bills that would go contrary to that, that would have substantive and substantial fiscal impacts on them, this rule is put in so that an appropriations bill would accompany that, that particular issue. This bill encompasses both. I don't see any violation of the rule with that.

SPEAKER BARRETT: Senator Moore.

SENATOR MOORE: Yes, Mr. Speaker and members, I'm still...I want to agree with Senator Withem. As Senator Withem pointed out, I have myself introduced bills and will continue to do so, bills gathering information for student achievement across the state and I guess I...you're saying the price of this paying the bill only pays for the cost of the test itself and, obviously, the administration in a school district would, obviously, be...no

not the school district but the cost of the test is what is contained in the appropriation in this. And to get the test from, you know, NAEP is, obviously, not the federal part of education, it's a private organization.

SENATOR WITHEM: (Microphone not activated) ...I believe, is the company that is contracted to develop and administer the test.

SENATOR MOORE: Just so I've got this correct, but that is not the long arm of the federal government that some people are concerned about with this bill?

SENATOR WITHEM: I don't believe it is, no.

SENATOR MOORE: Okay, that's...no further questions.

SPEAKER BARRETT: Senator Withem, would you care to close on the motion to return?

SENATOR WITHEM: Yeah, I would. I appreciate the opportunity to respond to the questions. I appreciate the discussion of the rules and the merits of 744 as a bill in and of itself. I hope those were valuable to members of the body to at least establish the legislative intent of what it is we're attempting to accomplish. Back to the amendments themselves, what the amendments are designed to do, and it is my clear intent that we're doing this, is to take the concerns that you have heard as a senator from people in your district that this bill invades privacy, that it gathers personal data, that it is detrimental to the home schools, that it puts the state government in charge of the curriculum, that those things won't happen. That's what the amendment does. It takes what I have heard to be the most severe criticisms of this bill and puts in statute guaranteeing that those things will not happen. That's what the amendment does. So I would suggest that everybody ought to be supportive of this bill unless...unless your desire is to invade privacy or your desire is to put new restrictions on the home schools through the passage of these bills. None of those are my intent. So I would say these amendments really do need to be adopted. Then if you don't...if some of the other concerns that were raised about the need for increased information about our school systems are still concerns, we can continue to debate the bill and have an honest difference of opinion on that. But because we have spent so much time talking about the bill itself, I am asking you to return your focus at this point onto

the amendments which are designed to eliminate the very real concerns and very real frustrations some people in the state have about what this bill might do and it will guarantee to them in statute that it will not do these things. So, for that purpose, I would ask you to return the bill to Select File for the adoption of the amendment.

SPEAKER BARRETT: The question is the return of the bill to Select File. All in favor vote aye, opposed nay. Please record.

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

SPEAKER BARRETT: The bill is returned. To the amendment again, Senator Withem.

SENATOR WITHEM: Yes, I would simply urge the adoption of this amendment. The bill...I guess maybe I just also want to point out to people in the body, that the concerns that the amendment addressed, addressed really only a small portion of the bill. The bill is designed...the bill is designed...I notice Senator Hefner voted no on the amendment. I noticed also the other day Senator Hefner was one who stood on the floor of the Legislature demanding to know how soon the Department of Education could get him a printout on a particular piece of legislation, LB 89. The department, Senator Hefner, has I think one, maybe two people over there manning all of these computers and all of this information that they have and when you ask for...currently, when you ask for a printout on legislation, when you ask for, you know, any of these questions about how a particular piece of education (sic) will impact on local school districts, they don't have the ability to respond. That is the main reason for this bill, is for that type of information, the types of information that we, as policymakers, need to answer. One of those questions we need to ask is how well are our schools doing in producing educated citizens. I don't think well enough. Some of you may think perfectly well. Some others of you may think they're doing a disastrous job. The point is we don't know at this point and that's the purpose of the bill. And the other sort of concerns that have been raised on the sides really are peripheral issues and really we do need...we do need this piece of legislation if we are going to continue to ask the Department of Education questions about...that require a data sort of answer, we really need to give them the capability of

responding to those questions. I would urge you to adopt the amendment.

SPEAKER BARRETT: Thank you. The Chair is pleased to announce that Senator Smith has 55 sixth graders from Longfellow School in Hastings visiting today. They're just on their way out with their teacher. Thank you for coming. There are no other lights on. The question is the adoption of the amendment. All in favor vote aye, opposed nay. Please record.

CLERK: 25 ayes, 0 nays, Mr. President, on adoption of the amendment.

SPEAKER BARRETT: The amendment is adopted. Senator Withem.

SENATOR WITHEM: I move to readvance.

SPEAKER BARRETT: Thank you. Shall the bill be readvanced? All in favor say aye. Opposed no. Carried. The bill is readvanced. LB 323.

CLERK: Mr. President, Senator Landis would move to return Legislative Bill 323 to Select File for a specific amendment. The amendment is on page 2104.

SPEAKER BARRETT: Senator Landis.

SENATOR LANDIS: Mr. Speaker, members of the Legislature, the Policy Review Office of the Governor's Office saw that there might be potential constitutional difficulty in retaining an old closed classification which had given the Attorney General's Office difficulty with its concept in earlier years. We met with the PRO and with the Department of Health, with the assistance of the Attorney General, and realized that, to make sure that we met the standards that were appropriate, that we needed to have open classifications. Therefore, this amendment says that optometrists who graduate from this date forward, when coming into the state either from Nebraska or from outstate, will be tested on the full range of the optometric scope of practice. People who have graduated heretofore, however, will take an exam of one of three levels, either the level that is for everything or, if they wish to, they may have the old scope of practice without any use of eye drops, or the use of eye drops in a diagnostic sense or a therapeutic sense, and that that will be offered to people who live in the state and outside

May 15, 1989

LB 175, 228, 312, 312A, 319, 323, 336
340A, 357, 423, 744, 761, 813, 814
815

PRESIDENT: We're still on the machine. Record, Mr. Clerk, please.

CLERK: 26 ayes, 8 nays, Mr. President, on adoption of Senator Lamb's amendment.

PRESIDENT: The Lamb amendment is adopted. Do have another one, please?

CLERK: Mr. President, may I read some items for the record?

PRESIDENT: Yes, please.

CLERK: Your Committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 319 and find the same correctly engrossed, LB 175, LB 228, LB 312, LB 312A, LB 323, LB 336, LB 340A, LB 423 and LB 744, all reported correctly engrossed.

I have amendments by Senator Warner to LB 813, Senator Schimek to LB 814, Senator Nelson to LB 357, Senator Smith to LB 815, Senator Warner to LB 814 and LB 813. That's all that I have, Mr. President. (See pages 2379-87 of the Legislative Journal.)

PRESIDENT: Okay, another amendment, please.

CLERK: Mr. President, Senator Scofield would move to amend the bill. (The Scofield amendment appears on pages 2387-88 of the Legislative Journal.)

PRESIDENT: Senator Scofield, please.

SENATOR SCOFIELD: Thank you, Mr. President, and members, I think this is a non...one of those rare noncontroversial amendments on this issue. You have a handout that's been circulated a little bit earlier. The purpose of this amendment is to put us...to slightly change our definition of low-level radioactive waste so that it conforms with what the current federal language is. Currently, our definition in the State of Nebraska we define low-level waste primarily by what it is not and the particular amendment that is being offered here would...if you will take a look at the handout, if you can find that under your materials there, under the Low-Level Radioactive Waste Policy Amendments Act of 1985 it specifically spells out

May 22, 1989

LB 84, 84A, 586, 586A, 603, 603A, 611
611A, 739A, 744

CLERK: (Read LB 739A on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 739A pass? All in favor vote aye, opposed nay. Have you all voted? Record, please.

CLERK: (Read record vote as found on pages 2658-59 of the Legislative Journal.) 40 ayes, 7 nays, 2 present and not voting, Mr. President.

SPEAKER BARRETT: LB 739A passes. LB 744.

CLERK: Mr. President, may I read some items for the record?

SPEAKER BARRETT: Proceed.

CLERK: Mr. President, communication from the Governor to the Clerk. (Read communication regarding LB 84 and LB 84A. See page 2659 of the Legislative Journal.)

Confirmation report from the General Affairs Committee. Your Enrolling Clerk has presented to the Governor bills read on Final Reading this afternoon, Mr. President. That's all that I have. (Re. LB 586, LB 586A, LB 603, LB 603A, LB 611, LB 611A.)

SPEAKER BARRETT: Thank you. Proceed then to the reading of LB 744.

CLERK: (Read LB 744 on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 744 become law? All in favor vote aye, opposed nay. Have you all voted? Have you all voted? Senator Withem.

SENATOR WITHEM: Let's do a roll call vote, please.

SPEAKER BARRETT: Thank you. Roll call has been requested. Members, please check in. Senators Rod Johnson and Byars, please record your presence. Senator Lynch, please. Senator Warner, please record your presence. Senator Smith. Senator Byars. Senator Dennis Byars, please, record your presence. Proceed with the roll call. The question again is the...whether

May 22, 1989

LB 744, 767, 767A, 780

or not 744 can be passed into law. Mr. Clerk, roll call. Proceed.

CLERK: (Roll call vote taken. See pages 2660-61 of the Legislative Journal.) 25 ayes, 22 nays, 2 present and not voting, Mr. President, on the final passage.

SPEAKER BARRETT: LB 744 passes. With again a reminder that we are on Final Reading and technically under call. Next bill.

ASSISTANT CLERK: (Read LB 767 on Final Reading.)

PRESIDENT NICHOL PRESIDING

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 767 pass with the emergency clause attached? All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

CLERK: (Read record vote as found on pages 2661-62 of the Legislative Journal.) 44 ayes, 0 nays, 4 present and not voting, 1 excused and not voting, Mr. President.

PRESIDENT: LB 767 passes with the emergency clause attached. LB 767A, please.

CLERK: (Read LB 767A on Final Reading.)

PRESIDENT: Have you all voted? Record, Mr. Clerk, please.

CLERK: (Read record vote as found on pages 2662-63 of the Legislative Journal.) 42 ayes, 0 nays, 6 present and not voting, 1 excused and not voting, Mr. President.

PRESIDENT: LB 767A passes. LB 780, please.

CLERK: (Read LB 780 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 780 pass? All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

CLERK: (Read record vote as found on pages 2663-64 of the Legislative Journal.) 42 ayes, 3 nays, 4 present and not

May 22, 1989

LB 137A, 137, 639, 739A, 744, 761, 762
767, 767A, 780

PRESIDENT: It is withdrawn. Please read the bill.

CLERK: (Read LB 639 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 639 pass? All those in favor vote aye, opposed nay. Have you all voted? Have you all voted? Record, Mr. Clerk, please.

CLERK: (Record vote read. See pages 2669-70 of the Legislative Journal.) 36 ayes, 8 nays, 5 present and not voting, Mr. President.

PRESIDENT: LB 639 passes. LB 761 with the emergency clause attached.

CLERK: (Read LB 761 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 761 pass with the emergency clause attached? All those in favor vote aye, opposed nay. Have you all voted? Have you all voted? Record, Mr. Clerk, please.

CLERK: (Read record vote as found on page 2671 of the Legislative Journal.) 46 ayes, 0 nays, 3 present and not voting, Mr. President.

PRESIDENT: LB 761 passes with the emergency clause attached. LB 762, please.

ASSISTANT CLERK: (Read LB 762 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 762 pass? All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

ASSISTANT CLERK: (Record vote read. See pages 2671-72 of the Legislative Journal.) The vote is 48 ayes, 0 nays, 1 present and not voting, Mr. President.

PRESIDENT: LB 762 passes. While the Legislature is in session and capable of transacting business, I propose to sign and do sign LB 767, LB 137A, LB 137, LB 780, LB 767A, LB 744, LB 739A,

May 23, 1989

LB 137, 137A, 211, 215, 228, 352, 639
739, 739A, 744, 761, 762, 762A, 767
767A, 780, 815, 815A, 817
LR 115

PRESIDENT NICHOL PRESIDING

PRESIDENT: (Microphone not activated immediately) ...W. Norris Legislative Chamber. We have with us this morning, as our Chaplain of the Day, Reverend Homer Clements of Saint Luke's United Methodist Church in Lincoln. Would you please rise for the invocation.

REVEREND CLEMENTS: (Prayer offered.)

PRESIDENT: (Gavel.) Thank you, Reverend Clements. We appreciate it. Roll call, please.

CLERK: I have a quorum present, Mr. President.

PRESIDENT: Thank you. Any corrections to the Journal today?

CLERK: I have no corrections, Mr. President.

PRESIDENT: Good. Any messages, reports or announcements?

CLERK: Mr. President, just one item and that is a...your Enrolling Clerk did present to the Governor the last few bills read on Final Reading last evening, and that's all that I had, Mr. President. (See bills presented to the Governor regarding LB 767, LB 767A, LB 137, LB 137A, LB 744, LB 780, LB 739, LB 739A, LB 211, LB 215, LB 228, LB 352, LB 639, LB 761, LB 762, LB 762A, LB 815, LB 815A, and LB 817 as found on page 2677 of the Legislative Journal.)

PRESIDENT: Good. We'll move on to Legislative Resolution, LR 115.

CLERK: Mr. President, LR 115 is offered by Senator Baack. It's found on page 2092. It asks the Legislature to acknowledge the centennial celebration of Cheyenne County...Banner County. Banner County, excuse me, Senator.

PRESIDENT: Senator Baack, please.

SENATOR BAACK: They're fairly close together, I guess. Banner County at one time was a part of Cheyenne County, but is now a Banner County. Mr. President and colleagues, this is a resolution honoring Banner County for their 100th birthday that will take place this summer. Banner County was the first county