

January 16, 1990

LB 1012, 1136-1139
LR 235

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 Gordon Patterson, of the Calvary United Methodist Church in Lincoln, Nebraska. Would you please rise for the invocation. Pastor Patterson.

REVEREND PATTERSON: (Prayer offered.)

PRESIDENT: Thank you, Reverend Patterson. We appreciate your giving us the invocation this morning. Please come back. Roll call, please.

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

PRESIDENT: Thank you. Do you have any messages, reports or announcements today?

CLERK: Mr. President, just one item. I have three reports from a variety of Natural Resource Districts regarding payment of attorney fees. Those reports are required by statute, will be on file for member review in my office. That's all that I have, Mr. President.

PRESIDENT: While the Legislature is in session and capable of transacting business, I propose to sign and do sign LR 235. Move on to introduction of new bills.

CLERK: Mr. President, new bills. (Read LBs 1136-1139 by title for the first time. See page 329 of the Legislative Journal.) That's all that I have, Mr. President.

PRESIDENT: Move on to the motion by Senator Wesely, please.

CLERK: Mr. President, Senator Wesely would move to withdraw LB 1012. That motion was filed on January 12. It's found on page 309 of the Legislative Journal.

PRESIDENT: Senator Wesely, please.

SENATOR WESELY: Thank you. Mr. President and members, I rise to ask the eternal question of what are we here for? I ask that question in light of this particular motion because it's clear that what we are here for in the Nebraska Legislature is to

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LB 161, 1136-1171, 1181-1194

Mr. President, finally, I have a reference report referring LBs 1136-1171. (See pages 373-74 of the Legislative Journal.)

Mr. President, announcement, the Speaker would like to hold a chairmen's meeting tomorrow morning at eight-fifteen in Room 2102. The Speaker is calling a chairmen's meeting tomorrow morning at eight-fifteen in Room 2102. That is all that I have, Mr. President.

PRESIDENT: Do we have some new bills, Mr. Clerk?

CLERK: Mr. President, new bills: (Read LBs 1181-1194 by title for the first time. See pages 374-77 of the Legislative Journal.) That's all that I have at this time, Mr. President.

PRESIDENT: We'll move on to General File, LB 161, Mr. Clerk.

CLERK: Mr. President, LB 161 was a bill that was originally introduced by Senators Rod Johnson, Scofield, Coordsen, Baack, Weihing, Schellpeper and Elmer. (Title read.) The bill was introduced on January 5 of last year, Mr. President. It was referred to the Agriculture Committee for public hearing. The bill was brought to the floor with committee amendments attached. It was considered on April 5, Mr. President. At that time Senator Johnson made a motion to bracket the bill until January 1 of this year. I have pending the committee amendments. They have not been adopted yet, Senator.

PRESIDENT: Senator Rod Johnson, please.

SENATOR R. JOHNSON: Mr. President and members, the committee amendments are relatively straightforward. It is simple but I would like to share them with you and indicate that hopefully they are noncontroversial. There are four parts to the committee amendment. The first requires the Department of Agriculture to use other agencies when enforcement is necessary in the question of water quality. The Department of Agriculture is the lead agency in implementing this bill, but in many cases we have expertise, especially with water quality and other areas including the Department of Environmental Control, through their work; the Department of Health for the Safe Drinking Water Act and the State Resources Office and there is just a variety of different agencies that I think the department could turn to for assistance and I think the important thing is to make sure that

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LB 313, 663A, 799, 896A, 902A, 1004A, 1064A
1136, 1219, 1241

PRESIDENT NICHOL PRESIDING

PRESIDENT: Welcome to the George W. Norris Legislative Chamber. We have with us this morning our own Reverend Harland Johnson. Would you please rise for the invocation.

HARLAND JOHNSON: (Prayer offered.)

PRESIDENT: Thank you, Harland Johnson. We appreciate you again. Roll call, please. Record, Mr. Clerk, please.

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

PRESIDENT: Do we have any corrections to the Journal today?

CLERK: No corrections, Mr. President.

PRESIDENT: How about messages, reports, or announcements?

CLERK: Mr. President, Enrollment and Review reports LB 663A, LB 896A, LB 1004A, LB 1064A, and LB 902A to Select File, as well as LB 313 to Select File with E & R amendments attached. (See pages 838-39 of the Legislative Journal.)

Mr. President, I have received a series of priority bill designations; Senator Landis has selected for the Banking, Commerce, and Insurance Committee LB 1241; Senator Beyer, LB 799; and Senator Landis personal priority or LB 1136.

An Attorney General's Opinion addressed to Senator Lowell Johnson on LB 1219. (See pages 839-41 of the Legislative Journal.)

Two reports, Mr. President, the first from the Nebraska Energy Office, and a second, Mr. President, received from US Ecology regarding notice of final selection. Both of those will be on file in my office.

PRESIDENT: Is that all? Thank you. We will move on to the confirmation report of Senator Haberman's.

CLERK: Mr. President, your Retirement Systems Committee chaired by Senator Haberman offers a report found on page 833 for Ms. Connie Witt to the Public Employees Retirement Board.

February 22, 1990 LB 315, 602, 856-858, 874, 875, 891, 893
906, 907, 957, 964, 966, 984, 997
1013, 1090, 1105, 1119, 1136, 1228, 1246

all voted? Have you all voted? We're voting on the advancement of LB 1090. Please vote. Have you all voted? Senator Withem.

SENATOR WITHEM: Yeah, it appears as though we need another four votes, so I would ask that we...the house be brought under call and I will accept call in votes.

SENATOR LABEDZ: Thank you, Senator. Shall the house go under call? All those in favor vote aye, opposed nay. Record, Mr. Clerk.

CLERK: 14 ayes, 0 nays to go under call, Madam President.

SENATOR LABEDZ: The house is under call. All unauthorized personnel, please leave the floor. Senators in their offices, please return to the Chamber and record your presence. The house is under call. Please return to the Chamber and record your presence. Senator Withem has requested call ins.

CLERK: Senator Chizek voting yes. Senator Lindsay voting yes. Senator Smith voting yes. Senator Morrissey voting yes. Senator Byars, you had voted yes, Senator.

SENATOR LABEDZ: Have you all voted? Record, Mr. Clerk.

CLERK: 25 ayes, 2 nays, Madam President, on the advancement of LB 1090.

SENATOR LABEDZ: LB 1090 is advanced. Mr. Clerk, we'll go to the 1990 Speaker priority bills, LB 1032. The call is raised. Mr. Clerk, you have something to read in the record?

CLERK: Yes, Madam President. Your Committee on Enrollment and Review reports LB 1228 to Select File; LB 1105, Select File; LB 1119, Select File, those signed by Senator Lindsay. Banking, Commerce and Insurance Committee, whose Chair is Senator Landis, reports LB 1136 to General File with amendments attached, signed by Senator Landis as Chair. The Enrolling Clerk has presented to the Governor bills read on Final Reading this morning. (Re. LB 602, LB 856, LB 857, LB 858, LB 874, LB 875, LB 891, LB 893, LB 906, LB 907, LB 957, LB 964, LB 966, LB 984, LB 997, and LB 1013.) Reference report referring LB 1246 to Judiciary for public hearing, as well as certain gubernatorial appointments for confirmation hearing. Amendments to be printed to LB 315 by Senator Coordsen and Hefner; and Senator Conway has amendments

Nostradamus' prophecies that the end of the world is close when Senator Chambers agrees with both Elroy Hefner and Chris Abboud in the same session.

PRESIDENT: That's correct. (Laughter.)

SENATOR LANDIS: And I would suggest that we send one of our Sergeant-at-Arms to go down to the university campus and look at those columns to see if any of them are wobbling or are in danger of falling over as perhaps the first portent of the end of the world, just as a safety measure for all of us in the building. That's off the top of my head.

PRESIDENT: Senator Beck, please.

SENATOR BECK: Mr. Chairman and members, I just wanted to add a few words here. I appreciated all the discussion this morning, that is before we had lunch on this, on this bill. And I think it's very important. And I'm glad to see that those people that are usually on opposing sides...what? They what? Okay. I don't know what's happening. But, anyway, I just wanted to help Senator Abboud move his bill. I didn't know if Senator Landis, if that was debate on the bill or not. So I just wanted to support him and I know that my constituents would like to see it. Thank you.

PRESIDENT: Okay. Senator Abboud, would you like to close?

SENATOR ABOUD: No.

PRESIDENT: No. The question is the advancement of the bill. All those in favor vote aye, opposed nay. Now we're in gear. Record, Mr. Clerk, please.

CLERK: 25 ayes, 0 nays, Mr. President, on the advancement of the bill.

PRESIDENT: The bill is advanced. LB 1136. Raise the call.

CLERK: Mr. President, 1136 was a bill introduced by Senator Landis. (Read title.) The bill was introduced on January 16, referred to Banking, advanced to General File. I have committee amendments pending by the Banking, Commerce and Insurance Committee. (Standing Committee amendments appear on page 930 of the Legislative Journal.)

PRESIDENT: Senator Landis, please.

SENATOR LANDIS: Thank you, Mr. President, members of the body. When LB 1136 came in, and if you look at your subject index you'll find that it originally was a change to the Uniform Commercial Code, Article 4A. However, because of the exigencies of the session, the committee adopted a series of amendments to the bill and deleted its original material. It has been now altered, as your one line indication to a bill, an omnibus bill with respect to provisions on insurance. One portion of these committee amendments are a portion of a bill that's already been before us and has moved from Select File to Final Reading. On Select File, when this bill is there, if it gets there, I will move to strike that. But the provisions generally in this bill are generally on the subject of medical and health insurance in one form or another, although there are some related provisions that are also in the bill. The bill originally takes...or actually the committee amendments originally work around an HMO bill, which the Department of Insurance asked us to introduce and was a committee bill. HMOs are health maintenance organizations, they're related to insurance because you pay premiums and then get the services bit by bit, as you require them, in an HMO. Nationally, this form of business organization occurred in the late sixties and early seventies. It's had its heyday, and in recent years has come on some hard times. HMOs have had some failures around the country. We've had an HMO fail in Nebraska as well. And HMOs have to be well financed and well capitalized because it's relatively easy to get into a situation when you have people buying these services but, because of the costs and the failure to set aside funds and reserves, an HMO can get in trouble financially, unless it is well managed and has placed money aside. Our original HMO language in this state is now about 12 years old, 15 years old, and the state of the art for HMO regulation and also operation has changed considerably since those times. Over the summer, fueled by the changes that have occurred in HMOs and the fact that we have had a recent failure, the Department of Insurance called in the HMOs. They sat around as a task force and reviewed a recent uniform law suggested to the states by the National Association of Insurance Commissioners. The NAIC is formed of the commissioners and their staffs from the various states who try to draft up model pieces of legislation for the regulation of insurance. And when they finally have done that work, they send them out to the states for adoption. The

working model from which we've drafted this HMO language is, in fact, an NAIC model. But then we brought it to Nebraska, Bill McCartney and Bob Lang chaired a task force, brought in HMO members from all of the HMOs in Nebraska, they reviewed the bill to harmonize it to the way we do business in Nebraska and those provisions are here. It includes, for example, such things as requiring quality assurance programs, to keep the quality high; a grievance procedures for people who are members of HMOs who want to aggrieve how they have had their costs or services performed inside the HMO; a limitation of investments by HMOs and their funds to ensure that they'll be solvent and secure; examination of HMOs to make sure that they are as sound and secure as institutions; to provide for mechanism of rehabilitation should they fall on hard times, or liquidation, if they become insolvent; requiring the harmonization of the way we tax HMOs to the normal premium tax for insurance companies. Those kinds of provisions are working models, first in the NAIC, and then by this task force with local HMOs. A second provision in the bill is model language with respect to Medicare supplement insurance. This is, as you know, is insurance bought in the private marketplace to supplement the benefits that one might get from Medicare. However, some of the policies that have been sold nationwide mirror exactly the benefits that one would receive from Medicare. And because they then are able to advertise that they're covering these things, it makes you look like you're getting a good deal, but the policies serve to simply duplicate what you get in Medicare benefits. And then, if you can get them through Medicare, then the policies don't cover them, so, in fact, it's illusory coverage. Additionally, it changes the way in which insurance companies can compensate these kinds of insurance sales personnel to keep them from selling additional and multiple policies, or to get people to change from one company to another, thereby increasing their risk of being without coverage since they might run afoul of the new conditions in the new company. These provisions are identical to the provisions that were in LB 983, which is as I said on Final Reading, and on Select File, if this bill gets there, I'll move to delete these provisions, since we don't need to duplicate them. A third thing this bill does and this committee amendment does is to make slight changes in our Comprehensive Health Insurance Pool, the CHIP Act, which we formed a number of years ago, at the suggestion of Senator Wesely, who serves on the Banking, Commerce and Insurance Committee, and who approves of these changes. One of the changes is to provide that the 12 month waiting period, to

reenter the pool, does not apply when one has received Medicaid benefits and become ineligible for those Medicaid benefits. The operating principle as to why that 12 month waiting period exists makes no sense with respect to Medicaid benefits, since they're not by another private insurer, which is the rationale for this provision to begin with. Secondly, CHIP members could expect to pay above market rates since, as a pool, they wind up being less healthy than normal health insurance pools. We have had, in the past, our policy prices for CHIP pool adherence or clients approximate the amount of money they would pay in the private marketplace, in other words, undervaluing membership in CHIPS. So one of our provisions is to put a target range. CHIP policies should cost at least 125 percent of market because, as a pool, they are sicker than the rest of the market, they're more expensive, and in that sense, they should not approximate market conditions and become a viable competitor to the marketplace. But, not only should there be a minimum, there should be a maximum as well. Now the maximum currently exists in law. There is no minimum in current law. But the maximum is 165 percent of the market. This drops that to 155 percent of the marketplace. These provisions are not only acceptable to the health care providers who are strong supporters of the CHIP program, but these provisions are also acceptable to the general insurance lobby in the state as well. Additionally, the CHIP's program is capable of subrogating payments made by a third party to a person insured by the pool, in other words, to cut the costs of the pool and to gain reimbursement for the CHIP pool, if necessary. Another provision for this measure is to repeal our existing service contract law. Upon study of this, some of the Banking, Commerce and Insurance Committee found that the service contract law was going to run afoul of small contractors and other small businessmen in the state, particularly in Lincoln and Omaha, who provide service...contract services and yet who have no history of presenting any fraudulent consumer problem to this state. So we are repealing the service contract law because the people who are covered by it don't cause problems, and the people who aren't covered by it are the ones who are causing problems. This general repeal is accompanied by a placement of a limited service contract set of provisions that cover new motor vehicle service contracts when there is a special kind of financing arrangement used to cover those situations. It requires that there be a form of reinsurance, if you will, to make sure that should one of these companies providing these new motor vehicle service contracts goes belly up, that there is payment for consumers. Lastly, there is a

change to our underinsured motor vehicle coverage insurance. It is now written in the most difficult and obscure fashion possible, it's impossible to read on its face and to know what it means. It is also possible to be offered in a way that is, in fact, totally illusory for coverage and provide the beneficiary with no value. This change will essentially make underinsured motorist coverage excess coverage and have real meaning...

PRESIDENT: One minute.

SENATOR LANDIS: ...for the purchaser of such insurance. It is not mandated, it is only a mandated offering, that means it must be offered to the consumer, but the consumer need not purchase it. I would move for the adoption of the committee amendments.

PRESIDENT: Thank you. Senator Abboud, please.

SENATOR ABOUD: Waive.

PRESIDENT: Okay, Senator Warner, please. Senator Warner.

SENATOR WARNER: Mr. President, a question, as I understand this, the committee amendment is...permits the priority bill to be used for five bills, which procedurally I have no problem with. Would these all be considered germane? I'm not really thinking about your bill, Senator Landis. I'm thinking about a new process that will become part of the legislative procedure by using a committee to put several bills together. And I was just hoping they were all similar in nature.

PRESIDENT: Were you asking a question, Senator?

SENATOR WARNER: Of Senator Landis, yes.

PRESIDENT: Yes, Senator Landis.

SENATOR LANDIS: There are two restrictions, as you know, on the way that we do business. One is germaneness, which is our own rule, and one is the single subject...

SENATOR WARNER: Right.

SENATOR LANDIS: ...rule. Germaneness has always held that committee amendments are germane to the bill. So that with

respect to germaneness, that standard, historically, is met when a committee amends a bill. With respect to a single subject, that is a matter of interpretation by a court. Three of these measures all revolve around health insurance issues, the Medicare supplement, the HMO, and the CHIP program. The other two are not in the health insurance fields. They are bills that have been through the committee, were heard and were reported out unanimously after having had a public hearing. I am prepared to let the courts decide if there is a single subject or not, that is the standard which would be applied. But, with respect to germaneness, under our historical precedent, these are germane.

SENATOR WARNER: That may not be a very good precedent either. But that's not my point right now. Are you suggesting there may be a question on two subject matters, or are you just saying that you recognize the judicial system has that right, with which we all agree?

SENATOR LANDIS: There would be that question with any bill. There certainly would be with this one, as well.

SENATOR WARNER: It could be?

SENATOR LANDIS: Oh, sure, sure. Any bill here is susceptible to challenge on that basis.

SENATOR WARNER: Let me rephrase the question. Do I have grounds to feel that that might be the case?

SENATOR LANDIS: You might have grounds to feel that there is that situation.

SENATOR WARNER: Is there anything about the legislation that is necessary that we're not jeopardizing anything, if that is the case, it wouldn't make any difference?

SENATOR LANDIS: Yes, two things that I can think of. In the first place, there is a federal mandate to pass the Medicare supplement language. The second thing is that there are about 90 businesses in Omaha, small contractors, that are probably presenting no problems to consumers, that we know of, who will be faced with an obligation of a 40 percent reserve requirement, which would basically bankrupt them.

SENATOR WARNER: So, that...

SENATOR LANDIS: I mean if you want to run 90 businesses out of business in Omaha, don't vote for the bill.

SENATOR WARNER: I don't think that's my question.

SENATOR LANDIS: You asked me if there was some reason why this action needed to be taking place immediately, and I'd say running 90 businesses out of business is some immediate need.

SENATOR WARNER: Okay, I understand.

SENATOR LANDIS: That's my personal definition, you may choose it differently.

SENATOR WARNER: With that, I agree. I would not want to jeopardize it by intentionally putting in a potentially unconstitutional two-subject bill, that's why I'm trying to lead to is there something that is needed to be done. I'm not trying to hassle, Senator Landis, I'm trying to arrive at a decision, because obviously this will be a practice that can grow and generate to really be something useful on a daily basis, annual basis, excuse me. (Laughter.) Well, thank you for your help.

PRESIDENT: Thank you. Senator Wesely, please.

SENATOR WESELY: Thank you. I would only rise and say that this is not an unprecedented move whatsoever to try and pull different bills together. We just had...Senator Lamb had a bill that had seven or eight different pieces of legislation from farm trailers to I don't even know what all we got in that bill. But I know it wasn't all dealing with farm trailers. And, so I also know a couple of years ago we had legislation dealing with a number of clean-up bills that we put together, closer to ten different pieces of legislation together. I think that, frankly, the Landis amendment is fine. I think that we do string together different legislation that all deal with subject matters under the Banking, Commerce and Insurance Committee. The committee did meet and decide that these were all worthy pieces of legislation that without this amendment would not have a chance of passage this year. So I understand Senator Warner's concern, it simply is not unusual, or unique, or unprecedented to do this. And I would rise in support of the committee amendments.

PRESIDENT: Thank you. Senator Abboud, please.

SENATOR ABBODD: Mr. President, colleagues, I wasn't going to comment as to the committee amendments or the bill. But I think there...I think I should have a couple of words to discuss as far as with the pieces of legislation that we did place in LB 1136. Those bills were very much, I believe, unanimous within the committee. They were bills that needed to be passed, and we were faced with the situation of trying to get a number of pieces of legislation enacted into law. They are all worthy pieces. I think that the committee amendments are fine. I think that the legislation is fine, and I would urge the advancement of the bill.

PRESIDENT: Thank you. Would you like to close on the committee amendments, Senator Landis, please.

SENATOR LANDIS: Just to state that every item in here has had a public hearing, has had adequate notice, has been voted on by the committee, has been reported out unanimously. But it's true, there is a lumping together of these issues. With respect to three of them, there is the shared interest in health insurance. With the other two remaining items, there is an update in the insurance code. My guess is that last year, when we passed the Omnibus Insurance Act, which took care of fees for agents, capitalization rates for companies, the powers of the department on liquidation across a number of different kinds of insurance, we may run afoul of the same Constitution principle. It's possible, I don't know, these are matters for a later time for the judiciary to apply with respect to whether or not there is an underlying code. This, basically, makes omnibus changes, it's true, but changes that have the support of the body, at least the committee anyway, who have had public hearings and who generally update our code for contemporary circumstances, which the committee is compelled to feel that action should be taken. I would move the committee amendments.

PRESIDENT: Thank you. The question is the adoption of the committee amendments. Oh, Senator Warner, your light came on. Did you....The question is the adoption of the committee amendments. All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

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

amendments.

PRESIDENT: Committee amendments are adopted. Anything else on it, Mr. Clerk?

CLERK: Nothing further, Mr. President.

PRESIDENT: Senator Warner, your light is on. Did you wish....Okay, would you like to open on it first, Senator Landis, then we'll call on Senator Warner.

SENATOR LANDIS: Having described the bill in the committee amendments, and it now being the bill, I would move for its advancement.

PRESIDENT: Thank you. Senator Warner, please.

SENATOR WARNER: Mr. President, I just wanted to make one additional comment on the comment I was making earlier so it's not misunderstood. I don't really...I have a legitimate concern that we are mixing two subject matters. But...and that we're not stretching germaneness by the excuse, even though it's within the rules, for the committee. But what I would like to say about the process is that I think we hear about too many bills being introduced. I think it's not a bad process that you have individual bills so that there is the opportunity for public hearing on separate items, rather than had the same bill introduced with five different things in it to start with. And...because that becomes a much more difficult process, and so even though I have some reservations to misuse, I do not suggest this is a misuse. And it's very proper to reduce the number of bills by doing this. But I think it's also excellent to introduce as single subject matter bills for purposes of public hearing.

PRESIDENT: Thank you. Senator Landis, would you like to close on the advancement of the bill?

SENATOR LANDIS: I'll close, and I am illuminated by that comment. I, too, would find a procedural agreement with that. And let me assure the body, once again, that each of the measures here has had a separate public hearing correctly identified to the public as to what was in the measure. Notice was given, separate hearings were held, and action was taken. And that process was adhered to in this situation. Thank you.

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LB 1136, 1222

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

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

PRESIDENT: The bill is advanced. LB 1222.

ASSISTANT CLERK: LB 1222 was introduced by Senator Hartnett and a number of other members. (Read title.) The bill was read for the first time on January 18th, was referred to the Health and Human Services Committee. That committee reports the bill back to General File with committee amendments, Mr. President. (Standing Committee amendments appear on page 971 of the Legislative Journal.)

PRESIDENT: Senator Wesely, please.

SENATOR WESELY: Thank you, Mr. President, members of the Legislature. LB 1222 deals with the Foster Care Review Board and their ability to have standing in court. The committee did hear the bill and found some need for some amendments. First off, Section 2 and Section 3 are stricken from the bill. It was felt that those particular sections caused some problems and were not necessary, and so it was felt that they needed to be stricken from the bill. We did....Those deal with access to domestic violence records, and there were some restrictions about that access that would have been violated by those sections of law. We also, on child abuse and neglect reports, and the access provided to the Foster Care Review Board would not include the names of the persons that made the reports. This is to protect those individuals that might turn in individuals for child abuse or neglect. And so we wanted the Foster Care Review Board to have access to those reports, but we didn't want them to necessarily know who it was that turned in those individuals, so we wanted to maintain that confidentiality. We also required guardian ad litem to file reports at disposition hearings, which would be every six months. Currently they aren't required to have any written report. And it was felt that it would be advantageous to, on that regular basis, have those reports to review. That particular element, I talked to Senator Hartnett with, and there are some concerns with. I'd prefer at this time to adopt that

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LB 96, 98, 118, 304, 307, 317, 428
430, 473, 518, 536, 675, 677, 735
770, 796, 797, 896, 898, 899, 905
920, 998, 999, 1018, 1019, 1031, 1125
1136, 1170, 1198, 1207, 1211, 1220, 1222

PRESIDENT: Okay, the question is the advancement of the bill. All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

ASSISTANT CLERK: 26 ayes, 0 nays on the advancement of the bill, Mr. President.

PRESIDENT: LB 1222 is advanced. Mr. Clerk, anything for the record?

ASSISTANT CLERK: Mr. President, I have a series of items. Your Committee on Appropriations, whose Chairperson is Senator Warner, to whom was referred LB 1031, reports the bill to the full Legislature with committee amendments; LB 1125, to General File; LB 920, to General File; LB 1170, to General File with amendments; LB 536, General File with amendments; LB 1220, to General File; LB 896, to General File; LB 898, to General File; LB 899, to General File; LB 96, indefinitely postponed; LB 98, indefinitely postponed; LB 118, indefinitely postponed; LB 304, indefinitely postponed; LB 307, indefinitely postponed; LB 317, indefinitely postponed; LB 428, indefinitely postponed; LB 430, indefinitely postponed; LB 473, LB 518, LB 675, LB 677, LB 735, LB 770, LB 796, LB 797, LB 998, LB 999, LB 1198, LB 1207, all indefinitely postponed; and LB 1211 and LB 905, advanced to General File with committee amendments. (See pages 1131-37 of the Legislative Journal.)

Senator Landis would ask to print amendments to LB 1136 in the Journal. (See pages 1137-38 of the Legislative Journal.) Senator Warner has asked to announce an Executive Session of the Appropriations Committee in Room 1003, upon adjournment today. And I have a request from Senator Ashford to add his name to LB 1018 and LB 1019.

PRESIDENT: No objections, so ordered.

ASSISTANT CLERK: Then, Mr. President, I have a priority motion. Senator Hannibal would move that we adjourn until March 5, 1990, at 9:00 a.m.

March 7, 1990

LB 42A, 81, 220A, 369A, 579, 830, 831
863, 880A, 888, 917, 922, 923A, 932
938, 954, 956, 978, 987, 987A, 1013
1022, 1037, 1050, 1067, 1077, 1090A, 1102
1136, 1178, 1199, 1222

SPEAKER BARRETT: Thank you. You have heard the motion by Senator Wesely to recess until one-thirty. All in favor say aye. Opposed no. Carried. We are recessed. (Gavel.)

RECESS

SPEAKER BARRETT PRESIDING

SPEAKER BARRETT: Roll call. Record, Mr. Clerk.

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

SPEAKER BARRETT: Thank you. Anything for the record?

CLERK: Mr. President, I do. Bills read on Final Reading, this morning, have been presented to the Governor as of 12:15 p.m. (Re. LB 1022, LB 81, LB 956, LB 1050, LB 863, LB 938, LB 932, LB 917, LB 888, LB 831, LB 830, LB 579, LB 1199, LB 922, LB 954, LB 978, LB 987, LB 987A, LB 1037, LB 1067, LB 1178, LB 1102, and LB 1077.)

Your Committee on Enrollment and Review reports LB 1018, LB 1136, LB 1222, LB 42A, LB 220A, LB 369A, LB 880A, LB 923A, LB 1090A to Select file, some of which have Enrollment and Review amendments attached, Mr. President. (See pages 1233-36 of the Legislative Journal.) That's all that I have, Mr. President.

SPEAKER BARRETT: Thank you. Perhaps a very brief announcement from the Chair regarding our deliberations tomorrow. It is my hope that we can work through the lunch hour tomorrow, with the thought in mind that we can adjourn a little early tomorrow for the long weekend. It's my intent, at the present time, to work through the noon hour tomorrow, and look toward an early adjournment tomorrow afternoon. Contrary to previous statements made by the Chair, it will not be my intent to schedule appropriations bills tomorrow, budget bills tomorrow. We will be looking at them, probably, Monday or Tuesday of next week. We will continue with the agenda tomorrow with some Final Reading, probably some Select File, and perhaps senator priorities on General File. Any questions? Mr. Clerk, would you bring us up-to-date.

March 8, 1990

LB 164, 164A, 259A, 260, 260A, 313, 313A
348, 542, 594, 642, 678, 843A, 855
855A, 953, 953A, 965, 980, 980A, 1032
1136, 1236
LR 239

CLERK: 25 ayes, 0 nays, Mr. President, on the advancement of 843A.

SPEAKER BARRETT: LB 843A is advanced. Have you matters for the record, Mr. Clerk?

CLERK: I do, Mr. President. Amendments to be printed to LB 1136 by Senator Landis. (See page 1289 of the Legislative Journal.)

Your Committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 164 and find the same correctly engrossed; LB 164A, LB 259A, LB 260, LB 260A, LB 313, LB 313A, LB 348, LB 542, LB 594, LB 678, LB 855, LB 855A, LB 953, LB 953A, LB 965, LB 980, LB 980A, LB 1032 and LB 1236, all of those reported correctly engrossed. (See pages 1289-92 of the Legislative Journal.)

I have an explanation of vote from Senator Barrett, Mr. President. (See page 1292 of the Legislative Journal regarding LB 642.)

That's all that I have.

SPEAKER BARRETT: Thank you. The Chair is pleased to note that Senator Ashford had some fourth graders from Christ the King School in Omaha, District 6, with their teacher. Are you folks still with us in the south balcony? Apparently they have just left. Mr. Clerk, LR 239CA.

CLERK: Mr. President, LR 239CA was a resolution introduced by Senators Withem, Warner, Lindsay, Barrett and Weihing. It proposes an amendment to Article VII, Sections 10 and 13 of the Nebraska Constitution as well as Article XIII, Section 1. The resolution was introduced on January 16 of this year. At that time, Mr. President, it was referred to the Education Committee for public hearing. The resolution was advanced to General File. I do have Education Committee amendments pending.

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

SENATOR WITHEM: Yes, Mr. Speaker, members of the body, this is the time of year when you would rather not have your personal

March 13, 1990

LB 1031, 1136
LR 239, 278, 281, 282

SENATOR WITHEM: If for no other reason, we need this particular bill for that particular reason. I would urge you to advance LR 239CA.

PRESIDENT: Thank you. The question is the advancement of the bill. All those in favor vote aye, opposed nay.

SENATOR MCFARLAND: A call of the house and a roll call vote.

PRESIDENT: Thank you, Senator McFarland. Senator McFarland has asked for a call of the house and a roll call vote. The question is, shall the house go under call? All those in favor vote aye, opposed nay. Record, Mr. Clerk.

CLERK: 26 ayes, 1 nays to go under call, Mr. President.

PRESIDENT: The house is under call. Would you please record your presence. Those not in the Chamber, please return to the Chamber so that we may continue. Roll call vote has been requested. Looking for Senator Haberman, Senator Labedz, Senator Jacky Smith, Senator Chambers, Senator Lynch, Senator Morrissey. We are still looking for Senator Lynch. Senator Lynch is here and the question is the advancement of the bill. Will you please listen quietly so that the Clerk may hear your response. Mr. Clerk, please.

CLERK: (Roll call vote taken. See pages 1324-25 of the Legislative Journal.) 26 ayes, 19 nays, Mr. President, on the advancement.

PRESIDENT: The bill is advanced. Do you have anything for the record, Mr. Clerk?

CLERK: I do, Mr. President. I have amendments to be printed by Senator Chambers to LB 1031. (See page 1325 of the Legislative Journal.)

PRESIDENT: The call is raised.

CLERK: Senator Landis to LB 1136. New resolutions, LR 281 by Senator Baack. (Read brief explanation.) LR 282 by Senator Lynch and Wesely. (Read brief explanation.) I have an explanation of vote by Senator Haberman, and a series of adds to LR 278, Mr. President. That is all that I have. (See

March 22, 1990

LB 1019A, 1136

SPEAKER BARRETT: Chairman Lindsay.

SENATOR LINDSAY: Mr. President, I...did you say there were E & R amendments? Mr. President, I move that LB 1019 be advanced to E & R final.

SPEAKER BARRETT: Any discussion? Seeing none, all in favor of the advancement of LB 1019A say aye. Opposed no. Ayes have it. Motion carried. The bill is advanced. LB 1136, Mr. Clerk.

ASSISTANT CLERK: Mr. President, the first item on 1136 is E & R amendments.

SPEAKER BARRETT: Senator Lindsay, on the E & R amendments.

SENATOR LINDSAY: Mr. President, I move the adoption of the E & R amendments to LB 1136.

SPEAKER BARRETT: Any discussion? Shall the E & R amendments to 1136 be adopted? All in favor say aye. Opposed no. Carried. They are adopted.

ASSISTANT CLERK: Mr. President, the next item I have is an amendment from Senator Landis. This is 2781. Senator, I have a note that you want to withdraw this.

SPEAKER BARRETT: It is withdrawn.

ASSISTANT CLERK: AM2918, also withdraw that amendment, Senator?

SPEAKER BARRETT: It is withdrawn.

ASSISTANT CLERK: In that case, Mr. President, I have an amendment from Senator Landis, 2973.

SPEAKER BARRETT: The Chair recognizes Senator Landis.

SENATOR LANDIS: Thank you, Mr. Speaker, and members of the Legislature, this matter has been published and I believe appears in your bill book, although not in the Journal. This measure, this amendment does three things and it also subtracts some material from the existing bill. You will recall this bill has a number of provisions relating to insurance in it and one of those was the model act with respect to Medicare supplement insurance which we were passing pursuant to some federal

suggestions in tightening the way that we regulated Medicare supplement. That measure, however, was also contained in a separate bill, LB 983, I believe, and that measure has been reported to Final Reading and is in a position to be passed. As a matter of fact, I think it has been read on Final Reading and, for that reason, one of the provisions of this amendment is to strip those provisions from the bill so that we don't have any duplication on that score. The three remaining provisions, there are two minor ones, one of them relates to PPOs which are like HMOs, HMOs being a health maintenance organization but a PPO is a slightly different arrangement but for much the same kind of purpose. It's a way of arranging for medical services and to prepay for them. In the PPO situation, there is the desire to have the same provisions for confidentiality that apply in an HMO or a health maintenance organization. In those situations, the health maintenance organization may not release information about their clients and their treatment unless it's with the express request of the individual who has been so served or pursuant to a court order or pursuant to a statutory privilege. And those same provisions which are in our law for HMO, that is to say they're in LB 1136, are now being requested to apply to PPOs. No one that I know of has any objection to that and, for that reason, to parallel what are two similar organizations to have similar rights this provision should be adopted. The second division says that an HMO may not have an arrangement which is exclusively mail order medications. Health maintenance organizations are oftentimes meant to give first care, first line diagnostic treatment for individuals and oftentimes you have medical needs which are immediate in nature and this provision says basically that the medical or medication side of the HMO may not be done in an explicitly and restrictedly mail order fashion. You need to have a way in which your HMO people can go to a pharmacy to do business. Why? Because it's oftentimes the case that you don't want to wait a week or two weeks to start medication for a sickness and there is no HMO that does work of that nature in this state and there is no objection by any of the HMOs to that language. The most substantive provisions to the amendment, however, are at the suggestion of the Department of Insurance and are contained in a measure which has had a public hearing and which was responded to positively by the Banking, Commerce and Insurance Committee. It relates to the new nationally recognized model legislation dealing with managing general agents in insurance. This new model act by the National Association of Insurance Commissioners is intended to respond to the phenomenon of managing general

agents. These are individuals who operate insurance companies for insurance companies. Basically, it's when an insurance company simply gives their ability to write business to a managing general agent. It gives them their pen, as you will. One of the reasons that Director McCartney was quite adamant for this measure this year is contained in a new federal document called Failed Promises, a study of the insurance company insolvencies over the last several years in the country. Part of the conclusions of this federal report include the phenomenon of managing general agents as being particularly dangerous because they find themselves in sort of a conflict of interest. They are compensated for the amount of business that they write for the bus...for the insurance company but, at the same time, they have the obligation to care for the quality of risks that are being undertaken by the company. So they kind of have two masters, their own pocketbook which would lead them to write any and every risk they can and their other obligation which is to oversee the business carefully and to be prudent. Well, this measure, as you can see in the material that I have handed out to you, says that there will be limitations on this relationship, hoping to break this problem of conflict of interests. In one case, it declares that the managing agent has a fiduciary duty to the company. Secondly, it says that there has to be a contract between the managing general agent and the company which includes guidelines for reinvestment and reinsurance, something that managing general agents in the past have violated. It also indicates that where there are...where there is a practice of reinsurance that there be an audited or generalized actuarial accounting of the loss reserves which MGAs create, all of which are designed to show the parent company a reasonable course of behavior with which they can judge their MGA, both against the written contract that will be required but, secondly, against the loss reserves that will have to be actuarially proven up and the like. Why? To show the parent company that the MGA is not in a conflict of interest and is, in fact, carrying out their best interests. It's important to recognize that this national phenomenon has come home to roost for us as well. During the past five years, three Nebraska domicile insurance companies, and they are the Imperial Casualty Indemnity, the Protective National Insurance Company of Omaha and the Central National Insurance Company of Omaha, have all experienced problems. They have had severe financial impairments which can be traced directly to the uncontrolled use of managing general agents. I would move for the adoption of the amendment and be happy to answer any questions you may have.

SPEAKER BARRETT: Thank you. Mr. Clerk, you have a request, a motion.

ASSISTANT CLERK: Mr. President, I have a request to divide the question on the Landis amendment. That's offered by Senator Hall.

SPEAKER BARRETT: Senator Hall.

SENATOR HALL: Mr. President, can I discuss this at this point, this motion?

SPEAKER BARRETT: Certainly. Tell us what the division is to be.

SENATOR HALL: The division would be only to strike out the last managing general agent issue and that sections 12 to 121 or whatever, is that correct? Yeah. And I only do that so that I could talk on the issue. At this point,...

SPEAKER BARRETT: Proceed.

SENATOR HALL: Okay. Senator Landis, would you respond to a couple questions?

SENATOR LANDIS: Sure.

SENATOR HALL: What...this is a substantive issue and I appreciate your stating that. What...are there any companies in Nebraska that this would directly affect?

SENATOR LANDIS: There are companies, well, I have recited the fact that there are some Nebraska based companies that have used MGAs in the past and they have had severe financial problems directly related to the MGAs. Are...can I give you a list of companies that use MGAs in this state? I cannot, off the top of my head, I'm sure that I could do that relatively quickly and I will attempt to do that.

SENATOR HALL: Is there...is...the reason for this amendment is it that the bill itself would not be addressed this year?

SENATOR LANDIS: Without this amendment, this issue would not be addressed this year, that's correct.

SENATOR HALL: Is there a reason that this wasn't part of the other amendments that you addressed on General File that were added to this provision?

SENATOR LANDIS: The other measures had all come out of committee and it was sort of like, I guess you would have to say, a failure of nerve on my part as to how much I was going to put into the bill.

SENATOR HALL: Five, six, seven...

SENATOR LANDIS: Something like that.

SENATOR HALL: ...How high did I want to go?

SENATOR LANDIS: Yeah, something like that. I will tell you this, we now have taken out the Medicare supplement (interruption).

SENATOR HALL: I understand that. I...I...and I understood that to be part of the amendment. My...my question is, you said the others had been advanced out of committee. Is this...I also understood you in your opening to say that the committee acted favorably upon this part of the amendment. Does that mean that this is in a bill form somewhere currently on General File?

SENATOR LANDIS: This is in LB 981. I believe the bill is still in committee. Oh, I'm sorry. "Senator" Marineau corrects me and informs me that it's on General File.

SENATOR HALL: And the reason I asked that is because you said it was acted on favorably and then you said the others were acted on and I just wanted to clarify that it had been advanced out of committee. Was there any opposition to the bill in committee when the hearing was held?

SENATOR LANDIS: Not that I recall, no.

SENATOR HALL: Okay. And, again, explain to me how this one provision deals with an operation, how does it work? Just what are we changing? What are the impacts that this statutory change would have on the operations of an insurance company?

SENATOR LANDIS: Well, right now an insurance company can hand

over to this managing general agent a number of business practices, including putting business on the books saying, yes, this is the kind of risk we're going to take, also to do reinsurance provisions to establish reserves, loss reserves and the like; basically, to assign almost the entire administrative and management function to an individual who is not a corporate officer but who is hired as a managing general agent. It's like hiring a management staff, if you will, to do the business. And that managing general agent then has tremendous power to make decisions which can impair the company. The phrase in the industry is "handing over your pen to the MGA". Currently, there is no limitation that that relationship has to be done under contract, what the provisions of that contract would be, whether or not the MGA has a fiduciary duty, whether the MGA has a legal obligation to settle accounts or to provide separate business records.

SPEAKER BARRETT: One minute.

SENATOR LANDIS: All of those provisions are in the MGA act. What they say is this critical person who is now, in fact, in charge of your...of your boat has to have a written contract, has to have guidelines for their underwriting practices, has to be able to have an actuarial showing for their loss reserves. What else? Has a fiduciary duty at law, has to be able to settle accounts and has to be able to keep separate business accounts for doing the insurance company's business.

SENATOR HALL: But in no way do we take away the ability for this transaction to take place.

SENATOR LANDIS: Exactly. MGA...

SENATOR HALL: That's my point, (interruption).

SENATOR LANDIS: Exactly. MGAs can occur and they are sound practices if you have got a good MGA.

SENATOR HALL: Because, as you know, it clearly is a method many times to basically circumvent limits in terms of salary...

SPEAKER BARRETT: Time has expired.

SENATOR HALL: ...(inaudible) benefits.

SPEAKER BARRETT: Thank you. Senator Hall, we are still talking about a divided question, or was your purpose served?

SENATOR HALL: My purpose is served at this point. There's no need to divide the amendment. I will ask...

SPEAKER BARRETT: Thank you. Senator Elmer.

SENATOR ELMER: Thank you, Mr. President. Would Senator Landis yield to a question or two?

SPEAKER BARRETT: Senator Landis, please.

SENATOR ELMER: Senator Landis, over the last couple of years I have had in my district a conflict between some agents and an MGA that are reflected in this paragraph where you refer to the conflict between writing business and earning commissions. And this, of course, has gone on and on and unresolved and it seems as though that something of this type is very, very well warranted if it addresses those types of conflicts between local agents, the MGAs, which are the middle man for the parent insurance companies. Does this go in any way toward resolving those kinds of conflicts?

SENATOR LANDIS: Yes, it does in this sense. It tells, for example, that the MGA and the company must have a written contract; secondly, that in that contract some provisions need to appear, among them are appropriate underwriting guidelines in which the company tells the MGA, here are the guidelines for which you will go out and write our business for us. In the past, MGAs have been able to do that with no guidelines, no written suggestions, no limitations. The agents may be getting a story from their historical relationship with the company and then get a new story from the MGA and, in fact, have no one to appeal to nor is there anyone to go to, to say, what are the rules which the company is going to operate? What limitations are there on the MGA? This written contract which will need to be done between a licensed MGA and the company is to include appropriate underwriting guidelines for the MGA which the company will give them.

SENATOR ELMER: I see.

SENATOR LANDIS: And that should at least in part assist us in trying to clean up that kind of a problem.

SENATOR ELMER: In this particular instance, the local agent had written the insurance, passed it on to the MGA for the transaction that would preclude it...or prelude it going to the company that he represents and then receiving commissions back from the company for the sale and keeping all the commissions and rather than giving them to the local agents. And these contracts or arrangements you're talking about then would address these kinds of matters. Is that true?

SENATOR LANDIS: It would be my hope. I will tell you this as well, that this places them under the licensure of the insurance department and because they would be licensed they would have those same sets of discipline for their behaviors as agents now have under Nebraska law.

SENATOR ELMER: Thank you, Senator Landis. Thank you, Mr. Speaker.

SPEAKER BARRETT: Thank you. Senator Hall. Thank you. Senator Wehrbein.

SENATOR WEHRBEIN: Yes, Mr. President and members, I would like to ask Senator Landis a question.

SPEAKER BARRETT: Senator Landis.

SENATOR LANDIS: Yes.

SENATOR WEHRBEIN: Senator Landis, it struck me why is it necessary to have a law on this? You make good sense. It isn't that I'm not saying that...

SENATOR LANDIS: Sure.

SENATOR WEHRBEIN: ...but it seems to me that a responsible insurance company would not want to allow an MGA to occur on their own. It would seem that it would be in their best interest to have somebody that was responsible and would follow the rules of the company rather than to let them go off on their own. So I wonder why it's necessary for state law to get into this area.

SENATOR LANDIS: You would think that was the case. On the other hand, you know we get into business, these kinds of

relationships between what would make perfect sense if you were just following sensible business practices. Well, we do it all the time. And, in this case, it's...well, can I, let me make an analogy. We have got some pickle card arrangements around this state, charities who have said, basically, to pickle card management operations, raise money for us. We have got a good charity, we have got a good network but you run the business for us. You sell the pickles and give us the money. And in lots of places that's done above board and legitimately and the charity makes money. Same thing in this situation. What you have got is you have got a company that's up and running, there is some stock, you've got some capital put together, but you may not be long on insurance management operation and you basically have somebody out there that says, I am a skilled business insurance manager, hire me and basically I will run your company. I'm not one of your officers, I'm just your general agent, just assign me all these tasks and I will do them. And in some cases they settle claims for the company and in second...and in other places they do reinsurance for the company, stop loss treaties, and in other situations they do all the underwriting analysis and it's a way for somebody who has got an accumulation of capital and a charter to do business in an insurance company not to have to do the actual management work and those self-contained operations can, in fact, be marketed and purchased and that's what happens.

SENATOR ELMER: Okay, thank you.

SPEAKER BARRETT: Thank you. Any other discussion? Anything further, Senator Landis?

SENATOR LANDIS: Let me close by just making clear for the record with a question that Senator Hall wanted to get to in that line of questioning. This does not outlaw MGAs. It is a sensible, reasonable management decision to make by insurance companies. A number of them use them but, just like practically anything, it can get out of bounds. This is simply a way of having some discipline for these situations and to reduce their understandings to writing and to create in the MGA a fiduciary duty which is, as you know, a level of obligation which is disciplinable at law. And, for that reason, I would ask for the adoption of the amendment.

SPEAKER BARRETT: Thank you. The question is the adoption of the Landis amendment to LB 1136. All in favor vote aye, opposed

nay. Please record.

ASSISTANT CLERK: 25 ayes, 0 nays on Senator Landis's amendment.

SPEAKER BARRETT: The amendment is adopted. Anything further?

ASSISTANT CLERK: Mr. President, Senator Wesely would move to amend. (The Wesely amendment appears on pages 1589-90 of the Legislative Journal.)

SPEAKER BARRETT: Senator Wesely.

SENATOR WESELY: Yeah, Mr. Speaker, real briefly. This amendment deals with when there is a rate increase, a part of the bill that we have deals with CHIP and some changes that we needed to make there and one of the changes that didn't get included on the General File amendment, which was discussed at the hearing and just forgot to include it, was that when a rate increase is proposed for CHIP by the CHIP board it goes to the director of insurance and this amendment would require a hearing be held on that rate increase. There is a hearing already handled by the director and I have talked to the director who had indicated that he would always have a hearing for any rate increase. This would simply put it in statute. So I would move for the adoption of this amendment.

SPEAKER BARRETT: Discussion. Senator Hall.

SENATOR HALL: I'm sorry, Mr. President, I wasn't listening to Senator Wesely's amendment. Would he repeat it, please. I apologize.

SPEAKER BARRETT: Senator Wesely.

SENATOR WESELY: Yes, Mr. Speaker. Senator Hall, this is an amendment that says when there is an increase under CHIP, Comprehensive Health Insurance Pool, a rate increase, there would be a public hearing. The director of insurance has the review of that and he would have a hearing so some input would be provided on that rate increase.

SPEAKER BARRETT: Anything, Senator Hall? Thank you. The question is the adoption of the Wesely amendment to LB 1136. All in favor vote yes, opposed no. Please record.

ASSISTANT CLERK: 25 ayes, 0 nays on Senator Wesely's amendment.

SPEAKER BARRETT: The Wesely amendment is adopted. Anything further?

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

SPEAKER BARRETT: Thank you. Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move that LB 1136, as amended, be advanced to E & R for Engrossment.

SPEAKER BARRETT: Any discussion? If not...excuse me, Senator Hall.

SENATOR HALL: I would just have a question...one last question for Senator Landis for the record.

SPEAKER BARRETT: Senator Landis, please.

SENATOR HALL: Senator Landis, and I know we talked about this in the aisle, but, just for the record, does, in any way, the amendment that we just adopted to the bill, not Senator Wesely's but yours...

SENATOR LANDIS: I understand.

SENATOR HALL: ...does it...does it in any way limit, to your knowledge, the income that these managing general agents can achieve? Does it...

SENATOR LANDIS: No, there's no cap on income, there's no limitation on that sense. It's simply a matter of regulating the relationship so that there is no conflict of interest, that items are done in written form, that accounts are kept separate, that guidelines are given by the company. If the performance of the MGA is such that a salary of six or seven figures is justified, the company will be fair to pay that and the ultimate discipline for the paying of too high a compensation by a board of directors to an MGA would be stockholders objecting to a board of directors' action that would happen in that format, as part of the capital formulation, that's where the objections would lie.

March 22, 1990

LB 1136, 1222

SENATOR HALL: Thank you very much. Appreciate it.

SPEAKER BARRETT: And, with that, the question is the advancement of LB 1136 to E & R Engrossing. All in favor say aye. Opposed no. Carried. The bill is advanced. Mr. Clerk, LB 1222. And there is an A bill following 1222, ladies and gentlemen.

ASSISTANT CLERK: Mr. President, on 1222 I do have E & R amendments.

SPEAKER BARRETT: Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move the adoption of the E & R amendments to LB 1222.

SPEAKER BARRETT: Any discussion? If not, those in favor of the adoption of the E & R amendments to 1222 please say aye. Opposed no. Carried. They are adopted.

ASSISTANT CLERK: Mr. President, the next amendment I have is from Senator Byars. I understand he wants to withdraw this amendment.

SPEAKER BARRETT: It is withdrawn.

ASSISTANT CLERK: In that case, Mr. President, the next amendment is from Senator Coordsen. That amendment is found on 1294.

SPEAKER BARRETT: The Chair recognizes Senator Coordsen.

SENATOR COORDSEN: Thank you, Mr. Speaker, members of the body, on 1222 the courts had a problem with some of the language and there was a meeting between the courts and the primary sponsors of the bill which I was a party to and the amendment would strike the requirement that the court shall conduct a dispositional hearing at least once every six months. The rationale behind this is that they're already required, as I understand it, to review the cases of wards of the state on a regular basis and this would include a load-in for the courts that they didn't feel that was necessary at this point in time. So I would move the adoption of the amendment.

SPEAKER BARRETT: Thank you. Discussion? Senator Wesely.

March 27, 1990

LB 315, 536, 551, 551A, 799, 898, 899
920, 1019, 1019A, 1031, 1125, 1126, 1136
1170, 1220, 1246

SPEAKER BARRETT PRESIDING

SPEAKER BARRETT: Welcome to the George W. Norris Legislative Chamber. Please stand. The opening prayer of the day by Pastor Robert Bye of the First Presbyterian Church of Plattsmouth, Nebraska, Senator Wehrbein's district. Pastor Bye. (Gavel.)

PASTOR BYE: (Prayer offered.)

SPEAKER BARRETT: Thank you so much, Reverend Bye. Please come back again. Roll call.

PRESIDENT NICHOL PRESIDING

PRESIDENT: I understand we're about ready to start. Mr. Speaker, would you explain the progression we're going to follow, please.

SPEAKER BARRETT: Yes, thank you, Mr. President and members. Obviously we do have a problem with the electronic voting board this morning. Apparently everything else is working. The microphones and the panels on either side of the board are okay, so rather than waste some time waiting for repair people to arrive on the scene, I'd recommend we get started and when it comes to casting a vote, we'll have to either use hands, voice vote or, of course, a roll call. So if we can put up with the inconvenience for a short while, we should be back in business as soon as the repair people are on site. Mr. President, I'd suggest we go ahead with the first item on the agenda.

PRESIDENT: Okay, thank you. Have you any corrections, Mr. Clerk?

CLERK: I have no corrections this morning, Mr. President.

PRESIDENT: Do you have any messages, reports or announcements?

CLERK: Mr. President, your committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 1246 and recommend that same be placed on Select File with E & R amendments attached. Mr. President, Enrollment and Review also reports they have carefully engrossed LB 315 and find it correctly engrossed as well as LB 536, LB 551, LB 551A, LB 799, LB 898, LB 899, LB 920, LB 1019, LB 1019A, LB 1031, LB 1125, LB 1126, LB 1136, LB 1170 and LB 1220, all of those reported

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LB 1136, 1222A, 1222

personal privilege to point that.

PRESIDENT: I think you might be stretching it a little bit, Senator Landis, to have that as a point of personal privilege.

SENATOR LANDIS: So the Chair would be saying that I probably couldn't use a point of personal privilege...

PRESIDENT: Yeah, that would be the idea.

SENATOR LANDIS: Gotcha.

PRESIDENT: Thank you. Okay. Move on with the next bill, LB 1136, please.

CLERK: (Read LB 1136 on Final Reading. See pages 1844-1845 of the Legislative Journal)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is shall LB 1136 pass? All those in favor vote aye, opposed nay. Please return to your seats, ladies and gentlemen, so we can vote on this. Please return to your seats and vote so we can move on, please. The last bills are shorter than the one we just had so please stick around. Have you all voted? Record, Mr. Clerk, please.

CLERK: (Read record vote as found on page 1845 of Legislative Journal.) 44 ayes, 0 nays, 2 present and not voting, 3 excused and not voting, Mr. President.

PRESIDENT: LB 1136 passes. LB 1222.

CLERK: (Read LB 1222 on Final Reading. See pages 1845-1846 of Legislative Journal.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is shall LB 1222 pass? All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

CLERK: (Read record vote as found on page 1846 of Legislative Journal.) 42 ayes, 1 nay, 3 present and not voting, 3 excused and not voting.

PRESIDENT: LB 1222 passes. LB 1222A.

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LB 42, 42A, 642, 656, 799, 866, 880
880A, 953A, 1004, 1004A, 1019, 1019A, 1059
1059A, 1064, 1064A, 1080, 1080A, 1113, 1113A
1136, 1146, 1184, 1184A, 1222A
LR 418

CLERK: (Read LB 1222A on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is shall LB 1222A pass? All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

CLERK: (Read record vote as found on page 1847 of Legislative Journal.) 44 ayes, 0 nays, 2 present and not voting, 3 excused and not voting, Mr. President.

PRESIDENT: LB 1222A passes. Do you have something for the record, Mr. Clerk?

CLERK: Mr. President, I do, a new resolution by the Judiciary Committee, (LR 418.) a study resolution. Enrollment and Review reports LB 1064 and LB 1064A as correctly engrossed, both signed by Senator Lindsay as Chair; and LB 1059 and LB 1059A is correctly enrolled. Enrollment and Review reports LB 1113 and LB 1113A to Select File, signed by Senator Lindsay. Amendments to be printed by Senator Hartnett to LB 953A, Senator Hall to LB 866. And, Mr. President, a confirmation report from Transportation Committee signed by Senator Lamb as Chair. That's all that I have, Mr. President. (See pages 1847-52 of the Legislative Journal.)

PRESIDENT: While the Legislature is in session, capable of transacting business, I propose to sign and do sign LB 880, LB 880A, LB 1004, LB 1004A, LB 1080, LB 1080A, LB 1184, LB 1184A, LB 656, LB 1146, LB 42, LB 42A, LB 799, LB 1019, LB 1019A, LB 1059A, LB 1059, LB 1136, LB 1122, correction, LB 1222, and LB 1222A. We're ready to go. Mr. Clerk, do you have something on the desk?

CLERK: Mr. President, motion pending from this morning was one offered by Senator Chambers and that motion was to overrule or change the Speaker's agenda to permit consideration of a suspension motion relating to LB 642.

PRESIDENT: (Gavel). Could we have your attention so we can hear the speaker? Senator Chambers, please.

SENATOR CHAMBERS: Thank you. Mr. Chairman and members of the Legislature, this is a continuation from what I was attempting

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LB 220, 220A, 315, 369, 369A, 551, 551A
571, 576, 720, 720A, 799, 851, 896
923, 953, 958, 960, 960A, 980, 980A
994, 994A, 1018, 1063, 1063A, 1064, 1064A
1080, 1090, 1136, 1146, 1184, 1184A, 1244

PRESIDENT NICHOL PRESIDING

PRESIDENT: Welcome to the George W. Norris Legislative Chamber for the last day of the Second Session of the 91st Legislature. We're especially happy to have with us this morning our own Harland Johnson for our prayer of the morning. Would you please rise?

HARLAND JOHNSON: (Prayer offered.)

PRESIDENT: (Gavel.) Thank you, Harland, and may I say, on behalf of all the members of the Legislature, we have truly appreciated your prayers during the session. They have been very meaningful because you understand us so well, so thank you again. Roll call, please.

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

PRESIDENT: Thank you. Any corrections to the Journal?

CLERK: No corrections this morning, Mr. President.

PRESIDENT: Any messages, reports, or announcements today?

CLERK: Mr. President, a series of messages. First, communications from the Governor. Engrossed...well, before that, Mr. President, bills read on Final Reading as of late last Thursday were presented to the Governor on Thursday evening as of 8:15 p.m. Communications from the Governor, Mr. President, and I might indicate to the members that copies of messages I have received have been distributed and you should have a copy on your desk. Communications to the Clerk: Engrossed LB 1080, LB 1184, LB 1184A, LB 656, LB 1146, LB 799, and LB 1136 were received in my office on April 3 and signed by me on April 6 and delivered to the Secretary of State. Sincerely, Kay Orr, Governor. (See Message from the Governor as found on page 1985 of the Legislative Journal.) A second communication: Engrossed LB 220, LB 220A, LB 315, LB 369, LB 369A, LB 551, LB 551A, LB 571, LB 720, LB 720A, LB 851, LB 896, LB 923, LB 953, LB 958, LB 960, LB 960A, LB 980, LB 980A, LB 994, LB 994A, LB 1018, LB 1063, LB 1063A, LB 1064, LB 1064A, LB 1090, and LB 1244 were received in my office on April 3 and signed by me on April 7, delivered to the Secretary of the State. Sincerely, Kay Orr, Governor. (See Message from the Governor as found on page 1985 of the Legislative Journal.) In addition to those items,