

January 16, 1990

LB 240, 514, 718, 855, 972, 1140-1147
LR 239

CLERK: (Roll call vote taken. See pages 330-31 of the Legislative Journal.) 16 ayes, 18 nays, Mr. President, on the advancement of the bill.

PRESIDENT: LB 514 fails to advance. Anything for the record, Mr. Clerk?

CLERK: Just one item, Mr. President.

PRESIDENT: The call is raised. Did you want to enter some bills, Mr. Clerk?

CLERK: Mr. President, I do. Thank you. Mr. President, new bills. (Read LBs 1140-1147 by title for the first time. See pages 331-33 of the Legislative Journal.)

Mr. President, in addition to those items, I have a new constitutional amendment, LR 239CA, offered by Senators Withem, Warner, Lindsay, Barrett and Weihsing. (Read brief summary of resolution. See pages 333-37 of the Legislative Journal.) That will be referred to Reference.

Finally, Mr. President, I have a notice of hearing from the Agriculture Committee, that's signed by Senator Rod Johnson as Chair of the committee. (Re: LB 855, LB 972, and LB 718.) That's all that I have, Mr. President.

PRESIDENT: Thank you. Senator Baack is not here at the moment, so we'll go to LB 240.

CLERK: Mr. President, LB 240 was a bill introduced by Senator Hall. It is on Select File.

PRESIDENT: Senator Hall, please.

CLERK: Mr. President, I do have an amendment. Senator, you want to take up your amendment, or you want to refresh the body as to the bill?

SENATOR HALL: Whatever you think is appropriate, Mr. Clerk.

PRESIDENT: Senator Hall, please.

SENATOR HALL: Thank you, Mr. President and members. If I could

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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 87, 159, 163, 163A, 220, 240, 257
313, 315, 397, 399, 486, 488, 488A
756, 856, 911, 963, 1002, 1026, 1033
1037, 1050, 1051, 1090, 1108, 1109, 1141
1168, 1181, 1190
LR 239, 240

PRESIDENT: Okay. Thank you. Senator Ashford, you are next, but may I introduce some guests under the south balcony, please. We have from District 22, which is Senator Robak's district, Dianne Foltz of Platte Center and Betty Grant of Columbus, Nebraska. With them are three AFS students, Jean/David Miquel of Paris, France, and Patty Cervantes from Bolivia, and Shane Walker from Australia. Would you folks please stand and be recognized. Mr. Clerk, you have something for the record?

CLERK: I do, Mr. President, very quickly. Enrollment and Review reports LB 163 to Select File, LB 163A to Select File, those signed by Senator Lindsay as Chair. Agriculture Committee, whose Chair is Senator Rod Johnson, reports LB 856 to General File. (See page 429 of the Legislative Journal.)

Mr. President, Senator Coordsen, as Chair of the Business and Labor Committee, has selected LB 313 and LB 315 as the committee priority bills for the year. And Enrollment and Review reports LB 87, LB 220, LB 240, LB 257, LB 397, LB 399, LB 486, LB 488, LB 488A, LB 756 all correctly engrossed. Those signed by Senator Lindsay as Chair. (See pages 430-33 of the Legislative Journal.)

Mr. President, notice of hearings from the Education Committee and from the Natural Resources Committee, signed by the respective chairs. (Re: LB 1190, LB 1181, LB 1168, LB 911, LB 1050, LB 1090, LB 1033, LB 1037, LB 963, LB 1026, LB 1108, LB 1109, LB 1141, LB 1002, LB 1051, LR 239 and LR 240.) And Senator Haberman has amendments to be printed to LB 163. That's all that I have, Mr. President. (See pages 433-34 of the Legislative Journal.)

PRESIDENT: Senator Ashford, did you wish to speak on the first set of Kristensen amendments?

SENATOR ASHFORD: I call the question.

PRESIDENT: Oh, you call the question. The question is, shall debate cease? All those in favor...Do I see five hands, first? I do. The question is, shall debate cease? All those in favor vote aye, opposed nay. What do you think, Senator Ashford? Record, Mr. Clerk.

CLERK: 16 ayes, 0 nays to cease debate, Mr. President.

February 13, 1990 LB 159, 163A, 624, 642, 862, 923, 943
976, 1010, 1086, 1090, 1091, 1141, 1171
1180, 1195, 1197, 1238
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PRESIDENT: Mr. Clerk, do you have anything for the record?

CLERK: Mr. President, I do. A reminder, the Speaker would like to have a meeting of Committee Chairs tomorrow morning at eight-thirty, Committee Chairs tomorrow morning at eight-thirty in Room 2102.

Mr. President, your Committee on Education whose Chair is Senator Withem reports LB 1086 to General File, LB 1090 General File with amendments, LB 1195 General File, those signed by Senator Withem, and LB 1180 indefinitely postponed, LB 1197 indefinitely postponed. Urban Affairs reports LB 943 indefinitely postponed, LB 1171 indefinitely postponed, signed by Senator Hartnett. Banking reports LB 624 to General File, that signed by Senator Landis. (See pages 779-80 of the Legislative Journal.)

Mr. President, a series of priority bills designations. Senator Wesely as Chair of Health and Human Services selects LB 923, Senator Withem selects LR 239CA, Senator Warner selected LB 1141. General Affairs Committee selected LB 862 as one of its priority bills, that's offered by Senator Smith. Senator Dierks has selected LB 1238.

I have amendments to be printed to LB 163A by Senator Schimek. (See page 781 of the Legislative Journal.)

A confirmation report from the Education Committee. That is offered by Senator Withem.

A series of adds, Mr. President. Senator Weihing would like to add his name to LB 642, Senator McFarland to LB 1010, Senator Lowell Johnson to LB 976 and Senator Pirsch to LB 1091 and Senator Warner to LB 159, AM2372. That is all that I have, Mr. President. (See page 782 of the Legislative Journal.)

PRESIDENT: Thank you. Senator Moore, please.

SENATOR MOORE: Yes, Mr. President, I move we adjourn until 9:00 a.m., February 14, Valentine's Day.

February 15, 1990 LB 42, 50, 143, 159, 240, 240A, 259A
350, 350A, 465, 692, 742, 844, 866
905, 919, 1080A, 1082, 1141, 1183
LR 8, 239, 256

CLERK: (Roll call vote taken. See page 830 of the Legislative Journal.) 2 ayes, 28 nays, Mr. President.

PRESIDENT: The motion fails. Anything for the good of the cause, Mr. Clerk?

CLERK: Yes, Mr. President, I do. Mr. President, Senator Kristensen has amendments to be printed to LB 159; Senator Withem to LB 259A. (See pages 830-32 of the Legislative Journal.)

A new resolution, LR 256 by Senators Wesely, Withem, Bernard-Stevens. (Read brief explanation. See pages 832-33 of the Legislative Journal.) That will be laid over.

An announcement from the Speaker regarding afternoon sessions next Tuesday, Mr. President; a reminder of the membership. Confirmation report from the Nebraska Retirement Systems Committee. That is offered by Senator Haberman.

Bills have been presented to the Governor, Mr. President, as of 10:43 a.m., those read on Final Reading this morning. (Re: LB 50, LB 143, LB 240, LB 240A, LB 465, LB 350, LB 350A, LB 692, LB 742.) LR 8 presented directly to the Secretary of State.

A new A bill, LB 1080A by Senator Schellpeper. (Read for the first time by title. See page 834 of the Legislative Journal.)

Mr. President, Revenue Committee reports LB 844 to General File, LB 919 to General File, LB 1183 General File, and LB 1082 as indefinitely postponed. Those all signed by Senator Hall.

Mr. President, priority bill designations, Senator Byars has chosen LB 905; and Senator Lamb LB 866.

Mr. President, Education Committee, whose Chair is Senator Withem, reports LB 1141 to General File with committee amendments attached, signed by Senator Withem; and Education Committee reports LR 239CA to General File with committee amendments attached. (See pages 834-36 of the Legislative Journal.)

Finally, Mr. President, Senator Rogers would like to add his name to LB 866; and Senators Weihsing, Goodrich, and Coordsen to

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LB 923, 1141
LR 239, 271

and if you list it as "when dry", then you know that if it is wet, it is not dry, therefore, it is not friable. And I would just like for us to stay within EPA regulations. Now we have talked to the Health Department, we have talked to them a number of times, and they hold their heads and wring their hands when we call again, and I appreciate their patience, as well. But the concern with when dry is that the EPA may change their regulations. Right now, it is still when dry, and so I am thinking that if EPA, when and if, they do change the regulations, and we go through this in Natural Resources all the time of waiting for them to change or not to change, or whatever, and because we go through that, I got to thinking, well, why not add the when dry, keep this within the EPA regulations. Then if they change it, then the Legislature can look at it again. Why take it out now with the idea that maybe it will change and, therefore, we will be ready for the change. The fact is I have a letter that shows all of the many times that EPA defines friable. I have the NESHAP letter in 1984, again we go in 1987. We have another letter on October of '87, and we have one now in 19...January 10 of 1989, and they always use the word "when dry." Now we don't know when and if they may change it, so why don't we just put when dry back and then we know we will be within federal guidelines. If and when they change, then we can decide what to do at that time. So, again, it is just a matter, really a policy matter. I would like to see when dry in there because I know then that as a contractor or as a homeowner fixing something, that if it is wet, and if I have misted it, then all those things that I know by law it is not friable. And so I know we are in a hurry. I know we want to go to lunch. I am not going to belabor the point but I would urge the body to vote to put the words "when dry" back into the asbestos definition. Thank you.

SPEAKER BARRETT: Thank you. Discussion on the Beck amendment, Senator Wesely.

SENATOR WESELY: I move we recess.

SPEAKER BARRETT: Anything for the record, Mr. Clerk?

CLERK: Mr. President, a new resolution, LR 271 by Senator Ashford. That will be laid over. A series of amendments to LB 1141 by Senator McFarland to be printed; and Senator Warner to LR 239 to be printed. That is all that I have, Mr. President. (See pages 1224-32 of the Legislative Journal.)

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Wayne, Chadron, Peru, UN-O, UN-L and the Med Center, all under one system for the purposes of coordination. The coordination body would be able to enforce role and mission types of decisions on those campuses and, for once, finally have some degree of coordination. The fourth recommendation is...and this was what was really new and different. Anything else we have talked about has really been around in ideas floating around the state for the last 30 years. The new thing that they recommended was that we recognize that there is a difference between coordination and governance. Coordination involves the system, how different elements of the system function with one another. Governance involves how a specific institution is run on a day-to-day basis. They have recommended that the governance of these institutions be vested in a campus level institutional board of trustees. Those are the four recommendations. LR 239CA provides the constitutional changes that will be needed to bring that about. If it is passed, it will go on the ballot this fall and the voters will have a chance to support it. If they do support it, they will need to be implementing legislation. That follows with the next bill, LB 1141. Let me tell you what the committee amendments do to the bill. They are not, as most committee amendments are, technical in nature. These flush out the proposal and make some very significant changes in LR 239. First of all, they clarify the effective date of the new board is July 1, 1991, and they indicate that the interim Board of Regents will have the interim powers. The trustees had recommended that there be six elected trustees...six elected regents and five appointed. They had recommended...the consultants had recommended that they be elected by congressional districts. Heard some good testimony at the hearing that that's too large an area and we had ought to have those be in districts created by the Legislature, each person have a single district. That's the second thing the committee amendments do. There is a political party restriction on the members of the first Board of Regents. We are adding that, that there be a political party restriction on the memberships of the first Board of Regents, that no one party of the appointed members can dominate, have more than...more than half of that initial board. We deal with the nonvoting student member on the Board of Trustees. As a matter of fact, we deal with it in two different ways. We indicate that that person will be chosen in a manner created by the student body. We also make it a voting member on these boards of trustees. We add a provision prohibiting dual officeholding between Board of Regents and the board of trustees. We add provisions regarding

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against the proposal, there will be lots of other alternatives, but I think they ought to have an opportunity to do decide if they want to change their mind on how this student will function on the Board of Regents or on the governing bodies. I think they ought to be able to vote with that separately. I think what Senator Warner has done as the author of the committee amendments is chosen a way in which they can be stated better. Again, I would say that Senator Hall and Senator Moore, if it had been drafted in this initial fashion, they would have been ecstatic about the...well, maybe ecstasy is a little strong word, but they would have been pleased with having the matter brought before the body. It's never gotten out of committee before, as far as I can remember. It's out of committee. It's to be considered. All we're doing is saying probably the proper way to consider it is separate from the rest of the resolution. So I support the Warner amendment.

SPEAKER BARRETT: Senator Haberman. Excuse me, Senator McFarland, followed by Senator Haberman.

SENATOR MCFARLAND: Thank you, Mr. Speaker. The concept of this amendment is a good one and I think Senator Warner has focused on an issue that could have been a problem had we just passed the LR 239CA and then LB 1141 in the form that we have recommended, because there would be a question, I suppose, of whether you could delegate by statute voting authority to a student on the board of trustees. And this amendment, in concept of trying to make it clear in the Constitution that, in fact, yes, by constitutional provision you're allowing the student member to have a vote on the board of trustees is a good one. I commend him for being observant and finding that. And, for that reason, I think this amendment is worthy of consideration. However, I do not plan to vote for the amendment and I would encourage you not to vote for this particular amendment, for the reason that I don't see it as two distinct issues. There are a lot of issues that are separate and distinct within the LB 1141 and within the constitutional amendment itself. When we discussed in the Education Committee the idea that a student would have a right to vote as a member of the board of trustees, there was no discussion that I recall whatsoever about making it a separate issue on the constitutional amendments. As a matter of fact, I think it was probably an oversight on the Education Committee's part not to have included that as a part of the constitutional amendment. As I recall our discussion in the Education Committee, we

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visited about the role of having a student member of the board of trustees as a nonvoting member and about Senator Moore and his proposal to have the student have a vote and we decided, as a committee, in favor of that concept, that all too often in the past there had been problems in the current Board of Regents with the way the students have been just deprived any voice or any type of representation in the entire process. And there was a lot of testimony, as I recall, about how the student regents would never be included in phone call conversations or they would never be included in certain communications, written communications, how they were...would be able to attend the meetings but really have no part in the process or no voice in the process at all. And I think that what was on the committee's mind and I think on my mind when we decided to put into LB 1141 the provision that the students have a right to vote was that this would improve the process and at least give them some kind of voice in that process. Granted, the vast majority of the members of the board of trustees would be the appointed members but at least you would have one student who would be a representative who would have a right to express their view by way of a vote. Now, with respect to segregating different issues, there were other things that we changed in the committee amendments. For example, initially it was a seven-member board of trustees. We reduced that to five members. That is a change from what was proposed by the commission, but yet I don't see that being articulated as some kind of separate amendment in this bill. I have an amendment that will be pending on LB 1141 to have a faculty representative on the board of trustees. It seems totally inappropriate for me, upon reflection, to have appointed members to the board of trustees all appointed by the Governor and then allow a student to have a voice but not any faculty representation at all. I think that's one thing that should be considered that was not considered. If that is added to LB 1141, do we then come back and make that a separate constitutional provision? There were discussions in our committee meeting about whether the Board of Regents should all be appointed or all be elected. The current provision, I think, is that six are elected and five would be appointed. That's a controversial issue. Should we have that separate and apart as a different constitutional amendment to be voted on? I think you could go on and on and on.

SPEAKER BARRETT: Time has expired, Senator McFarland.

SENATOR MCFARLAND: Did I get a minute warning?

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The students of the university are the ones who are dramatically affected by decisions on the Board of Regents at this time and would be dramatically affected by members of the board of trustees in their decisions. And the persons that you get on as board...student Board of Regents that I have worked with here at the university are very educated, talented and conscientious persons. They are not the campus radicals. They are not the persons who are not...who have run and have been elected for one specific purpose only or they're not flippant or irrational about things. They are very mature young adults and the students have views that could help contribute to the whole process of the governance or control of the particular institution. As it is in the LB 1141, you're going to have five adult members who are going to be appointed. It just seemed to me that one student member who would have a vote could contribute and could help in that whole process because they are the ones that see it from a different perspective. They have something to add. And I think at least from the student regents that I have worked with in the time I have been in the Legislature, I think they would have a positive effect and a positive impact on the whole issue. That's why I think they should be included.

SENATOR HABERMAN: Well, Senator McFarland, could there be the possibility that the election would be a popularity contest and we might get someone on there who does not have the qualifications you just mentioned that they should have?

SENATOR McFARLAND: That's always a possibility. That's a possibility when you have someone run for Governor that it becomes a popularity contest. I think, all too often, it has been. Or any legislative...see, any time you have an election, it can be a popularity contest, but I think...

SPEAKER BARRETT: One minute.

SENATOR McFARLAND: ...I think that students generally take it very seriously and they may even take it more seriously and it would become a real issue with students running for that position on the board of trustees on the basis of what they would do and how they would represent the student body.

SENATOR HABERMAN: Thank you, Senator McFarland. Members of the body, I would urge you to support Senator Warner's amendment. Thank you.

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question that. I would also, I think, be first to say that there are some people who might vote against the whole plan because of that. I suspect there will be others brought into the plan and voting in favor of it because they have something to gain and I don't know if those will cancel out or not. I have no way of knowing. But I would make one final statement. One of the things about the students' voting rights that I have been always amazed with on the discussions, whether in committee or elsewhere, is that there seems to be some...some fear about what might happen. And I'm always interested because on the board of trustees, as it's envisioned in LB 1141 and, again 1141, it really doesn't make any difference if that passes or not, it's...that simply gives us an idea of what things might look like if 239 is, in fact, agreed by the public. But I guess the fascinating thing is there would be one vote among six and apparently what we're afraid of is five intelligent, knowledgeable adults will not be able to handle that one voting student. And I didn't realize they were that powerful and that influential. I also hear people say, well, what happens if some people are gone and it comes to be a tie vote and the student breaks the tie on a very important issue? I would argue if any five of us were on a commission or on a board of trustees, with one student voting right, and we knew members were gone and we weren't sure where the votes were, I suspect we would use whatever procedure is necessary to make sure that the proper people were there at the right time to get the votes done. So I'm always amazed at this fear that's out there. I would also like to put in a little plug, I guess, for students because many of these students, for example may not...in the universities, will not finish university and they will go right into work. Many will be married and not finish, for one reason another go into the work force and they are full adults at that point, participating, voting and doing whatever. And we're training these people, they are our future. In fact, what we're basically saying here in some of the discussion is that we don't want to give them any responsibilities. We're afraid of what they might do. And I don't think we need to be afraid of that, particularly the small, small say that we actually are given. I do have one concern, however, on this particular amendment to the amendment. My one concern is if this doesn't pass, there might be a movement to take it out altogether and that somewhat bothers me and that's why I'm kind of in a quandary of how I want to approach this particular amendment to the amendment. But, at this point, I think I am going to oppose it because I don't see any harm at the final decision-making process when it

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we're proceeding with these amendments. As I think about it, if there are senators on the floor who object to this concept, then it seems to me the more appropriate way to make that objection known would be to try to get that provision changed in LB 1141, the bill that follows, because that is the bill that we have specified...

SPEAKER BARRETT: One minute.

SENATOR MCFARLAND: ...in which we have specified that the student members should have a vote. If that is the objection, then why not try to amend LB 1141 on General File and see if whether or not the legislative body wants to keep that provision in or take it out? And then if the decision is made on General File whether to keep it in or take it out, then you can come back on Select File and amend this constitutional provision, because, in fact, if we on General File take the student vote out of LB 1141, then there is really no need for this amendment and there is no need to have this provision in. But if, in fact, we have the debate on LB 1141 and the student vote stays in as part of 1141, then, in fact, you could come back on Select File and Senator...

SPEAKER BARRETT: Time.

SENATOR MCFARLAND: ...Senator Warner could introduce his amendment at that time. Thank you.

SPEAKER BARRETT: Thank you. Senator Coordsen has some guests under our north balcony, Mr. and Mrs. Francis Rouner of Gilliad, Nebraska. Would you folks please stand and be recognized. Thank you. We're pleased to have you with us. Further discussion on the Warner amendment. Senator Abboud, followed by Senator Warner.

SENATOR ABOUD: Mr. President, today I had some students down from Millard South High School and a number of senators talked to that group. And we talked about some of the issues that were before them and I got some rather difficult questions asked of me about different pieces of legislation that are before this body. And I thought back to my times when I was in high school and college, law school, and at that particular time I had a fairly good understanding of what was going on, I guess probably because I devoted a lot of my time to my studies, but also I read the newspaper. I was interested in what was going on. And

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idea is not a good idea but we are talking about restructuring and so I think at this time we need to pay a particular attention to what people are thinking about and what the committee amendments and so on, how the bills come out from the Legislature, so that they realize when they go to vote on the constitutional amendment, so they realize exactly what is going to happen. We have a lot of ifs involved in all of this this morning, because the big if is whether or not the voters of Nebraska will vote to pass LB 239CA (sic.) Thursday, I did not speak about the student regent vote but I did pass out some literature from the Daily Nebraskan which, for me, overcame any problems with the student regent vote. There isn't any problem with that. That's not the overriding issue. The overriding issue is whether or not we will have seven institutional boards and a Board of Regents and what they call the superboard. That word "superboard" concerns me too because that makes it sound like they're super people. Well, all of the people, including those of us in the Legislature, are people, we're average, ordinary people who are trying to do a job for the State of Nebraska, and if and when this happens, I think all of those people who would be on those boards would be in that same category. I just don't happen to buy the idea that we need all those boards. We need one good regents board and we need...if we need a coordinating commission, we already have one if we would give any strength or any money or any authority. So I just don't see why we have to go through this right now. Actually, the constitutional amendment is all we...I don't think LB 1141 should have even been introduced this session. So I want to say that one thing about it you must remember, you must never underestimate the intelligence of the American voter because that little person with the little pencil, going into the little booth, marking the little X, or doing the little...filling the little circle with black so it will come out on the computer, that's the person that makes the difference, and so that's why I say this morning all of these amendments are very important. We must discuss them. We must move them because the people who are going to vote on 239CA are entitled to know what they are voting for. They are not voting just to change the Board of Regents structure. They are voting for an immense change...

PRESIDENT: One minute.

SENATOR CROSBY: ...in the way educa...higher education is governed in the State of Nebraska. Thank you.

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concern is right now being expressed about the focus of these changes and this amendment starts to bring attention to that. So I would rise in support of the amendment, mostly to call attention to the fact that the Med Center and the University of Lincoln have something in common and that they are statewide institutions with a statewide role and mission.

PRESIDENT: Thank you. Senator McFarland, you're next, but may I take a moment, please, to recognize some students that are here as guests of Senator Schimek and Senator McFarland. In the south balcony, we have 84 fifth and sixth grade students from Prescott School, Unit O, and their teachers. Would you students and teachers stand so that we may recognize you? Thank you all for visiting us this morning. Senator McFarland, followed by Senator Weihing and Senator Hall.

SENATOR MCFARLAND: Thank you, Mr. President. I hope that this debate this morning will start to stimulate some discussion on these issues because my fear is that the majority of the body have not really followed this whole matter as closely as maybe we should. We, in the Education Committee, of course, had the hearing. We are generally familiar with all of the provisions and the testimony that occurred at that hearing, but it seems to me that a large number of this legislative body have just kind of conceded that the commission recommendation should be universally approved without any questions being asked. And I think we would make a big mistake if we do that. I have distributed a document that talks about the rationale for uniting the UN-L and the UNMC campuses into one major administrative unit, what has traditionally been the University of Nebraska, and I will read parts of it and I hope that you will take a look at it, because I think it raises a lot of issues and also clearly expresses a number of reasons why it is consistent to have UN-L and the Med Center under one board of trustees. It says that a number of Nebraskans who are knowledgeable about higher education in general, and about Nebraska's needs in particular, are supportive of the pending legislation, LR 239CA and LB 1141, but believe that the permanent bifurcation of the historic components of the University of Nebraska, that being the Lincoln campus and the medical campus in Omaha, would be a serious mistake. These individuals believe that Nebraska would benefit from having a single comprehensive research institution, one that would give it the strongest national profile; one that would facilitate interdisciplinary research, teaching and service to best meet

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will...who will...

SPEAKER BARRETT PRESIDING

SPEAKER BARRETT: One minute.

SENATOR WEIHING: ...go back to the rural areas of the state. The center has been servicing the total part, that is the state in total, and I do not feel that under a single Board of Regents it isn't separated out. What it's doing when there's a single Board of Regents is bringing all of our institutions into the perspective and into an orientation that will best serve the people throughout the entire state.

SPEAKER BARRETT: Senator Hall, please.

SENATOR HALL: Thank you, Mr. President, and members, I rise to oppose Senator McFarland's amendment to the committee amendments. The issue that I would talk about is the issue of whether or not this is an appropriate amendment to LR 239CA. The issue that 239 deals with is the issue of governance and I fail to find in 239 anywhere the single name of any institution that we talk about. The amendment would have us now talk about institutions and what should be linked together and what should not. I would...I understand Senator Withem's need, I think, to probably deal with the amendment at this point, but I think it's more appropriate that this amendment, if it were going to be offered, be offered on LB 1141. I would oppose it then as well, but I think that the issue, as Senator Weihing and others have pointed out, is one of at what point do you say, I guess, what can you do for me? And that's really what it's boiled down to. I mean, the folks from the Lincoln campus feel that, I guess, UNMC can bring something to the Lincoln campus with regard to probably the issue of research. I think it might even be something along the lines of dollars, in terms of money, and I know that's rather basic for me to think that way but I tend to think that that might have something to do with the amendment that's offered. UNMC has done an outstanding job, as has the University of Nebraska in Lincoln, with regard to research, each in their own separate areas. Now the Omaha campus, the Med Center, is outstanding across the country with regard to some of the research and things that they have done in the world of medicine and they're recognized for that. To say that one cannot live with the other or that they should be put together because they both had a very broad responsibility in terms of

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the entire state population is very naive at best. You could make the same argument for Kearney State and you could do it just based on the number of people that they serve from across the state, the students who come from every border, every corner of the state who go there because of the reputation they have. For example, in the past they were known as a teaching school, so was Peru State, and we don't sit and try to link those together to the UN-L campus as we do the Med Center in this case. And I appreciate the concern some people have for the drastic change that LR 239 makes in governance of higher education but to begin now to try to link some things and knit these interwoven pieces in the past back together, after we have, I think, successfully in 239 developed a proposal for higher education governance that could last far into the future, is a mistake. And I would urge you to reject Senator McFarland's amendment. I think it is ill placed in any form on 239CA. Thank you, Mr. President.

SPEAKER BARRETT: Thank you. The Chair recognizes Senator Bernard-Stevens.

SENATOR BERNARD-STEVENS: Thank you, Mr. Speaker, and members of the body, I wanted to echo briefly what Senator Hall was saying and I, too, would say that though I would not be in favor of the amendment in any form at this particular point, the amendment is not a valid amendment to have on 239CA. When we get into the real crux of the matter, when we find out what it is exactly we're going to do, if 239 is agreed to by the body and subsequently by the people, then it's time to get in and find out how do we want the Board of Regents. Do we want the board of trustees the same number or do we want to have it by specific institutions? Do we want to combine? That will all take place on LB 1141 and that will also, by the way, really take place after the constitutional provision has been agreed upon by the public. If it's not agreed upon by the public, LB 1141 is kind of an exercise in futility with the exception of giving people an idea of what it might be like once it is agreed to. So I would hope that the amendment to the amendment would be withdrawn. If not, then I hope the body, even if you might favor the concept of the amendment, would vote it down simply because this type of amendment is not needed in a constitutional provision such as we have on 239, but it would be an appropriate one on LB 1141 when we really get into the guts of the material. Also, as kind of an aside, if Senator Warner is, by chance, excommunicated from the Lincoln delegation, I have heard one con

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attempting to mold public opinion and trying to show some leadership in convincing people that they ought to change their views. But any public opinion polls I've seen on this question of appointive versus elective is so clear-cut, even during last summer, when the Board of Regents were probably at the nadir of their...nadir, nadir, whatever, of their public approval, people at that time were even saying at that time that they do think they want to retain the right to elect these people. So I think public opinion is very clear on that case. And, for that reason, I would say we ought not to go to an appointive Board of Regents.

PRESIDENT: Thank you. Senator Bernard-Stevens, you're next. But may I introduce a guest in the north balcony. Would you folks please stand so that I may talk about you just a second. Please rise, so you can be welcome by the Legislature. We have 47 students representing their country in Educational Foundation for Foreign Studies, and the students are from all over the world, and our groups are sponsored by several people in Nebraska, from all over Nebraska. (Introduced some of the sponsors.) Would all of you students please stand so that we may recognize you. Thank you for visiting us, we really appreciate it. And the students with them are from all over the world. Senator Bernard-Stevens, please, followed by Senator Crosby.

SENATOR BERNARD-STEVENS: Thank you, Mr. President, members of the body. Senator McFarland did mention earlier that he felt things were not being properly debated or things were sliding through, and I don't really think that is the case, though it certainly may be the indication. I think a lot of members, such as myself and others, were voting simply because we felt other amendments would be more applicable to LB 1141. And I suspect at that point there will be further debate on some of those amendments that were talked about, and some of those that were initially withdrawn. But I would like to talk briefly about the amendment that we have before us, because it is a good amendment as far as bringing discussion. And I thought I'd like to shed a little bit of light to members of what happened in the committee process. If you look at your green copy, in fact, what you're going to have in the green copy is that two members would each be elected from the congressional districts. And the committee was thinking, wait a minute now, if it's a nonpaying job, for the most part, who can afford to run in large...particularly in the third congressional district, who can afford to run that

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through LB 1141 again at that time anyway, I would hope then we would try to get everybody elected that will be on these boards. So, at this particular time, Senator McFarland, I won't support this particular amendment. Thank you.

PRESIDENT: Thank you. Senator McFarland, please, followed by Senator Warner.

SENATOR MCFARLAND: Thank you, Mr. President and fellow senators. The discussion being generated is very interesting, because you can see the philosophical differences. Senator Crosby and I are generally, I think, opposed to this concept, but we part, philosophically, about whether the regents should be elected or appointed; whereas Senator Bernard-Stevens, I think, indicated that he and I were sharing the same philosophy about appointments, however, he realized the significance of this particular proposal and the reason that the voters of Nebraska have generally expressed, at least in surveys, a preference for an elected Board of Regents. So he may not support this amendment, even though, he may or may not support this amendment even though philosophically he sees the justification for an appointed board. I'm always troubled by any poll that requests the public to express their view on whether any position should be elected or appointed. I think that if you conducted any poll or survey asking the voters of Nebraska whether the Weed Control Authority person should be appointed or elected, they would say elected. If you asked them, should the person to the Liquor Control Commission be appointed or elected, they would probably say elected. The general tendency of any voter is to say we want to have elected representatives, no matter what the position is. But yet I'm sure, if you'd ask the voters of Nebraska who is their elected regent right now, that about 50 percent of them or more would not even know who their regent that represents their district is. I don't think....I think general polls show that a majority of the people in the legislative districts don't even know who their state senator is. But yet, if you ask them, should the state senators be elected or appointed, of course, they would say elected. The thing about the Board of Regents that makes me think that an appointed board would be better than an elected board is that the Board of Regents would be coordinating all of higher education. It seems to me that they should have a statewide view of that entire process. If we have members of that board as elected regents from specific districts, regental districts, I think we even narrowed it down, instead of having

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serve on an elected board, because of time probably as much as anything to serve or to campaign rather, would make it very difficult for them to do it. Monetarily it may be very difficult for them to do it. I envision a great many people who would be excellent members to this kind of...to the Board of Regents being at least eligible to be considered, especially through the nominating commission that will be proposed and is proposed in LB 1141, that they then...

PRESIDENT: One minute.

SENATOR WARNER: ...would have an opportunity to serve where they would never, ever have an opportunity in a strictly, totally elected board. So I would urge that you retain the concept that is in the legislation as introduced, a mixture of appointed and elected people, retaining a balance of elected...of citizen oversight, and at the same time an opportunity for others to serve and provide areas...in fact, I look in some respects, some of this elected...or appointed opportunities is providing an opportunity for people to serve from areas who, just because they're in a low populated area, may never have a chance to run for office and be elected. But they could be appointed and be a very valuable member of that board, and I think on that basis ought to be done. This board needs a statewide perception from their own viewpoint because their responsibility is statewide, not by campus. And I think the combination of the two will most likely ensure that type of responsible action on the part of the Board of Regents, if we have the combination, as outlined in the bill.

PRESIDENT: Thank you. Senator Langford, please.

SENATOR LANGFORD: Mr. President, I call the question.

PRESIDENT: Question has been called. Do I see five hands? I do. And the question is, shall debate cease? All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

ASSISTANT CLERK: 25 ayes, 2 nays to cease debate, Mr. President.

PRESIDENT: Debate has ceased. Senator McFarland, would you like to close on your amendment to the amendments.

SENATOR MCFARLAND: Again, this amendment raises an issue that

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allocating those funds, and they might not get it anyway, and it would deter them from trying to end run the Board of Regents. However, if the present system is adopted in the form that is suggested in this amendment, you will only encourage the end run process, because once the Board of Regents makes the recommendation, then the state college or UN-L or UN-O, or Med Center, or whatever goes directly to the Legislature for this specific project. And, if the Legislature approves it, it goes back to that institution directly, without any further consideration by the Board of Regents. And, if the Board of Regents has already rejected that consideration initially, then the board, in effect, becomes merely an advisory board. And I don't think that's the idea that we want to promote or implement in this particular provision. I think what we want to do, if we're going to say that the Board of Regents should coordinate higher education, then not only must they be given the authority and the responsibility of sending a budget request to the Legislature, but also they should have the responsibility and authority of distributing those funds once the Legislature appropriates those funds. That would be consistent with the philosophy that was expressed in the Board of Regents v. Exon decision. I think that is the way that would be the best way to have that entire system coordinated. For that reason, I think this amendment is appropriate. And I might add that I think it is appropriate to have it in this particular amendment and not in LB 1141. And the reason I believe that is again because it is such an important provision it should be something that should not be subject to change without the approval of the people of the State of Nebraska. The concept is integral...

PRESIDENT: One minute.

SENATOR McFARLAND: ...to this entire process. And, if we just put this provision in the statute, or in LB 1141, and said that that process worked, the Legislature, at any time, or any time a controversy occurred in the future, or some kind of whim of the Legislature could withdraw that provision, and again make the Legislature the delegating authority for each of the appropriations back to the individual institutions. I don't think that should be the process. I think we want to have a permanent situation whereby once the Board of Regents makes the request to the Legislature, they have already done the prioritizing of what programs or what funding requests are appropriate. And then if they are...if the appropriation comes back through the Board of Regents, then they can distribute it,

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and there may be better ways of dealing with this appropriation process that are currently provided in LB 1141 or LR 239. But the appropriate spot is not to put this into the Constitution. The Constitution is forever, or at least until such time as we can go through the very cumbersome process of convincing 30 members of the Legislature and a majority of the voters that it should be changed. Keep in mind that the current interpretation of legislative authority to budget or not budget, to control university appropriations or not to control university appropriations, has been determined by a set of commas that exist in the Constitution today. The Exon decision, as I understand it, was based on punctuation of our current Constitution. Once we put something into this Constitution we, as a Legislature, lose any control over how that is interpreted in the future. That then becomes a matter of court interpretation, not a matter of Legislature coming back and fixing up its problems. If there is a need to change the way the appropriation procedure flows, vis a vis the Legislature and the Board of Regents and the various campuses, that is a debate that is appropriate for LB 1141, not a debate that ought to go into the Constitution. Because once this goes into the Constitution, it's there forever. I would strongly urge you to oppose this McFarland amendment, more strongly than I have any of the other amendments, because this is the one that really strikes at the heart of the balance of power between the university system...

PRESIDENT: One minute.

SENATOR WITHEM: ...and the Legislature.

PRESIDENT: Thank you. Senator McFarland, please, followed by Senator Crosby.

SENATOR MCFARLAND: Thank you, Mr. President. And I agree with Senator Withem, this really does, to a degree, strike at the heart of who has the final discretion on how funds are appropriated to the various institutions. And, philosophically, I think it is a crucial point, because in my view the Legislature of the State of Nebraska and the 49 members of it should not be some super board of regents, making funding decisions in final form, and thereby, in effect, governing the entire higher educational structure of our state. I think that Senator Withem may have misspoke when he said that the Legislature would not have...would be delegating the

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would see it in that manner. So, for that reason, I would agree. I hope you suspend the rules and require that a hearing not be held. And maybe this matter can be considered next year in the Legislature.

SPEAKER BARRETT: Anyone else care to speak to the motion? If not, Senator Baack, anything else? Thank you. The question is the suspension of the rules. Those in favor vote aye, opposed nay. Record, please.

CLERK: 33 ayes, 0 nays, Mr. President, to suspend the notice of hearing rule and cancel the public hearing on LR 258.

SPEAKER BARRETT: Motion prevails, rules are suspended. Thank you. Mr. Clerk, have you something for the record?

CLERK: Mr. President, items for the record. A new resolution, LR 278, asking that the Legislature congratulate Ronald Roskens for his selection to head Service Director of the Agency for International Development. That will be laid over. (See page 1302 of the Legislative Journal.)

Education/Appropriations gives notice of public hearing. Amendments to be printed to LB 1059 by Senator Hall and Senator Smith; Senator Haberman to LB 953 and to LB 642; and Senator Crosby to LB 1141. That's all that I have, Mr. President. (See pages 1303-05 of the Legislative Journal.)

SPEAKER BARRETT: Thank you, Mr. Clerk. We have a priority motion?

CLERK: Mr. President, Senator McFarland would move to recess until 1:30 p.m. this afternoon.

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

RECESS

SPEAKER BARRETT PRESIDING

SPEAKER BARRETT: Record, Mr. Clerk.

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received lots of calls. And it's really interesting the number of calls I've received. It's like a deluge of calls that I received, starting Thursday, Friday, over the weekend, and yesterday, received calls from faculty, received calls from administrators, received calls from business people, all expressing reservations about the bill, concerns about how this is going to be implemented and possible disastrous consequences it might have. I've heard from state college representatives who have expressed a concern that, if the new system goes into effect, you're going to have the med center in Omaha, and UNO in Omaha combining forces and getting everything they want for themselves, and the state colleges are going to be completely left out of the consideration for the funding and the programs that they need. I've heard concern expressed from the community colleges. They are concerned about the bill. I've read in the newspapers reservations being expressed both in the Lincoln and Omaha newspapers. And all of these groups have called me and said, boy, I really like what you're doing. You know, could you think about this amendment? Could you offer this amendment? This might improve the bill, or could you think about some other type of amendment for my purposes? But the interesting thing, and I even had one group the other day thank me for putting in an amendment that I hadn't even put in yet. I thought they were talking about one amendment that I had proposed to LB 1141, which follows this, and they came in and said, thank you very much. And I said, well you're welcome, I think it's a good amendment. And they gave me some information, and I looked at the information after they had left and they were proposing a totally different amendment that I hadn't even introduced. The interesting thing about all of these people that have contacted me is that, and generally, all of them say, look, I really oppose this as an individual, I really have reservations about this entire structure that is being suggested and proposed, but I can't go public and make my views known, because I'm working for a particular institution; or my position with a particular body or organization prevents me from taking a position on this issue, or trying to reflect the views of that organization, because my organization has either been neutral on it, or my organization has been supportive of it; but I've really got concerns about the bill. There are a lot of concerns out there. People have extreme reservations. But, as one person said, I can't go public, I can't contact senators to express these views because we're afraid of the repercussions it may have for our particular institution, or for our particular organization. This bill is being sponsored by the head of the Revenue

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think, honestly, that Senators Warner and Withem have good intentions about what this bill will do. I think they are mistaken as to their view of the consequences of it, but I don't fault them for their intentions or their view that this will improve the educational process.

PRESIDENT: Time.

SENATOR MCFARLAND: For that reason, I would just plan to withdraw all the amendments that I have on the bill and just let you consider the bill in and of itself. And, if you think the bill is a good one, vote for it, if you don't, then vote against it.

PRESIDENT: You said you wished to withdraw this one and the ones....All right, thank you.

CLERK: I have nothing further on the resolution at this point, Mr. President.

PRESIDENT: We're back on the advancement of the resolution now. Senator Crosby, you're next. Did you wish to talk on the advancement of the bill?

SENATOR CROSBY: Yes.

PRESIDENT: All right, thank you.

SENATOR CROSBY: Thank you, Mr. President and members. Yes, I do want to speak about the advancement of 239CA, which of course I'm against. Yesterday there were some things said about the seven institutional boards and the super board, which is supposed to be the coordinating group and then the regents, or trustees as they would be called, if this passes and if LB 1141 is put into place. One of the things that they said that...the reason that...the things that came out of the study and things that had been brought to the attention of members of the Legislature over the years is that the state college board, and the regents, and all these different groups didn't talk to each other. I don't know what guarantee you have that after all these boards, if they are all set in place, why do you think they're going to talk to each other? They're not. I think this will create more provincialism than ever. They are going to be looking at their own region, wanting for their own region, working for their own region. In the long run, maybe that's

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they cannot talk to me, they cannot visit about it. In fact, actually, I have had very little correspondence or very little concern from anyone visiting with me and I hope that I certainly am not throwing brickbats at them or anything like that. I don't think that is the case at all, but the...one of the comments was, this would never have happened if President Roskens was still with us. And I reassured the Board of Regents that this was certainly in the work or in the minds of lot of us a long time before the discussion or President Roskens came up. I hope that that fear somewhat was alienated or changed. So, basically, I have sat through a lot of hearings, I've sat through a lot of meetings. I simply do not want to do the wrong thing. Senator Lowell Johnson mentioned the college park proposal at Grand Island, Scottsbluff, somewhat near the same thing, or North Platte, or Norfolk. Business people are asking, and in our own case, 26 or 27 business people in the Grand Island, Kearney, Hastings community have taken this upon themselves to try to do something to provide better education and better education opportunities. As some of the testimony at the hearing, there are enough duties for each one of these board of trustees for the various colleges, and I think that hopefully there can be some people appointed that are very, very good, and I know they are out there and I know it is a job. The only opposition that I hear is that they should not be appointed, elected, and that is a pro and a con situation. So, in essence, I cannot find anyone excepting the Board of Regents that do not accept the plan or at least try to educate themselves more than what they are right now, and as I...I just cannot believe that someone is coming up with all the fears. Sure, we all resist change but sometimes change does turn out to be better. If I thought there was a better way to improve our present system and coordination and so on, I would be very, very interested or would hope that someone could, but as I see it now, this seems like the best plan to go. Thank you.

PRESIDENT: Thank you. Senator Warner, please, followed by Senator Schimek and Senator McFarland. Senator Warner.

SENATOR WARNER: Mr. President, members of the Legislature, I'd like to address a couple of...a couple of issues which have come up during the...during the discussion. Certainly the issue of appropriation of funds in the area of research and its related graduate programs is an important issue. In the enabling legislation when we get to LB 1141 and discuss that approach that is being proposed in connection with this constitutional

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that we can do a lot to help these children in their classrooms and stir continued interest in the Legislature and in the legislative process, and perhaps give a lot of people, including civic clubs and others, a deeper understanding of our process, what we go through and how we labor in the vineyards. And so, as I said, we can do it all in-house. There will be an oversight committee. And I have no doubt that the video production will be an enormous hit, and I would urge the body to adopt the amendment. Thank you.

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

CLERK: 25 ayes, 9 nays, Mr. President, on adoption of Senator Barrett's amendment.

PRESIDENT: The amendment to the amendment is adopted. Something for the record, Mr. Clerk, please?

CLERK: Yes, Mr. President, I do have some items for the record. Senator Nelson has amendments to be printed to LB 656; Senator Schmit to LB 1031; Senator Warner and Withem to LB 1141. Enrollment and Review reports LB 1059, LB 1059A, LB 1244, LB 843, LB 843A, LB 551A, LB 1063A all to Select File. (See pages 1333-39 of the Legislative Journal.)

Mr. President, the next amendment to the committee amendments I have is offered by Senator Withem. (Withem amendment appears on page 1339 of the Legislative Journal.)

PRESIDENT: Senator Withem, please.

SENATOR WITHEM: Mr. President, members of the body, this is an amendment somewhat similar to the last one dealing with our legislative process. Increased appropriation to the Legislative Council to the tune of \$20,000. The purpose of this is to fund ongoing telecommunication, actually it says television, maybe it should say telecommunication, if people are interested in changing that, we can do so, if this gets adopted, with another amendment or a Select File amendment...televise legislative hearings. Over the past year we have had two major interactive teleconferences with legislative leadership hearing people testifying on issues of concern to the public, we questioning

them, giving responses. I think we've gotten high grades for those. We have also...I've been involved as a Chair of the Education Committee conducting hearings that have wide interests on a statewide basis. The higher education hearing was the most recent one where we had receiver sites, and I think it was 14 cities around the state, 14 different locations. It was an excellent process for the Legislature, and also for the state, I believe. If you'd...I still happen to have my bill book open to LB 1141 here, which many of you don't want to hear again for a while, probably, after this morning. But it's kind of interesting the large number of people who are able to testify, a lot of those folks were not in the vicinity of Lincoln, they were testifying from their homes. Some interesting little anecdotal things, for instance, the president of Wayne State College got in his car, drove to...drove to Lincoln in order to testify, it was late in the afternoon when he testified, and then he got in his car and drove back home. The president of Peru State College stayed in Peru, testified from Peru, he was able to walk across the street, give his testimony and then get back to work that afternoon. Another individual drove down from Omaha to testify, barely was able to get in to testify, had she stayed in Omaha she would have been one of the early testifiers and would have...would have been done quite early. We're in our early stages of experimenting with this process, and there are still some definite problems in the system. But it's one that takes the legislative process out to the people, allows people anywhere in the state to become part of our process. And it's one I think we ought to continue to work on, it's not where I think we'll be the very near future having every hearing on every issue televised across the state, but doing it on limited issues of recognized statewide importance where we know there are lots of people around the state are interested, I think is a good idea. And I think for the modest sum of \$20,000 added to the Research Department's budget, this is a good program to support, and I would urge you to do it.

PRESIDENT: Thank you. Senator Moore, please. Senator Barrett, please.

SPEAKER BARRETT: Thank you, Mr. President and members. I simply rise in support of Senator Withem's motion to find another 20 or 30 thousand dollars, whatever that figure was, for televised hearings. This is an experiment which has been underway for a couple of years now, and it has drawn a great amount of good interest and support from across the state. The

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you.

SENATOR WEHRBEIN: Yes, for now.

PRESIDENT: Okay. Senator Schimek, please. Senator Schimek, you wanted to speak. Okay, Senator Baack, would you like to close on the advancement of the bill?

SENATOR BAACK: Just simply to say that we will, you know, we will work between now and Select File and find that answer to that question for Senator Wehrbein and if there are other concerns that people come up with between now and Select File, please bring them to me and we will be glad to deal with those. With that, I would just urge the advancement. Thank you.

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

CLERK: 28 ayes, 0 nays, Mr. President, on the advancement of LB 931.

PRESIDENT: LB 931 is advanced. Do you have anything for the record, Mr. Clerk, at this time?

CLERK: Not at this time, Mr. President.

PRESIDENT: All right, we'll move on to General File, LB 1141.

CLERK: Mr. President, 1141 was a bill introduced by Senators Withem, Warner, Lindsay, Barrett and Weihing. (Read title.) The bill was introduced on January 16 of this year. The bill was referred to the Education Committee for public hearing. It was advanced to General File. I do have committee amendments to the Education...to the bill by the Education Committee, Mr. President.

PRESIDENT: Senator Withem, how do you wish to handle this, the amendments first or discuss the bill first?

SENATOR WITHEM: I'll just start talking and we'll see what comes out then in that case, probably do a little of both. LB 1141 is...I think Senator Baack said I should refer to it as the "I" bill that goes along with LR 239CA, that is the implementation legislation that would be enacted if...would

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become law if LR 239 were to pass. It was our feeling that when we worked on the higher education report that merely writing language in the Constitution is not enough, that there should be some vision of what that system would look like. And I believe this is Senator Warner's priority bill and it is our desire to see this work its way through the entire process and actually be enacted. It may have to be reenacted to be absolutely certain after the legislation is...after the constitutional amendment is adopted. That's what 1141 does. Senator Warner will get into the nitty-gritty of it. I will tell you what the committee decided it wanted to do to see changes made in 1141, they're listed in your bill book, I'll just quickly read through them for purposes of the record. First of all, concern was mentioned at the committee hearing that we will be...that the Governor will be making lots of appointments to the various boards of trustees that will be established in LR 239 and that there should be some screening process to get good names of people presented to the Governor. So we're suggesting that a nominating panel be established and it would work not unlike, I think, the way in which judicial names get referred to the Governor, that there would be names selected, the nominating panel would conduct interviews and they would forward three names on to the Governor for each appointment to be made. Secondly, it is our intent that this ought to be as revenue neutral as possible. There are a lot of staff now currently in central administration and administrative staff at the college level and campus level and there's staff in the Coordinating Commission, it's our intent that that staff ought to be sufficient to handle this new system. Number three, we make the change in the nonvoting member. We'll probably have to make a change in this to make it a voting student member to be consistent with what we did on LR 239. But the committee's recommendation was that the student member should be a member selected by the student body and not necessarily the study body president. Changes the dates when the appointments will be effective. It adds...this is a fairly significant one, it adds a new duty for the Board of Regents, that the Board of Regents would be able to approve all name changes of any of the four-year institutions. They would have that power. The Higher Education Commission that we referenced in LR 239 will clarify that it would be strengthened and its role be clarified, that...excuse me, that its abilities to conduct the strategic planning duties for higher education that that be stated more strongly in the bill. The Regents will have to make a biennial report on major research initiatives to the Legislature. The

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membership from the technical community colleges and the independent colleges and universities on the Higher Education Commission cannot come from more than one member from any single area or any college board. And we restate in the...in LB 1141 what is already stated in the role and mission of the University of Nebraska at Lincoln, that it is the premier statewide entity with primary responsibilities for postdoctor...postgraduate degrees. It is not exclusive and I don't believe it ever has been exclusive or met the perpetuity to be exclusive but restrengthenens that statement that that is the role and mission of UNL. If you have any questions about the committee amendments, I would attempt to answer them.

PRESIDENT: We are now on the committee amendments and, Mr. Clerk, I understand you have an amendment to the committee amendments.

CLERK: Mr. President, I do. The first amendment to the committee amendments I have is offered by Senator McFarland. Senator, I have your AM2713 in front of me. It's on page 1225 of the Journal.

PRESIDENT: Thank you. Senator McFarland, please.

SENATOR MCFARLAND: Yeah. This amendment is the one that was similar to the one I offered on the constitutional amendment. This amendment would direct that the funds, the funding requests that are...that are appropriated and approved by the Legislature be directed back through the Board of Regents for distribution to the seven institutions instead of having those funds directly appropriated from the Legislature to the institutions themselves. As you know, on the debate on LR 239CA I expressed several reservations about the entire process. I know that a tremendous amount of work has went into the process and I think senators should be appreciated for their work on the commission, Senator Withem, Senator Warner, Senator Barrett and all of their efforts in trying to get this legislation passed and trying to submit it to the people for a vote. And I don't think any of us are unaware or unappreciative of all their efforts. And though we may disagree with them, that doesn't mean that we do not appreciate all the time and dedication that has been spent on this effort because I agree with them, higher education and its governance and coordination need to be improved. The reservations I have about the system that is being proposed is, one, the first reservation is that I don't think we should have

a system whereby the Legislature, in effect, is made the super board of regents and exercises so much power and control that we do not let the Board of Regents, the new Board of Regents effectively coordinate and govern the various institutions. The second concern I have is...I think we need to address the problem of parochialism. It seems to me we have a sufficient amount of parochialism in the legislative body and that's why I don't want to see the Legislature become a...somewhat be put in the position of being a super board of regents. I don't think the Board of Regents themselves should be a parochial body either. And, for that reason, I think if we're going to have a system like this, we should have it where the members of the Board of Regents are either elected on a statewide ballot or they have to be elected by all of the people of the state and be accountable to all the people of the state and not just the constituents of the district that they may represent. Or we need to have them all appointed by the Governor so that they can be somehow insulated, to a degree, from the parochial interests of the various institutions and the various parts of our state. The third thing is that I think we need to ensure that...the primary institutions granting graduate and professional degrees are the traditional institutions who have...who have served that purpose, those being the University of Nebraska here in Lincoln and the University of Nebraska Medical Center. I tried to ensure some of those things with amendments to the...that I proposed to the constitutional amendment. Those were all rejected. I still think those are...amendments are appropriate. This bill, itself, to me doesn't have a lot of impact. I mean, it's...it's certainly appropriate that it be introduced. It should give a guide as to the voters and the...and we senators who are considering the advancement of the constitutional amendment, but legislation can be changed at any time and we can enact this this year and next year the Legislature can see fit to change it again. I think if we...if we want to address the concerns that I have, we have to make those concerns addressed on a guaranteed basis and that's why I think if we're talking about deterring parochialism on a Board of Regents or creating an impetus that the primary graduate and professional degree institutions will be UNL and UN Med Center, and if we're trying to give authority and control to the Board of Regents, we really need to do that as a constitutional provision and we need to have those clauses contained in the constitutional amendment. I know we're running short on time here in the Legislature and rather than prolong the debate and deal with an issue that I think will be addressed again on Select File, for purposes of

convenience and courtesy and timing, I would just withdraw all the amendments that I have proposed to this particular bill. I believe there were a whole series of amendments that I introduced and with the permission of the legislative body and the approval of the Chair, I would just withdraw all the amendments.

PRESIDENT: This one you're on and all the rest of them in the Journal?

SENATOR MCFARLAND: All the ones I have...I have filed.

PRESIDENT: Okay. They are withdrawn. May I introduce some guests, please? I think they're all in the south balcony at this time. Senator Korshoj's visitors, and there are 50 fourth graders from Lyons and Decatur, Nebraska, and their teacher. Will you students and teacher please stand so we may welcome you to the Legislature? Thank you for visiting us today.

CLERK: Mr. President, the next amendment I have to the committee amendments is offered by Senator Crosby. Senator Crosby's amendment is on page 1304 of the Journal.

PRESIDENT: Senator Crosby, please.

SPEAKER BARRETT PRESIDING

SENATOR CROSBY: Thank you, Mr. President, and Mr. Speaker, you're changing hats here, and members, my amendment we have discussed, Senator McFarland had brought it earlier and my amendment is the one that would combine in University of Nebraska Medical College and University of Nebraska-Lincoln under one board. It does seem to me logical because of the research aspect and because from the very beginning these two entities were always a single function in many ways. The facility in Omaha is medical research from the word go and, as a research institution, the medical research, of course, along with agricultural research and other research that's done here in Lincoln, is very important to keep as one entity. As you see in the...on page 1304 in the Journal, if you're following along, the amendment is simple in aspect and simply combines the two under one of the institutional boards. We...as many of you know, I don't like the whole concept of 1141. I might as well speak on the whole thing right now or forever hold my peace. Does that sound like a line out of an old movie? I guess it is.

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But, at any rate, if LR 239 passes and if 1141 is implemented, then we...I do feel that these two entities, these two institutions need to be one. To begin with, the University of Nebraska Hospital already has a separate Board of Governors and they are delegated with a substantial responsibility for planning, oversight and decision-making relative to the operation of the hospital and, of course, the hospital is the college. So, from that point of view, other states do it the same way, from that point of view, they have an institutional board right now, so I see no point in having another institutional board. I think it should be all combined in one. In general, this morning when we talked about the beginning of the committee amendments I was a little concerned, again, I think I will say all these things right now because Senator Withem mentioned the words "revenue neutral" as to the expense in getting all of these institutional boards organized and the continuing of their functions. Well, I have heard those two words before and...I just don't think there is anything that is neutral. Everything costs money and I guess I trust Senator Warner pretty well when he says it's only going to cost \$135,000, well, I think it will proliferate into a lot more money. I know that there are staffs in place but even...but the organizational part of it will take time and money to be sure that this will work the way we think it's going to. So to go back to my amendment, the second part again is the budget that it should go...the money should go back to the Regents for them to parcel out to the different institutions. There again, I still have a real problem with all those institutional boards and so I think at least if the money is in central hands, we have some kind of control from the educational point of view rather than have seven boards lobbying for its own funds for each institution. So, from that...with that introduction, we had a long discussion on it the other day and I just feel that it's very important that these two be a combined board if indeed we end up with this mechanism and I'm hoping that you will support it this morning because I think it will make this bill, if it does pass, and at least this will make it better. I am pleased with the fact that the committee amendments included the emphasis on the fact that the University of Nebraska here in Lincoln is the research arm and the premier institution in that regard because, again, you cannot spread that all across the state in each place, we simply don't have the money nor the people to do the in-depth research and the continuing research that brings money into the state and attracts the scholars and the professors to come to the state and to the institution to do

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that research. The medical research continues to be important and it's so important to rural Nebraska. We talk about that a lot here on this floor that we are...it's very important for rural Nebraska to have the benefit of good medical care. Well, if we don't have the research and if we don't attract the people here in Omaha to the medical college to do that research and to go into all of the health related professions, they are so many these days. It used to be the country doctor was the central figure in medical care. That day is gone and it...our medical technology is such that we simply can't rely on that old image of the doctor with the little bag coming to the house. He or she doesn't do it anymore. So the research in medical college is extremely important and it is essential that it be combined with the research done at the University of Nebraska at Lincoln. So I urge your support of this amendment to help make what I feel is not a great bill but for me it would make it a lot better. Thank you.

SPEAKER BARRETT: Thank you, Senator Crosby. And the Chair is pleased to introduce your special guests under the south balcony, Dick and Helen Erd from Palo Alto, California. Would you folks please stand and be welcomed. Also, the Chair is pleased to note that Senator Schmit has a very special guest under the south balcony. We have with us this morning Senator Leo Corbet, the President pro tem of the Arizona State Senate in Phoenix. Senator Corbet, take a bow. Thank you, sir. We're pleased to have you with us. Discussion on the amendment offered by Senator Crosby. Senator Withem.

SENATOR WITHEM: Yeah, I'm not going to speak very long on this. This is a very similar amendment to two different amendments, I guess, put together in this amendment that were considered on LR 239 and rejected fairly, fairly handily. The lump sum appropriation to the Board of Regents, we argued that that is not good policy. We not only argued it on 239, we argued it on the budget when we had a case study example of how end runs do, in fact, take place under any sort of system. So I would not support that portion of the amendment. The portion of the amendment combining UN-L and the Med Center, again, I just don't think it's a good idea. I don't think it's something we ought to be doing. We considered this idea when Senator McFarland brought it to us on LR 239, writing that into the Constitution. I don't think in this case it's any better idea to write it into the statute book that those institutions have functioned as separate institutions with separate presidents, or excuse me,

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chancellors now is the correct title. They're in two separate cities. I am not convinced that there is a compelling need to change that. It would be one of the things that I'm sure once this new system is put in place the Board of Regents would be looking at. The Commission on Higher Education would be looking at whether these institutions ought to be functioning in a more cooperative fashion together, but I just don't think the case has been made that this particular change should be made so I would urge you not to support the amendment.

SPEAKER BARRETT: Thank you. Senator Crosby, please.

SENATOR CROSBY: I can tell nobody cares about this amendment, except you and I, I guess, Ron. Just you and me, kid, this morning. I guess the more important part of this amendment to me is the combination of the two campuses and I guess I'm not just ready to trust those nebulous boards out there that we're talking about now, to combine them. And I understand what Senator Withem is saying that probably they would take a look at that but that would take like how many years before we would actually be in place? So I still continue to say that the University of Nebraska Medical College and the University of Nebraska at Lincoln, because of the research factor, which is always so important, because of all the grant money that's brought into the state and all of the people that it attracts, I think this is just extremely essential that we have these two boards combined. And I know it didn't go the other day on LR 239 but, you see, in 239 I'm not sure that it was relevant. It is relevant to 1141 because this is the implementation mechanism and this is the legislation that will bring all this to pass if indeed 239 is voted as law by the people, by the voters of the State of Nebraska. So, from that point of view, I don't want to belabor the point too much further but I don't see too many people on the floor so I would urge, if there is anyone else that would like to comment, I would like to hear your comments. Thank you.

SPEAKER BARRETT: Thank you. Senator Schimek, please.

SENATOR SCHIMEK: Mr. President and members of the body, Senator Crosby, I think that it is not that nobody cares about this issue, it's that we did have a pretty lengthy discussion on it the other day. I would ask you, I would like to ask you a question on this amendment. Senator Crosby, would you consider dividing the question on this? Because you're really...you've

really got two pretty significant issues here all combined into one amendment.

SENATOR CROSBY: Yes. Yeah, I would be glad to do that.

SENATOR SCHIMEK: There are some that might have trouble with one but would like the other.

SENATOR CROSBY: Take out the Section 4, for instance. Separate...

SENATOR SCHIMEK: Well, separate the funding issue from the combining of the two boards.

SENATOR CROSBY: Yeah, right.

SENATOR SCHIMEK: Yes, uh-huh.

SENATOR CROSBY: That's the appropriations. That would be fine with me.

SPEAKER BARRETT: Senator Crosby, would you come up to the Chair, please.

SENATOR CROSBY: All right.

SPEAKER BARRETT: Senator Schimek, it would appear to the Chair that the matter is divisible. One, two and three would be the first question, Senator Crosby, and four would be the second question.

SENATOR CROSBY: That's fine.

SPEAKER BARRETT: The first part dealing with principally merging and the second dealing with funding.

SENATOR CROSBY: Right. Thank you.

SPEAKER BARRETT: We will proceed then with a discussion on the first question.

SENATOR CROSBY: I think I'm on Senator Schimek's time. Right? So, thank you very much, Senator Schimek. I admit I had thought about doing that earlier because the Section 4 is not so important to me as the original, the first part...first three

parts. So, again, I just say that I think the Medical College and University of Nebraska at Lincoln are one, they have always been one and we don't need a separate institutional board at the Medical College. They already have the governance, the Board of Governors, and that has been functioning from I'm sure from the beginning of time, functioning very well. I haven't heard any criticisms of that. I think they do a good job and they run a good medical college and they run a good hospital. And all the related health positions and professions that are there, I think they're functioning very well. So I would urge you to vote for Sections 1, 2 and 3 of my amendment which would combine the University of Nebraska Lincoln and the University of Nebraska Medical Center as one institution under one institutional board. Thank you.

SPEAKER BARRETT: Thank you. For a discussion of the first part of the divided question, Senator Haberman.

SENATOR HABERMAN: Well, Mr. President and members of the body, in all due respect to Senator Crosby, I rise to oppose all of the amendments...I oppose any manner in which to take the medical school and merge it with the University of Nebraska. I speak from practical experience, members of the Legislature, as I feel I own a good part of the medical school in Omaha as I have had the privilege and the honor of having two sons graduate from the University of Nebraska Medical School. And in no way whatsoever, in no way whatsoever did the University of Nebraska at Lincoln have anything to do with my two sons attending and graduating from the medical school. One attended Chadron State College and the other one attended Hastings College. I am pleased to report that they did fine. They're both doctors. They're both specializing and I think that the medical school did an excellent and outstanding job. It's a complete different field than all of the courses that are offered at the University of Nebraska. They have no relationship and the medical school should be kept just exactly the way it is and, therefore, I would ask your support to defeat all of the amendments and the attempt to combine the two schools. Thank you, Mr. President.

SPEAKER BARRETT: Thank you. Senator Withem.

SENATOR WITHEM: Oh, just once again to repeat opposition to this and make a commentary on the Board of Governors that Senator Crosby is speaking of. I'm, frankly, not sure who or what that is. I am aware that there currently is an advisory

body at the Board of Regents. One of the members that served on our commission was a member of that and it serves in an advisory function. I'm assuming, maybe Senator Warner would contradict me if I'm wrong, I won't ask him to speak otherwise, but I am assuming that when this Board of Trustees goes into effect that does have the governance authority that there would no longer be a voluntary advisory sort of board there. I wouldn't see any real function for it. So the fact that they already have a board there and it's functioning nicely, doesn't seem to be a terribly strong argument in favor of combining the two institutions that we're talking about, a different function from an advisory board that meets at the call of the chancellor to consider what is going on in the campus. We're talking about a board that would be vested with the authority to do certain governance functions that are outlined in the bill. So I don't think that's a good argument in favor of the Crosby amendment.

SPEAKER BARRETT: Senator Crosby, please, followed by Senator McFarland.

SENATOR CROSBY: There is a Board of Governors, if I'm not using the right term. It is at the university hospital and I'm sure that there's physicians and other people on it who...you don't really use an advisory board to run a hospital. You do have to have some kind of professionalism and education to be aware of how to do that and how to plan and decision-making as to the operation of the hospital. So that's what I'm talking about. The other part I would like to bring to your attention again is that quite often, and most of the time when grants are applied for, for sponsored research work at UN-L and at the medical college, they're reported as two different institutional efforts and if this were combined, then it would make a difference when the total figures are offered to, for instance, the Carnegie Foundation and so on and we are not eligible often enough for those funds because of the fact that they are separated. The figures are separated between the two institutions. And even if...Senator Haberman said that what the University of Nebraska Lincoln teaches doesn't have anything to do with the medical college, of course it does. If you take a Bachelor of Science here at Lincoln and apply to the medical school, that makes a difference. And Hastings College, I'm sure, offers...and I know they take students from Kearney and so on, too. But the University of Nebraska Lincoln is the original land grant college and I do feel strongly that we need to keep one strong institution here, one on one side of the Platte, indeed, and one

on the other side of the Platte, but we need to have one strong institution. UN-O isn't equipped, UN-O is not equipped as a research university. UN-L is and the cooperation...this simply would guarantee us that cooperation between the medical college and the University of Nebraska at Lincoln. So I would again urge you to vote for this part of my amendment. Thank you.

SPEAKER BARRETT: Senator McFarland, please.

SENATOR MCFARLAND: Just a comment. I appreciate the fact that Senator Haberman had his son, sons, I guess, graduate from the medical school. It's a fine facility and I think I was there one day at the Red Lion Inn when Senator Haberman and his wife came through, they had been attending the graduation of their son. It's really...he's justifiably proud of that. But I think that his comments about there being no relationship between the University of Nebraska Lincoln and the University of Nebraska Med Center are not that clear or correct. The fact of the matter is that historically the University of Nebraska Lincoln and the Med Center were what was known as the University of Nebraska before we had any Omaha university being included in the system. That was traditionally the University of Nebraska. Furthermore, if the argument is that the Med Center should be separate from UN-L, why shouldn't we have the dental school separate from UN-L? Why shouldn't we have the law school separate from UN-L? Why shouldn't we have the nursing school separate from UN-L? All of those grant professional and associate degrees above and beyond the bachelors, as I understand it, and yet under the proposed structure you're having the dental school, the law school and the nursing school all included under one Board of Trustees at UN-L. The mere fact that the Med Center is in Omaha, 55 miles away, is not a justification for keeping them under separate boards...a separate Board of Trustees, to my way of thinking. There are students who attend Chadron State or attend other schools who go to the dental...who enter the dental school here at Nebraska and yet they will be under the Board of Trustees that governs or, yeah, that governs the university campus here in Lincoln and also the dental school. There are students at the law school who come from Wayne State and other universities and colleges across the country and yet they will be under the Board of Trustees that governs the University of Nebraska here in Lincoln. It doesn't make sense to really separate the UN...University of Nebraska Medical Center and make a distinction that they should necessarily be under a separate

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Board of Trustees, no more than it would make any sense, under the present system, to have the law school or the dental school under a separate Board of Trustees as well. And, for that reason, I think Senator Crosby's idea and concept is a good one and I think it is one way to try to ensure that the primary graduate education and research institutions in the state still remain as the University of Nebraska Lincoln and the Med Center in Omaha. Thank you.

SPEAKER BARRETT: Senator Goodrich, Senator Warner next.

SENATOR GOODRICH: Mr. President and members of the body, I rise in wholehearted enthusiastic opposition to the Crosby amendment. And it's really a discussion of what makes sense. In this particular case, the Med Center is so unique as far as its operation as it differs from UN-O or it differs from UN-L, it is completely unique in and of itself and it would just absolutely be a travesty to have...not have it have its own governance committee or board or trustees or whatever you call it. We'll determine what we call it later on in the session, I guess. But I would just say to the body that the Med Center is so unique in its operation that it should be separate and have its own board and, for that reason, I would wholeheartedly enthusiastically oppose this motion. Thank you.

SPEAKER BARRETT: Thank you. Senator Warner, followed by Senators Haberman and Crosby.

SENATOR WARNER: Mr. President and members of the Legislature, two or three things I should say. Currently, the Med Center as we know it and, obviously, the other two institutions are under the Board of Regents. But currently the funding research money is reported separately as it is with one governing board. That's how it's done. I can only remember once several years ago where it was combined together in a study that was apparently attempted to compare the university with other institutions and in that one the researcher in that involved and some guy in the east combined them and gave a distorted picture that we lived with for a long time, but...because it kept coming back to us even though the author of that study 10 years or 15 years ago acknowledged it was not accurate later on. But, in any event, that's the way it's done now. Secondly, the dental college, nursing college, is now under the Med Center, not Lincoln. So that you should be aware of. But the whole concept in LB 239 and the implementation of 1141 is to encourage

cooperation and coordination between institutions. I say it simply is not happening now. And I look upon this whole issue as an attempt to bring about some effective coordination and cooperation between the various institutions within a structure that can effectively do it. And I would...I would hope, as we discuss these issues that it is clear in our minds as to what we have now and what is proposed because so many things not heard in opposition to the proposal are opposing things that there is no change, supposing things which exist now as in some respects this here is another example where currently those institutions are under the Med Center, that was earlier mentioned, the dental college and nursing. So I would urge you to reject the amendment.

SPEAKER BARRETT: Senator Haberman, please.

SENATOR HABERMAN: Well, Mr. President and members of the body, in reply to Senator McFarland, I would have to say to you, Senator McFarland, that does the law school offer continuing education after you are an attorney, say, for five years? The medical school does if you want to be a pathologist. Does the law school offer five years of training for ear, nose and throat, surgery? Do they go and take this further step to thoroughly train people in specialties? And the answer is no. The answer is no. There has to be a complete distinction between medicine, nurses, dentists and the medical field from the regular, average college education and, again, I ask this body to oppose the amendments that are being offered. Thank you, Mr. President.

SPEAKER BARRETT: Thank you. Senator Crosby, followed by Senator Hartnett.

SENATOR CROSBY: Thank you, Mr. Speaker and members, I just want to make two more points about the combination of these two institutions. Having UNMC and UN-L under one president would make it far more likely that cooperation would ensue in some very critical areas. The importance of biotechnology research on both campuses and the Governor's research initiative is a clear example for the needs of such cooperation, as is the planning for the Nebraska Center for Advanced Technology. The relationships between food sciences, for instance, and human nutrition also span the two campuses, could be brought together much more effectively under one single chief executive. Other examples of needed cooperation are bioengineering, bioethics,

medical jurisprudence, rural health, environmental health and safety. A number of these cooperative efforts are presently developing but much more needs to be done to maximize the output and the use of our faculty resources. A closer unification of UN-L and UNMC would put all current doctoral programs clearly under one comprehensive research institution. A single graduate school structure would be maintained. This isn't intended to suggest that UN-O would never have Ph.D. programs. Most objective observers agree that UN-O should be free to develop such programs in areas that uniquely fall within their role and mission if it's determined that the need for a program exists. Right now, joint Ph.D. degree programs with UN-L have proven to be of great value between UN-L and UN-O, for instance, in psychology, and other programs could be developed along these lines. UN-L and UNMC, as has been said before, have a shared history. The Health Sciences Program in Omaha functioned as a vital part of the state's comprehensive research university. So I just bring these things to you again to point out that it isn't a new idea, in fact, a lot of it's happening right now and it is not a thrust against Omaha, it's for Omaha and to strengthen the medical college and the whole research idea and all of the research work that's in place now and that will continue to be in place. So I would hope you would support my...this part of my amendment. Thank you.

SPEAKER BARRETT: Thank you. Senator Hartnett, please. Thank you, that won't be necessary, no other lights on. Senator Crosby, would you like to close on the first part of the divided question?

SENATOR CROSBY: Thank you, Mr. Speaker. I won't take any more time on it because I think everything has been said and I think you understand the points that I have been trying to make and I just urge you to vote for the first part of the amendment. Thank you.

SPEAKER BARRETT: Thank you. The question is the adoption of the first part of the divided question. All those in favor vote aye, opposed nay. Have you all voted? Have you all voted? Please record.

CLERK: 6 ayes, 16 nays, Mr. President, on adoption of Senator Crosby's amendment to the committee amendments.

SPEAKER BARRETT: The motion fails.

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CLERK: Mr. President, we now have before us the latter half of Senator Crosby's amendment.

SPEAKER BARRETT: Senator Crosby, to the second part of the divided question.

SENATOR CROSBY: Thank you, Mr. Speaker. The second part is Section 4 of the amendment which simply inserts the...gives the appropriations back to the Regents. And the appropriations for the institutions shall be made to the Board of Regents for allocation to each institution. I think a case had been made earlier for this opportunity for the Legislature to appropriate the money and allow the Regents to allocate it to the institutions. If we end up with seven institutional boards, it does seem to me the Legislature is going to have a difficult time dealing with each individual one and bringing it all together on the floor and that the Regents is...or the Board of Trustees, whatever the Super Board is, is a logical place to take all the money and have them allocate it and have them deal with the institutional boards in the final...in the final analysis so I would urge you to vote for this. I won't belabor it much further because we had a long discussion about this the other day on LB...on LR 239. Thank you.

SPEAKER BARRETT: Thank you. Discussion on the second Crosby amendment to the committee amendments. Senator Withem. (Gavel.)

SENATOR WITHEM: Yes, Mr. Speaker, again, I won't belabor it either other than to remind the body that this was rejected on LR 239 the other day. There are only seven campuses so it's not like it's a monumental task for the Legislature to send the dollars back on a campus specific basis. The idea of a Legislature abdicating its responsibility totally in such a fashion as to give a lump sum to a group of Regents with the responsibility of allocating that out as they see fit is I don't think the appropriate way to go. I would urge you to defeat the amendment.

SPEAKER BARRETT: Senator Langford, please.

SENATOR LANGFORD: Question, Mr. President.

SPEAKER BARRETT: That won't be necessary. Thank you. Senator

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Crosby, there are no other lights on, would you like to close?

SENATOR CROSBY: Thank you. I will waive closing.

SPEAKER BARRETT: Thank you. The question before the body is the adoption of the second part of the divided question offered by Senator Crosby. All in favor vote aye, opposed nay. Have you all voted? Record, please.

CLERK: 2 ayes, 15 nays, Mr. President, on adoption of Senator Crosby's amendment to the committee amendments.

SPEAKER BARRETT: The motion fails.

CLERK: Mr. President, I have nothing further to the committee amendments.

SPEAKER BARRETT: Any further discussion on the adoption of the committee amendments? Senator Withem, anything further?

SENATOR WITHEM: These are good committee amendments and they should be adopted. So I would urge your adoption.

SPEAKER BARRETT: Thank you. Shall the committee amendments be adopted to LB 1141? That is the question. All in favor vote aye, opposed nay. Voting on the committee amendments. Please vote if you would care to vote. Please record.

CLERK: 25 ayes, 0 nays, Mr. President, on adoption of the Education Committee amendments.

SPEAKER BARRETT: The committee amendments are adopted. We are back to the bill itself as amended. Senator Withem, would you care to make a statement on the bill?

SENATOR WITHEM: I would and I would share my time with Senator Warner, I believe this is the one he designated as his priority. If he would like to start, I would allow him to. LB 1141 is the bill that is designed to be the implementation legislation for LR 239CA. It's not altogether that common that we introduce implementation legislation at the same time that we're considering constitutional amendments. We felt that it is important to do it this year because we think it is important that the bill actually flush out how at least we, as introducers of the bill, and we, as the members of the commission that

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studied, supervised the study of higher education, would like to see this actually put into place. If you remember, when the report came out there was a tremendous amount of conversation and observation and debate and discussion, lots of what-if sorts of scenarios, some of those centered around the fact that where I think we, as a group of people that oversaw the study saw the recommendations as being recommendations to provide coordination authority that doesn't exist now, some of the criticism that came out was of a further decentralization of the ability to coordinate. And that certainly is not true. What the report did is it made a firm differentiation between the concepts of coordinating and of governance, governance being the responsibility of manning the day-to-day operations, hiring the president, hiring the staff, setting rules for the way the institution will operate, supervising the staff, making maintenance types of decisions, making decisions on what student policy will be, on what faculty policy will be. All of those decisions, the consultants felt could be made better by a local...I don't mean local in the sense of geographic local but institutional basis with boards that have only one function and that is making sure that that institution functions on a day-to-day basis, that the coordination function though making sure all seven of those campuses function together as a system, a system that is able to allocate resources, set priorities, provide role and mission types of decisions and provide enforcement of those decisions is better made by a state level Board of Regents. There's a lot of discussion about the relative division of power in that sort of arrangement. So LB 1141's primary function, as I can see it, is to demonstrate to the people, as they go to vote on LR 239CA, how the system is likely to look. So we think it's important that the Legislature actually acts upon this. On the other hand, if LB 1141 sits here on our bill desk and moves no further along the system, LR 239 will still...if it goes on, will still, in fact, be voted on by the people. So I think it's important whether you agree with LR 239CA or disagree with LR 239CA that we mold LB 1141 into what could be a coherent system and that we advance this on along through the process. It's not quite...I told Senator Warner I was going to try to make the argument that this is really like an A bill that ought to keep up with LR 239CA. It's not quite that type of relationship but it really is one that I think you ought to move LB 1141 onto the next stage of consideration so it will be there along with LR 239CA so when we consider LR 239CA on Select File that it will be able to...the implementation legislation will be able to come along with that.

As far as any detailed explanation of what the bill does, I would defer that on over to Senator Warner where he can be as detailed or as general as he may choose to be. If you would like to use some more of the opening time, Senator Warner, I would be happy to give that to you.

SPEAKER BARRETT: Senator Warner.

SENATOR WARNER: Mr. President and members of the Legislature, Senator Withem has indicated very clearly the uniqueness of the proposal here in trying to give some structure as to how a constitutional amendment would be implemented in order to reduce the number of questions that people may have in their minds. Most of the discussion that I have...we all have participated in in recent months since the report was completed has dealt with some aspect of the makeup of what is suggested. What seems to me has been significantly lacking from the discussion is what is it we want to have happen in postsecondary education in Nebraska in the long range of things? We should ask ourselves who now, as did the consultants, who now brings the larger picture of postsecondary education in Nebraska into focus? We have several entities, all with their respective responsibilities but no vehicle whatsoever, no vehicle whatsoever to coordinate and to look at all of postsecondary education, other than the Legislature. Back in 1978, I thought that was all that was needed, personally. I was involved in another study and from that study the current role and mission was established and essentially it was assumed that effective coordination could be done as part of the budget process. I was told then that that would not work. All of us were told then that that probably would not work. Well, it hasn't worked badly but it has not worked well. And what we all know is that the demands on postsecondary education are going to expand tremendously more than what they have been in recent years. We all know the pending legislation that is introduced just this session alone can have and will have tremendous impact as to what educational opportunities will exist, how efficient they will operate, how effective they can be, what kind of access that might be provided and there's just a whole series of those kinds of questions which we attempt to address one bill at a time. What this state sorely needs and what we do not have is a delegated body, in this case the constitutional amendment authorizes, a group of individuals to be called a Board of Regents who have the responsibility of programming, program approval, budget submission and, most importantly, long range planning for

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postsecondary education where the total needs of the state, the total requirements of the state are looked at at one time by one body and in this total context. It simply is not a way that the Legislature has, as a practical matter, to look at those issues, as I said, because we deal with them one bill at a time. I can think of there are those who, obviously, are opposed to this concept. There are those who want no change and if you're in that group then if you are satisfied with the current state of coordination in the higher...of higher education in Nebraska, you need to make no change. If you're satisfied that Nebraska students can get the programs and the courses they want and need, you need no change. If you are satisfied that the programs are being offered where they are needed now, you need no change. If you're satisfied with the planning for all of higher education as it is now, you need no change. If you believe that we're getting the most bang for the bucks now, there is no need for a change. If there's anything I have heard on this floor in the last decade time and time again was the need for more effective coordination and those words have had a variety of meanings of concerns, the facts always came down it simply did not exist. There are those who say, and what has to be understood, that under the current Constitution there is no way for it to exist. We cannot delegate that coordination function to anyone...

SPEAKER BARRETT: One minute.

SENATOR WARNER: ...under the Constitution. And I look on this proposal as an attempt to do that. The other option that people talk about is the super board. The concept has been on the ballot in the past, in 1972, soundly defeated. It's been proposed time and time again by other studies, never to get out of the Legislature. And this plan, as Senator Withem has pointed out, separates coordination and governance in a way that it ought to be separated. The autonomy of an individual institution and the governance of that institution can be carefully and effectively provided for and yet you still retain then a strong coordinating body that takes in the whole considerations of the higher ed in the state as a whole. And I would urge that LB 1141 be advanced and provide an opportunity for the people along with LR 239 for the people of the state to address an issue that has been with us for a long time...

SPEAKER BARRETT: Time.

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SENATOR WARNER: ...and which I believe can be an answer to those problems that have repeatedly been raised.

SPEAKER BARRETT: Thank you. An amendment, Mr. Clerk.,

CLERK: Mr. President, Senators Warner and Withem would move to amend the bill. The amendment may be found on page 1333 of the Journal.

SPEAKER BARRETT: Senator Warner.

RECORDER MALFUNCTION: Some testimony lost.

SENATOR WARNER: ...LR 239 where the number of regents were changed from two from each congressional district to six districts and then it also clarifies the provision as far as the voting student member that was included in LR 239. So I would move adoption of those amendments, Mr. President.

SPEAKER BARRETT: Thank you. Discussion on the Warner-Withem amendment? Senator Schimek, followed by Senator Abboud. Thank you. Senator Abboud. Would anyone care to discuss the amendment just explained by Senator Warner? Anything further, Senator Warner? Thank you. The question is the adoption of the Warner-Withem amendment. Those in favor vote aye, opposed nay. Shall the amendment be adopted? Please record.

CLERK: 26 ayes, 0 nays, Mr. President, on adoption of Senator Warner's and Withem's amendment to the bill.

SPEAKER BARRETT: The amendment is adopted. Next amendment.

CLERK: Mr. President, Senator Coordsen would move to amend the bill. (See AM3039 on pages 1398-99 of the Legislative Journal.)

SPEAKER BARRETT: The Chair recognizes Senator Coordsen, please.

SENATOR COORDSEN: Thank you, Mr. Speaker, and members of the body. This amendment relates to Section 7 which refers to the Nebraska Higher Education Commission and how the members of that are selected. And the bill provides that the three members from the Board of Regents be appointed by the Board of Regents, the three members from the tech colleges be appointed by the tech colleges, and the two members from the independents be appointed

by the independents, and I suppose with that language I have a concern, and with that concern, a question. The amendment that I have offered to 1141 in each of those sections would strike the "and" and replace that with the language "the Governor with the approval of a majority of the Legislature." So an example of that, and this would be the same language in each of the sections, and I will take that particular section that applies to the Board of Regents, it would read then three members appointed by the Governor with the approval of the Legislature from the Board of Regents for Nebraska Higher Education, and it would go on and do that, go on in the other sections and do the same thing for the other three. And the reason I bring this amendment for consideration and discussion is that the Constitution seems to indicate to me that for boards that have a degree of authority, that those members shall be appointed by the Governor, this is in Article IV, Section 10. "The Governor shall appoint with the approval of a majority of the Legislature, all persons whose offices are established by the Constitution, or which may be created by law, and whose appointment or election is not otherwise by law and herein provided for." And then it goes on to delineate some of the other sections in that. I would like to ask I think a question at this time of either Senator Withem or Senator Warner as to why this particular language that is contained in LB 1141, why the appointments are selected to be made in that manner, rather than as the Constitution would seem to direct?

SPEAKER BARRETT: Senator Withem, would you respond to that?

SENATOR WITHEM: Yes, I would. Am I on Senator Coordsen's time or being recognized to speak, or does it make a difference, or...

SPEAKER BARRETT: This is Senator Coordsen's time.

SENATOR COORDSEN: You can have the rest of my time...

SENATOR WITHEM: Okay.

SENATOR COORDSEN: ...if that is what it takes.

SENATOR WITHEM: Okay, I guess the question that you are raising, Senator Coordsen, is one that hasn't been directed to us prior to this. I would say in hearing you read the Constitution that this would be one of those otherwise as

directed by law situations, so I think we would have the authority to do this. The concept was that these representatives would be representatives of the Board of Regents, of the community colleges, of the independent colleges and boards, that they would send their representatives to the table and I think, if they were appointed by the Governor, they would not necessarily be the representatives from the institutions. That is the reason why I think we did it, although I will be very honest with you that I do not recall anybody suggesting to us any way other than those boards picking their own representatives, and I don't recall a fairly lengthy debate, and on my own time, I will share with you some of my thinking on your amendment but I won't take your time to do that.

SENATOR COORDSEN: Thank you, Senator Withem. That will be all for this little moment. I have my light on I think, too.

SPEAKER BARRETT: Thank you. Senator Abboud, would you care to discuss it?

SENATOR ABOUD: Pass.

SPEAKER BARRETT: Thank you. Senator Schimek, followed by Senators Withem, Warner, and Coordsen.

SENATOR SCHIMEK: Yes, Mr. President, and members of the body, I would like to thank Senator Coordsen for bringing this amendment because this is one area of this bill that I would like to have discussed a little bit further and I think that he has raised a legitimate issue here. I would like to, if I might, ask Senator Withem or Senator Warner a couple of questions briefly about the powers of this commission and about the independent colleges inclusion, whichever one would care to respond. Senator Warner. I think this is an important point here and I guess the question in my mind has been all along that I am not certain, I am not saying that there shouldn't be, I am just not certain why the independent colleges were included on this higher coordinating commission. I don't know, quite frankly, if they are already on the present higher coordinating commission, if they are represented, and I guess I'd like to know what the rationale is, just for the record, but before that even, could you just briefly describe the powers of this commission for the record also.

SENATOR WARNER: Sure, this higher ed commission is not similar to the coordinating commission as we know it now, but it does have a similarity in one respect. The coordinating function public sector will be in the Board of Regents, but the higher ed commission I tend to look at it as the structure or the formalizing a commission, a group, where a diverse interest in higher education can come together and talk about mutual concerns, mutual interests, and representation of proprietary, the independent, the different public sectors together with the interests, a Governor, the individual who would be chairman would be a nonboard member appointed by the Governor. With those, and there is a couple of representatives of the Legislature permitted in that, too, but it is primarily, from my viewpoint at least, an opportunity for those diverse groups to get together to discuss common issues. They do have a couple of specific responsibilities that currently are the responsibilities of the coordinating commission, as we know it, and that deals with the compiling of certain data, primarily it is data that goes to the various national types of data collections. And then they also will have the responsibility, as the coordinating commission does now, for the distribution of student aid funds under the statutes, and then, secondly, of course, the current coordinating commission has the same kinds of representatives on it now. Currently they are selected by the boards that they represent, just as would be true under the bill as it was introduced. I don't know if I covered every one of those questions or not.

SENATOR SCHIMEK: Well, Senator Warner, I'd like to ask a follow-up question. Does this board then, in any significant way, ...does it have any significant variance from the board that is currently in place as far as power is concerned?

SPEAKER BARRETT: One minute.

SENATOR SCHIMEK: And the reason I ask that is that there has been acknowledgement over the years that the present board does not have any power and, therefore, maybe it is kind of administrative in nature. I guess if you could answer that and then why the make-up of it was changed and why, again, back to that independent colleges? If it just simply a get together kind of board, that is okay, but if there is significant change in the power of that board, then maybe that is not okay.

SENATOR WARNER: The discussion that we hear today relative to

the current coordinating commission as not having any authority and is criticized or the lack of coordination is sometimes directed at them, that is a constitutional question because there is no way we could delegate that authority to the current coordinating commission in such a way that they would have any authority to exercise it. It is advisory in nature. Constitutionally can be nothing other than that. Either propose a constitutional amendment...

SPEAKER BARRETT: Time.

SENATOR WARNER: ...so that coordination then does become effective but it will be through the Board of Regents to the public institutions. This Higher Ed Commission retains a portion of the responsibilities of the current coordinating commission and that portion is where the diverse public, nonpublic or independent proprietary institutions can, in fact, get together and talk about common issues, common,...

SPEAKER BARRETT: Your time has expired.

SENATOR WARNER: ...you know, common concerns to do some planning as a group but it would always be voluntary in their roles.

SPEAKER BARRETT: Senator Withem, please.

SENATOR WITHEM: Yes, Mr. President, I would like to address the Coordsen amendment and maybe give my two cents worth, if it is worth that much, on Senator Schimek's question. I probably am not going to support the Coordsen amendment, more out of not being sure than out of any outright opposition. And let me just lay out for you the dilemma going through my mind on whether it is a good amendment or a poor amendment. I think if you take the ability to select the representatives away from the sectors and put it in the hands of the Governor, you may not make any difference. It may make a subtle difference, it may make a big difference, but the changes that I see potentially happening on a positive nature is, number one, it will strengthen the Governor's hand. Those people that will be serving, not because a board appointed them, but because the Governor chose them, and keep in mind one of the major changes, Senator Schimek, and others, on this commission versus the current coordinating commission is we are bringing together all policymakers in the higher ed arena to serve together on this, and the

Governor...originally we said the Governor or the Governor's designee, we change that to say the Governor. The Governor will be sitting there. The Commissioner of Education will be sitting there. Two members of the Legislature will be sitting there. They will be involved. I think this, putting the Governor, giving the Governor the appointments might strengthen the Governor's hand, and I think we need to do that in the area of higher education, and I am not being critical of any particular Governor. I think as long as I have observed the legislative process, the administrative process, higher education policy making, the Governor really has not taken a strong leadership role in the area of higher education. Bob Kerrey brought forward some recommendations from the Strauss Commission that did not advance, brought through some budgetary sort of recommendations. They didn't advance. Governor Orr has brought forward the research initiative and some faculty salary initiatives, but those are largely budgetary as opposed to major sort of changes. So it may be good to strengthen the Governor's hand. Secondly, it might end the parochialism that could exist under this board if each board appointed their own people. Then they'd go to this commission arguing for their own turf. So those are things that appeal to me. Things that take away from it, though, is it may take away the input that the institution itself might feel that it should have, if their representatives aren't their own necessarily. There also is a possibility that the Governor would choose people that are really out of sync with the rest of the board, and I think it is no secret to anybody that has followed the current Board of Regents that there is a split, and it is important, I think, that that Board of Regents would be able to choose their representatives and the representatives would be supportive of the majority view on the Board of Regents. There would be a possibility if the Governor would choose them that they wouldn't be. So I think at this point I am not going to vote for the amendment, but I might be convinced if it doesn't get adopted now and it gets brought up at a later time that I might be supportive of it. As far as the independents' involvement in this process, I think all the consultants and the people who are on the commission felt that you could not coherently plan for the education of young people in our state, in our higher ed system, or even middle-aged people in our higher ed system without taking into account the fact that an independent sector does exist. Now we are not putting them in the level where there is power to enforce decisions because we can't do that, though I think when we are in the process of strategic planning and deciding how can we

better educate, make our higher education system prepare more nurses that we need in rural Nebraska, a favorite topic of Senator Nelson, but you ought to take into consideration that there are independent colleges in this state that are providing nursing education. We can't tell them, yes, you have to provide more, or, no, you can't provide as much as you are,...

SPEAKER BARRETT: One minute.

SENATOR WITHEM: ...but in creating our visionary plans on how we want higher education to respond to the economic and social needs of our state, you have to take into account the fact that there are independent colleges out there. In terms of the power of this board, the board has power to do some of the administrative things as the current Board of Postsecondary Coordinating Commission has in terms of administration of scholarship programs and those type of things. It doesn't have even the limited power that the coordinating commission now has in area of coordination. The coordination authority will be with the Board of Regents and they will, in fact, be a coordinating body with the power to enforce their coordination decisions. So I hope that is somewhat helpful to Senator Schimek and I hope it is somewhat helpful to me in making up my mind on what I am going to do on the Coordsen amendment. So, thank you.

SPEAKER BARRETT: Senator Coordsen, please, Senator Schimek, next.

SENATOR COORDSEN: Thank you, Mr. Speaker. It appears to me that I am not the only one on the floor that is a little bit fuzzy as to what the real responsibilities of the newly created under 1141 Nebraska Higher Education Commission might be. If, in fact, that commission's powers parallel that of the current Postsecondary Coordinating Commission, then I suppose there is no problem with the language that is currently in the bill. If they, this particular commission does, in fact, have certain enforceable powers, then it would appear that the language of all of the board members should follow what is already provided in the bill for the owner, shareholder, or board member of a proprietary school which must be appointed by the Governor. It relates back, I suppose, basically to Senator Schimek's concerns with regard to the independent colleges, which is a different issue than what the public postsecondary institutions would be. If there is, in fact, a constitutional concern, then we should

address that concern on 1141. What I am going to suggest this morning is that I pull this amendment and would share with you that if there is a concern, and if there is a valid need for it, I will reintroduce on Select. I would like to carry on some conversations with the sponsors of the bill to ensure what they want to do, can, in fact, be done, and at some point in time would not be found to be unconstitutional in part or whole. So with that, Mr. Clerk, I would ask that this amendment be withdrawn.

SPEAKER BARRETT: It is withdrawn. Next item.

CLERK: Mr. President, I have nothing further to the bill at this time.

SPEAKER BARRETT: We are back to a discussion of LB 1141 and its disposition. Senator Schimek, your light is still on. Would you care to discuss it?

SENATOR SCHIMEK: Mr. President, and members of the body, I still have a few remaining questions on the amendment that we just discussed, but I am going to leave that for now until we come back to that discussion. What I would like to ask, I guess Senator Withem this time, since I asked Senator Warner last time, one of the concerns...I have got two basic questions. I guess the first one was raised by, and I haven't heard it discussed on this floor, maybe it has been but I just haven't heard it, it seems to me to be a rather important issue, and a gentleman from out in North Platte raised this in a letter to all of us. And I guess has anybody decided whether it will be the Board of Regents or the separate Board of Trustees for UNL that will get the football tickets, Senator Withem?

SPEAKER BARRETT: Senator Withem.

SENATOR WITHEM: A Select File amendment would be appropriate in that regard.

SENATOR SCHIMEK: Thank you. Now I will be serious.

SENATOR WITHEM: (Mike off) I thought that was serious.

SENATOR SCHIMEK: I think it probably is. Then one of the concerns that has been repeatedly brought to me, and I do apologize to you and Senator Warner for not having been able to

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take part in as many of the discussions as I would have liked prior to bringing this bill to the floor, but one of the concerns has been, why have we not addressed the community colleges as sort of a separate entity out there? Why have they not been brought in under the bill? Why have we not said something about the state funding versus the area funding mechanism for the community colleges under this bill? I don't know if you can go into great detail on that, Senator Withem, but that is a concern because I see, I have seen through the appropriations process, that the funding for those community colleges, at least in some parts of the state, is not on a very sturdy basis and that problems were predicted from the very beginning of the establishment of the community colleges regarding their financing, and I am sure the commission must have looked at this to some degree. Could you, for the record, talk about that a little bit?

SENATOR WITHEM: Yeah, I certainly can, and I will even do it on my own time if I can't get it done on the time here. One of the weaknesses the oversight group saw with the initial recommendation from the consultants was is the initial recommendation from the consultants said leave the community colleges alone. Their rationale was they didn't see major problems there with the community colleges, number one, and the oversight members somewhat disagreed with them on that, that we felt that there are some problems there that need to be addressed. Secondly, they recognized that under our State Constitution, as long as you have the Duis, Gerdes-Duis amendment, the Duis amendment, as someday some people following us will be saying now was it Warner or was it Hefner that did such and such way back when probably, the Duis amendment says you cannot have a property tax for a state function. If you put in strict supervision of the community colleges at the state level and continue to fund them with the property tax, you have a constitutional problem. You can't do it. What you can do to alleviate that would be (a) to change the Constitution to say that you can use a property tax for a state function. The likelihood of the people voting for something like that is very small. The second thing you could do, and frankly you could still do it under LR 239. There is nothing in 239 that will prevent us someday from funding the community colleges all at the state level, and once we do that, then we can bring them under. But that was the rationale, that we are not going to fund them at the state level, we are not going to amend the Constitution to allow the state to levy a property tax, so you

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couldn't bring them in. What we said as a...that that wasn't good enough for us. So what we put into the bill is a mechanism...

SPEAKER BARRETT: One minute.

SENATOR WITHEM: ...by which the community college will have their programs, and the theory behind this is a portion of their programs supported by state funds, reviewed by this Board of Regents. The Board of Regents will make recommendations to the Legislature concerning the programs of the community colleges, but they won't be able to tell them adamantly you can't do it. But we, as a Legislature, you sitting on the Appropriations Committee and approving their funds and recommending their funds, you will have some clout to impact upon them as to whether you approve their state aid or whether you don't. So I don't think they are totally left out of the process. It is kind of a little more cumbersome process with the community colleges but we are not leaving them out at all.

SPEAKER BARRETT: Senator Withem, your time...Senator Schimek's time has expired. Your light was next. Would you care to continue the discussion or not?

SENATOR WITHEM: Yes, I would like to continue discussion because I am going to urge that this bill be advanced today, partially for the ease of keeping the two bills together, I would urge that...LR 239CA obviously had some difficulty the other day. It did advance but with a very slim margin of approval. I would be concerned if people that were opposed to that would also vote no not to advance LB 1141 because LB 1141 is an important vehicle for us as a Legislature to sort through some of these things, the things Senator Coordsen brought up, the things Senator Schimek brought up. So I'd urge you to give the bill a vote for advancement even if you are not 100 percent sold that LR 239 is the best thing to do. I would like to also speak on why once again I believe very strongly that the recommendations by our outside consultant are valid and need to be adopted, and that we need to send this whole proposition onto the people to give them an opportunity to talk about whether they want greater coordination in their higher education system. I felt bad about my abilities the other day on LR 239 to argue convincingly what I feel deeply the need for the change here and to articulate that as well as I could. I heard some people later on talking about the whole discussion seemed devoid of any

discussion on how this is going to impact the students in our universities, and in our state colleges, and in our community college system. Shouldn't we be talking more about that and you are 100 percent right, we should. I think that the students in our state, if this is adopted, will have an opportunity to attend institutions that have a greater degree of cohesiveness and that is of great benefit to the students. I don't know how many of you...there are two concerns that senators hear about the higher education system. One of those is the problem with the professors that are difficult to understand, which is a perpetual problem we probably won't deal with with this situation. But the other one is the ability for people to enter the UNO campus, start their program if they are Omaha residents, and end their program at Lincoln, and be able to transfer their credits; to begin a program at a community college, get a two-year associate degree, and move then into an articulated well-defined program at the four-year institution, whether that be Kearney, Wayne, Chadron, Peru, or Lincoln or UNO. I think the students of the state will benefit greatly if there is a greater degree of competence and coordination. I think the students of the state will benefit a great deal if we have...if we end the unnecessary duplication and we can spend our dollars in a manner in which we can provide the best possible education system for the least possible price, that we have somebody refereeing the turf fights that go on about should UNO be the one to offer a program or should UNL be the ones to offer a program; should Kearney be allowed to do things or shouldn't Kearney be allowed to do things? I think the students suffer when so much of our energy in higher education, our creative thought, appears to be to me, as somebody that referees some of these turf fights, so much of our energy is spent. I think our students will be better off if we have a system in the state that can really articulate how well these learning centers, what should these learning centers be and what should they be doing? I think they will be stronger institutions, better institutions, if we have a coordinating commission that can take the time and have the ability...

SPEAKER BARRETT: One minute.

SENATOR WITHEM: ...to make a decision on how these institutions should be operating. Because we, as a Legislature, I don't think we have the ability to make those decisions. I know Senator Weihing brought us a proposal. I know Senator Nelson is very interested and concerned, and Senator Peterson and Senator

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Conway are very concerned about those. I don't know whether they are good or they are bad, or I don't know how they should function. I don't think we, as a Legislature, have the tools to do that. I think those students in Scottsbluff and in Grand Island and in Norfolk will be better off if we have a coordinating body, a Board of Regents, that has the ability to make some decisions about how these things will operate. So I do think the end beneficiaries of this program will be the students in our state. I think it is important that we make these changes and I would urge you to advance LB 1141.

SPEAKER BARRETT: Senator Haberman, please.

SENATOR HABERMAN: Well, Mr. President, and members of the body, I would like to ask Senator Withem a question, if I may, please.

SPEAKER BARRETT: Senator Withem, would you respond to a question?

SENATOR WITHEM: Yes, I would.

SENATOR HABERMAN: Senator Withem, can one legislative session bind a new legislative session to a particular piece of legislation?

SENATOR WITHEM: We can't prevent a future legislative session from changing it. I mean, we can bind them in terms of passing legislation but we can't prevent them from changing legislation we pass.

SENATOR HABERMAN: So, what we are saying, in essence, I think, Senator Withem, is that we are trying to tell the citizens of Nebraska that if you pass LR 239CA, 1141, as it is going to be explained to the citizens, is how LR 239CA is going to play out. Would that be a reasonable statement?

SENATOR WITHEM: Yes, we are trying to give them an indication of what it would look like, yes.

SENATOR HABERMAN: Well, I am a little leery, Senator Withem, of telling the citizens right now this is what is going to happen, but if there are some flaws or if we should make some changes, we can make them. Now I don't know how much emphasis is going to be put on that issue to tell citizens that it can and possibly will be changed. Now if the citizens vote in LR 239CA

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and they read and they study what 1141 is going to do, and then in the next session, we come back and we find some flaws or we get 25 votes to change something, then, in essence, the citizens have voted in a constitutional amendment with the understanding this is what is going to happen if it passes, then the body can come back and change that. I don't think that is quite fair. I don't think it is up front. I would feel much more comfortable in supporting LR 239CA, which I do not at this time, if we were not going to tell the citizens about 1241 (sic) because it can and possibly will be changed. So I don't know whether we are really being up front with them, Senator Withem, as we cannot bind another session, and I can tell you now that we will find some things that have to be changed, and maybe those changes would have changed some votes of the citizens who either supported LR 239CA or who were opposed to LR 239CA. So, personally, I would like to see LR 239CA stand on its own two feet, and then if the citizens want to trust the Legislature in their wisdom...

SPEAKER BARRETT: One minute.

SENATOR HABERMAN: ...to come back and forge legislation to put LR 239CA into effect, to me that would be a fairer way to do it. I do oppose 1141. Thank you, Mr. President.

SPEAKER BARRETT: Thank you. Senator Bernard-Stevens, please.

SENATOR BERNARD-STEVENS: Thank you, Mr. Speaker. Just a brief comment, and if Senator Withem would like to have any of my time, I will grant him some of that, but usually when I do that, there is only a minute left anyway, or less. But, nonetheless, yes, so don't count on very much time. Senator Haberman, I think you raise a valid point. On the other hand, I would like to put on the other coin, if the Legislature, for example, would talk about LR 239CA and not have had 1141, and we would have had nothing to show them and we would have said we want you to approve this but we are not going to give you any idea of what it is going to look like, you know, I think that would have been equally as difficult for the voters. In fact, I think it would have made it more difficult. So I think the Education Committee, at least, was saying that in regards to this bill, I think we need to advance the bill. I think we need to have it on the floor discussion, so when it does go before the voters, they can have something when they vote to look at to say we have an idea of what this might look like. Now in my view,

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personally, I don't really care if 1141 passes or not, myself. I know Senator Withem and Senator Warner would like to see it passed into law. I don't really care that much one way or another, because in my view if it would be passed by the voters, that would be LR 239CA. If it would be approved by the voters, then the Legislature would come back and I am sure you and I and other people would now look very seriously of what we did pass if 1141 passes and say, is this what we want, and we would then be going back and making changes in regards to a bill that would change the statute that was passed. Or the Legislature would come back, if we don't pass 1141, and say the people have spoken, we had a system, such as 1141, I am sure Senator Withem and other people would say, here is the bill that we are going to introduce now that will enact what LR 239CA would have done, since the voters have approved it, and we will have advanced a reason to change that as well. The only time that we'd pass...if this would pass before us now, the 1141, the only way that it would be binding on a future legislature is if LR 239CA would pass the public, and the Legislature next year would say we don't want to make any changes to 1141. We are not concerned with that. We will allow that statute to remain in place. Then we would, in fact, have bound another Legislature as we do with all statutes that we pass if that body does not want to make a change. And that is virtually how I view that. I think we are better off having discussion and the people aware of 1141, at least in its conceptual form, rather than having LR 239CA out there, if it does get out there, without any idea of what it would look like, and I think this is the better of the two alternatives. And, Mr. Speaker, how much time do I have remaining.

SPEAKER BARRETT: Two minutes.

SENATOR BERNARD-STEVENS: That is incredible. Senator Withem, do you...

SPEAKER BARRETT: Senator Withem.

SENATOR WITHEM: Yes, Senator Haberman does raise an interesting point of can we bind future legislatures. Obviously, the answer is no. The way the bill is written, however, it becomes operative on July 1, 1991, if a constitutional amendment authorizing such legislation is adopted. So it will go into the statute books. Whether we have the power to do that is the question we are investigating, and I noticed the staff people,

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none of them wanted to look over here and defend that proposition very strongly, so that is questionable. And I think Senator Bernard-Stevens' point of go to the people with just the amendment out there and saying we will fill in the details later, or giving them some details that we could change later, which of those are preferable, I think the latter is preferable, particularly when you look at this Legislature that will be here in the 1991. Half of the members are relatively guaranteed of being here because they are not up for reelection. The other half of us who are up for reelection,...

SPEAKER BARRETT: One minute.

SENATOR WITHEM: ...history demonstrates that the fairly large majority of those of us who are up for reelection return. A number of people are unopposed. A number of other people will win their reelections probably, some of us are hopeful that we will, anyway. So the Legislature next year probably won't look radically different than it is now. So if this proposition is acceptable to this Legislature at this point, I don't think there is a strong reason to suspect that it will be radically changed and subverted between now and when those new dastardly people that will be taking our place down here come and do take our place. So I think it is, recognizing the concerns Senator Haberman brings up as valid ones, I think still the preferable thing is to pass this legislation on along to give people an indication of what the system will look like in its totality, instead of just the structural outlines of it that would be there if only the constitutional amendment stood on its own.

SPEAKER BARRETT: Senator Haberman.

SENATOR HABERMAN: Mr. President, and members of the body, Senator Withem, I would like to bring to your attention one other item. It is going to be in the Constitution that we make these changes. It is going to be in the Constitution of the State of Nebraska. Now shouldn't we first, before we take 1141 and pass it, get an Attorney General's Opinion or get somebody's opinion that if LR 239CA does pass, everything in 1141 is constitutional because we could have a problem. Once we put something in that Constitution, you very, very seldom get it out. So we come back down here with good intentions, and we say 1141 is the bill we want, this is the way we would like to set it up, and, lo and behold, we have a new Attorney General, and he says, hey, wait a minute, folks, you can't do that. It is

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unconstitutional. Then we have another fight on our hands. So, personally, I would feel a lot more comfortable if we could get an opinion from the present Attorney General, although he won't be here, as to the constitutionality of LB 1141 as it fits to LR 239CA. Thank you, Mr. President.

SPEAKER BARRETT: Senator Abboud, please.

SENATOR ABOUD: Question.

SPEAKER BARRETT: Thank you, that won't be necessary. We are back to a closing on the advancement of the bill. Senator Withem or Senator Warner, who will be handling the closing? Senator Warner, please.

SENATOR WARNER: Well, Mr. President, members of the Legislature, I would urge that the bill be advanced. As has been explained a number of times, this is sort of accompanying legislation to LR 239CA and it ought to move with it, and I would hope that you would advance the bill. It does, as has been explained, give some statutory substance as to how the constitutional amendment would be implemented. Obviously, and I think this has been said earlier but will repeat it, that it is likely that the legislation would need to be reenacted next session after the constitutional amendment is adopted. There is a difference of legal opinions I guess as to whether or not that would be necessary. We knew that at the time it was introduced, but we still felt it was important that as much substance as possible would be presented and enacted in the form of legislation so that there was not a whole series of unanswered questions which constitutional language can be if it...any other option, of course, then would be to put in a whole statute into the Constitution, which almost everybody agrees is not good public policy, in those...in that respect but rather the framework, and that is what the constitutional amendment does provide the framework in which this structure for coordination and governance would be carried out. I would urge the bill be advanced.

SPEAKER BARRETT: Thank you. The question is, shall LB 1141 be advanced to E & R Initial? All in favor vote aye, opposed nay. Voting on the advancement of LB 1141, have you all voted? Senator Withem.

SENATOR WITHEM: Yeah, I believe it is pretty apparent that we

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are going to have to have a call of the house, so I would urge that the class go...the class, the whatever we are go under call.

SPEAKER BARRETT: Shall the house go under call?

SENATOR WITHAM: And call in votes will be accepted, encouraged.

SPEAKER BARRETT: Those in favor of the house going under call, please vote aye, opposed nay. Record, please.

CLERK: 17 ayes, 1 nay to go under call, Mr. President.

SPEAKER BARRETT: The house is under call. Members, please record your presence. Those outside the Legislative Chamber, please return. Senators Ashford, Chambers, Coordsen, Senator Haberman, Senator Hartnett, Senator Hefner, please check in. Senator Hartnett. Senator Chambers. Senator Scofield. Senators Pirsch, Robak, and Schellpeper, the house is under call. Call in votes are authorized.

CLERK: Senator Hartnett voting yes. Senator McFarland voting no.

SPEAKER BARRETT: Record, please.

CLERK: 25 ayes, 4 nays, Mr. President, on the advancement of LB 1141.

SPEAKER BARRETT: LB 1141 is advanced. The call is not raised. To the A bill, Mr. Clerk.

CLERK: Mr. President, LB 1141A is a bill by Senator Warner. (Read title.)

SPEAKER BARRETT: Senator Warner, on the A bill.

SENATOR WARNER: Mr. President, the A bill, if I remember correctly, is at the 135,000 level, which would not commence until July 1, I believe, of 1991, if I remember correctly. If, obviously, if the constitutional amendment would not be approved or not approved by this body and not approved by the voters, it would have no impact, but to reflect the rules of funding to be shown for the two succeeding years on any new legislation, this is the estimated cost, additional cost for the operation of the

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LB 220A, 348, 369A, 542, 571A, 594, 866
880A, 958, 965, 1032, 1059, 1094, 1141
1141A, 1146, 1222A, 1236
LR 382, 383

CLERK: 25 ayes, 2 nays to go under call, Mr. President.

PRESIDENT: The house is under call. Will you please record your presence. Senator Schmit is the only one excused, so everyone else should be here. We're looking for Senator Wesely, Senator Lynch, Senator Schellpeper, Senator Pirsch, Senator Landis, Senator Emil Beyer. Senator Wesely and Senator Beyer are here now, so that is it, and there is a roll call vote. Oh, Senator Lynch is not here. I thought I saw him. Okay, we'll wait for Senator Lynch. Senator Lynch is here and the question is the advancement of the bill. Roll call vote in regular order. If you'll hold it down so the Clerk can hear your response. Mr. Clerk.

CLERK: (Roll call vote taken. See pages 1547-48 of the Legislative Journal.) 34 ayes, 12 nays, Mr. President, on the advancement of LB 1059.

PRESIDENT: The bill is advanced. Anything for the record, Mr. Clerk, at this time.

CLERK: I do, Mr. President.

PRESIDENT: The call is raised.

CLERK: Mr. President, your Committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 220A and find the same correctly engrossed, LB 369A correctly engrossed, LB 880A correctly engrossed and LB 1146 correctly engrossed, those signed by Senator Lindsay. Enrollment and Review reports LB 1141 to Select File with E & R amendments, LB 1141A, LB 958, LB 571A, LB 1222A to Select File. (See page 1548 of the Legislative Journal.)

A communication from the Governor to the Clerk. (Read communication. Re: LB 348, LB 542, LB 594, LB 965, LB 1032, LB 1236 and LB 1094. See page 1549 of the Legislative Journal.)

Two study resolutions, Mr. President, will be referred to the Exec Board. (Re: LR 382, LR 383. See pages 1549-50 of the Legislative Journal.)

Senator Lamb has amendments to be printed to LB 866. (See page 1551 of the Legislative Journal.) That's all that I have.

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LB 899, 920, 1019, 1141
LR 328

E & R amendments.

SPEAKER BARRETT: Shall the E & R amendments be adopted to 899? All in favor say aye. Opposed no. Carried. They are adopted.

CLERK: I have nothing further on the bill, Senator.

SPEAKER BARRETT: Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move that LB 899, as amended, be advanced to E & R for engrossment.

SPEAKER BARRETT: Any discussion? Seeing none, shall LB 899 be advanced? All in favor say aye. Opposed no. Carried. The bill is advanced. Items for the record, Mr. Clerk.

CLERK: Mr. President, Senator Warner has amendments to LB 1141 to printed; Senators Johnson and Byars to LB 920. Senator Wesely would like to add his name to LB 1019, and Senator Schimek to LR 328. That is all that I have, Mr. President. (See pages 1569-71 of the Legislative Journal.)

SPEAKER BARRETT: Thank you very much. Ladies and gentlemen, thank you very much for an excellent day. The work product has been excellent today. I am grateful. Thank you very much. Senator Bernard-Stevens, would you please adjourn us.

SENATOR BERNARD-STEVENS: Mr. Speaker, and members of the body, I move we adjourn until tomorrow morning, 9:00 a.m., March 21st (sic).

SPEAKER BARRETT: Thank you. You have heard the motion to adjourn until nine o'clock tomorrow morning. All in favor say aye. Opposed no. Carried. We are adjourned. (Gavel.)

Proofed by:

Arleen McCrory
Arleen McCrory

March 28, 1990

LB 976, 1059, 1062A, 1141, 1151

SPEAKER BARRETT: Time.

SENATOR LANDIS: Each of them is precious. I would urge you to adopt this amendment. Thank you, Mr. Speaker.

SPEAKER BARRETT: Thank you, sir. All present but Senator Peterson. Senator Landis, may we proceed with the vote? Thank you. The question is the adoption of the Landis amendment to the Johnson amendment to LB 976. All in favor of that motion please vote aye, opposed nay. Have you all voted? Please record. Senator Landis.

SENATOR LANDIS: Can I...pardon me, pardon me, nothing, Mr. Speaker.

SPEAKER BARRETT: I understand. Thank you. Record.

CLERK: 23 ayes, 14 nays, Mr. President, on the adoption of Senator Landis's amendment to Senator Johnson's amendment.

SPEAKER BARRETT: The amendment is adopted. I believe at this point, ladies and gentlemen, before we raise the call, we should announce that we have an annual proceeding which will take place momentarily in this Chamber, something that we look forward to every year, but before asking Senator Morrissey to make the appropriate motion and read some items into the record, the Chair would advise you that tomorrow morning we will begin our proceedings on the floor at eight o'clock with Final Reading; Final Reading tomorrow morning and we do need at least 30 members present to start our Final Reading. So I would ask for your cooperation. Hopefully, we will read on final until noon, at which time we will then proceed to the processing of additional senators' priority bills. Mr. Clerk, have you items for the record?

CLERK: Yes, Mr. President, I do. Mr. President, a communication from the Governor to the Clerk regarding a gubernatorial appointment. A new A bill, LB 1062A by Senator Bernard-Stevens. (Read for the first time by title. See page 1669 of the Legislative Journal.)

Amendments to be printed to LB 1151 by Senator Dierks; Senator Coordsen to LB 1141; Senator Withem to LB 1059. Two Attorney General's Opinions, Mr. President, one to Senator Nelson

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LB 662, 866, 1062, 1141

(LB 662); the second to Senator Coordsen (LB 1141). (See pages 1669-81 of the Legislative Journal.)

Mr. President, Senator Coordsen would like to add his name to LB 1062, and Senator Lamb to LB 866...Senator Haberman to LB 866, excuse me. That is all that I have, Mr. President.

SPEAKER BARRETT: Thank you, sir. The call is raised. The Chair recognizes Senator Morrissey.

SENATOR MORRISSEY: Yes, Mr. President, and members, thank you, and to again emphasize so there will be no confusion, I will do this like we do on the railroad, and we do it this way not because we are stupid or need the practice but because so there will be absolutely no misunderstanding. I move that we adjourn until eight, e-i-g-h-t, a.m., tomorrow, Thursday, March 29, 2-9.

SPEAKER BARRETT: Thank you. Those in favor of that motion say aye. Opposed no. The ayes have it. Motion carried. We are adjourned.

Proofed by:

La Vera Benischek
LaVera Benischek

April 3, 1990

LB 958, 1141, 1141A
LR 239

again, the motion offered by Senator Hall. All in favor vote aye, opposed nay. Record.

CLERK: 30 ayes, 0 nays, Mr. President, on the motion to overrule the agenda and take up Select File bills as evidenced on yesterday's agenda.

SPEAKER BARRETT: The motion prevails and we do return to yesterday's agenda, Item 10, Select File, and LR 239CA. Mr. Clerk, can you bring us up to date on where we left off?

CLERK: Mr. President, LR 239 was discussed yesterday, E & R amendments were adopted as was an amendment by Senator Warner, a second amendment by Senator Warner and an amendment by Senator Chambers. Mr. President, the amendment I have pending is by Senator Chambers.

SPEAKER BARRETT: The Chair recognizes Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman, I'm going to ask the Clerk if he would read that amendment.

SPEAKER BARRETT: Senator Chambers, excuse me. I would like to recognize the introducer of the bill at this point, Senator Withem, please, the primary introducer.

SENATOR WITHEM: Excuse me. I'm just asking a request that the bill be passed over at this time.

SPEAKER BARRETT: Thank you. If there are any objections, please so state. Seeing none, LR 239 is passed over. Senator Warner, question of the Chair, is LB 1141 necessary at this point, the implementing legislation or not?

SENATOR WARNER: Well, it certainly is necessary but I think we ought to pass over it.

SPEAKER BARRETT: Are there any objections? Seeing none, we'll pass over LB 1141 and presumably LB 1141A if there are no objections. Moving then to LB 958.

CLERK: Mr. President, on LB 958, I have no amendments pending to the bill.

SPEAKER BARRETT: Senator Lindsay.

printed to LB 1141 (See Warner amendment AM3226 as found on pages 1863-64 of the Legislative Journal), and to LB 281 (See Abboud amendment AM3343 as found on page 1861 of the Legislative Journal). That's all that I had, Mr. President.

SPEAKER BARRETT: Thank you, sir. I'd like to revert, at this time, to the original agenda, General File committee priority bills and work a few of those General File committee priority bills, with your cooperation, starting with LB 1003. Mr. Clerk.

CLERK: Mr. President, LB 1003 was a bill originally introduced by Senators Elmer, Lindsay and Schmit. (Read Title). The bill was introduced on January 4 this year, referred to the Judiciary Committee. Bill was advanced to General File. I do have committee amendments pending by the Judiciary Committee.

SPEAKER BARRETT: Chair recognizes Senator Chizek for the committee amendments.

SENATOR CHIZEK: Speaker and colleagues, LB 1003 is a bill which allows the recovery of attorneys fees and other costs if an individual is prosecuted under a law which is declared unconstitutional during the appeal. Senator Elmer will address the bill later, but the committee amendments are on page 556 of the Journal and they are technical amendments to make clear that the Supreme Court shall determine the fees to be awarded, if any. The Judiciary Committee unanimously voted to move LB 1003 to the body with that simple amendment. I would urge the adoption of the committee amendments and the... later, the passage of the bill, Mr. Speaker.

SPEAKER BARRETT: Thank you. For discussion purposes, Senator Chambers on the committee amendments, followed by Senator Elmer.

SENATOR CHAMBERS: No, not on the committee amendments.

SPEAKER BARRETT: Thank you. Senator Elmer.

SENATOR ELMER: Thank you, Mr. Speaker. I think that Senator Chizek explained the committee amendments pretty well. I'll address the bill when we get to the bill. Thank you.

SPEAKER BARRETT: Thank you. Any other discussion on the adoption of the amendments? Senator Chizek. Senator Chizek

are entitlement programs in...either in fact or because of necessity, in the area of Social Services, Corrections, Department of Institutions, a few others, all of which grow faster than the average growth of the state's receipts over a period of time, primarily in some of those because their heavy component is medical. Obviously, if we want to go out and help local governments more, that is also likely to grow faster, and over the next few years, we are going to be really trying to find ways to economize and be more efficient in state operations. But I suspect that is not what we are going to do. I don't expect we will amend the Constitution even to have that possibility to address that issue. Matter of fact, I have an amendment on LB 1141 should 239 be bracketed which offers another alternative as a constitutional amendment, one, incidentally, which is neither here nor there actually, but, incidentally, the Chair of the Board of Regents at the public hearing on 239 indicated was the right thing to do. It intrigues me a little bit that back in the lobby they are all working against the amendment that was filed in the Journal yesterday, although it is exactly...conceptually, it is identical to what the Chairman of the Board of Regents said ought to be done.

PRESIDENT: One minute.

SENATOR WARNER: But that is merely, and, in fact, it was a response to a question by Senator Baack at the hearing, but it just merely bolsters the fact that we aren't going to do anything. We are going to come next year and we are going to expand telecommunications, we are going to expand learning centers, we are going to expand graduate programs, first come, first serve, and they probably all ought to be done, and we will end up with a system we can't afford, the quality is going to go down. Nobody will be in charge, which will be fortunate because we can blame no one that way, or everyone, it doesn't make any difference. But if there is an issue that faces this state that is of paramount importance, when you look at the size of the budget and how important postsecondary education is, then that one word is coordination, and that is what we do not now have, and I suspect never will. Use your judgment on the bracket motion. I would not interpret the bracket motion if it is successful as being one of turning down the issue. I suspect in part it will be people who want to get to other issues, and I can understand that, but there is an opportunity this session to address an issue that everyone has known for years has not been

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And so I think that is a healthy act for us to weigh those issues once again here on the body, to weigh them in our own minds, to debate them back and forth, to raise the "what ifs" but, for heaven's sake, let's get this on the ballot. The debate is needed in here. It is needed across the state. The other point that I think I'd make is...

PRESIDENT: Time.

SENATOR SCOFIELD: I may turn on my light and keep going. Thank you, Mr. President.

PRESIDENT: All right, fine. Senator Beck has some guests in the south balcony. We have 100 fourth grade students from Fontanelle Elementary School in Omaha with their teachers. Would you folks all stand and be recognized by the Legislature? Thank you for visiting us today. Now, Senator Crosby, followed by Senator Rod Johnson, Senator Goodrich.

SENATOR CROSBY: Thank you, Mr. President, and members. I just want to say two or three things. First, Senator Withem and Senator Warner make me feel guilty because I have not been more...I have been a little less than enthusiastic all along about the whole concept of the changes in the structure of governance of higher education in Nebraska. But I have been listening carefully to what they say, and one thing I would...I have a handout or a mailing that I received from the Business School at the university, Bruce Johnson, a Professor of Agricultural Economics, and it has some statistics in them, one which I think is very interesting, that in the State of Nebraska per capita for higher education we spend \$311, and the average in the United States is only \$247. So that backs up what I believe it was Senator Warner said about the amount of money we do spend on higher education in Nebraska. The other two things I want to say, I have examined my conscience a lot in the last week or two, and reread 239 and reread LB 1141 because I begin to wonder do I feel the way I do because I feel left out because I wasn't on the commission? What is my real feeling? I do have a lot of alumni and professors from UN-L who live in my district, and I do get a lot of phone calls and conversations with them where they are leery of changing the setup. We're naturally protective of the University of Nebraska at Lincoln. But, having said all that, I will say this. I really would like to see this on the ballot because I would like to see the vote after the vote is in. I would like to see it precinct by

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PRESIDENT: Thank you. Senator Goodrich, please.

SENATOR GOODRICH: Mr. President, and members of the body, we are wasting time. I am going to make a suggestion and that is that we adopt the Bernard-Stevens amendment to amend it to the 10th. Doesn't make a particle of difference one way or the other, but let's adopt it, then take the motion of Senator Withem and bracket the bill or the constitutional amendment proposal, whatever you call it, bracket 239, be done with that. Go on to LB 1141, then open your Journal books to page 1863, 1863, where Senator Warner has got an amendment proposal for LB 1141 which, in essence, puts a version of 239 in LB 1141, and we start talking about that. That, in essence, gets us up to the water tank where we can actually drink or not drink. In essence, to review, let's quit talking about it, let's adopt the Bernard-Stevens amendment just to get rid of it, adopt the Withem amendment that gets it bracketed, gets 239 out of our way. Then we go on to LB 1141 and take up Senator Warner's motion. Thank you.

PRESIDENT: Thank you. Senator Lynch, please. Senator Schmit, please. I don't see Senator Lynch. Did you wave off, is that what you did, Senator Schmit? Senator Kristensen, please.

SENATOR KRISTENSEN: Thank you, Mr. President, and members. Perhaps one of the reasons that LB 239 (sic) hasn't caught fire in the Legislature may well be a fault of some of us who believe that there are some problems in education, particularly in higher education coordination, and maybe we took for granted that people assumed that there was a problem, and we focused on how to solve the problems rather than going back and rehashing that there was a problem. I think what we should focus on at the moment, and it is a point that I want to make, is that there is a terrible problem in higher education. And I think we ought to go back a little bit to last year and examine why we are at this point today. Nobody has talked about it a whole lot but the Kearney State issue is currently before the Nebraska Supreme Court. That case has the opportunity to be a landmark case and tell us what powers the Legislature does or does not have when it comes to higher education changes and coordination and various aspects of how we run our institutions in this state. But it does more than that. If you voted last year for Kearney State to become part of the University of Nebraska, you did so for a purpose and one of those purposes were there was problems

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back and we fine tune LB 1141 and do what is necessary to get done. Boy, I don't think that you can lose on that scenario. I don't think you can lose, and I think it is one that we ought not fritter away. Thank you.

PRESIDENT: Thank you. Senator Warner, please, followed by Senator Wesely and Senator Chambers.

SENATOR WARNER: Mr. President, and members of the Legislature, I won't take a long time but I want to make a couple of comments and indicate what I would, depending on what happens with this motion, what motions I would want to offer later. The one thing I do want to comment on, though, that the issue is that we ought to study things is one that comes up all the time. A couple of weeks ago I was looking through some of the boxes at home, if you think my office is bad you should see my boxes at home, and I came across this newspaper that looked rather interesting, and it was a whole page and it was all about the need for coordination and, as a matter of fact, it was quoting Dr. Varner as he left the university and what he thought ought to be done for higher education, and it was an excellent, thought-provoking article. And then I looked on the opposite side and there was an editorial in the same newspaper. Do you know what the editorial said? You can bet, let's not rush in too fast, let's study this awhile. That was 1974, what is that? Roughly, 16 years ago. Well, that's not very long. I mean we have been a state for a hundred and twenty, thirty years, what is 16, or 16 more? I will tell you what it is. It is just what Senator Moore said. You are going to...you know, most of the people opposing this, I guarantee you within five years, they are going to be back and say, that was really a mistake, wasn't it? We should have addressed that issue. We should have addressed that issue. Now what I propose to do, LB 1141 is the next bill up, if this is not bracketed. The only reason LB 1141 was introduced was to give some substance to the constitutional amendment so that the voters would have some idea of how it would be implemented, not necessarily to be enacted. In fact, it probably would have to be enacted again if the constitutional amendment was adopted in order to be effective. There is a disagreement about, but as Senator Goodrich indicated, I do, yes, I do have an amendment filed. And if, depending, I suspect either way with 239, if those who have amendments on LB 1141 withdraw them, I would like to quickly get to that amendment which gives constitutionally to the Coordinating Commission, composed of 11 members appointed by the Governor, all the power

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from Stromsburg. Would you folks please stand and be recognized. Thank you for visiting us today. Senator Withem, please, followed by Senator Bernard-Stevens.

SENATOR WITHEM: Yes, frankly, I am probably going to vote in favor of the Chambers amendment. I don't think any reference to political party has a whole lot to do with the Constitution. The Legislature can set these standards I think in future years in enabling legislation, so I am going to support the Chambers amendment.

PRESIDENT: Thank you. Senator Bernard-Stevens, followed by Senator Hall.

SENATOR BERNARD-STEVENS: Senator Withem said one of the two points that I was going to mention, Mr. President, and members of the body, and that is, again, if this 239CA would actually get the 30 votes necessary to pass on Final Reading, and, of course, that is making a big assumption that it will actually move from Select to Final, if that would happen, all would be out there is that the public would be able to analyze the concept. There would be a tremendous give and take of debate I think statewide. There would be a lot of focus, a lot of attention, hopefully, there would be anyway, and, hopefully, the people then would have a good decision or a good idea of what they wanted to do when it came to a vote. And then that vote would take place. After that vote would take place, then, obviously, we are going to have to look at LB 1141, if it had, in fact, passed this session, do we want to go back and make some changes? Or if it had not passed this session, obviously, we are going to have to put in the enacting legislation, and these things could be handled at that time. But for the sake of discussion on LB 239CA (sic), on the amendment, I, too, agree with the amendment. It was an amendment that was discussed quite thoroughly in the Education Committee after the hearings, and a lot of give and take was taking place on the particular amendment, particularly the patronage that was taking place, whether it be with the current Governor we have now, or a previous Governor we have had in the past, that they're more interested with the political party, "thank you's" on their appointments. But the discussion also pointed down to the fact that that's what Governors are there to do, to hopefully do what is best for the State of Nebraska. And I would hate to be in a position where we actually have a qualified person or somebody that is terribly unique to put on one of these appointed

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personally, is isn't it kind of funny how 8 out of the 9 members of the Appropriations Committee voted to advance this thing last time. I think both of those accusations are very unfair, both to Senator Withem and Senator Warner, because they were on...they voted for LB 247 last year, they worked on this all summer, long before things happened at the university. I know Senator Warner, in some of the conversations he spoke last year on the Kearney State issue, itself, talked about the need to do some of these things. He's introduced bills in the past to do some of these things. I think that's another unfair accusation. Now, Senator Withem, on the other hand has been more in my caliber, of beating the university over the head any chance we can, I guess. But I think it's important that the body, once again, go back to some of the things that Senator Warner said in his speech on the bracket motion. And unlike many of the speakers that have spoken from this microphone over the years, those shaped like me and those like Loran Schmit that care to make bold predictions on five years from now, hope you listened to some of the things Senator Warner said, because we're headed down the road for some trouble. And even if LR 239, the worst case, we pass it and, yes, for some reason the voters don't adopt it this time around, we begin the discussion and bring to light some of the things we need to do to improve our higher education in the state, and some of the things we need to do to go to our taxpayers and eventually spend some more money in the right fashion on higher education in this state. And so don't use the copout that, well, the voters are never going to adopt it. Don't use the copout that some people are trying to get even with the university. We've been talking about coordination for a long time. I know I, myself, introduced LB 531, last year, to do basically what Senator Warner's amendment to LB 1141 would do. Now, why do eight members of the Appropriations Committee vote like they do on this? You know, because we sit there and we look how we spend the money, and we just know we're not getting our money's worth right now, and we know there are troubles down the road. With that, I urge the adoption of the resolution. Hopefully, we can work our way towards 30 votes and get it on the ballot.

PRESIDENT: Thank you. Senator Hall, please.

SENATOR HALL: Question.

PRESIDENT: Question has been called. Do I see five hands? I do, and the question is, shall debate cease? All those in favor

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the...call the roll. If you'd call it reverse order, I'd appreciate it.

PRESIDENT: Yes. Reverse order roll call. The question is the advancement of the bill. Mr. Clerk.

CLERK: (Roll call vote taken. See page 1883 of the Legislative Journal.) 25 ayes, 14 nays, Mr. President, on the advancement of the resolution.

PRESIDENT: The bill (sic) advances. Anything for the record, Mr. Clerk?

CLERK: Not at this time, Mr. President.

PRESIDENT: We're ready to move on to LB 1141, please.

CLERK: Mr. President, on 1141, the first item are Enrollment and Review amendments.

PRESIDENT: Senator Lindsay, please.

CLERK: E & R amendments, Senator.

SENATOR LINDSAY: Mr. President, I move the adoption of the E & R amendments to LB 1141.

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

CLERK: Mr. President, Senator Warner would move to amend. Senator Warner, this is your amendment on page 1569, Senator.

PRESIDENT: Senator Warner, please.

SENATOR WARNER: Mr. President, I ask unanimous consent to substitute an amendment that I filed somewhat later down, I don't remember the number of it.

CLERK: Okay. Senator, all right, substitute the last amendment you filed, 3226, right?

SENATOR WARNER: Yes.

CLERK: Okay.

PRESIDENT: Substitute, any objection? So ordered.

CLERK: Senator, I have your AM3226 in front of me, found on page 1863 of the Journal.

SENATOR WARNER: The thought occurred to me that I should have apolo...if somebody wants to object, I did not indicate what the amendment was, and I...it was an oversight on my part. What this amendment is, but maybe it will save time. What this amendment is, is the constitutional amendment that someone suggested before which will give the Coordinating Commission the constitutional authority to act as a coordinating body. And the one thing I hope that all of you will keep in mind on these two issues, these two bills, a constitutional amendment is unlike any other bill. In the case of a constitutional amendment, if there are 30 votes to suspend the rules on the last day, that can be amended, discussed, changed and still enacted. I repeat, a constitutional amendment is unlike other legislation. There are constitu...there are Attorney General's Opinion, we've done it in the past. You can, with a suspension of the rules, there is no constitutional prohibition, you can amend on the 60th day a constitutional amendment that is to be placed on the ballot. So what I am offering as a substitute in 1141, and from a strategy point of view it probably is somewhat of a not too bright a move, because it gives two options out there and that could be either/or, but I think you're entitled to know if some of the people who said they wanted a strong, effective Coordinating Commission, without a major change in the structure, meant what they told you. You're entitled to know, if they meant, what they told you. I read from the chairman, and I don't want to make this an argument with the Board of Regents, but I will read, you had one handed out to you by Senator Withem with a question to...by Senator Baack, and another point in that same testimony is, if the issue is coordination, then let's deal with the problem with the structure we have in place. If the current structure is ineffective, because of lack of power, it would seem that the solution is to strengthen it, not throw it out in favor of an untried system. Why aren't we discussing altering the current Coordinating Commission on Postsecondary Education to enable it to coordinate effectively rather than debating the merits of an entirely new system? I agree with Senator Barrett, the Coordinating Commission on Postsecondary Education is a Coordinating Commission in name only. But this Legislature has

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the ability to rectify that, give them teeth and power, as Senator Lamb has indicated. That's what this does. Eleven members appointed by the Governor, constitutionally would be authorized, as is in the case of LR 239, but the Coordinating Commission would be authorized to have program review, long-range planning, budget review and the protection of the Regents v. Exon provision of the current Constitution, the lawsuit that was filed. But this is a chance to find out where people really are. Now, I think we all know where they really are, which is to do nothing. But if you will adopt this amendment and let it go to Final Reading and on next Monday, when we get done with other things that we will be dealing with that day. And then you will have an opportunity to have a response from a lot of people, because there is an option, and they're all amendable. And then maybe we can address the issue of coordination in a fairly short fashion in what time we'll have that day, because essentially where people are, in fact, will be very apparent. The one concept this has which is consistent, absolutely, totally consistent with the study is that it separates coordination and governance. Governance would remain as it is now. The Board of Regents would have the governance authority over the university system. The State College Board would have the governance over the state colleges, no change. But you would, in fact, have effective coordination, which as others have said really is the guts of this matter, because they don't want it, they don't want it. As Senator Scofield pointed out, we're not unique, every state faces this problem. And, believe me, it is going to become much more serious as budgets become tighter and more difficult. As times get tough, we have got to have a system that can act on a long-range, total statewide higher ed system of education, and there is no way to accomplish without some type of amendment such as this. So, without extended discussion, I would hope you would adopt it, adopt the amendment, forget all the rest of the amendments. By the way, I want to point out LB 1141 was introduced, as you all know, to give some structure as to the proposed structure to LR 239, so the public would have an idea how it would be implemented. That purpose is served, as well as the bill stands now, as it would be if it was enacted and passed. As many of us have indicated several times, there is a belief that in all probability we would have to reenact the legislation next session anyway should a constitutional amendment be approved, because there is a doubt whether you can constitutionally enact legislation prior to adoption of a Constitution that authorizes it, and I suspect that is true, and

in many respects it probably is better that it is not even passed, because I suspect that would become the issue, that there is no assurance that that would be how...the manner in which it would be implemented. But the structure is there, the proposal is there. I would suspect that the implementing legislation of LR 239 would not be significantly different. And, without a lot of discussion, I would hope you would adopt this amendment, advance the bill, and then you'll have an opportunity, between now and Tuesday, to read the kind of reaction that you have been getting just on 239, but you can make a comparison as to where the support really is for change, or in fact if there is any support at all, or I should say is there opposition to any change. That's really the issue--is there support for some change, and it's only going to come from this body, or is there opposition to every change, which is the more likely thing that I think you will learn between now and Monday.

SPEAKER BARRETT PRESIDING

SPEAKER BARRETT: Thank you. Discussion on the Warner amendment to LB 1141. Senator Beck, followed by Senators Elmer, Withem and Landis. Senator Beck.

SENATOR BECK: Thank you, thank you, Mr. President and members of the body. I do want to go as quickly as I can. I guess those of us, the back benchers here, have been studying the rules for some time now, as many maneuvers have been going on. And I ran across something, and I just have a question and it's looking at Senator Warner's amendment. In the event, and I'm looking now on page 40 in the rule book, in G, number G. In the event that a bill has become substantially a new and different bill by reason of the amendments having been adopted, and of course they haven't been, it's just offered it and he wants us to do this and go through the process as quickly as we can, the Speaker may refer the bill...said bill to the Reference Committee, who must refer the said bill to a proper committee for a public hearing, provided that a majority of the elected members may overrule the decision of the Speaker. And as I looked at that, knowing that I need to know more about the rules and understand them, I'm wondering if there is someone who would want to explain why it is not...why this is not new and different and shouldn't be referred to a committee for a public hearing. I'm just asking a question. I want to do it as quickly as I can in deference to Senator Warner. And I

wondered, would Senator Chambers, or Senator Lamb, or somebody like that want to just answer it for me.

SPEAKER BARRETT: Are you directing a...

SENATOR BECK: Question...

SPEAKER BARRETT: ...a question to the Chair, Senator Beck?

SENATOR BECK: Well, I'm directing a question to someone who could answer it, and maybe Senator Chambers wants to do that, or Senator Lamb, or maybe the Chair wants to do it. I don't care.

SPEAKER BARRETT: Would you identify then to whom you want to direct a question, please.

SENATOR BECK: Senator...oh, my, now you've put me in an eeny, meeny, miney, moe situation. All right. Senator Chambers. Then, if you have some time, my time left, give it to Senator Warner, you know, because I want him to have his fair share, because it's his amendment.

SPEAKER BARRETT: Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, the wording of the bill is permissive, saying that if...what it says, in effect, is if, in the Speaker's judgment, the subject matter is substantially different, the Speaker may refer it to the Reference Committee. If the Speaker referred it, then the Reference Committee would have to so refer. But it's discretionary with the Speaker and, should the Speaker decide to refer it, then that decision could be overridden by the vote. If somebody wanted to challenge the Speaker's failure to refer it, then, like any other ruling, that could be challenged. But until an amendment has been placed on a bill that would substantially alter it, there would be no application of this rule in my humble opinion.

SPEAKER BARRETT: Thank you. Senator Elmer.

SENATOR ELMER: Thank you, Mr. Speaker. Ever since I've been here we've been talking about coordination of postsecondary education. I, personally, felt that this amendment, this proposal that Senator Warner is bringing forward is the better choice. We don't have a lot of new bureaucracy, we put some

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power into some people that have already done a lot of work toward this. The idea of a public hearing has been brought up. What is more public, what is...involves the public more than a constitutional amendment that they vote on in the fall? The issue is well known. The issue is one that we need to address. I would strongly support this amendment and LB 1141, if it's adopted. Thank you. And I would relinquish the balance of my time to Senator Lamb.

SPEAKER BARRETT: Senator Lamb, approximately one minute, or excuse me, four minutes.

SENATOR LAMB: Thank you, sir. My light is on, but it's about nine speakers down. I have a question of Senator Warner. And the question is this, Senator, is it necessary to have a constitutional amendment? You know, this is attractive to me, but it's not clear to me why we need a constitutional amendment. We already have a Postsecondary Commission, and could we not legislatively do what you're trying to do in this constitutional amendment?

SENATOR WARNER: The answer to the question is no, Senator Lamb. Under the current Constitution, primarily because of the Regents v. Exon, but I assume there are probably other cases, there are also letters, I believe, I am reasonably certain, on the Coordinating Commission stating that you cannot legislatively give them any power whatsoever. They are an advisory, and under the Constitution that is all they can be.

SENATOR LAMB: Thank you, Senator Warner. That's very helpful to me, because I find this proposal attractive, much more attractive than the previous constitutional amendment, which would really, I think, leave us in a state of chaos for years and years. I just can't see, as I've mentioned before, having seven separate entities with seven separate boards in the State of Nebraska. And I believe Senator Warner picked up on some of my comments before the Education Committee, where I mentioned that we could probably do the same thing with increased powers of the Coordinating Commission. And I stand by that. I think that is much more acceptable, and I have not, I have not had an opportunity to investigate all the possible problems with this, but at first blush this certainly has a lot of merit in my mind, and I certainly would think it's a much better solution to the problem than the LR 239, which we have previously discussed.

SPEAKER BARRETT: Thank you. An amendment on the desk, Mr. Clerk.

ASSISTANT CLERK: Mr. President, Senator Conway would move to amend the Warner amendment. (Conway amendment appears on page 1884 of the Legislative Journal.)

SPEAKER BARRETT: Senator Conway.

ASSISTANT CLERK: Senator, would you like me to read it?

SENATOR CONWAY: Thank you, Mr. Speaker, members. If you do have your Journal pages open to page 1863, for the Warner amendment, and have read through it, as I just have, I believe that I can support the Warner amendment, except I believe that there has been an element of higher education that is certainly a part and contributes to the higher education activity in the State of Nebraska, that being the technical community colleges, by virtue of identification of postsecondary institutions being those which offer baccalaureate and/or postbaccalaureate degrees, we have eliminated, by virtue of this constitutional request, a major segment, a growing segment, a very valuable segment of our educational opportunities in the State of Nebraska. Being a person who has had about 18 years of involvement in higher education, we are constantly coordinating and articulating and trying to bring positive relationships with those institutions as they fit into the entire arena offering higher education in the State of Nebraska. I think that if we are going to have a coordinating body that has this level of oversight to the process, that that level of higher educational offering should just as well be part of that coordination and articulation of what things should be. And I don't know whether...Senator Warner, I'm sure, may be willing to react to this in terms of why they were left out. And, if we're going to have a coordinating body, we ought to be coordinating all of public institutions rather than simply the four-year institutions or greater. With that, I offer the amendment to simply strike the language, beginning on line 14, at the end of "public institutions" and strike "which offer baccalaureate and/or postbaccalaureate degrees", strike that and just talk about public institutions in general in the State of Nebraska. So that is the amendment that I offer.

SPEAKER BARRETT: Thank you. Before recognizing speakers on the Conway amendment, Senator Morrissey announces the presence of

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nine fourth graders from Auburn, Nebraska, some Webelo Scouts in our south balcony with their Scout Master. Would you folks please stand and be recognized. Thank you, we're happy to have you with us. Senator Withem, would you care to discuss the Conway amendment to the Warner amendment?

SENATOR WITHEM: Yes, I would. I, frankly, see no real problem with it. But, like Senator Conway, I'd like to hear Senator Warner's reaction. If he'd like some of my time to comment publicly on his thoughts on the Conway amendment, it would help enlighten me as far as this vote is concerned. Jerry, would you like to use some of my time to comment on the Conway amendment? Pardon me? I've just been kind of mumbling up here, waiting to get your attention, so you can comment on it. So,...

SPEAKER BARRETT: Senator Warner.

SENATOR WARNER: Thank you, Senator Withem. The question that I believe was asked was why they were...community colleges, in essence, were left out, and the issue is one that we've dealt with before on the previous amendment, you bring up the issue, at least, of which constitutional provision would prevail, whether this would prevail and become a state purpose, therefore outlawing a property tax for the community colleges. I simply don't know what the thinking was, at least, on LR 239 when it was introduced, but, in all probability, if we attempted to do that, that would be exactly what we're doing. But the other thing I would suggest, I'm hesitant to take all the time that...on this amendment, because I know there are other things people want to get to, but I again remind you that this proposal, as well as 239, can be addressed with a suspension of the rules on the 60th day. And rather than adopt this and then find that it couldn't...that it creates some real constitutional problem or issue, I'd rather have more chance to have that reviewed and then look at it Monday to see if it's fairly clear that it's not a problem. But, on the other hand, maybe I want to adopt it, that will give a lot more support, probably, to LR 239. (Laugh.) But I really think the wise thing to do would be to check that out, because I can tell you the reason it isn't there is because I believe that we could create a problem about the prohibition of any property tax for a state purpose. And this might create that issue, I just simply don't know.

SPEAKER BARRETT: Thank you. Senator Landis, would you care to discuss the amendment?

SENATOR LANDIS: Yes, Mr. Speaker, members of the Legislature. I'm looking at a portion of the amendment, and I'm interested in understanding how it's...what it's to mean and how it's to apply. I, too, have nothing on the face of this that strikes me as negative. I think there is a lot of merit here, and that's why I'm searching for meaning. And, Senator Warner, I'll be asking for a moment...in a moment about the question for these lines in the bill, 16 through 20. It says in the first part of this effective section it says that the Coordinating Commission shall be vested with the authority for the coordination of all public postsecondary education institutions. So, it says we're handing over to the Coordinating Commission the power to coordinate. The bill then goes on to define coordination, and that is coordination shall mean, but not be limited to, coordination of programs and academic activities, planning, budget submission, capital construction, and as prescribed by law other certain administrative functions. Meaning, I suppose, that we could then change and add to their responsibilities by legislation, as prescribed by law. We might be able to hand them more common administrative functions. The question I'm asking is this, line 16 defines coordination as, line 17, coordination. Coordination is coordination. Can you tell me, Senator Warner, what that sentence means and how you envision that applying?

SENATOR WARNER: It's essentially similar language as is in LR 239. I offered an amendment, a few days ago, that added similar language into 239, because the issue had been raised, and properly so, that the word "coordination", which we all use very freely as if we know what that is, there apparently is, in fact, no constitutional, traditionally accepted, legal, long-standing definition of the word "coordination". And in an attempt to give meaning to what coordination is included...it includes, and to make sure that it was constitutionally based authority, which a budget review of program approval, program review, those kinds of things, that is to give meaning to the word "coordination" beyond which was available otherwise, and as prescribed by law is exactly what is from the same current Constitution covering both the university and the state colleges, the Legislature is authorized to give duties as prescribed by law. And we can give duties, but we can't go in and operate the institutions.

SENATOR LANDIS: Okay, so in other words, when we look at budget

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submission, capital construction, planning, we're talking about programmatic review, the planning function, the submission of budgets and capital construction requests, that those are basic subject matter areas which the Coordinating Commission would have jurisdiction. And, depending on how far we go in prescribing how they are to carry those functions out, they could become responsible for making budget submissions. They could become responsible for doing the long-range planning, in the event there was some follow-up legislation in which we identified and further defined the coordination. That would be fair?

SENATOR WARNER: Yeah, it's exactly as 1141, as it was introduced and amended, gave definition to those functions of 239 in implementing legislation. That is correct.

SPEAKER BARRETT: One minute.

SENATOR LANDIS: Then the answer is yes, right? Okay. Thank you.

SPEAKER BARRETT: Senator Landis. Thank you. Senator Schmit. Senator Schmit. Senator Moore, on the amendment. Thank you. Senator Lamb.

SENATOR LAMB: Yes, Mr. President, members. I believe that Senator Conway's amendment is essential to make this a good proposal. That's one of the objections I've had to LR 239, that for all practical purposes the community technical colleges were left out of it. And then Senator Warner's concern that this may make the property tax for community colleges suspect, that even lends more strength to this proposal. I think we should develop that, because I think eventually most people are going to agree that that property tax authority should be removed from those colleges. Now, before all those people descend on us en masse, let's just hope that we get out of here. But I think that's a strong part of this proposal. And I think Senator Warner did not think I was sincere when I said we should give the Coordinating Commission more authority rather than split up our whole postsecondary educational system into seven separate entities. That's not correct, because I think that's what should be done. And I believe this proposal has a lot of merit with Senator Conway's amendment. There are probably some rough edges here that...Senator Landis has pointed out that we need to define exactly what those duties are and what the terms mean.

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But, in general, it seems to me that we are on the right track here with trying to get at coordination without ruining the system that we already have and without splitting all these institutions up into several competing entities with their own separate boards. I think that would be a big mistake. I think this is a much better proposal.

SPEAKER BARRETT: Senator Crosby.

SENATOR CROSBY: I want to speak on the bill.

SPEAKER BARRETT: Thank you. Senator Coordsen, on the Conway amendment.

SENATOR COORDSEN: Thank you, Mr. Speaker, members of the body. To borrow a trite phrase that has been echoed many times on this floor, I have not spoken on this issue up to this point, but I am compelled to speak at this time, as most of us in this body have had children that have went through the system and bits and pieces of the system and the major problem for many of us, those of us that have had children that have been in two or more different parts of our postsecondary education, is that problem of articulation of courses. Last week we made an appropriation on the floor of this body to correct what was perceived by many as being a moral injustice in that people had deposited money in institutions under the assumption that they were guaranteed by the State of Nebraska. Well, I would suggest to you that we have had many young people, the people for whom we maintain these institutions, who have also been shortchanged, that have deposited money in the system, and time, and hopes and dreams, and have found that those credit hours so arduously worked toward in one institution were not transferable to another. I think it's asinine in the State of Nebraska that we should allow a situation like this to continue to exist. I have not supported LR 239 and I did not believe that it affectively addressed the problem. I am supportive of the Warner amendment and also of the Conway amendment to the amendment because if we do not do this, then we have somehow left a piece of the puzzle unfound. If, as Senator Warner indicates, the Conway amendment would make this constitutionally suspect, what better time is there to find the correct language to ensure that the credits that are earned in any of our public postsecondary education systems might be transferable one to another? Some say it can't be done. Why? Thank you.

SPEAKER BARRETT: Senator Scofield, on the Conway amendment, followed by Senator Beck.

SENATOR SCOFIELD: Mr. President and members, I have to confess when I read the language of Senator Warner's amendment here that the same thought crossed my mind, as apparently crossed Senator Conway's. And I assumed, probably because of the way...the unique way we fund technical community colleges with a blend of property tax money and state aid money, that that is probably why it wasn't in there. But that's not to say it shouldn't be, if in fact this can pass the test that Senator Warner laid out in his remarks. I would not vote for the Conway amendment today, but it does seem to me that, given the numbers of entities that we have out there, and there are competing interests, quite frankly, between community colleges and state colleges and the university, we've all seen them probably in our own districts, I happen to be fairly pleased with the kind of coordination and cooperation that I have seen between Western Nebraska Community College and Chadron State. I think they're doing a pretty good job. But there are little tensions there once in a while. And I suspect there are similar tensions throughout the state, and yet I think there is a great need for this system to be treated as an important entity of the higher education system as a whole. They shouldn't be left out. They shouldn't be ignored. They should be nurtured. I have thought from time to time it might be wise to look at their role and mission and see if the terms "vocational education" don't mean different things today than they did when we created that system. I think they do. And I think there is an important role for those entities to play. Again, I keep bringing up the word "access", and, frankly, those institutions give access that other institutions don't give, and I think it's important that when we start to recognize that, and there is a group, as a matter of fact, out there working on recommendations for vocational education, I don't know exactly what they're going to tell us, what they're going to bring in, but I'll bet you they talk about the technical community college system as being a very important piece in the entire scheme of higher education, I think we should think very seriously about involving that system in with any kind of coordination we do. And so I would be inclined, at some point if we can do it, to include that system in this amended language. Not today I don't think, until we answer those questions, but I think that's a worthwhile direction to pursue. I'm not sure that I'm all that crazy about the option that Senator Warner is offering here, for different

reasons probably than some of the rest of you have pointed out. If we're going to do it, I'd like to see the Conway language in there, if we...if, in fact, it could be accomplished. But one of the things, frankly, that has a lot of appeal to me, and I know that people like Senator Lamb are a little uncomfortable with the notion, and I heard Senator Haberman make some good remarks one day, too, about, gee, what does this mean if you create seven separate boards? But I can tell you as a person who represents the western-most institution, and then the community college, it's also the western-most community college, that sometimes it's not as easy for an understanding of the unique needs of a region to be met. I would guess understanding of the unique needs of a region to be met. I would guess that people up in northeast feel the same way. I don't think we're particularly unique. But there are regional needs for higher education. One of the things that appeals to me, about the 239 option that isn't here, is that regional coordination mechanism. I think it's more likely to make the whole system responsive to the public, it's more likely to identify early needs. I hope it's more likely to identify antiquated programs when they are antiquated, so we can get rid of them. And so I think that regional board mechanism, even though some folks are, I think, seeing that as cumbersome, I know that Senator Haberman expressed some concerns at one time about potential expense attached to that. I would much...I still think that's a better system, and it's going to be more responsive to the citizens of the state than this particular mechanism. I guess I don't have any concerns at this point about doing it today to get the kind of information that Senator Warner is seeking. I would...I'd like to hear the kind of information that this...

SPEAKER BARRETT: One minute.

SENATOR SCOFIELD: ...might generate. But I guess for today I would vote against the Conway amendment, but not rule out the possibility of including that system in this whole process, I think it's important that we do. And we'll wait and see what we hear on the ninth, or before the ninth, before I decide whether I want to support 1141 as amended...as proposed by be amended by Senator Warner. Thank you.

SPEAKER BARRETT: Senator Beck, please.

SENATOR BECK: Thank you, Mr. Speaker and members of the body. I just wanted to, I guess, support what Senator Coordsen said

about the coordination of various classes and that kind of thing. And then I did want to thank Senator Chambers for explaining the rule to me. And since Senator Warner wanted to explain it, out of a sense of fairness, I'd like to give whatever remaining time I have to him to answer or say whatever he'd like. And, if he doesn't want to, then whoever is next. Thank you.

SPEAKER BARRETT: Senator Warner.

SENATOR WARNER: I would just concur with the explanation that Senator Chambers gave of the rule.

SPEAKER BARRETT: Chair recognizes Senator Conway, please.

SENATOR CONWAY: Mr. Speaker, I would like to respectfully withdraw my amendment to the amendment* and I believe the Speaker or the Clerk has a substitute or a following amendment to offer.

CLERK: Senator, would you like me to read it, Senator? I wonder if that would...

SENATOR CONWAY: Yes, please.

CLERK: (Read Conway amendment as found on page 1884 of the Legislative Journal.)

SPEAKER BARRETT: You are withdrawing your earlier motion and substituting this motion.

SENATOR CONWAY: And filing it, I guess.

SPEAKER BARRETT: Fine. Proceed.

SENATOR CONWAY: Thank you, Mr. Speaker. Given some of the comments, and again I rather hastily put up the first one, which basically was to make sure that all public institutions that are involved in offering education to the students within the State of Nebraska are brought under this coordinating process, since many of these other institutions, through their articulation and their activities and their course offerings and service offerings and the like really fit into that total offering of higher ed in the state is why I offered the first amendment, which basically was to strike the specific language relative to the baccalaureate and post baccalaureate granting institutions,

therefore leaving it open to the entire public institutional array. That has been discussed. And what I'm now offering is literally the same thing, plus, by virtue of the concern with constitutionality associated with technical community colleges having a property tax base, as well as the state offerings, state appropriation, to also include in there and insert into that same language notwithstanding any other provision of this Constitution, hoping that particular language, in and of itself, will then untangle us from the potential of some unconstitutional twist with that property tax language. Through some counsel's advice, they think that would address the concern that Senator Warner had relative to any questions there. Really, when it comes down to this whole language we're talking about coordinating and looking after the whole situation. For the most part we still need to look at the community and technical school offerings with respect to especially their academic offerings, and in terms of coordination articulation. Granted by virtue of a different funding technique for the technical community colleges than what we have at the state college level and/or at the university level they show up a little bit different. It requires a different analysis. But the bottom line is to the student who is going to be moving through that system and/or the community who is going to receive the benefits from higher education in this state, those kinds of things are mechanical to them in terms of the financing. The real question here is the coordination of course offerings, the transferability of courses, the role and mission, if you will, of the entire higher education arena. And that is why I offered this amendment to include all of higher ed and not just the four-year institutions and beyond. Again, going back in my area, and this isn't to point a finger at anyone, but going back on my experience about five or six years ago we had, from an academic perspective, a much more difficult time articulating and coordinating between the technical community colleges and the state colleges than we did between the state colleges and the university. Now, over time we've developed and we are at now what I would consider a very well laid out working gentleman's agreement. Part of it stems from the role and mission studies that were done in previous years. But we finally got ourselves up to a good, solid working relationship in that transferability and the like between the two-year institutions and the four-year institutions. But, again, that is primarily out of good, positive leadership on the part of some of the personalities that are working in that system. Nothing necessarily in print, or concrete, or contractual

relationships, but just a good working relationship. But in time and in any given situation, articulation between any one of these institutions, I think is going to be of critical importance if, in fact, you're really talking about coordinating the system, in general. So, I offer this as an attempt to somewhat alter that concern over the shadows of some constitutional questions with respect to the technical community colleges' financial arrangements with the property tax base.

SPEAKER BARRETT: Thank you. Discussion on the Conway amendment? Senator Schmit. Senator Moore. Any discussion on the amendment? Senator Moore. Thank you. Senator Crosby.

SENATOR CROSBY: Thank you, Mr. Speaker and members. I'm going to speak now because I was going to wait for the bill, but at the rate we're going guess we'll never get there. I'm beginning to wonder. There have been some things said that have really raised my adrenaline in the last several minutes, because we're talking about students and faculty, and that continues to be ignored. We talk about all these details as to who's going to govern, who's going to coordinate, what's going to be coordinated and so on. And we aren't focusing on the fact that what we are actually talking about is the student-faculty relationship. I'm sorry, when a senator says that we should be able to transfer credits, arbitrarily, back and forth among any school, that simply will not work. Do you think you can take an auto mechanics course at the tech school and transfer that course to the College of Engineering? I doubt very much that you could do that. I don't think you'd want that to happen. It's not the same level. A lot of auto mechanics courses are hands-on, doesn't have anything to do with the science of engineering. You can't take a conversational French course so you can go to Paris and order fromage et be, cheese and bread, and then expect to have that transfer and be a credit for a serious linguistics course where you want to end up being an interpreter for the state department, that won't work. We are misleading our students here today, if we say to them, well, we're going to set this big Coordinating Commission up, and it's just going to be wonderful, you can go down there and take anything you want and get your bachelor's and your M.B.A. Speaking of M.B.A., how many different kinds of M.B.A.'s are there? The M.B.A.'s that are presently in the role and mission of the state colleges are not the M.B.A. that you get at the University of Nebraska if you want to be a bank officer, for instance. You have to have a significant number of hours in

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accounting, calculus, higher math in order to qualify for that kind of degree, and get the kind of professional employment that you want. Those, again, you can't transfer those credits and be honest with the student that they are getting what they supposedly think they are getting. I really am beginning to be concerned about 1141, because if LR 239, indeed, is voted and passed by the voters, this bill, as I understand it correctly, we are to be able to come back to in 1991 and refine and try to do it right. But I think you must not say to the constituencies right now that this is going to solve all the problems of all the schools. It is not. It is simply a beginning. And people are fond of saying, well, if we don't do something today, five years down the road we're going to wish we had, and this place is going to fall apart. Well, you know that's not true. Five years ago people were saying that about now, that if we hadn't done something well we'd be in real trouble. Well, some people think we're in trouble, others do not. This is not a protective thing that I'm saying just because of University of Nebraska at Lincoln. It has to do with higher education in general. And you simply may not mislead your students. If coordination means that counselors at all levels will sit down and faculty will sit down with the student at the beginning of their freshman year and make them understand that there is a core of courses that they must take in order to come out with a baccalaureate degree of any kind, and the student accepts that and goes on, fine. But, if that coordination is simply going to mean that the Appropriations Committee is going to sit and say, well, we are giving them all this money and they're coordinating it correctly, we've done our job. There is so much more to education than that. I'm not going to vote for 1141 at this stage of the game, because everything I'm hearing is...

SPEAKER BARRETT: One minute.

SENATOR CROSBY: ...telling me that we are not going to be straightforward and honest with the students about what all of this is going to do for them and for the faculty. So, here we are again. I've made this speech before, and I think you must be very careful of telling people that just because you have a certain number of students on a campus that puts it up to a certain level of education. It does not. It has to do with the courses, it has to do with what the student gets from those courses and what they end with when they get the B.A. degree and then go on to whatever master's they want, or not. I think it's still a free country, I haven't forgotten it wasn't. I hadn't

heard that it was not. And Nebraska hasn't seceded, so I think that probably I can still disagree on this. And I do disagree, and I don't think that...

SPEAKER BARRETT: Time.

SENATOR CROSBY: ...we should be passing 1141 so precipitately, if we cannot come back next year and do it right.

SPEAKER BARRETT: Thank you. Senator Bernard-Stevens, on the Conway amendment.

SENATOR BERNARD-STEVENS: Senator Conway, would you yield to a question, of clarification actually?

SPEAKER BARRETT: Senator Conway.

SENATOR BERNARD-STEVENS: Senator Conway, I was in conversation with others when your previous amendment to the amendment was there. So I just want to kind of verify to myself. The previous amendment was withdrawn, and this one was offered. And the problem seemed to be the different provisions on the property tax provision in the community colleges. And so you withdrew that and substituted this, which in essence says notwithstanding that problem we will still go ahead and do this. Am I accurate?

SENATOR CONWAY: Yeah, correct. The subsequent...or the amendment that is now on the desk is exactly the same as the initial amendment. But the amendment that is on the desk now has additionally included in it language that says "notwithstanding any other provision of the Constitution", trying to address that potential entanglement, if that were to be perceived.

SENATOR BERNARD-STEVENS: Thank you, Senator Conway. Very briefly, members of the body, I think I tend to agree with Senator Scofield on this particular issue. I'd rather we not necessarily at this point go with the Conway amendment to the amendment, simply as it is a little bit different when we're talking about constitutional amendment. On the 60th day we can make a change by suspending the rules, if we need to do so. And we're not really sure if this is something we need to do. I would like us to debate the Warner amendment, go with that amendment one way or another, and then continue on 1141. And

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I'm not sure this is an area that we actually...we need to do. I think it will cloud more of the issue rather than give us kind of a clear set of guidelines on how we wish to vote on 1141. So, at this point, I would hope that we not agree to the amendment to the amendment, at least at this time. Thank you.

SPEAKER BARRETT: Thank you. Senator Withem.

SENATOR WITHEM: Yes, Mr. Speaker, members of the body. I'm going to support the Conway amendment, I think, with the inclusion of the language notwithstanding any other provisions of the Constitution, that we hopefully are finding a way to make this compatible with the other provision in the Constitution that says you can't use property tax for a state purpose and allow us to do this. And Senator Lamb was right, which is really a hard thing for me to say, and I'm sorry he's not here to hear me say that. He was, I think he was right. One of the weaknesses that we all recognize with LR 239 is that the community colleges are a major portion of education. And we're not able to include them directly. I think 239 includes them indirectly and provides a degree of coordination among them. And it's much better than what we currently have. I do want to comment on Senator Crosby's remarks about transfer of credits, because I think both she and Senator Coordsen made good remarks on the transfer of credit issue. And she's right as far as saying here on the floor we're going to provide a transfer system so that, if you take economics 101 at Metro Community College, Fort Omaha campus, that that automatically, because at Fort Omaha campus they've called it economics 101, that that automatically will meet the requirements of a degree program at Wayne State College, or at University of Nebraska at Lincoln. I think it's careful that we don't...I think it's good that we're careful and we don't guarantee that, because we shouldn't be able to say that. But what we can do, if we get a coordination body in place, we can provide a system for defining what is economics 101 at Fort Omaha campus, so that when a student takes that class they will know that they are going to be getting the educational concepts of economics there that will become...that they will become transferable. We can set up a process by which we can make these courses compatible, to some degree. They're not, just by merely saying you took a class over here and it had such and such a title, so we'll automatically pick it up. That's the problem that exists today when students do that. I think one area I've been fairly critical of university administration in terms of coordination. I think one area where

they have worked very hard in the last three to four years has been in this area of transferability of credits. Still have a lot of work to do, and they'll admit it. But I think they have done a great deal of work so that they can look at what the contents of a class might be, and whether or not it is similar in a different place, and what in fact will count as transferability, and what won't. We don't have a mechanism set up today that will assure that that takes place. I think what the Warner amendment to 1141 does is it creates a commission that can work on this problem. You're right, Senator Crosby, the mere creation of this commission doesn't automatically ensure it. And the mere passing of legislation, or the passing of a standard by the coordinating body will not automatically make these credits transferable, that begins the process of making this process work. I think you made a good point, but I think the passage of the Warner amendment will lead us in a direction...in that direction. I'm going to support the Warner...and as we've indicated, lights come around only so often, so you need to take advantage of being up to speak. So, in addition to supporting the Conway amendment to the Warner amendment, I'm going to support the Warner amendment. I hope it gets adopted and I hope it gets advanced. My preference would be to have a 239 system, as Senator Scofield has said. But that may not be the choice that is really available to us. I think getting a degree of coordination in place, as the Warner...

SPEAKER BARRETT: One minute.

SENATOR WITHEM: ...amendment does, adds a great deal of improvement to the system that we now have. Would point out to people that are concerned about the university system and the state college system, this does not affect governance. The hiring of presidents, the hiring of staff, the creation of proposals to bring forward, none of those sort of things that go on under the guise of governance today will be affected one iota. It will just be a matter of there will be a coordinating body above those institutions to provide a degree of coordination over programs that is sorely, sorely lacking today. So I'm going to be supportive of the Conway amendment, the Warner amendment, 1141, 239, 259, 1059, I'm just a supportive guy here today. So, I hope the rest of the body will support the Warner amendment.

SPEAKER BARRETT: Senator Warner, please.

SENATOR WARNER: Well, Mr. President, I just...Senator Withem discussed, very appropriately, the credit transfer, because one should not interpret that coordination means all credits are transferred to all institutions. That just simply is not what coordination will do. But I do believe it would facilitate the kind of arrangements that are necessary between institutions for the transfer of credits, and that is quite different than automatically doing it. The issue...I'm not at all sure, and I'm somewhat uncomfortable whether or not the issue is addressed as altered by Senator Conway or not. And I guess because I'm not, I am hesitant to vote for it today. It's a \$38 million issue is what it is. I have no problem, that isn't quite accurate. I might not have a problem with adding \$38 million additional cost to state government, as long as we understand that unless you increase some tax rates somewhere along the line that that 38 million comes out of existing programs, existing responsibilities. And 38 million is of a size that that impact is going to be there. But, if it's going to....So I would not want to casually do that. I suspect there might well be a way. I don't know...I don't have a way in mind at the moment that you would not necessarily disturb that if it was drafted right. But I have a suspicion that this would seem to me not to satisfy conflicting, possibly conflicting constitutional provisions. But, in any event, I don't like to take as much time on this. I wish we could advance the concept, if there are the votes to advance it, and again to actually see whether or not people are interested in coordination who have been lobbying on this issue. It just boils down to just that simple. And, again, I would repeat that amendments can be made on Monday, if necessary, to them. So, with that, I don't want to take more time. However the vote comes out on this particular amendment I'll live with it. And I would hope that we can hurriedly advance the bill and get to some of these other issues that I would like to have us be able to get to.

SPEAKER BARRETT: Thank you. Senator Elmer.

SENATOR ELMER: Thank you, Mr. Speaker, I'll be very brief. I'd like to say what I visualize the Coordinating Commission to be and what it would do. It would enhance the areas of excellence that our four-year and two-year colleges have. It would enhance the core learning at each one of these institutions. We all realize that the students need basic mathematics, basic English skills, basic humanities as part of their college education. These are the things that we want to be able to move from

university to uni...or from state college to university, from community college to state college and so on, so that, as a student realizes his interest is in a little different area than he originally thought, he can go to the particular school that offers those areas of excellence. So if you take calculus, freshman calculus, not put a course number on it, at any one of these institutions, in the future, after these coordination exercises have been done, that calculus course could be used at any one of the colleges. We're not talking about basket weaving, or farm welding, or those kinds of things, we're talking about base, core education. I think this is something that we really need to do. I'd relinquish the balance of my time to Senator WeiHING.

SPEAKER BARRETT: Senator Haberman, would you like to speak to the Conway amendment.

SENATOR WEIHING: Wait a minute, he gave me that...

SPEAKER BARRETT: Excuse me.

SENATOR WEIHING: He gave me the rest of his time.

SPEAKER BARRETT: I'm sorry, Senator WeiHING, proceed.

SENATOR WEIHING: Thank you, Mr. Speaker. I simply want to point out that you certainly can have transfer programs and one that worked for ten years, when I was Director of the University of Nebraska Panhandle Research and Extension Center I set up a program with Western Nebraska Technical Community College in which we had the first two years there, a utilization of University of Nebraska staff that were there, within my unit, that taught on the technical college campus that came to the University of Nebraska. Now this was set up within the system of the University of Nebraska. Those students that came for a period of...over a period of ten years, and after that period, taking how well they did on the University of Nebraska campus, interestingly they had a higher average than the general average that was on the campus here from the general group within the College of Agriculture. We should be utilizing it. This was a...made a high degree of efficiency for those people that lived within that part of the state, it made it possible for some of those students and perhaps all of them, to be able to go on and complete a university level course, which they perhaps could not have done due to finances and the distance that they were from

the campus. The coordination of our institutions of higher learning is certainly needed for efficiency, not only in cost, but efficiency in education and the broadening of our own individual staffs within each of these institutions in coming to recognize who they are, and if there is intercommunication, discussion that goes on among them. And when they are isolated they become, often times, thinking that theirs is only the best. A subject matter is the same wherever it is, that is in technology or in substance. It is...may be taught better at some places, it may be transferred better at...

SPEAKER BARRETT: One minute.

SENATOR WEIHING: ...certain places, but we must recognize that English is English, mathematics is mathematics wherever it may be. I support the Conway amendment and the Warner amendment.

SPEAKER BARRETT: Thank you. Senator Haberman.

SENATOR HABERMAN: Mr. President and members of the body, in the words of Senator Chambers, I rise to place something in the record. Should the citizens of the 44th Legislative District, in all of their wisdom, decide to return me to this body next year, I would like to tell this body to be ready to address a new form of financing community technical colleges. We're going to have to find a new method of how to finance them as the property taxes are far, far too great. Research is already being done, research is already being done on how other states finance their colleges and should we change ours, should we change our method as there are many, many counties that cannot afford to finance their community technical colleges on the property taxes. So, be prepared to face that issue next year. Thank you, Mr. President.

SPEAKER BARRETT: Senator Wesely.

SENATOR WESELY: You're still on...

SPEAKER BARRETT: Your light is on, Senator Wesely.

SENATOR WESELY: You're on the Conway amendment?

SPEAKER BARRETT: I'm sorry.

SENATOR WESELY: You're still on the Conway amendment, right?

Okay, I'll pass.

SPEAKER BARRETT: Yes, on the Conway amendment. Senator Scofield.

SENATOR SCOFIELD: Mr. President, members, I'm still not going to support the Conway amendment. I would reiterate that the concept is worth pursuing. I'm not sure that he's really solved the problem here with the language that he envisions. I am interested in seeing the Warner language go on this bill for the kinds of information that we might receive from various entities. I would want to clarify a point, though, as I've been sitting here reviewing, in my mind, the debate that I've heard. And I think earlier it might have been a characterization. Senator Withem, are you around anywhere? If you're within earshot, if I misspeak, I'll be glad to give you some time. I think I heard Senator Withem speculating at least that the...that Regent Blank was speaking for the regents when he suggested that this language that Senator Warner is proposing would be acceptable to the regents. I believe that, if I read this, Don Blank was speaking for Don Blank only and not for the regents. So, I'm kind of thinking that what we'll probably hear, over the weekend, because the regents won't meet and the board of trustees won't meet, and I doubt...I don't have any idea what the agendas look like for the various community colleges out there, but whatever information we get over the weekend will be pretty scattered probably, and it will be the perspective of individual board members, reg members, trustee members, and so on. And I guess I'll just have to glean from that, as all the rest of us will, what makes the most sense there. But we aren't going to hear a united voice over the weekend with this language. But, nevertheless, I think it's worth hearing at least from individuals. And I have not heard the regents speak with a united voice, so I don't expect to hear that over the weekend. I think it's just important to clarify that. My regent has been very straightforward with me and always told me what he thinks. But I know he doesn't necessarily speak for all the rest of the regents. And, as I thought about that, I wanted to make that point. I want to give the rest of my time to Senator Coordsen.

SENATOR COORDSEN: Thank you, Senator Scofield, members of the body. My position on articulation has been well explained by Senator Withem, Senator Weihing, Senator Elmer and others on this floor. I think the situation that we have today is

ridiculous in public postsecondary education. It's my opinion that with the Coordinating Commission, with the powers that are envisioned by Senator Warner in his amendment, that basic math, English, whatever courses that are taught in Milford in construction trades should be of such quality that they're able to be transferred by the student that decides to go into civil engineering here at the university. There are many of us in Nebraska that live in areas that are somewhat remote from educational opportunities that are not given the privilege, don't have the option, of selecting between the portfolio of postsecondary education. It is essential, in my mind, that we establish this as one of our major objectives in...

SPEAKER BARRETT: One minute.

SENATOR COORDSEN: ...postsecondary education. I, again, reiterate my support of both of the issues before us at this time.

SPEAKER BARRETT: Thank you. Senator Baack, on the Conway amendment. Senator Conway, Senator Conway, there is...proceed, go ahead. There was another light and I just wanted to recognize, with your permission, that person, then if you'd care to close.

SENATOR CONWAY: I would go ahead and close, if that...why don't I pass and let that...

SPEAKER BARRETT: Thank you, that's what I was suggesting. Senator Lowell Johnson, would you care to discuss...okay. That won't be necessary, thank you. Senator Conway, you're up for closing.

SENATOR CONWAY: Thank you, Mr. Speaker and members. I think there has been some good discussion in terms of what some of the members are starting to view with respect to coordination. I think we also have some excellent examples out there. And I don't know what meaning this has, but I am a product of all three tiers of higher education in this state in terms of attended a community college, a state college, as well as a university, and am pretty familiar with the higher educational activities of what is intended. And there are some very difficult areas in terms of this coordination process. To give you an example, a few years ago we ran into the difficult situation that at the two-year academic granting institutions,

in many cases a student will come into that institution with a two-year AA degree in mind, specializing in let's say retail management. The person wants to get a two-year degree and go into retail activities. And they may opt for and take a course in personnel administration as a support to that particular activity. Personnel administration taught at a two-year granting institution for the purpose of sending someone out to be a line supervisor is different than personnel administration for someone who is tracking a business core course, taking personnel administration with the idea of going into management and maybe specializing in personnel administration, per se. Both of them have the same name. And I think Senator Withem quite aptly pointed out that econ 101 may be different from institution to institution because they have a different motivation. What this coordination really means is, one, either change the name so they reflect what the content of the course is. This really isn't a fight over instructors as much as it is the course content. I can take you to community colleges where we probably have some better instructors, more highly qualified instructors, than a graduate assistant whose teaching that same course at the university level. So it isn't a question of instructors as much as it is the conflict of the content by virtue of the title they use. And so this is what we're kind of talking about in terms of coordination. The students are well aware that if they take this course, called personnel administration, in a two-year program intended to put them out as a line supervisor in a manufacturing facility, that that course may not include the content that would be necessary to move them through their academic maturity towards a four-year or even a graduate level core course. But that information needs to be disseminated. Now, we worked very hard, in the last few years, and I know at the state college level and the community colleges that we work with, particularly Northeast Community College, that particular institution we have a manual, and a student can sit down and go through that manual and know exactly whether that course is transferable or not, whether that content meets the request of the additional course. That's the kind of coordination that I think is envisioned by many of the members that are here. It's being done in a casual fashion between some institutions that have that kind of professional relationship between one another now, but it needs to be expanded, it needs to be...and in many cases it's only done in those areas that are highly active in their transferring, business administration or courses of that nature. So, we framed the question. I think the discussion has been good. The Conway amendment, as it

addresses Senator Warner's amendment, is really designed simply to make sure that, or attempt to make sure that all of higher education, publicly financed higher education, is part of this coordinating process, that it's not simply the coordination between the four-year institutions in the state, but does include the two-years' who are also part of this system, and part of the solution and/or a part of the problem, as it may be deemed, depending on what's going on between some of the relationships. So that's all my amendment was attempting to do. And I think by putting it on it makes a statement, if we need to make adjustments, as Senator Warner pointed out, at a future date, I think that's the time to do it. But I think that very early on we need to serve notice that when we're talking about coordinating higher education, by this language being included, that we're talking about all of public higher education in the State of Nebraska is of our concern and the students concern within the system. So, with that, I offer my amendment.

SPEAKER BARRETT: Thank you. You've heard the closing, and the question is the adoption of the Conway amendment to the Warner amendment to LB 1141. All in favor vote aye, opposed nay. Have you all voted?

SENATOR CONWAY: Mr. Speaker, rather than waste the time now, why don't I just go ahead and call the house, because it's kind of slow.

SPEAKER BARRETT: Thank you. Shall the house go under call? All in favor vote aye, opposed nay. Record, please.

CLERK: 21 ayes, 1 nay to go under call.

SPEAKER BARRETT: The house is under call. Members, please record your presence. Those outside the Chamber, please return. The house is under call. Senator Hannibal, please. Senator Bernard-Stevens. Senator McFarland, please. Senators Abboud and Peterson. Excuse me, Senator Conway.

SENATOR CONWAY: I was just going to say we could have a roll call vote in regular order, as they're...

SPEAKER BARRETT: A roll call vote in regular order. Thank you. Senators Abboud, Peterson. Senators Withem and Labedz, please record your presence. Thank you, Senator Conway, we'll proceed with the roll call vote on the adoption of your amendment to the

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Warner amendment. Proceed, Mr. Clerk.

CLERK: (Roll call vote taken. See pages 1884-85 of the Legislative Journal.) 18 ayes, 14 nays, Mr. President, on the amendment.

SPEAKER BARRETT: The motion fails. Back to a discussion on the Warner amendment. The call is raised. Senator Moore, you wanted to speak to the amendment?

SENATOR MOORE: Yes, Mr. Speaker, and members, I rise to support the Warner amendment. I kind of just get a hoot out of this whole discussion, to tell you the truth. You know last year I described the postsecondary...I filed an amendment, as a matter of fact, on the postsecondary on the budget bill, or on some bill, on LB 247, it was, to change the name of the Postsecondary Coordinating Commission to the Data Collection Commission because the present Postsecondary Coordination Commission is like a French poodle with no teeth guarding the Brink's Bank. I mean is just...it is ineffective, it can't do anything, and as we discussed the Coordinating Commission last year, you know, got a pat on the head by a variety of people, primarily the higher education system, primarily in the university system, saying, well, that is nice but, you know, we really don't want to do that. We have an excellent Board of Regents and who never bother us. Well, then, you know, the bill I introduced last year didn't go anywhere. LB 247 passed, the commission came along, and all of a sudden this bold, new initiative, LR 239, which for me was personally better than I ever dreamed of actually doing something. And I just loved the fact that the commission sent that forward, I think it was on a large majority vote, if not unanimous vote, on to the body. Well, then all of a sudden, the university folks, Faculty Senate, everybody said, now, wait a second, LR 239, boy, that would really hamper the flagship image of the University of Nebraska-Lincoln. LR 239 would create these seven little fiefdoms all across the state and ruin the way we spend money. You know, by golly, you are absolutely right, we need some coordination of what is going on. You read Regent Blank's comments. Now was he speaking for the board or was he speaking for Regent Blank, I don't know. And on down the line it has been said, well, you know, you can't go whole hog with LR 239 but, well, you are right, you ought to buy some ham or some bacon and do some coordination finally. The university folks are saying this. Just yesterday I met with the Faculty Senate representatives in a private meeting. They said

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LR 239 is no good. What you ought to do is work within the present Coordinating Commission and something like that we could live with. That is what they said to me at noon yesterday. This morning I go out and talk to their representative, they say they are opposed to this amendment. Something is going on there. I think Senator Warner is absolutely right. These people don't want anything to happen and Senator Warner, the dean that he is, called their bluff and said, now wait a second, since you said you wanted it, I am going to give it to you. I think we should and I don't think LR 239 has the guns or the muscle to get across on Final Reading with 30 votes. It is as simple as that. But I...that is why I like LB 1141, the Warner amendment at least puts something on the ballot to say, yes, we are going to try and do some coordination in higher education, and with that amendment, we are going to take the exact words given to us by the opponents of LR 239, saying, okay, if you don't like that, okay, you are right, you are absolutely right, we are going to use the present system. Now I am anxious to see how some of the more vocal opponents of LR 239 react to this because what are they going to say, there has not been a public hearing. Well, there was a public hearing on LR 239, and as a result of this, we have this amendment. That is what public hearings are for, to generate ideas. There was a public hearing last year on LB 531, which has a very similar membership to what Senator Warner is talking about. There has been plenty of public hearings on this bill and we all know that. And so I will be anxious to see what sort of cover people run for when their bluff is called and say, wait a second, you are right, we all agree, coordination needs to occur. The Warner amendment recognizes that this body probably is not ready to go whole hog with LR 239, but, hopefully, people will mean what they say when they say LR 239 is too much. We do want coordination. This amendment will use the present system. We give some nice fangs to that little French poodle that is guarding the bank now and do some coordination and then, hopefully, in my mind, we can go forward on making some decisions on how we want to spend money...

SPEAKER BARRETT: One minute.

SENATOR MOORE: ...on higher education in this state so we can compete. And why, Senator LaVon Crosby, why? Because the students of this state I don't think presently on down the line are having the quality they always deserve. And it is because of the students that you need to do this in my opinion. We may

disagree but that is why I am doing it because we can't afford not to expend our money right in higher education. We can't afford not to make sure we are moving ahead with quality education that is cost effective.

SPEAKER BARRETT: Thank you. Senator Wesely, followed by Senators Baack and Warner.

SENATOR WESELY: Yes, Mr. Speaker, I would ask the Chair to rule on the germaneness of the amendment. The amendment substantially changes, I think, the intent of the original LB 1141.

SPEAKER BARRETT: Thank you. Senator Warner, do you have a comment before the Chair rules?

SENATOR WARNER: No. The purpose of the amendment, of course, is to provide a...deals with the coordination of higher education and that is what the amendment does. And beyond that, I believe it is germane with the rule change we made in January.

SPEAKER BARRETT: The bill, itself, does speak to the matter of the change in the current governance and coordination of postsecondary educational institutions, and it occurs to the Chair that the amendment offered by Senator Warner, at least according to my interpretation of the rules as they were amended early in the session, is germane because it does pertain to the same subject matter. The fact that it accomplishes...does or does not accomplish a substantially different purpose makes no difference in the ruling. We did eliminate that section. So I would rule that the amendment is germane. Any other discussion? Senator Baack, your light is on. Would you like to discuss the amendment, followed by Senators Warner and Conway.

SENATOR BAACK: Yes, Mr. Speaker, and colleagues, I rise in support of the Warner amendment, but I would just like to ask Senator Warner a couple of questions.

SPEAKER BARRETT: Senator Warner.

SENATOR BAACK: Senator Warner, on page 1863 in the Journal, it says on line 16, starting with the language, says, "Coordination shall mean, but not be limited to, coordination of programs and academic activities, planning, budget submission, capital construction,..." I would like you to, you know, for the

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record, budget submission, does that mean that there would be one budget for all of higher education, or would each entity have their own separate budget or would there just be one budget for postsecondary education?

SENATOR WARNER: The intent is identical as it was in LB 1141, that the budget submission would come from now the Coordinating Commission which would be a single request. However, it would be by campus, obviously, and it is silent on how it would be appropriated back to the campuses, whether it would be lump sum or...as we argued or discussed, I should say, 1141, whether it would be a lump sum or by campus would be something the Legislature could do, but the submission of the budget requests from all campuses would come through the Coordinating Commission.

SENATOR BAACK: So as we appropriate, as we would appropriate the money, we would appropriate just a sum of money to the commission and then they would send it out or would we appropriate to each entity?

SENATOR WARNER: This would be no different than the discussion we had under LR 239. The submission of the budget would be from the Coordinating Commission for all of higher education, but I would anticipate that the appropriation bill, for example, would be by campus because that would be the manner in which the request would come to us in any event. The detailed papers of any budget of any agency is broke up in many, many pages and we deal with it in many, many pages and that part could certainly be determined by the Legislature as to which way they wanted to do it. As I argued the other day on that issue, it is really immaterial to me whether you...whether we decide to do a lump sum or if we do a lump sum for informational purposes or by campus, it all comes down to the same difference, I believe.

SENATOR BAACK: Okay, now just a little follow-up on that. As...now say that one of these, that one of the campuses would submit a budget to this commission, would this commission have the right to change that budget?

SENATOR WARNER: Would they do what?

SENATOR BAACK: Would they have the right to change that budget?

SENATOR WARNER: Yes.

SENATOR BAACK: They would have, okay. Okay, and then as far as capital construction goes, now would every capital construction project have to be approved by this board?

SENATOR WARNER: Correct.

SENATOR BAACK: And then with final approval by the Legislature.

SENATOR WARNER: Obviously, but I would anticipate that you would see a priority for capital construction in higher education statewide as opposed to between two systems as we now have it, in which there is no comparison than our good judgment, of course, the Legislature's good judgment.

SENATOR BAACK: Yeah, that is unquestionable, I would guess.

SENATOR WARNER: Oh, I would think so.

SENATOR BAACK: (Laugh) Thank you, Senator Warner. I appreciate your answer just for some clarification. I would rise in support of this amendment. I have been one that has...I have been quoted a number of times on the floor of the Legislature today because I was the one who did ask the question at the Education Committee hearing this year, and I was absolutely flabbergasted by the answer that I got. Because I have been on that committee now for six years and we have had these kind of bills before the committee before dealing with coordination and powers of the Postsecondary Coordinating Commission, and every time in the past that we have had a bill dealing with that, the Board of Regents has always testified in opposition to that because they did not want that kind of coordination. So I was absolutely flabbergasted when I asked Regent Blank whether or not they supported, that they would support a toughening of the Postsecondary Coordinating...

SPEAKER BARRETT: One minute.

SENATOR BAACK: ...Commission and he said that they would. I do not know whether he was speaking simply for himself or for the Board of Regents at that point. I think we have had problems before, I think last year we had a problem of we didn't know who they were speaking for when the regents talk, but I have to take him at his word, that they are willing to support this kind of a concept. So I think that is a definite move in the right

direction on the part of the Board of Regents, and I would think that at this point they should be out in the lobby lobbying in favor of this bill. I think that I am already out of time, Senator Elmer, I think, so I can't give you any. I think with that I will just conclude. Thank you, Mr. Speaker.

SPEAKER BARRETT: Senator Warner, your light is on next. Do you wish to discuss the matter? Senator Warner, do you wish to discuss the matter further? Your light is on and followed by Senators Conway and Crosby.

SENATOR WARNER: I...well, I might just merely say that I did not wish to delay other legislation. I would like to get a vote as quickly as possible on the amendment and, again, I will repeat that these are available to be amended on Monday, unlike other issues, so that should be understood.

SPEAKER BARRETT: Thank you. Senator Conway, on the Warner amendment.

SENATOR CONWAY: Thank you, Mr. Speaker, and members. I rise to I think support the Warner amendment. I am supporting it on the basis that I think there was a good faith effort on the part of Senator Warner to figure out a way between now and Monday to qualify the inclusion of the less than four-year degree offering institutional programs that are out there. When we look at the impact that that has on higher education delivery in the state, we are talking about in the neighborhood of one-third of the students in higher education. We are talking apparently probably, I am only guessing, but well over one hundred million dollars in somebody's money, partly ours, partly the property taxpayer, partly the student's tuition, is a very significant part of our higher educational system. And I think that they deem themselves to be a very significant part of that higher educational system, and to have a coordinating system that excludes them from the process to see how they are and will integrate with the rest of the institutions as we are trying to deliver higher education in the State of Nebraska, I think would make a sham of the coordinating process altogether. It wouldn't be a great deal different than this body sitting here and the first six rows have one set of rules and the last two have something else. It wouldn't make any sense whatsoever. So I am going to support to move the concept of a stronger Coordinating Commission over to Monday's vote, but, like I say, I am under the understanding or belief that Senator Warner will figure out

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a way, since the body rejected the way that I had proposed, will figure out a way to include the community colleges in under that process. And I firmly believe that there is a way without having anything to do with the state purpose of the property tax funds that are there. So with that, I offer my support and the "trust me" support that I am going to give to Senator Warner.

SPEAKER BARRETT: Thank you. Senator Crosby, followed by Senator Lowell Johnson.

SENATOR CROSBY: I call the question.

SPEAKER BARRETT: Senator Crosby moves the previous question. Do I see five hands? I do. Shall debate now cease? Those in favor vote aye, opposed nay. Record, please.

CLERK: 26 ayes, 0 nays to cease debate, Mr. President.

SPEAKER BARRETT: Debate ceases. Senator Warner, to close.

SENATOR WARNER: Mr. President, again, I'd ask the bill be advanced. I want to make it very clear that my personal preference is for LR 239CA. I do think that it has many other advantages that would be good for postsecondary education, but I do know that there are those who believe that this is an approach and I would hope that the opportunity to really have this as an approach would be available on Monday, and if it is adopted and advanced today, it will clearly, I believe, clearly bring to our attention what many of the people who have actively expressed interest in coordination really believe. I have a suspicion that we will find again that they all favor the new church! but nobody will find the corner to build it on, and I suspect that is what will happen here. But I would, nevertheless, urge the advancement of the bill to help bring some focus to the alternatives that the state has.

SPEAKER BARRETT: Thank you. The question is the adoption of the Warner amendment to 1141. Those in favor vote aye, opposed nay. Have you all voted? Record, please.

CLERK: 33 ayes, and 3 nays, Mr. President, on the adoption of Senator Warner's amendment.

SPEAKER BARRETT: The amendment is adopted.

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CLERK: Mr. President, I now have an amendment to the bill by Senator Coordsen with a note you want to withdraw, withdraw both of them, Senator? Okay. I have nothing further pending to this bill, Mr. President.

SPEAKER BARRETT: The question now is the advancement of 1141. Senator Scofield, would you care to discuss the matter?

SENATOR SCOFIELD: Yes, Mr. President, I am going to support this today. I don't know that I will support it on Final Reading. I have never been a big fan of coordinating commissions. I have always figured that, given my experience in higher education, that any college president worth his or her salt could outsm. t any coordinating commission out there, and probably lobby them even more effectively than we are lobbied. So we may... I am going to be very curious I guess to see what kinds of feedback we get from people out there over the weekend on these two proposals, but I think it is going to come down to us putting the filter in and filtering and taking with a grain of salt whatever it is we hear. Because I am not sure, I bet you we get all kinds of mixed messages, but if I really wanted to see nothing happen, I certainly would oppose LR 239, and I might, as a screen, smoke screen, perhaps support 1141. I am not convinced we can really get at what we want to get at with 1141. I am not at all convinced of that, but I am going to listen... I am going to think this over over the weekend, I guess, and, well, if we don't have the votes to do LR 239, we don't have the votes, and maybe 1141 is better than nothing. I am not at all convinced of that given the skepticism I bring to this whole process having been on both sides of it and having been on the Appropriations Committee. So I guess I ask you to mull over this the same as I am going to do over the weekend and listen to hat people say, but not without a pretty high level of skepticism of who you are hearing from. And once again I would reiterate that I don't think I read the same things into the responses from the regent that Senator Baack said, and I will bet you that we should not proceed on the assumption that he was speaking for the regents because I just pulled this little handout that Ron Withem gave us out of my trash and I think he makes it pretty clear that he wasn't speaking for the regents when he said he would support coordination. So I think it is the buck stops here, folks. We have got Thursday, Friday, Saturday, and Sunday, I guess, to mull over... I think we are all, with a few exceptions, determined to get somewhere down the road in terms of coordination on higher education, and I guess

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it is really going to come down to us to figure out how to get there and which ones will do it better. I kind of suspect that when I get to the moment of truth that I still am going to believe that LR 239 is the only one that is going to make a difference and 1141 might not make that much difference. I think there are ways around that. It is maybe better than nothing but I am going to support it today just for the purposes of hearing whatever it is we might hear in the next few days, and I think that is going to be very interesting. And so I will just wait, I guess, with my ears flapping and see what we hear. I am going to vote to advance this today. Thank you.

SPEAKER BARRETT: Thank you. Senator Wesely, on the advancement of the bill, followed by Senators Nelson and Withem.

SENATOR WESELY: Thank you. Mr. Speaker, just real briefly, I would rise in opposition to the advancement of the bill, purely on procedural grounds. I think as the public watches what we are doing, we are taking a proposal that was put in the Journal yesterday and today we are voting on it. I think there has been very little public input, Senator Scofield says we will hear over the weekend, and I do appreciate that. I understand what Senator Warner is trying to do. He is trying to say put up or shut up. If you don't like LR 239 and if you don't like that, then what are you going to do? And that is appropriate. It is appropriate. We should be and should have been perhaps looking at alternatives, and it is appropriate to say that if we are not going to take one route, is there a better route that we should be looking at. So I don't...I am not critical at all of Senator Warner for making this proposal or for anybody voting for it. I simply, for one, feel that at this hour to take a concept that has not been embodied in any of the legislation, had no public hearing, had only one day in which the public was even exposed to it, and to vote it over to Final Reading, and then hope a few days from now that we will have enough input and understanding of it to make a decision, I just don't feel comfortable with. It is one thing to have a bill, to have a hearing, and have some public notice, people have an idea of what is going on and can provide some input, and it is another just to do it as quickly as we are in this case. So I just, that discomfort, I think leads to me to feeling that opposition to this is warranted.

SPEAKER BARRETT: Thank you. Senator Nelson. (Gavel.)

SENATOR NELSON: Mr. Speaker, I didn't want to, well, I guess I

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have had my light on several times but I didn't want to take much more time on this. But having served on the Education for six years, one of the very first lessons that I learned was when I worked on the nursing program back four or five years ago, the lack of coordination and really no one had any strong input. The only one, I will have to admit, that had any say-so and that we did have to listen to was the Coordinating Commission. But I think Senator Moore put it wrong when he explained the poodle dog and so on. I believe it was explained in the Education hearings as it was a bulldog with no teeth in it, and so maybe that is what it is, but I know that everyone admits that the Coordinating Commission lacks what we would like to hear and see from them. Also, in all of the input that I have gotten, very, very few people have criticized the proposals in LR 239. I probably will support LB 1141 at this point. I have don't have the confidence in hearing from people as Senator Scofield does because, frankly, I feel we probably won't hear from hardly anyone over the weekend. This is something that to me a lot of people don't understand or should have an interest in and they don't have an interest in. The tech schools do have some...the Coordinating Commission control over the tech schools. I found that out in my nursing and we had to satisfy them, so there is some there. I don't want to belabor this, take any more time, but people are kidding themselves when they find that...say that we don't need to address coordinating between the higher institutions. That is probably is the biggest criticism and the biggest frustration that we have, and it is the students that are being affected, it is not the rest of us, they, in being able to get their education and to ladder on up. So with that, I simply will conclude. I don't want to take any more time but I certainly support really the LR 239 but for this point I also will be supporting 1141, and it is really needed.

SPEAKER BARRETT: Thank you. (Gavel.) The house is not in order, please. Senator Withem, further discussion?

SENATOR WITHEM: I would call the question.

SPEAKER BARRETT: The question has been called. Five hands I do see. Shall debate now close? All in favor vote aye, opposed nay. Record, please.

CLERK: 28 ayes, 0 nays to cease debate, Mr. President.

SPEAKER BARRETT: Debate ceases. On the advancement of the

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bill, Senator Warner.

SENATOR WARNER: Mr. President, and members of the Legislature, just briefly, I would hope that the bill be advanced. I do not want to take more time. Senator Owen Elmer, I think, made a very excellent point earlier, much earlier this afternoon on the issue of public hearing. Obviously, a constitutional amendment, should it be placed on the ballot, provides the only real public hearing and real public input exists in that is where the voters get to directly consider a proposal, and I think this is...I hope is important enough that we will get some sense between now and next Monday between the two options. And, finally, I do want to make it clear if anywhere in my comments that I inferred that the total Board of Regents were in support of this as opposed to Chairman Blank expressing his own opinion, as Senator Scofield has pointed out, I think it is very indicative, in fact, he very pointedly stated he was speaking for himself and I would not want that impression to be misunderstood. So with that, I would ask that the bill be advanced and that we move on to other matters.

SPEAKER BARRETT: Thank you. The question is the advancement of LB 1141. Those in favor say aye. Opposed no. A machine vote has been requested. Those in favor of the advancement of the bill vote aye, opposed nay. Voting on the advancement of the bill, have you all voted? Record vote has been requested. Record, please.

CLERK: (Record vote read. See page 1886 of the Legislative Journal.) 37 ayes, 6 nays, Mr. President, on the advancement of LB 1141.

Mr. President, items for the record, explanation of votes for Senator Haberman. New resolution, LR 422, by Senator Crosby asking the Legislature to send its congratulations to the Southeast High School Symphonic Band to be laid over (See pages 1886-87 of the Legislative Journal). Enrollment and Review reports LB 431 is correctly engrossed. It's signed by Senator Lindsay as Chair (See page 1887 of Legislative Journal). And I have an Attorney General's opinion, Mr. President, to Senator Crosby (LB 1124, see pages 1888-90 of Legislative Journal). And that's all that I have at this time.

SPEAKER BARRETT: Senator Bernard-Stevens, for what purpose do you rise?

SPEAKER BARRETT: Senator Landis.

SENATOR LANDIS: I understand, Senator Schmit, I am not the one who asked for the Chair...for the agenda to be overruled. I was recognized because my light was on in an appropriate order following Senator Elmer who was called upon and waived. My light was on, I was speaking and, although it will take me awhile to get around to my point, I am addressing an issue which I did not make and that is the overruling of the agenda, but I'm speaking on that question to the body. As we decide what our agenda will be, it seems critical that if we have opportunities to do good work and work that has timely obligations that this is a key moment; and I was trying to bring that to the body. I believe I'm still in order. I think I'm speaking under the light which was recognized in order.

SPEAKER BARRETT: That's correct, Senator Landis, but I would urge you to speak to the subject at hand.

SENATOR LANDIS: Thank you. Let me move towards its relationship to this question. Senator Bernard-Stevens is about to attempt to overrule the agenda, be turned down by the Chair, and then begin a procedural wrangling to keep us away from LB 1141A. That's a fair characterization I think. Why? Because Senator Labeledz has some motions filed on LB 1141A because it reintroduces LB 769. Right? And this is the way to preclude that objection. This A bill is now available to be changed because we just changed LB 1141. The A bill was to the original bill, not to the bill we just sent to Final Reading. It can be changed. What all parties ought to remember is this rule in the rule book which says under Section 11, Rule 5, Page 39, no bill having been introduced may be withdrawn except upon motion of the first introducer, Senator Warner, with the consent of his or her co-introducers, he has none, such motion when made shall not be considered prior to the next succeeding legislative day, tomorrow. And for its adoption, shall require the affirmative vote of a majority of those voting upon the question. Now, my point to you, the Chair, to Senator Bernard-Stevens and to Senator Labeledz is this. If you want to wrangle about LB 1141A as an abortion bill, all that Senator Warner has to do is move to withdraw and nothing anybody can do will move that bill till tomorrow and we'll just go on with the agenda. LB 1141A is now perfectly framed to make the adjusting language to make clear that our intent on the depositors bill is

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LB 272A, 769, 1141A, 1141

carried out. The bill drafters are now doing that work. It will be back forthwith. What I ask from the body is some forbearance, perhaps a brief recess to allow that work to be done, a chance for parties to talk. I don't know, but if we start this...this rock down the side of the mountain it will be an avalanche and we will miss the chance to do this work. And if I have any time remaining, I would yield to Senator Hall, a well-known advocate of LB 769.

SPEAKER BARRETT: One minute.

SENATOR HALL: President and members, is a problem. I mean we've got six and a half hours to deal with this issue if we're going to deal with it. If we don't, if we don't send some direction to the Banking Department through changing the legislation that we passed in LB 272A to clarify what we intended, I think it's clear, the Banking Director does not. If we don't make the change, LB 1141A is a vehicle, if we don't make the change, those people who I represented from the American Savings standpoint and that were referenced throughout the debate get nothing under her interpretation. That's unfair. That's why I would move to overrule the Chair with regard, or excuse me, use LB 1141A as the vehicle for this procedure. It surely isn't an abortion issue. It would be an abortion to leave those people out of the funding.

SPEAKER BARRETT: Time. On the motion to overrule the Chair, Senator Bernard-Stevens.

SENATOR BERNARD-STEVENS: Thank you, Mr. Speaker. Members of the body, obviously I found out about the Commonwealth situation the same time as you are. And even though I did not support the Commonwealth vote, I very well feel that the intent of the Legislature was clear, there were the votes to do the Commonwealth package. And I think the intent of the Legislature should be pursued, solved, done. We need to get rid of the issue once and for all. I suggest two options and actually I'm mulling myself how to do that. One option would be I think I could file or someone could file a motion that we recess for 30 minutes, trying to get the wrangling over LB 1141 on the principal parties. I personally am not sure that's going to happen given a discussion I just heard between Senator Labedz and Senator Landis. I suggest the following as simply a possibility for the body and it's only a possibility. My original motion was and actually still is, not the original one

to the depositors of State Security, American Savings and Commonwealth as much as anyone. I will cooperate in any manner to do so. There is no need to recess. We can proceed with the agenda while my esteemed friend, who is rapidly running out of my estimation, will proceed to draw up something which can work. But we have other bills on the agenda and I might just add I have an amendment for LB 980 which will stop you from all making fools of yourselves on making it a felony not to pay your taxes and that ought to be addressed also. But I just would implore you...we know what's going on. We all know what's going on. We know what's going on and I don't really care who wins or loses at this point. But I think it's absolutely ridiculous, Senator Bernard-Stevens, that you would ask at this hour that we recess for 30 minutes. Certainly you, Senator Landis and all those, Senator Hall, can work while the rest of the body proceeds with some of this other work. And if Senator Warner wants to pull LB 1141, so be it, he can do so. I don't think he wants to. Let's keep going.

SPEAKER BARRETT: Senator Schmit, I'm sorry, we do have a priority motion on the desk. The Chair has...the Chair has to recognize it and we must vote. Not debatable. The question is shall the house recess for 30 minutes? If you're in favor of that motion, vote yes. If you're not, vote no. Record.

CLERK: 3 ayes, 20 nays, Mr. President, on the motion to recess.

SPEAKER BARRETT: The motion fails. Back to the speaking order on the motion to overrule. Senator Abboud, followed by Senator Labeledz.

SENATOR ABOUD: I'll waive off.

SPEAKER BARRETT: Thank you. Senator Labeledz, would you speak to the motion to overrule?

SENATOR LABEDZ: Yes, Mr. Speaker. I believe that evidently it's known on the floor what I was trying to do with LB 1141A so I urge the members of the Legislature to sustain the Chair or not to overrule the Speaker's agenda. We're voting on overruling the Chair, I'm sorry. Okay. There are other bills following. I have a rules suspension there for the...for LB 769. I think there are a few members on the floor that realize what I was doing and they came up with this. But if it's truly as important as Senator Landis said, then there are

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LB 260, 260A, 313, 313A, 488, 488A, 520
567, 567A, 663, 663A, 854, 899, 1124
1125, 1141
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SENATOR BERNARD-STEVENS: It'd be a fascinating turn of events to have that happen. But the bottom line is all of this debate is about a bill that's unconstitutional. Bottom line is in some cases in western Nebraska, by the way the bill is, it may not be possible to get the kind of counseling that they need in order to get the permit signed on the informed consent. Bottom line is some people in western Nebraska who don't have a counselor or someone that fits the definition that's in LB 84 (sic), which I'll again bet that 90 percent of the people in this body still have no clue of what that definition is, nor care, that a lot of people in the rural part of our state have to go elsewhere to find somebody who fits the qualifications that are in the bill. I took the time to call counselors throughout western Nebraska and ask if they felt they qualified under the bill. They stated, the way the bill is written, probably not.

SPEAKER BARRETT: Time has expired.

SENATOR BERNARD-STEVENS: But if we'd a been allowed to make some (inaudible).. improve that situation. Thank you.

SPEAKER BARRETT: Thank you. Senator... excuse me, Mr. Clerk, you have a motion on the desk?

CLERK: Mr. President, Senator Chambers, I understand you want to offer a motion to adjourn until nine o'clock tomorrow morning, Thursday, April 5.

SPEAKER BARRETT: Have you anything to read in, Mr. Clerk?

CLERK: Mr. President, I do. I have your Committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LR 239CA and find the same correctly engrossed, LB 1141 and LB 1124. (See pages 1902-04 of the Legislative Journal.)

Mr. President, I also have three communications from the Governor regarding signed bills addressed to the Clerk: Engrossed LB 663, LB 663A, received in my office March 30 and signed by me on April 4. (See pages 1905-06 of the Legislative Journal.) A second communication: Engrossed LB 1125, LB 899, LB 260, LB 260A, LB 313, LB 313A, LB 488, LB 488A, LB 520, LB 567, LB 567A, received in my office on March 29 and signed by me on April 4 and delivered to the Secretary of State, Sincerely, Kay Orr, Governor. (See Page 1905 of the Legislative

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LB 1059, 1141, 1241
LR 239, 424, 425, 426

PRESIDENT: Do you have anything for the record, Mr. Clerk?

CLERK: I do, Mr. President. Senator Conway has amendments to LB 1141 and LR 239 to be printed. (See pages 1961-62 of the Legislative Journal.)

I have statements from the Appropriations Committee regarding overrides. New resolutions, LR 424 by Senator Lindsay and Morrissey. (Read brief explanation.) LR 425 by Senator Hall and Landis and Warner. (Read brief explanation.) LR 426 by the Appropriations Committee. (Read brief explanation.) A confirmation report from the Transportation Committee and an Attorney General's Opinion to Senator Schmit. (Re: LB 1059.) That is all that I have, Mr. President. (See pages 1962-68 of the Legislative Journal.)

PRESIDENT: Speaker Barrett, for what purpose do you rise? Do you want to tell us something.

SPEAKER BARRETT: Yes, Mr. President, thank you. Before we vote on the motion, I just want...

PRESIDENT: Excuse me, Senator Barrett. (Gavel.) Please, let's hold it down so we can hear the Speaker's words.

SPEAKER BARRETT: Just a reminder that there is some additional Final Reading on the agenda, and any of these bills that are not read today, as I announced the other day, we don't have time to get them to the Governor and have her return them for vetoes. If they are not read today and passed over to her office, she cannot and will not guarantee a veto message. There may be some bills in there that are quite important in that regard, I don't know. Just a reminder. Anything that is not over there tonight will not be returned with a veto message or a signature.

PRESIDENT: Thank you. You heard the motion. All in favor of adjourning say aye. Opposed nay. A machine vote has been requested. Okay. Please return to your desk, please. Please return to your desk. It is difficult for the Clerk to hear your response, so please return and hold it down. Mr. Clerk, the motion is to adjourn. Okay, a machine vote, excuse me. All those in favor of adjourning vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

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senators. We have on our desk an amendment to LB 1141, which I understand is an amendment that has been worked on over the weekend. It calls for an increase in the powers of the Coordinating Commission for Postsecondary Education. From my viewpoint, this is a much more preferable approach to take if we are going to reorganize higher education in our state. It calls for the appointment of 11 members, 6 to be appointed by the Governor from districts within the state, and then 5 to be appointed from the state at large. It has a detailed explanation of the statement of intent for LB 1141 and for the amendment to be in that form. I believe this is much more preferable than 239CA, which would have set up another board of higher...Board of Regents of Higher Education, and then have seven separate boards of trustees, and we have all debated and discussed how the inefficiencies that would occur and how the problems would relate to the reorganization of higher education if LR 239CA is enacted. From my viewpoint, I think LB 1141 is a much more preferable approach. I would urge that that be the particular approach we take. I should mention right now that there is a problem if both of these constitutional amendments pass, because if both pass and both happen to be voted upon by the people of our state and both accepted by the people of our state, then they are in, to a degree, I understand, in somewhat of a conflict and there would be a problem in determining how to interpret those conflicting constitutional provisions. My thought is that the best way to resolve it and to avoid any type of conflict or any type of problem like this is just to reject LR 239CA, vote for LB 1141 with the new constitutional amendment, the new language, concerning the coordinating commission, and that is a much more preferable approach. It would simplify things and we should pass the 11...reject LR 239CA and vote for LB 1141, so that there is no confusion on the ballot. We should not be voting to pass both of these constitutional amendment proposals. We need to vote for one or the other and, with that, I appreciate your consideration. I'd withdraw the proposed motion. Thank you.

PRESIDENT: It is withdrawn. Anything else on the bill, Mr. Clerk?

CLERK: Yes, I do. Mr. President, Senator Warner would move to suspend Rule 4, Section 2, to permit consideration of AM3370 to the resolution. The amendment being proposed is found on page 1961 of the Journal, Mr. President.

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PRESIDENT: Senator Warner, please.

SENATOR WARNER: Mr. President, and members of the Legislature, the rule suspension is one we discussed the other day which is the provisions in Rule 4 that require a constitutional amendment to be treated as a bill in which the various stages of consideration that we all are familiar with. I handed out to you earlier this morning as again as we discussed the other day of the ability for a constitutional amendment, in effect, to be enacted in one day, the only condition being that before it is on Final Reading that the provisions should be on the members' desks. I have such a motion to offer on both, 239, and on LR...or excuse me, LB 1141 with the amendments that could be attached. The amendment that applies to 239, in essence, is one that was offered by Senator Conway the other day, redrafted so that it includes the community colleges under the provisions of coordination, and it removes from it the possible problem of conflict relative to the ability of community colleges to have a property tax. It would preserve that concept, as it is now, that they could continue to have a property tax and the fact that they did would not interfere with the ability of a coordinating body to act in a coordinating function and cover the community colleges as well. So I would ask that the 30 votes to suspend the rules to permit consideration of Senator Conway's amendment which is pending, and if that is adopted, then as soon as there is a reprinted copy on our desk, then Final Reading could be done. I would suggest, and also to accommodate what Senator McFarland just indicated, if the Speaker is willing, while the typing is done to place on your desk the constitutional amendment with the Conway amendment included, probably a discussion on LB 1141 could be done to see whether or not there is sufficient votes to amend that bill with the language that was passed out earlier this morning. And when that was done, then a vote could be done on 239 which would be properly before you, and in the case of LB 1141, unless there was a change made in the copy that is before you, that vote could be taken immediately and I assume most people have a fairly good feeling as to which of the two concepts that they would prefer. Both of them, the principal difference between the two concepts is the creation of institutional boards in 239. LB 1141 retains the Board of Regents and Board of Trustees as we know them today but this new coordinating commission would have substantial coordinating authority in program approval and disapproval, comprehensive planning, and budget presentation to the Legislature. With that general discussion, I would ask that

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we have that. Senator Wesely is saying we need to take a little more time, maybe study it over the summer; higher ed has never been studied, so let's study it over the summer, and let's bring in a bill next year; and then let's maybe vote on it in 1992, and let's maybe put it into effect in 1993. We have an opportunity at this time to actually act in the area of higher education, to do what people in this state say they want done, and what everybody on this floor knows we need to do. My gosh, we have been through so many fights about telecommunications and who gets that, where nursing programs ought to be located, a multitude of other higher education issues. It is really time to act. The way...the reason that we can deal with resolutions separate from the way in which we deal with statutes are they don't go into the statute books. LR 239 and LR 1141 (sic) after today, even if we have a unanimous vote, it won't become a statute, it goes to the people. Frankly, Senator Wesely, I trust the people's judgment more than I trust the Governor's judgment, particularly after what she did with an important piece of legislation of mine here recently. The people will have an opportunity to determine whether it is good or it is bad. We will not have just three days, we will have all summer and the fall to have various people analyze. And if there are drafting problems in LB 1141, they will be discovered and it can be voted down by the people in that case. Let's not ignore a great opportunity that we have here today. I am going to also just comment, my preference as an individual legislator that has dealt with this issue would be to see 239 pass and be on the ballot. I think Senator McFarland indicated we might have a conflict if both of them pass, but I am sure Attorney General DeCamp will have no problem sorting out the difficulties of the conflict in the bill. It is my understanding that the one that passes with the most votes will probably be the one that dominates. As a realist, I know that with the discussions we have had on LB 1141 and the fact that...

PRESIDENT: One minute.

SENATOR WITHEM: ...it appears as though the regents, at least some of the regents, are supportive of the concept, that one is much more likely to go, and to me, it is not half a loaf, it is three-fourths of a loaf or more of what I wanted, and I will just be very happy. I'd be happier if 239 were to pass, but I will be very, very pleased if we leave this session putting a constitutional amendment on the ballot to provide for greater coordination of postsecondary education. So, for that reason, I

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am supporting the Conway amendment. I will be supporting LR 239 and hope it passes. I also will be supporting the amendment to LB 1141 and will be supporting that particular constitutional amendment.

PRESIDENT: Thank you. Senator Hefner, followed by Senator McFarland, then Senator Wesely.

SENATOR HEFNER: Mr. President, and members of the body, I rise to oppose this. Here we are down to just about the 12th hour, 12th hour, we want to suspend the rules, add another amendment, and then go from there. Senator Withem says we have been studying this for umpteen years and we know what we are doing. Well, if we are knowing what we are doing, how come we are suspending the rules at the 12th hour here? I can't figure it out. It is hard for me to believe that we are doing this. This reminds me of several years ago when we put the constitutional amendment before the people on how do we want to value ag land, shall we go with earning capacity or income producing, and we passed that, and the people voted for it. But do you know what happened? It was ruled by the Supreme Court that the wording wasn't quite right. We should have put in "to" instead of "and" or something and I am afraid this is what is going to happen in this particular bill. If everything had been worked out by the higher education people and the Education Committee and other people that are interested, how come we are coming up here at the last hour to add an amendment. I don't believe it is fair. I think this is a poor way to legislate, and I realize the Governor won't have a chance to take a look at it, or at least her aides won't, because this would go on a ballot just by merely our Legislature passing this. I don't know whether the people will vote it in or not. I'd say it is a 50-50 chance. Also, we have a substitute bill, LB 1041, or whatever it is, I forget now, but...LB 1141, okay...but if LR 239 is so perfect, why do we have to have a backup? So I'd say to you this morning, at the 12th hour, let's not do any more amending on LR 239. Let's not suspend the rules and allow us to do this. Thank you.

PRESIDENT: Thank you. Senator McFarland, followed by Senator Wesely and Senator Lamb.

SENATOR MCFARLAND: Thank you. I would like to respond and question whether we have any ability to pass two constitutional amendment proposals that may be in conflict, and then the

consequences of what would happen if both constitutional amendment proposals passed and both constitutional amendments were adopted by the people of our state. My understanding is, and I can't find the particular section right now, that if two constitutional amendments that are in conflict are submitted by the people and they are done on a referendum basis, or initiative basis, that then there is a specific provision in the Constitution that says if they are in conflict, you take the constitutional provision that had the most votes and that becomes the dominating provision and the other one falls by the wayside. Anything in conflict is resolved that way, but the Constitution of our state is silent about what is the procedure if the Legislature advances two constitutional amendments and both are adopted by the people of the state, and the constitutional amendments are in conflict. It doesn't say what would happen in that case. My understanding is or my assumption is that the people who have looked over the Constitution, and everything and we have amended it from time to time, just assume that the Legislature would not be foolish enough to pass two contradictory constitutional amendments and put them both on the ballot. What I would like to know and perhaps I could ask Senator Warner, I see he is speaking right now, maybe Senator Warner could respond and tell me which of these constitutional amendments he would prefer and what would be his view if both of them were passed by the Legislature and adopted by the people of the state, what would happen as far as any conflicts being resolved? And with that, I would yield my time to Senator Warner.

SENATOR WARNER: Thank you, Senator McFarland. To answer your first question, as Senator Withem had stated, my preference is 239CA as the first option. If 30 members do not support, do not feel that is the right one, I can also support the proposal for LB 1141. The second part of your question, as I understand it, you are correct that the Constitution is silent upon whether or not two conflicting amendments are placed on the ballot. However, I understand that the statutes are not and the statutes state that if there are conflicting constitutional amendments put on the ballot by the Legislature that the one receiving the greatest...and both met the constitutional requirement for passage, the one receiving the greater plurality, I guess, the greater number of votes would, in fact, be the one considered adopted. I would be quick to agree that someone could question that in court, that the statute doesn't prevail over the Constitution. I am not aware of any prohibition, however, in

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the Constitution for the Legislature to have enacted such a law at whatever time it was enacted.

PRESIDENT: Thank you. Senator Wesely, please, followed by Senator Lamb and Senator Warner. Senator Wesely.

SENATOR WESELY: Yes, Mr. President, again, and Senator Withem did an okay job, I guess, in responding to my concerns and I appreciated his comments. I just thought, you know, I have been here 12 years. I have never seen this before. I did not know until last week that you could amend a constitutional amendment on the last day of the session. I don't know, I have been sleeping or something because I sure didn't realize we had that ability. I am just saying, though we have that ability, it seems wrong to me, and I understand the desire and the effort to try and bring compromise and consensus to this. I agree Senator Withem and Senator Warner have been doing great work in trying to resolve this. It just appears to me to simply not be something I feel comfortable with, and I thought I would express that and share with you a concern that though we have the power and ability to do this, I don't think we should.

PRESIDENT: Thank you. Senator Lamb, you are next. May I introduce a guest, two guests, please of Senator Lynch. Under the north balcony, we have Jeanette Werse from Braunschweig, Germany who is visiting the Westergren home as an exchange student. Jeanette, will you please stand so we may see you. And with her is her host, Vanessa Westergren from Burke High School in Omaha. Would you please stand with her. It is very nice to have you ladies with us and thank you for visiting us today. Senator Lamb, please.

SENATOR LAMB: Yes, Mr. President, and members, I'd rise again to express my support for the amended version of LB 1141 which would provide for a constitutional amendment with a strengthened coordinating commission, and my opposition to 239, even with the Conway amendment, if that should be adopted. I really believe that the proposal that Senator Warner has brought us in regard to LB 1141 is the way to go because, as I have mentioned before, coordination is needed. Coordination is needed and I don't think we need to change the structure, that to have seven separate boards doesn't make a lot of sense to me, and I don't think that should happen. Now I would express some of the similar reservations that other people have expressed in regard to doing it on the last day, that the amendment to LB 1141,

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land of something being not quite carefully thought out. And in order to more carefully make out the proposal and have it correctly drafted, several of us voted no, indicating that we were very willing to support Senator Conway's position on this, but it would have to be done today as a matter of practical ability to address it. So I would ask that the body would give 30 votes to permit the consideration of Senator Conway's amendment to 239, so that the community colleges are included for coordination purposes constitutionally and avoid having to do it as 239 now stands in the advisory capacity. With that, I would ask that the rule be suspended to permit the consideration of Senator Conway's amendment.

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

CLERK: 32 ayes, 12 nays, Mr. President, on the motion to suspend the rules to consider Senator Conway's amendment.

PRESIDENT: The rules are suspended. Now we are on the Conway.

CLERK: Mr. President, I might indicate to the body that Senator Conway's amendment is found on page 1961 of the Journal.

PRESIDENT: Okay, Senator Conway, please.

SENATOR CONWAY: Mr. President, and members, thank you very much. The amendment that I offered has been at least partially discussed already relative to the procedural aspect of suspending the rules, so I don't think it will take very long to talk about the amendment. Last, and I think it was Wednesday, and like Senator Warner, the days have started to run together, when we were discussing LB 1141, I raised the question that the community colleges, from at least a coordination aspect, ought to be a part of the activity so that anytime we are talking about coordination in higher education, the community colleges, being a very important part of higher education, postsecondary education in the State of Nebraska, and having an interfacing relationship with the four year and the postbaccalaureate institutions as well, as they feed and interact and share programs and the like, ought to be part of that overall consideration and I offered an amendment at that time to do that. Senator Warner, I believe, has agreed with the concept but objected to the possibility that the language may not be

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perfect in that the community colleges, since they do have a property tax basis, that we didn't want to diffuse that issue from the constitutional language, and so I withdrew the amendment giving us the opportunity to sit down with Senator Warner's office and other people to come up with the exact language to do that. In so doing and working with LB 1141, and then in talking and discussing the concept, through Senator Warner's suggestion, was that we ought to do the same thing within LB 239 (sic) in that LB 239 (sic) changed the structure but only referenced and alluded to the state colleges and the university system in governance and in coordination. And so, through that discussion, we came up with the fact that within the coordination side of the structural change, that we ought to also include the community colleges in that coordination. The amendment that you find on page 1961, as you can see, is really quite simple. It simply talks about the addressing on the very front page, on page 1, where it starts talking about the authority of the coordination of all public postsecondary institutions is institutions governed by the board of trustees. By striking "governed by the board of trustees", we are talking now about the coordination, they are responsible for the coordination of all public postsecondary institutions, thereby bringing in the community colleges, and then the additional language is to deal with the notwithstanding provision of the Constitution relative to the property tax. So it is really very much the same amendment we talked about on LB 1141, but putting it into LB 239 or LR 239 so that the coordination side, it doesn't change the community colleges governance structure; 239 changes the state colleges and university governance structure but it does include them within LB 239 (sic) with respect to when that new structure develops, the coordination and planning for higher education, that the coordination does include the input and the control over the community colleges with respect to all of those items that we talked about that would be included in coordination, those things being, basically, your role and mission, and duplication, and all those kinds of things will be considered under the new governance structure as well. I believe the community colleges have provided a great deal of input as well into this and are comfortable with the fact that this does not superimpose authorities and activities they have now, and feel that it is a just amendment. So with that, I offer the amendment to LR 239, which basically puts the community colleges into the coordination side of the issue associated with 239.

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Conway's amendment to LR 239.

PRESIDENT: The Conway amendment is adopted. We are ready to read the bill, aren't we? We will move on to LB 1141, since it will take the Clerk a few minutes to get LB 239CA (sic) in shape so that we may read it. So, at this time, we will move on to LB 1141, Mr. Clerk.

CLERK: Mr. President, LB 1141, the first motion again is offered by Senator Warner. That would be to suspend Rule 4, Section 2, to permit consideration of AM3371 by Senator Conway.

PRESIDENT: Senator Warner, please.

SENATOR WARNER: Mr. President, this is the same suspension of the rule, if it is approved. You have had handed out to you what the amendment does. It is fairly consistent with the way it was drafted initially, but upon...if you approve this, I would probably read into the record the statement of intent that was handed out so that it is clear what the intent of the Constitution is, but all that what will read is exactly what has been passed out to you. But it is consistent totally with everything we talked about the other day when 1141 was amended to permit this type of constitutional amendment.

PRESIDENT: Any further discussion? If not, the question is, shall the rules be suspended? All those in favor vote aye, opposed nay. It requires 30 votes. Record, Mr. Clerk, please.

CLERK: 30 ayes, 5 nays, Mr. President, on the suspension. Mr. President, Senator Conway would move to amend. Senator, you had an amendment printed on page 1961. I understand that is to be withdrawn.

PRESIDENT: Senator Conway, please.

SENATOR CONWAY: Withdraw that one.

CLERK: Mr. President, Senator Conway would move to amend. Senator, I have AM3375 in front of me.

SENATOR CONWAY: Correct.

PRESIDENT: Senator Conway.

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SENATOR CONWAY: Mr. President, and members, AM3375, which I believe was duplicated and passed out on everyone's desk, is the amendment that we are talking about at this particular juncture. This, again, goes back to the discussion of last week when Senator Warner offered a change in the what originally was LB 1141 and converted that to a strengthening and a creation of a new coordinating commission, per se, as an alternative to LR 239. At that time, I again offered the suggestion that the community colleges be brought in underneath the coordinating aspect of that particular legislation and that is really what prompted, this is where I started. We ended up putting it into LR 239 a moment ago just in the same fashion. What you have before you on that handout then would be, in essence, it is not a white copy, it looks like it might be but you will notice what this is is just changing Section 1. There is a Section 2 that describes...if you happen to go back to the yellow copy, Section 2 describes what the ballot question in its specific statement would say. Other than that, this basically is LB 1141, which you have on your desks, plus Section 2 which is still in the yellow copy. Again, all it does is the same concept. It brings the community colleges in underneath the coordinating process but with language that is protective with respect to the constitutionality whereas the community colleges property tax revenues are specifically mentioned in such a way that it does not hinder the passage of this bill in such a way that it will have any effect on their capital construction and/or the property tax levies that they currently are under. So, it basically is the same concept in 1141 as we just did into LR 239. You may note also at the bottom that it discussed how this coordinating commission would be created with 11-members, initially that will be appointed by the Governor, 6 from specific districts that are approximately equal in population, and 5 that will be chosen at large, so we are talking about an 11 member coordinating commission that will provide the coordination, coordination as defined or as we have been defining it in LR 239 and with respect to coordination and what that constitutes. And so, with that, I offer the same concept to LB 1141.

PRESIDENT: Thank you. Senator Pirsch, please, followed by Senator McFarland, then Senator Warner.

SENATOR PIRSCH: Thank you. I think I have a question of Senator Warner, if he would yield, please.

PRESIDENT: Senator Warner, please.

SENATOR WARNER: Yes.

SENATOR PIRSCH: Senator Warner, the postsecondary commission that we are establishing here under the Constitution, is that the same as we have now under statute?

SENATOR WARNER: No, the name is similar but, no, it would not be the same because this would give a body by that name constitutional authority to act in the areas outlined whereas they do not now have that authority. Secondly, the current commission is partially selected by the institutions, various institutions or systems, and partially appointed by the Governor with confirmation by the Legislature, and they have some duties that wouldn't necessarily go to this body.

SENATOR PIRSCH: These are all appointed by the Governor, is that correct?

SENATOR WARNER: That would be correct and, in essence, that's...

SENATOR PIRSCH: And they are done by six districts and then five at large.

SENATOR WARNER: The current are all appointed people, too,...

SENATOR PIRSCH: Right.

SENATOR WARNER: ...although one of them I believe, out of the 11 is selected through their office.

SENATOR PIRSCH: And your intent would be to eliminate the present postsecondary commission, is that correct?

SENATOR WARNER: It would be eliminated as to the functions of coordination. You could continue by statute a body that was like, for example, that was originally proposed in 1141 which would be representatives of the private, the independents, I should say, and the proprietary and so forth as a group to meet on an informal basis but that has nothing to do with this here, no.

SENATOR PIRSCH: Oh, you mean there would be two postsecondaries

then? No.

SENATOR WARNER: No, not two. You could have...

SENATOR PIRSCH: Your intention is to eliminate the postsecondary commission that we presently have by statute?

SENATOR WARNER: That is correct.

SENATOR PIRSCH: Okay, that is what I wanted to make sure. And, also, of course, I think it is important that we do give the postsecondary, or any commission that we call constitutional, authority to truly coordinate and I think this has been long overdue, and I will be supporting LB 1141, which I assume then will be called LR 1141? But, anyway, I do prefer this over the...oh, I have one more question for Senator Conway.

PRESIDENT: Senator Conway, would you respond, please.

SENATOR PIRSCH: Senator Conway, this talks about a governing board for the community colleges which we do not presently have, is that correct?

SENATOR CONWAY: No, in the amendment it talks about working with the governing board or boards and so we now have currently boards for each of the regions,...

SENATOR PIRSCH: Boards for each.

SENATOR CONWAY: ...so it leaves that open so that at any given point in time if they did become under a single board, then that would be the entity, but right now it does speak of board or boards.

SENATOR PIRSCH: And we wouldn't have to change the Constitution again, then?

SENATOR CONWAY: No, (inaudible).

SENATOR PIRSCH: Okay, thank you.

PRESIDENT: Thank you. Senator McFarland, please, followed by Senator Warner and Senator Lamb.

SENATOR MCFARLAND: Thank you, Mr. President. I support Senator

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Conway's amendment. I think it is an improvement. I think the community colleges need to be included in any type of change like this and that they should be properly included in this particular provision. Assuming this provision gets adopted, then we will have before us two proposed constitutional amendments, the first one being LR 239CA, and the second one being this LB 1141, in that form. I would like to speak to the conflict of passing both of those proposed constitutional amendments and submitting it to a vote of the people because our State Constitution does not state exactly what would happen if both constitutional amendments were voted upon and adopted by the people of Nebraska, and there could be all kinds of legal issues raised by such a conflicting situation. The statement has been made that if both of them are...both of these constitutional amendments are passed out of our Legislature and put on the ballot, then, obviously, the one that got the most votes, most votes in the election and the one that got the majority of the votes by the people of our state would therefore control and we would disregard the other amendment. That sounds simple. That sounds straightforward. That sounds reasonable, but our Constitution does not say that that would happen in that manner. The only thing our Constitution says is in Article III, Section 2, that if you have an initiative by the people of the state and if the people of the state, through the initiative process bring two conflicting constitutional amendments, then the constitutional amendment that gets the greater support would be the one that would be adopted, and the second one would be disregarded, and anything in conflict with the first one would not apply. The Constitution does not say, however, what happens if these constitutional amendments are put on the ballot, not by the people, but by the Legislature itself. By implication, if you have a process here which says in two conflicting amendments submitted by the people, the one would apply and the other wouldn't, and you don't have anything, any provision which takes care of the case when the Legislature advances two constitutional amendments, by implication, and I would argue then if that occurs, then you would have to reject both of them because you could mount the argument that if the people enacted LR 239CA and it conflicts with LB 1141, you'd say, hey, they must have not taken LB 1141 seriously because they passed LR 239, it conflicts with it, therefore, you throw out LB 1141. Vice versa, you could say if the people voted on LB 1141 and they rejected LR 239CA, they obviously knew that it conflicted, therefore, you can't put LR 239CA into the Constitution as well. It opens up a whole mess of constitutional arguments and it sets

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up a court case if we would advance both of these constitutional amendments and both of them would be adopted by the people of our state. I don't think our Constitution, in any way, has ever considered this type of process or this type of enactment. I voted to suspend the rules to allow the Conway amendments to be adopted to both the constitutional provisions. I think we would look very foolish, as a Legislature, and we would not be representing the people of our state in a very reasonable and...

PRESIDENT: One minute.

SENATOR MCFARLAND: ...conscientious manner if we end up passing both of these provisions. I would urge you, therefore, to adopt LB 1141, the second provision, and reject LR 239CA. I think LB 1141 is a much preferable way to do it. It makes sense and, furthermore, it avoids, if we just adopt it, rather than LR 239CA, it avoids all the constitutional questions that would arise out of this. I plan to vote for LB 1141 and not for LR 239CA. If, however, LR 239CA would get the 30 votes, then, for consistency, I would have to vote against LB 1141, even though I think it is a better proposal because I don't think we can put on both of these constitutional provisions and submit them both to a vote of the people. Thank you.

PRESIDENT: Thank you. Senator Warner, please, followed by Senator Lamb.

SENATOR WARNER: Mr. President, and members of the Legislature, while we consider the procedural issues that have been raised by Senator McFarland, I would like to read into the record what was provided to you on your desk so that it is clear in the event there is any discussion in later years should this amendment be placed on the ballot and be adopted. It is to the intent of the implementation, which would be what we would normally have with any constitutional amendment. First, I would like to refer to Section 9, which was in LB 1141, and that section would still be applicable to the consideration here as it is the broad intent of the need for a coordinating commission for postsecondary education, and while this reads for that Board of Regents as it was proposed in LR 239, that broad purpose would be the same as was included there which all of you are familiar with. Beyond that, the intent that provisions of LB 1141 as they pertain to the...what was the Board of Regents in LR 239 are allowed in this constitutional amendment would represent how the Legislature intends this constitutional amendment to be

implemented. The intent of the constitutional amendment one point-by-point; (1) intent that the Coordinating Commission would have equal constitutional status as the Board of Regents and the state colleges in that the Legislature could not diminish their constitutionally-granted powers. The Coordinating Commission's authorities would extend to all public postsecondary institutions--currently the university, state colleges, and the tech colleges. The Coordinating Commission would have three basic authorities, planning, programs, and budget. Planning shall at least include role and mission within any general assignments that the Legislature may prescribe and facilities planning. The facilities included are those tax-funded facilities which the Legislature may prescribe, that is, the Legislature may designate only state tax-funded facilities, thus excluding property tax-funded facilities. This would exclude then nontax-funded facilities, such as revenue bonds, and gifts. Secondly, program approval authority would include authority to approve and disapprove any programs including nontax-supported programs, and capital construction facilities. As in LB 1141, the institutions must get this approval before offering any programs, even if it receives funding for the program. As in LB 1141, as it originally was introduced, this authority definitely extends to existing programs, so that the commission has authority to disapprove and thus terminate an existing program. It is the intent of the Legislature that implementing legislation would also provide enforcement of these decisions, such as through DAS refusal to issue warrants, or if necessary, additional authority for court orders to prevent implementation of a disapproved program. Budget submission authority would include the authority to modify the budget requests of the governing boards, and the Legislature could provide for presentation by the commission of a unified presentation of budgets for all public postsecondary institutions. Again, it was similar to the process outlined in LB 1141, originally. The Legislature could provide the Coordinating Commission with additional powers which do not otherwise invade the constitutional authority of the Regents and Trustees...

PRESIDENT: One minute.

SENATOR WARNER: ...to govern their institutions. Examples of such powers could include administration of financial aid programs, collection of data, and the conduct of studies. LR 239 and LB 1141 provide the powers and duties of a

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coordinating body, the Board of Regents for Nebraska Higher Education. This constitutional amendment would provide much of the same authorities for a different coordinating body, the Coordinating Commission. Primary exceptions include; administrative services, which are not nearly as crucial in this proposal as they are in LR 239, tuition policies, admissions standards, and policies on transfers of credit. However, these items could still be included in the comprehensive plan and, of course, the commission constitutionally would be free to submit recommendations to the Legislature and the governing boards on these items. If the governing board ignored the suggestions of the Coordinating Commission on, for example, the transfer of credit, the Coordinating Commission could present to the Legislature its recommendations to enact legislation which would direct the institutions to take appropriate actions. The hammer is the threat that the Legislature would respond affirmatively to the suggestions of a statewide body which represents all of public higher education. It is expected that the governing boards will continue to coordinate among their respective institutions those administrative services which may be unnecessarily duplicative or where uniformity is needed to avoid undue or costly duplication. There is included a savings clause which would allow the tech colleges to be coordinated by a statewide board without jeopardizing their status as property tax-levying agencies, six, the make-up of the commission would be 11 members, appointed by the Governor with the consent of the Legislature, appointed for 6-year terms. Six members shall be appointed from 6 districts...

PRESIDENT: Time.

SENATOR WARNER: ...and 5 shall be appointed statewide. There are no provisions regarding partisan membership restrictions or requiring members to be selected from lists submitted by nominating panels. This is essentially the same as LR 239 except (1) there are only two governing boards for the seven senior institutions instead of one for each institution and (2) the coordinating body would not have certain authorities which would have been provided in LB 1141, as it was introduced, namely, over transfers of credit, tuition policies, admissions standards, and certain administrative services. The debate on LR 239 as it pertains to the need for a strong coordinating body would be equally as relevant to this constitutional amendment as the other.

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PRESIDENT: Time.

SENATOR WARNER: I wanted to read that in so that the transcripts would include what was read, excuse me, what was handed out to the body, but I would urge that the amendment be adopted, and if it is adopted as is, then the two approaches can be read and the body can with 30 votes approve either of those amendments. They will be placed on the ballot, if you choose to...

PRESIDENT: Time. Thank you. Senator Lamb, you are the first of nine speakers, as followed by Senator Wesely and Senator Nelson.

SENATOR LAMB: Call the question right after I speak. Mr. President, and members, I rise one more time to try to outline my reasons for supporting this amendment, supporting the amended LB 1141, and opposing LB 239 (sic). At the...I appeared before the Education Committee in regard to LR 239 when it was heard by that committee and that is not a usual performance for me because I don't appear before very many committees in regard to bills which are not my own bills. But I feel very strongly about this issue and I feel that we should not...we should not divide up our postsecondary educational institutions into seven separate fiefdoms. I believe that that would be a real mistake. I have always thought we, in Nebraska, were lucky that we did not have two universities, such as Kansas has and Iowa has, because...mainly because we couldn't afford them and I don't think those two states can probably afford them even though they are bigger than Nebraska. And if we do divide up the postsecondary educational institutions, we will have a UNL and a UNO, you know, and I think these are going to be competing universities and that should not happen in this state. I think UNO, UNL, and the med college should all stay as part of the University of Nebraska. Also, in my testimony before the Education Committee, I indicated that I thought if the Postsecondary Coordinating Commission was strengthened, it would do the same thing. I will have to admit that at that time I did not realize it would take a constitutional amendment to do that, but since that has been pointed out, I stand fast in that belief. I stand fast in the belief that a greater, greater coordination should take place by having a strengthened coordinating commission and that is what this amendment does and that is what 1141 would do without all the disruptive things that would happen under LR 239. So I guess I would just again

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hope that you would adopt this amendment to 1141, and then adopt 1141 and do not adopt LR 239. Now if LR 239 is adopted, I will still vote for 1131 or 1141, although as Senator McFarland pointed out, there may be some problems here, but I truly believe that LB 1141 is the way to go and we should not vote for LR 239.

PRESIDENT: Thank you. Senator Wesely, you are next, but may I introduce some special guests under the south balcony of Senator McFarland. He has his mother, Dorothy McFarland, his brother, Bob McFarland, and his daughter, which would be Senator McFarland's niece, Jody McFarland. Would you folks please stand so we may welcome you. Thanks to all of you for visiting us today. Senator Wesely, please.

SENATOR WESELY: Thank you, Mr. President, and members. I would like to ask Senator Warner if he will yield to a question.

PRESIDENT: Senator Warner, please.

SENATOR WESELY: My question, Senator Warner, is that the Conway amendment deals with the community colleges, and I am trying to understand the barriers that the amendment attempts to overcome to bring community colleges under this review process, and if you could just take a minute and describe again what the situation is and how this is dealt with with the amendment, it would help me to understand the Conway amendment and what it accomplishes.

SENATOR WARNER: Mr. President, and members of the Legislature, in 1966, there was a petition that was, an initiative petition that was filed which prohibited the state from collecting property taxes for state purposes. Prior to that, we used to call it the Duis amendment that was also adopted by the voters back in the fifties. And the difference between the two was the Duis amendment, in effect, said, if and when the state had a broadened tax base that it would be prohibited from issuing or levying a property tax. In 1966, that constitutional amendment which was adopted by the people, put on the ballot by the petition process out...just flatly outlawed the state from having a property tax for state purposes. Later in the early 1970s, '72 or '73, '72, I believe, at that time we required community colleges to issue, mandated, in fact, that they had a minimum mill levy and some other provisions that governed the operation of community colleges. The Supreme Court held that as

drafted that was for a state purpose, and, therefore, the community colleges were...it was illegal to require them to levy a property tax. What we are doing with the proposed amendment that Senator Conway is offering is making an exception that would retain without question the...if there is a property tax levied, in this case, that it does not constitute a state purpose when for coordination purposes and only coordination purposes we give authority to this coordinating commission to review programs, role and missions, and the other, budget submission and planning that is provided, that a coordinating commission could exercise that responsibility over a state college system without running afoul that it was a state purpose in conflict with the provisions in the revenue section of the Constitution.

SENATOR WESELY: Well, in follow-up, the question I'd have then is the coordinating commission would most likely take the role of denying initiatives brought to it by the various campuses or coordinating bodies. For instance, what I am saying is you wouldn't have the coordinating commission saying to the community colleges, you shall do this. In fact, what will most likely happen is the community college will say we want to do this, can we do it? And the coordinating commission will say yes or no. Is that the concept we have here?

SENATOR WARNER: Generally, yes, generally that is true, but actually the way it is written, the coordinating commission would not have to be asked to disapprove. They could disapprove a program and enforce that disapproval should any institution go ahead on its own. As a practical matter, you are correct. I would anticipate that certainly new programs would go through that coordinating commission for their approval or disapproval, and then if it was approved, of course, then it becomes an issue of the Legislature whether to fund.

SENATOR WESELY: I see. Okay. Well, I appreciate that and it does help clarify the situation. What we are essentially doing then, as I would understand it, would be a local campus, Lincoln or Omaha or the state colleges...

PRESIDENT: One minute.

SENATOR WESELY: ...or the community colleges would have an idea to do something, they would have to evidently work through a system and eventually have a green light from the coordinating

commission to move forward, and there is some virtue to that, obviously, that coordination is always something I think...it is one of those terms, local control, and coordination are those kind of good terms that we all like to support so there is some validity to that. The only question I raise now is it is so hard to get the university to move forward on ideas and concepts and things that would be of value. They have to work through such a bureaucracy. You start with the department level, and then you get into the college level, and then you move up to the various campuses, move into the administration office of, say, the Lincoln campus, and then it goes to the central body of the Board of Regents, and through it all, you get so many different ideas and good concepts lost in the shuffle, and now yet another layer will be added to that review process to further stymie the concepts and initiatives that I think might be valuable. There is good to coordination but I think, again,...

PRESIDENT: Time.

SENATOR WESELY: ...the reason I am concerned about acting quickly on this is there is also a problem with adding yet another layer to make a decision that may not, in fact, be of benefit in some cases.

PRESIDENT: Thank you. Senator Nelson, you are next, but I have some special guests I would like to introduce. In the north balcony, they are guests of Senator Kristensen, we have delegates from Kearney State College's James E. Smith Midwest Conference on World Affairs. There are representatives from 50 countries as well as a number of U.S. Government agencies and organizations with international interests. The special guest in Nebraska is Ambassador Katenta Apuli from Uganda. Would you folks please stand and be recognized, and, Mr. Apuli, would you wave your hand so we can see which one you are. Thank you for visiting us today, and the entire group, we appreciate your being here today. Now we also have another group in the north balcony of Senator McFarland's. They are Lefler Junior High School Select Choir of Lefler Junior High. There are 45 in the choir and they are eighth and ninth graders, Jamie McFarland, with their director. Would you folks please stand and be recognized. And one more, under the south balcony, Father John Lynch of Creighton University from Senator Lindsay's District. Would you please stand, Father Lynch, and thank you for visiting us today. Senator Nelson, please, followed by Senator Schimek and Senator Withem.

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SENATOR NELSON: Mr. Speaker, in a lot of the debate on LR 239 and 1141, a number of times I was going to speak and then Senator Withem and Senator Warner have done such a fine job in most all cases and have said just about what I want to say. Having served on the Education Committee and having had the experience a number of years back with the nursing program, a lack of coordination and so on seems to be one of our biggest obstacles in our higher education, and it just comes out to us almost daily on that particular committee. So I will be supporting very much LR 239 and probably 1141, too, but I do have a question of Senator Conway or Senator Warner. Senator Conway, would you answer a question for me please. Senator Conway, then by...

PRESIDENT: Senator Conway, please.

SENATOR NELSON: ...your amendment, and since I don't have it in front of me, would we still retain the present board of the community colleges, and then their programs and so on for approval or disapproval by this new commission? In other words, we would still retain the present boards as we have elected in our districts for our community colleges?

SENATOR CONWAY: The LB 1141, as it is written, would retain all of the same governance structures as we now know them, the Board of Regents, the Board of Trustees, and the governing boards of the community colleges. What this would do would be create the coordinating commission that then has the oversight...

SENATOR NELSON: The oversight.

SENATOR CONWAY: ...over the activity with respect to coordination.

SENATOR NELSON: The commission that doesn't have any power now but might gain a little power, correct?

SENATOR CONWAY: Under this, they would definitely gain power.

SENATOR NELSON: I kind of wanted that for the record and I was sure I had it figured out. Thank you. I conclude.

PRESIDENT: Thank you. Senator Schimek, please, followed by Senator Withem.

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SENATOR SCHIMEK: Thank you, Mr. President, and members of the body, I will try to be brief because we are approaching the noon hour. I would just like to get to put on record the fact that I have consistently "invokedly" opposed LR 239 for a number of reasons, many of which Senator Lamb talked about earlier today. The idea of seven fiefdoms was bothersome to me. In fact, it would be eight now with Senator Conway's amendment to it. I was also concerned about the budgeting process and how complicated that was going to be, but I did support the suspension of the rules to add Senator Conway's amendment to LR 239 and I also supported the suspension of the rules amendment for LB 1141. LB 1141, I think, is intriguing. For years now I have heard and read about coordinating problems in Nebraska, and there have been...many times the suggestion has been made that we increase the clout of the postsecondary council or commission, but the Legislature never had the will to do that. I also would point out that if this particular amendment were adopted and if LB 1141 is indeed made a constitutional amendment, that that would be going to a system somewhat like Oklahoma is now going to. If you remember, I pointed out earlier this year that Oklahoma has long had a system where each college, community college and university had its own separate board and they had come to the realization that that wouldn't work. So if we could take anything based on their experience, perhaps we might be doing the right thing if we adopted LB 1141. I do have a couple of concerns, again echoing Senator Lamb and Senator McFarland, about this being the last day and attempting to do this in a hurry; secondly, about the idea of having two constitutional amendments on the ballot at once. I think this would be confusing. I think we ought to vote one up and one down, if we possibly can, or both of them down. I also have that same reservation about having the Postsecondary Board all appointed, but in this system I think it works better than it does in the other system. I guess I would just like to close by saying that sometimes leadership really does mean seizing the moment and perhaps this is the moment. I at least think that we ought to give very serious consideration to what we're doing here today. Thank you.

SPEAKER BARRETT PRESIDING

SPEAKER BARRETT: Thank you. The Chair recognizes Senator Withem.

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SENATOR WITHEM: Question.

SPEAKER BARRETT: Question has been called. Do I see five hands? I do. Shall debate now close? All in favor vote aye, opposed nay. Record, please.

CLERK: 26 ayes, no nays, to cease debate, Mr. President.

SPEAKER BARRETT: Debate ceases. Senator Conway, would you like to close on the adoption of your amendment?

SENATOR CONWAY: Again, what we're voting on at this point is the adoption of my amendment and the amendment, at this venture, is just simply the inclusion of the community colleges in the coordinating process that would fall under the direction of... that has come down through LB 1141, the amendment or the offering that Senator Warner put forth last week that was adopted. It simply includes under that governance or under that coordinating structure, this is simply a Coordinating Commission, it's not a change in the governance structure of the institutions, it does include the community colleges as part of that... those units that ought to be in the coordination. The community colleges represent approximately one-third of the postsecondary education activity in the State of Nebraska and I think that it would leave a serious gap in any form of coordination if they were voided from that particular process via any language. So this amendment, at this point in time, is simply the inclusion of those community colleges in whatever structure we put forth. In this case, we're applying it to LB 1141. We applied the same concept to LR 239 earlier. The choice of which particular constitutional amendment we want to put in front of the voters is... I'm sure will be discussed at a later date or you're making those decisions in your own mind at this point in time, but at this point simply all we're doing is putting the community colleges underneath the coordinating activities that are described in LB 1141.

SPEAKER BARRETT: Thank you. You have heard the closing and the question is the adoption of the Conway amendment to LB 1141. All in favor vote aye, opposed nay. Record, please.

CLERK: 32 ayes, no nays, Mr. President, on adoption of Senator Conway's amendment to LB 1141.

SPEAKER BARRETT: The amendment is adopted. Senator Withem, for

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what purpose do you rise?

SENATOR WITHEM: Yeah, I was just kind of standing here. I'm going to suggest to the body that LR 239 not be read. It appears as though the consensus of the body's coming around LB 1141 and maybe with... although I prefer the LR 239 approach, having it round causes more confusion maybe than is warranted so I'd suggest that we focus our efforts on LB 1141.

SPEAKER BARRETT: Thank you. We... Senator McFarland, you are withdrawing your amendment, of course?

SENATOR MCFARLAND: If LR 239CA is withdrawn, Mr. Speaker, I'll withdraw my amendment as well. Thank you.

SPEAKER BARRETT: Thank you. We will then pass over the bill.

CLERK: Mr. President, LB 1141 is reported correctly engrossed. Copies are being distributed to the members now. You should have one on your desk.

SPEAKER BARRETT: Members, return to your seats. Would be my hope we could read the bill before recessing for lunch. (Gavel.) Members, return to your seats for Final Reading. Proceed, Mr. Clerk.

CLERK: (Read LB 1141 on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with the question is, shall LB 1141 pass? All in favor vote aye, opposed nay. Have you all voted? Please record.

CLERK: (Read record vote. See page 2016 of the Legislative Journal.) 35 ayes, 12 nays, 1 present not voting, 1 excused not voting, Mr. President.

SPEAKER BARRETT: LB 1141 passes. Have you items to be read into the record, Mr. Clerk?

CLERK: I have nothing at this time, Mr. President.

SPEAKER BARRETT: In that event, Senator Hannibal, please?

SENATOR HANNIBAL: Mr. Speaker, if I might just for a moment

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LB 431, 1031, 1055, 1059, 1109, 1124, 1141
1153, 1153A, 1221, 1246, 1246A
LR 11

retarded in our state. But let's do so in a fashion that makes sense, that is accountable, and we understand exactly what we're getting for our money. And, so these could have been met, both of these goals could have been met with language the Appropriations Committee put out, but that language was rejected. Instead money was added and language deleted, and so that is what's put me in this quandary. I hope, as we work through this issue, and I think we should take some time, it's a 2 million dollar issue, we should try and understand what we hope to accomplish through this change. And I would like to see, on the part of those particularly promoting this amendment, a commitment to deal with this problem and correct these problems, and that might ease my concerns and allow me to vote for this. I need to hear from supporters of this that they know there is a problem and want to deal with this...

PRESIDENT: Time.

SENATOR WESELY: ...problem, otherwise we simply get ourselves into a cycle and a Catch 22 that will not ever end and continue down the road with further problems.

PRESIDENT: Thank you. While the Legislature is in session, and capable of transacting business, I propose to sign and do sign LB 1109, LB 431, LB 1055, LB 1124, LB 1153, LB 1153A, LB 1221, LB 1246, LB 1246A, LR 11, and LB 1141. Senator Warner, please, followed by Senator Hannibal.

SENATOR WARNER: Mr. President, members of the Legislature, again, I indicated earlier that as we go along I would at least inform you of the status of the reserve fund as we go. And, as indicated earlier, LB 1059, and that's the only thing we can key to on this because it does make a difference, if this amendment is adopted, and if 1059 is overridden, why there will be a million four left that could be overridden this year and still maintain the 3 percent reserve. However, if this is overridden, if you look out beyond into the next biennium, we would be in a two and a half million deficit situation. But that is no legal requirement to observe that. But it is something that one needs to keep in mind, that assuming that the growth is something less than 6.5 percent in each of the two years in the following biennium, why we would certainly have a problem. On the other hand, if 1059 is not overridden, why then there is something like 3.6 million left, even though this is overridden. And that then is not so tight. But you should keep in mind that as we go

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CLERK: Mr. President, I do, thank you. I have a series of communications to the Secretary of State from the the Clerk attesting to the overrides. That's signed by the Presiding Officer on the bills you have just enumerated.

And, in addition to that, Mr. President, communication from the Clerk from the Secretary of State indicating that engrossed legislative resolution number LR 11 and LB 1141 were received in my office on April 9 and filed in this office and made a part of the public record. And that's all that I have, Mr. President.

SPEAKER BARRETT: Thank you. The Chair recognizes Senator Schmit.

SENATOR SCHMIT: Mr. President and members, a point of personal privilege, please.

SPEAKER BARRETT: State your point, sir.

SENATOR SCHMIT: Mr. President, the Franklin Committee would like to make a brief report to the Legislature at this time. I know it is late and we have many other items of business so I will be very brief, but I would like to indulge you if I could.

SPEAKER BARRETT: Proceed.

SENATOR SCHMIT: Mr. Speaker, as the legislative session comes to an end, I would like to take this time to advise all of you about several matters pertaining to the work being conducted by the Special Legislative Committee in investigating the failed Franklin Credit Union. Over the past several months, the convening of the Douglas County Grand Jury, the media's persistence in publishing information about our investigation from unofficial and/or unnamed sources, comments by less than public officials about the reliability of statements made by witnesses to the committee, and debates about the nature and quality of our work, prompts us to make this brief statement. The Franklin Committee has strived to maintain a low profile about our investigation, and to date, has made no official comment about the results of our investigation. We submitted a report at years end, and we intend to file a final report at the conclusion of our work. We have conducted our investigation in such a fashion as to protect the interest of those witnesses who have come before the committee at great personal risk, as well as those who may have become the subject of the committee's