being here and thank you for your services. We also have guests of Senator Rod Johnson under the north balcony. We have Omer Troester of Hampton, Nebraska. With him is an exchange student, Alberto Porras of Costa Rica. Would you gentlemen please stand up and be recognized. Thank you for being here. We also have, over under the south balcony, a former member of this Legislature, Senator Tom Fitzgerald, would you please stand up and wave your hand. Thank you. Please welcome Senator Fitzgerald back. Thank you, Tommy. Mr. Clerk, back to the reading.

CLERK: (Read LB 81-98 by title of the first time. See pages 61-67 of the Legislative Journal.)

PRESIDENT: We'll stand at ease for some 15 minutes or half an hour while we get some of the work caught up up here in front. So be at ease, please, for a while. Thank you.

EASE

CLERK: Meeting of the Health Committee, under the north balcony, right now. Health Committee, north balcony right now.

SPEAKER BARRETT PRESIDING

SPEAKER BARRETT: Additional bill introductions, Mr. Clerk.

ASSISTANT CLERK: (Read LB 99-150 by title for the first time. See pages 67-76 of the Legislative Journal.) That's all I have at this time, Mr. President.

SPEAKER BARRETT: More bill introductions, Mr. Clerk.

CLERK: (Read LB 151-160 by title for the first time. See pages 76-79 of the Legislative Journal.) Mr. President, in addition to those new bills I have new resolutions. (Read LR 1-2 for the first time. See pages 79-81 of the Legislative Journal.)

Mr. President, in addition to those items I have a series of announcements. Mr. President, there will be a meeting of the Executive Board today at three-fifteen for purposes of referencing. Executive Board, three-fifteen for referencing.

Mr. President, Senator Rod Johnson would like to have a meeting

county, school district and other governmental subdivisions, and then in the Section 2, we specify city or village and put them under the State Investment Office. Was there a reason why we didn't treat the school districts and the counties and the other subdivisions as we did the cities and villages.

SENATOR LANDIS: In fact, no one had the presence of mind to ask the League of Municipalities why they had drafted the bill that way. There were no county representatives and I think we looked at the new language, not the old language. You raise a fair question. On the other hand, the counties haven't asked to be in the bill either, so...

SENATOR PIRSCH: Okay, thank you. That answers my question. Thank you.

PRESIDENT: Thank you. Senator Landis, please.

SENATOR LANDIS: I will waive.

PRESIDENT: All right. Senator Weihing, would you like to close on the advancement to E & R Initial?

SENATOR WEIHING: In order to clarify what can be done with regards to the cities and villages in the use of their surplus funds, I request that this be advanced to, this LB 221 be advanced to the next stage of legislation here.

PRESIDENT: Senator Lynch, he was closing. Okay, the question is the advancement of LB 221. All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 29 ayes, 0 nays, Mr. President, on the advancement of LB 221.

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

CLERK: Mr. President, I do. Your Committee on Revenue, whose Chair is Senator Hall, reports LB 198 to General File, LB 209 to General File, LB 459 General File, LB 458 General File with amendments, LB 63 indefinitely postponed, LB 104 indefinitely postponed, LB 193 indefinitely postponed, LB 294 indefinitely postponed, all signed by Senator Hall. Judiciary Committee, whose Chair is Senator Chizek, reports LB 116 to General File,

section analysis of everything that is in the bill. But I thought with a couple of days advance notice you might have a chance to prepare and at least feel comfortable when the bill comes up for special order on Friday and that is the purpose of the memorandum.

SENATOR LAMB: You are out of order, Senator Landis.

SENATOR LANDIS: Am I? Thanks.

SENATOR LAMB: Senator Ashford, Senator Beyer, Senator Chambers, these are some of the people that we're looking for at this point. Senator Lindsay, Senator McFarland. Please come to the Chamber and record your presence. The house is under call. I believe Senator Bernard-Stevens has indicated that we can begin the roll call, Mr. Clerk. In reverse order, there has been a request for reverse order.

CLERK: (Roll call vote taken. See page 548 of the Legislative Journal.) 20 ayes, 18 nays, Mr. President, on the adoption of the amendment.

SENATOR LAMB: The amendment is not adopted. Mr. Clerk, do you have some items?

CLERK: Yes, Mr. President, I do. Mr. President, Senator Abboud and Lowell Johnson, or, I'm sorry, Senator Abboud would like to add his name to LB 116; Senator Lowell Johnson and Beck to LB 325 as co-introducers. (See page 549 of the Legislative Journal.)

Senator Landis has amendments to LB 92 to be printed. (See pages 549-50 of the Legislative Journal.)

Business and Labor reports LB 176 to General File with amendments. That is signed by Senator Coordsen. Education reports LB 140 to General File with amendments, LB 336 General File with amendments. Those are signed by Senator Withem as Chair. (See pages 550-51 of the Legislative Journal.) That is all that I have, Mr. President.

SENATOR LAMB: Senator Chizek, would you care to offer the motion to recess for lunch?

SENATOR CHIZEK: You don't want to come back after lunch. I

return some or all of that in a subsequent year. This would allow for that the individual be able to deduct the federal credit. Now we, Nebraska law picks up the federal deduction but we do not allow for the federal credit. LB 458 would allow for the federal credit to be picked up. It, again, was an oversight with the passage of LB 773 that was totally unintended but was one that we are correcting now through LB 458. The chart that I passed out to you that Senator Hannibal asked me about which is difficult at best to understand, if you look at the top bracket there where we call people ordinary taxpayers, those are folks who pay taxes. They are withdrawn from...they receive a bi-monthly or monthly check, they have their taxes withdrawn at the time that they are paid. The bottom folks are the people that we're dealing with. Many of these are individuals who pay their taxes on a quarterly basis, they pay estimated taxes, they may be self-employed or whatever. And these individuals, under LB 458, many times did not...as you all know, your taxes for the fourth quarter when you pay an estimated tax is not due until January 31 of the following year.

SPEAKER BARRETT: One minute.

SENATOR HALL: So what happens there is that in this case those folks were not able to...they were not included in the taxable income, or they were included in the taxable income for 1988, fourth quarter of 1987 so basically what they were doing is being taxed twice for that income. LB 458 would correct that situation. With that, Mr. President, I would urge the adoption or, excuse me, the advancement of LB 458.

SPEAKER BARRETT: Thank you. Discussion? Senator Hall, I did cut you just a bit short. If you'd like...

SENATOR HALL: Mr. President, I thought that was intentional and you didn't hear me complain and I would urge the adoption and passage of LB 458.

SPEAKER BARRETT: Thank you for that charitable comment. Those in favor of the advancement of LB 458 please vote aye, opposed nay. Have you all voted? Please record.

CLERK: 28 ayes, 0 nays, Mr. President, on the advancement of 458.

SPEAKER BARRETT: LB 458 is advanced. LB 116.

CLERK: LB 116, Mr. President, offered by Senator Lindsay. (Title read.) The bill was introduced on January 5, referred to Judiciary, advanced to General File. I have no amendments to the bill, Mr. President.

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

SENATOR LINDSAY: Mr. President, members of the body, LB 116 intends to accomplish two purposes. The first of those is to eliminate the mandatory provision under current law for issuance of a citation in lieu of arrest. Under the state law as it presently exists, when an individual is charged with the crime of soliciting prostitution, he or she must be issued a citation in lieu of arrest. What LB 116 would do would be to eliminate that mandatory provision which would kick it back into the discretionary provisions of 29-422 I believe. The second thing it would do is to increase the penalty from a Class V misdemeanor to a Class I misdemeanor. The Class V misdemeanor currently has a maximum penalty of a $100 fine and no minimum penalty. A Class I misdemeanor I believe is a maximum penalty of a year in prison and a $1,000 fine or both and a minimum, there is no minimum under a Class I. In my district, in the 9th District, there is, I believe, a prostitution problem. Right now the city is prosecuting those cases under the city ordinance because the state law essentially gives police the right to do nothing more than give a parking ticket. The problem that we're running into is that there is certainly a possibility that the city ordinance, because it provides for more severe sentences, could be struck down as unconstitutional. If that's the case it will make prostitution in, at least in Omaha, unenforceable. For these reasons I urge the body to advance LB 116.

SPEAKER BARRETT: Thank you. Discussion on the motion to advance the bill. Senator Hall.

SENATOR HALL: Mr. President, I just rise in support of LB 116 and Senator Lindsay's efforts there. The issue is a problem and, the issue of prostitution is a problem in our adjoining districts. We share Leavenworth Street in that it is my northern border and part of Senator Lindsay's southern border and it's a problem that comes up now and again in those areas and I think that the issue that he has presented before the body

will help in a, if only a small way, but I think it will be very helpful in fact with regard to the problem as we face it down there. So I would urge the body's support for LB 116.

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

CLERK: Mr. President, Senator Chambers would move to amend the bill. (Chambers' amendment appears on page 591 of the Legislative Journal.)

SPEAKER BARRETT: Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, a copy of this amendment is on your desk and I hope you will look at it and I hope you will listen to the discussion because the issue of prostitution I think is not only one that is serious in and of itself, but it kind of gives an insight into the attitude of this society toward women and people who are less fortunate or could be considered on the lower rungs of the ladder. What my amendment would do, if you're interested, you can turn to page 2 of the bill and you will find these words that I would add on line 8 after the word prostitution. This is what I would propose as an amendment. No person who engages in an act of prostitution or who solicits such an act shall be competent to testify in any proceedings against any person with whom he or she commits such act or from whom he or she solicits such act. Prostitution is not a one-person offense. It requires two. Whenever the issue is brought up it focuses on the female. When you see movies sometimes and depictions of prostitution they will have attractive women living in palatial quarters, they may have social secretaries of their own, they cater to the highest people in government, business and what not. The reality for most of these women who happen to get involved in this is entirely different. Many of them are uneducated. Some of them have mental problems. They have been abused at home, have no place to stay, no one to whom to turn and they are often lured and enticed into this activity by people who pretend to be sympathetic and friendly. Anybody who has been abused and rejected will hunger for some kind of compassion, acceptance or consideration that will indicate they have value as a person. These people who prey on these types of women, and some young boys now are drawn into this kind of activity too because of peculiar tastes of grown males, but nevertheless, they get caught in a net from which they cannot

escape. And this problem is approached as so many others are when it becomes inconvenient with punishment, punishment, punishment. Despite the fact that the police division in Omaha and the county sheriff's department have indicated that when the races come to town, the horse races, prostitutes follow those horses here. They don't say do something about the horse racing or consider the source, but those who are the fallout of these types of things should be punished very severely. What my amendment would do, if you insist on passing this bill, is to create a set of circumstances where a man who is picked up is not allowed to gain immunity or be free from prosecution by testifying against the woman. Neither party to the act can testify against the other and I think this is the way it ought to be, and I'll tell you what I couldn't help thinking about when I read this bill. There was story about Jesus, there are many stories about him, but the one that sticks in my mind all the time is when these self-righteous men dragged this woman to Jesus and said, she was caught in the act of adultery, in the very act, we caught her. And Jesus didn't say anything, he stooped down and wrote on the ground, and you know what I think he wrote? Where is the man? And when he stood up all these people started...I'm shortening the story and simplifying it, they all started disappearing. So maybe it shouldn't have been where is the man, but where are the men or are these the men or is any among these thine accusers, the man with whom she was taken. They all disappeared. So he said, where is your accuser? And she looked around, saw her former clients and associates gone. She said, well, Lord, I have none. He said, then I don't accuse you either and go and don't do this anymore. And I don't know whether that meant don't engage in the act, be more careful about whom you deal with or be more discreet about where it occurs. But the fact is, that those who brought this woman to him so that she could be stoned, based on what the law said, certainly were not interested in any considerations of morality. They were trying to trick him, that's what the moral of that story is but some of us see additional insights that can be gained from these types of narratives. I think prostitution is one of the worst things that can happen to a woman, but I think the woman is a victim. This society knows that the woman is the victim and it is why, when the term is mentioned, people always conjure up the picture of a woman. This amendment is reasonable. I think the bill is unreasonable, I think it is unfair and it does not get at the problem at all. So before I try to do anything with the bill itself in terms of trying to defeat it altogether, I am asking that you adopt this amendment.

And if you have any questions, then I am prepared to answer them.

SPEAKER BARRETT: Thank you. Discussion on the Chambers amendment to LB 116. Senator Lindsay, followed by Senator Abboud.

SENATOR LINDSAY: Mr. President and members, I rise in opposition to the Chambers amendment. I think there is a few things I'd like to point out to justify my opposition. First, LB 116 is a gender-neutral bill. It does not specify that one party or the other commits the crime, whether the man requests the act of prostitution or whether the woman requests the act of prostitution, it doesn't matter, either one can commit the crime. This is not an attack on the defenseless woman that Senator Chambers refers to. It can go both ways and it does, in fact, in Omaha go both ways. The Judiciary Committee hearing, there was testimony there that indicated that there are more men arrested for prostitution in Omaha in 1988 than were women. This is not a bill that attacks just that one segment of society, it does hit both sides. As a matter of fact, one of the police strategies in Omaha now is to try to dissuade the customers from going to the prostitutes, that by doing that, it makes the business a little more difficult. Number two, I think that if we read the Chambers amendment, we'll see that this will negate enforceability of the law. Number one, I think it is broad enough that it will prohibit a police officer engaged in a sting operation from testifying against the person involved in the sting operation. I don't think that there are a lot of other ways to prosecute a prostitution charge than the use of a sting operation, the use of a wire or the particular problem that Senator Chambers is trying to approach and that is the defendant, or the John turning state's witness. I think this amendment is so broad that it is going to prevent enforcement of the bill. It will effectively...it will effectively legalize prostitution in Nebraska because it will render the bill unenforceable. I would urge you to reject the Chambers amendment for those reasons.

SPEAKER BARRETT: Thank you. Senator Abboud.

SENATOR ABBOUD: Mr. President, colleagues, I rise to support Senator Chambers' basic intention that prostitution is indeed a tragic situation. It is unfortunate that individuals, for money, have to sell themselves. I don't know what the best

approach is in dealing with this problem. It is a problem in the City of Omaha. It's a problem that has been around since the beginning of time and finding the best possible solution has not always been the easiest job for governmental agencies. At the current time, the way we deal with it in this state is to fine that individual $100. I don't know how effective that has been. We still have the problem and one approach that was talked about in committee is through educational programs, helping these individuals that are tragically forced to sell their bodies in order to have enough money to live on. I think education and helping these people through treatment programs is the best possible approach, but I don't think you're going to be able to force those individuals into programs to help themselves if you only have a $100 fine. It's not going to be enough justification to force those people into these types of programs. And so for that reason I chose to support Senator Lindsay's bill in committee. Now this amendment that is being offered by Senator Chambers I think probably...probably just would, as Senator Lindsay said, would probably do away with the prosecution or prosecution of individuals arrested for prostitution. You have to have a party involved to testify against that individual. There has to be two people in order for this conviction of prostitution to occur. What this amendment would do would prohibit essentially all prosecutions by the City of Omaha either for prostitution or for pandering and I feel that individuals that are pimps, that are involved and encourage women or men to sell themselves should be prosecuted just as forcefully. Now as I recall, pandering or the act of pimping another individual is a felony, a Class IV felony. We view this as a very h[illegible]sh crime and as a result we impose felony provisions on it. I have nothing but sympathy and compassion for individuals that are forced to sell themselves in order to raise money, but I feel that the only way we can help them is by increasing the penalty and putting these people into treatment programs. And for that reason I will not be supporting Senator Chambers' amendment and I will be supporting the bill onto Select File. Thank you.

SPEAKER BARRETT: Thank you. Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, although this is a subject that might be deemed low in a sense because of what we're dealing with, I think the debate has been on a high level and I'm going to keep it at that point, but I have a number of questions I have to ask Senator Lindsay.

Senator Lindsay, could you briefly state what the concept of entrapment is. I don't mean a legal definition but so that the body will understand what the concept of entrapment is.

SPEAKER BARRETT: Senator Lindsay, would you respond.

SENATOR LINDSAY: Senator Chambers, I...you, having had the same legal education I have, I'd be willing to defer to you on the concept of entrapment.

SENATOR CHAMBERS: Okay, it's not to trick...okay, would you agree that it is when a police officer causes an individual not otherwise predisposed to do something, to enter into an act which would be a crime? More, they go beyond, just creating an opportunity, they actually take affirmative steps that will bring a person into the commission of that illegal act. Would you agree with that?

SENATOR LINDSAY: Yes, I would.

SENATOR CHAMBERS: Now my amendment talks about participation in an act of prostitution. Is a police officer in this sting operation allowed to participate in the act of prostitution?

SENATOR LINDSAY: I think what your amendment goes to is not just the participation...

SENATOR CHAMBERS: No, would you...

SENATOR LINDSAY: ...in the act of prostitution, but also in the soliciting of the act of prostitution.

SENATOR CHAMBERS: Senator Lindsay, could we take it a step at the time, because you mentioned the way these sting operations work without going into detail. Is the officer who engages in the sting operation allowed to participate in the act of prostitution itself?

SENATOR LINDSAY: I am not familiar enough with the enforcement itself to know that, but I would guess not.

SENATOR CHAMBERS: You guess. Would it disturb you if they are allowed to participate in the act of prostitution? Read your bill and see what the act of prostitution is, if you will.

SENATOR LINDSAY: I'm familiar with what the bill says. And, yes, it would. I'm guessing, like I say, I can't give you an answer on that directly because I just...I don't have the familiarity with it. What you're saying I think sounds reasonable and I would guess that you are correct.

SENATOR CHAMBERS: All right, now on soliciting, when they are involved in this sting operation, are they allowed to solicit a person to commit an act of prostitution?

SENATOR LINDSAY: Senator, my guess is that that is an issue that is debated in the courts on a daily basis, I would guess that the entrapment defense is used in prostitution cases on a regular basis whether...how far they are allowed to go, obviously, is a fact question.

SENATOR CHAMBERS: But the point I'm asking you to discuss with me, if you will, is not how difficult it is to prove whether or not what the officer did constitutes a solicitation. What I am asking you, apart from the question of proof, is this. Is the officer allowed to solicit the act of prostitution without being involved in entrapment?

SENATOR LINDSAY: I, again, I don't know. First of all, the defense of entrapment, as you know, is a very technical defense. What exactly constitutes entrapment is generally done on a case by case basis. I can't give you an all-encompassing answer as far as what constitutes soliciting and what, how...what exactly an officer can say before he is engaged in soliciting.

SENATOR CHAMBERS: Senator Lindsay, did anybody who testified on this bill discuss solicitation, or the things that we're talking about here now?

SENATOR LINDSAY: I'm sorry, I don't understand the question, how do they...?

SENATOR CHAMBERS: Was there discussion by those in law enforcement who came from Omaha to support this bill, was any of their testimony addressed to the issues we're talking about now?

SENATOR LINDSAY: To the enforcement procedures?

SENATOR CHAMBERS: Yes.

SPEAKER BARRETT: One minute.

SENATOR LINDSAY: Mmm, I don't believe so.

SENATOR CHAMBERS: And, Mr. Chairman, I'm going to put on my light because I'm going to run out of time. Thank you, Senator Lindsay. Members of the Legislature, I'm in no way critical of Senator Lindsay for bringing this bill because the City of Omaha asked for it. I'm concerned about the kind of laws that we pass. If the crucial issues of what a police officer in Omaha is trained to do while running what is called the sting operation, if that is of no concern to the Legislature I think we are derelict in our duty. If, on the other hand, a police officer is trained to engage in the act of prostitution or to solicit it, then that is entrapment on its face. Now if a woman is standing on the street corner and somebody approaches her, if the mere approach by somebody because she is standing there constitutes solicitation, then any woman that a man finds attractive who he approaches could be accused, the woman could, of soliciting prostitution because she shouldn't look so attractive, she shouldn't be standing in one place long enough for a man to approach her. So there is more involved in soliciting than a woman simply being there and, by the way, my amendment is gender-neutral too because it says he or she. The point that I'm getting to is this, Omaha is asking the Legislature to come down with a sledge hammer on this matter. They are not concerned about education. They are not concerned about rehabilitating these women. They are not concerned about giving them training or encouragement to do something with their life or counseling or making opportunities available. They say a $100 fine is not enough to hurt them, so increase the fine and put them in jail and when they come out, if they were ignorant when they went in, they are ignorant still. They've just been a jailbird now and if they didn't have a $100 to pay before, then let them serve out the sentence and when they come out they are that much poorer and this society has met the problem. We sweep these serious problems under the rug by throwing the people who are victims in jail and locking them up and saying we've done the job, we've raised the level of morality in the society. You don't see any sting operations that go into these west Omaha homes and to these hotels and motels and that run down some of these so-called escort services, do you? And when Larry King, somebody we're talking about in connection with Franklin would hire some of these public relations firms that they cause that provide lists of people, what do you think those lists are for?

But see those kind of people are exempt and we take the people who are the most visible, who can be branded despicable and we can walk on them and I talked about Jesus on purpose. He was condemned for spending time with a woman of the kind that would be hit by this bill, but when it came to the religious people and the preachers, the priests and the rabbis who ultimately told the crowd, kill him, he didn't want to spend time with them. He said, they are the hypocrites, they are like the whited sepulchers. They bind heavy burdens that are hard to bear and they put them on other people's shoulders and won't touch it with their little finger because they have no compassion, no feeling. They want to give the appearance that things are being done which, in fact, are not. And what I am saying is not addressed to Senator Lindsay. I understand why he brought the bill. I'm trying to get us to view this in a broader context and if the Legislature is going to address the issue of prostitution, it shouldn't be by simply imposing a harsher punishment, making it a higher level of crime and then we brush our hands and say that's it. If a woman has a pimp, or if the pimp owns the woman and they impose a heavy fine, he will pay it because it is going to come out of her body and I think it is a tragedy in a society when women can be so degraded and so lacking in self-esteem and self-respect and so ignorant of basic principles of economics that they might go out and sell their body for $500 and then be happy when a man gives her a pair of shoes or a dress, and say this man is good to me. That is a societal problem. People don't wallow in the mud because they like to wallow in the mud. It might be the nature of a hog to do this but it's not the nature of a human being. The nature of a human being is to walk upright...

PRESIDENT NICHOL PRESIDING

PRESIDENT: One minute.

SENATOR CHAMBERS: ...with dignity and when you find people wallowing and crawling like a hog it is because something was done that perverted their nature and turned them into something that they were not supposed to be. And when we see somebody wallowing in the mud it is not our place to put our foot on their neck and say they are there, they chose to be there and, by God, we're going to keep them there. We should at least try to make the effort to make them stand upright, help them understand that the upright position is that which is appropriate to a human being and if there is support that we can

give, we're going to give that to keep you walking upright. We're not a society that should be proud of how many people we throw in jail. So I hope you will adopt this amendment, but to be completely frank with you, whether you adopt it or not, I'm going to offer a motion to kill the bill. But, if you insist on passing it, the least that could be done is to put this amendment on because a police officer not being allowed to participate in the act of prostitution, nor to solicit the act, it wouldn't touch law enforcement in any legitimate activities they engage in anyway.

PPESIDENT: Thank you. Senator Pirsch, please. Thank you, you were the last one so it won't be necessary, but thank you anyway. Senator Chambers, would you like to close, please.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, my close will be very brief. I will ask you this. If the bill is passed, first of all, I'd like to ask Senator Lindsay a question.

PRESIDENT: Senator Lindsay, please.

SENATOR CHAMBERS: Senator Lindsay, if your amendment to the bill, you know the way your bill is drafted, the new language that you put in it were to be adopted, is there a minimum sentence even under the language that you adopt?

SENATOR LINDSAY: No, there is not.

SENATOR CHAMBERS: So a person could still be fined anything from $1, I meant from nothing up to the maximum?

SENATOR LINDSAY: Or sentenced to probation, you're right.

SENATOR CHAMBERS: All right now, if something is imposed in the way of a punishment, say dollars and some time, what does that accomplish? What will be accomplished in practically speaking?

SENATOR LINDSAY: Well I think you're getting into the theories of criminal law, whether it is a deterrent, whether it is a punishment, whether it is an isolation, and it depends. It's intended, I believe, as a deterrent.

SENATOR CHAMBERS: Is the main thing though that Omaha wants is to get these people off the street for a period of time if

possible? Is that the main thing Omaha is concerned about and that is why they wanted this bill brought?

SENATOR LINDSAY: Well...

SENATOR CHAMBERS: Level with me.

SENATOR LINDSAY: I don't know what Omaha's intention was, but I think your statement obviously has some truth to it. That is, I'm sure, part of it.

SENATOR CHAMBERS: Thank you. See how many words it takes for a lawyer to say yes. (laughter)

SENATOR LINDSAY: You ought to see me write a brief.

SENATOR CHAMBERS: I bet it wouldn't be brief. But at any rate, I said I would be brief in my close and that will suffice.

PRESIDENT: Thank you. The question is the adoption of the Chambers amendment. All those in favor vote aye, opposed nay. Senator Chambers, please.

SENATOR CHAMBERS: Mr. Chairman, I would request a call of the house.

PRESIDENT: Thank you. The question is, shall the house go under call? All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

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

PRESIDENT: The house is under call. Will you please record your presence. Unauthorized personnel please leave the floor and those not in the Chamber please return to the Chamber and record your presence. We're looking for Senator Ashford and Senator Baack, Senator Bernard-Stevens. Senator Dierks, would you record your presence, please. Senator Goodrich, Senator Haberman, Senator Hefner, Senator Moore. We'll add Senator Schellpeper to that. Senator Goodrich, would you record your presence, please. Thank you. Did you want a machine vote, Senator Chambers? Roll call vote. I think we're looking for one more, are we not, Mr. Clerk? Okay, the question is the adoption of the Chambers amendment, roll call vote. Mr. Clerk.

CLERK: (Roll call vote taken.) 12 ayes, 26 nays, Mr. President.

PRESIDENT: The amendment fails. While the Legislature is in session and capable of transacting business, I propose to sign and do sign LR 23. The call is raised. We're back to advancing the bill. Senator Chambers, did you wish to speak, please?

SENATOR CHAMBERS: Yes, Mr. Chairman, in the interest of trying not to engage in futile acts, I'm not going to offer a kill motion as I had indicated. I will simply say that I hope the bill does not advance. Carrying through the thread that I had started by making references to the New Testament, the 12 people who voted aye, I would dub "the twelve". (laughter) What are you booing for? The twelve what? As a person thinketh in his heart, or her heart, so is he, so is she. All I said was the twelve, right? Thank you, Senator Landis. Members of the Legislature, I hope you won't advance this bill. The problem that it seeks to address is not going to be addressed by this bill. It will be a statement of some kind. There is no getting around that. It will be interpreted as the Legislature really being concerned about prostitution and really doing something about it. But the fact of the matter is that if Omaha had not enacted an ordinance, then this bill would not even be before us. Omaha is legislating for the state by trying to get the state law to comport with their ordinance and the Legislature probably will agree to do it because that is the way the Legislature operates. There might be an occasion when I will attempt to do the same thing, so the approach that Senator Lindsay is taking is not what I'm taking issue with and I want that crystal clear because my comments have been very forthright. I want it understood that I'm addressing the issue and I think that this bill is not going to achieve any of the things that are being asked for here. I would like to ask...I'd like to ask Senator Lindsay a question.

PRESIDENT: Senator Lindsay, would you respond, please.

SENATOR CHAMBERS: Senator Lindsay, is it anticipated that if this law would take effect that it would be different than the ordinance that Omaha has on its books?

SENATOR LINDSAY: Will it be different, you mean in terms of penalties or...?

SENATOR CHAMBERS: Yes.

SENATOR LINDSAY: Yeah, there are two major differences. Well, I take that back, not the citations...I think the city's, under their ordinance there, they are allowed to arrest under the ordinance as opposed to prosecuting under state law. So that won't be a change. There will be a change in the penalties. It will be...I think Omaha's city ordinance has penalties comparable to a Class II misdemeanor. This would be a Class I.

SENATOR CHAMBERS: Senator Lindsay, and this I don't know the answer to, but I'm going to ask you, what level of offense entitles a person to a jury trial?

SENATOR LINDSAY: You are asking a civil lawyer, huh? I believe it's six months in jail.

SENATOR CHAMBERS: Oh, and what is the punishment allowed under this bill?

SENATOR LINDSAY: I believe it's a year.

SENATOR CHAMBERS: So that means anybody charged with prostitution can insist on a jury trial?

SENATOR LINDSAY: I believe so.

SENATOR CHAMBERS: And a jury trial, does it take time?

SENATOR LINDSAY: I believe so.

SENATOR CHAMBERS: Does it cost money?

SENATOR LINDSAY: Sure.

SENATOR CHAMBERS: Will this bill reduce the cost of enforcing prostitution laws or will it increase it?

SENATOR LINDSAY: It's a good question.

SENATOR CHAMBERS: But you don't have the answer.

SENATOR LINDSAY: I understand what you're saying. Sure, it's going to increase, potentially increase the case load in the court, at least the number of requests for jury trials, but by

the same token, if it has a deterrent effect, it could reduce the number of cases that are filed.

SENATOR CHAMBERS: And if the docket becomes clogged and it begins to cost money, is Omaha going to say that the Legislature put them in a position where it costs them money and maybe the state should help by placing this mandatory approach on them because the jury trial would be a matter of right and will they begin to say that because they have such a backlog of cases they want another judge? If they come to the Legislature with that, would you support them in that request or tell them no?

SENATOR LINDSAY: There are a number of things that can backlog a court. As you know, it's, right now, the DWI cases are causing a tremendous backlog because of the jury demands there. Because people request their right to a jury or because people have a right to a jury, and it might end up having a little more work for the court, I don't think that is a reason whether or not to pass a law. I think we have to determine what state policy is. As far as would I support a request for an additional judge, I don't know.

SENATOR CHAMBERS: Thank you. Members of the Legislature, I will wager that these questions were not presented to the Judiciary Committee and I will wager that had I not raised them on the floor here they would not be a matter of record and perhaps those who offered the bill had not considered them. But if I were a defense lawyer I would insist on a jury trial every time. And then they said, maybe we can bargain. What will you agree to in order not to ask for a jury trial? I'd say a $100 fine at most. They say, you got it, and the law is a mockery, it's hollow. The Legislature gives the appearance that it has done something, but because of the infirmities of the system itself simply being overburdened already with serious matters, is going to have to compromise on this law that the Legislature passed because Omaha asked for it without considering the ramifications. And let's say you reach a point, forget about the jury trial aspect of it and you start putting a lot of these people in jail and there have to be a lot of them to justify you in enacting this law. They have to have persuaded you that there is such a large number of people engaged in prostitution that the state should deal with it and not let the city handle it by ordinance. So where are these people going to go? To the Douglas County Correction Center. They are already talking about having too many people in certain of those mods. So when

you begin to run out of space, what are you going to do? Who even cares? It doesn't make any difference. Pass the law and let others worry about it, and then if there are too many people in the facility and an inmate brings a lawsuit and wins, you think Douglas County might not get the idea that we need to go down there and ask the Legislature to do something about this or at least indemnify us? They are the ones who caused us to have this overflow. The Legislature is often asked to take a position that has not been well thought out by those who are persuading the Legislature to do it. This is why I decided not to offer the kill motion. I'll just present these things for the record and I'm going to vote against the bill and I hope others will vote against it also.

PRESIDENT: Thank you. Senator Pirsch, please, followed by Senator Lindsay.

SENATOR PIRSCH: Thank you, Mr. President and members of the body. One of the pluses that I believe is done or accomplished by increasing this penalty is that those women or those men who had been paying fines and going through the revolving door, using that fine money as a cost of doing business will be stopped by this increase and one of the possibilities was given to us by a minister who is starting a program for former prostitutes, those who want to get out of this system, those who need safe homes and while they find themselves wanting to get out, are intimidated and live in fear from their pimp. And this program, while it is in its infancy, certainly could develop to be an alternative sentencing program that these women could be helped, they could be shown perhaps a different way of life and it would give the opportunity for the courts to do that rather than pay a fine, post a bond, pay a fine and out you go and you move on. I think that's one of the first positive things that I have ever heard of in this area. We all know it has been a problem for a long time and not just a problem in women or sometimes men dressed up as women, standing on the streets to do more than just solicit, but take their victim for muggings, robbings, assaults and far worse crimes than the first one that the...that we think of when we think of the word prostitution. I heartily support LB 116 and believe Senator Lindsay is on the right track and hope that you will support it. Thank you.

PRESIDENT: Thank you. Senator Lindsay, please, followed by Senator Chambers, then Senator Smith.

SENATOR LINDSAY: Mr. President, members of the body, I think I should also go on record as noting that Senator Chambers I think has some valid points, that a great number of the prostitutes, of the women who are engaged in prostitution are themselves victims. However, state law as it currently stands, which is a Class V misdemeanor, a $100 fine and a citation, is not going to rehabilitate them. It is not going to give them the opportunity for the rehabilitation. I think that opportunity is available either through probation or as we heard in the Judiciary Committee testimony, it is offered through some prison programs. Rehabilitation in the area of prostitution is...the rehabilitation itself is a fairly new concept. There were a couple of people who appeared at the Judiciary Committee who did testify that they are getting into that area, that area of rehabilitation, but I just don't think if we leave, and what we have to remember is we're going to leave this at a Class V misdemeanor without that. We're going to leave this with a mandatory issuance of a citation. We will not be allowed to arrest, we will not be allowed to do anything more than increase the cost of doing business, period. We will not provide the assistance that I think every member of the Legislature agrees that it should probably be provided, but it will not be provided under the current, under the status quo. It's a possibility it could be provided under LB 116. Senator Chambers also brings up a point of the pimps, of the panderers, and I think it's a good idea that the way the statutes read now that it's a felony to engage in pandering. Yes, that is the worse of the evils I guess. Those who are involved in that should be penalized as for a felony offense, but that's not what we're dealing with here. That law is on the books, that law can be, if they can come up with the evidence to provide a conviction, they can and do so. I agree those should be punished but we're not dealing with the pimps in this legislation. It is already being provided for. We're dealing with the prostitutes themselves. I, again, I do support this legislation, I do support it strongly. Those who are familiar with my district, with the 9th District, would know that and, again, to an extent Senator Chambers is correct in that that is where the visible prostitution activity is. Again, I don't think that this legislation limits it to the visible activity. I think that this legislation, if the enforcement procedures are utilized, can be used for some of the escort services or the other forms of prostitution that Senator Chambers was referring to. This does not limit it to street walkers, it refers to the crime of prostitution. I think Senator Chambers has some valid points,

but by the same token the status quo is not going to correct those. LB 116, I believe, is a step in the right direction. It does provide those tools and I would reiterate that under a Class V misdemeanor, probation is not a feasible alternative. Nobody is going to accept probation instead of a $100 fine that is going to be paid, as I think somebody has already pointed out, is going to be paid by the pimp anyway. In order to even provide some of the rehabilitative services that probation might offer or that some of the groups that testified have offered, there has to be the incentive. A $100 fine and moving on up the street a little bit further is not going to accomplish that. I urge that LB 116 be adopted.

PRESIDENT: Thank you. Senator Chambers, please, then Senator Smith.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, what I think this bill and the discussion really disclosed is how difficult it is to deal with ingrained social problems by means of legislation that offers only punishment. It is easy to circumvent it by the one who is to be punished but it places a heavy burden on the system that has to administer it. Let's say that a woman is picked up for prostitution and since it carries the possibility, the conviction of this jail time, she can insist on a jury trial. Well I believe that the more serious offenses are going to be taken to trial first, so she gets out on bond and she is not on trial, she is not going to jail but she is carried on the books and the paperwork and the court's docket has to continue to accommodate more and more of these people who are asking for a jury trial. So it could be conceivably...I wish there was a criminal, I meant, an attorney who practices criminal law, oh, Senator Kristensen, I would like to ask you a question. Senator Kristensen, and I'm asking this as a question. I'm not making it as a statement. Is it the practice when jury trials or cases are going to go to trial, we know that there is a six-month requirement, six-month speedy trial. Are the more serious cases tried first or how would that be handled?

SENATOR KRISTENSEN: First of all, I want to make sure that you're not insinuating the way I practice law is criminal.

SENATOR CHAMBERS: That's why I said a lawyer that practic...oh, yeah, however I said it, if I would have said a criminal lawyer...

SENATOR KRISTENSEN: Yeah.

SENATOR CHAMBERS: ...same thing, one who practices criminal law, same thing, a lawyer whose practice relates to criminal activities. (laughter)

SENATOR KRISTENSEN: Generally...

SENATOR CHAMBERS: No, go ahead.

SENATOR KRISTENSEN: I'm not gaining, am I? Generally, what is set for trial, if there are felonies, of course, they are up in district court, so the more serious ones are not down in the county court so, and I would assume that everything you're talking about in terms of prostitution is down in county court.

SENATOR CHAMBERS: That's what I will ask you because it's...

SENATOR KRISTENSEN: Right.

SENATOR CHAMBERS: ...a misdemeanor, where will it be?

SENATOR KRISTENSEN: It will be down in county court.

SENATOR CHAMBERS: Okay, and how would that be handled?

SENATOR KRISTENSEN: Then, at least in my jurisdictions and the ones that I am familiar with, in terms of the cases that are getting closest to the six-months get tried first.

SENATOR CHAMBERS: So if there are serious cases pending and there are less serious cases pending, and they all are approaching the six-month time limit, and for those who may not know, what happens if that speedy trial time limit is passed through no activity on the part of the defendant to delay the coming to trial?

SENATOR KRISTENSEN: As long as there is no moves or time attributed to the defendant, that case can be, upon the motion of the defendant, dismissed.

SENATOR CHAMBERS: So if there are a number of serious cases approaching that time limit and a number of prostitution cases approaching that time limit, which ones are likely to be

salvaged by being taken to trial?

SENATOR KRISTENSEN: At least in my jurisdictions, the ones that were filed first. They go date of filing and not on degree of seriousness.

SENATOR CHAMBERS: So if there were a number of prostitution cases that were backing up, then conceivably they could be, if a number of them were filed at the same time, conceivably some could wind up being dismissed because they could not be tried within the six-month period.

SENATOR KRISTENSEN: They could be dismissed and then refiled.

SENATOR CHAMBERS: And that would be additional action and the person, if they're out on bond, they would be allowed to get out on bond again if it is refiled, is that correct?

SENATOR KRISTENSEN: Well, I doubt if anybody...unless it is a very serious in terms of this is their seventh rate offense and that is a whole other issue, but generally what is going to happen is that those people will not come back in if the case is dismissed because of the speedy trial problems, they are not brought back in, they are not rebooked for anything.

PRESIDENT: One minute.

SENATOR KRISTENSEN: What happens is they just refile that case and start all over again, so in those terms, yes, they do have some additional paperwork to do. Then it comes down to a matter of your discretion and your judgment. How important is it to you? And that is where you make those value judgments or those discretion judgments.

SENATOR CHAMBERS: Thank you. And I'm not going to make any judgmental comments about the discussion Senator Kristensen and I have had, but simply to let you see that this is not as clear-cut and easy a remedy as may have been offered when the bill was presented to the Judiciary Committee, when the committee advanced it to the Legislature and when the Legislature votes to advance it, but I definitely will not vote to advance it and I hope a number of you will join me in voting no.

PRESIDENT: Thank you. Senator Smith, please.

SENATOR SMITH: Thank you, Mr. Chairman. Members of the body, I have to say that today my fancy has been captured by Senator Chambers and I'd like to say what Senator Hall said to me the other day when he said, Jackson, you convinced me. Senator Chambers convinced me this morning, because of listening to what he all had to say, but I have a series of questions that I would like to ask and I think I'll direct those to you, Senator Lindsay.

PRESIDENT: Senator Lindsay, would you respond, please?

SENATOR SMITH: I don't intend to try to get, you know, to appear to be in contest with anyone who is of legal mind, but I do have some questions just because of listening to this. First of all, Senator Lindsay, you have been using the word "victim" a number of times this morning, haven't you?

SENATOR LINDSAY: Yes.

SENATOR SMITH: Can you define what you mean by that?

SENATOR LINDSAY: Oh, I think as Senator Chambers went through in his first oration...

SENATOR SMITH: No, how do you define the victim?

SENATOR LINDSAY: I was using the term that Senator Chambers had used. He defined it himself in his opening oration.

SENATOR SMITH: No, I don't want you to tell me what Senator Chambers said, I want you to tell me what you define the victim as being.

SENATOR LINDSAY: The victim in this case, what I am referring to is that, sure, prostitutes as a general rule do not go out and say, hey, this seems like, when they're in high school, this seems like the career choice that I want to follow, it beats law school, it beats med school. No, it is a victim of circumstances. They...it is not, I believe, a profession of choice.

SENATOR SMITH: All right, the second question that I have is, do you believe that fining the victim that you just defined to me is going to eliminate the problem?

SENATOR KRISTENSEN: Do I believe that what?

SENATOR SMITH: That fining the victim will eliminate the problem.

SENATOR KRISTENSEN: Absolutely not.

SENATOR SMITH: Then what is the purpose of the bill?

SENATOR KRISTENSEN: To eliminate the situation you just suggested.

SENATOR SMITH: Do you think it will eliminate the situation?

SENATOR KRISTENSEN: It is going to make a change. If you, under the current law, Class V misdemeanor, all you can do is fine them.

SENATOR SMITH: Will the victim have to work harder, if you want to use that expression, to try to make up the difference in the amount of money that it now costs?

SENATOR KRISTENSEN: I think the intent of the legislation is to prevent the person from working at all.

SENATOR SMITH: One of the other things that you commented on is that this deal...this bill deals with the victim, not with the pimp. Why don't you deal with the pimp instead of...?

SENATOR KRISTENSEN: Because we're already dealing with the pimp and the legislation, or excuse me, the statutes already carry a penalty for pimps and I...if you'd like to propose legislation...

SENATOR SMITH: No, now just a minute, whoa, just a minute now, okay, because these are my questions that I'm trying to pursue here.

SENATOR KRISTENSEN: Okay.

SENATOR SMITH: All right, now you're saying that the law already deals with the pimp. Then why do we need to increase the penalty? Is that law not working?

SENATOR KRISTENSEN: The law on pimps?

SENATOR SMITH: Regarding the pimp.

SENATOR KRISTENSEN: Oh, obviously not.

SENATOR SMITH: Well then, do you think it's going to solve the problem to go after the victim?

SENATOR KRISTENSEN: The victim is still a criminal. We...the Legislature has for years, in the ten years that I wasn't here, has declared a public policy of the state that prostitution is a criminal activity. So the victim is still a criminal, don't forget that change, and yes, it will.

SENATOR SMITH: And you're saying here an unfortunate person due to the circumstances beyond their control, so on and so forth. Okay, the next question is, what can be done by ordinance in the City of Omaha at this time?

SENATOR KRISTENSEN: What can be done or what...?

SENATOR SMITH: What can be done. Can this be done...can this problem be taken care of in Omaha instead of it becoming a state problem?

SENATOR KRISTENSEN: That is, as I mentioned, I think that there is a serious doubt as to the constitutionality of the Omaha city ordinance, in which case the state law prevails. I think in 1979 when they recodified the law, they decriminalized prostitution and...or not decriminalized it, but made it a $100 infraction. That is what will happen in the absence of this legislation.

SENATOR SMITH: Did you check to see? You said you think it may be unconstitutional. In other words, you don't know that it is. Did you check before you introduced this legislation to take care of the problem on a state basis, you didn't check to see if, in fact, it was unconstitutional?

SENATOR KRISTENSEN: Well, I don't think that I'm qualified to pass on whether it is constitutional or not. I have my opinion that I believe it is, but I'm...until the Supreme Court rules on it, I don't think it is unconstitutional.

SENATOR SMITH: Okay and then finally...

PRESIDENT: One minute.

SENATOR SMITH: ...I think something else that Senator Chambers brought up a little while ago, we tend to do things in here and after being here now, this is my fifth year, I'm beginning to learn that the more we enact law it seems like the more we create the need for more law and increase the cost to the state and then we all keep talking about, you know, how...or the way our budget is going, where is it going to end, and I think that Senator Chambers has made a lot of valid points. I hope other people were listening to him this morning and I certainly hope he speaks to the things that I have just addressed here if he has another opportunity to speak. Thank you.

PRESIDENT: Thank you. Senator Abboud, please. Thank you, you're the last one, but thank you anyway. Senator Lindsay, would you like to close on the motion to advance?

SENATOR LINDSAY: Yes, Mr. President, members, the current state of the law in Nebraska right now is that prostitution is a Class V felony. The Omaha...in Omaha there is a city ordinance which also sets a penalty for prostitution which is in excess of that. There is a question, in my opinion I believe that it is unconstitutional and could very well be decided that way. Now I wouldn't say that the Supreme Court would agree with me. I don't think I'm in a position to say that, but I think there is a serious problem there. I think that the points that have been brought up and I would address the question that we've talked about, the pandering; 28-802 of the statutes provides that pandering is a Class IV felony. It is a felony under current law. We do consider it to be the more serious of the crimes. Prostitution, as I've mentioned, or at least the prostitutes, and I'm sure I'm going to run into people differing with me even in the body here. Some people say it is a victimless crime. Some people say that the victim is the prostitute. Others say that the victim is society as a whole. Regardless of who the victim is, there is a problem with prostitution and I would invite any of you to my district or to Tim Hall's district to come on down and take a look for yourselves. There is a problem in that 9th District. Be careful when you go there. To address a couple of Senator Chambers' questions that I forgot to address in my last time I talked, first of all, I don't think this is going to increase the...it is going to cause this huge backlog

in the courts that will diminish everybody's chances of obtaining justice. I suggest that the scenario that he, that Senator Chambers put forth that they will plea bargain it and request that minimum $100 fine, that is not going to occur. Right now they are backlogged on DWIs, well, I don't know if they are backlogged, but there is a waiting list on DWIs and, believe me, they don't offer you the minimum on those DWIs. You still go to trial with them whether you request that jury trial or not. Number two, it is not going to overcrowd the jails and I would argue, number three, that I don't believe that because the present facilities are not capable, that that is a reason to not enforce a public policy that this state has already determined, or excuse me, an act that this state has already determined to be contrary to the public policy. I would urge you to advance LB 116. I think that without LB 116 advancing, that when somebody comes back in in the next year or two and says, hey, prostitution is an infraction, all you can get is a ticket for it, that you will remember that this is what this bill is designed to correct. It is to look forward to a potential problem, that being the unconstitutionality of the city ordinance, and to take care of that problem before the actions of the Supreme Court may end up striking it down. I'd urge you to join me in advancing LB 116.

PRESIDENT: Thank you. The question is the advancement of LB 116. All those in favor vote aye, opposed nay. Senator Lindsay, please.

SENATOR LINDSAY: Mr. Speaker, I'll ask for a call of the house and a record vote.

PRESIDENT: Thank you. The question is, shall the house go under call? All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 16 ayes, 1 nay to go under call, Mr. President.

PRESIDENT: The house is under call. Will you please return to your seats and record your presence. Those not in the Chamber, please return so that we may take this vote. Unauthorized personnel please leave the floor. We're looking for Senator Warner. Thank you. The question is the advancement of the bill and a roll call vote has been requested. Mr. Clerk.

CLERK: (Roll call vote taken. See pages 592-93 of the

Legislative Journal.) 26 ayes, 14 nays, Mr. President, on the advancement of LB 116.

PRESIDENT: The bill advances. The call is raised. Mr. Clerk, for the record.

CLERK: Mr. President, your Committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 342 and recommend that same be placed on Select File with E & R amendments and LB 344 Select File with E & R amendments. Those are signed by Senator Lindsay as Chair. (See pages 593-95 of the Legislative Journal.)

Education Committee reports LB 250 to General File with amendments. That is signed by Senator Withem. (See page 595 of the Legislative Journal.)

Health and Human Services reports LB 157 to General File, LB 360 General File, LB 520 General File. Those are signed by Senator Wesely as Chair. (See page 595 of the Legislative Journal.)

Government Committee reports LB 340 to General File with amendments attached. That is signed by Senator Baack as Chair. (See pages 595-97 of the Legislative Journal.)

New A bill, LB 92A by Senator Landis. (Read by title for the first time. See page 597 of the Legislative Journal.)

And, Mr. President, Senator Coordsen would like to add his name to LB 603 and to LB 289; Mr. President, Senator Smith to LB 325 and Senator Byars to LB 732. (See page 597 of the Legislative Journal.)

In addition to those items, Mr. President, I have a series of amendments to be printed to LB 48 from Senator Moore. (See pages 597-600 of the Legislative Journal.) And that is all that I have, Mr. President.

PRESIDENT: Senator Beck, would you like to say something to us?

SENATOR BECK: Yes, Mr. President, I would. I move that we adjourn until next Monday morning at nine o'clock and that is February 6.

PRESIDENT: Thank you. You've heard the motion. All in favor

PRESIDENT: Senator Nelson, would you object to the bracketing?

SENATOR NELSON: No. I just tried to get some attention on my mike. I didn't run up there at the front and no one asked me. I didn't say yes, I didn't say no, and it is all right with me to pass over the bill until February 22. As I've said many times, I'm willing to listen, I'm willing to learn, I'm willing to amend the bill as it is, but we're talking about a serious thing so I'm very willing.

PRESIDENT: May I ask, are there any objections to bracketing this bill until February 22? If so, now is the time to say so. If not, the bill is bracketed until February 22. Do you have anything for the record, Mr. Clerk?

CLERK: Mr. President, I do, thank you. Your Committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 92 and recommend that same be placed on Select File; LB 459 Select File; LB 458 Select File; LB 116 Select File; LB 267, LB 208, LB 92A, LB 158A, LB 175A, LB 177A, LB 261A, LB 277A, LB 284A, LB 312A, all on Select File. Those are signed by Senator Lindsay. (See pages 647-51 of the Legislative Journal.)

Mr. President, your committee on Transportation whose Chair is Senator Lamb reports LB 369 to General File with amendments. That is signed by Senator Lamb. Your Committee on Enrollment and Review reports LB 43, LB 80, LB 82, LB 106, LB 113, LB 165, LB 166, LB 171, LB 172, LB 177, LB 194, LB 200, LB 296, LB 312, LB 321, LB 322 and LB 353 all are reported correctly engrossed, Mr. President. That is all that I have at this time, Mr. President. (See page 651 of the Legislative Journal.)

PRESIDENT: Very good. We'll move on then LB 238.

CLERK: Mr. President, 238 was a bill that was introduced by Senator Hall. (Title read.) The bill was introduced on January 9, referred to Business and Labor, advanced to General File. I do have committee amendments pending by the Business and Labor Committee, Mr. President.

PRESIDENT: Senator Coordsen, are you going to handle those committee amendments?

CLERK: (Read record vote as found on pages 671-72 of the Legislative Journal.) 33 ayes, 11 nays, 1 present and not voting, 4 excused and not voting, Mr. President.

PRESIDENT: LB 156 passes. LB 256.

CLERK: (Read LB 256 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 256 pass? All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: (Read record vote as found on pages 672-73 of the Legislative Journal.) 45 ayes, 0 nays, 4 excused and not voting, Mr. President.

PRESIDENT: LB 256 passes. While the Legislature is in session and capable of transacting business, I propose to sign and do sign LB 57, LB 94, LB 97, LB 126 with the emergency clause attached, LB 133, LB 229, LB 230, LB 233, LB 251, LB 255, LB 295, LB 58, LB 70, LB 115, LB 142, LB 156, and LB 256. Mr. Clerk, do you have anything for the record?

CLERK: Mr. President, two items. Government Committee reports LB 191 to General File with committee amendments attached. I have amendments to be printed, by Senator Chambers, to LB 116. That's all that I have, Mr. President. (See page 673 of the Legislative Journal.)

PRESIDENT: Thank you. For those that are interested in the General File list that is coming up, we'll be skipping the third one, LB 744, and over on the back page LB 336. So, with that, we'll go to General File and LB 327.

CLERK: Mr. President, LB 327 was a bill introduced by Senator Wehrbein. (Read title.) The bill was introduced on January 11 of this year, referred to the Government Committee, advanced to General File. I have committee amendments pending by the Government Military and Veterans Affairs Committee, Mr. President.

PRESIDENT: Senator Baack, are you going to handle the committee amendments?

SENATOR LINDSAY: Mr. President, I move that LB 458 as amended be advanced to E & R Final.

PRESIDENT: You have heard the motion. All in favor say aye. Opposed nay. It is advanced. LB 116.

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

PRESIDENT: Okay.

CLERK: Mr. President, I have an explanation of vote offered by Senator Abboud. A new A bill, LB 37A by Senator Rod Johnson. (Read for the first time by title. See page 720 of the Legislative Journal.)

I have a motion from Senator Hannibal to reconsider the Final Reading vote on LB 165. That will be laid over.

I have amendments to be printed to LB 298 by Senator Barrett. (See pages 721-22 of the Legislative Journal.) That is all that I have, Mr. President.

PRESIDENT: Now back to LB 116, please.

CLERK: Mr. President, on LB 116, the first item, I have no E & R. I do have an amendment pending, though, by Senator Chambers, Mr. President. Senator Chambers.

PRESIDENT: Senator Chambers, please.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, this is the bill which is increasing the penalty on prostitution to try to bring state law into compliance with Omaha's ordinance. I am offering an amendment that would prevent any person who is a party to the act of prostitution or the solicitation of prostitution from testifying against the other party. This is a crime which can only exist if two people are involved. Society, as I pointed out on General File, has decided to place the onus on the female member or participant. In Omaha, there is a problem with male prostitutes, homosexual, and probably some heterosexual, but that is not the problem that the businessmen ever discuss or express any concern about. So even when it comes to one who is engaging in prostitution selling his body or her body, the one who does the selling that is to be condemned and placed under this heavy punishment is the

female. There are male prostitutes in Omaha and they operate not too far from the Omaha Police Division and not too far from the Douglas County Correctional Center, but since there are not a lot of businessmen down there raising a stink, nobody seems to be concerned about that. So it is clear that prostitution, as such, is not what is being attacked in this bill, but only certain parties who participate. You all may have followed the news accounts recently of the number of inmates who have to be released at the state level because of overcrowding. I decided that I would call the Douglas County Correctional Center and see if there is a problem existing right now in terms of overcrowding where females are concerned. They have 44 beds for females at the correctional center. Right now there are 61 women in custody, 44 beds, 61 in custody. To accommodate these women, the dayroom area is being used and they are double bunking them. There are still some who have been described as residuals from the racing season who are being held for prostitution. Although there is much discussion about how much good Ak-Sar-Ben does for the city, nobody seems to mention the fact that prostitutes follow the races, that when the races are in town, the prostitutes are here in greater numbers, but nobody wants to make the tie-in to the race track that is obviously there. There will be an influx of these persons when the racing season comes. If they are sentenced to jail, there will be increased overcrowding, but there is something that I think should be brought to your attention that I didn't touch on last time. When a man is arrested in connection with prostitution, he gets the fine. When the woman is arrested, she goes to jail. When they argue for this kind of legislation, they argue only in terms of putting these women in jail, getting these women off the street, but the men who are the customers will pay a fine and be released. So it is clear that the bill is going to continue to entrench the kind of gender discrimination that exists right now in the administration of the existing ordinance and the existing state law. I think it is not proper for the Legislature, and because of the subject being discussed I hate to use the term "fair", but I will. It is not fair to enact a state law when we know in advance that it is going to be applied in a discriminatory fashion. Many laws, which on their face might be constitutional, are declared to be unconstitutional in their operation, and we know that important businessmen in Omaha are not going to be put in jail for prostitution. There is a city attorney in one of the suburban cities near Omaha fighting right now to try to have some additional money paid to him because I think he had to give up his job as city attorney

because he was fined in connection with prostitution. So it is clear that men are going to be treated more leniently. My amendment would take away one of the methods by which one party or the other can obtain more lenient treatment. We should have a philosophy in this Legislature when it comes to prostitution, even if we don't apply it to any other offense, that both parties will have to be convicted. There is no way for one party to be innocent and the other guilty when you cannot have the crime without two guilty people, but if the man can afford to hire a high-priced lawyer, then he is going to have a better chance at beating the charge. So if a man gets one of these high-priced lawyers and he has been involved with a woman who is going to be charged with prostitution and he obtains an acquittal, then the charges against the female should be dropped automatically. Should she be so unfortunate as to have to go before the bar of injustice before the man and she winds up being convicted, if after her trial the man is acquitted, then her conviction should be overturned and there should be no punishment imposed on her even following a conviction until after the man's trial and we see what the outcome of that is. If I want to clap my hands, I cannot do it with one hand. The same way with prostitutions and with certain other crimes. If a person is going to be convicted of receiving stolen property, the property must have first been stolen. So what I am hoping that you will do is adopt this amendment, and then we can proceed.

PRESIDENT: Senator Smith, please, followed by Senator Lindsay.

SENATOR SMITH: Thank you, Mr. President. Members of the body, I don't know...I guess first of all I would like to ask Senator Chambers, what is your amendment, Senator Chambers?

PRESIDENT: Senator Chambers, would you like to respond to that question, please?

SENATOR CHAMBERS: Yes, I didn't hear the question, Senator. I was looking at a note.

SENATOR SMITH: What is your amendment?

SENATOR CHAMBERS: It would say, as the one did on General File, that one party to the act cannot testify against the other.

SENATOR SMITH: Okay, and I don't know whether I should speak to

that or not. Maybe I should wait until the bill, Mr. President, because I do want to speak on the bill instead of this amendment.

PRESIDENT: All right, Senator Lindsay, please, followed by Senator Abboud.

SENATOR LINDSAY: Senator Chambers in his argument stated that it appears that the prostitutes do follow the race tracks ard I am suggesting that maybe we ought to think about selling the race track up in Omaha as a...let me respond to some of Senator Chambers' arguments. First of all, and I apologize, I didn't hear the answer to the last question and I am not clear on exactly what the amendment is. Would Senator Chambers respond to a question?

PRESIDENT: Senator Chambers.

SENATOR CHAMBERS: Yes, I will.

SENATOR LINDSAY: Senator, is this the amendment that is on page 673 of the Journal that refers to competency to testify?

SENATOR CHAMBERS: Yes.

SENATOR LINDSAY: Okay, thank you. I think, first, the amendment that is suggested is not going to cure those problems that Senator Chambers points out. All this amendment will do is eliminate the sting operations which is the only real method of enforcing the prostitution ordinance right now or the prostitution statute as it would exist. It does nothing more than that. Some of the problems that Senator Chambers points out with regards to the disparate treatment of male versus female I don't think exist in more recent times, I guess, primarily because at least in Omaha one of the ways they have found to deter prostitution is to cut down on the number of customers. In 1988, there were 233 arrests in Omaha for soliciting prostitution. There were 334 male arrests. There were about half again as many male as female arrests. This is not a bill that drives only at the female, at the prostitute, it drives at both. This, and as a matter of fact, as being enforced in Omaha right now, the ordinance, it is resulting in more male arrests than it is resulting in female arrests. This is not intended as a bill to be some...act in someway discriminatory towards women. It is just not the intent or the

effect of the bill. Regarding overcrowding that Senator Chambers argued to, overcrowding in the jails, taken to its logical conclusion, I don't think we should just start cutting back on any crimes that we have because we don't have room to keep the people. I don't think the existence or nonexistence of space in jails is a reason to not...to either make or not make a particular act contrary to public policy. I think we have to determine that act on its own merits. As far as some of the disparate sentencing, itself, of fines versus jail time, I would suggest that the difference in some of the sentences is, and I would agree with Senator Chambers, that on many occasions the male is fined $100, whereas, the female may get jail time. I would suggest though that is not just because of a difference in gender, but rather goes to other factors involved in sentencing, for example, number of prior offenses. I think we have to look at the whole sentencing procedure rather than one small area of what appears in a newspaper. So I don't think that argument flies. Again, I would repeat, this is the amendment that I believe was voted down on General File, and I would point out again that all this amendment does is to disallow enforcement of the statute. If you are going to vote for the amendment, there is no reason to vote for the bill, itself, because it is unenforceable. I think this amendment, what it will do effectively is to gut the bill. I would urge you to reject the Chambers amendment and advance the bill.

PRESIDENT: Senator Chambers, you are up. Did you wish this to be your closing or not on your amendment?

SENATOR CHAMBERS: Yes, Mr. Chairman and members of the Legislature, Senator Lindsay touched on a very crucial issue that I think is being lost on the body but is not being lost to the record. Overcrowding is very serious. I have talked to the people who run the Corrections Department at the state level, those at the county level, and they do have a problem with legislators saying all we are going to do is criminalize the conduct. We don't care whether there is space or not. That is not our concern. But it is because we are the ones who overcrowd, and then when those people cannot be properly handled, when order cannot be maintained, if federal decisions come down and say let these people go, then the legislators turn it back on the courts. But it is the silly kind of bills like the kind being offered here now where we say it doesn't matter that there already is overcrowding. There already is overcrowding, and it is an issue that this Legislature should be

concerned about. I don't know if Senator Lindsay is aware of it so I will ask him. Senator Lindsay, will you yield to a question?

SENATOR LINDSAY: Yes, I will.

SENATOR CHAMBERS: Are you aware that they have released a number of people from the state penal facilities and are in the process of having to release more because of overcrowding?

SENATOR LINDSAY: I believe I have read that in the newspaper, yes.

SENATOR CHAMBERS: And that doesn't...you're not concerned about that and you feel it's not anything that the Legislature should be interested....Well, you don't feel it's...it should be a concern...of concern to the Legislature when we...

SENATOR LINDSAY: No, I have not said that. I have said that that is not a...I do not believe an appropriate reason to decide whether something should or should not be public policy.

SENATOR CHAMBERS: Is...

SENATOR LINDSAY: I agree that overcrowding should be addressed, but I don't think in terms of saying what is and what is not a crime is the proper manner to do that.

SENATOR CHAMBERS: Does this bill attempt to establish prostitution as a crime? No, I'll answer it, no, it doesn't. Prostitution has already been determined a crime. We're not determining a policy here with reference to whether conduct is considered illegal or not, do you agree with that?

SENATOR LINDSAY: Whether the conduct itself is illegal? And to...and I think what you are saying is, yes, it has already been determined by the Legislature that public policy of the state is that prostitution should be criminal.

SENATOR CHAMBERS: Right. And this bill would seek to make the punishment more harsh, isn't that correct?

SENATOR LINDSAY: Under state law, correct.

SENATOR CHAMBERS: And included in that harsh a punishment would

be a time of incarceration.

SENATOR LINDSAY: That is correct.

SENATOR CHAMBERS: And if there is overcrowding right now, and more people are incarcerated, this bill does address overcrowding in a negative sense, doesn't it?

SENATOR LINDSAY: Not necessarily. I think you're forgetting that under the Omaha ordinance they're already providing jail sentences.

SENATOR CHAMBERS: And if this allows more, because as you know and I know that ordinance which is stricter than the state law very well could face a successful constitutional challenge. But the purpose of this is to allow increased incarceration, isn't it?

SENATOR LINDSAY: That is one of the purposes, yes.

SENATOR CHAMBERS: And, if there are more people placed in a facility which is already overcrowded, won't that further overcrowd it, or will that reduce the overcrowding? In other words, if you add more people, will that reduce the number who are there or increase the number?

SENATOR LINDSAY: To an....By adding people, sure, you're going to increase.

SENATOR CHAMBERS: And do you think a point could be reached, at the county level, in Nebraska as it has in other states where a court could order that no more people be placed in this facility, whatever one it is that is overcrowded?

SENATOR LINDSAY: A...sure.

SENATOR CHAMBERS: Thank you. Members of the Legislature, as I stated on General File, my criticisms are not of Senator Lindsay in bringing this bill, because he has been approached by people who see what they perceive as a serious problem.

PRESIDENT: One minute.

SENATOR CHAMBERS: But we have to consider our responsibility as a Legislature when we address that problem. The easy thing, the

knee jerk reaction is to say lock the people up whom you don't want to see, and that will solve the problem. When you get to the other end, where a problem has been created, then the legislators will wash their hands and say, that is not a matter for us to be concerned about. But I think we should look at the entire complex. Mr. Chairman, since some people may not see this amendment as really touching on the real problem, and we don't have that many people here, I will withdraw that amendment and take up the motion that I have now on the desk.

PRESIDENT: All right, it is withdrawn. Mr. Clerk, the next amendment, please. May I introduce some special guests in the north balcony. From some districts in Omaha and other areas we have eight Nebraska Council for Exceptional Children, their teachers and administrators. Would you folks please stand and be recognized. Thank you for visiting us today. Mr. Clerk.

ASSISTANT CLERK: Mr. President, the next motion is from Senator Chambers. He'd move to indefinitely postpone LB 116.

PRESIDENT: Senator Lindsay, what do you say to that?

SENATOR LINDSAY: We'll take it up.

PRESIDENT: Take it up? Senator Chambers, please.

SENATOR CHAMBERS: Now, Mr. Chairman, we can get directly to the issue of what the bill is, what it attempts to do and then we can consider what it actually does. First of all, we know that it will not diminish the number of arrests for prostitution. There will be at least as many arrests as now and probably more. It will probably increase the number of women who wind up going to jail. You notice that when Senator Lindsay talked about the number of men arrested he did not state any figures in terms of the number who are put in jail as a punishment. And, if he would check those statistics, he'd find out it's far fewer in terms of men who go to jail than woman. There will be more jury trials. Jury trials take time, they consume money, they consume person power. And we just had the Chief Justice and some other judges and people talking about and they didn't use this term, but conservation of judicial resources because of the number of issues that the Supreme Court has to deal with and it finds itself unable to deal with them. This idea of legislating in this fashion fits the same description of kangaroo justice. That term was applied to courts which are so arbitrary and

capricious in their operation that it was stated that justice in those courts proceeded in leaps and bounds, like the movements of a kangaroo. That is the way the Legislature tends to pass laws. Instead of looking at the criminal justice system, instead of establishing priorities, allowing the system to do that which it feasibly can do and discard these kinds of bills such as this that make a show but don't really produce justice or an improvement in the operation of the system. If we would do that, we would wind up having wise and just laws. Somebody stated that the best period in human kind during the period of recorded history is from the accession of a man called Nerva until the death of Marcus Aurelius. There was a series of a half a dozen or so rulers who had in mind, based on what we're told from recorded history, the welfare of the public, of the people. No self-seeking, no personal enrichment through corruption, no attempt to elevate the rich above the poor, no passing of laws that took regard to a persons political status, land holdings, commercial wealth or any of the things that influence courts and Legislatures today. If we had a Marcus Aurelius who was sitting in the Governor's office, I wouldn't worry about a bill such as this and some of the others that I argue against because they would be vetoed as being out of line with what a wise and just Legislature would do in terms of passing laws. This bill is not needed because it is not going to solve the problem that those who bring it are attempting to do. Harsh punishments in and of themselves have never had any influence on the commission of any crime, that is throughout history. Harsh punishments have never worked. The code of Hammurabi was very harsh, and there were rulers in other countries and civilizations who moderated those types of punishments because they did not serve a valid penological purpose. This bill, as drafted, would meet the requirements for vindictiveness, for gender discrimination, for giving a sop to an outraged element of the public, but it will not solve a problem. In addition, it will create problems for the system that we are to have concerns about. If this bill is killed, no problem in Omaha will be intensified. If the bill is passed, there are problems in the system that not only will be intensified, but new ones will be created. I hope that what you will do is kill this bill. And if there is a genuine concern about the matter of prostitution we should study that issue and look at it in its many ramifications and we, by applying our collective intelligence, can come up with. We should not just talk about putting people in jail, especially when there is the built in gender discrimination. I hope that you will vote to

indefinitely postpone this bill. And, if there should be a study, and I think there should be that whether this bill passes or not, but we would be on a firmer footing to propose some worthwhile legislation with a study. If there were such a study I would work with those who would be members of the group doing the study. It is a serious problem, it has been with us from the beginning of time, and it will not go away. Women have been abused, set upon and placed in a secondary role since the beginning of time. Even God is portrayed as a man. The church elevates men to positions and say that the women are to be subordinate to men in the church, yet every church that exists and has existed for any period of time has a majority of women doing the drudge work. Cleanliness is next to Godliness. The man is the godly one, the woman who does the cleaning, washing, ironing, scrubbing and cooking is next to godliness. Senator Schmit, that's where that expression came from. A lot of people thought it was because a laundry was built next to a church, but that is not so. And there is probably more cleanliness produced in the laundry than in the church. We've talked about other things this morning and this session that "rebear" on morals. I was upset about alcohol, Senator Smith got a bill that will require the posting of warnings. But have you all noticed that you don't have to pass a law saying people can't go to church on Sunday, and the churches are half filled or fewer people there. You've got to pass a law against liquor being sold on Sunday or the taverns will be filled up. Now they probably have neighborhoods that are more infested or infested with more churches than they are infested with liquor establishments. So we see where people's natural inclinations will take them. But the drug dealers who push the liquor, the drug dealers who push the tobacco are respected people and will not be touched, despite the illness, death and corruption of the society that they sell, that they make billions from. We have women who are victimized by a system that can wink at that, politicians who can accept donations from people who sell that death will suddenly be cloaked with the mantel of righteous indignation and say we must put these women in jail, they must be put in jail, but not the men. We ought to kill this bill, that is what my motion would call upon us to do. And I hope enough of you will vote with me to accomplish that.

PRESIDENT: Thank you. Senator Lindsay, please.

SENATOR LINDSAY: Mr. President, members of the body, I have to take issue with the characterization of this bill as a

discriminatory bill. This bill is gender neutral. I've said that at both levels here, and I will say it again. Right now there are more arrests being made for...of males than there are of females in Omaha for prostitution. This is not a bill that is attempting to step upon the downtrodden woman. It is a bill that is designed to make a Class I misdemeanor of soliciting prostitution, whether that's of the male or of the female. Whether the male is the person who is getting arrested for soliciting prostitution, he is still subject to those same penalties, he is still subject to the jail time, he is still subject to the fines. Whether it is the man or the woman this bill makes the act a crime. Number two, again referring to the overcrowding question, jail overcrowding, again, by eliminating or getting rid of crimes in an effort to reduce overcrowding is not the proper method to do that. If so I'm sure you would all join in eliminating DWI as an offense because it has a lot of jail time, as a matter of fact it has mandatory jail time. If we're going to eliminate crimes because it results in more people being sent to jail then I suggest to you there are a lot of other crimes that we're going to have to eliminate. That is not the basis for not criminalizing a particular act. Finally, number three, under current state law, as a Class V misdemeanor, with a mandatory requirement of a citation, you cannot arrest a prostitute under state law, it cannot be done. You have to give a citation, just as if you were giving a citation for speeding or for running a red light, or whatever it might be, you are required to give a citation in lieu of arrest. There is no ifs, ands or buts about it. Number two, that citation can be paid, $100 fine and that is all there is to it. That is the extent of the law, the current state of law in Nebraska right now. By voting against LB 116 you will keep that state. And, as Senator Chambers mentioned, and I don't think we've made any...we've tried to hide it, sure, the Omaha ordinance has a good chance of being declared unconstitutional. That is what prostitutes are being charged under right now. That is what the johns are being charged under right now, is under that city ordinance that if it is struck down you will have, in effect, decriminalized prostitution in Nebraska. And I think that is important. Finally, when we look at the fact that the prostitute is getting a $100 fine and that is it, it looks as though there is no chance for rehabilitation. I think the testimony at the Judiciary Committee hearing was that the prostitutes don't get the opportunity for rehabilitation unless they are put in jail or unless they are put on probation. By continuing with the $100 fine the prostitute will never have a chance. And I think

Senator Chambers would agree that the majority of these prostitutes cannot...could not even afford the rehabilitation, if they wanted to, and could not...would probably not have the inclination to do so. I think that that is an opportunity that is available through this, through 116 that would not be available under current law. I would urge you to reject the motion to IPP, and again I would urge you to advance 116.

PRESIDENT: Thank you. Senator Smith, please, followed by Senator Chambers, then Senator Abboud.

SENATOR SMITH: Thank you, Mr. President. I'm standing here to speak because I want to make sure that what I say is in the record. And you know that the last time we dealt with the bill I was taken up by some of the things that Senator Chambers said, and I agreed with him on a lot of the statements that he made. I was approached afterwards and was not accused, but it was said to me that it looked as though it was a woman voting for women. And I tried to explain to them that that was not my purpose for voting the way I voted. My main concern was what I think I stated that time I stood up to speak about the issue, and that was that I don't like the idea of passing a law based on what if. I don't think that we should, before the fact, if there is something that is being looked at right now the Omaha ordinance is being looked at, then I wanted to say let's go ahead and let that go ahead and go through the process, not piece...not enact in law something during that process which is already set. So that was my main concern. But following that time then I was asked if I would meet with some of the folks from that area, and I told them I wasn't going to make a trip to Omaha to do that. So some people did come in last week and talked with me. And I have to tell you that the impression they gave me did very much concern me about what is going down there. And I have to just tell you that I think these were very responsible people that did come in. We had a...there was a woman who owns a business, there were two women who were working women there. There was an older woman who is in a nursing home there, or not a nursing home, a retirement center for elderly people, and then a priest or an Episcopalian minister, I don't know which it was, but a man with a collar. And these people graphically laid out for me the kinds of stuff that are going on down there right now. There are things that I definitely would not have going on in the neighborhood where I live or in my own community. So, for that reason, I'm now sitting here on the fence. I'm still concerned about passing law when there is an ordinance that

could be doing the job. These people said to me, if the law is not passed and that case is...in other words it's declared unconstitutional, if the ordinance is declared unconstitutional, then we would have a period of time in a year or more where these people would have no law on them at all. And that is what their biggest concern is. Now I'd like to ask Senator Chambers, if he would tell me, discuss that part of it, if you would, Ernie, about the ordinance versus passing a piece of legislation now, based on what if the ordinance is declared unconstitutional.

PRESIDENT: Senator Chambers, please.

SENATOR CHAMBERS: Well, Senator Smith and members of the Legislature, the ordinance imposes a sentence that is harsher than that contained in state law. And ordinances are not allowed to do that. So what the people are telling you is that, if the ordinance were challenged in court and struck down and there were no state law, they could not put these jail sentences on the women. And that is correct.

SENATOR SMITH: Could they continue to prosecute at all? I mean they could do nothing, is that what you're saying?

SENATOR CHAMBERS: Oh, they could continue to arrest them, as they are doing now. As Senator Lindsay pointed out, they give them a citation under state law, and the fine, Senator Lindsay said, is $100. So the amount is not what I would quibble about at all. They...if the state law were the only thing in place then the citation would be issued, and that would be it until they went to court. And when they went to court the judge would impose a punishment, whatever he or she thought would be appropriate.

SENATOR SMITH: What if then, on the other side, we did not pass this law and the ordinance was determined to be unconstitutional? Tell me exactly what they can do then without a state law, if the ordinance was determined to be unconstitutional?

SENATOR CHAMBERS: Senator Smith, because Senator Lindsay has worked with this, I would invite him to, so that we can keep the facts straight...

SENATOR SMITH: (inaudible).

SENATOR CHAMBERS: Senator Lindsay, are you there?

SENATOR SMITH: Okay, I'd appreciate it.

SENATOR CHAMBERS: ...what the ordinance does and what it could allow, you know, in response to Senator Smith's question, because I don't want to mislead in that regard.

SENATOR SMITH: Thank you. Did you hear what I asked?

PRESIDENT: Senator Lindsay.

SENATOR LINDSAY: You asked what would happen (inaudible) of the ordinance?

SENATOR SMITH: In the absence of this, of us passing this piece of legislation, based on what if the ordinance is determined to be unconstitutional and in fact it was found that it was not and there is nothing then, no ordinance, no law.

SENATOR LINDSAY: If it was found that the statute...or excuse me, the ordinance was unconstitutional? Is that what you're saying?

PRESIDENT: One minute.

SENATOR LINDSAY: What would happen is the Omaha police would most li...at least I'm going to go with what happens in Omaha, the Omaha police would basically quit enforcing prostitution laws, because the time would not...involved in it would not warrant the $100 fines. That's all it is. They would be stopped on the street corner, if they're found violating the ordinance, would be issued a citation, which they could then pay the $100 down at the courthouse. I'm assuming...it's a maximum $100. I don't know if there is a minimum.

PRESIDENT: Time has expired. Senator Chambers, please, then Senator Abboud.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, what Senator Lindsay mentioned is not unusual, that law enforcement will not do its job, if the Legislature doesn't behave in the way law enforcement says. Senator Lindsay, would you answer a question for me.

SENATOR LINDSAY: Yes.

SENATOR CHAMBERS: Are the officers that you're referring to, when you use that term, sworn police officers, or are these volunteers who are not sworn law enforcement officers?

SENATOR LINDSAY: They would be sworn officers.

SENATOR CHAMBERS: And they are sworn to do what?

SENATOR LINDSAY: My guess is to uphold the law and everything else that police officers swear to. I'm not familiar with the oath.

SENATOR CHAMBERS: Well, if they refuse to enforce a law because in their mind the punishment is not great enough, are they complying with their oath to uphold the law?

SENATOR LINDSAY: Again, that's...I think you're starting from a premise that I didn't state. I said that they would not enforce, not refuse to but they wouldn't make that a priority of enforcement.

SENATOR CHAMBERS: Well, let's not get lost in semantics. I will withdraw what I said about they would refuse to. You said they won't enforce.

SENATOR LINDSAY: It would move down on the list of priorities.

SENATOR CHAMBERS: Thank you. Members of the Legislature, Senator Lindsay spoke the truth the first time. And there have been law enforcement groups that have come before the Judiciary Committee on a number of occasions and said, because the punishment is not severe enough they're just not going to enforce these laws. Some spouse abuse, domestic violence, those types of things, they said they're not a harsh enough punishment so it's a waste of their time. Their time, they determine which laws should be enforced and the Legislature lets them get away with it, and you're encouraging that by this kind of a law. Senator Lindsay, I'd like to ask you another question or two, if I may. If my motion to kill this bill is successful are you saying that prostitution would thereby be eliminated as a crime?

SENATOR LINDSAY: No, it would be a Class V misdemeanor.

SENATOR CHAMBERS: Okay, so it would still be a crime?

SENATOR LINDSAY: Correct.

SENATOR CHAMBERS: Now, you seem to have indicated that what I'm saying is that because of overcrowding we should eliminate crimes. Now I want to give you a chance to correct that statement in reference to what I've said. Isn't my approach to prevent the enhancement of a punishment for an existing crime rather than an attempt to eliminate a crime?

SENATOR LINDSAY: I will grant you that and say that it's correct, yes, not eliminate the crimes but let's just start imposing fines instead of jail time.

SENATOR CHAMBERS: All right, now when you say that more men have been arrested recently by the Omaha police than there have been women arrested in these prostitution related activities, what is the period of time when that increased arrest activity began to take place? Do you have any idea? If you don't, that's all right.

SENATOR LINDSAY: My understand....Well, the increases took place in 1988. And my understanding is after some seminar that the enforcement people went to...in Georgia, I believe.

SENATOR CHAMBERS: Okay, so it was a rainy night in Georgia for the prostitutes, huh? Now, are you against free enterprise, Senator Lindsay?

SENATOR LINDSAY: (Laugh.) No, I'm not.

SENATOR CHAMBERS: Do you feel that, if women and men met each other on the street and offered their sexual attentions free of charge,...first of all, is that a crime?

SENATOR LINDSAY: It's my understanding that it is not.

SENATOR CHAMBERS: So it's evil if you get money for doing this, but it's not verboten by the society if you do it for nothing?

SENATOR LINDSAY: Right, kind of like smokeless tobacco.

SENATOR CHAMBERS: How does that stack up with you?

SENATOR LINDSAY: Pardon me.

SENATOR CHAMBERS: Because we're talking about the same act by the same people. If I give somebody some cocaine, is that a crime?

SENATOR LINDSAY: I don't know. Are you talking about if you are giving it I don't know. I know the possession is a crime. Whether delivery without a...without a price involved, I would guess so, but I don't know.

SENATOR CHAMBERS: Yes, it is, you're right, it is. If I sell cocaine is that a crime?

SENATOR LINDSAY: Yes.

SENATOR CHAMBERS: So the movement of cocaine is what the society disapproves of, whether we give it away or sell it.

SENATOR LINDSAY: Right.

SENATOR CHAMBERS: So sex is not what society is upset about and offended about. Right?

SENATOR LINDSAY: Right.

SENATOR CHAMBERS: So the same two people could do these things without money being exchanged and society has no interest in regulating that kind of conduct.

PRESIDENT: One minute.

SENATOR LINDSAY: Between consenting adults, no.

SENATOR CHAMBERS: But when it comes to somebody trying to make money by doing it, then society becomes concerned and says this should not be done.

SENATOR LINDSAY: That's correct.

SENATOR CHAMBERS: So we tell our children that some things, if done for money, are bad but, if they are done for free, then the fact that no money is involved makes it all right as far as society is concerned, basically.

SENATOR LINDSAY: You lost me there on your question.

SENATOR CHAMBERS: Okay, thank you. Members of the Legislature, I'm trying to use different approaches to show that this is not a well thought out approach, that it's being done in response to some people who were very upset. But remember this, even if you pass the law there is no minimum, there is no mandated jail sentence. So they can let the men go without violating this law, as they do now.

PRESIDENT: Time. Time. Thank you. Senator Abboud is next, but may I introduce some guests of Senator Kristensen under the north balcony. We have Doug Holtmeier and his daughter, Liza Holtmeier, of Kearney. Would you folks please stand and be recognized. Liza, did I pronounce your name right? Liza, Liza. Okay, excuse me. Senator Abboud, please.

SENATOR ABBOUD: Mr. President, colleagues, I must say that I've enjoyed the discussion over prostitution here today. It was enlightening, Senator Chambers' analysis of sex and how it's different in society when it's sold. I still will be supporting LB 116 from the perspective that the City of Omaha requested the bill because of the constitutional problems which will occur as a result of the Supreme Court striking down the ordinance because of its higher penalty. I do think, though, that what Senator Chambers has hit upon is probably a more enlightened approach in dealing with prostitution in the respect that society is not saying let's put these women in jail as a result of their actions, or men in jail as a result of their actions, but trying to deal with the root of the problem that would drive an individual to sell their body in order to raise money, for whatever reason. And I...that is the reason that I'm supporting it from the approach that I think that the only way you're going to get these individuals to come to grips with their problem is to have them go into some sort of treatment program, or some sort of therapy. I don't know whether it makes...or how much of an impact it has on an individual when they are selling themselves and then as a result they are forced to go into jail for a six month sentence or a three month sentence, whether that individual would be stopped from...once they leave the jail or the State Penitentiary, stop them from going back and continuing to practice this sort of occupation. I think the only way you're really going to deal with the problem is through treatment and therapy. The reason I'm supporting the bill is

that I feel the only way you're going to get them into those types of programs is to have them have law enforcement officials or the courts, I should say, have them...give them the power to force those individuals into those types of programs. It's a problem. It's a problem as long as society has been around. It was talked about back in biblical times. And I don't think that...or I think it would be foolish on our part to think that for one minute we're going to stop it with this type of legislation. But I think it's for the best...for the "betterment" of society I think we should encourage these individuals to move into a different sort of occupation, one that is better for themselves. Thank you.

PRESIDENT: Thank you. Senator Chambers, you may close, but Senator Beck would like us to recognize Dr. Paulman, of Omaha, who is serving as our doctor of the day. Dr. Paulman, would you please stand so we can see who you are. Thank you. Thank you for serving us today. Senator Chambers, to close on your motion.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I do look at this as a bill that relates to gender and how females are treated in society. Senator Abboud is completely correct when he mentions that we need an enlightened approach to this problem as well as others, and it cannot start at the time that a young girl, a teenager, a young woman, a middle aged woman, or whoever else is doing this, is out on the street having to engage in these kinds of activities. We need something that would go to self-respect. We need an education system that would give young women something to look forward to in terms of a future, fair treatment in the world where they can obtain those kinds of things that are nurturing to a person's ego and sense of self-respect that are made so readily available to men at every turn. If a man is known for enticing, tricking or however he seduces a female into his bed, he is called a Lothario, a Valentino, a wolf, but in no case does either one of these terms carry a note of disparagement. It's like a badge of honor and esteem. He is virile because he can do what a jackass can beat him doing. Let a woman mimic what the man has done, and she is a tramp, she is a slut, she is a bitch, she is a whore, she is a prostitute, and every name attached to her carries the ultimate in contempt, and that is the way this society has created a division based on gender. The example that I give to young people when I talk to them is that the man's character, if that's what you want to call it, is like a

piece of burlap, you can put oil, grease, any kind of dirt on it that you choose, throw it in the washing machine with some all temperature Cheer, drag it out and dry it and you cannot tell that anything in the nature of soil had been placed on it. And he's as good as new. But a woman's character in this society is like a fragile crystal goblet, you drop it and shatter it and you'd have a better chance when all the kings horses and all the kings men of putting Humpty Dumpty together again than restoring this woman to a position of self-respect and esteem in this society. That is what we're dealing with when we talk about bills such as this and we enact legislation that acknowledges the existence of this gender discrimination and we say that even though this bill may further deepen the line, it's not our responsibility to consider that. Yes, it is. We're not supposed to be here as technicians, we are supposed to be those who deliberate, who think and consciously do what we do. We are supposed to see the bigger picture and how this impacts on the citizens. If Roman Hruska can say, without blushing, that even the mediocre are entitled to representation on the Supreme Court, and that's why he would vote for a mediocre judge, I will say, without apologies to anybody, that prostitutes and all of those people who are walked on by this society, who are put in a position and ordered to reach a standard then denied the means to reach that standard, then condemned for not being able to reach it, are entitled to some kind of representation and a voice. And I don't mind lending my voice to the causes of those people.

PRESIDENT: One minute.

SENATOR CHAMBERS: And that is what I'm trying to do now. I'm trying to get us to think a little below the surface and see the ramifications of this kind of legislation. Something may come up about displaced homemakers, and everybody will be able to nod in accent to those types of things. But when we see the depths to which a woman can fall in this society, a lot of times through no fault of her own, then we have the back of the hand. Maybe, if women were given a choice and they saw how chauvinistic this society is, they would choose to be born men. I don't know. One woman masqueraded as a man, she was a trombone player, or a trumpet player for over several decades because men got better consideration in the world of music. That's what we do by our laws and customs and treatment, or mistreatment of people. George Bernard Shaw said, and then I'm through with it, the difference between a flowergirl and a lady

is not in so much how she acts as in how she is treated, as in how she is treated. I hope that we will defeat this bill.

PRESIDENT: The question is, shall LB 116 be indefinitely postponed? All those in favor vote aye, opposed nay. Have you all voted that care to? Record, Mr. Clerk, please.

CLERK: 7 ayes, 19 nays, Mr. President, on the motion to indefinitely postpone.

PRESIDENT: The motion fails. Do you have anything else on the bill, Mr. Clerk?

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

PRESIDENT: Senator Lindsay, on the advancement of the bill.

SENATOR CHAMBERS: Machine vote.

PRESIDENT: Machine vote has been requested. Make your motion, please, Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move that LB 116 be advanced to E & R Final.

PRESIDENT: Thank you. The question is the advancement of the bill. Machine vote has been requested. All those in favor of advancing the bill vote aye, opposed nay. Senator Lindsay, please.

SENATOR LINDSAY: Mr. President, I would move for a call of the house.

PRESIDENT: The question is, shall the house go under call? All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 20 ayes, 1 nay to go under call, Mr. President.

PRESIDENT: The house is under call. Will you please record your presence. Those not in the Chamber, please return and record your presence. Senator Lindsay, you said you would accept call ins? Okay. We're looking for Senator Baack.

CLERK: Senator Hefner voting yes. Senator Moore voting yes.

PRESIDENT: Record, Mr. Clerk.

CLERK: 26 ayes, 7 nays, Mr. President, on the motion to advance LB 116.

PRESIDENT: LB 116 advances. LB 267, please. The call is raised.

CLERK: Mr. President, 267, Senator, I have no amendments to the bill.

PRESIDENT: Senator Lindsay, please.

SENATOR LINDSAY: Mr. President, I move that LB 267 be advanced.

PRESIDENT: You've heard the motion. All in favor say aye. Opposed nay. It is advanced. LB 208.

CLERK: Mr. President, LB 208, the first item I have are E & R amendments, Senator.

PRESIDENT: Senator Lindsay, please.

SENATOR LINDSAY: Mr. President, I move that the E & R amendments to LB 208 be adopted.

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

CLERK: Mr. President, Senator Wesely would move to amend the bill. (Wesely amendment is on page 704 of the Legislative Journal.)

PRESIDENT: Senator Wesely, please.

SENATOR WESELY: Thank you, Mr. President, members. On General File Senator Warner raised a question about when this bill would apply to those coming on the property, and we did work with his office. There are three various definitions of trespassing in the statutes, and this amendment would reference those statutory definitions of trespassing, so we would know in what instances an individual, as you recall under the bill if you're trespassing this bill would not apply. You would...dog involved, dangerous dog, if it attacked in defense of the

SPEAKER BARRETT PRESIDING

SPEAKER BARRETT: Welcome to the George W. Norris Legislative Chamber. Please rise for the opening prayer. Our Chaplain for the day is Father Daniel Sieker, of Blessed Sacrament in Lincoln. Father Sieker.

FATHER SIEKER: (Prayer offered.)

SPEAKER BARRETT: Thank you, Father Sieker. Please come back again. Roll call.

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

SPEAKER BARRETT: Thank you. Corrections to the Journal.

CLERK: I have no corrections, Mr. President.

SPEAKER BARRETT: Any reports, messages, or announcements?

CLERK: Mr. President, your Committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 502 and recommend that same be placed on Select File, LB 281 Select File, LB 416 Select File, LB 443 Select File, those signed by Senator Lindsay as Chair. Mr. President, your Committee on Enrollment and Review reports LB 74 as correctly engrossed; LB 116, LB 175A, LB 177A, LB 208, LB 261A, LB 263, LB 267, LB 273, LB 284A, LB 338, LB 378, LB 391, LB 398, LB 458, LB 459, and LB 499, all reported correctly engrossed, all signed by Senator Lindsay. (See pages 746-47 of the Legislative Journal.)

Mr. President, a communication from the Governor to the Clerk. (Read. Re: LB 57, LB 94, LB 97, LB 126, LB 133, LB 229, LB 230, LB 233, LB 251, LB 255, LB 295, LB 58, LB 70, LB 115, LB 142, LB 156, LB 256. See page 748 of the Legislative Journal.)

Director of the Nebraska Wheatgrowers' Association of Ogallala, Nebraska. We certainly welcome you gentlemen to our get-together this morning. We're very appreciative of what you are doing and, Mr. Ramo, we certainly do appreciate your being involved in this and we are very appreciative of your purchases of our...one of our most precious commodities in Nebraska. Thank you. And thank you for visiting us this morning. Mr. Clerk, are you ready for Final Reading? Okay, if you will...as soon as you return to your seats we will begin Final Reading. We will begin with Final Reading on LB 74.

CLERK: (Read LB 74 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 74 pass? All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

CLERK: (Record vote read. See pages 863-64 of the Legislative Journal.) 43 ayes, 0 nays, 2 present and not voting, 4 excused and not voting, Mr. President.

PRESIDENT: LB 74 passes. LB 116.

CLERK: (Read LB 116 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 116 pass? All those in favor vote aye, opposed nay. Have you all voted that care to? Record, Mr. Clerk, please.

CLERK: (Record vote read. See page 864 of the Legislative Journal.) 36 ayes, 7 nays, 2 present and not voting, 4 excused and not voting, Mr. President.

PRESIDENT: LB 116 passes. LB 208, please.

CLERK: (Read LB 208 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 208 pass? All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

CLERK: (Record vote read. See page 865 of the Legislative

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 273 pass? All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

CLERK: (Record vote read. See page 868 of the Legislative Journal.) 47 ayes, 0 nays, 2 excused and not voting, Mr. President.

PRESIDENT: LB 273 passes. LB 344 with the emergency clause attached.

ASSISTANT CLERK: (Read LB 344 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 44 (sic) pass with the emergency clause attached...excuse me, 344 with the emergency clause attached? All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

ASSISTANT CLERK: (Record vote read. See pages 869-70 of the Legislative Journal.) The vote is 46 ayes, 0 nays, 1 present and not voting, 2 excused and not voting, Mr. President.

PRESIDENT: LB 344 passes with the emergency clause attached. This ends the Final Reading. Do you have anything for the record at this time? If not, we'll move on to special order, LB 781.

CLERK: Mr. President, LB 781...

PRESIDENT: Mr. Clerk, before you start, may I just say that while the Legislature is in order...in session and capable of transacting business, I propose to sign and do sign LB 74, LB 116, LB 208, LB 238, LB 263, LB 267, LB 273 and LB 344 with the emergency clause attached. Now on to LB 781.

CLERK: Mr. President, 781 was a bill that was introduced by the General Affairs Committee and signed by its members. (Read title.) The bill was introduced on January 19 of this year, Mr. President. At that time, it was referred to the General Affairs Committee for public hearing. The bill was advanced to General File. I do have committee amendments pending by the General Affairs Committee.

SPEAKER BARRETT: LB 360A is advanced. For the record, Mr. Clerk.

CLERK: Mr. President, Senator Smith would move to withdraw LB 765. That will be laid over. I have a notice of hearing from the Rules Committee, signed by Senator Lynch as Chair. Your Enrolling Clerk has presented to the Governor bills read on Final Reading this morning, Mr. President. That's all that I have. (See page 875 of the Legislative Journal, re: LB 74, LB 116, LB 208, LB 238, LB 263, LB 267, LB 273, and LB 344.)

SPEAKER BARRETT: As a matter of general information, we will not be discussing 520 or 520A this morning. We will not be discussing LB 340, LB 147, or 147A. We are then at this point to LB 265. Mr. Clerk.

CLERK: Mr. President, 265, offered by Senator Chizek. (Read title.) The bill was introduced on January 9, referred to the Judiciary Committee. The bill was advanced to General File. I do have an amendment to the bill by Senator Chizek, Mr. President. That amendment is on page 739 of the Journal.

SPEAKER BARRETT: Senator Chizek, on your amendment.

SENATOR CHIZEK: Mr. President, colleagues, the amendment is on page 739. The amendment removes paternity matters from the expedited process required by federal law. The changes in the federal requirements permit the state to remove paternity matters from this expedited process. The judges and the Department of Social Services have excluded paternity because these actions don't lend themselves to the expedited process. Appointment of counsel, jury trial, discovery, blood tests, et cetera make paternity matters a poor candidate for the expedited process. LB 265 would, however, allow referees to handle paternity matters under direction of the district court. I would urge the adoption of the amendment.

SPEAKER BARRETT: Any discussion on the amendment to 265? If not, those in favor of the adoption of that amendment please vote aye, opposed nay. Voting on the amendment to LB 265. Please vote, if you'd care to vote. On the amendment to 265, please vote, if you'd care to vote. Record, please.

CLERK: 25 ayes, 0 nays on adoption of Senator Chizek's amendment to the bill, Mr. President.

SPEAKER BARRETT PRESIDING

SPEAKER BARRETT: (Recorder not activated) ...hearty souls who are with us this morning as we convene this last day of the working week. Our opening prayer this morning by Chaplain Clarence Zwetzig of Bryan Memorial Hospital, here in Lincoln. Chaplain Zwetzig.

CHAPLAIN ZWETZIG: (Prayer offered.)

SPEAKER BARRETT: Thank you, Chaplain Zwetzig. We hope you can come back again. Roll call.

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

SPEAKER BARRETT: Thank you. Any corrections to the Journal?

CLERK: No corrections, Mr. President.

SPEAKER BARRETT: Any messages, reports, or announcements?

CLERK: Mr. President, a communication from the Governor to the Clerk. (Read. Re: LB 74, LB 116, LB 208, LB 238, LB 263, LB 267, LB 273, LB 344. See page 960 of the Legislative Journal.)

Mr. President, resolutions LR 38 and LR 39 adopted yesterday are ready for your signature.

Mr. President, your Committee on Government, Military and Veterans Affair, whose Chair is Senator Baack, to whom was referred LB 471 instructs me to report the same back to the Legislature with the recommendation it be advanced to General File, LB 628 General File with amendments, LB 91 indefinitely postponed, those signed by Senator Baack as Chair. (See pages 960-61 of the Legislative Journal.)

Mr. President, I have two study resolutions, both introduced by Senator Rod Johnson. (Read brief explanation of LR 40.) That will be referred to Reference. (Read brief explanation of LR 41.) That, too, will be referred to the Exec Board. (See pages 961-62 of the Legislative Journal.) That is all that I have, Mr. President.

SPEAKER BARRETT: Thank you. While the Legislature is in