

please, while we're here.

ASSISTANT CLERK: LB 960A was introduced by Senator Withem.
(Read title.)

PRESIDENT: Senator Withem.

SENATOR WITHEM: Yes, this is the A bill. I think we discussed it during the debate over the bill. It's the funding mechanism for the bill. We will have to put...it appropriates at this point the administrative cost, \$157,000, one year; \$155,000 the other year. I urge that it be advanced.

PRESIDENT: Any further discussion? If not, the question is the advancement of the A bill. All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 25 ayes, 0 nays, Mr. President, on the advancement of 960A.

PRESIDENT: The A bill is advanced. If I could have your attention just a moment, please. We have a special guest in the south balcony. He is a brother of Senator McFarland and he is from Blue Hill, Nebraska. And wave your hand so we can see who you are, Mark. We're happy to have you with us. Thank you for being here. Mr. Clerk, something for the record.

CLERK: Mr. President, I do. Your Committee on General Affairs, whose Chair is Senator Smith, reports LB 507 as indefinitely postponed, and LB 1120 as indefinitely postponed. Those are both signed by Senator Smith as Chair of the committee. (The Legislative Journal also shows LB 1049 as indefinitely postponed. See page 899 of the Journal.)

Mr. President, new bill offered by the Special Franklin Investigating Committee, signed by its membership. (Read LB 1246 by title for the first time. See page 899 of the Legislative Journal.)

Mr. President, your Committee on Enrollment and Review reports LB 1146 to Select File with E & R amendments attached. (See page 900 of the Legislative Journal.)

Retirement Systems offers a confirmation hearing report, Mr. President, as does the General Affairs Committee. Those are

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

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

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

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

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

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

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

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

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

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

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

March 7, 1990

LB 866, 880, 976, 1031, 1059, 1184A, 1243
1246
LR 251

SPEAKER BARRETT: Discussion? Shall LB 1184A be advanced? Those in favor say aye. Opposed no. Carried, the bill is advanced. To LB 880.

CLERK: LB 880, Senator, I have no amendments to the bill.

SENATOR HALL: Mr. President, I'd move that LB 880 be advanced to E & R for engrossing.

SPEAKER BARRETT: Is there discussion? Seeing none, the question is the advancement of LB 880. Those in favor say aye. Opposed no. Carried, the bill is advanced. Mr. Clerk, have you anything for the record?

CLERK: Mr. President, I do. Amendments to be printed to LB 976 by Senator Pirsch; and Senator Bernard-Stevens to LB 1031; Senator Warner to LB 1059. (See pages 1248-49 of the Legislative Journal.)

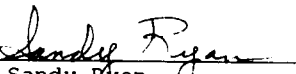
Mr. President, your Committee on Revenue, whose Chair is Senator Hall, reports LB 866 to General File with committee amendments attached. That is signed by Senator Hall as Chair. Judiciary Committee reports LB 1246 to General File with amendments; LR 251C, indefinitely postponed; LB 1243, indefinitely postponed. Those signed by Senator Chizek as Chair. That's all that I have, Mr. President. (See page 1249 of the Legislative Journal.)

SPEAKER BARRETT: Thank you. Senator Baack, for what purpose do you rise?

SENATOR BAACK: Yes, Mr. Speaker, I move that we adjourn until tomorrow morning at 9:00 a.m.

SPEAKER BARRETT: You've heard the motion to adjourn until tomorrow morning at nine o'clock. All in favor say aye. Opposed no. Carried, we are adjourned.

Proofed by:


Sandy Ryan

March 21, 1990

LB 1031, 1246
LR 384-394

implemented first and would benefit the most people would be annual cost of living increases, health insurance retirees, early retirement, moving pension funds from one public retirement plan to another and lump sum withdrawals. I would ask for your support for this amount of money to have the in depth study. Thank you, Mr. President.

SPEAKER BARRETT: Thank you. Is there discussion on the amendment offered by Senator Haberman? Seeing none, Senator Haberman, anything further?

SENATOR HABERMAN: I will just take a minute and explain to you who supports the study, the Nebraska State Education Association, the Omaha School Employees Retirement System, the State Troopers, the Nebraska State Patrol, the Nebraska Association of Public Employees, the Nebraska Judges Retirement System, the League of Nebraska Municipalities, the Nebraska Association of County Officials. And, with those words, I will close, Mr. President, and ask for the adoption of the amendment.

SPEAKER BARRETT: Thank you. The question is the adoption of the Haberman amendment to LB 1031. All in favor vote aye, opposed nay. Voting on the Haberman amendment. Have you all voted? Have you all voted? Record, please.

CLERK: 26 ayes, 3 nays, Mr. President, on the adoption of Senator Haberman's amendment.

SPEAKER BARRETT: The amendment is adopted. Matters for the record, Mr. Clerk?

CLERK: Mr. President, I do. I have a series of study resolutions, LR 384-394; all will be referred to the Executive Board for reference. (See pages 1553-60 of the Legislative Journal.)

In addition to that, Mr. President, amendments to be printed from Senator Chizek to LB 1246. (See pages 1560-62 of the Legislative Journal.)

Mr. President, the next amendment I have to the budget bill is by Senator Wesely. Senator, I have AM1031 in front of me...I'm sorry, AM3126. Excuse me.

SENATOR WESELY: Thank you.

SPEAKER BARRETT: Any discussion? If not, those in favor of the advancement of the bill please say aye. Opposed no. Ayes have it, motion carried, the bill is advanced. Have you items for the record, Mr. Clerk?

CLERK: I do, Mr. President, thank you. New A bill, LB 1246A, by Senator Wesely. (Read by title for the first time. See page 1576 of the Legislative Journal.)

Mr. President, amendments to be printed to LB 1215 by Senator Lynch. Confirmation hearing by Transportation Committee. That is signed by Senator Lamb as Chair. Explanation of vote by Senator Kristensen. And, Mr. President, your Committee on Natural Resources, whose Chair is Senator Schmit, reports LB 1238 to General File with committee amendments attached. That is signed by Senator Schmit as Chair of the Natural Resources Committee. That's all that I have, Mr. President. (See pages 1576-77 of the Legislative Journal.)

SPEAKER BARRETT: Thank you. Senator Richard Peterson announces 25 guests in our south balcony, third and fourth graders from St. Leonard's in Madison with their teacher. Would you folks please stand and be recognized. Thank you, we're glad you could be with us this morning. Mr. Clerk, to Item 7 on the agenda.

CLERK: Mr. President, LB 1246 was originally introduced by the Special Legislative Committee, LR 230 Committee, and it was signed by its members. (Read title.) The bill was introduced on February 21 of this year, Mr. President. At that time it was referred to the Judiciary Committee. The bill was advanced to General File. I do have Judiciary Committee amendments pending. Senator, would you prefer to do your committee amendments now, or offer your amendment to them?

SPEAKER BARRETT: Senator Chizek.

SENATOR CHIZEK: How about if I explain the committee amendments, and then offer the amendment to the committee amendments?

SPEAKER BARRETT: Chair recognizes Senator Chizek.

SENATOR CHIZEK: Mr. Chairman, colleagues, the Judiciary Committee amendments I now ask you to adopt deal straight to the

guts of what I call a crisis in the confidence of government institutions caused by the Franklin fiasco. We, today, must do our part to restore that confidence. The Judiciary amendments, in my opinion, will do that. The committee worked hard, colleagues, to frontally attack the root of this crisis that I bring you today. And this is the result of a consensus reached between Franklin Committee members, the Judiciary Committee members, Senator Wesely and other senators supporting LB 886, interested citizens groups, the county attorneys throughout the state and the Attorney General. The Judiciary Committee amendments to LB 1246 essentially gut the original provisions of LB 1246 and incorporate, generally, the provisions of LB 1243, LB 1246 and LB 886. The committee amendment also adds a severability clause and an emergency clause. First, the amendment provides that a special committee of the Legislature, upon the affirmative vote of the majority of the committee members, with permission of a district court judge, may order a subpoenaed witness to testify and provide use immunity to that witness. If the immunized witness nevertheless still refuses to testify, the special committee could ask the district court judge to hold the immunized witness in contempt and incarcerate or fine the witness until the witness testifies as ordered. This procedure is identical to the one now used by prosecutors. Use immunity means that any testimony ascertained as an indirect or direct result of the witness's testimony cannot be used against him or her in a subsequent legal proceeding. However, it is important, colleagues, to remember that use immunity would not prohibit the criminal prosecution of an immunized witness, if the prosecution of the immunized witness was based exclusively upon evidence in the hands of the prosecutor before the immunity was gathered, or evidence ascertained from a source or sources completely distinct and not connected in any way with or discovered as a consequence of the information provided in the witness's testimony before the committee. Second, the committee amendments extend the statute of limitations for sex related offenses against victims 16-years of age or younger. According to the testimony before the Judiciary Committee by Senator Schmit and Senator Labedz, many of the instances of crimes against children which the Franklin Committee became aware of were committed against children, and the Franklin Committee became concerned that the statute of limitations had already expired. I will let Senator Schmit address and explain this finding in more detail later. The statute of limitations, provided in the committee amendments, is seven years, or seven years past the time when the victim reaches the age of 16,

whichever period is longer. The committee amendments focus, to the extent possible, on children as victims of crime. Consequently, the offenses included are first, second and third degree sexual assault, sexual assault against a child under the age of 14, kidnapping, which prosecutors say often occurs when a child is sexually assaulted, false imprisonment, child abuse, pandering, debauching a minor, possession, transfer or sale of obscene materials to, or making obscene materials depicting children under the age of 16. The amendment also extends the statute of limitation for inchoate offenses, conspiracy, aiding and abetting attempt and accessory when the inchoate offense directly relate to the primary offense that we mentioned before. Likewise, the committee amendments extend the statute of limitations for compounding one of the felonies listed above, but only if the victim is age 16 or under when the felony was committed. As you know, compounding a felony essentially is an obstruction of justice. Under current law the statute of limitations is 3 years for felonies and 18 months for misdemeanors, except for first, second and third degree sexual assault when the victim is 16 years of age or under, or sexual assault on a child. For those four offenses the statute of limitations, colleagues, is five years. The amendments extend the statute for those offenses listed on which the present statute has not expired. But due to the constitutional prohibition against enactment of ex post facto legislation would not allow renewed prosecution for any offense, if the statute of limitations has already expired. Third and finally, the committee amendments provide for enhanced training and prosecution for crimes against children. This is an idea first brought to the committee by Senator Wesely, and without question meets a need. Without question this part of the amendment must be adopted, if we have any hope in restoring the citizens' confidence that we will never allow their faith and trust in our institutions of government to sink so low. The committee amendments create a division of three well-trained and experienced attorneys within the Attorney General's office to not only assist county attorneys in the prosecution of crimes against children, but also imposes the duty upon the Attorney General to prosecute those crimes, if warranted, under the facts and law when the county attorney will not or cannot prosecute. As I said, the Attorney General, under this amendment, must, and I emphasize must thoroughly investigate cases like Franklin, if brought to their attention, and with that duty we gave him the resources to get the job done. The amendment also requires all county attorneys to receive yearly training related to crimes

against children. The amendment also creates a fund from which county attorneys can request assistance for the location, hiring of expert witnesses in the field of crimes against children. The amendment also provides that the Legislature appropriate funds to finance certain aspects of the mandatory training, the hiring of expert witnesses, and the additional three attorneys and one staff person in the Attorney General's office. Colleagues, I believe that we must do this. Again, we must do this. There is at least the perception, and a justified one I might add, that everyone did not do their job. The Franklin Committee...

SPEAKER BARRETT: One minute.

SENATOR CHIZEK: ...and the Judiciary Committee believes that the committee amendments go a long way to make sure that this scenario never happens in this state again. And I urge your adoption of the committee amendments. Thank you.

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

CLERK: Mr. President, Senator Chizek would move to amend the committee amendments. Senator, this is your AM3136 that you'll find on page 1560 of the Journal.

SPEAKER BARRETT: Senator Chizek.

SENATOR CHIZEK: Mr. Speaker, Mr. Chairman, colleagues, this amendment you heard a little about yesterday. The amendment that I now ask you to adopt will amend the committee amendments to address yet another facet of an overall problem first raised by the Franklin matter, treatment of mentally disordered sex offenders, if we do not do something to address this problem immediately. We may well have sex offenders released because they are not receiving the treatment for their disease when they plead guilty. This treatment generally takes from 18 months to 3 years. The problem was brought to our attention last week by Judge McGinn of the Lancaster County District Court. Since that time my staff has been working with Senator Wesely, the county attorneys, the Attorney General's office, Judge Buckley from Omaha representing the Omaha judges, Judge Inbody from Wahoo representing the county judges, and a task force consisting of individuals in the Department of Corrections, Department of Public Institutions, and some other interested citizens. There

is a consensus by all that this amendment would alleviate the immediate concern. The problem presented is this, if an individual who either pleads guilty or is found guilty of a sex offense, a determination is made by health professions whether the person is a mentally disordered sex offender or I will refer to them as MDSO, if the offender is found to be an MDSO the judge, under current statute, must, must, and I emphasize that must, sentence the MDSO to the regional center for treatment of their particular disorder. However, currently the regional center's program for MDSO's is full, in fact more than full. And there are nearly 40 individuals in the penitentiary awaiting treatment. These individuals, under our law, are not supposed to be in the penitentiary, they're supposed to be in the regional center receiving treatment and being treated. Adding to this problem is the likelihood that in the next three to four months 40 to 50 more MDSO's are likely to be committed to the regional center for treatment under this program. The problem is even more severe when, as in the case...in several instances brought to our attention when the person pleads guilty to a sex offense. In guilty plea cases the judge essentially promises, as required by our law, that if the person is found guilty to be an MDSO they will receive treatment. The concern raised now is whether the MDSO's must be allowed to withdraw their guilty pleas, because the state has not kept their promise. The prosecutors would then have to prove their case in a trial. The consensus of legal opinions is such that a result is a confused area or atmosphere that may develop. We think that would be a disaster in that many of the prosecutors tell us that witnesses and evidence that they would use to prosecute these crimes before a jury have sometimes gone...have gone or the witnesses are unwilling to cooperate, the witnesses simply want to put a bad memory behind them, a memory which they thought they would no longer have to deal with in a courtroom. And my amendment deals directly with each concern raised. It allows a judge to sentence MDSO's to the penitentiary until treatment facilities are available. Senator Wesely will address an appropriation which was passed by this body yesterday, which will increase the treatment capability and resources of the regional center so these people will receive treatment as quickly as possible. However, this alone will not meet the problem of those who have already pled guilty. The second aspect of the amendment does fix that problem as well. The amendment allows the Department of Public Institutions to begin a first step program inside the penitentiary. Therefore, even though MDSO's are inside the penitentiary, the regional center will design and administer a

program which will include testing, processing and other administrative matters before the person is transferred to the regional center for full-fledged treatment. We believe this program can be added with relatively little additional cost. Frankly, though, given the severity of the problem, whatever the tag might be, I think it is worth it. The important thing is though that all MDSO's will immediately, upon passage of this bill, be in the MDSO program. Therefore, no guilty plea will be set aside, and there will be no new trial for prosecutors and victims to contend with. Finally, the amendment allows a judge, upon the recommendation of a health professional at the regional center, to remove a person from the treatment program, if, after further evaluation at the regional center, the person is found to be nontreatable. I've talked with Senator Schmit, and he has assured me that they will support this amendment. And I urge the body to adopt this amendment to the committee amendments.

SPEAKER BARRETT: Thank you. Is there discussion on the amendment to the committee amendment? Senator Labedz, your light is on, followed by Senator Wesely on the committee amendments. Thank you. Senator Wesely.

SENATOR WESELY: Thank you, yes. Mr. Speaker, members, I rise in support of the Chizek amendment. I did work with Senator Chizek on this amendment and am very aware of the problem that he's just identified for you. I think Senator Hannibal and the Appropriations Committee, Senator Wehrbein have already are aware of the problem as well. And we, as a body yesterday, did adopt, I think, I think pretty much unanimously, additional appropriations of over a million more dollars to the Department of Public Institutions to fund and staff the need for expanded MDSO program out at the regional center. Really, basically, it comes down to I think it's been well summarized by Senator Chizek that we have had statutes on the books that have required certain things to be done, and we have not funded the programs to do those things, that being the treatment of these mentally disordered sex offenders. So, as a result, judges are very nervous. I know in Lancaster County I did meet with Judge McGinn about individuals who pled guilty, are ready to move into the system for treatment and punishment for their crimes, and now, because of the backlog in the programs, the fear is that they will have to throw out those guilty pleas and either those individuals are set free or have to go through the trial once again, which is an absolutely ridiculous situation to be in. And it's got the judges very concerned; and, of course, it

should concern all of us. We don't want to have anybody in a situation whose a mentally disordered sex offender released again among the public before they have had treatment, or before they've served their time. That's exactly where we're at, however. So the funding that was provided for in the Hannibal amendment and Wehrbein amendment, yesterday, will provide the million dollars over this year and next fiscal year to provide the adequate support that we need within the Department of Public Institutions. I will have to be providing an additional amendment that is not yet available that would add a couple of staff people to the correctional department because of their needs to meet this backlog problem. But, clearly, from a health and human service perspective and as oversight for the Department of Public Institutions I can tell you that we've got a time bomb ticking right now, and we've got to deal with it. The short-term is to do the funding and to deal with the inadequate program and services. The longer term we need to deal with as well with the task force that is being formed. But in the intermediate time this amendment deals with the statutory straitjacket that we've placed ourself in that needs to be loosened up a little bit so that we don't have a situation where we are having to release these individuals without having the chance to provide the treatment or the time that they need to spend for whatever crimes they've committed. So I'm very concerned about this. I think that the amendment is quite reasonable. Again, what it provides for is the ability to take care of MDSO's, not only in the regional center, but other secure medical facilities, that gives us a little flexibility there. In addition, it says that on the treatment side of things that if it's determined that a person will not respond to treatment it doesn't require that they be provided that treatment. Obviously, those individuals with that problem, if they do not want treatment, do not respond, do not think they have a problem and will not be able to deal with the treatment, we are wasting time and money dealing with that. And right now the statute has no flexibility in this area. I think that this is a very reasonable request and I would hope it would have very strong support as we try and deal with this very important problem. So I would ask your support for the Chizek amendment.

SPEAKER BARRETT: Thank you. Senator Chambers. Thank you. Senator Schmit. Senator Abboud, on the Chizek amendment.

SENATOR ABOUD: Mr. President, I'd like to talk a little bit about just the amendments in general, and then touch upon

Senator Chizek's amendment. I think you have to understand that the bill itself has changed quite a bit from what we brought in...what was brought in to the committee and, in a sense, because we combined three bills together. The Franklin Committee came before our committee and stated that there were some specific problems. The committee was not privy to the information as to what particular problems this...these three bills would solve, but it did talk about the problem that we've been having in this state in general terms. Now the three portions of the bill for you to understand deal with three different areas. The first deals with the immunity that can be granted to an individual that testifies in behalf of a special committee of the Legislature. The second part, which I feel is probably the most extensive and probably the most important when it comes to the Franklin Credit Union controversy, involves the question of extension of the statute of limitations involving crimes against children. And by extending the statute of limitations for crimes against children, it provides enough flexibility for prosecutors to fully prosecute and, hopefully, convict individuals that have been involved in these types of crimes against children. And the third area deals with the training and the support that some county attorneys need throughout this state. Now, what we found was that some county attorneys have excellent systems of training their county...deputy county attorneys when it comes to questions of crimes against children. And some county attorneys are doing an excellent job throughout the state. But when you have 92 counties, you find that some of the county attorneys have problems in dealing with the prosecution of crimes against children. And it's no surprise, really, because for the most part county attorneys, in most counties, don't deal with that many crimes against children. And, so when you're dealing with this specialized area, a lot of them do not have the expertise that is needed for successful prosecution and conviction of these individuals. It's a very specialized area. So the committee felt that with additional funding for these county attorneys this training would be helpful in the future, and I stress in the future because I think when we're talking about the entire Franklin Credit Union problem we're looking at it from the perspective of prosecutions that are taking place at the current time, and in particular the federal level. So, this third area was more of a future help against individuals that commit these types of crimes and to help the county attorneys deal with these particular problems. For that particular reason those three areas the committee felt that it was good at least,

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being a member of the committee I felt it was a good bill and that we should combine all three areas together. Thank you, Mr. President.

SPEAKER BARRETT: Thank you. Senator Hannibal. Thank you. Senator Wesely. Thank you. Anyone else care to discuss the Chizek amendment to the committee amendments? Chairman Chizek, would you care to close? Thank you. The question is the adoption of the amendment to the committee amendments. Those in favor vote aye, opposed nay. Have you all voted? Record, please.

CLERK: 31 ayes, 0 nays, Mr. President, on adoption of the amendment to the committee amendments.

SPEAKER BARRETT: The amendment is adopted. Back to the committee amendments. Senator Labedz, would you care to discuss the committee amendments as now amended?

SENATOR LABEDZ: Thank you, Mr. President. I rise in strong support of LB 1246 as amended by the Judiciary Committee. It's a very important piece of legislation as amended, and probably one of the most important bills that we will pass this session to strengthen the prosecution of child abuse cases. Extending the statute of limitations for certain crimes against children from seven years from the offense to seven years from the time the victim turns 16, whichever is longer, is a very, very important part of the bill. Many children don't fully realize what has happened to them or have the confidence and knowledge to reveal their abuse until they're much older. And I certainly didn't know this, but as a member of the committee now I find that most of them were frightened for four or five or six years and would not...if this had not come about to even talk to anyone. As a member of the committee I can tell you it is a very devastating situation, and I said that in the committee hearing, and I believe strongly that the statute of limitation is a very important part of LB 1246. The people that I have talked to, that are in no way connected with the Franklin Committee or the situation that we have now, and I have several calls from children that have been abused but were frightened to come forward before, and mainly with the foster care system, there are parents that have been brave enough now to come forward, after four or five years of abuse of their children. And to me the calls that I'm receiving are almost as bad and if not worse than some of the things that we've heard in the

committee. The nonprosecution of child sexual cases in Nebraska is a major problem, not only a major problem but it is a serious and devastating a situation as anyone could find. The families and especially our children are being destroyed for the rest of their lives, believe me. When I talked to some of the parents or even the grandparents, sometimes the grandparents step in because the parents are either frightened or don't want the public to know what has happened to their children, so the grandparents...the last two cases that I got or problems that I got were called in to me, at my home, have been the grandparents that are calling, because the grandchildren now have gone to their grandparents and seem to be able to trust them and ask them for guidance. And they do want to come forward, but in a lot of cases these children have been threatened and threatened for years and now may be in their late teens or early twenties and coming forward and telling us what happened to them when they were 13, 14, 15 and even 18-years of age. So I think what we're doing today is going to be very important to this State of Nebraska, mainly to the children and families that are involved in child abuse, not especially all of them with the Franklin Committee. But I didn't realize, until I became a member of the committee, how many families are out there that can give you history of what happened to their children and what happened to them in some cases when they were children. And now they're in their thirties, forties, married and raising their own children, and then they're coming forward and telling us these horrible situations that happened to them years ago. I commend the Judiciary Committee for the committee amendments and combining the two bills

SPEAKER BARRETT: One minute.

SENATOR LABEDZ: Thank you, and hopefully LB 1246 will restore the confidence of the people, the residents of the State of Nebraska in the situation, what's happening to our children today, believe me, it is serious and it's something that I sometimes wish that all 49 members of the Legislature were members of the Franklin Committee. Thank you.

SPEAKER BARRETT: Senator Chambers, on the committee amendments.

SENATOR CHAMBERS: Mr. Chairman, I have to state a couple of points with reference to how I feel about what is being done today. I understand what is being attempted and what the Franklin Committee is trying to do. I have to give credit to

the members of the Judiciary Committee and staff who worked hard and produced an amendment as rational and cohesive as these committee amendments are. But it always troubles me, and I have a difficult time supporting an issue, an effort which is undertaken not only in response to something that happened, a specific thing, but which is still pending. Personally, I feel that the Legislature has been put over a barrel through the incompetency at best, negligence at semi-best, and deliberate, intentional refusal to carry out responsibilities at worst. I've watched what has happened with this investigation. At first I was a member of the committee. I watch from a greater distance now and I see things in the prosecutorial realm that still trouble me. Any of you who paid attention to what I said, when they were talking about appointing former Judge Van Pelt, know that I was strongly opposed to his selection. Now it comes out that he hasn't been able to attend the grand jury meetings because he's a hearing officer for the State Health Department, and he's conducting hearings for the State Health Department when he's supposed to be the special prosecutor. And I had said they're going to make a joke out of the whole thing by putting him there. That's one of the factors that I was not aware of at the time they appointed him. How in the world is that more important than this grand jury in Douglas County which was called under great pressure that was felt by the Attorney General? We have a situation where one person who is faced a charge, and every Douglas County judge recused himself from that person's case. There have been indications that this person may have somehow been involved with Franklin. Every time something very unusual or extraordinary or unexplainable happens in some sector of the criminal justice system it's connected with Franklin. And every time it happens we're given some cock and bull explanation. How can Judge Buckley, and I said that Judge Buckley didn't intend to see the thing handled properly, and I say it again, if he's going to let the special prosecutor undertake work that does not approach this grand jury work in importance. Suppose the special prosecutor for the Watergate study said, well, you know, I got a case before an administrative tribunal relative to one of my client's partnership matters, so I've got to go and do that and somebody else do the work of the special prosecutor. The Legislature is being laughed at, the public is being given a slap in the face, and I think Judge Buckley's conduct is totally inexcusable. He knew this, he knew Van Pelt was not going to give his time to the grand jury, he knew he had another job to do. And I call this bordering on unethical conduct. But it will never be

deemed so because the chief judge of Douglas County, the presiding judge, is in cahoots. Maybe nobody but I see something wrong with the special prosecutor being too busy to discharge...

SPEAKER BARRETT: One minute.

SENATOR CHAMBERS: ...that responsibility. But, if I am the only one who sees something wrong with it, I'm going to state it. So the Legislature can undertake to amend the law and extend the statute of limitations in those cases where it has not already run out, for what purpose? Special prosecutor is off doing something else. Who is going to prosecute or bring any charges because we've extended a statute of limitations when there is no concern with even getting at the truth? This man, Van Pelt, is quoted in the paper as having said he's been so immersed in this Franklin matter that he almost had several accidents while driving his car because he was so taken up with it then is so unimportant to him that he's running off somewhere doing some kind of hearing for the Health Department. Mr. Chairman, I'm not going to take every second of my time, but I'm going to put my light back on.

SPEAKER BARRETT: Thank you. Senator Schmit, on the committee amendments, followed by Senators Wesely, Pirsch and McFarland.

SENATOR SCHMIT: Mr. President and members, I also rise in support of the committee amendments as amended. And I appreciate....I visited with Senator Hannibal yesterday. I concur totally that we need to adopt the amendment, which was explained by Senator Chizek, which provides for additional facilities for the treatment of mentally disabled sex offenders. Getting to the other amendments, I want to say that I also appreciate the work of the Judiciary Committee and staff, cooperation of the county attorneys, judges, other legislators, parents, Foster Care Review Board, particularly Senators Wesely and Scofield who testified in support of the bill, and all of the other individuals who have demonstrated their interest in what we are attempting to do. I share Senator Chambers' concerns about the many unusual circumstances that have surrounded this entire bizarre investigation. I do not believe that any one of us, when we first introduced the resolution back in November of 1988, ever anticipated the strange circumstances and the strange turn of events that have brought us to the point where we are at today. There have been many times this

Legislature has been criticized, the committee has been criticized, and individual members of the committee have been criticized because of the work of the committee. I do not believe that today there is a single person in Nebraska who does not believe that the situation that has unraveled would ever have taken place had it not been for the work of the committee as sanctioned and supported by this Legislature. I believe it demonstrates, once again, that the Legislature is the final voice of the people and the closest to the people of all other branches of government. I really do not know what will be the final outcome of the results of this investigation. I want to say that I share very deeply the concerns expressed by Senator Chambers that this might not be the highest priority of certain individuals. We have a never ending series of alibis and excuses as to why certain events did not take place. I find it almost unbelievable that allegations of the criminal sexual abuse of children can go uninvestigated and certainly unpunished for years and years at a time. I find it as we watch what has happened, I find it almost impossible to believe the trauma that children and others are put through when they have to go through officials and tell their story, and then find that story to be challenged time, after time, after time. This Legislature, I believe Senator Pirsch brought to this Legislature a bill which was passed into law which said that you can prosecute a sexual offender of a child on the uncorroborated word of a child, uncorroborated word of a child. We recognize the danger in that, and it was discussed at some length on this floor. We understand that children sometimes might not be the best witnesses. But this Legislature chose to pass that bill, yet the committee has developed witness, after witness, after witness who have testified to sexual abuse and there continues to be investigation, after investigation, after investigation of the...

SPEAKER BARRETT: One minute.

SENATOR SCHMIT: ...voracity and authenticity of the victim witnesses. I do not know how much investigation has been perpetrated or has taken place relative to the alleged abusers, I do not know that. I would hope there has been investigation there also. Ladies and gentlemen, I, as Bernice has said, would like to see...to let this entire body see the evidence that has been accumulated thus far. Evidence continues to unfold on a daily basis. Without exception, not a day goes by that we do not, one or more of us, receive information relative to the

issue at hand. It is of the most serious nature. Gradually, I can tell you, that the gaps are being narrowed between the information we have received and new information, which ought to make it easier for prosecutors to secure convictions.

SPEAKER BARRETT: Time.

SENATOR SCHMIT: I will talk again. Thank you.

SPEAKER BARRETT: Thank you. Senator Wesely.

SENATOR WESELY: Thank you. Mr. Speaker, members, I'd like to rise also in support of the committee amendments and recognize the good work of the Judiciary Committee, chaired by Senator Chizek, good work of the Franklin Committee, chaired by Senator Schmit, and feel that this Legislature itself, as an institution, as a body, has done excellent work on this very important problem. My hope is that this legislation will pass and will be signed and will become law, and we will see some improvement in the system. Certainly we need to have that. I must admit at this point, however, that I'm certain that we will not solve all the problems. They are so rampant in the current system that our efforts here will go a long way, I think, to helping some of the concerns. But there are so many out there yet to be addressed and we need to keep that in mind. We do have the caseworker bill, LB 720, still pending on Final Reading that would help get the staffing out there to investigate these cases. But once you investigate them, what happens to these individuals and how do we follow up? It is in that area that we have a failure, as well, in the system. I've passed out for you an article that I hope you had a chance to read, and, if you haven't, you'll look at. It's a July 2, 1989, article. In one of the...on the box on that front page of that handout it talks about a 16-year-old girl and what's happened to her in the system as she came forward and exposed a boyfriend living with her mother who had abused her, and went into the system and talked about the abuse. And, unfortunately, the system did not believe her, and ended up sending her back into that home and into that abusive situation. It's a horrible story, but it's a story repeated time and again in this state, of young children abused and not protected by our society, not protected by our system, sent back into horrible circumstances which they fled from and did not find the protection that they so richly deserved. And instead of having these individuals perpetrating this abuse, prosecuted, punished, we have the victims, the

individuals, the young children sent back to be further abused. And it happens...if it happens once it happens too often, but it happens time and again in this state. We have to stop this cycle. We have to stop this incredible intolerable situation from continuing. I don't know that we have all the solutions obviously in this bill, as I said, but we certainly go a long way from where we are right now in helping the problem. The introduction of the bill, LB 886, this year with Senator Schmit, and then last year I had another piece of legislation very similar, indicated the frustrations with the county attorneys and the county attorney system not prosecuting, not following through, not helping these abused children. And we found that that wasn't, of course, universal. Every county did not have this problem. But much of the...many of the counties had some difficulty. It wasn't always their fault, it was a situation where we have underpaid, overworked county attorneys. They don't have the training, they don't have the salaries to put the time in, and they don't have the background in this area. And we found that they simply were unable to respond to this particular problem. And, frankly, they're having a difficulty responding to many other problems as well. So, we were suggesting the Attorney General take over this responsibility, have a special group of attorneys with the expertise and ability to deal with these cases. We found, of course, the county attorneys do not want to give up that authority directly to the Attorney General, and we also found that they were probably right, that giving all this authority just to one individual in the whole state may be too much of a delegation of authority to one individual. So, we came up with a compromise that I feel very, very good about. County attorneys will still have the front-line prosecution responsibility. They'll still be there to turn to, and hopefully they will respond with the better training and the assistance through the Crimes Against Children Fund that will bring in expert witnesses, that we will be able to have support from the Attorney General for these county attorneys to do the job that they are supposed to be doing in this area. But, if they should fail us still, if, despite the improvements in the system that I just outlined fail, the Attorney General would still be able to be contacted by individuals interested in a particular case, as in the one I just mentioned, or any other case where they feel that an individual has been abused, and the individual perpetrating that abuse was not prosecuted, they can go to the Attorney General. The Attorney General will have the responsibility, will have the authority, will have the staffing,...

SPEAKER BARRETT: One minute.

SENATOR WESELY: ...to step in and deal with that problem, to supersede the failures of the county attorney system that we may have left after we make the changes proposed in this bill. And so we have a check and balance. We have the ability of the county attorney to intercede but, if they do not, we have the ability of the Attorney General to step in. And I think that is absolutely necessary. I passed out for you also figures, once again, on child abuse and neglect. This bill goes beyond child abuse and neglect and deals with other matters, as well, crimes against children. But, if you look at that again, it's a horrible thought to think that there are over 7,000 cases investigated of child abuse and neglect, and you know that there are many more cases, because not every one of them is brought to the attention of authorities. But 7,500 cases investigated, over 4,000 substantiated, over 7,000 or right around 7,000 children involved with abuse in this state on a yearly basis, every year 7,000 children abused in Nebraska, we've got to stop that.

SPEAKER BARRETT: Time.

SENATOR WESELY: This bill will help.

SPEAKER BARRETT: Senator Pirsch, please, followed by Senators McFarland and Labedz.

SENATOR PIRSCH: Thank you, Mr. Speaker and colleagues. The Judiciary Committee did look long and hard. And uppermost in their mind was the acknowledgement that what we do here will be for children victims of the state, not just necessarily the Franklin victims. And Senator Schmit gave me credit for Jenny Robak's bill, which I did co-sponsor, which did away with corroboration, which we've tried to do for years. But you know the courts did away with it first. We were the last state to do that, the last state to accept that, that witnesses or that victims didn't particularly need another witness, particularly in those kinds of circumstances. But the courts had recognized that first. And often I've been frustrated at the slowness, sometimes, of this body to acknowledge that victims, and particularly children victims, do need attention. Franklin has brought some realities to light. These are not new serious crimes which have suddenly been discovered in Nebraska. These

have been around for a while. And I am truly grateful that the Judiciary Committee amendments were so thoughtfully hammered out, because that will help in the future. We have had several talk about the particularly good provisions to extend the statute of limitations for the child victim. And one of the important things, the enhanced training and prosecution for crimes against children, and not only providing or mandating training for the county attorneys and others who deal with these crimes, but to provide some financial help in those areas, too. This will also mandate yearly training, so we will keep county attorneys up to date and provide funding for that. And Senator Wesely has talked about putting an expertise in the Attorney General's office to assist these county attorneys who are out there in the trenches and have to deal with the day-to-day or the week-to-week child victim crimes. LB 1246 is a significant change, one that has been needed and will be helping children long after the Franklin case has been forgotten. With that, I hope you will support greatly LB 1246.

SPEAKER BARRETT: Senator McFarland, please.

SENATOR MCFARLAND: Thank you, Mr. Speaker and fellow senators. This is a bill that we did discuss in the Judiciary Committee. We discussed it very thoroughly. And I think we came out with three basic purposes in it, and those three purposes will have some beneficial effects to them. I think what is particularly appropriate is that we try to extend the, we in fact do extend the statute of limitations on particular offenses that relate to the Franklin Committee and relate to child abuse and neglect crimes in general. The idea, of course, is that while we can't go back and prosecute or have the statute of limitations extended so that you can prosecute crimes that may have already been committed and the statute may have already run, what we do in the bill is, if a particular crime has been committed, the statute has not yet run but is going to run in three months, or two months, or in a very short time, what this will do is extend that time so that if prosecutors discover the evidence, and if you have the grand jury issuing indictments for particular offenses of this nature, then that limitation will not have ex...have terminated and ended before the prosecution begins. And that is one of the beneficial aspects of the bill. The other one, of course, is not only dealing with Franklin specifically, but this kind of offense in general is to the enhanced training that is provided in the bill. I think it is a positive step for our Legislature to take. I think we should be

aware that just by passing legislation isn't going to rectify all the harms that have been caused in the Franklin situation, nor is it necessarily going to assure that all of these type offenses are always going to be prosecuted and investigated properly. My concern has been that these, these alleged offenses have been committed so far in the past it is really difficult to research and to get evidence and to refresh people's memories and get the documentation and necessary supporting evidence necessary to efficiently and effectively prosecute all these things. That is my real concern. I don't think we should necessarily expect that legislation is going to cure the problem. What this will do is give the prosecutors the tools to try to address the problem, specifically Franklin, and generally offenses of this nature in the future, and hopefully address a situation that is intolerable in our state. And I think the Judiciary Committee did a good job. We were aided by our legal counsel on the Judiciary Committee who did yeoman's work in preparing it. I think the committee amendments are good amendments, and I would urge they be adopted.

SPEAKER BARRETT: Thank you. Senator Labeledz.

SENATOR LABEDZ: Thank you, Mr. President. Senator Chambers, I certainly hope that this time you're wrong. I don't personally know Judge Van Pelt, but I want the members of the Legislature to know that when I leave the floor and I get excused for two, three hours, I'm not sitting in my office gossiping on the telephone, I'm locked up in Senator Schmit's office listening to tapes. And in the last two times that I've been down there, Judge Van Pelt has come in and taken at least six volumes each time, exactly the size of these black books that I have in front of me. And I know that he's working, he's trying. Senator Chambers, you're been right so many times in things that you've said on this floor, and that's the reason I put on my light again, to tell you that you frighten me. But whether or not you're right or wrong, you don't mind that I hope and pray that you're wrong this time, because the public pressure out there is so strong that I think that anyone connected to the grand jury, including Judge Van Pelt, is going to do everything they can to bring this system back where it should be. Believe me, the system in the past has failed us miserably. And I only rise now to say, Senator Chambers, you have frightened me, and I hope and pray that you are wrong in what you just said in your five minutes. Maybe you will prove me wrong, but I am hoping that you are wrong.

SPEAKER BARRETT: Senator Chambers, followed by Senators Schmit and Wesely.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, this is one time Senator Labedz and I hope the same thing. But, Senator Labedz, I wouldn't say what I'm saying, if I didn't believe it. And I thought there might be some skeptics and some nay-sayers. So, Senator Labedz, Senator Labedz, I have in my hand an authority which I think you consider to be unimpeachable. This says, on the outside, Holy Bible, therefore that which is in it must be holy. And I'm reading from Matthew the 6th, Chapter...the 24th verse. And I could quote it, but I want to read it. No man can serve two masters, for either he will hate the one and love the other, or else he will hold to the one and despise the other. You cannot serve God and mammon. The point that I get from that is that when a person has a very serious obligation and responsibility, such as Judge Van Pelt was given in handling the special prosecutor's duties before the grand jury, that had to be his primary job. We were assured, by Judge Buckley, that he recognizes this as an extraordinary situation, therefore, he was going to publicize the exact text of his charge to the grand jury. So, everybody who has discussed it has talked about extraordinary the situation is. Then we have the bizarre turn, and I think that word bizarre is going to have to be used repeatedly, because it's the only one that is capable of describing what is happening. This man, indeed, has two masters. I thought that his primary responsibility, while the grand jury was sitting, would be to handle the grand jury work. But he's got another job for which he's paid that has a higher claim on him. So, here's why I say it has a higher claim, if there are two things vying for your time and attention, and you go to item A, rather than item B, it's because item A, for some reason, has a greater attraction, has a greater claim, and therefore you yield and go to item A. The only conclusion that can be drawn is that Judge Van Pelt's being hired as a hearing officer is more important to him than carrying out his duties as a special prosecutor. What I had said when I was critical, initially, of his appointment is that he doesn't know enough to do the job. He is showing that that is the case. He can put the grand jury on automatic pilot and be gone, and he won't be missed, because nobody expected him to know enough to do anything. What Judge Buckley should have done was what I had suggested, and that is to appoint somebody as the lead in this matter who knew enough to do the job. I think it

says a lot about the lack of importance given to this whole matter by Judge Van Pelt being allowed to run off and do these other things, whatever they are. They should have appointed Dougherty, if they felt that he is the one who knows what to do. The captain of the ship is the last one to go down with the ship, but here is a captain who's jumped ship before the ship's even in trouble in terms of sinking. But his jumping ship may be the very thing that will cause it to sink. Haven't we all talked about the need for public confidence, the restoration of public trust? How is the public going to trust a process where the one, who we've been guaranteed can do the job, is not even on the job? This captain is not asleep at the wheel, he's not even on the ship. And this is a very important time for the grand jury, because Judge Van Pelt said that they're going to be brought up to speed on what has happened thus far. So he has to give direction, he has to help interpret what is being offered,...

SPEAKER BARRETT: One minute.

SENATOR CHAMBERS: ...and he has to determine, to some extent, exactly what is going to be offered, and he's not there. You hire a watchperson, a watchman, and you come to your facility and the watchman is gone, the guard has left his post, and I'm supposed to take seriously what they're doing? I'm supposed to believe they're taking seriously what we're doing? The Legislature is being made the Ping-Pong ball, we're being toyed with. I don't like the idea of us enacting this kind of special legislation under these circumstances in the first place, but it would be easier for me not to oppose it, if I saw Judge Van Pelt and Buckley seeing that the job is being done that should be, but they're laughing. Van Pelt could be drinking coffee and eating crackers right now somewhere, but one thing is certain, he's not at his post with the grand jury.

SPEAKER BARRETT: Senator Schmit, please, followed by Senator Wesely.

SENATOR SCHMIT: Mr. President, members, Senator Chambers makes a very valid point. If this grand jury is anything other than a top priority with Judge Van Pelt, with members of the grand jury, then it is most unfortunate. I do not know how many times question has been raised to me as to the timeliness of the various charges, as to whether or not the statute has run, as to whether or not individuals can be prosecuted, as to whether or

not someone wants to prosecute certain individuals. Had investigations proceeded as we would normally expect them to have proceeded, it is very likely that charges would have been filed months ago in some instances, and certainly convictions would have been easier to come by. I am concerned, and I believe there are others on this floor, particularly those who have legal training, who are concerned about the ability to prove a case which is years old. The other concern that we all have, of course, is one in which we recognize that the perpetration of a crime on a very young child may not even be known to be a crime at the time in the eyes of the child. Furthermore, the overwhelming evidence that we have seen thus far indicates that the victims were made to feel that they were the ones that were guilty, and that they, in fact, were the ones who were involved in the criminal act, and that they shared at least the guilt, if not bore the preponderance of the guilt for the commission of the crime. How do you convince a young child, be they 8, 10 or younger, older, that they were, in fact, not guilty of a crime when an adult consistently and persistently and sometimes perhaps an adult with some authority insists that the individual child, minor, young person is in fact a collaborator, a cooperator, and in fact maybe even a perpetrator or instigator of the act? We are all concerned on this floor, I am sure, equally about protection of young people. I am concerned, as the evidence unfolds that comes to the committee, and as the phone calls and the visits come to me, about the depth and breadth of this kind of activity being perpetrated against young people in this state and in other states. I am concerned, as Senator Chambers has indicated, about addressing a specific problem with this legislation, or in fact trying to make it retroactive. But, as Senator Pirsch has pointed out, this legislation is not just directed at the victims allegedly of the Franklin situation, but as it applies to all of the young people in the State of Nebraska. I do not know yet at this time what course the prosecution will take. I am as concerned, as all of you are, about the fact that the principal involved in Franklin is now apparently going to be found incompetent to stand trial. If that occurs, then what happens next? How many other witnesses will remain silent? I am concerned, very frankly,...

SPEAKER BARRETT: One minute.

SENATOR SCHMIT: ...about the treatment that has been afforded some of the victims of the crimes, which I am sure is tending to

cause other victims to be reluctant to come forward. I am concerned that one of the victim witnesses, that has testified to our investigator, was only last week found guilty of alleged forgery, of a forgery and was sentenced to another year and a half of time in incarceration, in addition to the time already served, and maybe that will be corrected, for a \$245 forgery. Certainly in the minds of some victims that does not make it worthwhile for a victim to come forward and cooperate with this committee, if the net result, be it intentional or otherwise, is that the victim bears an additional term under...

SPEAKER BARRETT: Time.

SENATOR SCHMIT: ...under the laws of Nebraska. Thank you very much.

SPEAKER BARRETT: Thank you. Senator Langford.

SENATOR LANGFORD: I'd like to call the question, please, Mr. President.

SPEAKER BARRETT: Thank you. Do I see five hands? Thank you. Shall debate now cease? All in favor vote aye, opposed nay. Record, please.

CLERK: 25 ayes, 0 nays to cease debate, Mr. President.

SPEAKER BARRETT: Debate ceases. Senator Chizek, please, to close.

SENATOR CHIZEK: Briefly, Mr. Speaker, I share some of the concerns that Senator Labedz and Senator Chambers had identified. We are all cognizant of what the problem is. I wish that I wasn't here standing in this position asking you to support this kind of legislation today, and I wish that we had never had to form a Franklin Committee, but we have, and not just for Franklin. So that the confidence....So that the crisis and confidence, if you would, is restored from border to border in this state, and this is a move in the right direction, and I urge your support.

SPEAKER BARRETT: Thank you. You've heard the closing. And the question is the adoption of the committee amendments offered by the Judiciary Committee to LB 1246. Those in favor vote aye, opposed nay. Have you all voted? Record, please.

CLERK: 33 ayes, 0 nays, Mr. President, on adoption of the committee amendments.

SPEAKER BARRETT: The committee amendments are adopted. To the bill itself, Senator Schmit, would you like to open, please.

SENATOR SCHMIT: Yes, Mr. President. The committee amendments, as you know, are the bill. I want to echo what Senator Chizek has said. I wish that the committee could have reported back to this Legislature and said that we have conducted an investigation and we have found no evidence of wrongdoing, and we have found no need for further work of the committee, and that the system is working, and that, therefore, we will not have to introduce any additional legislation or ask for the committee work to be continued. Unfortunately and tragically that is not true. You have heard other witnesses...other legislators here testify as to the necessity for this legislation. I have had numerous contacts, too many to count, from individuals, some...most of whom support the work of the committee, a few who have been extremely critical of the work of the committee and this Legislature. We have been accused and I, personally, have been accused of turning the City of Omaha upside down, of challenging some of the finest people in the City of Omaha. Ladies and gentlemen, without referring to any specific information the committee has developed, I want to say that the committee only developed information. The information we developed we turned over to the proper authorities. We will continue to do that just as it is developed. The committee, nor myself...The committee, in general, nor myself personally does not have the option, does not have the opportunity to launder or to delete any of the information that we develop. It has been explained to us very precisely and definitely that the evidence which we develop is not for us to judge, it is for us to deliver to the proper authorities, and let those individuals proceed from that point. We are concerned, frankly, that perhaps some of the evidence which we develop may not be given proper credence in certain areas, and if so the committee will then decide what, if any, further action needs to be taken. But the committee has acted properly and responsibly. We have acted, I believe, with circumspect and discrete and almost totally deference...total deference to the protection of individuals, and we hope that that will be reflected in the work of those grand juries which are now convening. The committee did not and was not organized to keep from prosecution anyone who might have

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committed a crime. We were to find out if the institutions of government had worked. Sadly, I have drawn the conclusion that the institutions have not worked as they should have. The committee now has an even greater responsibility, I believe, and that is to find out why they did not work. If, in fact, they did not work, was any individual or group of individuals responsible for the fact the system did not work? There are many persons incarcerated today in Nebraska penal institutions for various crimes. You will find that in most instances the system worked with dispatch. It should work the same for all persons, regardless of who, what position, or any other factor. The public has a right to expect that. The public, I believe, is satisfied with the work of this Legislature. The public knows that this Legislature has acted in the public interest. I believe the public will respond accordingly. I am concerned, and it has been expressed on this floor many times, that if prosecutions do not result, that there may be deep distrust of government by the general public. We are concerned that there not be, and we are well aware of the fact that we can carry the role of character assassins. We've been very careful about that. I would hope that the work of the committee will be judged in finality as being for the good of the citizens of this state, and that the other individuals of those other institutions which have responsibilities to carry out will not be found wanting. Ladies and gentlemen, it is necessary, it is necessary indeed that they not be found wanting. And, if it turns out to be less than what we expect, there will be, I'm sure, certain questions to be answered. I hope that the committee...that the Legislature will vote affirmatively on this bill, and that it will become law so that it might be some small degree of assistance for prosecutors in their responsibilities, but also that it will reassure the public that we are concerned that no perpetrator of a crime shall go free because this Legislature did not do its very best to make certain that prosecution could take place. We ought to make this state as safe as possible for the children of this state, because if it is not safe for the children of this state and those who have no one else to protect them, then it is not safe for anyone. I ask you to support the bill.

SPEAKER BARRETT: Thank you, sir. While the Legislature is in session and capable of transacting business, I propose to sign and I do sign LR 304, LR 308. Also, Senator Coordsen is announcing some guests in our south balcony. We have 16 third and fourth graders from Milligan with their teacher. Would you

folks please stand and be welcomed. Thank you, we're pleased to have you with us. Discussion on the advancement of the bill. Senator Chambers, followed by Senators Baack and Kristensen.

SENATOR CHAMBERS: Mr. Chairman, it's hard to talk just about the bill, because there are so many issues associated with it that brought it before us. So I've got to digress from talking about the bill to make one other point, at least while I'm speaking this time. When the World-Herald decides to do investigative reporting it's always directed toward the victims and the witnesses and designed to discredit them. They can find out mountains of information about those individuals, but they never investigate the alleged perpetrators, never. Sunday they ran a long article about Gary Caradori and talked about background information on him, none of which he provided, because he didn't talk to them. But they got out lickety split and got this information, and it was designed to discredit him. They quoted some investigators who said that he should have conducted lie detector tests before the matter got as far as it has gotten. That's preposterous because the World-Herald knew that one of the original victims had passed multiple State Patrol lie detector tests. Oh, no, you don't have to...if you hit one of them on the head with it, I'd accept it, Mr. Speaker. But just to hit that wood won't do it. (Laughter.) Thank you. And I'm saying some things for the record at this point. One of the original victims had passed multiple State Patrol lie detector tests. The then existing statute of limitation on those abuses had not run. The Washington County Attorney chose not to take any action. So, if, when the existing statute of limitations would have allowed prosecution of abuse...abusive conduct towards young kids and foster children at that, and the county attorney, who had knowledge of this information, refused to prosecute, why should we believe that if we extend the statute of limitations now there will be any prosecution, especially when the special prosecutor with the grand jury doesn't even think it's important enough to be there. I didn't vote for adoption of the committee amendments. I'm not going to tell anybody not to vote for the bill. But I'm not going to vote for it. I don't think it's a wise and appropriate way to legislate. When things in the nature of legislative changes are forged in a crucible filled with great pressure and conflicting signals, the end product may be good and it may not. But I don't have comfort as a legislator in voting for what is being proposed here today. And I'll probably be the only one to vote no. And I'm not going to be upset that others vote yes. I'm

not going to be offended that nobody else votes no. And I'm not speaking as I am to try to encourage people to vote no. I have to get my position clearly into the record. I think we are witnessing a sham in terms of the Douglas County grand jury. A lot of information can be locked up in that grand jury and no longer be available, even to the Franklin Committee. Confidentiality can be the hiding place, whereas currently just lack of concern, or an attempt to cover up and shield certain people. I still believe that there is a designed cover-up and an attempt to protect certain perpetrators. And until I see the media deal with this issue as they've dealt with others, I believe they're part of it. It's not happening in Lincoln, but I think the Journal has restrictions on what's going to be reported, and I think the Star does, too. And we all know this,...

SENATOR LABEDZ PRESIDING

SENATOR LABEDZ: One minute, Senator Chambers.

SENATOR CHAMBERS: ...it's obvious. This legislation, I don't think, is going to make that much difference in terms of what is done. When there was a bill before us last year to extend the statute of limitations on certain sex crimes, I didn't support it, and there was not the direct pressure on that bill that there is now for passage. I'm not going to be able to support this bill. I can understand what the committee is attempting to do, and they still have faith in the system and in the prosecutors. But I can just see what Judge Van Pelt did. Now, when I was a child, if you did this, then people wanted to spank you. Senator Labedz, this isn't at you. But, if you did that, you got a spankin'. This is what Judge Van Pelt is doing. When he thinks that some unimportant hearing with the Health Department is more important than his duties with the grand jury...

SENATOR LABEDZ: Time is up.

SENATOR CHAMBERS: ...then I think he is doing just what I did.

SENATOR LABEDZ: Thank you, Senator Chambers. Senator Baack, on the advancement of LB 1246.

SENATOR BAACK: Yes, Madam Chair and colleagues, as a member of the Franklin Committee I feel that I must get up and at least

give my point of view on this. I wish I could say that the Franklin Committee is going to be able to...that something is going to come out or there is going to be prosecution of certain of these cases. I wish I was able to do that and be able to tell you that through our work we're going to be able to accomplish that. But I can't assure that. The one thing I am sure of is had not the Franklin Committee been formed, and had not the Franklin Committee pursued this case nothing would have happened, absolutely nothing. And I think Senator Chambers characterizes very well, you know, under the best scenario of it was negligence on the part of many of the people who are supposed to prosecute these cases and delve into the investigation of these cases. That's the best scenario that is out there. The worse scenario that is out there is that they deliberately did that, that they deliberately did not follow up on the material that was available to them. So I think that I have some problems with this legislation, to be very frank with you. I am not a person that particularly cares to offer legislation in a reactive mode, to react to one particular situation and offer legislation to try and deal with that particular situation. I would much rather have pro-active kind of legislation, that we deal with things in advance. But, in this case, I have to say that my bottom line in this case, is that the Franklin issue is so important to us as a Legislature, and so important to Nebraska as a state that I think we need to do this legislation. But I also think that we need to be very wary, as we do this kind of legislation, looking to the future to see what kind of consequences this might have that are unforeseen as we do this. And once the Franklin thing is over, we need to reassess and say is this something that we want to remain in our statutes, or is there the possibility of mischief with this kind of thing? I think that what the Franklin case has done is it has offered an opportunity in this state to take a look at child and sexual abuse as we have never done in the past, and that I think some people have been afraid to do. And I know that as a member of that committee I have learned so much about this issue and so much about how hard it is to prosecute those kinds of cases, how difficult it is for attorneys to do that. And I think that as more and more of us become aware of that, and as the public becomes aware of that, we are going to do the kinds of things statutorily that are going to make it so that we can prosecute those cases. Whether this is the right thing to do, I'm not sure. But I certainly would urge the body to advance this bill and to go forward with this, because I think the work of the Franklin committee needs to go forward. I

think that this will help. And, hopefully, we'll get some prosecution from this, but I can't guarantee that. But I think we do have an opportunity here to address the issue of child and sexual abuse in this state that we've never had before, and I would hate to see that opportunity go away. So, with that, I would urge the advancement of the bill. Thank you.

SENATOR LABEDZ: Thank you, Senator. Senator Kristensen, on the advancement of LB 1246.

SENATOR KRISTENSEN: Thank you, Madam President, members of the Legislature. I don't know how big Franklin really is. I've heard a lot that Franklin is really big. I've asked almost all the members of the Franklin Committee, how big is it? And they all, without exception, have said, it's terrible, it's big and it's important. It kind of reminds me a little bit about some of the things that were said about Commonwealth, reminds me about some things that had been said about the way low-level nuclear waste has been handled as I look at Senator Morrissey. It's big, it's emotional, and it's controversial, and those aren't always the best environments to legislate in. They make you go faster or slower than you'd want to. They make you do things that maybe in the back of your head aren't the right things to do, but we need to do them because they're big, because something has got to be done. I don't like attacking the system. And I don't think now is the appropriate time to attack the system. If the system has failed, that to me is where the goal of the Franklin Credit Union Committee is at. If there are problems in the system, we ought to come in. The Legislature is not an enforcement arm, it's not a judicial branch. We're here to make changes in the system if changes need to be made. And you don't try people on the floor of the Legislature, and you don't try them in the court of public opinion. There may well be innocent people out here involved in the Franklin Credit Union case, I don't know, but they're being tried in the court of public opinion, and I'm not sure that's the correct place to try them. You've got to let the system run. If the system is flawed, then we ought to come in here and change them. And I would charge the members of the Franklin Committee to do that. You've spent a lot of time doing that. And you've spent a lot of time looking into possible problems. If the system is flawed or corrupt, come back and tell us, because I think that is what we've charged you to do, and that's what I'd like you to come back. What I want to focus on and I want to make sure the Legislature knows what we're going to do,

because last year Senator Langford had a bill in here that passed relatively easy extending the statute of limitations. It was her priority bill, LB 211. I think there were only eight people that voted against that. I voted against it. I'm sure much to Senator Langford's chagrin I voted against it. But I did that for a reason, because those cases become stale. There are problems with extending the statute of limitations. You allow vendettas, you allow all sorts of other things to come in when you extend the statute of limitations. And we also...Senator Chizek talked about ex post facto laws. You know those are laws that I want to make sure we know what we're getting into. We are not taking cases that are dead, in other words, cases where the statute of limitations have expired. We can't do that. If the statute of limitations on some of these actions have passed, they're gone. There is nothing we can do to revive them. My opinion of what the law is, we can extend the statute of limitations, though, for cases that are still pending. In other words, if the statute of limitations are going to run out in July, those cases are still prosecutable, we can extend that statute of limitations for another...as long as we want to. There is a problem here and you need to understand what we're doing. You're talking about an event that could happen when somebody was five years old, and they may well have another 19 or 20 years to bring that case. Think what could happen in those 19 or 20 years. It's a possibility. The reason I'm standing up here is to say that I don't like extending statute of limitations. But I'm also willing to go on a limb with the Franklin Committee who have guaranteed...well, they haven't guaranteed to me because they can't. Senator Baack just told us we can't, I agree with him, they can't guarantee us a thing, and they shouldn't. But I think what you've got to do is look at the statute of limitations and say, is it worth the chance, is it worth the gamble? I come down on the side right now it is. I don't like extending those statute of limitations. How big is Franklin? I don't know. Every sexual assault case...

SENATOR LABEDZ: One minute, Senator.

SENATOR KRISTENSEN: ...that I've prosecuted, or I think anybody else, if you all would have sat in and listened to what the police, the investigators would have told us, I don't care which sexual assault case, they're all big. I don't know if the Franklin Committee is experiencing things that I experienced as a prosecutor, you'd get this evidence brought to you, and you'd

just go nuts, you go crazy. How can people do this to children? It tears you up in inside. But you've also got a system of justice that you've got to live with. And sometimes people will bring that evidence to me and it's past the statute of limitations, and you'd say, it's terrible. And how do you look the victim in the eye and say, well, if you would have brought this four years ago we could have done something about it? But it was too late. I'm probably going to vote for this legislation and it's a gamble. And, if something doesn't happen in the next year or two, I think you might see me come back in with other senators and repeal these statute of limitations because it's dangerous. (Interrupted.)

SENATOR LABEDZ: Time is up, Senator.

SENATOR KRISTENSEN: ...a course of conduct that I think we need to know where we're going and why. And all sexual assault cases are big, not just Franklin, every one of them. And I don't know that it's particularly good legislation to react, but I'm willing to take the chance on this one. Thank you.

SENATOR LABEDZ: Senator McFarland. Senator Wesely.

SENATOR WESELY: Question.

SENATOR LABEDZ: Question has been called. Do I see five hands? I see ten. (Laughter.) The question has been called. All those in favor vote aye, opposed nay. Record, Mr. Clerk.

ASSISTANT CLERK: 25 ayes, 0 nays to cease debate, Madam President.

SENATOR LABEDZ: Debate has ceased. Senator Schmit, would you like to close on the advancement of LB 1246?

SENATOR SCHMIT: Madam Chairman, Senator Chambers asked for a minute, so would you take it now, please, Senator.

SENATOR CHAMBERS: In real...Madam Chair and members of the Legislature, thank you, Senator Schmit. And it will take less than a minute. I feel so strongly about this Van Pelt matter that I think either he should resign or Judge Buckley should demand his resignation.

SENATOR LABEDZ: Senator Schmit.

SENATOR SCHMIT: Thank you, Senator Chambers and Senator Labedz. I want to just talk briefly about why I, personally, and I cannot speak for anyone else, feel that it is important that the committee have the ability under certain conditions to grant use immunity. It is apparent to me, and I have visited with many individuals in the past month, it is apparent to me we have watched law enforcement, many times, grant immunity to certain individuals. Mr. Harvey was granted immunity, at least partial immunity, early on in this investigation. It would appear to me we have seen many times where persons accused of very heinous crimes have been given immunity so as to wrap up an entire investigation. Isn't it strange, it is strange to me, that persons whom we know are deeply involved have not been offered immunity by prosecutors. Witnesses have come to us and have indicated their willingness to cooperate, but are concerned about the fact that their cooperation may, in fact, result in charges being filed against them and no one else. Certainly an individual who cooperates with a legislative committee in this type of investigation ought not be concerned about being prosecuted as a result of that cooperation. The legislative committee would not exist had this system worked, had the individuals who supposedly have the...who do have the responsibility perform their responsibility, there would be no committee. Mr. Dennis Carlson, testifying before the Executive Board many months ago, I asked the question, do you believe that the evidence you have brought to us is the total substance of the evidence? Mr. Carlson, Carol Stitt, Mr. Burrell Williams, all three in unison, without even looking at each other, shook their heads negative. And Mr. Carlson said, it is only the tip of the iceberg. I am convinced, as I stand here today, that what the committee has uncovered thus far is still only the tip of the iceberg. I have said before I believe the problem extends beyond state lines, it extends east and west and north and south, and this legislative committee and this Legislature has brought it to the attention of many individuals. I share the concern expressed by other members of this body about the lack of reporting of this activity by the press in Nebraska. The press must bear some of the responsibility for not having reported obvious violations of good judgment which would have caused investigations to take place long, long ago. Ladies and gentlemen, if this Legislature does not pursue, with extreme diligence, all the areas that we have uncovered thus far, if we do not insist upon a full investigation by the grand juries that are now sitting, if we do not insist that all evidence we

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develop be delivered to the grand jury,...

SENATOR LABEDZ: One minute, Senator.

SENATOR SCHMIT: ...if we do not ask for and demand full investigation by everyone who's involved, then we are guilty just as are those individuals who committed the crime, because we will allow, by our inaction, those crimes to continue to be perpetrated. Victims have told us that if they did not testify then these acts would be allowed to continue, and therefore even at risk to themselves they are testifying to the committee and they're willing to cooperate with law enforcement officers. It would be a tragedy, ladies and gentlemen, and it may well be beyond our ability to control, but it would be a tragedy if, after all the evidence that has been developed,...

SENATOR LABEDZ: Time is up, Senator.

SENATOR SCHMIT: ...nothing would happen. I hope the passage of the bill will indicate that this Legislature is serious that we shall not stop. Thank you very much.

SENATOR LABEDZ: Thank you, Senator Schmit. We're voting on the advancement to E & R initial LB 1246. All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk.

CLERK: 39 ayes, 1 nay, Mr. President, on the motion to advance LB 1246.

SENATOR LABEDZ: LB 1246 is advanced. Mr. Clerk, do you have something to read in?

CLERK: I do, Madam President. Thank you. Amendments to be printed by Senator Wesely (LB 1246). New resolution by Senator Langford, LR 395, congratulating Mrs. Merle Rusmisell for her 100th birthday; and report of registered lobbyist, Mr. President, required by statute. That's all that I have, Madam President. (See pages 1578-79 of the Legislative Journal.)

SENATOR LABEDZ: Thank you, Mr. Clerk. We'll now go to Select File, LB 551.

CLERK: Madam President, the first item are Enrollment and Review amendments.

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

SPEAKER BARRETT PRESIDING

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

PASTOR BYE: (Prayer offered.)

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

PRESIDENT NICHOL PRESIDING

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

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

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

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

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

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

PRESIDENT NICHOL PRESIDING

PRESIDENT NICHOL: Record, Mr. Clerk, please.

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

PRESIDENT NICHOL: Anything for the record?

CLERK: Mr. President, I have received the reference report of interim study resolutions. That will be inserted in the Journal, Mr. President. That's all, and I also have the last notice with respect to the delivery of bills read on Final Reading of the Governor, Mr. President. (See page 1727 of the Legislative Journal regarding LB 520, LB 520A, LB 567, and LB 567A.) That's all that I have.

PRESIDENT NICHOL: Thank you. We'll move on to General File, then. LB 1246A.

CLERK: Mr. President, LB 1246A was a bill introduced by Senator Wesely. (Read title.)

PRESIDENT NICHOL: Senator Wesely, please.

SENATOR WESELY: Thank you, Mr. President and members, this legislation supports the LB 1246 bill, which was a merger of several different pieces of legislation, as you recall, that deal with the Franklin Committee legislation, legislation I had in with Senator Schmit dealing with the Attorney General's Office and prosecution of crimes against children. We did reach a compromise and this is that compromise as part of the package to provide for 405,000 dollars this year, or 1990-91, and 396,000 the next year to do the following things: First, a Crimes Against Children Prosecution Unit in the Attorney General's Office would be established. There'd be three attorneys hired with speciality, expertise in prosecuting crimes against children. There would be a support staff as well and then other operational expenses that would cost around 250 or so thousand dollars. This unit would be available to assist county attorneys where necessary and if, in fact, individuals, including the county attorney, felt that they were not in a position to prosecute a case, the public or the county attorney or others could appeal to this unit and ask them to prosecute the case instead of the county attorney. And so this unit would be very valuable in assisting county attorneys and also, where

SPEAKER BARRETT: Have you items to be read in?

CLERK: Mr. President, I do. Thank you. I have amendments to be printed from Senator Abboud to LB 1246; Senator Hall to LB 1090; and Senator Abboud to LB 976. That's all that I have, Mr. President. (See pages 1769-74 of the Legislative Journal.)

SPEAKER BARRETT: Thank you. A motion to adjourn until Monday morning at nine o'clock. Those in favor vote aye, opposed nay. Have you all voted? Record.

CLERK: 15 ayes, 19 nays to adjourn.

SPEAKER BARRETT: Motion fails. Back to the matter of reconsidering the motion to return the bill to Select File. Senator Schimek, please, followed by Senators Chambers and Landis.

SENATOR SCHIMEK: Thank you, Mr. President and members of the body. I'd like to talk about parental notification, and I'd like to talk about the impact on young women as opposed to perhaps young men. You know, when we were discussing this bill before, Senator Nelson and I had an amendment which I think we withdrew, Senator Nelson, I can't remember for sure. But it would have required notification of the young man's parents, also, or parent, believing that both people were partners in a pregnancy. In Minnesota, as in all other states with mandatory parental involvement laws, no statute similarly requires teenage men to prove their maturity before making decisions concerning sexuality or parenting. In fact, where the decision or treatment might involve young men, such as statutes regulating venereal disease, treatment and contraception, many states, including Minnesota, recognize minor's capacity to give informed consent. In this way the effect of parental consent laws is to single out unmarried, minor women whose sexual activity results in a pregnancy and subject them to burdensome and often traumatic requirements. Such requirements are not imposed upon unmarried, minor men whose sexual activities results in pregnancy. By telling a young woman that she may not decide in whom she will confide, or that the abortion decision is not her's to make, these laws reenforce disabling notions that women are not and never can be mature, that women's sexuality is dangerous, and that a young woman's separation from her family is somehow bad, while her brother's is not. The evidence

April 3, 1990

LB 571A, 958, 1246

SENATOR LINDSAY: Mr. President, I move that LB 958 be advanced to E & R for engrossment.

SPEAKER BARRETT: Are there objections? Discussion? Questions? Seeing none, the question is shall LB 958 be advanced to E & R? All in favor say aye. Opposed no. Ayes have it, motion carried. The bill is advanced. LB 571A.

CLERK: Mr. President, LB 571A, I have no amendments pending to that bill, Senator.

SPEAKER BARRETT: Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move that LB 571A be advanced to E & R for engrossment.

SPEAKER BARRETT: Any discussion? Senator Landis, your light's on. Do you want to discuss?

SENATOR LANDIS: No, (inaudible).

SPEAKER BARRETT: Thank you. Those in favor of the advancement of the bill please say aye. Opposed no. Carried. The bill is advanced. LB 1246.

CLERK: Mr. President, LB 1246 I have Enrollment and Review amendments first of all, Senator.

SPEAKER BARRETT: Senator Lindsay, please.

SENATOR LINDSAY: Mr. President, I move that LB 1246 be advanced to E & R for engrossment.

SPEAKER BARRETT: Any discussion? Shall E & R amendments be adopted? All in favor say aye. Opposed no. Carried. They're adopted.

CLERK: Mr. President, Senator Wesely would move to amend the bill. Senator Wesely's amendment is on page 1579 of the Journal.

SPEAKER BARRETT: Senator Wesely.

SENATOR WESELY: Thank you, Mr. Speaker, members. This is a

very minor technical amendment. It deals with an area in which when Senator Schmit, Senator Lynch and I and Senator Chizek tried to find some information out about child abuse cases and prosecutions, we found that law enforcement didn't have to report this information unless they pursued an investigation. And what we need to know is that information whether or not an investigation is pursued by law enforcement just to keep track of how many cases we have out there. This was a gap in the information we tried to seek so I'd ask for adoption of this amendment.

SPEAKER BARRETT: Any discussion? Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman, I'd like to ask Senator Wesely a question. I'm trying to find his amendment. Senator Wesely, what is the nature of this information that would actually be given?

SENATOR WESELY: Well, it would be child abuse and neglect allegations brought to law enforcement. Currently, you know, we have a two-tiered system. You can go to law enforcement or you can go directly to the Department of Social Services. The Department of Social Services lets us know every case that's brought in and then those that are pursued. In this instance we're talking about, law enforcement doesn't have to do that so this would include whether or not they actually pursue that. They would have to report at least getting the complaint.

SENATOR CHAMBERS: No, what I mean by what will the information itself consist of? Are you talking about the names of children and families?

SENATOR WESELY: No, no, no, no, no.

SENATOR CHAMBERS: Okay, and who would get the information? Who would have access to it?

SENATOR WESELY: I think that's...

SENATOR CHAMBERS: Under the amendment?

SENATOR WESELY: The Department of Social Services would receive that.

SENATOR CHAMBERS: Okay.

SENATOR WESELY: This is just statistical to keep track of what's happening out there.

SENATOR CHAMBERS: Okay.

SENATOR WESELY: It's a very small...

SENATOR CHAMBERS: But no...nothing that would identify the individual.

SENATOR WESELY: No, no, no, this is statistical.

SENATOR CHAMBERS: Okay.

SPEAKER BARRETT: Senator Goodrich, please. Senator Goodrich on the Wesely amendment.

SENATOR GOODRICH: Question of Senator Wesely if he's around.

SPEAKER BARRETT: Senator Wesely.

SENATOR GOODRICH: Senator Wesely, what I'm curious about and I was trying to get the answer before you got done talking there, but I didn't quite get it. It says in your amendment it says a law enforcement agency shall notify the department, I presume that's the Department of Welfare, whatever department that is, whether or not an investigation is undertaken by the law enforcement agency. Such notification shall be made on the next business day following the receipt of the report. What does that mean? The receipt of the report of the investigation?

SENATOR WESELY: No, no, the report concerning abuse or neglect, somebody calls in or reports in.

SENATOR GOODRICH: Okay, now does that...have you checked anywhere with the Department of...the highway patrol or whatever investigative bodies you're talking about relative to are they in violation of any problem, any code, any confidentiality requirements if they report...

SENATOR WESELY: No, no.

SENATOR GOODRICH: ...to the Department that they are conducting an investigation?

SENATOR WESELY: No.

SENATOR GOODRICH: That's what's bothering me a little bit.

SENATOR WESELY: No. No, there's no problem. Senator Goodrich, they're already having to report if they're doing an investigation. This is if they decide not to pursue, just so we have the statistical information and know how many complaints come in then how many are pursued. It's a very small minor and there's no problem.

SENATOR GOODRICH: It doesn't make any difference how small or minor it is if there happens to be a confidentiality code or statute of some sort that says in essence that they cannot reveal what they're investigating. You can be just as in violation with a little bit or like one report or revelation as you can with a whole bunch of revelations. And I was just curious has this had any kind of a contact with the Attorney General or the highway patrol or anybody that does criminal investigation? That's what I'm curious about. Obviously doesn't give a damn, so let's go.

SPEAKER BARRETT: Any other discussion? Senator Wesely to close.

SENATOR WESELY: Yeah. Again, all we're trying to do is we found as we got some information trying to track abuse complaints and investigations that there was a gap in the law. This simply closes the gap. I don't think there's any problem with it and ask for adoption of the amendment.

SPEAKER BARRETT: The question is the adoption of the Wesely amendment to LB 1246. All in favor vote aye, opposed nay. Have you all voted? Record, please.

CLERK: 25 ayes, 1 nay, Mr. President, on adoption of Senator Wesely's amendment to the bill.

SPEAKER BARRETT: The amendment is adopted.

CLERK: Mr. President, Senator Abboud had an amendment. I have a note...I have a note that he wishes to withdraw, Mr. President.

SPEAKER BARRETT: Senator Abboud, are you in the Chamber? The amendment is withdrawn. Thank you.

CLERK: Mr. President, Senator Schmit would move to amend the bill. Senator, I have your AM3319 in front of me.

SPEAKER BARRETT: Senator Schmit, please.

SENATOR SCHMIT: Mr. President, this amendment makes it a Class I misdemeanor if a person or individual furnishes information he or she knows to be false to a special committee of the Legislature, including the senators on the committee, counsel and special investigators with the intent to instigate or impede an investigation by the committee. I think that we have had some concern as to whether or not an individual who appears before a special committee is under any special pressure to tell the truth. I think it is important that anyone who testifies before a committee understands that they need to tell the truth. There have been instances, of course, in this investigation where our investigator has placed a witness under oath, that witness has testified that what they are saying is the truth, that they understand the penalty for perjury and that is a separate instance. In this particular instance, for example, it is at the present time unlawful to give false information to a police officer. This is a situation where if the individual is testifying before a special committee, even though they are not under oath it is unlawful to give false testimony. I would hope that there would be some discussion of the amendment. We did introduce the bill five days before the end of the session and the bill did not have opportunity for hearing. I would like to have it discussed. It is not a major issue with me, but I just wanted to bring it up here on the floor because I believe it's imperative that a special committee not be treated with disdain by a witness who testified before it. I believe it's important that any time that a committee is in session that individuals do not come before the committee and simply speak without understanding they are under some pressure to tell the truth.

SPEAKER BARRETT: Thank you. Discussion on the Schmit amendment to LB 1246. Senator Landis followed by Senator Crosby.

SENATOR LANDIS: Mr. Speaker, I was wondering if either the Clerk or Senator Schmit could identify where in the Journal we could find the amendment. And let me ask, has this been

distributed to the members yet, Senator Schmit?

SPEAKER BARRETT: Senator Schmit, would you respond.

SENATOR SCHMIT: No, it has not been. Mr. Clerk, did I ask that it be printed or not?

CLERK: This amendment, Senator? No, sir.

SENATOR SCHMIT: Okay, I'm sorry. I did not have it printed.

SENATOR LANDIS: Mr. Speaker, members of the Legislature, I'm taking a look at the amendment now. I guess I'll have to read it since we can't otherwise see it since it's not on our desk. It is an amendment to existing statute 28-907 which is the false reporting section of our statutes. Now that statute already makes it illegal to falsely report to a police officer or an official on an investigation if there is a knowingly false statement in an emergency situation, to a hospital or an ambulance company that involves danger to life or property, if you cause information by telephonic or mechanical means to a fire department which is false and this is the new section, Section E, I guess this is your only chance to see it or hear it I guess, hear it I guess, subsection E, furnishes information he or she knows to be false to a special committee of the Legislature, including senators on the committee and counsel and special investigators to the committee, with the intent to instigate or impede an investigation by the committee. One more time, furnishes information he or she knows to be false to a special committee of the Legislature, including senators on the committee and counsel and special investigators to the committee, with the intent to instigate or impede an investigation by the committee. I would have a question for Senator Schmit only because I recall the Supreme Court decision with respect to testimony given before the Legislature with respect to the Paul Douglas impeachment. You might recall that at that time, Douglas, while under oath, testified to a fact with respect to I think it was his tax paying which later subsequent information found to be false and which there was then a criminal charge brought for perjury, not for false reporting, but for perjury, before the Lancaster County District Court. Originally he was found guilty, it moved up to the Supreme Court, the Supreme Court vacated the judgment based on the fact that the oath that was given and broken was not required to be made under law. One of my questions is does this

apply to statements made to the special investigating committee while under oath?

SENATOR SCHMIT: Well, Senator, as I understand the present situation, it is a crime of perjury if an individual while under oath makes a false statement to a special committee. There is a difference of agreement as to whether or not this problem was corrected after the Douglas situation. One of the reasons why we introduced the bill and why we brought the amendment before the body at this time was to ask for floor debate and I would appreciate I believe at this time your opinion and the opinion of other attorneys on this floor as to whether or not we in fact need this language or if it is covered under present statute.

SPEAKER BARRETT: One minute.

SENATOR LANDIS: I would hope perhaps that the body can have this information copied and passed out so that we can all see it. The question I guess I've got and I can't see it on the face of it. Let me read this language and it's my third time. It's the difficulty of hearing it out loud I know, furnishes information he or she knows to be false to a special committee of the Legislature. Now it doesn't say under oath, not under oath, in a hearing, out of a hearing. As I've got it here, if I call up a member of the special committee and I tell them something which I know to be false and I have the intention to impede the investigation, I have committed the Class I misdemeanor, I think. If I go in front of the committee, I take an oath, promise to tell the truth and I don't tell the truth, I'm not sure if I also violate this section or not or if it is your intention that I violate this section. And I'm interested in knowing, Senator Schmit, whether if I was under oath before your committee, I lied to the committee, I meant to put you on to a bum trail, steer you wide of something that you shouldn't, you know, that I didn't think you ought to cover, gave you a false lead that I knew was false, at that point does this apply?

SPEAKER BARRETT: Time has expired, but please answer the question, Senator Schmit. Thank you.

SENATOR SCHMIT: Senator Landis, I would hope that this would be applicable in that instance.

SPEAKER BARRETT: Thank you. Senator Crosby followed by Senators Chambers and Schmit.

SENATOR CROSBY: Thank you, Mr. Speaker and members. I would like to have a copy, too, if you get one, Senator Landis, because I think at the tail end of the session here it's really difficult to have something like this that is so complicated and could bear on so many things that might happen. My questions, David asked a lot of my questions and one of mine also is who would decide whether these charges would be made and what court, you know, does the district court take it up so I'm going to give, Senator Landis, if you'd like the rest of my time I'll let you talk 'cause you're asking the questions and answering them and I don't have the legal expertise to follow up. Okay?

SENATOR LANDIS: Thank you.

SPEAKER BARRETT: Senator Landis.

SENATOR LANDIS: Thank you. I would like just a little bit more time 'cause I'm fighting to understand where I am here. I'll tell you why. Let me just tell you the story a little bit, and I was part way through it when I had to stop. In the Douglas Supreme Court opinion, the court said, yes, Douglas was under oath. Yes, he had promised to tell the truth. Yes, he didn't tell the truth. And, no, he did not commit perjury. Now that sounds odd, but that's what the court said. The court said, yes, he was under oath; yes, he promised to tell the truth; yes, he had not told the truth; but, no, he hadn't committed perjury. Why? Because our statute at that time did not indicate that somebody was required to take an oath before our committees. And the perjury definition was to break an oath that you are required by law to take. Since this person had taken the oath, but there was no law requiring that they took the oath, that was something different than what the perjury law described. Now we passed a law and I think it was Senator Wesely's, yep, Senator Wesely and Senator McFarland back in 1987. This is LB 451 and we went back into the statutes to try to change them. We tried to make it clear that if you come before one of our committees and you take an oath, even though that oath may not be required by law, that we don't require it of everybody who sits down in front of the committee, but if you do take the oath you're subject to perjury. Now the critical thing for me here is that this statute says it's a Class III felony. In other words, under perjury in LB 451 and under what we did to fill up the loophole of the Paul Douglas case, we plugged that hole with a Class III felony to lie knowingly to a legislative committee

while under oath in one of these special investigating committee hearings. Now Senator Schmit is bringing us another amendment that covers more than testimony under oath as a Class I misdemeanor. But under his just announced statement, it seems that also testimony given under oath is as well a Class I misdemeanor. And I'd have to scratch my head on that one. It seems to me as a prosecutor you could choose to go with a Class III felony if they're in the opposite political party and you could go with a Class I misdemeanor under this false reporting if they're of your own political party. I'm not so sure those two shouldn't be harmonized, don't you think? It just seems to me that if you're going to create this kind of a wrinkle we ought to be talking out of the same side of our mouth when it comes time to give a penalty, ought to be having about the same level of responsibility here. It ought not to be one level of punishment if you lie to the committee under perjury but a different level of penalty if you lie because you're giving a false statement...

SPEAKER BARRETT: One minute.

SENATOR LANDIS: ...under oath that because of a choice of a prosecutor becomes a misdemeanor. I just scratch my head and we're all reacting pretty quickly here because we're just getting this thing delivered to our table, but off the top of my head I'd say that we ought to harmonize these things a little better than what they are right now.

SPEAKER BARRETT: Thank you. Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman, I'm looking at the language and I'm going to tell you why I have a problem with it. To me there is a great difference between a committee sitting as a committee and individual senators who make up that committee. We're talking about making language a crime, things that people speak a crime. We don't say that a person has to be under oath. A person could be talking to the senator. The senator could conclude that it's for the purpose of impeding, of instigating or impeding an investigation by the committee. When you have a formal setting of a committee hearing, and you require the taking of an oath, you have a set of circumstances where the seriousness and gravity of the situation is brought home to the individual speaking. It's not like a situation where somebody might run into a senator in a corridor of the Capitol building or at a restaurant or on the street. Senators are not law

enforcement officials. We have no law enforcement functions. We do not respond to emergency situations. We do not render medical care as a part of our duties and responsibilities. So I think we ought to go very slowly in making it a crime to give what is considered false information to politicians. It's one thing I say again to have a committee sitting as a committee, empowered to subpoena witnesses, to require the taking of an oath; and when you have a committee setting, that person has all of the rights that a person coming into a court would have. He or she need not say anything that may be self-incriminating. He or she is entitled to a lawyer. These are all things contained within our rules. But to put this kind of language in the statute would say that if you have a special investigator, if a person gives false information to that investigator or the investigator says it's false, it gives a type of leverage that I would not want to see a free-wheeling individual who is an employee of the Legislature and not a senator having...I would not want to see special counsel....It doesn't say "special counsel," but counsel having the power to initiate criminal charges against a person for what they may not say. Can you not imagine the power for mischief that this kind of language could have in the statute, even though I don't think that's the intent in bringing it? You could tell somebody, look, buster, you'll talk to me or I'll have you brought up on charges. The court doesn't even say that. You don't have to incriminate yourself. So it is dangerous to allow politicians to be put in a position to exert pressure through the threat of criminal sanctions to try to influence people to talk or to criminalize what they say. How do we, as senators, know whether or not somebody has told us a lie? And then if they've told us a lie that's not enough. It has to be for the purpose of impeding an investigation or instigating an investigation. How can we make that judgment? We say things on the floor that are not true. We say things designed to mislead each other on the bills. So now if that's not going to be criminalized when we say it and we're formulating policy, why should we put citizens at risk of being charged with a crime and taken to trial and facing a criminal sanction because they say words that we say are not true, that they're known to be untrue, they were intended to be untrue, and furthermore they were intended to impede an investigation or instigate an investigation?

SPEAKER BARRETT: One minute.

SENATOR CHAMBERS: This is not a good policy. I do not think

it's fair to the public and I think it gives a kind of power to individual senators, to special investigators, and there is no definition of these investigators, no definitions or perimeters within which this counsel must operate and, because of those things, I would have to oppose this amendment. I don't think it's necessary and the only time I think a citizen ought to be in peril of a criminal charge, if at all, would be if they are called before a committee, they're informed of all their rights and then warned, after taking an oath, that if you tell an... if you lie under oath then you're subject to perjury charges. In that situation, I don't have as much concern. Even then I have some, but I definitely would not think this to be a wise policy.

SPEAKER BARRETT: Thank you. Senator Schmit. Senator Chizek on deck.

SENATOR SCHMIT: Mr. President and members, I have visited with Senator Chizek and with Mr. Glaser, Committee Counsel for the Judiciary Committee. Mr. Glaser believes, and Senator Chizek concurs, that the statutes have been changed subsequent to the Douglas situation and that the Douglas case in 1987 has brought, did bring forward additional language which provides for a penalty for providing false information to a variety of individuals and it could be construed that it would be... include legislators. I do not, at this time, want to bog down this bill with an amendment which causes concern for most of you, many of you, but I did want to call it to your attention. I believe it is important. I believe it is absolutely mandatory that not just this committee, which is at the present time investigating the problem related with Franklin Federal Credit Union, but that any time a special committee of the Legislature is involved in such activity that individuals know that when they come before a committee they are not merely reciting stories. There has been enough... there have been enough attempts to intimidate individuals who had helped this committee. There have been enough attempts made by various entities who would question the work of the committee. There have been attempts made to impugn the integrity of committee witnesses and I do not think that is in the interest of justice. There are those who, today, have centered their investigation upon the victim/witnesses of the Franklin Committee rather than having pursued the leads that would have been visible to any legitimate law enforcement agency. They have chosen to discredit committee witnesses rather than to pursue those areas they should have pursued even upon their own initiative. I do

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LB 1246, 1246A
LR 11

not at this time think it is probably necessary to pursue this. I wanted to bring it up on the floor and I want to emphasize at this time that Senator Chizek, Mr. Glaser have indicated they will research this aspect and try to determine if there is a need to further reinforce the statutes in this area. I think if you go back and review what Senator Landis has said, you will note that there is ambiguity there, but I do not want to cloud the issue on LB 1246. Therefore, Mr. President, I ask unanimous consent to withdraw the amendment.

SPEAKER BARRETT: Thank you. If there are no objections, it is withdrawn. Mr. Clerk.

CLERK: Mr. President, I have nothing further pending to LB 1246.

SPEAKER BARRETT: In that event, the Chair recognizes Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move that LB 1246, as amended, be advanced to E & R for engrossment.

SPEAKER BARRETT: Any discussion? If not, shall LB 1246 be advanced? All in favor say aye. Opposed no. Ayes have it. Motion carried. The bill is advanced.

CLERK: Mr. President.

SPEAKER BARRETT: The A bill (LB 1246A).

CLERK: Yes, A bill. Senator, I have no amendments pending to the A bill.

SPEAKER BARRETT: Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move that LB 1246A be advanced to E & R for engrossment.

SPEAKER BARRETT: Is there discussion? Seeing none, the question is, shall LB 1246A be advanced? All in favor say aye. Opposed no. Ayes have it. Motion carried. The bill is advanced. LR 11CA, Mr. Clerk.

CLERK: Mr. President, I have no E & R to the resolution. I do have a motion from Senator Wesely, that motion be to

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LB 1055, 1153, 1153A, 1221, 1246, 1246A
LR 11, 239

SENATOR WITHEM: ...they are going to vanish again, and will surface again maybe once again when the Legislature meets and starts talking about this. You also notice in this article, Regent Blank talks about what we really need is stronger centralized coordination. We regents have always favored that. That is, with the risk of offending some people, hogwash. They have never favored that. They have opposed it. As a matter of fact, it is interesting that they said what we really need is stronger coordination, they said that two days ago. Now that Senator Warner has his amendment up, they are back there in the rotunda saying, oh, no, don't do that, public hearings, all of these other silly reasons to oppose the Warner amendment. What they really want to do is to be left alone. They want to spend a quarter of our state budget without having any sort of oversight over it. That is what they really want, and they will continue to want that until this Legislature steps forward. If you are serious about doing something this session on higher education coordination, you ought to vote no on the bracket motion.

PRESIDENT: Time.

SENATOR WITHEM: If you want us to continue to wrestle with this, then you ought to vote in favor of the bracket motion. How you vote, frankly, is your own concern.

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

CLERK: 4 ayes, 18 nays, Mr. President, on the motion to bracket LR 239.

PRESIDENT: The bill is not bracketed. Do you have something on it, Mr. Clerk?

CLERK: I do, Mr. President. May I read some items for the record.

PRESIDENT: Yes, please.

CLERK: Mr. President, your Committee on Enrollment and Review respectfully reports they have carefully examined engrossed LB 1055 and find the same correctly engrossed, LB 1153, LB 1153A, LB 1221, LB 1246, LB 1246A, and LR 11CA, all of those

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LB 1221, 1246, 1246A

excused not voting, Mr. President.

PRESIDENT: LB 1221 passes. Senator Chris Abboud, would you go to your microphone, please? I have a question to ask. Would you just tell us what's what, please?

SENATOR ABOUD: Well, I'm kind of speechless, actually.

PRESIDENT: Kind of like Bernard-Stevens, aren't you?

SENATOR ABOUD: Yes. (Laugh) My wife gave birth to our young son, Michael Christopher, at 3:12 Saturday afternoon, an 8 pound, 10 ounce boy. He was 20 inches and... 20 and 3/4 inches long, so he is a big little boy, and we're just... my wife is doing just fine and I'm still a little flustered about it but everything...the child's doing great, too, so thank you.

PRESIDENT: Thank you, Senator Abboud. LB 1246 with the emergency clause attached.

CLERK: (Read LB 1246E on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is shall LB 1246 pass with the emergency clause attached? All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

CLERK: (Record vote taken as found on pages 2005-06 of the Legislative Journal.) 48 ayes, 1 nay, Mr. President.

PRESIDENT: LB 1246 passes with the emergency clause attached. LB 1246A with the emergency clause attached.

CLERK: (Read LB 1246AE on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 1246A pass with the emergency clause attached? All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

CLERK: (Record vote taken as found on pages 2006-07 of the Legislative Journal.) 46 ayes, 0 nays, 3 present and not voting, Mr. President.

PRESIDENT: LB 1246A passes with the emergency clause attached.

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

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

PRESIDENT: Time.

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

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

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

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LB 163, 1055, 1099, 1124, 1153, 1153A, 1221
1246, 1246A
LR 427

LB 1055, LB 1124, LB 1153, LB 1153A, LB 1221, LB 1246, and
LB 1246A.)

I have an explanation of vote by Senator Landis and a study resolution by the Banking Committee, that is offered...signed by its membership, Mr. President. (LR 427. See page 2032 of the Legislative Journal.)

Mr. President, the first motion I have with respect to overrides of legislation is LB 163. Senator Rod Johnson would move that 163 become law notwithstanding the objections of the Governor.

SPEAKER BARRETT: Senator Rod Johnson, please.

SENATOR R. JOHNSON: Mr. Speaker, members, my comments will be short and, hopefully, to the point. I guess LB 163 is a substantial policy choice question this Legislature is going to have to make. I know that you have been lobbied heavily on both sides of this issue, and I can appreciate that, and I hope that you've made up your mind. I'm not sure that the debate will add much to the vote that you're about to cast, but I wanted to get some things in the record nonetheless. You know as we all get these notices from the Governor as to why she vetoed the bill, I'm not sure they serve any service other than to piss us off. But I'm at the point right now where LB 163 has three points in it, her veto message, that tell us how she feels about LB 163. The first is she says the first is that LB 163 fails to build upon the work commissioned by the Legislature, past work. Then she mentions a bill I passed in this Legislature a few years ago to commission a study to look into the solid waste problems that Nebraska has. That study pointed out we have a substantial number of solid waste or landfills in Nebraska that have really some substantial environmental and health risk problems to Nebraskans. I realize that, that's what the purpose of this bill has been from the beginning is to begin the process of moving ourselves forward to deal with solid waste. Granted, it doesn't help clean up the contamination that is there, but we have other programs that are designed to help, walk in and start the process of looking at water contamination problems that exist with SPAs or special protection areas. Senator Schmit and I carried a bill this year, LB 1099, which did not make it through the process, but again is a bill that would have helped us deal with some of the contamination problems that exist. What this bill does is basically say we recognize that EPA is going to be coming down in this state very soon, within probably