

January 5, 1989

LB 81-160  
LR 1-2

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

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

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

EASE

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

SPEAKER BARRETT PRESIDING

SPEAKER BAPRETT: Additional bill introductions, Mr. Clerk.

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

SPEAKER BARRETT: More bill introductions, Mr. Clerk.

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

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

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

February 6, 1989

LB 132, 147, 224, 265, 267, 397, 619  
623

the bill on to Select File.

SPEAKER BARRETT: Thank you.

SENATOR KRISTENSEN: I think the Chambers amendment is a reasonable compromise, and it gets to the point of what we wanted to do, and I would call the question.

SPEAKER BARRETT: Thank you. That won't be necessary. Senator Chambers. No closing, thank you. The question is the adoption of the Chambers amendment to LB 267. Those in favor please vote aye, opposed nay. Voting on the Chambers amendment to LB 267. Have you all voted? Record, please.

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

SPEAKER BARRETT: The amendment is adopted. Anything further?

CLERK: Nothing further on the bill, Mr. President.

SPEAKER BARRETT: Senator Abboud. No closing. No lights on. Is there any discussion on the advancement of the bill? Seeing none, those in favor of advancing 267 to E & R Initial please vote aye, opposed nay. Have you all voted? Record, please.

CLERK: 27 ayes, 0 nays, Mr. President, on the advancement of LB 267.

SPEAKER BARRETT: LB 267 is advanced. For the record, Mr. Clerk.

CLERK: Mr. President, your Committee on Judiciary, whose Chair is Senator Chizek, to whom was referred LB 147 instructs me to report the same back to the Legislature with the recommendation it be advanced to General File; LB 224 General File, LB 265 General File, LB 397 General File. Those are signed by Senator Chizek as Chair. Natural Resources Committee whose Chair is Senator Schmit reports LB 132 to General File, LB 619 General File, LB 623 General File. Those are signed by Senator Schmit as Chair.

I have a confirmation report from Senator Schmit as Chair of the Natural Resources Committee; and a notice of hearing from the Revenue Committee signed by Senator Hall. That is all that I

March 6, 1989

LB 147, 407, 419, 453, 679

Congratulations. Did you have some items for the record, please?

ASSISTANT CLERK: Yes, I do, Mr. President. Committee on Business and Labor gives notice of public hearing on LBs 810 and 811.

The Business and Labor Committee reports LB 407 to General File with amendments, LB 419 indefinitely postponed, LB 453 indefinitely postponed, LB 679 indefinitely postponed. (See pages 986-87 of the Legislative Journal.)

PRESIDENT: The Chair recognizes Senator Nelson.

SENATOR NELSON: Mr. Speaker, members of the body, it's a pleasure to introduce today the doctor of the day, another fine young fellow from Grand Island. Remember last week we had Tim Sullivan. We bring them up the best. Scott Ehresman is in family practice and he is going through the same program as our Tim did, and it is a pleasure to introduce him as the doctor of the day and have him join us.

PRESIDENT: Would you please stand, Doctor, so we may see you? Thank you for taking care of us today. We'll move on to General File, LB 147.

ASSISTANT CLERK: LB 147 was introduced by Senator Chizek. (Title read.) The bill was read for the first time on January 5, was referred to the Judiciary Committee. They report the bill back to General File with no committee amendments, Mr. President.

PRESIDENT: Senator McFarland, are you going to handle this?

SENATOR MCFARLAND: Yes, I am.

PRESIDENT: All right.

SENATOR MCFARLAND: Thank you, Mr. President, colleagues. This is a bill that was introduced by Senator Chizek. It proposes to increase from 48 to 50 the total number of district court judges in Nebraska. The two additional district court judges will be allocated by the Judicial Resources Commission. There is not much doubt that additional personnel in the court system would help the courts better cope with things as they have come to

pass. Douglas County, for example, has seen new cases increase annually from approximately 6,000 in 1972 to nearly 9,500 in 1988. This 58 percent increase in caseload tells only part of the story. The nature, complexity and duration of the cases in court have changed significantly. Cases in such highly technical areas as medical and legal malpractice, products liability, hazardous material, personal injury are now commonplace in the court. On the criminal side there has been a tremendous increase in drug related offenses. That situation could very well exist in any county of the state and we would expect that the commission to target the allocation to the area of greatest needs. We believe that it could be in Douglas County, but determination is up to the Judicial Commission, looking at the situation statewide. The district court sent to each of you senators a packet of materials outlining the need for help. We don't need to recite that here. We trust you have reviewed it. LB 147 is a first step in getting the help to the court system that the district court needs so it can maintain its level of case management. I might add in closing and in urging your support of the bill that Douglas County has not had an increase in the number of its district court judges since 1972 and you all know how much Douglas County has grown in population and how the caseload there has significantly increased. For these reasons I would urge you to advance the bill. Thank you.

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

SENATOR KRISTENSEN: Thank you, Mr. President. Members, I want to briefly review with you some of the basics and backgrounds behind district judges and what this bill is all about. As you remember, district courts handle the most serious types of cases. They handle the felonies, they handle dissolutions and they handle most of our major lawsuits of serious nature and so we're talking about the highest level of trial court and the court where most of our people come into contact with the serious nature of the legal system. What this bill does is increase the number of judges by two, but this does not place the district judges in any particular place. We have a system in this state called the Judicial Resources Commission. Once the two new judges are put in place, they will determine where the judges shall be placed throughout the state. They have a formula here which consists of new case filings, jury trials, the number of counties in their judicial district, the number of

judges and so on and they come up with a point system and that point system will determine where the judges are to be placed throughout the state. So this legislation is not going to pinpoint where a particular judge is going to go. There are other people that are going to speak this morning about the number of cases and why we need two more judges. Basically, as a final point, the State of Nebraska is divided into 21 judicial districts and in those 21 judicial districts we have 48 judges. This bill merely increases that number to 50. Thank you.

PRESIDENT: Thank you. Senator Lindsay, please.

SENATOR LINDSAY: Mr. President and members, I rise today in support of LB 147 and going I guess a little bit further in depth unto Senator McFarland's arguments to point out that since the last time a judge was added to the district court system there has been an increase of about 18 percent in the number of cases. Statewide there were 23,750 cases filed in 1980 and approximately 28,000 in 1988. This does represent an 18 percent increase in number of cases. What we're seeking here is a 4 percent increase in the number of judges. A more dramatic increase has occurred in Douglas County. Douglas County's caseload since the last time they received an additional judge has increased 58 percent from approximately 6,000 cases in 1972 to 9,500 cases in 1988. And it should be noted that cases since the last time judges were added, the cases have become much more complex. We're talking now about cases involving very complex medical malpractice which generally have jury trials and can extend two and three weeks. There is a rash of cases now I guess, approximately 500 cases in Douglas County that deal with asbestos, the asbestos litigation. Those cases it is believed will take 30 to 60 days apiece. If only 10 percent of those cases go to trial, it will take two to three years just to complete that area of trials. There is additional work loads on the district court judges besides just these complex jury cases that they do. These case figures that I have included do not include the reopened cases, for example, in modification of divorce decrees, in contempt hearings on child support cases and child visitation, child custody. These cases all are required by statute to be expedited and even those cases it is difficult to get the hearing dates just because of the enormous amount of cases being heard. Further, right now the Supreme Court, because of its backlog, is requiring district judges or asking district judges to sit in panels and hear some of the Supreme Court cases. There is proposed legislation before the

Unicameral this year to create a temporary court of appeals which will require district court, or excuse me, district court judges to again hear appeals from the lower courts, from the district courts elsewhere in the state. Again, this is going to place a tremendous burden, a tremendous increase of work on the district judges. Right now the district court system in Nebraska is a good system. I'd ask that we keep it good by allowing the judges the time, the resources they need to provide good decisions in the state. Thank you.

PRESIDENT: Thank you. Senator Hartnett, please, followed by Senator Schmit.

SENATOR HARTNETT: Mr. President, members of the body, I'm the first nonattorney to talk on this bill. Maybe I don't know who...since Senator Chizek is not here, maybe Senator Kristensen or McFarland or Lindsay or something like this who knows something, how...do you know the criteria that they use, where the judges are going to go, Senator Kristensen, McFarland? I don't serve on that committee and I guess I just simply want to raise the question and maybe you know or don't know or something like that, because I hear, you know, I live in a very, very growing populous area. We have, I think, two and a half judges there now in Sarpy County and that they do handle a lot of cases and some of them, you know, maybe not be as serious cases as other cases, but how do they...going to make this judgment if we do pass this bill and so forth? Somebody can answer that for me, and maybe you did cover that, Senator Kristensen.

PRESIDENT: Senator Kristensen.

SENATOR KRISTENSEN: I'll give it a try here. What they do is they have a formula. The Resource Commission uses a formula to determine the area of greatest need throughout the entire state. They don't look at one particular area, they look at the entire state and they have a system of points and what they do is they take the number of new case filings, the number of jury trials and the number of counties that are in that judicial district and then they factor in the travel that is required because in a lot of counties out west we have to have a lot of travel and they divide that by the number of judges that are already in the district. And then they come up with a point total per judge. Whoever has the highest point totals, that is where they start to send the need for judges and this Resource Commission can look through the entire state. We as a body don't determine

March 6, 1989

LB 147

where those judges are going to go. I think the last time we had a new judge in this state was 1980 and that went out west and so that is what this commission will do. They will determine the area of most need and reference it then. Once they determine that there is a vacancy or a need there, then a whole other system kicks into place and that is the nominating commission. That is what everybody is familiar with. People apply for a judgeship, they interview them, the Governor appoints out of two or three or whatever, but it is a need base.

SENATOR HARTNETT: Yeah, thank you.

PRESIDENT: Senator Schmit, please. Senator Loran Schmit.

SENATOR SCHMIT: Mr. President and members, I rise in support of LB 147. I think that the introducers have mentioned some of the deep concerns they have relative to work load. We recognize that in some instances there is a disparity between districts, but nonetheless, sometimes because of geographical distances it is impossible to even out some of those work loads as much as they would like to do but recognize also the fact that many times the district judges must assist the Supreme Court which further thins their ranks and reduces the amount of time they have available for their own legitimate work load. One of the concerns that many attorneys and many citizens have is the ability to get a case heard and to get the case expedited in an orderly manner and the judiciary is very concerned about that to the extent that the work load makes it impossible for the court to function in an orderly manner. We think that we ought to do what we can to try to relieve some of that load. Therefore, I support the bill, support the concept and I hope that the bill will move.

PRESIDENT: Thank you. Senator Lindsay, please.

SENATOR LINDSAY: Question.

PRESIDENT: Thank you. You are the last light on so it won't be necessary, but thank you anyway. Senator McFarland, did you wish to close for Senator Chizek?

SENATOR MCFARLAND: Yes, thank you, I will in Senator Chizek's absence. I will just note that there were a number of proponents to the bill and no one spoke in opposition. It did advance unanimously out of committee. I think from the tenor of

March 6, 1989

LB 147A, 147

the people speaking in favor of it today on the floor, you can tell it is a necessary legislation and would be good legislation for our judicial system. I urge you to vote in favor of the bill. Thank you.

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

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

PRESIDENT: The bill is advanced. LB 147A, please.

ASSISTANT CLERK: LB 147A was also offered by Senator Chizek. (Title read.)

PRESIDENT: Senator McFarland, please.

SENATOR MCFARLAND: Yes, thank you, Mr. President, fellow senators, this is the A bill that is attached to the bill we just advanced. It would call for an appropriation of approximately \$200,000 primarily to cover the salaries for two additional district court judges and two court reporters and benefits, travel and training for the judge, the judges. I would urge its advancement as well. Thank you.

PRESIDENT: Thank you. Senator Chambers, please.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I just have a couple of questions for Senator McFarland. Senator McFarland, is it true that there are other bills before the Legislature dealing with the judiciary?

PRESIDENT: Senator McFarland, please.

SENATOR MCFARLAND: Yes.

SENATOR CHAMBERS: Does one of them deal with a substantial pay increase for all judges?

SENATOR MCFARLAND: It deals with a pay increase, I'm not sure I would call it substantial.

SENATOR CHAMBERS: Would you say fifty something percent in



March 7, 1989

LB 48, 61, 92, 92A, 147, 147A, 154  
176, 298, 327, 349, 360, 360A, 391  
398, 416, 441, 458, 459, 502

PRESIDENT NICHOL PRESIDING

PRESIDENT: Welcome to the George W. Norris Legislative Chamber. We have with us this morning as our chaplain of the day Reverend Steve Janovec of the People's City Mission in Lincoln. Would you please rise for the convocation.

REVEREND JANOVEC: (Prayer offered.)

PRESIDENT: Thank you, Reverend Janovec. Roll call, please. Record, Mr. Clerk, please.

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

PRESIDENT: Thank you. Any corrections to the Journal this morning?

CLERK: No corrections, 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 147 and recommend that same be placed on Select File; LB 147A, Select File.

Mr. President, Enrollment and Review reports LB 154, LB 360, LB 360A and LB 441 as correctly engrossed, both those items signed by Senator Lindsay as Chair of the Enrollment and Review Committee. (See pages 1003-04 of the Legislative Journal.)

Mr. President, communications from the Governor. (Read communications regarding signing of LB 391, LB 398, LB 458, LB 459, LB 48, LB 61, LB 176, LB 298, LB 327, LB 349, LB 416, LB 502, LB 92 and LB 92A. See page 1004 of the Legislative Journal.)

Mr. President, an appointment letter from the Governor appointing Ms. Kathy Campbell to the Child Abuse Prevention Fund Board. That will be referred to Reference. (See page 1005 of the Legislative Journal.)

I have a report from the Job Training area for the Department of Labor, Mr. President. That will be on file in my office. (See page 1005 of the Legislative Journal.)

March 27, 1989

LB 147, 154, 155, 254, 265, 340A, 421  
619, 623, 683, 781

SPEAKER BARRETT: The amendment is adopted.

CLERK: Mr. President, Senator Schmit would move to amend the bill.

SPEAKER BARRETT: Senator Schmit. Senator Schmit, on your amendment. It is withdrawn.

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

SPEAKER BARRETT: Thank you. Senator Chambers, this would be your closing.

SENATOR CHAMBERS: I am not going to close. I will just move to advance LB 340A to E & R Engrossing.

SPEAKER BARRETT: Any discussion? Seeing none, those in favor of the advancement of the bill please signify by saying aye. Opposed no. Carried. The bill is advanced. Mr. Clerk, anything to read in?

CLERK: I do, Mr. President, thank you. A communication from the Governor to the Clerk. (Read. Re: LB 265, LB 619, LB 155, LB 623, LB 154, LB 254, and LB 421. See page 1350 of the Legislative Journal.)

Mr. President, Senator Wehrbein has amendments to be printed to LB 683; Senator Smith to LB 781. (See page 1351 of the Legislative Journal.) That is all that I have. Mr. President.

SPEAKER BARRETT: Thank you. To the next bill, Mr. Clerk. LB 147.

CLERK: Mr. President, the next bill is LB 147. I have no E & R to the bill, Mr. President. I do have an amendment pending, however, from Senator Ashford. Senator, this is AM0891. (See pages 1351-52 of the Legislative Journal.)

SPEAKER BARRETT: Senator Ashford, please.

SENATOR ASHFORD: Thank you, Mr. President and members. This amendment concerns the addition to the separate juvenile court bench in Douglas County of a third juvenile court judge. If I might give a brief history, there are two separate juvenile courts, three, actually, separate juvenile courts in the State

of Nebraska, one in Sarpy County, one in Lancaster County, and in Douglas County. The juvenile court in Lancaster County currently has one juvenile court judge and will soon receive a second juvenile court judge at the end of this year. The juvenile court in Sarpy County has one judge and the juvenile court in Douglas County currently has two full-time judges with one additional part-time judge, retired judge, District Court Judge Caniglia. Judge Caniglia has been working for the court for a number of years and is working on a four-day a week schedule so he is basically a three-quarter judge at this time and is paid for those services by the State of Nebraska. So, in essence, what we are requesting in this amendment is actually just probably about is a quarter to a half additional judge from the current status. Again, briefly, going through some of the history of the juvenile court system, I have handed out to each member three charts and graphs which indicate the increase in caseload and all of us who want to add judges or add pay or whatever always have plenty of statistics to support it, but I think you can see by looking at the graphs on the handout that the increase in litigation in the juvenile court system in Douglas County has increased in astronomical proportions from the number of hearings in 1982, 2,139, to anticipated number of hearings in 1989 of 8,482 hearings. The statistics are one thing. The other part of the juvenile court system which is...doesn't come out necessarily in the statistics is the substance of each case, and I know lawyers, my colleagues in the body may attest to this, that maybe we shouldn't be the ones to talk about our own profession but I know I listen to members in the insurance business and members in the farming and ranching business when I don't know about what is going on. So, hopefully, even though I am a lawyer and have some experience in this, you will still give me some credibility, but each case in the juvenile court is a very difficult case. Can I get a gavel.

SPEAKER BARRETT: (Gavel.)

SENATOR ASHFORD: Thank you. Each case is a difficult case or it wouldn't be before the court. In Douglas County, and this is different from Lancaster County, each case is first brought into an intake officer, and that intake officer is not a juvenile court officer but is, in fact, an officer of the Douglas County Attorney's Office, and so there...the cases that come to the juvenile court are the most difficult cases, and, in my 15 years in the practice of law, I have handled several cases, many through to the Supreme Court, and many cases which have been

open for seven or eight years. Remember, the policy of the juvenile court is to keep families together, and in many cases, we are not dealing with the ideal family. We are dealing with troubled families, victimized families, child abuse cases, very, very difficult situation. I have got a case now that I have been handling for I think almost six and a half years and finally the court has been able, through the work of various individuals, to put a child and that child's mother together again permanently after six years. The juvenile court system works, in my opinion, in Douglas County but the manpower needs are extremely significant. The juvenile court in Douglas County had an associate court judge for the 10-year period between 1975 through 1985, and, in 1985, the Legislature repealed the authorization for an associate court judge for Douglas County and that was Judge Mullen, who is now on the district court bench in Douglas County, but it was just one year later, in 1986, it was one year later in 1986 when the Supreme Court decided that, yes, it was necessary for an additional judge to be added, so since 1986 Judge Caniglia has handled that particular job. This is the only place we can come to solve this problem. If there was another solution to the juvenile court problem, maybe we could address it at that point, but this is really the only...at this point after all of these years and all of the statistics, the only reasonable solution is the addition of, in this case, another about one-half of a judge to give Douglas County three judges and Lancaster County two judges. It would be incongruous for Lancaster County, a much smaller population base, to have two separate juvenile court justices, and Douglas County have only two as well. There is also a good point to be made that we need continuity, and a temporary, albeit a very excellent temporary judge in Judge Caniglia, is not the proper way to handle juvenile court matters which are, in many cases, the most difficult matters that come before the court system in Nebraska. I appreciate Senator Chizek's support. I notice that he is not here but I appreciate his support for this amendment, and I appreciate the other members of the Judiciary Committee who advanced this bill to the floor. This is the third year in a row that we have dealt with the juvenile court judge problem in Douglas County and I urge the members to adopt this amendment onto LB 147 at this time, and then advance LB 147 on to Select File. Thank you.

SPEAKER BARRETT: Thank you. Discussion on the amendment. Senator Abboud.

SENATOR ABBODD: Yes, Mr. President and colleagues, I rise to support and commend Senator Brad Ashford for bringing the amendment in. It has been a bill that needs to get passed right now. As he said, we are currently using about a half of a judge, two and a half judge, with Judge Caniglia, in the court, and it is a situation that if you look at the caseload that has been before the court that Senator Ashford handed out, you can see that there has been an incredible increase in the amount of neglect cases that we have in this particular area, and I think that is really the real tragedy in this entire problem we have been having with the lack of an additional judge there in juvenile court in Douglas County is that you will have children that will be in these neglected homes and the caseload will be such that they won't be able to deal with them in a timely manner. You will have children that will be actually endangered by not having enough judges to deal with the problems. When you have a problem with the child in a home, that child should either be pulled out of the home or the authorities should, at least, examine the home environment for these children and, at the current time, you don't have that ability. The children stay in the homes, even if there is reports of neglect or abuse, sexual or physical and I think that, by providing this additional judge, we will have the opportunity to examine these cases on a faster manner and you won't have days or weeks take place before these neglect and abuse cases are brought before a judge. You will notice since '84, there have been a steady increase in the amount of total court orders from 5,000 to 7,507. I might add that we, at that particular time, in '84, we had an additional judge, an associate judge, Judge Mullen, who is currently on the district court. The problem with the associate judge system was discussed back in '84. I think one of the biggest problems was a lack of accountability, and that is what we currently have in the current system. If you have a judge that is a district court judge or a county court judge and he isn't good or he has some problems, either because of alcohol abuse or whatever they might be, the citizens of this state do have the option to vote that person out of office. They come up for review, and I think that that is one of the big advantages of our current system is that these people can be voted out of office, but with this part-time judge, Judge Caniglia, we don't have that type of accountability. We also have...you'll also note that total petitions have increased by a considerable amount since '84, and the total amount of neglected children has increased from 1984 from 271 to 328 in the past '88 year. I think that this is something that is important. I think that

March 27, 1989

LB 147

neglect and abuse in children is something that we are all very concerned about and this is one way we can deal with that particular problem. I urge the adoption of the Ashford amendment.

SPEAKER BARRETT: Thank you. Additional discussion, Senator Chambers, followed by Senators Bernard-Stevens and Ashford.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, if Senator Ashford is near, I would like to ask him a question.

SPEAKER BARRETT: Senator Ashford, please.

SENATOR CHAMBERS: Senator Ashford, after you wolf down those goods that you begged over there, I would like to ask a question. Are you ready?

SENATOR ASHFORD: No.

SENATOR CHAMBERS: Okay, are you ready to hear the question, and then you can get ready for the answer.

SENATOR ASHFORD: I will take the question.

SENATOR CHAMBERS: Is this a substantive amendment?

SENATOR ASHFORD: Yes.

SENATOR CHAMBERS: What section does...of statute...

SENATOR ASHFORD: What do you mean, is it a substantive...

SENATOR CHAMBERS: You answered, thank you. What section does LB 147 amend?

SENATOR ASHFORD: Why don't you make your point. I am not sure if I...well, it is dealing with the district courts and this is dealing with the separate juvenile courts so, in that regard, it is a different section.

SENATOR CHAMBERS: Right, they are in different sections, and it is an amendment of substance, and it does something quite different in purpose from that of the original bill, and I would like to read from our rule book, which people have been reading from quite a bit in the last few days. I am reading from

Section 7, 3(d) on what constitutes a nongermane amendment. "A nongermane amendment includes one that relates to a substantially different subject or accomplishes substantially different purpose than that of the original bill to which it is proposed." In a sense, you could say that any bill related to a judge, no matter what level he or she operates on, is germane to any other bill dealing with a judge, but there are different laws, different procedures that govern the juvenile court to those that govern all the other courts. It is a different section of statute and, Mr. President, it is my unpleasant duty, in trying to help us maintain the integrity of our system of legislating, to ask for a ruling as to whether or not Senator Ashford's amendment is germane to LB 147.

SPEAKER BARRETT: Thank you. Senator Ashford, any comment?

SENATOR ASHFORD: Separate juvenile court judges, Mr. President, are district court judges. They are paid the same amount as district court judges, and the appeals from the district court to the Supreme Court and the separate juvenile court to the Supreme Court are the same procedure. When we set up the separate juvenile court in 1960, I believe it was, we were dealing with, or we were setting up courts which had separate jurisdictions, but we gave the judges of the separate juvenile court and the district court similar procedural powers and paid them the same. We are...the fact that they are included in...the juvenile court section is in another section is historical, I think, rather than all that acute or important. I think we are dealing with judges of the district court level right below the Supreme Court and, though the section numbers may be different, I think in substance they are the same, and this bill...well, that would be my point.

SPEAKER BARRETT: Thank you. Any other comments? Senator Abboud.

SENATOR ABBODD: I would just echo Senator Ashford's comments, Mr. President. This...just juvenile courts deal with district court, so they are both essentially the same as the current bill, 147.

SPEAKER BARRETT: Anyone else care to speak to the matter? Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman, I don't want to be out of order

but the first point was to raise the point of order. Was that my one time to speak?

SPEAKER BARRETT: Yes.

SENATOR CHAMBERS: Okay.

SPEAKER BARRETT: Would you care to speak to the question of germaneness? Anyone is (interruption) one time.

SENATOR CHAMBERS: Okay, I just wanted to be sure that I have a good chance to speak at some time to the question, itself, right. Mr. Chairman, I don't know what possessed Senator Ashford to say that a juvenile court is a district court. A juvenile court is not a district court. If it were a district court, you could take an appeal from county court to juvenile court. If it were a district court, you could have a felony charge brought against you as an adult. When a person has to reach that far out to try to make a point, it shows that there is no point to be made. I can understand his desperation and his desire to have this amendment added to this bill, but, based on the way that the Legislature has chosen to have the germaneness rule interpreted, this is as different from the original bill as anything that has been ruled nongermane. The purpose of LB 147 was to increase the number of district court judges, period. Now Senator Ashford wants an amendment from a different section of statute dealing with an entirely different court and try to increase the number of judges there, too. And if the Chair rules that to be germane, then it can also be used, if we decide, to increase the number of those people on the industrial relations court and all the others. I tell you, again, that I have always pushed for an expansive liberal interpretation of the germaneness rule, but the body has chosen to have it otherwise. And, as I have said before, I don't want it to be ruled that way and supported that way on the basis of the issue that happens to be before us. I would like the rulings to be based on the wording of our rule, and the rule says that if the amendment attempts to accomplish a purpose substantially different from the one that the bill intended to accomplish, it is not germane, and the purpose of this bill was not to increase the number of juvenile court judges. That was not envisioned when the bill was offered. That was not envisioned when the bill was discussed before the committee, and when people came to the committee hearing on LB 147, they didn't come there to discuss the juvenile court system, and it is an



entirely different and distinct system. I know the way I would want the Chair to rule, but if there is going to be a strict adherence to the germaneness rule, and there should be a narrow construction, then I think this amendment has to be ruled nongermane, in my opinion.

SPEAKER BARRETT: Anyone else? Senator Landis.

SENATOR LANDIS: Mr. Speaker, members of the Legislature, I applaud the Chair's decision to have a tighter reading of the germaneness rule. We need to remember, as a body, that there is an avenue for relief. It is not to fight these germaneness decisions, it's to suspend the rules. Germaneness rule is ours, it is not constitutional, it is not by any other source. It is one that we choose for ourselves and we can, if we wish to, suspend it. It seems to me we ought to move through these decisions quickly and then go on to the larger question, will we suspend the germaneness rule to allow a little broader application of more than one idea that the original introducer probably did not contemplate. Believe me, we have got a session filled with amendments coming before us that we will, if we don't start adopting a slightly different way of acting on the floor, will spend us hours and hours of debates on what is or is not germane. More readily available should be the option of asking the body to suspend the germaneness rule and attach an amendment, and on that notion, I think the body ought to be more liberal in its interpretation. I am prepared to support, by the way, a motion to suspend the rules to adopt or to consider, rather, the Ashford amendment. In the event the Chair rules this is not germane, I would support the Chair.

SPEAKER BARRETT: Thank you. I am assuming that you are prepared for a ruling by the Chair, and again using a very strict interpretation of previous rulings, it appears to the Chair that we are in different sections, we are talking about separate juvenile courts, and also then separate subject or section at the district court level. It is, therefore, the impression of the Chair that the amendment is not germane and is, therefore, out of order.

CLERK: Mr. President, Senator Ashford would then move to suspend Rule 7, Section 3(d) so as to permit consideration of his amendment.

SPEAKER BARRETT: Senator Ashford.

SENATOR ASHFORD: Thank you, Mr. President, and in conformity with what Senator Landis has suggested, I would move to suspend the rules to allow the body to consider the separate juvenile court and to grant to the body the opportunity to have a somewhat broader interpretation of Rule 7, Section 4, as it relates to the issue of germaneness. I would just state again that though the juvenile court is a section of the statutes, is separate from the district court section, that there is...that is not the right rule number I guess...but the rule concerning germaneness, that this is substantially the same subject and, though the sections are different, it is substantially the same and should be considered here. I might offer two points, one, a little history, last year this bill was on the consent calendar and my good friend and colleague, Senator Chambers, moved to have it stricken from the consent calendar, and, secondarily, that this bill was voted out of committee onto the floor and so it has had, at least in the last two sessions of this Legislature has been voted out of committee and onto the floor of the Legislature. So I would ask the indulgence of the body to suspend the rules to allow me the opportunity to move this bill. Thank you.

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

SENATOR ABOUD: Yes, Mr. President. It is a rare instance when I can say that an opinion was not, in fact, accurate but I think in this instance it probably wasn't. They deal with an area there that is virtually the same. They both are district court judges and I am surprised that we have to go through this process, but I guess if we must, we must. There is a need. There is no question that there is a need. This is probably one of those bills where there is a greater need than any, one of the most important bills that we will have because we are dealing with neglected children. Granted, they don't have some high-paid lobbyist to help them out and maybe that is their problem. There are issues that are carried by groups that feel their issues are more important, but, as far as I am concerned, taking care of children, taking care of neglected or abused children is probably one of the most important things we can do here in the body. Again, I would say it is virtually the same bill, but I rise to, wholeheartedly, support Senator Ashford's motion.

SPEAKER BARRETT: Senator Chambers, discussion on the motion to suspend.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, we still are in a situation where we are going to pick and choose based on the issue whether or not we will have a liberal interpretation of how a bill should be amended or a strict one. We are doing indirectly that which we will not directly do as a body. What I would like to do is see us suspend the germaneness rule for the rest of the session, then the argument can be made on the basis of what the Constitution, as interpreted by the court, has ruled germaneness to mean. But, once again, we will do it with an additional step. We are going to pick and choose based on the issue as to whether or not to suspend the germaneness rule. I don't have any interest in whether you suspend the rule at this point or not, but I did have an interest in the Chair's ruling, and I would rather that the Chair had ruled that the amendment was germane because I believe in that, that broad interpretation. I am going to see how many of my conservative friends vote to suspend this rule to allow an amendment that they want on a particular bill because of what the amendment says. If we have another situation where an amendment is just as related to the subject matter as this one is to the present bill before us, there will be a vote against suspending the rules because you won't want to deal with the issue, but I have to abide by the vote of the majority if it reaches 30.

SPEAKER BARRETT: Senator McFarland, followed by Senator Landis.

SENATOR MCFARLAND: Thank you, Mr. Speaker, fellow senators. I want to commend the Chair for the ruling. I think the ruling is correct and proper. I would also commend Senator Landis for explaining exactly the process by which we should allow amendments of this nature to be added to particular bills because it seems to me there is that mechanism to suspend the rules if we want to add an amendment that may not be particularly germane to a particular bill, and I wish this process would be used more often. I am going to vote to suspend the rules. I think this is a bill that is a good bill. I think that in LB 147 we are suggesting that we increase the number of district court judges from 48 to 50. It seems to me that there is also a real problem in the juvenile court system, and for that reason I would move to suspend. Rather than have a broad interpretation of the germaneness rule, Senator Chambers, what I

March 27, 1989

LB 147

would rather have done is have the same Chair rule on the germaneness issue each time so that we wouldn't be getting different applications of the germaneness issue depending on who happens to sit in the Chair at the time the germaneness question comes up. I think a narrow interpretation of the germaneness rule is correct. I think, and if, in fact, an amendment is necessary and it is important that it be added in this particular session or at this particular time, the motion to suspend the rules is available, and I applaud a narrow interpretation but, nevertheless, because of the importance of this particular amendment, I am going to vote to suspend the rules. I think that is the proper procedure to use. Thank you.

SPEAKER BARRETT: Senator Landis.

SENATOR LANDIS: Mr. Speaker, members of the Legislature, I think the debate on the rule suspension should focus on this issue, is there enough exigent (sic), exigent circumstances, rather, to justify a rule suspension. Is there a need for this bill now? And I think there is. The reason I am going to vote to suspend the rules and act as quickly as I can is because the juvenile courts are the ones that handle abuse and neglect cases for children and there is an immense number of cases and files in this state. We have an abominable record. We need as much judicial oversight as possible. We cannot tolerate delays in actions in juvenile courts where the well-being of children is so seriously at stake. Juvenile judges, unlike other judges, work very much more personally in their oversight of cases, in their hearing of testimony, in their dealing with family members, in their discussion with the Child Protective Service representatives, and the like. It is a very trying job. It takes an immense amount of work. Omaha is in dire need for this kind of service and, in this case, delay is intolerable, a rule suspension is justified. Action this year, in my estimation, is justified. I, then, support the motion.

SPEAKER BARRETT: Thank you. Senator Korshoj.

SENATOR KORSHOJ: Question.

SPEAKER BARRETT: The question has been called. Five hands I do see. Shall debate now cease? Those in favor vote aye, opposed nay. Please record.

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

SPEAKER BARRETT: Debate ceases. Senator Ashford, would you care to close?

SENATOR ASHFORD: I would just ask that we suspend the rules so that we can discuss this measure. Thank you.

SPEAKER BARRETT: Thank you. The question is, then, shall the rules be suspended? Those in favor vote aye, opposed nay. Shall the rules be suspended? Thirty votes necessary. Have you all voted? Record, Mr. Clerk.

CLERK: 31 ayes, 3 nays, Mr. President, on the suspension of the germaneness rule.

SPEAKER BARRETT: The rules are suspended. The motion prevails; back to the Ashford amendment to 147. I have a number of lights on. Senator Abboud, would you care to discuss the amendment.

SENATOR ABBODD: Well, Mr. President, I will talk for just a very short time. I think this is needed. I think we have spent some time discussing the importance of the bill when we were discussing the earlier motions. There is no question that there is a need because of the increasing amount of neglect and abuse cases and I urge the adoption of the amendment. Thank you.

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

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I would like to ask Senator Ashford a question. Senator Ashford, LB 147, in its original form, would add how many district judges?

SENATOR ASHFORD: Forty-eight to 50, it would be two additional judges.

SENATOR CHAMBERS: Okay, and how many new juvenile judges would be added by your amendment?

SENATOR ASHFORD: One.

SENATOR CHAMBERS: So that is a total of three additional judges that are being added this year if this bill passes with your amendment?

SENATOR ASHFORD: Correct.

SENATOR CHAMBERS: And they are also attempting to reduce the work load of the Supreme Court this year, aren't they?

SENATOR ASHFORD: That is in some other bill, I don't know.

SENATOR CHAMBERS: Well, it is germane if we suspend the rule.

SENATOR ASHFORD: Well, I...

SENATOR CHAMBERS: That is being attempted in another bill, isn't it?

SENATOR ASHFORD: No, I don't think...I think they are just changing the structure of the Supreme Court.

SENATOR CHAMBERS: For the purpose of reducing the work load?

SENATOR ASHFORD: I don't know.

SENATOR CHAMBERS: You can't tell the truth, okay.

SENATOR ASHFORD: I can tell the truth but I think that is a very...you don't want me to debate that with you, you want me to give you a short answer, and I don't have a short answer for you.

SENATOR CHAMBERS: Is there a bill to raise...is there a bill to raise the judges' salary by a considerable percentage before us also?

SENATOR ASHFORD: It is somewhere before us. I am not sure where.

SENATOR CHAMBERS: Thank you. Members of the Legislature, a bill to raise...to add three more judges, a bill to attempt to reduce the work load of the Supreme Court, and a bill to raise the judges' salary by a considerable amount. As I indicated, these little bills like this might slide on across, but when LB 42 comes up, they may have overreached too soon, so they are going to get some judges probably, because this bill will go now, but when 42 comes, that is where the battle will be waged, and the judges fixed it like this. They wanted to try to grab

everything they could this time, and they may succeed, but I think they are going to have more difficulty than they envisioned, and this latest little act of greed will have its part to play in the overall picture that will emerge. Senator Ashford is standing there feeling like Picasso right now. He has his painter's palette in his left hand, has his brush in his right hand and, on the canvas of the Legislature, he is painting something that nobody really understands except himself, and when he gets through, he is going to find out that it has played havoc with other things that are to come up. Senator Ashford, it is all right to be a painter, but when time comes to put all these greedy bills together and extract more money from the Legislature, you have to be more than a painter, and I am afraid that there has been overreaching. The rules have been suspended and that is all so far. You haven't yet voted to add this additional judge, and rather than let people stand up here and talk about all the abuse cases and the backlog, that could reflect more on what the juvenile courts are not doing now that they ought to be doing, and sometimes you ought to review how they handle some of those cases and the decisions they actually hand out. They give us charts and graphs with numbers but they don't tell us anything behind those numbers. So, if you adopt the amendment, you've just got a bill that is going to add three more judges, and, remember, when you increase those salaries by that large amount, you have got to factor into that the three additional judges that you are adding. So you are not just raising the salary for those who encumber the benches now, but three new knots on the log will have to be paid.

SPEAKER BARRETT: Senator Bernard-Stevens, followed by Senator Ashford.

SENATOR BERNARD-STEVENS: Thank you, Mr. President. I wanted to remind the body, if I can take a minute or two, of what happened in last session, the short session of the last term. This issue also came up. In fact, it was headed for consent calendar and then it was removed from consent calendar and it was not agreed to last year. And there were certain things that were discussed and Senator Chambers alluded to a couple of them. I wanted to at least remind the body of these topics before we got to a vote. No one is arguing that there is not a lot of backlog. No one is arguing that these are probably some of the most crucial and excruciating and time-consuming decisions that have to be made. No one is arguing that there is a need for a speedy, sound, fair, reasonable court system on juvenile cases. What

some of us are beginning to ask is, what the body has not done, and I suspect it still has not done, is ask some key questions, and that is, is the system we have now efficiently operating? Is the system we have now capable and able of adding people to meet the need? Is the system we have now abusing some of the areas that they currently have? Are the backlog today because the efficiency is at peak and we just have too many, or is the backlog, could the backlog be reduced by efficiency of the system? By passing of this bill, are we rewarding negative behavior or poor behavior and efficiency, or are we saying, yes, you are doing a totally efficient job and here is more to aid you? Last year, these questions were raised and the bill was not advanced. The Judiciary Committee said that they were going to do a study on this particular aspect of our juvenile court system; look at the number of days that judges sat, look at the number of cases, look at the number of vacation, look at the number of hours they were not sitting, and so on, look at his communications. I got communications last year from deputy county attorneys, from county attorneys, and lawyers stating we have a serious problem with our juvenile court system and it may not be just the backlog, it may be within the system itself. Maybe Senator Ashford can answer this question for me. The Judiciary Committee stated on the floor last year that they were going to look into these areas. Did they look in this area in the interim? Did they come up with any conclusions?

SENATOR ASHFORD: You know, I don't know whether they did or didn't because I wasn't a part of the study, Senator Bernard Stevens. I guess...I thought you and I have talked about it several times and I think, you know, I thought we had sort of resolved it between ourselves but maybe there are some things that in our discussions that we didn't...I didn't adequately answer and I would be happy to do that if you have specific questions. I don't...I'm not sure there was a study over the summer or not, I wasn't part of it.

SENATOR BERNARD-STEVENS: Yeah, thank you, Senator Ashford. I guess that's one of the problems I have and it's kind of notwithstanding the merits of the bill, Senator Ashford. One of the problems that I had is that I had a motion and actually an amendment to postpone or bracket the bill until a study could be done and I withdrew those motions last year with the understanding that a study would be done and, specifically, we had the wording that and the guidance that, yes, we will once again study this area and come up with some information.



Obviously, to me, that study was not done. Obviously, nothing has been done to give us any more insight as to how the system is actually working with this backlog. You know, are we, in fact, having a system that's inefficient that we are simply saying, yes, we have a backlog, you need more, or, you know, what actually are we doing? It's unfortunate that the Legislature is being put in this position on Select File and I repeat, on Select File, that we have to make a decision of this magnitude without the information that we needed to make...that we need to make the decision. So I have some concerns on the bill and I mentioned to Senator Ashford previously that I had some concerns. I also understand what the senator is trying to do and I also understand there is a backlog. I just wish we had the information that we need in order to make a real positive and important decision like this at this time. Thank you, Mr. President.

SPEAKER BARRETT: Senator Ashford.

SENATOR ASHFORD: Yeah, thank you, Mr. President. I appreciate Senator Bernard-Stevens' concerns. I thought you were going to vote for the bill because we talked about it on a couple of occasions and I...and you indicated your support at that time, though with questions. And I think one of the concerns I have always had is efficiency and one of the reasons why I brought the family law bill before the Legislature was a concern that I had that maybe we ought to restructure the District Court system to allow for family type cases being handled separately from District Court cases generally. And, unfortunately, that bill was killed by the Judiciary Committee, though I understand that there is some indication that there will be a study on that. You know, I think one only need look at the number of cases filed in Douglas County, and I have handed those out, and the history of the process to substantiate the need for a third judge, especially there is already an acknowledgement that, at least in Lancaster County, there will be two judges at the end of this year. I think if we look at the metropolitan area of Omaha and Douglas County, just sheer numbers alone would indicate that Douglas County ought to have a third judge but there is more evidence to support it. One, as I have said before, Judge Caniglia has been running almost a full docket. Judge Caniglia was a District Court judge for several years as one of the most...was one of the most respected Douglas County District Court judges and continues to be very well respected as a juvenile court judge but he's certainly past the retirement

age and I don't think should be...would probably not be continuing in that capacity for much longer. But he is working four days...four days a week and he has a full docket and he is an experienced judge who has been in the system for several years and a judge who is quite an efficient judge for anyone that knows him. And he has indicated to me...and I don't know what other better evidence we can have than Judge Caniglia who is coming into that system from the outside and saying, number one, the cases in the District Court of Douglas County are substantially in many cases much more complicated than they are in the District Court because in the District Court once the facts are determined and the cases decided, the case is normally ended. In the juvenile court the cases don't end. We have, through our statutes and through our decisions of the Supreme Court and other rules and regulations of the Department of Social Services and other agencies, we have given to juvenile court judges a job which is far beyond simply decision-maker or fact-finder but as a...but as an individual who cares for these children and these parents for a long period of time. In the case of the two juvenile court judges in Douglas County, and I know Judge Neurenberger here in Lancaster County, fulfill capacities way beyond judging. They go out into the schools. They have children come in on an ongoing basis explaining the juvenile court system to them. They are constantly made available and make themselves available to organizations throughout the city and the county to explain the juvenile court system and the problems that are faced by juveniles and by the system in dealing with the tough juvenile court cases. And I think the problems, as Senator Bernard-Stevens suggests, and he has experience in being in the school system, is that these problems are very, very complex and the juvenile court judge is not necessarily the answer, adding a juvenile court judge is not going to necessarily solve all of the problems. But we have children here and that's the essence of this. And, in the years I have practiced, I probably handled 50 juvenile court cases, many of them very, very difficult and they're very, very sad cases...

SPEAKER BARRETT: One minute.

SENATOR ASHFORD: ...extremely sad cases and real tear jerkers in many respects. And I have...and I hand it to the juvenile court judges because they have to deal with these kinds of cases, not on a maybe once every month or once every two months but every day, three, four, five cases that will...that will

just...would just amaze you, the difficulty of them and the sadness of them. And I just invite you to look at the statistics, you will see that the case filings, not the case decisions, but the case filings have increased so dramatically in seven years from 2,000 to almost 9,000 cases and there's the same number of judges. I mean, it's...this is the third year now I have argued this and I think it was argued before me. I really think that we have proven our point and proven our case. We need in this case...

SPEAKER BARRETT: Time.

SENATOR BERNARD-STEVENS: ...in Douglas County just one-half a judge and I urge the body to advance the bill. Thank you...the amendment, thank you.

SPEAKER BARRETT: Thank you. Senator Abboud, followed by Senator Smith.

SENATOR ABOUD: Question.

SPEAKER BARRETT: The question has been called. Five hands? Yes. Those in favor of closing debate please vote aye, opposed nay. Please record.

CLERK: 29 ayes, 0 nays to cease debate, Mr. President.

SPEAKER BARRETT: Debate ceases. Senator Ashford, for closing. Would you repeat that, Senator Ashford, for the record, please.

SENATOR ASHFORD: I would give some time to Senator Landis in closing and give my closing to him. Thank you.

SPEAKER BARRETT: Senator Landis.

SENATOR LANDIS: Mr. Speaker and members of the Legislature, I want to make two points only. One, I guess I want to go back in the debate to a comment that Senator Chambers made that indicated that in this course of conduct with several bills we could perhaps detect judicial greed. If that's the case, you won't find it here. No judge profits from 147. This isn't something that benefits them in some pecuniary way. And I think greed is the most inappropriate word to apply to LB 147. The winners in this amendment are kids who will have their cases dealt with more expeditiously by a judge who will have more time

to spend on them and that's the least that we can offer people, it seems to me. I think the most cherished right that we have as Americans is the right to vote, but the second one that I think if you went to the man in the street and asked for, they would say that their right for a day in court is the second most precious right that they have. That right, so long as it is premised on an exceptional delay, on high costs and on an inattentive or too-rushed jurisprudence is really diminished. My second point I want to make is this, not only do we have a judge in there more than half-time doing the work now that needs to be done, this last summer we brought in two district judges from around the state, Steve Finn and Tom Dorwart from Sidney. Both of those judges walked away from the calendar that they tried to help bring up to par and they walked away from their time there saying, this bench needs assistance. Now, frankly, I will tell you, and we can speak truthfully among ourselves, the Omaha municipal bench is not the most illustrious in the state. There can be no doubt about that. But if there is remedy there, it doesn't lie in denying this amendment to 147 but to take one of the avenues that there are for discipline of judges. As far as kids, victims, plaintiffs, defendants, abused and neglected individuals and their parents, they are the ones who profit by 147 and that's the people we should be concerned about. Let's adopt this amendment.

SPEAKER BARRETT: Thank you, sir. The question is the adoption of the Ashford amendment to LB 147. Those in favor vote aye, opposed nay. Record, please.

CLERK: 31 ayes, 0 nays, Mr. President, on adoption of Senator Ashford's amendment.

SPEAKER BARRETT: The amendment is adopted.

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

SPEAKER BARRETT: Thank you. Back to the bill as amended. Senator Bernard-Stevens, on the bill. Thank you. Any discussion? If not, any closing comment? The introducer is not here. Anyone else prepared? Senator McFarland.

SENATOR MCFARLAND: Yes. Thank you, Mr. Speaker. I would just like to remind the body what the bill does. LB 147, in its preamended form, would increase the number of District Court judges from 48 to 50 and the two additional District Court

March 27, 1989

LB 147, 591, 689, 751  
LR 63

judges would be allocated by the Judicial Resources Commission. It's quite likely that that commission would allocate them to Douglas County, given the large caseload that they have there, but that is not an absolute requirement and it would be up to the commission to decide. In the amended form now it would add one additional juvenile court judge. I think that it is necessary. I think we need to realize that there is a backlog of cases at all levels and that litigation is becoming more complex, more people are resorting to the courts and it's really not a question of trying to reduce the workload for any particular judge, it is a question of reducing the backlog and cases that do not necessarily get heard. And I think this will be one mechanism at making the system a little more efficient, a little equitable and a little more fair to the parties who will be involved in the cases that these particular courts will hear. So I would urge you to vote in favor of LB 147 in its amended form. Thank you.

SPEAKER BARRETT: Thank you. The question is the advancement of LB 147 to E & R Engrossing. Machine vote has been requested. Record vote. Those in favor of the advancement of the bill vote aye, opposed nay. Have you all voted? Record, please.

CLERK: (Record vote read. See page 1353 of the Legislative Journal.) 31 ayes, 3 nays, Mr. President, on the advancement of 147.

SPEAKER BARRETT: LB 147 is advanced. The A bill, Mr. Clerk.

CLERK: Mr. President, may I read some things before we get to the A bill?

SPEAKER BARRETT: Certainly, proceed.

CLERK: Mr. President, your Committee on General Affairs whose Chair is Senator Smith, to whom was referred LB 591, instructs me to report the same back to the Legislature with the recommendation that it be advanced to General File with amendments; and LB 751 indefinitely postponed. (See pages 1353-55 of the Legislative Journal.) Health Committee reports LB 689 to General File with amendments. (See pages 1355-56 of the Legislative Journal.) Those are signed by the respective Chairs.

New resolution, Mr. President, LR 63. (Read brief description

April 3, 1989

LB 147, 279, 281, 319, 340, 340A, 410  
414, 587, 588, 733

SENATOR PIRSCH: And under the present law that...you could do nothing really.

SENATOR LANDIS: That is not embezzlement, that's right. Embezzlement is where you steal money from the firm.

SENATOR PIRSCH: Right. Thank you, I appreciate the explanation...

SENATOR LANDIS: Sure, you bet.

SENATOR PIRSCH: ...and I support this bill.

SPEAKER BARRETT: Thank you. Any other discussion? Seeing none, Senator Landis, anything further?

SENATOR LANDIS: Waive closing.

SPEAKER BARRETT: Thank you. Closing is waived and the question is the advancement of LB 319 to E & R. All in favor vote aye, opposed nay. Record, please.

CLERK: 27 ayes, 0 nays on the advancement of 319, Mr. President.

SPEAKER BARRETT: LB 319 is advanced. Any messages on the President's desk?

CLERK: Yes, Mr. President, I do. Senator Hartnett has amendments to be printed to LB 588, Senator Chizek to LB 279, Senator Chambers to LB 281, Senator Landis to LB 279. (See pages 1462-64 of the Legislative Journal.)

Enrollment and Review reports LB 147, LB 340, LB 340A, LB 410, LB 414, LB 587 and LB 733 as correctly engrossed. (See page 1457 of the Legislative Journal.) That is all that I have, Mr. President.

SPEAKER BARRETT: Thank you. Senator Peterson, would you care to adjourn us until tomorrow?

SENATOR PETERSON: Mr. President and members, I'd be delighted to adjourn us till tomorrow morning at ten o'clock, is that, Senator Barrett, beings we lost an hour?

May 23, 1989

LB 147, 147A

know, we had discussed the main bill, LB 147, on a number of occasions and I don't think anyone questions the necessity of it. We happen to be in a box at this point in time. I have no problem with killing the A bill understanding the parameters that Senator Warner had mentioned that we would have to operate with. There is a necessity for it so I would ask your support in "IPping" the A bill and still ask for your support for the bill itself.

PRESIDENT: Thank you. Senator Ashford, please? Okay, Senator Warner, did you wish to close? Senator Schmit, closing?

SENATOR SCHMIT: Well, Mr. President, as has been explained, we do not have the ability to deny the funding for court. For some reason, the bill did not move. I did brag up the bill at one time. There was some discussion as to whether or not the system was going to be adopted before I bragged up LB 147A. Did not move along with the rest of the bill and so, by the rules of the Legislature, it is preferable for us to kill the bill. In fact it may be necessary, I'm not sure, Senator Warner can comment on that if he wishes, to kill the bill rather if it does not...is...if it is not in the proper position to be passed at this time. The funding will take place according to the opinion of the Supreme Court as made by law without a specific appropriation. So I would ask your permission to kill the bill.

PRESIDENT: The question is, shall LB 147A be indefinitely postponed? All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 32 ayes, 0 nays, Mr. President, on the motion to indefinitely postpone LB 147A.

PRESIDENT: LB 147A is indefinitely postponed. Move on to Final Reading, please, if you'll take your seats. We will begin Final Reading with LB 147. Mr. Clerk, would you please read LB 147.

CLERK: (Read LB 147 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 147 pass? All in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

May 23, 1989

LB 147, 487, 487A

CLERK: (Record vote read as found on pages 2681-82 of the Legislative Journal.) 46 ayes, 1 nay, 1 present not voting, 1 excused and not voting, Mr. President.

PRESIDENT: LB 147 passes. LB 487 with the emergency clause attached.

CLERK: (Read LB 487E on Final Reading.)

PRESIDENT: All provisions of law according to...procedure having been complied with, the question is, shall LB 487 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 read as found on page 2683 of the Legislative Journal.) 48 ayes, 0 nays, 1 excused and not voting, Mr. President.

PRESIDENT: LB 487 passes with the emergency clause attached. LB 487A.

CLERK: (Read LB 487A on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 487A pass? All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

CLERK: (Record vote read as found on pages 2683-84 of the Legislative Journal.) 46 ayes, 1 nay, 2 present not voting, Mr. President.

PRESIDENT: The Chair recognizes Speaker Barrett, please.

SENATOR BARRETT: Thank you, Mr. President and members. I again rise asking your support on a motion to suspend Rule 6, Section 7, subsection (b) I believe it is, to suspend the rules in order that we might read the bills on the agenda today on Final Reading. I ask for the support of the body.

PRESIDENT: You've heard the motion. All in favor vote aye, opposed nay. Record, Mr. President, please.

CLERK: 41 ayes, 0 nays, Mr. President, on the motion to suspend



May 23, 1989

LB 75, 89, 89A, 147, 177, 177A, 272  
279, 289A, 289, 487, 487A

ASSISTANT CLERK: (Read LB 272 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 272 pass with the emergency clause attached? All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

ASSISTANT CLERK: (Record vote read as found on page 2691 of the Legislative Journal.) Vote is 47 ayes, 0 nays, 2 present not voting, Mr. President.

PRESIDENT: LB 272 passes with the emergency clause attached. I understand we're going to skip LB 272A for the moment and continue on with LB 279 with the emergency clause attached.

ASSISTANT CLERK: (Read LB 279 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 279 pass with the emergency clause attached? All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

ASSISTANT CLERK: (Record vote read as found on page 2692 of the Legislative Journal.) Vote is 44 ayes, 0 nays, 5 present and not voting, Mr. President.

PRESIDENT: LB 279 passes with the emergency clause attached. While the Legislature's in session and capable of transacting business, I propose to sign and do sign LB 147, LB 487, LB 487A, LB 75, LB 89, LB 89A, LB 177, and LB 177A. Continue on with LB 289 with the emergency clause attached.

ASSISTANT CLERK: (Read LB 289 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 289 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 read as found on page 2693 of the Legislative Journal.) 44 ayes, 0 nays, 2 present not voting, 3 excused not voting, Mr. President.

PRESIDENT: LB 289 passes with the emergency clause attached. LB 289A with the emergency clause attached.

May 23, 1989

LB 75, 89, 89A, 147, 177, 177A, 272A  
311, 362A, 377, 487, 487A  
LR 224, 225, 226

SPEAKER BARRETT: LB 362A passes. LB 377.

ASSISTANT CLERK: (Read LB 377 on Final reading.)

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 377 become law? Those in favor vote aye, opposed nay. Have you all voted? Please record.

ASSISTANT CLERK: (Record vote read. See pages 2702-03 of the Legislative Journal.) The vote is: 48 ayes, 0 nays, 1 present and not voting, Mr. President.

SPEAKER BARRETT: LB 377 passes. Matters for the record, Mr. Clerk.

CLERK: Mr. President, your Enrolling Clerk has presented to the Governor bills read...some of the bills read on Final Reading this morning. (See page 2703 regarding LB 147, LB 487, LB 487A, LB 75, LB 89, LB 89A, LB 177 and LB 177A.)

Mr. President, LB 311 is reported correctly enrolled.

Mr. President, new resolutions. LB 224 by Senator Conway. (Read brief description of LR 224 as found on pages 2703-04 of the Legislative Journal.) LR 225 by Senator...by the Appropriations Committee. (Read brief description of LR 225 as found on pages 2704-06 of the Legislative Journal.) That will be laid over, Mr. President. LR 226 offered by Senators Pirsch, Beck, Hannibal, Ashford, Chizek, Hall, Labedz, Lynch, Abboud and Chambers. (Read brief description of LR 226 as found on pages 2706-07 of the Legislative Journal.) That, as well, will be laid over. That's all that I have, Mr. President.

SPEAKER BARRETT: Thank you. Directing your attention now to the agenda to LB 272AE which we moved over earlier in the day. Mr. Clerk.

CLERK: Mr. President, I have a motion to bracket LB 272A until May 24. That is offered by Senator Landis.

SPEAKER BARRETT: Senator Landis, please.

SENATOR LANDIS: Thank you, Mr. Speaker, members of the Legislature, this is the American Savings, State Securities,