

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

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LB 153, 154, 209, 338A, 378A, 412A, 440
441, 459

Committee, on this bill and I certainly appreciate the support of Senator Schmit and Senator Schellpeper as co-sponsors of the bill. Again, we are simply clarifying the definition of gross receipts under these statutes and specifically stating that access charges shall not be subject to a sales tax. With that, Mr. Speaker and members, I would move the advancement of LB 209.

SPEAKER BARRETT: Thank you. You've heard the closing and the question is the advancement of LB 209 to E & R. All in favor vote aye, opposed nay. Record, please.

CLERK: 35 ayes, 0 nays, Mr. President, on the advancement of 209.

SPEAKER BARRETT: LB 209 is advanced. For the record, Mr. Clerk.

CLERK: Mr. President, your Committee on General Affairs, whose Chair is Senator Smith, to whom was referred LB 440, instructs me to report the same back to the Legislature with the recommendation it be advanced to General File; LB 154 General File with amendments; LB 441 General File with amendments and LB 153 indefinitely postponed, those signed by Senator Smith as Chair of the committee. (See pages 589-90 of the Legislative Journal.)

I have gubernatorial appointments referring an individual to the Parole Board and to the Game and Parks Commission. That will be referred to Reference Committee.

New A bills, Mr. President. (Read LB 338A, LB 378A and LB 412A by title for the first time. See page 590 of the Legislative Journal.) And that is all that I have, Mr. President.

SPEAKER BARRETT: Thank you. The next bill, LB 459.

CLERK: 459, Mr. President, was offered by the Revenue Committee and signed by its members. (Title read.) The bill was introduced on January 13, referred to Revenue, advanced to General File. I have no amendments to the bill, Mr. President.

SPEAKER BARRETT: Thank you. To the Chairman of the Revenue Committee, Senator Hall.

SENATOR HALL: Thank you, Mr. President, members. This, Senator

vote. We're having a very difficult time this morning. Record, Mr. Clerk.

CLERK: 25 ayes, 0 nays, Madam President, on the advancement of LB 440.

SENATOR LABEDZ: LB 440 is advanced. Mr. Clerk, LB 154.

CLERK: LB 154, Madam President, is a bill offered by Senator Pirsch. (Read title.) The bill was introduced on January 5, referred to General Affairs, advanced to General File. I have committee amendments pending by the General Affairs Committee, Madam President.

SENATOR LABEDZ: Thank you, Mr. Clerk. Senator Smith, on the committee amendments.

SENATOR SMITH: Thank you, Madam President. I would just give a very brief summary of what the intent of the bill is. LB 154 creates a new class of liquor license for wine only, consumption off premises. And the fee for the license is \$125. It also included language which dealt with near beer, eliminating the exemption. So, that bill is...that part of the bill was also dealt with in another piece of legislation which will follow immediately, LB 441. So the committee amendment simply eliminates the sections dealing with the definition of alcoholic beverages, which means the near beer part of the bill. That is the extent of the committee amendments. We would ask for their adoption.

SENATOR LABEDZ: Thank you, Senator Smith. Is there any discussion on the committee amendments? Evidently not, Senator Smith, would you like to close on the committee amendments? Senator Smith waives closing. All those in favor of the committee amendments to LB 154 vote aye, opposed nay. Have you all voted? We're voting on the committee amendments to LB 154. Record, Mr. Clerk.

CLERK: 25 ayes, 0 nays, Madam President, on adoption of the committee amendments.

SENATOR LABEDZ: The committee amendments are adopted. Senator Pirsch, on the advancement of LB 154.

SENATOR PIRSCH: Thank you. Senator Smith did refer to what is

left in the bill, that LB 154 creates a new class of liquor license for wine only consumption off the premises with a fee for \$125. As it is now, if an establishment wants to sell beer and wine, they have to get a full liquor license. Since the Supreme Court has said that you cannot discriminate, the city have the necessity then to sell that license, which includes beer, wine and liquor. What they would like to do is to limit the licensing and if you want to sell beer, you get a beer license. If you want to sell wine in a wine shop then you should have the flexibility to get a wine license instead of the full-blown liquor store license. We would like the ability to under license the liquor industry as opposed to over license. With that, if there are any questions, I move for the advancement of 154.

SENATOR LABEDZ: Thank you, Senator Pirsch. Senator Hall, on the advancement of LB 154.

SENATOR HALL: Madam Chair, members of the committee, Senator Pirsch, would you yield to a question, please? Senator Pirsch, we heard the bill in committee and I'm in support of the bill. But would you...the statement that you just made in terms of under licensing the industry versus over licensing, is it your opinion that LB 154 could be used by say, for example, the Omaha City Council when they have...when an applicant has met all the criteria laid out, that because of some sort of...and they cannot be refused based on that criteria, but because of some opposition or some member of the council saying that, well, there are too many licenses out there, that there could be a downgrading of that application, that license?

SENATOR PIRSCH: That really is not the purpose. But when someone comes in to say, I want to sell beer and I want to sell wine coolers, that then indeed they don't have to issue the full-blown liquor license.

SENATOR HALL: Okay, so the intent then of LB 154 is not to offer a license that could be say a bargaining chip, so to speak.

SENATOR PIRSCH: No.

SENATOR HALL: The intent is basically to give a convenience store the ability to just sell beer or a bottle...a wine, cheese store maybe just wants the ability to sell wine and they don't

want to have to either pay for a full blown license or have the problems that surround a license of that nature, is that right?

SENATOR PIRSCH: Right. I think particularly that maybe the overabundance of the full-blown liquor store when you are looking for that wine and cheese store, or something like that.

SENATOR HALL: So it may give a retailer the ability to establish that license a little easier than they currently could if they had to go in and ask for a Class C license.

SENATOR PIRSCH: Well, I think it makes them very responsible. If they want to sell wine, then that is the license they get. If they want to sell beer, then that is the license they choose. If they want to be a full-blown liquor store, then they have that option also.

SENATOR HALL: Okay. Thank you, Senator Pirsch, I appreciate that. I just offer that so that there is some legislative intent with regard to how the bill will be used.

SENATOR PIRSCH: Sure.

SENATOR HALL: Appreciate that.

SENATOR PIRSCH: Thank you.

SENATOR LABEDZ: Thank you, Senator Hall. Before we go to the next speaker, I would like to introduce and recognize 41 adults from the Widows Support Group from Blair, Nebraska. They are guests of Senator Korshoj. Would you please rise and let yourself be recognized by the Unicameral. It is a pleasure to have you here with us today. Senator Crosby, on the advancement of LB 154.

SENATOR CROSBY: Madam Chair and members, Senator Pirsch, I have a quick question, a little further than Senator Hall. Does this bill and the next one under consideration open the door for KWIK-Shops and that kind of store to have...to sell beer and wine?

SENATOR LABEDZ: Senator Pirsch.

SENATOR PIRSCH: That, of course, has to be decided by their city.

February 16, 1989 LB 154, 290, 363, 659, 723

SENATOR CROSBY: So it still leaves it with the city?

SENATOR PIRSCH: Absolutely, absolutely.

SENATOR CROSBY: Okay, I wanted to be sure.

SENATOR PIRSCH: Absolutely, that remains with them and they want more control and that is why they offered this.

SENATOR CROSBY: So this helps them control that better? This helps the cities?

SENATOR PIRSCH: Yes.

SENATOR CROSBY: I was reading through, I just wanted to be sure...

SENATOR PIRSCH: Um-huh.

SENATOR CROSBY: ...of my feeling. Thank you.

SENATOR PIRSCH: Surely. Thank you.

SENATOR LABEDZ: Thank you, Senator Crosby. Senator Hall. Senator Pirsch, do you waive closing on the advancement of LB 154? Senator Pirsch waives closing. All those in favor of the advancement of LB 154 vote aye, opposed nay. Have you all voted? Please vote. We're asking for a little cooperation from the members of the Legislature. Please vote. Mr. Clerk, record the vote.

CLERK: 25 ayes, 0 nays, Madam President, on the advancement of 154.

SENATOR LABEDZ: LB 154 is advanced. Mr. Clerk, do you have something to read in before we adjourn?

CLERK: Madam President, I do. Your Committee on Health and Human Services, whose Chair is Senator Wesely, to whom was referred LB 290, instructs me to report the same back to the Legislature with the recommendation it be advanced to General File with amendments; LB 363, General File with amendments; LB 659, General File with amendments; LB 723, General File with amendments, all those signed by Senator Wesely as Chair. (See

February 21, 1989 LB 154, 227, 298, 318, 408, 440, 713

Select File with E & R amendments, LB 318 Select File with E & R amendments, LB 440 Select File with E & R and LB 154 Select File with E & R. (See pages 794-97 of the Legislative Journal.)

Mr. President, Speaker Barrett has amendments to be printed to LB 408. (See page 797 of the Legislative Journal.)

Mr. President, your Committee on Transportation whose Chair is Senator Lamb to whom was referred LB 227 instructs me to report the same back to the Legislature with the recommendation it be advanced to General File with committee amendments attached and LB 713 General File with committee amendments attached. (See page 797 of the Legislative Journal.) That is all that I have, Mr. President.

PRESIDENT: Thank you. We'll move on to Select File, LB 298.

CLERK: Mr. President, LB 298 is on Select File. I have no E & R. I do have an amendment to the bill, Mr. President, from Speaker Barrett. The amendment is found on page 721 of the Journal.

PRESIDENT: Thank you. Speaker Barrett, please. Just a moment, Speaker. (Gavel.) Could we please have it a little quieter so we can hear the speakers. Speaker Barrett.

SPEAKER BARRETT: Thank you, Mr. President and members. The amendment being offered on LB 298 I think addresses a couple of concerns that came up on General File when the bill was discussed for the first time. LB 298, as you recall, is the bill that raises the rates to be paid for publication of legal notices. A couple of major concerns I believe were voiced on the floor when we did debate the bill the first time. One of the questions was whether or not a political subdivision finds that it can't find a newspaper which will publish any notice at the legal rate, and I believe the other concern which was raised involved the question of a public official finding that to publish the type of notice that he or she needs, they would have to pay more than the legal rate. So the amendment which I'm offering offers two new short sections listing three specific situations where the public official could negotiate with a legal newspaper to publish the notice at a rate higher than the legal rate. However, the higher rate does have a cap or a limit. A negotiated rate could never be higher than the newspaper's lowest scheduled rate for classified ads of the type

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LB 154, 318, 440

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

SENATOR LINDSAY: Mr. President, I move that the E & R amendments to LB 318 be adopted.

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

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

SPEAKER BARRETT: Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move that LB 318 as amended be advanced.

SPEAKER BARRETT: The question is the advancement of LB 318. Those in favor say aye. Opposed no. Carried. The bill is advanced. LB 440.

CLERK: LB 440, Senator, I have no amendments to the bill.

SPEAKER BARRETT: Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move that LB 440 be advanced to E & R Final.

SPEAKER BARRETT: The question before the body is the advancement of LB 440. Those in favor say aye. Opposed no. Carried. The bill is advanced. LB 154.

CLERK: Mr. President, LB 154, Senator, I have E & R amendments first of all.

SPEAKER BARRETT: On the amendments, Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move that the E & R amendments to LB 360 (sic) be adopted.

SPEAKER BARRETT: Shall the E & R amendments be adopted to 360 (sic)? Those in favor say aye. Opposed no. Carried. They are adopted. Correction, the E & R amendments to LB 154, please. Those in favor say aye. Opposed no. Carried.

CLERK: Mr. President, I then have an amendment to 154 pending by Senator Hall.

SPEAKER BARRETT: Senator Tim Hall, please.

SENATOR HALL: Thank you, Mr. President and members. This amendment was...I requested that it be printed in the Journal and there was some kind of misunderstanding because neither of the amendments that I offered got printed in the Journal but one that we adopted yesterday did get printed, and I apologize to the body for that. The amendment, if you would open your bill books to LB 704, LB 154 is a bill that was introduced by Senator Pirsch to the General Affairs Committee. It deals with the issue of a wine license. It was supported without any opposition. It was passed unanimously out to the floor, and we debated it on Select File. My amendment, and I would ask the President if I could have a little bit of a hammer.

SPEAKER BARRETT: (Gavel.)

SENATOR HALL: Thank you, Mr. President.

SPEAKER BARRETT: Proceed.

SENATOR HALL: The amendment is taking LB 704 and inserting it into LB 154. LB 704 is the bill that deals with the retail to retail sales with regard to liquor. It allows for one establishment to go to another establishment, for example, and buy a bottle of whiskey, should they run out. What I offer is the amendment, is the committee amendments that have been adopted to the bill which were an agreement that was come to terms between the liquor wholesalers and retailers. It was adopted and supported by the...and passed to the floor, by the General Affairs Committee, and it is currently sitting on General File. Now I offer the amendment, the bill to be introduced and made a part of 154 basically because I don't think 704 is going to have the opportunity to be heard yet this year. I want the body to clearly understand and know that this is not a simple amendment. It is clearly a friendly amendment, and I do not in any way want to jeopardize Senator Pirsch's bill but I think it is clearly germane to the issue, and I would ask that the committee take the time to open their books and look at the committee amendment on 704. What it does is it deals with the issue of allowing one retailer the opportunity to purchase from another retailer. In other words, the local bar when they run out of a bottle of vodka can walk across the street and go to the drug store and purchase that bottle, as opposed to having

to drive all the way to Omaha as they currently do to purchase from a wholesaler. In effect, what we are doing is we are saying that, or putting into statute what is actually done in practice. Right now there are many people who don't drive to the wholesalers when they run out of liquor. It just...it is not something that is easily enforced. It is not something that they do on an emergency situation. The bill also...the amendment also includes a cap, a dollar limitation on how much one retailer can purchase from another retailer during a year, and that cap is \$500. The requirements also include the federal permits that would be necessary. It is done in a manner that would be prescribed by the Liquor Control Commission, and, again, I would offer the amendment because it is clearly one that has been agreed to by both parties. It fits within LB 154, and as soon as the Page has...I think you have got that distributed to you or will be shortly because we had to go get them copied because they did not make it into the Journal, I would urge the support and be willing to answer any questions that members may have.

SPEAKER BARRETT: Thank you, sir. Before proceeding to an amendment to the amendment, the Chair is pleased to announce that Senator Haberman has a number of guests under the north balcony, the first-round winners in the Girls Basketball Tournament from Trenton, Nebraska, along with their coach. Ladies, would you please stand and be recognized. Thank you for being here and congratulations. Mr. Clerk.

CLERK: Mr. President, Senator Smith would move to amend the Hall amendment. (Read Smith amendment on page 968 of the Legislative Journal.)

SPEAKER BARRETT: Senator Smith, please.

SENATOR SMITH: Thank you, Mr. Speaker. Members of the body, I would like to have...make sure that you are all aware of what is going on here. We had a bill, LB 154, which is Senator Pirsch's bill. She is not here today and that is unfortunate because I don't know what she would want to do. That bill simply would have created...it would eliminate, am I on the right one, yeah, the sale of wine on only off premises. That is all the bill would do. It is a very small bill. The committee, as you remember, eliminated the part that had to do with near beer. That is handled in another piece of legislation that Senator Hannibal is carrying. This bill, LB 704, is a bill that would

allow for retailer to retailer sales of alcoholic beverages, liquor. They say they have a concern about not being able to, and I think Senator Tim Hall has explained that to you very well, there seems to be a little problem with being able to, especially in the western part of Nebraska, if you have some people come in and they want to have a special kind of whiskey or whatever, and this premise does not have it, they can go across the street and buy it from another premise. And what my...the amount that we are saying they cannot exceed in the original bill, 704, is \$500. My amendment would limit that amount of retailer to retailer sales not to exceed \$300. We had this bill in General Affairs Committee last year when Senator Morehead was the chairman of the committee. We worked this bill over in that committee and we came up with the consensus that there was, indeed, probably a little bit of a problem out there, but we don't want to create another layer where people are selling to people when we have the three-tier system already in place. We don't want to disturb that. We just want to be able to help those people out, if there, in fact, is a need. And we believe that \$300 is adequate to meet those kind of needs that they may have. I would ask your support for this amendment to the Hall amendment.

SPEAKER BARRETT: Thank you. Speaking on the amendment to the amendment, Senator Rod Johnson, would you care to speak to the amendment to the amendment?

SENATOR R. JOHNSON: Mr. President and members, I serve on the General Affairs Committee with Senator Smith, and as she has indicated, we have covered this issue in committee. In fact, we have covered it for at least the last three years, since I have been a member of that committee, and it has never quite made it to Final Reading. I believe the intent here today is to try and bring the issue to the forefront of this Legislature, and to attempt to somewhat subvert the process, using another bill to advance this concept. I have some difficulties with retail to retail. I will be the first to admit that. I think Senator Smith is on the right direction, that we limit this in a logical manner. I guess maybe I am not paying close enough attention to my district, but I just haven't had any bar owners in my district beating my door down to go to a retail to retail type system. I think the present system that we have had, the three-tier system as it is known within the liquor industry, has worked very well for rural Nebraska, and I think for Nebraska as a whole, and so while I will support Senator Smith's motion

here, I am not going to vote for Senator Hall's amendment.

SPEAKER BARRETT: Thank you. Senator Wehrbein, would you care to speak to the amendment?

SENATOR WEHRBEIN: Yes, Mr. President and members, I guess I have a question but it may be for Senator Hall, as much as Senator Smith, although it is related. Whether it is 500 or 300, I guess I can't quite understand the need for this bill. If one retailer wants to go to another one, why don't they just send the customer across the street, and, I mean, so the dollars, maybe that is a more appropriate question for Senator Hall.

SENATOR HALL: Senator Wehrbein, this, the bill deals with one liquor establishment, for example, a bar which must...is required because of the three-tier system that Senator Johnson pointed out must purchase their liquor from a wholesaler. They sell that liquor by the drink within their establishment. They cannot go to an IGA, an Osco, Frank's Liquor Store and buy a replacement bottle and take it back to their tavern and sell that by the drink to the customer. They must, are required by the three-tier system to purchase from the wholesaler. So what you have is you have a system where folks who are a distance from the Omaha area where the wholesalers tend to be, who basically right now ignore the law, and that is why Senator Johnson hasn't had his door beaten down is because people don't think twice about doing that. It is not a big issue. What we are doing here with this bill is basically putting into statute what is done. The Smith amendment that reduces my amendment to \$300, all that says is that it is an even smaller issue, and I will support that amendment if I get the opportunity to talk. But this is not for sale to an individual. It is for sale from one business to another, which that final business will sell to the consumer by the drink, and it allows them the ability to do that for convenience.

SENATOR WEHRBEIN: Okay, thank you. Another question I will have, and maybe you can do that on your own time when you are discussing the main one will be, what the philosophy was behind the original intent of the three tier, briefly, and why it is important to change this at this time?

SPEAKER BARRETT: Thank you. Senator Smith.

SENATOR SMITH: I will be very brief, Mr. Chairman. I would just answer a little bit the concern that Senator Wehrbein raised, and I would again stress what I have mentioned, what Senator Hall has mentioned, and what Senator Johnson has mentioned. There is in place a three-tier system in the liquor industry, and as far as I am concerned, it is working and this is just, supposedly this was...last year when they brought it to us in the committee, it was based on the concerns that we finally voted for which was sometimes in your small bars as you go west, it is real hard to get that brand that someone else wants, and you don't want to lose your customer, and so you have to sometimes go across, quickly go across the street and get this and bring it back and sell it there, and that was the reason we supported it last year. This year they came in, they didn't even talk about that issue out there. All they talked about was how easy it is to get this alcohol cheaper from other places, so why shouldn't they be able to do it, and bypass, basically, the three-tier system is what it would amount to. So what we did was look at this issue carefully, as we did last year. We decided, okay, we thought it was legitimate last year, that if, you know, we were trying to help those people out there because they did say they had this big concern, that we would allow...Senator Hall was going to amend it down to \$500. He originally asked for a thousand. Now someone just came to me on the floor and told me we were crazy, that that was not enough. I guess I think it is crazy that we even have the bill, originally, because the system provides for what goes on in the system, and people pay for their alcohol if they want it. So, basically, I would ask for the support of my amendment to the bill. I guess he calls it an amendment now since the bill is being attached to another bill, and as Senator Rod Johnson said, I don't know whether it is really needed anyway. Thank you.

SPEAKER BARRETT: Thank you. Further discussion on the amendment to the amendment, Senator Haberman, followed by Senators Hartnett and Hall.

SENATOR HABERMAN: Well, Mr. President, members of the body, LB 704 is the bill we are trying to amend into 154, and I was looking at 704 one day, and it caught my attention, so I called the Liquor Commission and I visited with the Liquor Commission about the bill, as I noticed they were neutral on their testimony, and they explained it to me that if a restaurant ran out of tequila on a Saturday night, then they could run downtown and buy the tequila at a liquor store. And I said, well, it

said \$750, now it has been reduced to \$500, I would like to reduce it to \$300, is there any restaurant in town that would use \$300 worth of tequila on one Saturday night? And the man at the Liquor Commission said, well, he really couldn't answer to that. I doubt very much if there is a restaurant that could use \$300 of tequila on a Saturday night. So this bill has been spoken to as helping western Nebraska, and I have had a senator and a man behind the glass windows come up to me and tell me that this is to help western Nebraska. Well, if it is to help western Nebraska, I have not had any input from any of the restaurant people, liquor stores, or anybody else telling me they need this bill. So I'm apt to maybe drag my feet a little bit but Senator Smith and Senator Goodrich, yes, Senator Goodrich just informed me that it would be \$300 per year. Well, that casts a new light on to it. The Liquor Commission didn't explain it that way. However, if it is adopted to \$300 a year, instead of having an auction and bringing it down to 200, Senator Hall, I will support the amendment with reluctance. Thank you, Mr. President.

SPEAKER BARRETT: Thank you. Senator Hartnett.

SENATOR HARTNETT: Mr. President, members of the body, I guess I am also like Senator Rod Johnson. I have served on the...it was the Miscellaneous Subjects Committee and then was changed to General Affairs Committee which has dealt with liquor issues and gambling issues and so forth, and a year ago, I guess we were looking at the whole question of liquor and how it affected the state, and under the leadership of Senator Pat Morehead, we traveled to Senator Weihing's country and Senator Baack's country, and that is the first time that this question came up about is this, you know, this running out of liquor because all the distilled liquor, hard liquor, I call it, is in Omaha, so they simply wanted a means to be able to purchase some liquor rather than breaking the law because it is illegal for a bar to go and get a bottle from the...they are doing it but I think we should keep up to what the law's intent is, so last year we did have the bill, like Senator Johnson said and I think...or Smith said, and I think it was at \$300, and I think that is a reasonable figure. There is a paper trail. Of course, that was the testimony of the Liquor Commission. There is a paper trail. If I am a bar owner and I go buy, and Senator Schimek is a bar owner, and I buy a bottle from her, I have to record and so forth, so they are able to keep track of it, and it is just for a year, it is not in a month or something like that. So I think

that it is a reasonable approach. I think maybe you have to, you know, with your own philosophy, do you allow one bill to be part of another bill. So I think it is reasonable. It is only limited to distilled liquors and hard liquor, and so forth, and in my testimony on this, but I think it is a reasonable because we have heard it for a number of years, and I will give the rest of my time to Senator Hall.

SPEAKER BARRETT: Senator Hall, yours is the next light, so proceed.

SENATOR HALL: Thank you, Mr. President, and thank you, Senator Hartnett. The issue of whether or not the paper trail is there, whether or not the ability to control that is there was presented to the General Affairs Committee during that interim study, and I have here a memorandum from Don Ostdiek who is the counsel to the General Affairs Committee currently, and it is in relation to LB 704 and was distributed February 8th of this year, and it is a letter that is from the control commission, from "Frosty" Chapman, to Senator Morehead and other senators on the General Affairs Committee. I would just like to read the first paragraph. It says "This letter is a follow-up concerning the issue of whether the Liquor Control Commission would be able to establish a proper paper trail if the state were to allow retailers to purchase from other retailers. The short answer is, as I stated at the hearing, yes, we can." It goes on to state that they would need to file a tax form. There would need to be a federal stamp as well. All those things are included, followed through and a part of LB 704 as it was unanimously advanced to the floor by the General Affairs Committee. The issue of putting this issue before the body is one that is not new to it. It has been talked about for a number of years. The retail to retail system, as it currently works, the retailers must purchase from a wholesaler. It is the only protectionist system like that that we have with regard to I think just about any form of purchase, and that we do that in that three-tier system, Senator Wehrbein, basically, because the wholesalers were able to set that system up at its inception. They were able to require that they be the only people that sell that alcohol wholesale to the retail establishments, so that there was not the ability for a bar owner to walk into their local liquor store and purchase stock to sell over the counter. So what you currently have now is a situation where the wholesale houses sit in Omaha, and they have a lock on the business. You can't go to a different wholesale house and buy everything that

you would like. Wholesale houses have their own lines of product. They also have a lock on their own business. If I want to buy a bottle of Jack Daniels, you go to one wholesale house because they have the rights to distribute that. If I want to buy a bottle of Smirnoff Vodka, you have to drive over to the other wholesale house to buy that. And you clearly have to come to Omaha to buy any of it. What this amendment, what LB 704, the amendment to 154 does is it allows for a retailer in an emergency situation to be able to go to another retailer, a liquor store, the local grocery store or the store that has an off-sale license, purchase liquor, and be able to resell that over the counter. What it amounts to is a convenience. It allows for a convenience for those people so that they don't have to (A) violate the law by doing it anyway, and it goes on. It clearly does. There was testimony to that effect before the committee that there is much traffic in this right now.

PRESIDENT NICHOL PRESIDING

PRESIDENT: One minute.

SENATOR HALL: I don't blame these retailers for doing that. They shouldn't have to in an emergency situation drive to Omaha to pick up a bottle of gin. The cap, the amendment that Senator Smith has offered reducing it to \$300 I will agree to. It is a cap that deals on an annual basis. It is a \$300 cap. It is not something that is going to be prevalent. People are not going to circumvent the wholesaler. It is going to be for an emergency situation. It is currently going on right now. The Liquor Control Commission testified to that effect. Some of the members of the industry, themselves, testified to that effect. What we do by adopting this amendment is we put in place a system that is traceable, that they can follow, that there is a paper trail, that allows for those individuals to be able, in emergency kinds of situations, to purchase a bottle within the law, and be able to resale that. It does not, in any way, circumvent the three-tier system because I can guarantee you that those retailers are not going to use this on an extensive basis. They go to those wholesale houses because they can do a little better on the price. They do get case prices. They do get a discount. There are specials that they hold on a regular basis. This is something that is out there that allows them a convenience so that (A) first of all, they are not outside the law, and, secondly, that they will have the ability to get by in a situation where otherwise they would have to, if they wanted

to stay within the law, get in the car, drive to Omaha, it would have to be Monday through Friday, 9 to 5, when those wholesale houses are open, in order to do that. What this allows for them is the opportunity to be able to get by until they do make that trip into the wholesaler. I would urge the adoption of Senator Smith's amendment, and I think that the \$500 was a figure that was agreed to by both parties, both the retailer and the wholesaler's side of the issue. The bill as it is amended by the committee amendments was an agreement on both sides. It has been extensively debated before the committee. It has had numerous interim study discussion hours spent on it. The commission feels comfortable with the way it is set up, and they feel that there is adequate control there to allow for this to take place. The time has come for this to happen. It has been a long time. The wholesalers understand that they need to allow for this to happen. Yes, they don't like it. They prefer to have a lock on the business. Anybody would. But what this does is it requires the paper trail, it allows for a little convenience, and with the cap that Senator Smith offers, there clearly will not be any abuse of the system. I would urge the adoption of Senator Smith's amendment and then my amendment to LB 154. Thank you, Mr. President.

PRESIDENT: Thank you. Senator Goodrich, please, followed by Senator Elmer. Senator Elmer, followed by Senator Smith.

SENATOR ELMER: Thank you, Mr. President, members. As a member of the General Affairs Committee, I participated in the interim study group that went across the western part of the state, and several points that the people are talking about, I would like to just try to make it very clear and logical what we are talking about. The three-tier system that is involved is the manufacturer or the brewers and distillers at the first tier, the distributors in Nebraska are the second tier, and the retailers are the third tier. This amendment that we are talking about of Senator Hall involves only one class of retailers to go to another class and purchase a maximum of \$300 worth of products, total, in one year, and that class that would be privileged to do this are those that have the license to sell on-sale spirits only. If they have an off-sale license, in other words, a man could come in and pick up a bottle of gin and put it in a sack and carry it out, they are not able to make this retail to retail purchase, only those like a restaurant or a bar, only, would have this privilege. In western Nebraska where it is 600 miles from Omaha, you can see why a small amount

of this should be able to transpire legally because of logistics and the complete inconvenience of running out of a particular brand and not being able to legally get by for a few days until a shipment from Omaha would arrive. And I would support Senator Smith's amendment and Senator Hall's amendment to 154.

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

SENATOR SCHMIT: Well, Mr. President, and members, I am a little reluctant to speak on this issue because it has been such a sacred cow over the years, the issue of protection of the wholesaler. You know, we always talk on this floor about equity and individual rights and many other items, what we really have in the liquor business is the protection of the distributor, the wholesaler. A few years ago I had a more liberal bill which would have allowed retailer to retailer transactions, not just with liquor but with beer. I thought some of my good friends were going to have a stroke because of the threat to the whole beer industry. Didn't say anything about the free enterprise system where you might save a buck or might be able to buy a beer a little cheaper at Dubsky's bar in David City, if he could buy it from Walgreen's rather than going through a distributor, but I have been around here long enough to know that if you can't get a whole loaf, you take a half loaf, and if you can't get a half loaf, you take a slice. This is really just kind of a crumb, Jacky, but it is a step in the right direction, and it is a blow for the free enterprise system because you can never tell if one of Senator Weihing's friends out there accustomed to drinking Jack Daniels and he can't get his favorite brand, he might switch to something else and find something he likes better. So, we'd assume that that is why they are willing to make this one minor concession. They'd just as soon keep you on the brand you are accustomed to rather than let you shop around a bit, but it is kind of interesting in this body that we talk so much about equity and individual rights, and so forth, but there aren't very many people who understand what we have in the area of liquor and beer distributors, and that is a very tightly protected system, and I am sure they have some good reasons for it, and I like all those people, they are great friends of mine. I use a little of their products from time to time, but I think it ought to be noted that what we have is a protection for the wholesaler, and 99 percent of the public have no idea that it even exists. And so to the extent that we might educate them just a little bit here today, I think it ought to be noted. I

want to say once more, Jacky, that this is a momentous crack in the dike. It has been solid for a long, long time and it may even have far-reaching consequences, who knows. Some day we may even expand it just a little bit, but it is not just a small little bill. It really is a pretty kind of important bill, and it is going to make a rather significant change in the direction. So those of you who didn't know what it was all about, remember, this is the first dent that has ever been made in that distributors organization, and thank you very much.

PRESIDENT: Thank you. Senator Smith, please, followed by Senator Wesely.

SENATOR SMITH: I'd call the question.

PRESIDENT: The question has been called. Do I see five hands? I do, and the question is, shall debate cease? All those in favor vote aye, opposed nay. We are voting on ceasing debate. Record, Mr. Clerk, please.

CLERK: 30 ayes, 0 nays to cease debate, Mr. President.

PRESIDENT: Senator Smith, would you like to close on your amendment to the amendment, please?

SENATOR SMITH: Yes, thank you, Mr. President. I would just say very briefly that in response to some things that Senator Schmit said, I would just remind the body that, yes, this is an opening in the door, and I think that it behooves us to be very careful about how we regulate these kinds of things. Alcohol is something that we have decided to allow the use of in the state, and we all make use of it, probably, to some degree, but it is something that can be very detrimental if it is not handled correctly, and we have a three-tier system which works very well in the regulation of it. We don't want to try to take away from that three-tier system. Based on that you have to forget in this area, I believe at least, what we call the free enterprise system, because in the name of regulation, this is what works best. So I would just ask that because this little amendment that I am asking for you to do is just to lower the amount that they can, retailer to retailer can sell to each other. Senator Hall's amendment, which is the bill, LB 154, really does provide for a control as far as paper trail is concerned, and it does require them to have a permit in order to sell to each other. Based on that, I would ask for you to support this amendment to

his amendment. Thank you.

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

CLERK: 27 ayes, 1 nays, Mr. President, on adoption of Senator Smith's amendment to the Hall amendment.

PRESIDENT: The Smith amendment to the Hall amendment is adopted. Now we are back to the Hall amendment.

CLERK: Mr. President, I have another amendment to Senator Hall's amendment and that is offered by Senator Warner.

PRESIDENT: Senator Warner, please.

SENATOR WARNER: Mr. President, members of the Legislature, I hadn't particularly thought about being involved until I was listening to the discussion and traditionally I think I have always been supportive of the three-tier system as best as I can recall, but as I was listening to the need and with the small cap of \$300, that there may be some unique brand, not unique, but a brand with at least low volume of usage or request in a restaurant, the thought occurred to me that the one area that really has some logic is wine. There are so many different kinds of wine that, and some people apparently have taste, I know, for a particular kind, and what my amendment does is merely adds wine to the alcoholic beverage which seems to be extremely logical to me. I can understand beer, I don't know much about beer, but there aren't, I don't think, that many brands that it would make that bit of significance, but certainly in wine, that can be very significant, I think, to some people, and the probability of a small restaurant having a large variety in stock is not likely. So if you want the spirit of the amendment to provide better access for small communities, the small establishments, I would offer the amendment to add wine.

PRESIDENT: Thank you. There are many lights on, some apparently haven't bothered to turn them off, and we will test you to see if you want to speak about this. Senator Wesely. Senator Rod Johnson, did you wish to speak on the amendment to the amendment?

SENATOR R. JOHNSON: Yes, Mr. President, I certainly would. We are beginning down the path that I felt we would eventually head down, and I guess I want people to be aware of what we are doing here today. I just was hit by one of the lobbyists in the Rotunda saying how can you not support the Hall amendment. We have heard all about the three-tier structure. The fact is that the three-tier structure applies to spirits, to beer, and to wine, and I'd suggest to the lobbyist that what we are doing today with Senator Hall's amendment is basically heading us down the direction that Senator Schmit I think clearly pointed it out, this is the first crack in the three-tier system. It only applies to spirits, but I can see the day when we will eventually destroy the entire three-tier structure for all segments of alcohol, including spirits, wine, and beer. Senator Warner's amendment now opens that gap just a little bit wider, and all that would now remain under the three-tier structure would be beer. Everything else would be sort of out on its own. I guess I see a system that has been working fairly well. It is up to this body whether they want to take that system and restructure it somewhat. I don't know what deals have been cut with various people. I was told that a deal had been cut that we wouldn't touch wine and beer. Well, that may have been a deal that somebody cut with somebody else but they didn't cut it with me, and I guess I am not going to support the Warner amendment on the basis that I think the three-tier structure has worked well. It has worked well in the rural areas of the state. We don't seem to have a significant problem. There might be some cheating going on, as Senator Hall has suggested, but I don't know of anyone that is going to pick up and drive to Omaha to buy one bottle of whatever spirit because he ran out of it. Somehow I think that there are better business people out there than that that recognize the need that they have, and I am sure will stock the necessary quantities of certain spirits in order to service his or her bar. I guess the Warner amendment just accentuates what I thought we were probably going to eventually get to, which is the destruction of the entire three-tier structure, and I guess at this particular point I don't want to do that. That is my personal opinion. Everybody else has their own opinion, and I am sure we will hear everyone's opinion on this, but I think it is the wrong direction to head, and I would just highlight to the committee or to this body that today is a...we may be setting some historical precedent on this whole structure, and I see, if this is tacked on and this bill is passed, that you may well see the end of the three-tier structure in the state, and maybe that is

good. I don't know, but I guess in my mind it is not.

PRESIDENT: Thank you. Senator Smith, please, followed by Senator Hall.

SENATOR SMITH: Mr. President, I rise in opposition to the Warner amendment. We discussed this issue very completely as it was brought out to you a number of years now, as members of the General Affairs Committee, and as Senator Rod Johnson brought out very clearly, this would be an additional kind of expansion away from the restrictions and the regulation of the three-tier system. Wine, as Senator Warner, himself, said comes in many varieties and in abundant quantity, and I don't think I have ever found a place where it is not easy to get a lot of different kinds of wine. In fact, I will just tell you that that is what I drink when I drink anything is wine. And I don't know about hard liquor except what I have been told, and I don't think there are nearly as many brands as there are in wine. I am with Senator Johnson, am going to be opposed to this amendment because I do not want to see it expanded any further than it is, and I would ask you not to support the Warner amendment either. Thank you.

PRESIDENT: Thank you. Senator Hall, please, followed by Senator Haberman.

SENATOR HALL: Thank you, Mr. President and members. Senator Warner, I know a lot more about beer than I do about wine, and so I will...I thought it might be. The issue of the Warner amendment is a legitimate issue. We discussed that in committee, whether or not there should be wine, and then do you follow that thought process right down to beer. I guess at this point I would have to oppose the Warner amendment, but not on principle. It is just as legitimate an argument as the issue with regard to spirits. I would look at that issue at another time, and I probably would run into as much support at that point as I am today, but the issue of, are you going to destroy the three-tier system, it is not a valid argument. With regard to it, when you have the \$300 amendment that Senator Smith just adopted to the bill, that is a dollar limitation for an entire year. That is an annual limitation. That is not per purchase, that is not per month, but that is over a 12-month annual basis. A case of spirits can cost anywhere from 100 to 300 dollars and more, depending on what the brand might be. It is not something that is going to destroy, by this amendment that I offer, the

three-tier system. Clearly, what it does, it allows for some convenience. It allows for some individuals in Omaha who ignore the rules and some people in other areas who ignore the rules to, basically, be within those rules, to allow for a paper trail to follow that, because right now we don't have it. The commission has said it goes on. With the adoption of my amendment to 154, we correct that situation. We allow for the paper trail to be there. We allow for people to have the convenience of, I guess, living within the law is what it amounts to, and that is it. This \$300 limitation no way impacts the three-tier system. At no point does it threaten that. If it did, you would see the liquor wholesalers fighting this to the death, not agreeing to a \$500 cap. We all know that. That is a fact. They would not have agreed to a \$500 cap if they thought it was a ruination of their three-tier system, their, basically, lock on the industry. At this point, I have to oppose the Warner amendment and would urge you to do the same. Thank you, Mr. President.

PRESIDENT: Thank you. Senator Smith, please. Senator Haberman, please.

SENATOR HABERMAN: Mr. President, members of the body, Senator Warner, would you answer a question, please?

SENATOR WARNER: Yes, sir.

PRESIDENT: Sorry, I didn't hear you.

SENATOR HABERMAN: Senator Warner...

PRESIDENT: I will call on you next.

SENATOR HABERMAN: ...as I understand your amendment, it adds wine, is that correct?

SENATOR WARNER: That is the intent.

SENATOR HABERMAN: Okay, you answered my question, thank you. If this bill is to help as much as we have heard that it is going to help, well, no, he did recognize you, Jacky. I am sorry. If this amendment is going to help as much as they said it is going to help, I don't see anything wrong with adding wine to it.

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LB 154

PRESIDENT: Excuse me, Senator Haberman. Now, if you want to make something of this, it might backfire, but go ahead.

SENATOR SMITH: I am not worried about making something of anything, sir. I am talking about the way we usually follow the rules in here.

PRESIDENT: All right.

SENATOR SMITH: I had my light on. You called my name, and I said, call the question, and that is exactly what I would like to clarify.

PRESIDENT: When you waved your hand thusly...

SENATOR SMITH: I wanted to call the question when I waved my hand.

PRESIDENT: Sorry I didn't hear you, ma'am.

SENATOR SMITH: Well, I have said it twice since then.

PRESIDENT: Do you want to close the conversation now?

SENATOR SMITH: I want to call the question.

PRESIDENT: Okay, the question is...excuse me, Senator Haberman.

SENATOR HABERMAN: That is fine, let the question be called.

PRESIDENT: The question is, shall debate cease? All those in favor...pardon. Okay, the question is, shall debate cease? All those in favor vote aye, opposed nay. Please vote if you care to. Record, Mr. Clerk.

CLERK: 18 ayes, 3 nays to cease debate, Mr. President.

PRESIDENT: Debate does not cease. Senator Haberman, do you wish to continue, please?

SENATOR HABERMAN: Mr. President, members of the body, we have heard debate on this issue as to how much good it is going to do. Some people have, on this amendment, talked about the three-tier system and that has nothing to do with this amendment. Now if the amendment to 154 is a good substantial

amendment and we need it, then I don't see any reason that we should not add wine because they use wine in the same places and for the same reason that are going to run out of liquor. So the only point I am trying to make is that one should follow the other and they should both be in there, or none of them be in there. I intend to support this amendment and I intend to support LB 154 with the Hall amendment on it as it is now amended. Thank you, Mr. President.

PRESIDENT: Thank you. Senator Smith, please. Senator Warner, please. Senator Warner, please. Senator Warner, you may close. There are no other lights on at the moment, I don't think. Senator Hall, okay. Yes, Senator Warner, yes, you are closing.

SENATOR WARNER: Okay, thank you, Mr. President. Well, again, the amendment is offered actually in good faith. I probably have the reluctance of others that whether the three-tier system should be altered, but, obviously, we are going to alter it, or at least apparently we are considering altering it from what I hear in the case of liquor. With the limit of the minor amount, the cap of \$300, there is just no possible way that, in all the accounting that has been pointed out, there is no possible way that it could create any problems by adopting adding wine, and the persuasive argument, obviously, is one of the menus, that a small restaurant many miles from Omaha would have the opportunity to check across the street if there was a particular type of wine that someone out at a restaurant wished to have. And most certainly there are the people, who I know feel very strongly as to the type of wine that they prefer to have. So I would urge that the amendment be adopted. It cannot possibly create any greater of a precedent than what the bill will do, in any event, with alcoholic beverages. So that is not an issue, just a matter, an issue of convenience, with a very low cap, and I would urge the body to adopt it.

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

CLERK: 11 ayes, 16 nays, Mr. President, on adoption of the amendment to the Hall amendment.

PRESIDENT: The amendment to the amendment fails.

CLERK: Mr. President, yes, thank you. Senator Smith would move

to amend the Hall amendment. (Read Smith amendment on page 969 of the Legislative Journal.)

PRESIDENT: Senator Smith, please.

SENATOR SMITH: Thank you, Mr. President, members of the body. I am sorry that we are dealing with this bill so long and doing all of these amendments to amendments and that sort of thing, but this did come up very, very quickly and we didn't have time to get this done ahead of time. Senator Hall, for your information, what I am simply doing, on page 13, line 17, I am striking beginning with the word "has", reading through "has the requisite certificate of authority" to the comma, to be deleted. This is technical in nature. In checking with the Liquor Control Commission, they didn't know what this means, nor did anyone else that we talked with. A certificate does not exist presently, and so we would just like to have this language removed from the bill based on that, and we would ask for your support for that. Thank you.

PRESIDENT: Senator Hall, please.

SENATOR HALL: Mr. President, I would support Senator Smith's amendment.

PRESIDENT: Thank you. I think that those are all the lights that are on. Senator Smith, would you like to close. Okay, the question is the adoption of the Smith amendment to the Hall amendment. All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

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

PRESIDENT: Thank you. The Smith amendment is adopted to the Hall amendment. Anything else on it?

CLERK: Nothing further to Senator Hall's amendment, Mr. President.

PRESIDENT: Now we are back on Senator Hall's amendment. Senator Hall.

SENATOR HALL: I will just close on it, okay.

March 3, 1989

LB 154, 492, 681, 778

PRESIDENT: I don't see any other lights on. Would you like to close, then?

SENATOR HALL: Mr. President, I would just urge the body to adopt the amendment to LB 154, then. Again, it is the retail to retail issue and a \$300 cap that is actually less than the wholesalers agreed to but I understand the need by the body to limit that so that there is a protection there that the cap provides so that the three-tier system is not abused. I would urge the adoption of the amendment. Thank you.

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

CLERK: 26 ayes, 6 nays, Mr. President, on adoption of Senator Hall's amendment.

PRESIDENT: The Hall amendment is adopted.

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

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

SENATOR LINDSAY: Mr. President, I move that LB 154 as amended be advanced to E & R for Engrossing.

PRESIDENT: Okay, a machine vote has been called for. I don't see any lights on. If there are, wave your hand so I can see you. Okay. The question is the advancement of the bill. All those in favor, respond, Mr. Clerk? Oh, a machine vote. All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 25 ayes, 7 nays, Mr. President, on the motion to advance LB 154.

PRESIDENT: LB 154 is advanced. Mr. Clerk, something for the record.

CLERK: Mr. President, your Committee on Banking, Commerce and Insurance reports LB 681 to General File with amendments, signed by Senator Landis. Government Committee reports LB 492 to General File with amendments, that is signed by Senator Baack. General Affairs Committee reports LB 778 to General File with

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 13, 1989

LB 84, 140, 154, 183, 285A, 340, 405
406, 522, 528, 611, 634, 653A, 655
657, 700, 739, 747, 774, 807
LR 18

record your presence. Members outside the Legislative Chamber, please return. Senator Hefner, please record your presence. Senator Labedz, Senator Haberman. Senator McFarland, the house is under call. Senator Chizek, Senator Haberman apparently is the only one that is absent. Can we go ahead? And did you request a roll call? Thank you. Members, please return to your seats for a roll call vote on the advancement of the bill. Proceed with the roll call vote, Mr. Clerk.

CLERK: (Roll call vote taken. See pages 1091-92 of the Legislative Journal.) 18 ayes...Senator Chizek.

SPEAKER BARRETT: Senator Chizek.

SENATOR CHIZEK: I want to change my vote from yes to no for purposes of reconsideration.

SPEAKER BARRETT: Thank you.

CLERK: Senator Chizek changing from yes to no. 17 ayes, 19 nays, Mr. President, on the advancement of 140.

SPEAKER BARRETT: Motion fails. For the record, Mr. Clerk. The call is raised.

CLERK: Mr. President, your Committee on Revenue, whose Chair is Senator Hall, reports LB 84 to General File with amendments, LB 611 to General File with amendments, LB 739 to General File with amendments, LB 747 to General File with amendments, LB 807 to General File with amendments, LR 18CA indefinitely postponed, LB 405 indefinitely postponed, LB 406 indefinitely postponed, LB 522 indefinitely postponed, LB 528 indefinitely postponed, LB 634 indefinitely postponed, LB 655 indefinitely postponed, LB 657 indefinitely postponed, LB 700 indefinitely postponed, and LB 774 indefinitely postponed. Those are signed by Senator Hall as Chair of the Revenue Committee. (See pages 1092-93 and 1107-08 of the Legislative Journal.)

Mr. President, Senator Baack has amendments to LB 340 to be printed; Senator McFarland to LB 739; Senator Baack to LB 183; and Senator Smith to LB 154. (See pages 1093-1100 of the Legislative Journal.)

Mr. President, I have new A bills. (Read LB 653A for the first time by title. LB 285A for the first time by title. Read

March 17, 1989

LB 154, 489, 516, 556

ASSISTANT CLERK: (Record vote read. See pages 1202-03 of the Legislative Journal.) The vote is 43 ayes, 0 nays, 1 present and not voting, 5 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 489 passes. LB 516E.

ASSISTANT CLERK: (Read LB 516E on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 516 with the emergency clause attached pass? Those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk.

ASSISTANT CLERK: (Record vote read. See pages 1203-04 of the Legislative Journal.) The vote is 42 ayes, 0 nays, 2 present and not voting, 5 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 516E passes. LB 556.

ASSISTANT CLERK: (Read LB 556 on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 556 become law? Those in favor vote aye, opposed nay. Have you all voted? Record.

ASSISTANT CLERK: (Record vote read. See page 1204 of the Legislative Journal.) The vote is 43 ayes, 0 nays, 1 present and not voting, 5 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 556 passes. Before proceeding to LB 154 on Final Reading, the Chair is pleased to advise the body that the corned beef sandwiches which are now being passed out are courtesy of Senator Hall, who apparently purloined them from Clancy's on his way to the Chambers this morning. This is anticipation of Senator "O'Beyer's" corned beef and cabbage today on adjournment, Senator "O'Beyer's" lunch and with the help of his leprechauns at the law center. Corned beef, courtesy of Senator Hall. The next bill, Mr. Clerk.

ASSISTANT CLERK: Mr. President, I have a motion on the desk. Senator Smith would move to return LB 154 to Select File for a specific amendment. The amendment is found on page 1100.

March 17, 1989

LB 154

SPEAKER BARRETT: Senator Jacklyn Smith, please. (Gavel.)

SENATOR SMITH: Mr. Speaker, I would ask that the body support me in returning LB 154 for a specific amendment. The amendment would basically...the purpose of the amendment is to clarify the section of the bill which would be page 23, on line 4, after the word "purchase" to insert the words "in the aggregate". And then reading on, more than \$300 of alcoholic liquor is allowed under this section and then eliminating the words "from other licensed retailers". And the purpose for the amendment is that we wanted to make sure...there was some concern that this language was not specifically clear about containing the amount of money that could be spent and the opportunity for retailer to retailer sales to be limited only to an aggregate of \$300 a year for all retailer to retailer sales for one retailer. So that's the reason. If anyone has any questions, I will be happy to discuss the amendment with them.

SPEAKER BARRETT: Senator Hall, please.

SENATOR HALL: Thank you, Mr. President, and members, I rise in support of the...I guess, the content of the amendment but in opposition to it on principle because the amendment that I offered to LB 154 was an amendment that was not one that I drafted. It was one that the wholesalers drafted. It was their amendment. It was their language and what happened was some distiller's attorney in Tennessee, I guess, or someplace, decided that this language was not strict enough and the implication is there that possibly it was my intention to circumvent the intent that I offered and that there is reams of legislative evidence to guarantee that it was clearly just an understanding that it was going to be \$300 on an annual basis and that was it, not \$300 from every retailer out there. And I would urge the body to just take a look at page 23 and the sections that Senator Smith alluded to and the change that is being made here because if you read the bill, I clearly don't think there is any need to return the bill and make this change because any sophomore in high school could read that and understand exactly what the language says and I think the intent is clearly spelled out, both in committee hearings here on the floor when we debated it and when the amendment was adopted. This was an amendment that was brought by the wholesalers themselves. We agreed to it. There was...the agreement was for \$500. It was amended on the floor by the body to 300, which was fine. And now they're coming back because of some individuals

who have little or no interest in the State of Nebraska but are, I guess, it's the effort by the lobby to make us dance to their tune and to cross our t's and dot our i's, so I don't oppose the language on its intent or on its face, but I think, (a), there is no need for it, and, (b), I think that when it is their language in the first place and I guess the idea might be that there was an effort on my part or on the retailers' part to circumvent the system that was set up, I have a problem with that. I don't have a problem with Senator Smith at all introducing this amendment on their behalf. I understand that. And the language in the amendment is fine. So I would urge the body to adopt it.

PRESIDENT NICHOL PRESIDING

PRESIDENT: Thank you. Senator Smith, before you speak, I would like to introduce some guests of Senator Wehrbein, please. In the north balcony, from the Murdock Consolidated Schools we have 11 seniors and their teacher. Will you folks please stand and be recognized. Thank you for visiting us today. Also, Senator Jennie Robak would like to recognize Dr. Dwight Rickard of Columbus, Nebraska who is our doctor of the day. Dr. Rickard. Thank you for serving us today. Senator Smith, please.

SENATOR SMITH: There are no other lights on?

PRESIDENT: No, ma'am.

SENATOR SMITH: All right, then what I would do is just close if that's all right with you.

PRESIDENT: All right, fine.

SENATOR SMITH: All right, in closing then, Mr. Speaker and members of the body, I want to make it very clear that there is no intent on the part of myself to in any way convey that Senator Hall was responsible for the way this was worded or that there is anything that reflects upon him. The wholesalers, themselves, who, in his words, did bring this language are the ones that brought now this amendment to this bill to me. And I guess our intent is to try to make a law as strict as possible so that we're not back here questioning it and if something else should happen that it's not stated clearly enough if it were ever brought to some kind of a case. I think the time is now to make the bill the best bill we possibly can. And I wanted to

make very clear to the members of the body that not only the wholesalers who did bring this originally to Senator Hall, as he said, who have now brought this amendment to me are supported by the retailers. So I do want to make it very clear that there are...there is total support by the retailers to this amendment to the bill. And I would ask that you would be...if you would be willing to return this bill back to Select for a specific amendment. Thank you.

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

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

PRESIDENT: The bill is returned. Senator Smith.

SENATOR SMITH: Thank you, Mr. President. I would just reiterate to the members of the body that the purpose of this amendment is to clarify that the \$300 per calendar year cap on retailer to retailer liquor sales is meant to apply to all the purchases a given retailer makes from all other retailers during that calendar year. It's not intended to allow retailer to retailer purchase, \$300 from each other retailer they might want to purchase from, unless, of course, they are only purchasing from one retailer during that year. And I would ask your support for the amendment. Thank you.

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

ASSISTANT CLERK: 29 ayes, 0 nays on the adoption of the amendment, Mr. President.

PRESIDENT: The Smith amendment is adopted. Senator Smith, on the advancement of the bill.

SENATOR SMITH: I ask the body to support me in the readvancement of the bill. Thank you.

PRESIDENT: You have heard the motion. All in favor say aye. Opposed nay. It is advanced. If you will return to your seats, please, we will continue with Final Reading. If you will

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LB 154, 183, 254, 421, 592
LR 61

LB 154 correctly engrossed, LB 183, LB 254, LB 421, all correctly engrossed. (See pages 1228-29 of the Legislative Journal.)

Mr. President, new resolution, LR 61 by Senator Schmit asking the Legislature to congratulate the Wahoo boys basketball team for winning the Class B State Basketball Championship. (See page 1229 of the Legislative Journal.)

Mr. President, Senator Chambers would move to bracket LB 592 until April 25 of this year.

PRESIDENT: Senator Chambers, please.

SENATOR CHAMBERS: Mr. Chairman, I have two reasons for doing this, one is that I am serious about the motion; the other is to maybe make it possible that some will have the opportunity to speak who otherwise might be knocked down by a call of the question. Very few issues on this floor relate directly to me and mine in the way that this does that will cause me to speak as I am doing today on the floor of this Legislature. Never have I seen any concern for doing a program that would uplift those in my community, never have I seen the fervor for that as I see for these kinds of things of increasing the punishments, putting people in jail and so forth. When the North Freeway was running through my community and I stood up here and tried to explain the damage that would be done and, in fact, it has been done, the increased number of vacant lots, the inability of people to afford housing who used to have housing have all come to fruition, got nowhere. There are people from all over the state, none of whom are in my district and my district won't even run the risk of being affected by it, who are concerned about a low-level nuclear waste facility and they write me letters and call me on the phone and cry to me in person about how it might damage their community and be harmful to them. And I tell them there were probably over 40 other senators over there who care not a pop of the finger for my community. The pollution from the cars driving right through what they call a low-rent housing project, right through the middle of an OHA housing development where many, many small children live, this Legislature did not care, did not care, and does not care now. I told you that I had talked to Mayor Calinger about putting together a program where we don't just talk about jobs, but there are some realistic opportunities made available to these young people. He never got back to me. Some of the things he

March 23, 1989

LB 154, 155, 619, 623

CLERK: (Read LB 619 on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 619 pass? Those in favor vote aye, opposed nay. Have you all voted? Record.

CLERK: (Read record vote. See page 1307 of the Legislative Journal.) 39 ayes, 0 nays, 1 present and not voting, 9 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 619 passes. LB 155.

CLERK: (Read LB 155 on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 155 become law? Those in favor vote aye, opposed nay. Have you all voted? Record.

CLERK: (Read record vote. See page 1308 of the Legislative Journal.) 40 ayes, 2 nays, 7 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 155 passes. LB 623.

ASSISTANT CLERK: (Read LB 623 on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 623 pass? All in favor vote aye, opposed nay. Have you all voted? Record.

ASSISTANT CLERK: (Read record vote. See page 1309 of the Legislative Journal.) The vote is 42 ayes, 0 nays, 2 present and not voting, 5 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 623 passes. LB 154.

ASSISTANT CLERK: (Read LB 154 on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 154 become law? All in favor vote aye, opposed nay. Have you all voted?

March 23, 1989

LB 154, 254, 281, 421

Record, please.

ASSISTANT CLERK: (Read record vote. See page 1310 of the Legislative Journal.) The vote is 43 ayes, 0 nays, 1 present and not voting, 5 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 154 passes. LB 254E.

ASSISTANT CLERK: (Read LB 254 on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 254 with the emergency clause attached become law? All in favor vote aye, opposed nay. Have you all voted? Record.

ASSISTANT CLERK: (Read record vote. See page 1311 of the Legislative Journal.) The vote is 43 ayes, 0 nays, 2 present and not voting, 4 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 254E passes. Before proceeding to the final bill on Final Reading, the Chair is pleased to advise that Senator Moore has guests in the north balcony. We have with us 20 fourth grade students from Emmanuel Lutheran in York with their teacher. Would you folks please stand and be recognized. Thank you. We are glad to have you with us. LB 421.

CLERK: (Read LB 421 on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 421 become law? Those in favor vote aye, opposed nay. Have you all voted? Record, please.

CLERK: (Read record vote. See pages 1311-12 of the Legislative Journal.) 43 ayes, 0 nays, 3 present and not voting, 3 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 421 passes. To reiterate the announcement yesterday, we do plan to work through the noon hour today, hopefully with an early adjournment around midafternoon this afternoon for the holiday. Also the bills under item 7 on today's agenda, Select File, senator priority bills, 54, 49 and 49A have been handled, so we will momentarily move to Select File, nonpriority bills, beginning with LB 281. And while the Legislature is in session and capable of transacting business, I

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LB 154, 155, 254, 265, 281, 421, 619
623

propose to sign and I do sign, LB 154, LB 623, LB 155, LB 619, LB 265, LB 254, and LB 421. The call is raised. Mr. Clerk, the first bill.

CLERK: Mr. President, LB 281 is on Select File. I have no E & R amendments. I do have an amendment to the bill by Senator Chambers. Senator Chambers amendment is on page 739 of the Journal.

SPEAKER BARRETT: Senator Chambers, on your amendment.

SENATOR CHAMBERS: Mr. Chairman, let me look at this, because my amendment may have already been adopted.

SPEAKER BARRETT: Fine.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I am on the bill now. I was thinking of a different bill. The amendment says that the provisions of this bill shall apply prospectively or from the date that the bill takes effect, and in order that there will be no confusion, nothing unfair to anybody, we are setting up a new system. We are loosening certain legal requirements so that when that is done I think those kind of activities ought to...the bill should apply only after the bill takes effect. So that is what the amendment would do. It doesn't change anything in the bill, which I don't like. I don't like the bill. But if you are going to have a bill like this, where you can have a noncertified document used in this state for the purpose of depriving an individual of a right or a privilege, then the least you can do is say that it will apply only to things that occur after the date that the bill is passed.

SPEAKER BARRETT: Thank you. Discussion. Senator Lamb, followed by Senator Lindsay.

SENATOR LAMB: Yes, Mr. President and members, you will remember that there was extended discussion about this bill previously. This has to do with points taken off your license from other states, and this bill allows the Department of Motor Vehicles to certify that in fact you have been convicted in another state, and that the record is true and correct. We have gotten an Attorney General's Opinion on the bill in regard to whether it violates the rules of evidence. The Attorney General's Opinion has been positive. He says the bill is okay, and in regard to

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LB 154, 155, 250, 254, 265, 272, 281
421, 503A, 619, 623, 683

SPEAKER BARRETT: Thank you. Anyone else? A record vote has been requested. All in favor of the advancement of the bill please vote aye, opposed nay. Shall LB 281 be advanced, that is the question? Have you all voted? Have those who care to vote voted? Record, please.

CLERK: (Read record vote. See pages 1314-15 of the Legislative Journal.) 25 ayes, 18 nays, Mr. President, on the advancement of LB 281.

SPEAKER BARRETT: The bill is advanced. Anything for the record?

CLERK: Yes, Mr. President, I do. I have amendments to be printed to LB 272 by Senator Landis; and LB 683 by Senator Wehrbein. I have a new A bill, LB 503A by Senator Goodrich. (Read for the first time by title. See pages 1315-16 of the Legislative Journal.)

Mr. President, I have a lobby report for this past week; a confirmation report by the Judiciary Committee. It is signed by Senator Chizek. Notice of hearing by the Rules Committee for Thursday, April 6.

And, finally, Mr. President, bills read on Final Reading this morning have been presented to the Governor. (Re: LB 265, LB 619, LB 155, LB 623, LB 154, LB 254, LB 421. See page 1317 of the Legislative Journal.) That is all that I have, Mr. President.

SPEAKER BARRETT: Thank you. The Chair is pleased to note that Senator Labedz has a very special guest under the south balcony, a friend of hers, Tom Kelly, who is a student at Westside Middle School. Tom, would you stand up and take a bow. We're glad to have you with us. Also observed under the south balcony is a former member of this body, Senator George Syas of Omaha. Senator Syas. Nice to have you back, George. LB 250, Mr. Clerk.

CLERK: Mr. President, Senator, I have E & R amendments on LB 250, first of all.

SPEAKER BARRETT: Senator Lindsay.

CLERK: E & R amendments, Senator.

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