

January 5, 1989

LB 48, 52, 84, 161-189

the Executive Board will meet in...the Reference Committee will meet in Room 2102 at three-fifteen today for purposes of referencing bills, Reference Committee at three-fifteen.

Mr. President, new bills. (Read LBs 161-189 by title for the first time. See pages 82-88 of the Legislative Journal.)

Mr. President, in addition to those items, I have requests from Senators Chambers, Nelson, Schellpeper, Hefner, Lamb, Crosby and Hartnett to add their name to LB 48 as co-introducer; Senator McFarland and Schellpeper to LB 52 as co-introducer and Senator Carson Rogers to LB 84 as co-introducer. (See page 88 of the Legislative Journal.)

PRESIDENT: No objections, so ordered.

CLERK: Mr. President, an announcement from the Agriculture Committee and signed by Senator Rod Johnson, the Ag Committee has selected Senator Owen Elmer as its Vice-Chairperson. Mr. President, I believe that is all that I have.

PRESIDENT: Ladies and gentlemen, we're about to start the proceedings for the afternoon, and we're very grateful to have with us Father Dawson this afternoon for our invocation. Would you please rise for Father Dawson.

FATHER DAWSON: (Prayer offered.)

PRESIDENT: Thank you, Father Dawson. Please feel free to stay with us as long as you like. We're privileged to have with us this afternoon the Nebraska National Guard who will present colors. Would you please rise.

PRESENTATION OF COLORS

PRESIDENT: Ladies and gentlemen of the National Guard, we appreciate your being with us and presenting the colors today. If I might say a word to those who will be escorting the folks in today, it will be necessary that we do it a little bit different than we usually do it. When one group of ushers brings in their group, please bring them up onto the stage and then retire back to your seats until the inauguration proceedings are over with and then I will call you back one group at a time to take your group back, because if we should all come in and all stay up here on the podium, we wouldn't have

January 25, 1989

LB 13, 18, 19-32, 89, 114, 122, 165
168, 169, 177, 221, 254, 646, 742

SENATOR LINDSAY: Mr. President, I move that LB 168 be advanced as amended.

SPEAKER BARRETT: Shall 168 be advanced? Those in favor say aye. Opposed no. Carried. The bill is advanced. LB 169.

CLERK: LB 169, Senator, I have no amendments to the bill.

SPEAKER BARRETT: Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move that LB 169 be advanced.

SPEAKER BARRETT: You have heard the motion to advance 169. Those in favor say aye. Opposed no. Carried. The bill is advanced. Thank you. Messages on the President's desk.

CLERK: Mr. President, your Enrolling Clerk has presented to the Governor bills read on Final Reading this morning as of 11:11 a.m. (Re: LB 13, LB 18, LB 19, LB 20, LB 21, LB 22, LB 23, LB 24, LB 25, LB 26, LB 27, LB 28, LB 29, LB 30, LB 31, and LB 32. See page 445 of the Legislative Journal.)

Mr. President, your Committee on Government, Military and Veterans Affairs reports LB 165 to General File with amendments; LB 177 to General File with amendments; LB 254 General File with amendments, all signed by Senator Baack as Chair. Banking Committee reports LB 221 to General File with amendments, that is signed by Senator Landis. Transportation Committee reports LB 114 to General File with amendments; and LB 122 as indefinitely postponed. Those are all signed by Senator Lamb as Chair. (See pages 445-446 of the Legislative Journal.)

Mr. President, I have a hearing notice from the Government, Military and Veterans Affairs Committee. That is signed by Senator Baack.

Mr. President, Senator Hartnett would like to have an Executive Session I believe in the Senators Lounge upon adjournment; Urban Affairs Committee, Senators Lounge upon adjournment.

Mr. President, Senator Crosby would like to add her name to LB 89; Senator Smith to LB 646; and Senator Labeledz to LB 742. That is all that I have, Mr. President.

to put into the record, Mr. Clerk?

CLERK: Mr. President, I do. Your Committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 94 and find the same correctly engrossed; LB 133, LB 134, LB 251, LB 277 and LB 295, all correctly engrossed, Mr. President. That's all that I have. (See pages 486-87 of the Legislative Journal.)

PRESIDENT: Thank you. Move on to LB 165, please.

CLERK: LB 165 by Senator Chambers. (Read title.) The bill was introduced on January 5, referred to the Government Committee for public hearing. The bill was advanced to General File, Mr. President. I do have committee amendments pending by the Government Committee.

PRESIDENT: Senator Bernard-Stevens, are you going to take the committee amendments?

SENATOR BERNARD-STEVENS: Yes, I am.

PRESIDENT: Okay.

SENATOR BERNARD-STEVENS: Mr. President and members of the body, the committee amendments are relatively simple and somewhat technical. In the bill, it had it that the Douglas County Election Commissioner will be responsible for the redistricting of the City of Omaha and there was a section in there that says about sanctions, about if something would not be done well or not done at all. And there was a section in there calling for a removal of office as one of the possibilities that could be done in the sanctions. It did not specify, however, whether it would be mandatory or if there would be a process. So what the committee has done, through committee counsel, has gone back to an existing section of law which has its process set up on the removal of office of such an elected official and it is not mandatory but it is the process. That's the first part the committee amendment clarifies. The second, the committee amendment basically is for the purpose of the section that calls for a citizen in their ability to create or to have a lawsuit against a county commissioner or some other entity in this particular bill and it clarifies this section as to what the lawsuit could pertain to and the clarification by the committee is that it will pertain to the areas that show compelling

performance. And so these two amendments by the committee will clarify those sections of the bill we felt were somewhat unclear. And that's the explanation of the committee amendments and I would move the committee amendments if there be no further discussion.

PRESIDENT: Any further discussion on the committee amendments? If not, the question is the adoption of the committee amendments. All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 27 ayes, 0 nays, Mr. President, on the adoption of the committee amendments.

PRESIDENT: The committee amendments are adopted. Senator Chambers, did you wish to talk about this bill?

SENATOR CHAMBERS: I would like to speak briefly on the bill, Mr. Chairman and members of the Legislature. This is a bill that was requested by the Omaha City Council to eliminate the stagger. What happens with a seven-member council is that four are elected at one election, then two years later three. What this bill would do, because electing simply three city council members at an off-year election does not really apprise the public of what is going on and sometimes the election itself gets lost in the shuffle, in 1991, those council members who will be elected will be elected for only two years. Their term will then end after two years in 1993, along with the term of the others who are currently serving for four years and their term will end in 1993. By having a two-year period for those who are next elected, it will allow, at the following election, all seven members to be elected at the same time for four years ever after or as long as the City of Omaha shall stand. And I'm asking that you advance this bill. If you have any questions, I may answer them, Senator Hannibal, I may not.

PRESIDENT: Senator Wesely, please.

SENATOR WESELY: Thank you. Mr. President and members, I would ask Senator Chambers to respond to some questions.

PRESIDENT: Senator Chambers.

SENATOR WESELY: I appreciate what he is trying to do. I was involved very much in the district election proposals for our

City Council in Lincoln, for school board. I am very familiar with district versus at large and very supportive of what we did in terms of district election for the council. The only question I have, Senator Chambers, in Lincoln we have four district elections up and then like this year we are going to have three at large up this spring and we try to stagger them. The fear is...and if I'm not mistaken, the City Council for Omaha had this for a while where all of them were up and then you get a chance to have all new faces and you don't necessarily have any continuity. I think that's why you went to staggered elections. Do you fear or is there concern about going back and then having, you know, no continuity? Is that why you don't want to...why we went to this in the first place? At some point, they went to staggered elections. There must be a reason for it and it didn't work, evidently. Can you explain that a little bit?

SENATOR CHAMBERS: Well, Senator Wesely, there really is no need for it with reference to the City Council and this idea of continuity is something that traditionally is mentioned. But if the entire council were to be replaced at a given election, there has never been anything to indicate that the city or the ability to govern would be harmed in the least. Sometimes it might be best for all concerned, except those who are being replaced, to completely change the council. The fact is that the city has found, and people who observed the situation, that when you have an election where only three city council members are standing, a lot of people are not even aware of that election. So by having them all elected at the same time would take care of that. The specific question you're concerned about is one that doesn't concern me in the least. If they replace all of them, there is no problem that I envision occurring because people who get into offices have differing abilities and capacities. Some could be in an office for 20 years and be as sharp at the end of 20 years as they were when they first started. Others may be in office for six months and learn a great deal because of their interest and concern about the problems that that office deals with, the tools available for addressing those problems and be a very capable public official. So I don't think the possibility of turning them all out at the same time is any problem at all.

SENATOR WESELY: The mayor's election, would the seats for the council all come up in the same election as the mayor's office?

SENATOR CHAMBERS: I think that's what it would do.

SENATOR WESELY: So instead of having a situation where you have a mayor's race and four council seats one year and then just three council seats two years later...

SENATOR CHAMBERS: Uh-huh.

SENATOR WESELY: ...you would have them all, all of them in the same year?

SENATOR CHAMBERS: Right, and eventually, although there has been some opposition to this, there may be an attempt to stop the city elections from being off year and having them run at the regular, you know, when the other types of offices are run for. But that has not been adequately researched yet.

SENATOR WESELY: And this comes from the last election. If I do recall, you had very poor interest in the three council seats and almost no real public participation in that process. Is that correct?

SENATOR CHAMBERS: Well, in reality, throughout the country and I don't think it can be blamed on the fact that there are district elections in Omaha, you had a presidential election where I think less than 50 percent of the eligible people to vote turned out and voted. So when that happens at the national level and it's happening at state...in states throughout this country, what happened in Omaha is not attributable completely to the fact that just three people ran. Although there was a low turnout, it is felt that a part of that is explainable by the fact that only three people ran and each one apparently was so satisfactory to the members of the district who were being represented that a lot of others did not turn out. I'm trying to prolong the discussion to make the issue seem as important as some people feel that it is.

SENATOR WESELY: (Laughter.) The school board, they are up at the same time or not? Are they going to be staggered? Do you know how that ties into your...

PRESIDENT: One minute.

SENATOR CHAMBERS: There will be no change in the school board or any other election, only the City Council. And, as I say, it

was brought by the City Council.

SENATOR WESELY: Oh, I understand that, but I'm saying, I know in Lincoln the school board races are tied into the council races and I'm just wondering what impact there would be with this.

SENATOR CHAMBERS: No, that's not...the Omaha School Board races are not tied into that, they run at the time other people run.

SENATOR WESELY: Oh, okay. Thank you very much.

PRESIDENT: Thank you. Senator Hartnett, please.

SENATOR HARTNETT: Mr. President and members of the body, if I could ask Senator Chambers a question. I think he answered it but I just simply...you will not change the odd year election, is that correct, in this bill, Senator Chambers?

SENATOR CHAMBERS: You're right, I did answer that.

SENATOR HARTNETT: Yeah. (Laughter.)

SENATOR CHAMBERS: It doesn't change...

SENATOR HARTNETT: I guess that's what I see as the problem is that you get a low turnout, I think you addressed it a little bit to Senator Wesely, a low turnout, and I think it's because of the odd year and the time of the election.

SENATOR CHAMBERS: Right, but the fact that the mayor and these other council members run, the city elections are at that odd year, that was not being changed in this bill because that could raise an issue apart from merely eliminating the stagger. That issue would be whether or not city offices running at the same time as these other what some people perceive more important, significant offices would cause the city offices to get lost in the shuffle. That would be an issue that is not touched in this bill and I don't want that to be touched so I wouldn't even consider it at this time.

SENATOR HARTNETT: Thank you.

PRESIDENT: Senator Chambers, would you like to close? Okay. The question is the advancement of LB 165. All those in favor

vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 33 ayes, 0 nays, Mr. President, on the advancement of 165.

PRESIDENT: LB 155 advances to E & R Initial. LB 177, please.

CLERK: Mr. President, 177 was a bill introduced by Senator McFarland. (Read title.) The bill was introduced on January 5, referred to the Government Committee for public hearing. It was advanced to General File. I do have committee amendments pending by the Government, Military and Veterans Affairs Committee, Mr. President.

PRESIDENT: Senator Bernard-Stevens.

SENATOR BERNARD-STEVENS: Members of the body, the committee amendments, again, I love this phrase, are technical in nature. They truly are. They were introduced or suggested by the introducer of the bill. The first amendment the committee has clarifies that the Advisory Board terms of four years apply only to the appointed members of the board and not the public official members. The public official members would be on the board as long as they hold the specified public office. The second amendment, again, is somewhat technical in nature but it's very clear and to the point. It would strike the emergency clause and the July 1, 1989 effective date which would make the bill just as a normal bill without the emergency clause. And those would be the amendments and I move the amendments.

PRESIDENT: Any further discussion on the amendments? If not, Senator Rod Johnson.

SENATOR R. JOHNSON: I'll speak to the bill.

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

CLERK: 28 ayes, 0 nays, Mr. President, on the adoption of Government Committee amendments.

PRESIDENT: The committee amendments are adopted. Senator McFarland, please, on the bill.

January 31, 1989

LB 165, 177, 221, 279, 296, 312, 321
322

PRESIDENT NICHOL PRESIDING

PRESIDENT: Welcome to the George W. Norris Legislative Chamber. We have with us today as the chaplain of the day Reverend Carl Godwin of the Bible Baptist Church in Lincoln, Nebraska. Would you please rise for the invocation.

REVEREND GODWIN: (Prayer offered.)

PRESIDENT: Thank you, Reverend Godwin. Please come back to see us again. Roll call, please.

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

PRESIDENT: Thank you. Any corrections to the Journal today?

CLERK: No corrections, Mr. President.

PRESIDENT: Any messages, reports or announcements?

CLERK: Mr. President, your Committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 312 and recommend that same be placed on Select File; LB 279, LB 296, LB 321, LB 165, LB 177 and LB 221, all placed on Select File, some having E & R amendments attached. (The Journal also shows LB 322 placed on Select File. See pages 515-16 of the Legislative Journal.)

PRESIDENT: May I just say that I do appreciate many of you coming, showing up for the convocation this morning. The prayer this morning was much nicer than yesterday when no one was here when we were ready for the morning prayer. Thank you for doing that. Also, under the south balcony we have a distinguished guest this morning. We have a former member of this legislative body, Mr. Lester Harsh from southwest Nebraska. Senator Harsh, would you please stand up so that we can see you and recognize you. Thank you for visiting us today, Senator Harsh. We will move on to motions, number 5, Credentials Committee by Senator Warner. Mr. Clerk.

CLERK: Mr. President, I have a report from the Credentials Committee. The motion is found on page 502 of the Journal. I might indicate, Mr. President, the report of the committee is actually found on page...starting on 502 and the pages thereafter. The motion would read as follows: (Read the Warner

that this body cannot solve through legislation, though Senator Wesely would try. We have an amendment that I am proposing that can say we are concerned with our young. We do want to stop sampling to our young and we hope that we can get the message across to our young, please, do not smoke cigarettes, tobacco products and use smokeless tobacco.

SPEAKER BARRETT: Your time has expired.

SENATOR BERNARD-STEVENS: If we can get it across as a nation, as a society, if people in here can also put themselves to the same test, we might get somewhere. The bill will not get us any closer. My amendment will take us a small step and I will regrettably say, it is an unfortunate small step but a small step is better than none.

SPEAKER BARRETT: Time has expired.

SENATOR BERNARD-STEVENS: Thank you, Mr. President.

SPEAKER BARRETT: Thank you. The question before the body is the adoption of the Bernard-Stevens amendment to LB 48. Those in favor please vote aye, opposed nay. Have you all voted? Please record.

CLERK: 17 ayes, 23 nays, Mr. President, on adoption of the amendment.

SPEAKER BARRETT: The amendment is not adopted. Messages on the President's desk.

CLERK: Mr. President, unanimous consent request from Bernard-Stevens to add his name to LB 521; Senator Pirsch to LB 441.

Your Committee on Education, whose Chair is Senator Withem, reports LB 357 to General File with amendment. Notice of hearing from Natural Resources, signed by Senator Schmit. Senator Hefner has amendments to LB 127 to be printed; Senator Barrett to LB 283; Senator Chambers to LB 165; and Senator Hall to LB 48. (See pages 523-25 of the Legislative Journal.) That is all that I have, Mr. President.

SPEAKER BARRETT: Senator Goodrich, would you care to adjourn us.

February 7, 1989

LB 165, 296, 321, 322

SENATOR LINDSAY: Mr. President, I move that LB 296 be advanced.

PRESIDENT: You've heard the motion. All those in favor say aye. Opposed nay. It is advanced. LB 321.

CLERK: Senator, I have E & R amendments to LB 321.

PRESIDENT: Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move the adoption of the E & R amendments to LB 321.

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

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

PRESIDENT: Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move that LB 321 as amended be advanced.

PRESIDENT: You've heard the motion. All in favor say aye. Opposed nay. It is advanced. LB 322.

CLERK: LB 322, Senator, I have no amendments to the bill.

PRESIDENT: Okay, Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move that LB 322 be advanced.

PRESIDENT: You've heard the motion. All in favor say aye. Opposed nay. It is advanced. LB 165.

CLERK: On 165, Senator, I have E & R first of all.

PRESIDENT: Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move that the E & R amendments to LB 165 be adopted.

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

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

bill. The amendment is found on page 524 of the Journal.

PRESIDENT: Very good, Senator Chambers, please.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, although these are basically E & R amendments, it was thought that I should offer them as regular amendments. The first one would be on page 5 and what this bill does is eliminate the staggered election method in Omaha. There is a provision of the bill that relates to staggered elections that apply to all subdivisions where this occurs. So the language that would be put in that general section is except as provided in the section that relates to the Omaha council election to show that it won't be subject to the stagger provision. The other one, instead of just saying as it does on page 7, that after this event occurs, after the second Monday in May, four years thereafter except as provided in Section 14.201, that might sound confusing. What is going to be put here is the actual year that the change will occur, 1991, then an election in 1993, then four years after that. So what it is really doing is...I can see how much interest there is. I looked back and Senator Abboud is laughing at me. Usually I can command more attention than this, but the subject is not really worthy of much more attention than it's giving. What the amendments basically do is to give the specific years when these changes will take place, so I'm asking that they be adopted.

PRESIDENT: Any further discussion? If not, the question is the adoption of the Chambers amendment. All those in favor vote aye, opposed nay. Please vote if you care to. Record, Mr. Clerk, please.

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

PRESIDENT: The Chambers amendment is adopted. I have nothing further on the bill, Mr. President.

PRESIDENT: Okay, Senator Lindsay, please.

SENATOR LINDSAY: Mr. President, I move that LB 165 as amended be advanced. You've heard the motion. All those in favor say aye. A machine vote has been requested. The question is the advancement of the bill. All those in favor vote aye, those opposed nay. Senator Chambers.

SENATOR CHAMBERS: I'll ask for a call of the house and I'll take call in votes.

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

CLERK: 10 ayes, 0 nays to go under call, Mr. President.

PRESIDENT: Will you please record your presence and return to your desks and Senator Chambers has requested call in votes. And the question is the advancement of the bill. Please record your presence if you're here. Senator Warner, would you record your presence, please. Senator Kristensen, would you record your presence, please. You did? All right, thanks. The question is the advancement of the bill and Senator Chambers has authorized call in votes.

CLERK: Senator Landis voting yes. Senator Rod Johnson voting yes. Senator Korshoj voting yes. Senator Dierks voting yes. Senator Langford voting yes. Senator Coordsen voting yes.

PRESIDENT: Record, Mr. Clerk, please.

CLERK: 28 ayes, 3 nays, Mr. President, on the advancement of LB 165.

PRESIDENT: The bill is advanced. The call is raised. May I please introduce some guests of Senator Landis. In the north balcony, we have 16 sixth grade students and their teacher from Sacred Heart Elementary School in Lincoln. Would you folks please stand and be recognized by your Legislature. Thank you for visiting us today. Move on to LB 177.

CLERK: Mr. President, the first item on 177 are E & R amendments.

PRESIDENT: Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move that the E & R amendments to LB 177 be advanced.

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

February 8, 1989

LB 43, 80, 82, 92, 92A, 106, 113
116, 158A, 165, 166, 171, 172, 175A
177A, 177, 194, 200, 208, 238, 261A
267, 277A, 284A, 296, 312A, 312, 321
322, 353, 357, 369, 458, 459

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

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

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

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

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

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

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

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

February 13, 1989 LB 106, 113, 165, 166

and not voting, Mr. President.

PRESIDENT: LB 106 passes. LB 113.

CLERK: (Read LB 113 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is shall LB 113 pass? All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: (Read record vote. See page 710 of the Legislative Journal.) 36 ayes, 0 nays, 13 excused and not voting, Mr. President.

PRESIDENT: LB 113 passes. LB 165.

ASSISTANT CLERK: (Read LB 165 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 165 pass? All those in favor vote aye, opposed nay. Have you all voted? Senator Hall. Why don't you say it again, your microphone wasn't on.

SENATOR HALL: Could I ask that the body check in since we are under call and that there be a roll call vote on the issue?

PRESIDENT: Yes, you may. Will you please record your presence? Senator Scofield, would you check in, please? Thank you. Senator Lowell Johnson, would you check in, please? Senator Bernard-Stevens, would you check in, please? That is it. You asked for a roll call vote, Senator Hall? All right, Mr. Clerk.

CLERK: (Roll call vote taken. See page 711 of the Legislative Journal.) 20 ayes, 15 nays, Mr. President, on the final passage of 165.

PRESIDENT: The bill does not pass. LB 166 with the emergency clause attached.

ASSISTANT CLERK: (Read LB 166 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 166 pass with the

February 13, 1989 LB 37A, 116, 165, 298, 458

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

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

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

PRESIDENT: Okay.

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

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

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

PRESIDENT: Now back to LB 116, please.

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

PRESIDENT: Senator Chambers, please.

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

February 16, 1989 LB 165, 195, 209, 615

ASSISTANT CLERK: (Record vote read. See page 775 of the Legislative Journal.) The vote is 39 ayes, 0 nays, 10 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 195 passes. LB 209.

CLERK: Mr. President, I have a request to bracket LB 209 until March 1, 1989. That request comes from Senator Hall.

SPEAKER BARRETT: Is there an objection to the bracketing of 209 until March 1? Senator Schmit.

SENATOR SCHMIT: Mr. President, members, Senator Ashford is not here and he is the principal introducer of the bill. I was asked a few questions about the bill and I'm sure those questions are going to be resolved favorably, but in the absence of Senator Ashford, Senator Hall, I have no objection to bracketing the bill at this time with the provision that we will take it up on March 1st.

SPEAKER BARRETT: Any other discussion? If not, it can be handled by unanimous consent. It is bracketed. Anything for the record, Mr. Clerk?

CLERK: Mr. President, a couple of items, thank you. Report of registered lobbyists for this past week and Agriculture, whose Chair is Senator Rod Johnson, reports LB 615 as indefinitely postponed. That report is signed by Senator Johnson as Chair of the Agriculture Committee. (See pages 775-76 of the Legislative Journal.) That is all that I have, Mr. President.

SPEAKER BARRETT: Thank you. The call is raised. Thank you for your cooperation. Proceeding to item 6 on the agenda, Mr. Clerk. I am reminded that we are technically still on Final Reading with the consideration of this motion, so I would suggest to the body that the call is not raised. We are still under call.

CLERK: Mr. President, Senator Hannibal would move to reconsider the Final Reading vote on LB 165. The bill was read on February 13, I believe, Mr. President. Senator Hannibal filed his motion that same day.

SPEAKER BARRETT: Senator Hannibal, please.

SENATOR HANNIBAL: Thank you. Mr. President, members of the Legislature, if you'll recall, we had Final Reading the morning of following a fairly significant snowstorm that kept a lot of people from getting to the Chamber on time to vote on Final Reading. Among those were several senators from Omaha, including the principal introducer of LB 165. The vote was in the majority for passage, however, there was not enough votes to bring LB 165 to final approval so I offered the motion to reconsider this at a time when the principal introducer, Senator Chambers, would be on the floor. I'm not going to steal a lot of his thunder nor necessarily make a big speech on the virtues of the bill, however, I do support the bill. I don't believe there was a major discussion on the bill or at least major objections voiced during either stage of consideration, General File or Select File, so it is somewhat of a surprise to many of us on the floor that the bill did come up with objections on Final Reading. So, hopefully, we will have a chance today to talk about the merits of the bill and those who have opposition or concerns have a chance to express those so we can hear them in public forum and ultimately get to a decision to reconsider our vote on Final Reading and, hopefully, pass the bill on Final Reading. With that, I would like to turn over the rest of my time, if desirable, since there will be more than the five minutes, to Senator Chambers if he desires.

SPEAKER BARRETT: Senator Chambers, please.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I appreciate Senator Hannibal making the reconsideration motion and it was surprising to me that so many voted against the bill when there hadn't been any opposition expressed to it, any of any significance, during its process, its progress across the board. So because I don't know why the people who voted against it did so, I would like to hear what their objections are and then I will attempt to meet those objections so that the bill can be passed. I should make it clear that the bill was brought at the request of the City of Omaha and agreed to by all of the members of the city council including those, naturally, whose terms will be affected by it. It is...I'm not going to try to anticipate what the objections are because I don't know, but I am curious to find out what they are. I am in support of the reconsideration motion and, obviously, I will vote finally for the passage of the bill.

SPEAKER BARRETT: Thank you. Discussion on the reconsideration

motion, Senator Lynch, followed by Senator Schimek.

SENATOR LYNCH: Mr. President and members, I do intend to support the motion to reconsider, but I thought it was worth mentioning because I didn't do it last year when Ernie had a bill reconsidered that...Ernie did, on the floor, when we did ask to reconsider the return of the motorcycle helmet bill to Final Reading after it was killed so we could reconsider it, that testimony was that since Vard wasn't here and whatever the reason might be wasn't here, we have to take our chances on those kinds of things. I remember Gary voted against the motion for the reconsideration. I just want to let you know that I intend to oppose, to oppose this, and I can explain now if I should, but I do intend to support the motion to reconsider it for the purpose of a vote. And the reason I oppose it, Ernie, is simple. I don't think it really does any good at all. I know it wasn't necessarily your idea but, in my opinion, and so that all of you understand, it is kind of interesting. You know, to be elected a county commissioner in Douglas County takes about 100,000 votes. To be elected the Mayor of Omaha, interestingly enough, which is a romantic and seemingly important responsibility, takes about 35,000. The point is, obviously, there isn't that much interest in voting during a city election. So if you change the system from electing people alternately, four one time and three the next time, it is still an off-year election, there still won't be that kind of interest. And if we really want to seriously develop more interest in the election and make it possible for people to conveniently vote in these elections, the bill probably should have been to have the city elections, including the election of the mayor, at the same time the general elections are held just a few months prior to that when you elect all of your county officials and state and national officers as well. So for that reason, I will oppose...I will support the reconsideration so it can have another vote because of the obvious justified circumstances of the weather. I understand Prazan totalled out his car on the way down here, so I can understand that as well, that's too bad. But in any case, I will and do intend to vote against the bill.

SPEAKER BARRETT: Thank you. Senator Schimek, followed by Senators Lamb, Smith and Moore.

SENATOR SCHIMEK: Mr. Speaker and members of the Legislature, I, too, rise to support this motion to reconsider, even though I

intend to vote against the bill on Final Reading and the reason that I support this motion is because, as we went through the steps on discussing this bill, I became more and more skeptical of the merits of the bill, and I did have the opportunity to share those concerns with Senator Chambers just before we did do Final Reading, but I would like to have the opportunity, when we actually discuss the bill, to say what my concerns are and why I don't think that it will be of particular merit, at least regarding the terms and the staggered terms. So I think that we should reconsider this bill. I think, in all fairness to its sponsor and to the City of Omaha, we need to have that discussion on the floor of this Legislature. Thank you.

SPEAKER BARRETT: Senator Lamb.

SENATOR LAMB: Yes, Mr. President and members of the Legislature, I think Senator Chambers is correct in asking what the sudden opposition to the bill is and it's probably unfortunate that it did come so late and there was not a lot of discussion. My only idea...you know, I really don't care how they do it in Omaha except I see that trend, trends that start in Omaha sometimes have a way of creeping across the state. Some people think Omaha is the tail that wags the dog, but philosophically I have the problem of having all of the council members or the members of the Legislature or any governing body elected in one year where you could have a complete turnover. It doesn't make a lot of sense to me. It seems that staggered elections are better and it's not clear to me why we have special elections. Why don't we have these elections on the primary and general ballots? If expense is a problem, we should revamp the whole system so that we have a consistent system that is more efficient.

SPEAKER BARRETT: Thank you. Senator Smith, Senator Moore next.

SENATOR SMITH: Thank you, Mr. Chairman and members of the body, mine won't take much time and I'll give the rest of my time to Senator Hannibal. But, Ernie, I think that I do owe you at least the explanation of why I've been voting against this piece of legislation as it came across the floor and my motives are very simple. They are basically the same as you've heard evidenced by Senator Schimek and Senator Lamb, and also the situation that we have had and I know that we can only always relate to our own areas. But we had sort of a bad situation in my district where we had a mayor and a council who were not

responsive to the community and basically ramrodded things through and if it had not been for the fact that we do have staggered elections in Hastings, those people would still be able to be there yet, many of them. And what this does, as far as I am concerned, is create accountability or at least to a larger degree. If, in fact, the next election that comes up and you have the staggered elections, some of those people are going to get the message from their electorate if, in fact, they have not been accountable and they are going to be removed and, hopefully, the remainder of the body are going to get the message and they are going to start shaping up, if you want to call it that. That is really my only reason and I know that this does not apply to anyone but Omaha, Ernie, but I tend to agree with Senator Lamb, that we start with something in the state as law and it sort of is like what we call "creepysm" I guess, it can...soon it will be everywhere in the state and I have a concern about that. The rest of my time goes to Senator Hannibal.

SPEAKER BARRETT: Senator Hannibal.

SENATOR HANNIBAL: Thank you, Mr. President and thank you, Senator Smith. I was going to just rise because for Senator Schimek's concerns of the procedures here. This is more of a clarification. The procedures here is we're going to have this discussion on reconsideration. If the bill is reconsidered, there will be no more discussion. If the vote is affirmative to reconsider, there will be no more discussion and there will be no more motions, there will be no Final Reading. All that we will do, if this is an affirmative vote, is we will take a vote on the bill. So now is the time, this is the only time we'll have for discussion. Now is the time to voice support or objections for the bill, and that is why I asked Senator Smith to give me just a moment of her time. I do want to talk in favor of the bill, but I don't want to take her time to do that, but this will be the only time we'll have for discussion on the pros and the cons of the bill.

SPEAKER BARRETT: Thank you. Senator Moore, followed by Senators Chambers, Chizek and Nelson.

SENATOR MOORE: Just for the sake of Senator Hannibal, Senator Schimek is filing an amendment, as I speak, I think, and so maybe she is going to file an amendment dealing with the staggered elections and that motion will be in order after the

reconsideration. I guess my notion is to go ahead for a variety of reasons. I will support the reconsideration, (1) because there were not...there were very few senators here that day. I don't like the bill but possibly if we can discuss Senator Schimek's motion to return to Select File after we reconsider, we can get the bill in the form that I can vote for it, and now that she's got the amendment filed, I'll quit talking.

SPEAKER BARRETT: Senator Chambers. Senator Chambers. Senator Smith yielded her time to Senator Hannibal. You were next, followed by Senator Chizek, then by Senator Nelson.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I'm gratified at the concern that people have for the City of Omaha and the way its council is elected, but I'm wondering why...let me ask Senator Lamb a question, if I may.

SPEAKER BARRETT: Senator Lamb, would you respond?

SENATOR LAMB: Yes.

SENATOR CHAMBERS: Senator Lamb, are you aware that Omaha, at one time, elected its council members at large?

SENATOR LAMB: Yes.

SENATOR CHAMBERS: And that all of them were elected at the same time when it was at large?

SENATOR LAMB: Yes.

SENATOR CHAMBERS: But that didn't bother you in terms of trying to get an amendment so that they would have to have staggered elections, did it?

SENATOR LAMB: No.

SENATOR CHAMBERS: But that could have been an example that would creep across the state and cause every other council to be elected at the same time rather than staggered, couldn't it?

SENATOR LAMB: Yes.

SENATOR CHAMBERS: But in all those years, it never happened, did it?

SENATOR LAMB: No.

SENATOR CHAMBERS: Senator Lamb, you are so cooperative. I don't want to ask you any more questions.

SENATOR LAMB: I'm going to...if I could say one more thing, I'm going to vote to bring the bill back. I'm going to vote against the bill, but I'll vote to give you a chance, Ernie.

SENATOR CHAMBERS: There is a song that says, you have the right to speak your mind, but not on my time, but you got it in. (laughter) Members of the Legislature, what I hope you will look at is how these arguments are given but they have no validity when you view them in a historical context. I fought year after year after year to obtain district elections and practically every other city in the state has district election of city council. The Legislature fought it year after year after year, then finally they made an...they agreed to do it. During all those years when there was no stagger, the Legislature did not see fit to require staggered elections and it did not result in doing away with the stagger in any other city. So I'm not going to say at this point that the people who offer that argument are insincere in offering it. I'm just saying that they have no basis whatsoever in thinking that that is a valid argument, it is not. As far as whether all the people who are on the council would be thrown out at the same time or not is a decision for the public to make, and when you have district elections it would mean that every district felt the same way about every member of the council and decided that the person representing their district should be thrown out. That is not a concern that the Legislature ought to have. It is almost like saying, let the people vote but you should stack it so you can determine that they will not be able to get rid of somebody with whom they are dissatisfied. I hope what you will do, after you vote to reconsider the bill, is vote to pass it. Remember this, the people in office in Omaha requested the bill so they are the ones who are being placed in jeopardy, politically, if anybody is. Nobody in this Legislature is facing that and nobody's city is going to be affected, and if an attempt was made by somebody from Omaha to do away with the staggering of the cities, I would oppose it. But I do have a bill that will come before the body at some point which will decrease the number required to win a seat on the Douglas County Board because that board should be elected by districts. In the

largest county in the state, the county board is elected at large due to some shenanigans and manipulations that have occurred and will continue to occur in Douglas County politics. All the other county boards, or practically all of them, I believe all of them, are elected by district. So we'll have a chance to bring Douglas County into conformity with the rest of the state in terms of how members reach that board and we will not make it available just for the wealthy and those who are politically positioned to get that slot. But that is not the discussion or the issue today and what Senator Lynch mentioned is something...

SPEAKER BARRETT: One minute.

SENATOR CHAMBERS: ...that should be considered apart from what we are doing here today. The stagger should be eliminated. We then have one off-year election for city elections in Omaha. The mayor and all members of the city council will be elected during that off year. If consideration then would be given to putting the city election at the same time as the other elections, I wouldn't have any objection to that at all. As a matter of fact, the only argument given is that the city elections would be engulfed and swallowed up by what had been called the more important offices and this argument has been given by some of those who hold these city offices. But I wish you could keep that separate.

SPEAKER BARRETT: Time. Senator Chizek.

SENATOR CHIZEK: Mr. Speaker, colleagues, I was a little dismayed this morning as I heard some of the discussion in regards to reconsideration on the bill. One of my colleagues, I think, commented that he didn't really care what Omaha did, that it really wasn't a concern of his and I just happened to think that, though I happen to be a state senator representing the 31st District, I still have some strong concerns about what happens in this state and, Senator Lamb, I would say I'm concerned about what happens in Anselmo. I would also say that I'm concerned about what happens in Kearney State. I would also say that last year as an Omaha senator I was concerned about the Curtis Ag School. Now we're talking about a situation that developed that has an impact or an effect on Omaha and I find it somewhat disconcerting that some of my colleagues have that attitude. I support the reconsideration motion and I intend to support the bill. I just think you should stop and think a

little bit, we are state senators first. Thank you.

SPEAKER BARRETT: Senator Nelson, please, followed by Senator Hannibal.

SENATOR NELSON: Mr. Speaker, members of the body, I sure wished I was able to have spoke before Senator Chizek, but anyhow, he almost said what I want to say. I'm certainly going to vote to reconsider and no way would I want to do something that would harm another senator's district or Omaha because I, too, need their support and would like to have their support and consideration on something outstate or for Grand Island, Fonner Park, or whatever it may be. I, too, have reservations about this. I would honestly hate to see my city council and mayor all reelected for the same reasons that Senator Smith has, and yet what I am doing is I see myself maybe injecting personalities in current situations which we should not do in the statutes or the laws. I guess, to be honest, I probably would have no problem with my county supervisors but yet, in my mind, I have problems in allowing the mayor and the council a complete turnover. But I will vote to reconsider and I am...a question in my mind, what I am doing is the best, but, again, on the other hand, I have to rely on what some of the Omaha senators feel and they are closer to this situation and maybe hope and pray that that doesn't follow through outstate and I have to use their own best interests. With that, I will vote to reconsider at least.

SPEAKER BARRETT: Thank you. Senator Hannibal with Senator Schimek on deck.

SENATOR HANNIBAL: Thank you, Mr. President. I don't want to be too redundant on what Ernie has said, but I do have some of the same kinds...as Senator Chambers has said, I do have some of the same kinds of responses to some of the objections put forward and I think that Senator Lamb and Senator Smith expressed concerns about "creepism", I believe was the word that they used, and I do suggest that that sometimes can happen. Precedent setting might be a more formal term, but we address those kinds of issues all the time on the floor of the Legislature that if we're going to do it this way over here, we should do it the same way over there. We address that kind of issue on a multitude of different issues that come before us. I don't think it's a valid concern, a domino effect. We hear that argument, it hasn't proven out in case after case after case.

And Senator Smith also was concerned about not being accountable for a long period of time if they are all elected at the same time and Senator Chambers did point out that we used to have those elections at large and they used to be all at one time and, as a matter of fact, I believe there was an election where we had seven councilmen and six of them were turned out at one time. We had practically a complete revamping of our city council. We had six new members out of the seven come in. The only one that was retained by the way, Senator Smith, was the lone woman on the council at that time, so, obviously, the voters did show some good discretion there, and it happened. The city did not come to its knees, the city did not fall apart, the council moved on, the government moved on. So we do have accountability and it is not replaced by irresponsibility. It happens, it goes on. Also, we've had a mayor that has been recalled and so to say, suggest that we have a lack of accountability in our system, I don't think is a good argument. We have shown on at least two major occasions that if the voters are not pleased with what is happening in those offices, we have remedies and they are exercised. We talked about saving money, we talked about whether it is a good idea or not to have them in off years. I agree with Senator Chambers. I don't know that it's all that necessary that they be in out years. I would not have an objection to putting the elections at the same time on the even years as we have for our state and county officials, as Senator Lynch said. I don't have an objection with that. That isn't the proposal right before us. That is not...it would be a significant change from the bill that is before us because we're talking about the term of the mayor changing as well and the terms of all the city council people changing as well and maybe it's okay. I don't have a problem with it, but it's a major change from what this bill addresses. What we are trying to address with this bill, what Senator Chambers and the City of Omaha is trying to address is the fact that we have low voter turnout. It is costing us a \$100,000 in the city property taxes, \$100,000 over the four-year period to run this election for less than 20 percent voter turnout of the eligible voters. It doesn't seem to be working very well the way it is. Finally, Senator Lynch says, will this do any good? I think it's a valid question. I don't know. It may not, but it's not going to be any worse and it is certainly going to...it would be as good as we have, it may get better voter turnout because you have the whole city involved by each district being represented along with the mayor, the whole city is involved. You might have better participation but you will have no worse and you can save

the city \$100,000 by doing that. I think that's reasonable to look as an interim measure at the very least and then maybe we could go on and do these other things, but that's not the issue before us. Finally, what Senator Schimek, as I understand, has done with her amendment is to replace the stagger, as I...I just...

SPEAKER BARRETT: One minute.

SENATOR HANNIBAL: ...talked to Senator Schimek and I'm not sure, but effectively that would be gutting the bill. And the other things that are left in there dealing with county boundary lines and such are basically just codifying what we are already supposed to do in law anyway in saying this time we really mean you will do that kind of thing and no political things will be used. The...Senator Lynch has asked me to respond that...whose idea was this. It came to us from the City of Omaha. It came to us through the City of Omaha's lobbyist with the concurrence of the city council and the mayor. For all those reasons, I think that the bill does no harm and possibly could do a lot of good and save some money. I think it's a relatively minor measure that needs to be taken. I will support the passage.

SPEAKER BARRETT: Thank you. Senator Schimek.

SENATOR SCHIMEK: Mr. Speaker and members of the body, I would like to say that I don't have any wish to get involved in Omaha procedures and politics. However, as somebody who has been involved in the political process for a long time, I was very concerned that this bill was rushing through consideration without raising at least some flags. Senator Chambers, I am very supportive of district elections and any bill that you want to bring before the Legislature concerning district elections you'll probably get my support on. The thing about this bill that bothers me is that I cannot think of another elective body that is chosen at one time for a period of four years. Now Senator Hannibal says, and Senator Chambers says that that is the way it has been done before and that may be, but I do think it leaves the door open for a lot of mischief when an elected body and a mayor are elected for that length of time without the possibility really of citizen input except through a recall process. Now, granted, the House of Representatives is all picked at the same time, but they are picked for a period of two years only and to counterbalance the House of Representatives you also have the United States Senate. What we're talking

about here is an elective body for which there is no counterbalance and for which would be elected for a period of four years. That really does provide an opportunity, at least, for mischief. I think we need to think about that. Senator Chambers and Senator Hannibal, I don't think I have any problem with having all this thrown into the ever numbered years. There are a lot of different possibilities here that could be worked out, but I still think that they need to be staggered. I'm not sure, as is Senator Lynch, that this will actually increase voter turnout but I think that I understand the reasons for this bill being introduced and maybe I'm being an alarmist, maybe none of this would ever come to pass, but at least I think that this body ought to consider the possibilities. Thank you.

SPEAKER BARRETT: Thank you. Senator Labedz.

SENATOR LABEDZ: Call the question.

SPEAKER BARRETT: Senator Labedz moves the previous question. Do I see five hands? I do. The question before the body is, shall debate cease? Those in favor vote aye, opposed nay. Record, Mr. Clerk.

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

SPEAKER BARRETT: The debate ceases. Senator Hannibal, would you care to close on your motion to reconsider the Final Reading vote on LB 165?

SENATOR HANNIBAL: Thank you, Mr. Speaker, I realize we've taken quite a bit of time on Final Reading for this, but I think it has been good discussion because we did not have this discussion during the normal course of debate on General and Select File, only to suggest to you that we did not have the full presence of the body here for a final vote. We didn't have a whole lot of discussion. I think the discussion has been helpful. Many of you still have reservations, many have concerns, many of you may oppose and that's fine, that's your wish and the will of body will out. I do think though it is proper for us to have a reconsideration motion so that after this discussion we can have a more thorough feeling of the will of the body. I remind you that it takes, I believe, 30 votes to have a reconsideration motion, so if you...and most of you have said that you may oppose the bill, but you would vote to reconsider anyway. It

does take 30 votes for reconsideration; if there are no more motions up and if Senator Schimek's does stay up, it certainly will give us a chance to discuss more. However, if there are no more motions up, if the vote is successful, the 30 votes, we will have a vote on Final Reading and that will require 25 votes for passage at that point. I would urge that you reconsider the motion and when we do read the bill I would urge passage of LB 165.

SPEAKER BARRETT: Thank you. You have heard the closing offered by Senator Hannibal and the question is, shall the Final Reading vote be reconsidered on LB 165? Those in favor vote aye, opposed nay. Have you all voted? Record, please.

ASSISTANT CLERK: 32 ayes, 0 nays on the motion to reconsider, Mr. President.

SPEAKER BARRETT: Motion prevails. We are to the...is there an amendment on the desk, please?

CLERK: Mr. President, Senator Schimek would move to return LB 165 to Select File for specific amendment, and the amendment, Mr. President, reads as follows. (Read Schimek amendment. See page 777 of the Legislative Journal.)

SPEAKER BARRETT: The Chair recognizes Senator Schimek.

SENATOR SCHIMEK: Mr. Speaker and members of the Legislature, what my amendment does in effect is to remove the staggered term provision of this bill which, in essence, I suppose, guts the bill because what is left, as Senator Hannibal said, is just a provision for the redistricting. I am not going to go back into the same arguments that I made for reconsidering on the reconsideration, but just to reiterate that I think that we need to think seriously about the four years. One of the other senators said to me after that discussion that it would also be possible that you could possibly carry, by the charisma of one candidate perhaps, the mayoral candidate, you could carry perhaps seven others into office with you all at one time. This would lead to a mandate kind of atmosphere and would not necessarily be healthy, I don't think, for the political community. I would recommend that you vote in favor of this amendment. Thank you.

SPEAKER BARRETT: Thank you. Before recognizing Senators Moore,

Chambers, Hefner, Wesely and Lynch, the Chair is very pleased to recognize some guests in the north balcony, Dr. Jim Horner from the Ag College has a UN-L leadership class of 30 as our guests. Would you please stand and be recognized by your Legislature. Thank you. We're very glad to have you with us today. Also, some very special guests of this Legislature today under the north balcony, we have Virginia Thrall, the Director of the Midwestern Office of the Council of State Governments and also Stacie Alexander, a staff associate, also with the Midwestern Office of the Council of State Governments. After the call is raised, I would hope that members will have an opportunity to say hello to these people and visit with them. Would you ladies please stand and be recognized. Thank you. We're delighted to have you here.

While the Legislature is in session and capable of transacting business, I propose to sign and I do sign engrossed LB 195, LB 366, LB 184, LB 167, LB 127 and LB 56 and, finally, engrossed LB 185. (See page 777 of the Legislative Journal.) Discussion on the Schimek motion, Senator Moore, Senator Chambers on deck.

SENATOR MOORE: Mr. Speaker and members of the body, I rise to support Senator Schimek's motion to return this bill to Select File and, by returning this bill to Select File, we would have the opportunity to strike the portion of the bill that I, personally, find objectionable. When this bill was on Select File I voted against the bill and I voted against it on Final Reading and I think it would be wise for us to strike this portion out of the bill. Now Senator Chambers and Senator Chizek and others have wondered why a senator from greater Nebraska, like myself, and Senator Lamb would dare have the audacity to question what the Omaha City Council is telling us they want. I guess I, personally, as I did on Select File, have a problem with having all these people elected at once. I just think you're better off having staggered terms. It is a simple, personal view I have and because I'm that way, I'm voting that way. I don't think I am here, just like neither is Senator Chambers here to serve as a rubber stamp for the Omaha City Council. I have the...it's my job to question and my job to exercise my right, to exercise my judgment. In my judgment, it's bad policy to elect the whole city council at once. For that reason, and not only...I don't care if it was the York City Council asking for it or the Omaha City Council asking for it, I'd still be voting no on this and I am sorry if I am not cowering and licking the boots of the Omaha City Council like

Senator Chambers is on this matter. I just think it is a bad policy and that is why I am going to vote against the bill unless this amendment is adopted.

SPEAKER BARRETT: Senator Chambers, please.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I'm proud of Senator Moore this morning. After all of the years he has been here and I've worked and I've tried to put some spine into him, it is finally taking effect. I have seen him cower. I have seen him lick the boots of various special interest groups and I hope that the strength that I have inculcated down through the years will carry over onto other significant issues where there will be far more pressure than anything that can be asserted by the Omaha City Council. But I'd like to ask Senator Moore a question, and, Senator Moore, this is a serious question now, apart from the other. Isn't the county board of which your city is a county elected by a district?

SENATOR MOORE: By district?

SENATOR CHAMBERS: Yes.

SENATOR MOORE: Yes, county board, yes.

SENATOR CHAMBERS: Would you support electing the county board of Douglas County by district?

SENATOR MOORE: I...as far as...I don't know.

SENATOR CHAMBERS: Aha!

SENATOR MOORE: I think so, yes.

SENATOR CHAMBERS: Good policy, but when it comes to something that the county board might oppose, then we're not so sure that the policy is that good, huh? Or that that is a reason to vote that way?

SENATOR MOORE: I'm saying the policy of staggered elections is what I'm talking about.

SENATOR CHAMBERS: Do you think the policy of district election is good? Do you think it ensures that certain powerful interest

groups, whether through money or politics, have a greater difficulty controlling an entire county if it is by district than if it is at large?

SENATOR MOORE: I've not formed an opinion on district elections as powerfully as I have on staggered elections.

SENATOR CHAMBERS: Thank you. Senator Moore, Senator Hall had a shoe he was going to offer for your appropriate utilization. (laughter) Members of the Legislature, this bill, even unamended, is a peewee bill. If you do what Senator Schimek wants to do, it's worthless. There is no point in it. It would be better to defeat her amendment and then vote the bill up or down. We're performing major surgery where major surgery is not even indicated. We have a frayed fingernail and we've called in consulting physicians from all over the state to determine whether we're going to remove the appendix, whether, if we correct a fingernail, we have to give a heart transplant, whether we might have to give a heart-lung combination transplant, remove the gall bladder, check for cancer of the colon and we're talking about a frayed fingernail, hangnail at the maximum. If you vote to kill this bill, it is not going to hurt my feelings. It's not going to make me any difference. If you...and I don't think this is Senator Schimek's reason, but I looked at that block of voters against the bill the other day. It doesn't make sense at all. Sometimes we will attribute to those who put certain provisions in the U.S. Constitution great wisdom, magnanimity and altruism. Senator Schimek, the reason the House runs every two years and the Senate every six years, and the Senate is staggered, is because the Senate didn't want to have to run the risk of being challenged by anybody in the House while they could continue to hold their House seat. So it had nothing to do with altruism or not wanting everybody thrown out at the same time. The practical reality is that all of the members of the City Council in Omaha are not going to be thrown out at the same time and there is no way that a single person who would run for mayor is going to, through his or her charisma, unite all of the various districts in the City of Omaha and that mayor is going to point out the people in those districts he or she wants elected and then the people in those districts will follow what the mayor wants, so that argument doesn't compute either. Nobody in Omaha running for mayor would be silly enough to try to dictate who should be elected from a specific district.

SPEAKER BARRETT: One minute.

SENATOR CHAMBERS: If he or she were that silly, then he or she doesn't have to worry about being the mayor. But the House of Representatives was considered the lower House with respect to everything, breeding, manners, money, all of it. They used to sit with their feet up on the desk, they used to whittle, they chewed tobacco, they spit on the floor, they brought dirks and pistols, they had fistfights, they had threats of duels and all of that literally happened on the floor of the House. But in the Senate there was a man named Preston Brooks who, while Senator Sumner was at his desk pinned to the floor, took a cane and beat that man into submission and perpetual invalidism. So those kind of things are matters of history but they don't relate to what is happening here today. I would ask that you not return the bill for Senator Schimek's amendment. I believe it is offered in good faith, but it is going to cause us to spin our wheels because if you adopt that amendment, there is nothing left to the bill. So it would be best to defeat her amendment...

SPEAKER BARRETT: Time.

SENATOR CHAMBERS: ...let the bill pass and if something I've supported plunges Omaha into anarchism and chaos, it might be a way to get me out of this Legislature.

SPEAKER BARRETT: Senator Hefner, further discussion, followed by Senators Lynch and Wesely.

SENATOR HEFNER: Mr. President and members of the body, I wasn't going to talk on this bill but I...since I'm getting such a good education in government, why, I thought I should speak my piece too. But I'm going to support Senator Schimek in bringing this bill back because I think this is the right way to go. I think these elections should be staggered and this is one of the reasons why I didn't vote for this bill on Final Reading because I felt that this would be setting poor policy. I think that everyone should be...if you hold public office, the elections should be staggered. And, Senator Chambers, there are two parts of this bill so it wouldn't be gutting the whole bill. We'd still have the second part of the bill. In my area, some of the county boards are elected by district and by a vote of the county. You can elect them at large too, but, there again, it's the wishes of the people and most of the counties in my area are

elected by district and I think that is the way to go. Also, they are elected with staggered elections. There was a little discussion here about urban versus rural and I'd just like to touch on that just a little bit. It's true that some of us rural senators get involved in urban issues. Like two years ago we had LB 775 and I think it told us with the results of that vote that there are rural senators that are sympathetic to Omaha and to the larger cities and vice versa. I remember several years ago when we had the farm crisis, the urban senators certainly arose to that crisis and helped us in the rural areas out and we're appreciative of that. Also, right at the present time the Ag Committee has the Douglas County and Ak-Sar-Ben bill and, Senator Chambers, I believe you're on...you're against that bill, but I, as a rural senator, sometimes wonder why we have to get involved in these issues. But my position on that bill, I said, yes, I will vote for that bill providing that the people in Douglas County will have a voice, that the people in Douglas County have an opportunity to vote and we were successful in getting that amendment on. And so I think that we all need to work together and I realize that the Omaha senators disagree among one another every once in awhile because here I have some of you lobbying me saying to support the Douglas County Ak-Sar-Ben bill and then I have Senator Chambers and some other senators say, Senator Hefner, we've got to kill this bill. So you see...but we all have our opportunity to listen to the proponents and the opponents of a certain issue and then go ahead and vote, and so I'm going to vote for...to bring this bill back, to adopt the Schimek amendment and then go on from there.

SPEAKER BARRETT: Thank you. Senator Lynch.

SENATOR LYNCH: Mr. President and members, I thought I should get another nickel's worth in. This is, in fact, a hangnail bill I think Ernie called it, or a nothing bill, a peanut bill, I don't know what it was, but...but the very fact that he said that indicates the very fact that what Senator Schimek suggests really is no more or less significant than the bill itself. It is at least as important as what we're considering and it's all kind of interesting and in some ways very silly. Shouldn't even be considering it all, in my opinion. I failed to mention before and I did want to mention, and since it is on the issue it's appropriate and germane, that when I mentioned if I were Gary, if my intention was to vote against the legislation as with the motorcycle helmets, I should have voted against the

reconsideration but I didn't. And if I felt like Ernie, I didn't support the bill and if you don't have your politics together and your votes here, that's your fault, you shouldn't move to reconsider it. But I did want to let you five senators know, who did give me support to reconsider that bill but could not vote for it, that I appreciate that consideration. As far as this bill is specifically concerned as it involves county boards, those 20 some years I was on the county board, I was elected three different ways, by the way. Every time that happened, it happened as a result of state legislation. We ran by district, both in the primary and the general. We ran by district in the primary and the general at large and then we ran at large. Every time it was changed by the Legislature for whatever political reasons that might be and it only applied and affected Douglas County. So it is not unique that we've gotten involved in Douglas County politics. I'd just like to suggest that the more I think about this, the best thing for all of us to do, and forgive me, Senator Schimek, is to probably vote against your amendment so we can get on with the business and then vote against the bill because it really does nothing. It is a peanut bill, it is a hangnail bill, it's a nothing bill. You're not going to turn any more people out. They're going to spend a million dollars probably trying to get elected mayor and there won't be more than 40,000 people in a town of 400,000 going to elect them. We...just leave it alone. Leave it happen. Don't change it. Some day, maybe, if somebody introduces legislation so that they run at the same time with the other constitutional officeholders, that would be pretty good. Then more people will vote because it is convenient for them, first of all, but secondly, there might even be some more interest. But just so you remember, some people like these staggered elections also because it gives them a chance when they are not running for office to run for something else and still keep the job they've got. You know, that could have probably something to do with it, why they don't want to be elected at general elections with everybody else. So let it go. I'm sorry, Senator Schimek, but just to move the thing along, I'll vote against your amendment, but I'd vote against the bill. It's really unnecessary.

SPEAKER BARRETT: Thank you. Senator Wesely, please. Question has been called. Five hands, I do see. Shall debate now cease? Those in favor vote aye, opposed nay. Record, please.

CLERK: 27 ayes, 0 nays to cease debate, Mr. President.

SPEAKER BARRETT: Debate ceases. Senator Schimek, would you care to close on your motion to return to Select File?

SENATOR SCHIMEK: Mr. Chairman and members of the body, I don't intend to keep you more than another minute, but, as a former history teacher and civics teacher, I have to say that I think there were good reasons for mandating a two-year term for House members and staggered term for the Senate and I acknowledge, Senator Chambers, that that Constitution wasn't perfect and, in fact, in order to get it adopted we had to adopt 10 amendments to it in the form of the Bill of Rights originally and since that time, of course, we have adopted other amendments to improve the document. But that document still stands on the election process as far as the length of terms are concerned and the reason for that, I believe, was that the framers of the document thought that it would be beneficial for people to have as much influence over the House as possible because the House was the body that dealt with the purse strings and they wanted to have the opportunity to tell their government every couple of years how they felt about issues. I think that you could probably use that same rationale for applicability to city council races. I think that four-year terms are too long. The people need a more systematic form of input into their city government. So, with that, I would just recommend that you vote in favor of my amendment which would do away with the unstaggered election position. Thank you.

SPEAKER BARRETT: Thank you. The question before the body is the adoption of the Schimek motion to return to Select File. Those in favor vote aye, opposed nay. Have you all voted? Record, please.

CLERK: 8 ayes, 22 nays, Mr. President, on the motion to return the bill for a specific amendment.

SPEAKER BARRETT: The motion fails. Anything else on the bill, Mr. Clerk?

CLERK: I have no further motions on LB 165, Mr. President.

SPEAKER BARRETT: In the opinion of the Chair then, we are to proceed to the Final Reading vote on the passage of LB 165. Members will please return to their seats. (Gavel.) Those members, if any, outside the Legislative Chambers, please return

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LB 55, 66, 165, 262, 352, 408, 451
524, 534, 601

to the chambers, the house is under call. Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman, may we all check in first?

SPEAKER BARRETT: Certainly. Members, please record your presence. Senator Dierks, record your presence, please. Senator Smith. Senator Nelson, record your presence. Senator Lamb, the house is under call. Senator Peterson, please report to the Chamber. Senator Wesely. Senator Goodrich, the house is under call. Senators Hartnett and Korshoj, the house is under call. Senators Lamb and Goodrich, please report to the Chamber. Senator Chambers, apparently Senator Lamb is the only one available. Shall we proceed? Thank you. All provisions of law relative to procedure having been complied with, the question is, shall LB 165 become law? Those in favor of that motion vote aye, opposed nay. Have you all voted? Please record.

CLERK: (Record vote read. See pages 777-78 of the Legislative Journal.) 26 ayes, 15 nays, 1 present and not voting, 7 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 165 passes. The call is raised. Thank you again for your cooperation. The Chair is pleased to announce that Senator Robak has 14 eighth graders from District 24 in Platte Center in the north balcony with their teacher. Would you people please stand and be recognized. Thank you. We're glad to have you with us. While the Legislature is in session and capable of transacting business, I propose to sign and I do sign engrossed LB 165. Mr. Clerk, for the record.

CLERK: Mr. President, items for the record. Senator Labeledz would move to withdraw LB 365. Senator Barrett has amendments to be printed to LB 408.

Mr. President, Government Committee reports LB 66 to General File; LB 55 to General File with amendments; LB 262, General File with amendments; LB 352, General File with amendments; LB 534 to General File with amendments; LB 601, General File with amendments, and LB 524 as indefinitely postponed; those are signed by Senator Baack.

Urban Affairs Committee reports LB 451 to General File with amendments. That is signed by Senator Hartnett as Chair. (See pages 778-84 of the Legislative Journal.)

February 22, 1989 LB 48, 56, 127, 158A, 165, 167, 184
185, 195, 277A, 298, 366
LR 31, 33

PRESIDENT NICHOL PRESIDING

PRESIDENT: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber. We have with us this morning as our chaplain Reverend Harlan Johnson. Would you please rise for the invocation.

REVEREND JOHNSON: (Prayer offered.)

PRESIDENT: Thank you, Reverend Johnson. I was waiting for the line, on time to be here for the morning invocation. Thank you very much for being with us and your thoughtful prayer. Roll call, please. Record, Mr. Clerk. please.

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

PRESIDENT: Thank you. Any corrections this morning?

CLERK: Mr. President, I have no corrections.

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

CLERK: Mr. President, your Committee on Enrollment and Review reports LB 48 as correctly engrossed; LB 158A, correctly engrossed; LB 277A, correctly engrossed; and LB 298, correctly engrossed, those signed by Senator Lindsay as Chair. (See pages 817-18 of the Legislative Journal.)

Notice of hearing, Mr. President, from the Transportation Committee, that's offered by Senator Lamb as Chair. Communication from the Governor to the Clerk. (Read communication regarding LB 56, LB 127, LB 167, LB 184, LB 185, LB 366, LB 195, and LB 165. See page 819 of the Journal.)

Mr. President, that's all that I have.

PRESIDENT: Thank you. While the Legislature is in session and capable of transacting business, I propose to sign and do sign LR 31.

CLERK: Mr. President, I do have another item, forgive me. LR 33, offered by Senator Beyer. (Read brief synopsis of the resolution. See pages 818-19 of the Journal.) That will be laid over.