

January 9, 1989

LB 112, 202-240  
LR 3

LBs 202-240 for the first time by title. See pages 100-108 of the Legislative Journal.)

Mr. President, I have a notice of hearing by Senator Rod Johnson who is Chair of the Agriculture Committee for Tuesday, January 17.

Mr. President, Senator Hannibal would like to announce that Senator Conway has been selected as Vice-Chair of the Intergovernmental Cooperation Committee.

Mr. President, a new resolution, LR 3. It is offered by Senator Baack and a number of the members. (Read brief explanation. See pages 108-109 of the Legislative Journal.) That will be laid over, Mr. President.

Mr. President, I have a request from Senator Smith to withdraw LB 112. That will be laid over. I believe that is all that I have, Mr. President.

PRESIDENT: Senator Lynch, are you ready to go back to work now? We will return back to adopting of permanent rules. Senator Lynch.

SENATOR LYNCH: Mr. President and members, I have one more proposed committee amendment, simple little amendment. It has to do with cloture. This change would adopt a cloture rule that would become effective after 12 hours debate at each stage of debate on any appropriation bill, and after 8 hours at each stage of debate on all other bills. To briefly explain it, and then Senator Moore will take it from there, let me give you a scenario. Some of you may be familiar with 428, the motorcycle helmet bill. It was my bill. An amendment, say, was offered under this rule by Senator Moore to the bill. As you know, sometimes amendments can take and need more time for discussion and debate than the bill, itself. After 8 hours of debate on Select File, I would move for cloture, or if that bill happened to be a committee bill, the chairman of the committee would move for cloture. The presiding officer then, under this proposal, would immediately recognize the motion and orders debate to cease on Moore's amendment. The vote on the Moore amendment would be taken without further debate. After that, a vote on the cloture motion without debate, 33 votes would be needed for that motion on cloture would be successful. If the cloture motion were successful, a vote on the advancement of the bill,

January 12, 1989

LB 54, 111, 209, 268, 271, 325, 335  
389-408

raised, please stay in your seats.

CLERK: 20 ayes, 21 nays, Mr. President, on the motion to rerefer.

SPEAKER BARRETT: Motion fails. The call is raised. Mr. Clerk, continue with the introduction of bills.

CLERK: Mr. President, I might announce that the Reference Committee, the Reference Committee will meet in the Senate Lounge for referring of bills now; Reference Committee in the Senate Lounge now.

Mr. President, new bills. (Read LBs 389-406 for the first time by title. See pages 206-209 of the Legislative Journal.)

SPEAKER BARRETT: The body will stand at ease while the Referencing Committee handles some more bills.

EASE

CLERK: Mr. President, new bills. (Read LBs 407-408 for the first time by title. See page 210 of the Legislative Journal.)

Mr. President, in addition to those items, I have a notice of hearing from the Government Committee, that is offered by Senator Baack as Chair. Mr. President, I have received a reference report referring LBs 324 through 373.

Mr. President, in addition to those items, announcement that the Appropriations Committee....

Mr. President. some unanimous consent requests, Senator Schellpeper would like to add his name to LB 209; Senator Rod Johnson and Senator Morrissey would like to add their names to LB 325; Senator Dennis Byars to LB 111; Senator Haberman to LB 268, and Senator Haberman to LB 271 as well, and Senator Haberman to LB 335.

SPEAKER BARRETT: If there are no objections, so be it.

CLERK: Mr. President, I have a motion filed with respect to the investigating committee formed to review the Franklin Credit Union situation. That motion will be laid over, Mr. President. It involves the suspension of the rules. Those will be laid

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LB 63, 104, 116, 193, 198, 209, 221  
294, 458, 459

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

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

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

PRESIDENT: Thank you. Senator Landis, please.

SENATOR LANDIS: I will waive.

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

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

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

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

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

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

SPEAKER BARRETT: Thank you. Further discussion on the bill. Senator Schellpeper, would you care to close?

SENATOR SCHELLPEPER: Thank you, Mr. Speaker. I just want to thank Senator Haberman for withdrawing that amendment because I could see it opening it up to a lot of different amendments, and I think I want to keep this bill real clean. So with that, I would just move the bill. Thank you.

SPEAKER BARRETT: Thank you, and the question before the body is the advancement of LB 198 to E & R. Those in favor vote aye, opposed nay. Have you all voted? Please record.

CLERK: 26 ayes, 1 nay, Mr. President, on the advancement of LB 198.

SPEAKER BARRETT: LB 198 is advanced. Proceeding to LB 209.

CLERK: LB 209, Mr. President, is a bill that was introduced by Senators Ashford, Schmit and Schellpeper. (Read title.) The bill was introduced on January 9, referred to the Revenue Committee, advanced to General File. I have no amendments to the bill, Mr. President.

SPEAKER BARRETT: Thank you. Senator Brad Ashford, please, on the bill.

SENATOR ASHFORD: Thank you, Mr. President and members. This bill, LB 209, was introduced by Senator Schmit and Senator Schellpeper and myself to deal with the problem that started about a year and a half ago with a decision by the Department of Revenue to start charging sales tax on access costs or access charges, which are charges that are made by local telephone companies to long distance companies to complete a long distance call transaction. Basically, this access charge problem started with the breakup of AT&T in 1984. Since that time, several states have taken a look at access charges. Most states have opted not to collect a sales tax or any sort of tax on that access charge for various reasons, and a couple of states have had some litigation or are in the process of having litigation over it. Basically, an access charge, as I said, is...an access charge is the charge that a local company would charge to the long distance company. The charge makes up approximately 60 percent of the cost of the call and is, in essence, a

transaction between two telephone companies. It is not a transaction between a consumer and a telephone company. I have passed out for your information two example sheets of how this tax would work, the one sheet which has Two-way at the top deals with a two interstate transaction or an interstate transaction with a 7 minute long...I am sorry, intrastate transaction, 7 minute long distance call, and if you will just go through that quickly, the current tax is 15 cents with no sales tax on the access charge which is up at the top or the first line of the example. With the access tax, you will see that there is a 4 percent sales tax on the local exchange access charge which would increase the cost of the call from \$3.15 to \$3.24, and that amounts to a 60 percent increase in the cost of the call. Example 3(a) is another way of looking at, again, a 7 minute long distance call and it shows, if you go through the transaction amounts, the current tax situation and then the tax with...with the tax on the access charge, you will see that there is a tax increase of 2 cents. So, in effect, what has happened since the Department of Revenue has looked at this is some audits have been done. The anticipated cost to the industry and then to the consumer for back taxes would be approximately 35 to 40 million dollars of back payments due. The cost in the future would be in the neighborhood of \$14 million per year. The reason why I was so interested in this piece of legislation was that I looked at the statutes that dealt with sales tax and with public utilities, and at best the statutes are extremely murky. I can find no justification in the statutes for a sales tax to be imposed on this particular charge and, quite frankly, feel that if such a tax is going to be imposed, that it ought to be imposed by the Legislature and not by the Department of Revenue. Again, it appears to me that what we are doing here is potentially levying a tax on a wholesale transaction between a local telephone exchange and a interstate carrier. Now one of the questions that was asked of me, both at the committee hearing and in private at that time, is why doesn't the industry just litigate this tax or this action by the Department of Revenue and I would suggest that, number one, that is a very expensive endeavor and very time consuming considering the volume of tax that would be collected and, number two, again in looking at the statutes involved, if there was some mandate there that I could see that would justify in any reasonable interpretation of the statute such a tax, possibly I would have agreed that maybe litigation was the best way to go, but in reviewing the statutes and the regulations that the department has utilized in the past, it appears that

there isn't such a mandate and that we, as a Legislature, should make it clear one way or the other whether or not it is good public policy to tax this transaction that I have described. A vote for the bill would, in effect, say to the Department of Revenue that this particular transaction shall not be taxed, that the sales tax shall not be imposed on the access charge. Senator Schmit at the time of the hearing had discussed some of the economic development problems with this tax and he had some good information at that time, and he, I am sure, has his light on and I would defer to him to talk a little bit more specifically about some of the economic problems in assessing this tax. Certainly assessing it in an ad hoc basis through the Department of Revenue, if we are going to increase taxes, especially a tax of this magnitude on industry and on the consumer, it ought to be done at the legislative level and not in the Department of Revenue. So I would at this point, I don't know whether Senator Schmit is next, but I would defer to him on the economic development part of this bill. Thank you.

SPEAKER BARRETT: Thank you. There are only two minutes left, so we will proceed to the next speaker. Senator Schmit, you are third in line. Senator Lamb.

SENATOR SCHMIT: Mr. President.

SPEAKER BARRETT: Excuse me, Senator Schmit, I will give you the full five minutes in just a few minutes. Senator Lamb, followed by Senator Hefner, followed by Senator Schmit.

SENATOR LAMB: Mr. President and members, I certainly would not want to come ahead of my good friend Senator Schmit, except on this issue, we are on the same side and I hope that means that it is the correct side, Senator. I think it is important that we do pass this bill because it is an economic development issue, and some of these telemarketing companies are threatening and I assume they will move out of the state if this bill is not passed. However, the point I really want to make is that I have a number of contacts in regard to this bill and a lot of people are mixed up. They think this bill establishes the tax rather than establish the exemption, and so I would hope all those news media people would make that very clear, that this is not a tax bill, this is an untax bill, because a lot of people out there think that this is establishing the tax rather than taking the tax off. And I would, if I have some time left, I would give it to Senator Schmit, if he would like it.

SPEAKER BARRETT: Senator Schmit, you have got about three and a half minutes, would you care to use it?

SENATOR SCHMIT: Well, thank you, Senator Lamb. I am glad to know that we are on the same side. I hope that doesn't cause anyone else any concern. I think that it is of interest, of course, that there are alternatives to what we are doing here today, but I believe it is a well-established principle that the Legislature sets the tax policy for the state. We should not leave that policy representation to the agency and we should not depend upon the courts just because we are not clear in the policy which we establish. The courts only become involved if there is a dispute as to the proper policy intended by the Legislature. It also proves the fact that this body takes a firm and positive action in regard to, as Senator Lamb has pointed out, the fact that we do not intend to tax a wholesale transaction. There may be a time in the future when we review the whole entire tax policy of the state, and we have talked about tax on services, we have talked about many other kinds of taxes, but we should not allow by our inaction an agency to decide that they are going to impose upon the people of the State of Nebraska a major tax. Now there are those who were concerned, I suppose, because I supported the bill and thought that perhaps this was a requirement that would impose a tax on the telephone industry. The industry does have a little problem with the retroactive portion of the tax that the department is concerned about because it would be very difficult for them to go back retroactively and try to collect that tax. But be assured that if we do not pass this bill and the tax does become a matter of record, then the consumer will pay the tax. Senator Brad Ashford did an excellent job of explaining the bill. He pointed out that it would be a tax of about 14 or 15 million dollars annually imposed upon the people of the State of Nebraska. Now there comes a time when we must, for various reasons, increase the taxes upon the people but we should always do that in an up front and visible way so the people can respond accordingly. If we choose to raise taxes or increase revenue, then we should do it in the time-honored method of income tax increases or sales tax increases, so that the public knows and we can be held accountable for whatever increases we put upon their backs.

SPEAKER BARRETT: One minute.

SENATOR SCHMIT: It is not good policy to allow, by our inaction, an agency to collect another 14 or 15 million dollars of tax annually without the public even being aware of its occurrence until they begin to pay the tax. So I want to reiterate what Senator Lamb said. If you are not in favor of an additional tax on the people of the State of Nebraska, then you would vote yes on this bill and vote to advance it. I may have some more comments later but that is, basically, what we have to decide.

SPEAKER BARRETT: Thank you. Senator Hefner.

SENATOR HEFNER: Mr. President, members of the body, the Revenue Committee held a public hearing on this last week, I believe it was, and I thought it was a very good hearing. It was a very informative hearing and the State Tax Commissioner did appear and tell us why they felt they should charge a tax on it, and I disagreed a little bit with him. I believe you could even consider this a service, and we do not tax...we do not have a sales tax on services. Also, like Senator Schmit said, you could consider it, I believe, a wholesale sale, and we do not have sales tax on wholesale sales but, anyway, they audited some of our telephone companies and so I think it is time, it is high time that the Legislature steps in and sets tax policy because we didn't intend to have this access service taxed. Some of our neighboring states have had the same problems. I especially refer to the neighboring State of South Dakota and Iowa. They have seen fit to exempt them from sales tax, I believe. South Dakota did it by legislation and Iowa did it by administrative rule. So you can see what is going to happen if we allow our tax commissioner to charge these sales taxes. These telemarketing companies will move out. I realize that maybe the cost on each call is only 20 cents or 40 cents or 60 cents which we don't think amounts to too much, but when you have hundreds of calls, thousands of calls, it adds to the bill fairly quickly. I understand that Colorado, the sales tax on access charges is in the courts in Colorado and the court will decide, but I think this is a legislative decision and I hope we make it. Our telemarketing business is growing by leaps and bounds in Nebraska and we want to keep it that way. I know that we have one or two in northeast Nebraska and I certainly don't want them moving to South Dakota or to Iowa, and so I just feel that we ought to pass this bill and we ought to pass it fairly early in this legislative session. Thank you.



SPEAKER BARRETT: Thank you. Senator Schmit, in your regular speaking order, followed by Senators Schellpeper and Hall.

SENATOR SCHMIT: Well, Mr. President and members, I just want to point out again what Senator Hefner has pointed out and that is that the entire telemarketing industry has looked favorably upon Nebraska, and I would have to say and point out to some of you who are not familiar with the fact that some years ago, 1986, over my objections, the bill was passed which gave the industry a considerable amount of flexibility, and as a result of that, the industry has shown a lot of interest in Nebraska. As they move into this new area of endeavor, competition becomes extremely important, and as was pointed out also by one of the speakers, it may seem like only a few pennies here and a few pennies there, but when you add it up and compute the cost for a major firm, it does become a very substantial factor. Also I want to point out that those of us who might be tending to criticize the tax commissioner, Mr. Boehm, should not do so. It is his responsibility to carry out the statute as he sees fit. If the statutes are vague and unclear, he naturally must, I would say, react on the side of conservatism and assess the tax. If we disagree, then we are supposed to make that statute clear and Mr. Boehm has no argument with that. He is merely acting upon his constitutional responsibility. And so if the Legislature feels as I do and as most of the speakers or all of the speakers thus far have felt, that this is a tax which will be paid by the ultimate consumer and that it is not a fair way to assess the tax, and that we should not unilaterally begin to pick and choose an agency or industry upon which to derive revenue for the state, then you will support the bill. As I pointed out, we have many tax problems in the State of Nebraska and we are going to have to address some of those from time to time, but the people of the State of Nebraska expect us to address it as much as possible in one major overview, not to pick on those who just happen to come into our line of fire. So I would hope that the bill will advance. I think it is a fair bill. It is a bill which defines policy. It means that we are not going to collect the tax on that wholesale transaction and, therefore, the industry will be free to proceed from this point forward, secure in that knowledge. I would just like to say once again that we must, as much as possible, try to be consistent in our policies. Businesses can program for a tax if they know that it is going to be a consistent policy, but no business can adjust their policies and their programs when we, as legislators, continually send a different type of signal. So

hopefully the signal that was sent back in 1986, albeit I didn't agree with it at that time, ought to be consistent with this signal and we ought to pass this bill, and hopefully in the future, and I am very concerned about this, in the future as we review revenue policies that will support the expenditures of the State of Nebraska, we should try to look back and read the record and then go forward from that and not reverse the policies which we looked upon in 1987 or 1988 or 1989. So, therefore, I would ask you once again to vote to advance LB 209.

SPEAKER BARRETT: Thank you. Senator Schellpeper.

SENATOR SCHELLPEPER: Thank you, Mr. Speaker and members. I also rise to support this bill. I just want to point out that this is also a bill that will help small companies, not just large companies. My local independent at Stanton, they would have to pay approximately \$100,000 in tax a year, and so it is also very important to small companies, not just large companies. Thank you.

SPEAKER BARRETT: Senator Hall.

SENATOR HALL: Thank you, Mr. President and members. I rise in support of LB 209 but probably not with as much enthusiasm as Senator Ashford and Senator Schmit do but believe that the bill as it was brought before the Revenue Committee was one that needed to be addressed and needed to be addressed quickly. So the bill was heard early. It was advanced to the floor and you have it before you. The issue goes back a couple of years to when the Revenue Department determined that they felt they did have the authority to tax access charges, and since then, the issue has been addressed over the table, over the board room table, and even with threats of going into the courts. The bill was brought in by Senator Ashford and Senator Schmit and others to, basically, allow the Legislature to have the say, as we should, in what was the intent of legislation that was passed, not in 1986, but a number of years ago. Many of the statutes that deal with regulation of the telephone industry, what we now call communications industry, go back a number of years, not just 10 or 15, but many of them go back 20 and 40 years. I think that it is important that we take a look as we do develop revenue policy at industries that have come into full bloom, if you will, over the last couple of years. The telemarketing industry is one that Senator Hefner mentioned. It is one where we had a testifier come up and said that should we apply this

tax that he would probably move his company to the State of Iowa, and based on this tax and this tax alone even though we have such revenue and job growth enhancements as LB 775 and 270 on the books. So the tax is one that the industry takes very seriously but I think we have to as well on occasion look at the industry, not only this industry, but other areas such as services that we must address. Those individuals, those industries have grown dramatically. They make up more and more of the base, the income base that is out there, and I think that it is important as policy makers, particularly with regard to collection of revenue, that we look at these from time to time. I don't think that we need to necessarily lock in a stand on a certain type of issue, certain type of industry, and then stay there from here on out. I think it is important that we review these, particularly in the area of telecommunications. This industry has changed and grown rapidly in the last five to ten years, the statutes that surround these industries, that impact them, that regulate them have not. They basically have not kept up with the industry. There is language in there that is... I think as Senator Landis put it, preoptic fiber, pretelephone booth, so it is the kind of thing that we do not just discontinue to look at, but we must look at into the future. I think that as the industry permeates everything that we do as individuals, both in business and in our personal lives, that they are there to be looked at and if we should so determine, they are there to be taxed. So I would not be one that would say this is a...

SPEAKER BARRETT: One minute.

SENATOR HALL: ...a sacred cow so to speak, that we should not address some time in the future and I think I made that point in the committee as well. With that, Mr. President, I would urge the body to advance LB 209 and I would remind you though that even with the passage of the deregulation bill in 1986, Senator Schmit, that we did lose a little company called U S West that I think moved to Colorado who does have an access charge that is currently in the courts. But with that, Mr. President, I would move the advancement of LB 209.

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

SENATOR ASHFORD: Just very briefly. I appreciate Senator Hall's comments and his work on, as Chairman of the Revenue

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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

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LB 70, 155, 177, 195, 198, 209, 238  
254, 338, 357A, 773  
LR 25

CLERK: 5 ayes, 23 nays, Mr. President, on the motion to indefinitely postpone.

PRESIDENT: The motion fails. Do you have anything for the record, Mr. Clerk?

CLERK: I do, Mr. President. Notice of hearings from the Agriculture Committee. That's signed by Senator Rod Johnson as Chair.

New A bill, LB 357A, by Senator Nelson. (Read by title for the first time. See page 605 of the Legislative Journal.)

Enrollment and Review reports LB 195, LB 198, and LB 209 to Select File with E & R amendments attached on each. Those are signed by Senator Lindsay. (See page 606 of the Legislative Journal.)

Transportation Committee would offer LB 155 to General File with amendments. That's signed by Senator Lamb. (See page 608 of the Legislative Journal.)

LR 25, Mr. President, is offered by the Appropriations Committee. (Read brief description of the resolution. See pages 607-08 of the Legislative Journal.) That will be laid over.

I have amendments to be printed to LB 70 from Senator Hall; Senator Moore to LB 177; Senator Coordsen to LB 238, and Senator Baack to LB 254. That's all that I have, Mr. President. (See pages 609-10 of the Legislative Journal.)

PRESIDENT: Senator Dennis Byars, would you step to your microphone and say something about adjourning tomorrow, February 7th, until nine o'clock, but wait just a minute, the Clerk has something.

CLERK: Excuse me, Senator. Mr. President, I have amendments to be printed to LB 773. That's offered by Senator Korshoj.

PRESIDENT: Are you ready to adjourn now? Now, Senator Byars.

SENATOR BYARS: I would move that we adjourn this body until nine o'clock on February the 7th, 1989.

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LB 195, 198, 209

SENATOR LINDSAY: Mr. President, I move that LB 195 as amended be advanced.

PRESIDENT: You have heard the motion. All in favor say aye. Opposed nay. It is advanced. LB 198.

CLERK: LB 198, Senator, has E & R amendments pending.

PRESIDENT: Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move that the E & R amendments to LB 198 be adopted.

PRESIDENT: You have heard the motion. All in favor say aye. Opposed nay.

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

PRESIDENT: They are adopted. Now on the advancement.

SENATOR LINDSAY: Mr. President, I move that LB 198 as amended be advanced.

PRESIDENT: Okay, we have a request for a machine vote on the advancement of the bill of 198. All those in favor vote aye. Opposed nay. Record, Mr. Clerk, please.

CLERK: 25 ayes, 1 nay, Mr. President, on the advancement of 198.

PRESIDENT: LB 198 is advanced. LB 209, please.

CLERK: Mr. President, 209, I have E & R pending, Senator.

PRESIDENT: Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move that the E & R amendments to LB 209 be adopted.

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

CLERK: Nothing further, Senator.

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LB 37, 48, 57, 58, 70, 77, 94  
97, 115, 120, 126, 133, 142, 156  
209, 229, 230, 233, 251, 255, 256  
295, 311, 350, 521, 597, 598, 692  
703, 777, 780

PRESIDENT: Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move that LB 209 as amended be advanced.

PRESIDENT: You have heard the motion. All in favor say aye. Opposed nay. It is advanced. May I introduce a guest, please, of Senator Hefner. We have Mr. Art Anderson of Bloomfield, Nebraska. Would you please stand, Mr. Anderson. Thank you. Mr. Clerk, anything for the record?

CLERK: Yes, Mr. President, thank you. Your Committee on Appropriations gives notice of hearing for March 7...I'm sorry, for February 24. That's signed by Senator Warner. A location change for Appropriations hearings on March 1, also offered by Senator Warner.

Mr. President, General Affairs Committee offers LB 703 to General File; LB 777 to General File; LB 780 to General File. Those are signed by Senator Smith as Chair of the Committee.

Agriculture Committee reports LB 37 to General File with amendments; LB 120 to General File with amendments. Those are signed by Senator Johnson as Chair. (See pages 678-79 of the Legislative Journal.)

Mr. President, your Committee on Banking, Commerce and Insurance whose Chair is Senator Landis reports LB 77 to General File with amendments; LB 311, General File with amendments; LB 350, General File with amendments; LB 598, General File with amendments; LB 692, General File with amendments, and LB 597, General File with amendments. Those are signed by Senator Landis as Chair. (See pages 679-82 of the Legislative Journal.)

Your Enrolling Clerk has presented to the Governor bills read on Final Reading this morning as of 11:30 a.m. (Re: LB 57, LB 94, LB 97, LB 126, LB 133, LB 229, LB 230, LB 233, LB 251, LB 255, LB 295, LB 58, LB 70, LB 115, LB 142, LB 156, and LB 256.)

Mr. President, Senator Moore would like to print amendments to LB 48. (See page 682 of the Legislative Journal.)

And, Mr. President, Senator Weihing would like to add his name to LB 521 as co-introducer. That's all that I have, Mr. President.

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LB 43, 195, 198, 209, 342  
LR 25, 29

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 Duane Voorman of the Trinity Lutheran Church of Lincoln. Would you please rise for the invocation.

REVEREND VOORMAN: (Prayer offered.)

PRESIDENT: Thank you, Reverend Voorman. We appreciate it. Roll call, please. Record, Mr. Clerk, please.

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

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

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 engrossed LB 195 and find the same correctly engrossed, LB 198 correctly engrossed, LB 209, LB 342, all correctly engrossed, that is signed by Senator Lindsay as Chair. (See pages 705-06 of the Legislative Journal.)

I have a report, Mr. President, from the...revenue distribution from the Highway User Fund from the Department of Roads. That will be filed by statute. That will be on file in my office, Mr. President. And last, Mr. President, LR 25 and LR 29 are ready for your signature. That is all that I have, Mr. President.

PRESIDENT: While the Legislature is in session and capable of transacting business, I propose to sign and do sign, LR 25 and LR 29. We are about ready to begin on Final Reading, so if you will take your seats please, we will begin here in a moment. Final Reading on LB 43, Mr. Clerk.

CLERK: (Read LB 43 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 43 pass? All those in favor vote aye, opposed nay. Have you all voted?



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.

give it because they're not sure. But I believe that this is the right thing to do, is to send this money back and supplement LB 84 for what it needs to do because with the increase of costs of these local schools, they are not going to experience a lot of relief under LB 84 without us addressing their basic cost needs and that's adding some extra to state aid. And so in closing I would urge you that our tax receipts keep exceeding the forecasts. We're still going to have to make those decisions before the end of the body, but the right thing to do is what we've talked about and it's what you have talked about for years in here. It is sending money back to those local school districts to assist them and to take that burden off of property tax and if you truly believe in property tax relief, this is the logical way to make sure that the full benefits, the full things that we intended with LB 84 come about. And with that, I'd ask for you to put this amendment onto LB 525 and move it along. Thank you.

SENATOR LAMB: Senator Kristensen was closing, but before we go to the vote let's please welcome 15 fourth graders with their teacher from Chapman, Nebraska, guests of Senator Rod Johnson, in the north balcony. Please welcome these young people. The motion is the adoption of the amendment by Senator Kristensen. Those in support of the amendment vote aye, those opposed vote no. Have you all voted? Record, Mr. Clerk. A record vote has been requested.

CLERK: (Read record vote. See page 2452 of the Legislative Journal.) 31 ayes, 15 nays, Mr. President.

SENATOR LAMB: The amendment by Senator Kristensen has been adopted. Speaker Barrett, for what purpose do you rise?

SPEAKER BARRETT: Mr. President, I move we recess until one-thirty.

SENATOR LAMB: Thank you. Anything for the record, Mr. Clerk?

CLERK: Mr. President, Senator Hall has amendments to LB 209 to be printed, and that's all that I have. (See pages 2453-55 of the Legislative Journal.)

SENATOR LAMB: The motion is to recess until one-thirty. All those in favor say aye. Those opposed no. We are recessed until one-thirty.

in there. Without that, because of the fact that it was...came out six to nothing and could have been actually without amendments it could have been a consent calendar bill and was not for that reason. As you might remember, the bill was brought to me by the Omaha zoo and I think that's pretty common...commonly understood. But I don't think it can be...it should be seen as a zoo bill nor is as an Omaha bill. I don't know if it's...if it impacts your districts or not and that would depend on what type of organizations would be in your districts. We have done...tried to make some calls to some different organizations seeing if it would apply. The one that we, I guess, found that they think it might apply to them is a Western Arts Museum in Gering. I think Senator Scofield had talked to me earlier about that to see whether it would apply to other organizations. The term...or the definition in the statute deals with holders of the 501C3, the exempt organization certificate from the Internal Revenue Service. It's not defined as zoo or anything like that. It's defined to those charitable organizations if they get voting rights in the corporation by becoming members. If...in addition to this, they are entitled to admittance, the Department of Revenue recently...they have not started enforcing it, but if you look at 540, the fiscal note, it does not...they can't calculate a fiscal note because it has not yet been enforced. This is a reinterpretation of rules that the Department of Revenue has recently come up with and so we don't know how far that's going to extend, whether it's going to stop at the zoo, whether it will extend to some of the other organizations who may fall within it. I put it out there I guess to you as a policy decision. With that, I would urge that the...that you vote to return it to Select File and that we adopt the amendment. Thank you.

PRESIDENT: Thank you. Senator Hall, followed by Senator Moore and Senator Chambers. Senator Moore...Senator Hall, please.

SENATOR HALL: Thank you, Mr. President. As Senator Lindsay has stated, the amendment is one that I offered the other night. There were, I think, 16 members of the body had gone. There were 18 votes on behalf of the amendment. The bill that was introduced by Senator Lindsay to the Revenue Committee was LB 540 and it was like a number of other bills that came before the Revenue Committee, LB 209, which is a bill that deals with the telecommunications and the access charge tax. The genesis of the bill is the fact that there has been a determination by the Department of Revenue that they are going to take a

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LB 209, 319, 323

Reading. A very brief announcement. Inasmuch as all bills were handled Friday that are to be amended and returned, this day will be a very long day of Final Reading. I would ask for your cooperation on the floor. We are to be in our seats for Final Reading according to our own rules, not the Chair's rules. The rope will be tied tightly at the back. The Sergeant-at-Arms have been asked to guard that rope jealously. I would ask that you keep your movement on the floor to a very, very bare minimum and conversation as well. It will be a long day of Final Reading. I ask for your cooperation. Mr. Clerk, LB 209.

CLERK: Mr. President, Senator Hall, you had amendments printed. You want those withdrawn, Senator, is that correct?

(Read LB 209 on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 209 pass? Those in favor vote aye, opposed nay. Have you all voted? Record.

CLERK: (Record vote read. See page 2615-16 of the Legislative Journal.) 45 ayes, 0 nays, 1 present and not voting, 3 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 209 passes. LB 319E.

CLERK: (Read LB 319E on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 319, with the emergency clause attached, become law? All in favor vote aye, opposed nay. Have you all voted? Please record.

CLERK: (Record vote read. See pages 2616-17 of the Legislative Journal.) 45 ayes, 0 nays, 1 present and not voting, 3 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 319E passes. LB 323.

CLERK: (Read LB 323 on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 323 become law? Those in favor vote aye, opposed nay. Record, please.

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LB 209, 319, 323, 354, 354A, 360, 360A  
378, 378A, 388

and not voting, 4 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 360 passes. LB 360A.

ASSISTANT CLERK: (Read LB 360A on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 360A pass? Those in favor vote aye, opposed nay. Have you all voted? Record, please.

ASSISTANT CLERK: (Record vote read. See page 2621 of the Legislative Journal.) The vote is 41 ayes, 0 nays, 4 present and not voting, 4 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 360A passes. LB 378, Mr. Clerk.

ASSISTANT CLERK: (Read LB 378 on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 378 pass? Those in favor vote aye, opposed nay. Have you all voted? Record, please.

ASSISTANT CLERK: (Record vote read. See page 2622 of the Legislative Journal.) The vote is 30 ayes, 11 nays, 4 present and not voting, 4 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 378 passes. LB 378A.

ASSISTANT CLERK: (Read LB 378A on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 378A pass? All in favor vote aye, opposed nay. Have you all voted? Record, please.

ASSISTANT CLERK: (Record vote read. See page 2623 of the Legislative Journal.) The vote is 35 ayes, 5 nays, 5 present and not voting, 4 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 378A passes. And while the Legislature is in session and capable of transacting business, I propose to sign and I do sign LB 209, LB 319, LB 323, LB 354 and LB 354A, LB 360 and LB 360A. LB 388, please.

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LB 209, 319, 323, 336, 354, 354A, 360  
360A, 378, 378A, 388, 408, 408A, 412  
412A, 423, 438, 438A, 444, 449, 449A  
541, 569, 569A, 574, 575A, 575, 630  
640  
LR 219

While the Legislature is in session and capable of transacting business, I propose to sign and do sign LR 219. Mr. Clerk, where did we leave off?

CLERK: Mr. President, before we commence Final once again, I have an explanation of vote from Senator Conway. (Re. LB 209. See page 2648 of the Legislative Journal.)

Acknowledgement from your Enrolling Clerk, that bills read on Final Reading have been presented to the Governor. (Re. LB 209, LB 319, LB 323, LB 354, LB 354A, LB 360, LB 360A, LB 378, LB 378A, LB 388, LB 408, LB 408A, LB 412, LB 412A, LB 423, LB 336, LB 438, LB 438A, LB 444, LB 449, LB 449A, LB 541, LB 569, LB 569A, LB 574, LB 575A, and LB 575.)

Mr. President, the first bill on Final is LB 630, this afternoon.

PRESIDENT: If you'll take your seats, please, we'll begin Final Reading. (Gavel.) If you'll take your seats, please, we'll start Final Reading on LB 630, please. LB 630, Mr. Clerk.

CLERK: (Read LB 630 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 630 pass? All those in favor vote aye, opposed vote nay. Have you all voted? Record, Mr. Clerk, please.

CLERK: (Read record vote as it appears on pages 2648-49 in the Legislative Journal.) 41 ayes, 1 nay, 3 present and not voting, 4 excused and not voting, Mr. President.

PRESIDENT: LB 630 passes. LB 640 with the emergency clause attached.

CLERK: (Read LB 640 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 640 pass with the emergency clause attached? All those in favor vote aye, opposed nay, and I am reminded again for the second time today that some of you are not remaining in your seats while Final Reading is being read. Have you all voted? Record, Mr. Clerk, please.