

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 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.

amendments to LB 48 in the Journal. (See pages 492-95 of the Legislative Journal.) That is all that I have at this time, Mr. President.

PRESIDENT: Fine, shall we go on to LB 221, please.

CLERK: Mr. President, LB 221 was a bill introduced by Senator Weihing and Senator Baack. (Read title.) The bill was introduced on January 9, referred to the Banking, Commerce, and Insurance Committee, advanced to General File. I do have Banking Committee amendments pending, Mr. President. (See page 446 of the Legislative Journal.)

PRESIDENT: Senator Landis, are you going to take up the amendments first?

SENATOR LANDIS: Yes.

PRESIDENT: All right, Senator Landis.

SENATOR LANDIS: Mr. Speaker, members of the Legislature, LB 221 is a bill that makes clear how cities will be able to determine the securities that they may invest their surplus capital in, and the problem was brought to us by Senator Weihing and Senator Baack because the statutes are now unclear. They are unclear for a very interesting reason. In 1961, we passed a provision that says cities may invest in the same things that the Board of Lands and Funds can invest in, and we haven't changed that provision. In the intervening years, however, the Board of Educational Lands and Funds have had their list of approved investments done away with and their money has been invested by our State Investment Officer. The State Investment Officer, when they were first created as an entity, was given a list of appropriate investments to make. Since those early days, the investment officer's responsibility has changed and we have substituted what is called the prudent man doctrine, although now should probably be called the prudent person doctrine. The prudent person doctrine is found in our statutes in 77-1243, I think the number is, and it says, basically, that investments will be done with an eye toward security, that somebody with special skill, special knowledge, and exercising all of that skill, would make an investment of public funds. In other words, it requires a lot of skill and an eye towards making sure that your portfolio is secure, but that it is largely a matter of the freedom of the market that one can take advantage of in

this prudent person doctrine. Well, what about the cities? Where do they fit into this? They fit in because they are piggybacking on old Boards of Lands and Funds language, and the Boards of Lands and Funds language has been changed to reflect this new investment officer concept, which in itself has changed because their statutory rule has gone from a laundry list to the prudent person doctrine. Some city attorneys in interpreting this line make the logical leap that, well, all right, if you trace that thread through, it is all right, whatever the State Investment Officer can now invest in is legitimate with cities. Another camp of city attorneys say, no, we are stuck. We are stuck because the 1961 statutory authority is still on the books. They asked the Attorney General's Office for some assistance at one point. The Attorney General's Office opined, you not only have to follow what the Boards and Lands people do but you have to follow what they did in 1961 and not anything since then, and you have got two camps of city attorneys out there, and you have what actually I can only refer to as the nonsensical conclusion by the Attorney General's Office, but that is a little editorializing on my part, but that is what brought this bill to the committee. And Senator Weihing has proposed that we simply say the investment officer's authorized investments will be reduced to a list. That list is the list that cities may draw upon and they may invest their funds according to the list approved by the investment officer. That is what the bill, itself, says. Omaha comes in and says, fine, with the bill, we like the bill, but we also have specific authority for metropolitan class cities to put their monies in CDs if they wish to. We don't want the passage of 221 to jeopardize our existing stand-alone authority. Would you amend 221 to put this special authority in for Omaha. The committee agreed to do so and that is the amendment that is up for grabs right here. One change I want to add to you as you conclude our discussions of this bill, because of an oversight, your bill book committee report is inaccurate in its listing of proponents and opponents. I just checked it and saw a mistake. There was a bill, 321, and the listing of proponents is the listing of 321, not 221. Let me read to you, and your bill books will be changed, I am sure, the appropriate list of proponents; John Weihing; Lynn Rex on behalf of the League of Municipalities; Jerry Prazan on behalf of the City of Omaha, they favor the bill, they want this amendment that we are up for voting now; Randy Gates representing the City of Norfolk, Finance Chairman; Jack Vavra from the City of Lincoln, Finance Director; and Don Mathes, the State Investment Officer. There were no opponents.

The Bankers Association and the Independent Bankers Association were concerned to make sure that the bill said only what John Weihsing said it said and not more and that assurance was given. So they appeared in a neutral capacity. Now the amendment that you are voting on is an amendment to continue the authority for metropolitan class cities to have their own stand-alone authority to invest in CDs. Once this is adopted, we will return to the underlying bill and Senator Weihsing, I am sure, will complete the discussion of the issue.

PRESIDENT: Senator Warner, did you wish to speak about the committee amendments?

SENATOR WARNER: Mr. President, members of the Legislature, I had a couple of questions for Senator Landis.

PRESIDENT: Senator Landis, would you respond, please?

SENATOR LANDIS: Yeah.

SENATOR WARNER: It is mostly for clarification as to the impact of the bill. One of the things that the State Investment Officer does is has the...because of other legislation, actually, I guess, but does invest in some portions of retirement funds, has some authority in that area. Does this legislation extend to a governmental municipality the same authority that the State Investment Officer has but it would be relative to their investment funds? As I read the statement, it seems to be listed that "surplus funds or funds that are being held in surplus that are being held to meet bond commitments." Is it restricted just to surplus General Funds and/or funds being accumulated for debt service?

SENATOR LANDIS: Mr. President, although perhaps Senator Weihsing is a more appropriate person to answer since he is the introducer of the bill, let me take a crack at it. This is a statement of authority for a city to invest funds. Those funds are their surplus funds, and these are likely to be longer term investments, but what the bill contains, the underlying bill, not this amendment contains, is a definition of surplus funds plus this idea that the city will be able to invest those surplus funds in such investments as the State Investment Officer would. And the definition of the surplus fund is the body of the bill. We can go over it together if you would like.

SENATOR WARNER: All right.

SENATOR LANDIS: Okay, an accumulated surplus of any fund in excess of its current needs or has accumulated a sinking fund for the payment of its bonds and the money in such sinking fund exceeds the amount necessary to pay the principal and interest of any such bonds which become due during the current year. What I think we are talking about here is money that we are going to hold for a longer period of time than just for our current needs or for our current bond payments.

SENATOR WARNER: My curiosity to the question is because the investment board has ventured into some areas, into another very broad area of venture capital, and I am wondering if this authorization will extend to local municipalities investment of funds into "venture capital", number one; number two, if that is true if this would also permit the investment in a, say, firm that might locate in an area in the event that there was some venture capital authorization because of this legislation that a community could be "requested" to make contingent upon a company locating there in some fashion, and perhaps Senator Weihing can address those concerns or those questions in his but I thought you may have dealt with this as part of the committee hearing.

SENATOR LANDIS: I did not. I would renew the motion to adopt the committee amendments and we can proceed with the discussion of the underlying bill.

PRESIDENT: Fine, but we have a couple of lights on first. Senator Pirsch, did you wish...okay. Senator Hartnett, did you wish to speak on the committee amendment.

SENATOR HARTNETT: Mr. President and members of the body, if I could ask Senator Landis a question, I guess it is a policy question, Senator Landis. I think your amendment allows Omaha, the City of Omaha, the only one in that class, to invest in CDs, is that correct?

SENATOR LANDIS: What it does is it recognizes the preexisting statute that already allows that to be the case. What it says is we are not repealing Omaha's preexisting authority to do that.

SENATOR HARTNETT: I guess my question, a policy question, you know, for the Banking Committee and so forth, the right of Omaha

to do this, should that be extended to all other cities, I guess is it?

SENATOR LANDIS: That would be a logical extension. This bill is not a grant of authority in that way, and I don't think this is an appropriate vehicle to make that kind of grant of authority. This bill is not a grant of authority to Omaha to do this because that grant has already been made elsewhere in the statutes and that provision does not appear in the body of this bill.

SENATOR HARTNETT: Yeah, okay, thank you, Senator Landis.

PRESIDENT: Thank you. Senator McFarland, did you wish to speak about the amendments?

SENATOR MCFARLAND: I would just call the question, Mr. Speaker.

PRESIDENT: Oh, okay, thank you, that won't be necessary but thank you anyway. Senator Landis, did you wish to close on the committee amendments?

SENATOR LANDIS: Sure, and the question has been asked by Senator Langford I think, and that is, where is this Omaha section, is it in the bill? No, the one line that we are acting or that we are saying or passing with the committee amendments says, basically, we are not repealing Section 14, blank, blank, blank, along with the passage of this bill. In other words, that preexisting authority is not recited in this bill. It is simply recognized for the purpose to make sure that we don't think of it as being repealed in the passing of this bill. There may well be a standardized response to city powers that you would want to make but it would be in another bill, not in this one. This does affect all cities similarly. It also recognizes a preexisting authority that Omaha has.

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

ASSISTANT CLERK: 26 ayes, 0 nays on the adoption of the committee amendments, Mr. President.

PRESIDENT: Okay, the committee amendments are adopted. Senator Weihing, did you wish to speak about the bill.

SENATOR WEIHING: Mr. President and members of the Legislature, Senator Warner brought up a question with regards to pension funds and investments. No, the investments for pension funds are under different statutes. This bill does not relate to those at all. It is just simply in excess funds. That doesn't apply at all. Senator Landis has done very well in discussing the background on that. Rather than go into great detail, you have before you as passed out the background information on LB 221 and the sequence, historical sequence, of events, the changing of statutes along with time. Really simply what happened was when this was set up and the cities and some units of government were tied on to the educational, the Board of Educational Lands and Funds, in time the statute in which the Board of Educational Lands and Funds were changes and the statute which spoke originally to the cities being tied to that was a different statute. As a result, in time, they were simply just sort of left out there without any real solid statute answering just as to how they could invest. This bill will rectify that. It is to change an outdate statute, make it so that those cities and other subunits of government will know what they can legally invest in, and they will have it in the direction of the State Investment Officer. With that, I request that the bill be advanced to Select File.

PRESIDENT: Thank you. Senator Pirsch, please.

SENATOR PIRSCH: Thank you. A question of Senator Weihing. Senator Weihing, I don't have that history in front of me, so perhaps, you know, that would answer my question, but for the record, we are saying that the cities and villages were taken out sometime back from the Educational Lands and Funds investment restrictions?

SENATOR WEIHING: They were not taken out, they were just left...nothing was ever said about them, and they went ahead and they were going on as though they were tied to the Board of Educational Lands, but in a recent ruling by, it is down here, the Attorney General Opinion said, well, since they weren't specifically stated again, they do not then have that authority of the State Investment Officer. That was...

SENATOR PIRSCH: Okay, so in other words, Section 77 said that, hey, cities or municipalities, we are going to let you out from under that Educational Lands and Funds restriction, and so this

is just kind of codifying that then?

SENATOR WEIHING: Yeah, this is just getting it coded, get it caught up as to, well, they didn't get added on when they were working with 77...let's see, 77-...

SENATOR PIRSCH: That clarifies it...

SENATOR WEIHING: 72-202 is the statute that deals with the Board of Lands and Education...Board of Educational Lands and Funds, and so you see they were working with two statutes. One was saying you can, and then there is the statute for the Board of Educational Lands and Funds.

SENATOR PIRSCH: Right, so we are just clarifying that in this section of law. Now, in the 77-2341, we are still saying that counties, school districts, and other governmental subdivisions are still under the land and funds, Educational Lands and Funds?

SENATOR WEIHING: Well, you see, what actually happened then is later on there was the Nebraska Investment Council that was created and the Board of Educational Lands and Funds were tied to that, and what this is really saying that the cities and other subunits of government can obtain the proposed investment areas through our Nebraska Investment Council. It is just getting it straightened out.

SENATOR PIRSCH: But you specifically take them out of the Educational Lands and Funds and you do not include the counties, school districts, or other governmental subdivisions in that...in those additional subsections, and I guess I was wondering, would they not want the same treatment or did anybody consider that, or just the cities and villages requested to have that?

SENATOR WEIHING: I would say that this would apply to the other subunits of government.

SENATOR PIRSCH: Okay. Senator Landis, could you speak to that? You weren't listening.

PRESIDENT: Senator Landis, would you now respond, please.

SENATOR PIRSCH: I am probably running out of time, but in Section 6, we have taken out city and village and left in

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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,

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

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 LR 29

fine development of the Business Department at Kearney State and he resigned as head of the department when he found a young man that he thought was very well qualified and since that time has gone back whenever he's been needed to teach classes. And, with great joy, I would ask your approval of this resolution.

PRESIDENT: Thank you. The question is the adoption of the resolution. All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

CLERK: 31 ayes, 0 nays, Mr. President, on adoption of LR 29.

PRESIDENT: The resolution is adopted. We will move on to Select File, please. Senator Lindsay, are you ready? Okay. Mr. Clerk.

CLERK: Mr. President, LB 221, the first bill, I have no E & R amendments. However, I do have an amendment to the bill from Senator Weihing. (The Weihing amendment appears on pages 694-95 of the Legislative Journal.)

PRESIDENT: Okay, Senator Weihing, please.

SENATOR WEIHING: Yes, the amendment is being handed out to you. LB 221 is a bill in which the investment of funds, excess funds, by municipalities or subdivisions of government was addressed. Back in 1961 they were...these were associated with the school lands funds and then subsequent legislation on through the years somehow sort of left this out and became unclear. A recent opinion by the Attorney General has left the cities, the municipalities and the subdivisions of government as to questioning as to just how they can or the legitimate areas that they can invest their funds. This bill clarifies that. We passed this bill from General File with one small amendment from the committee, and this amendment that has been passed to you was developed because of questions that occurred during the discussion of the bill. Senator Pirsch asked about if the subdivisions of government beyond the municipalities were included. I was...I thought so, but to make this absolutely clear this amendment does that. It includes it. Now the amendment starts on page 15 if you...of the green copy, the green copy. And it simply states that whenever any county, city, village or other governmental subdivision, other than a school district, of the State of Nebraska has accumulated a surplus of any fund in excess of its current needs or has

accumulated a sinking fund for the amount of its bonds and the money in such sinking funds exceeds the amount necessary to pay the principal and interest of any such bonds which become due during the current year, the governing body of such county, city, village or other governmental subdivision may invest any such surplus in excess of current needs or such excess in its sinking fund in certificates of deposit, in time deposits and in securities in which the state investment officer is authorized to invest pursuant to Section 72...and so forth there, and as provided in the authorized investment guidelines of the Nebraska Investment Council in effect on the date the investment is made. Now the state investment officer shall, upon request, furnish a copy of current authorized investment guidelines of the Nebraska Investment Council. Now the second part there is harmonizing language. It was in the bill originally and it addresses the school investment. They are under another statute, 79-1308.01. So this is included so that it's harmonizing. Number three is an amendment that we accepted last time when it was on the floor. It is for the cities of metropolitan class and they have a specific section there, 14-563. And the fourth one, Senator Warner asked about venture capital. Nothing in subsections (1), (2) and (3) of this section shall be construed to authorize investments in venture capital. In other words, they will not be able to invest in any venture capital. I move to accept this amendment.

PRESIDENT: Thank you. Senator Landis, please.

SENATOR LANDIS: Mr. Speaker and members of the Legislature, I support the Weihsing amendment. It's one of those situations where you write a bill and you've got your language there and you know what you want, you know what you intend, and other people look at the bill and they say, now is it possible that this bill might say this thing? And you say, no, it doesn't mean that. They say, but it might say that. And you say, all right, we'll make it clear that it doesn't do that. And somebody else comes along and says, well, now is it possible that you might be affecting our statutes in the cities? No, we don't have any intention to do that. Well, it might read...well, all right, we'll write in there that it doesn't affect the cities. Now, John is doing a little cleanup for people that perhaps were overly toilet trained early in their career. They want absolute assurance that what the League has asked for is exactly what's in the bill and what they want. And this is one of those ways of patting them on the head and

saying, now, see, we only want exactly what we asked for and what we wrote the bill to do. And so John has gone around and collected these frowns on the brow of gainsayers and one by one has said, look, we'll give you specific recognition that what you fear might be the case isn't happening and those run to a banker's association, Senator Warner's concern about venture capital and to the question about the existing authority for metropolitan class cities. The amendments do nothing to change the intent of the bill which remains absolutely clear from day one. Cities want authority to invest in items that they currently can now do, such as CDs, or, in the alternative, investments that have been authorized by the State Investment Council Chief Officer and have put them on a guideline list. It must be both things. It must qualify for the prudent man doctrine or what we should begin to call the "prudent person doctrine", I think, and the list that the investment officer of the state makes as investments he considers to be prudent investments. It must qualify on both counts. John's intention remains exactly the same. This amendment simply clarifies for anybody who has a furrowed brow that what he says he means and I'm going to support the amendment.

PRESIDENT: Thank you. Senator Pirsch, please.

SENATOR PIRSCH: Thank you, Mr. President. I'm not sure that I was one of the overly toilet trained but I was one that questioned this and I want to say to Senator Weihing that I appreciate your interest in making this an impeccable bill and I think your amendment does that. And I'm going to support it and support the bill. Thank you.

PRESIDENT: Senator Weihing, would you wish to close on your motion?

SENATOR WEIHING: I move that the amendments be adopted.

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

CLERK: 25 ayes, 0 nays, Mr. President, on adoption of Senator Weihing's amendment.

PRESIDENT: The Weihing amendment is adopted. Do you...

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

PRESIDENT: Okay, Senator Lindsay, back on the job.

SENATOR LINDSAY: Mr. President, I move that LB 221, as amended, be advanced to E & R.

PRESIDENT: You've heard the motion. All in favor say aye. Opposed nay. It is advanced. LB 254.

CLERK: Mr. President, on 254 I have no E & R. The first amendment I have to the bill, however, is from Senator Baack. Senator, your amendment is on page 609 of the Journal.

PRESIDENT: Senator Baack, please.

SENATOR BAACK: Yes, this amendment is on page 609 and this amendment we believe is necessary because we found some...the legal counsel found some evidence that we might be having an unlawful delegation of legislative authority contained in the bill. So we put language in there that clears this up and that's all that it does. It just clears it up that it is not an unlawful delegation of authority for the Legislature, in two different sections of the bill.

PRESIDENT: Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I hope you all listened to Senator Baack and you know why I said on the first day that the best thing about him is his staff.

PRESIDENT: We haven't had any other ideas other than that so it must be true. So the question is the adoption of the Baack amendment. All those in favor vote aye, opposed nay. Senator Baack, you may need to go out and round up some people. Record, Mr. Clerk, please.

CLERK: 25 ayes, 0 nays, Mr. President, on adoption of Senator Baack's amendment.

PRESIDENT: The Baack amendment is adopted. Mr. Clerk.

CLERK: Mr. President, Senator Baack would move to amend the bill. (Read the Baack amendment as found on page 696 of the Legislative Journal.)

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PRESIDENT NICHOL PRESIDING

PRESIDENT: (Microphone not activated) ...Valentine's Day, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber. We have with us today, as our chaplain of the day, Dr. Rob Welch of the Havelock Christian Church in Lincoln, Nebraska. Would you please rise for the convocation.

DR. ROB WELCH: (Prayer offered.)

Mr. President Thank you, Dr. Welch. Come back and see us again. Roll call, please.

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

PRESIDENT: Thank you. Any corrections to the Journal?

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 engrossed LB 114 and find the same correctly engrossed; LB 221 and LB 254, all correctly engrossed. (See page 731 of the Legislative Journal.)

Mr. President, your Committee on Retirement whose Chair is Senator Haberman reports LB 632 to General File with amendments, and LB 148 as indefinitely postponed. Signed by Senator Haberman as Chair. (See page 731 of the Legislative Journal.)

Mr. President, I have a reference report referring LRs 27 and 28 to the Transportation Committee, as well as certain gubernatorial appointments to the appropriate Standing Committee for confirmation hearing. (See page 732 of the Legislative Journal.)

I have an Attorney General's Opinion addressed to Senator Baack regarding LB 633. (See pages 733-34 of the Legislative Journal.)

Mr. President, I have notice of hearing from the Health Committee.

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LR 32

SPEAKER BARRETT: Thank you. The resolution is adopted.
Members, please return to your seats for Final Reading.
Mr. Clerk, will you please proceed with the reading of LB 342E.

CLERK: (Began reading of LB 342E on Final Reading.)

ASSISTANT CLERK: (Continued reading of LB 342E on Final
Reading.)

SPEAKER BARRETT: All provisions relative to law having been
complied with, the question is, shall LB 342 with the emergency
clause attached become law? Those in favor vote aye, opposed
nay. Record, please.

ASSISTANT CLERK: (Record vote read. See page 845 of the
Legislative Journal.) The vote is 42 ayes, 0 nays, 7 excused
and not voting, Mr. President.

SPEAKER BARRETT: LB 342E passes. LB 114E.

ASSISTANT CLERK: (Read LB 114E on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure
having been complied with, the question is, shall LB 114 with
the emergency clause attached become law? Those in favor vote
aye, opposed nay. Have you all voted? Record, please.

ASSISTANT CLERK: (Record vote read. See page 846 of the
Legislative Journal.) The vote is 42 ayes, 0 nays, 7 excused
and not voting, Mr. President.

SPEAKER BARRETT: LB 114E passes. LB 221.

ASSISTANT CLERK: (Read LB 221 on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure
having been complied with, the question is, shall LB 221 pass?
Those in favor vote aye, opposed nay. Record, please.

CLERK: (Record vote read. See page 847 of the Legislative
Journal.) 43 ayes, 0 nays, 6 excused and not voting,
Mr. President.

SPEAKER BARRETT: LB 221 passes. And while the Legislature is

February 23, 1989 LB 114, 129, 183A, 221, 342, 357, 545
577, 640, 695
LR 37

General File with amendments, LB 577 General File with amendments, those signed by Senator Landis as Chair. (See pages 848-49 of the Legislative Journal.)

Government, Military and Veterans Affairs reports LB 545 to General File with amendments, LB 640 General File with amendments, those signed by Senator Baack as Chair. Transportation Committee reports LB 129 to General File, LB 695 to General File, those signed by Senator Lamb as Chair. (See pages 853-55 of the Legislative Journal.)

Mr. President, I have a report and a motion by the Appropriations Committee regarding the Nebraska Energy Settlement Fund. That report is filed pursuant to statute.

Mr. President, your Enrolling Clerk has presented to the Governor bills read on Final Reading this morning as of 10:00 a.m. (Re: LB 342, LB 114, LB 221.)

A new A bill, LB 183A by Senator Baack. (Read for the first time by title.) A new resolution, LR 37 by Senator Korshoj. (Read brief explanation.) That will be laid over, Mr. President. (See pages 857-58 of the Legislative Journal.) That is all that I have at this time, Mr. President.

SPEAKER BARRETT: Mr. Clerk, proceed to General File, LB 357.

CLERK: LB 357, Mr. President, introduced by Senators Nelson, Smith, Schellpeper, Coordsen. (Read title.) The bill was introduced on January 11, referred to the Education Committee. The bill was advanced to General File, Mr. President. The Legislature on February 8 considered the bill. At that time committee amendments were adopted. There was an amendment to the bill by Senator Nelson. That was adopted. Mr. President, Senator Withem then bracketed the motion until February 22. I do have amendments pending, Mr. President.

SPEAKER BARRETT: Senator Nelson, I wonder if perhaps we could go to you first for a very short refresher on the bill to bring us up to speed. Would you do that, please?

SENATOR NELSON: Thank you. I would be pleased to do so. As it was noted, LB 357 was bracketed when it was brought to us about a week ago, and we finally, I guess, got to it today. There were two main concerns. Actually, first, I will start and tell

February 27, 1989

LB 114, 221, 342
LR 33, 35, 36, 37

SPEAKER BARRETT PRESIDING

SPEAKER BARRETT: Welcome to a new week in, this, the First Session of the Ninety-first Legislature. Our Chaplain this morning, Pastor Sherman McCormick, Piedmont Park Seventh-Day Adventist. Pastor McCormick, please.

PASTOR McCORMICK: (Prayer offered.)

SPEAKER BARRETT: (Gavel.) Thank you, Pastor McCormick. We hope you can come back again. Roll call.

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

SPEAKER BARRETT: Thank you. With a quorum present, any corrections to the Journal.

CLERK: No corrections, Mr. President.

SPEAKER BARRETT: Reports, messages, or announcements?

CLERK: Mr. President, a communication from the Governor to the Clerk. (Read. Re: LB 342, LB 114, and LB 221. See page 881 of the Legislative Journal.)

Mr. President, resolutions LR 33, LR 36, and LR 37 are ready for your signature, and that is all that I have, Mr. President.

SPEAKER BARRETT: Thank you. While the Legislature is in session and capable of transacting business, I propose to sign and I do sign LR 33, LR 36, and LR 37. As a matter of general information as well, the Chair has been advised that yesterday was a rather major day in the life of Senator John Weihing. Senator Weihing had a birthday yesterday. Happy Birthday, Senator Weihing. Legislative resolutions, Mr. Clerk.

CLERK: Mr. President, the resolution offered this morning is by Senators Rogers and Hannibal. It is found on page 835. (Read brief explanation of LR 35.)

SPEAKER BARRETT: The Chair recognizes Senator Carson Rogers, please. (Gavel.) Senator Rogers.

SENATOR ROGERS: Mr. Speaker and members, I brought this resolution to you on behalf of the Village of Dannebrog, which