

January 9, 1989

LB 58, 84, 98, 102, 140, 141, 241-266

CLERK: Mr. President, new bills. (Read titles for the first time to LBs 241-266. See pages 112-18 of the Legislative Journal.)

Mr. President, in addition to those items, the Rules Committee would like to announce that Senator Carson Rogers has been selected as Vice-Chair of the committee.

Mr. President, Revenue Committee will be or are...is conducting a meeting underneath the south balcony.

Mr. President, the Judiciary Committee will conduct an Executive Session upon recess on the south side of the Chamber; Judiciary upon recess. And Transportation will meet in the lounge upon recess...or, Senator...I'm sorry, Senator Lamb, do you want that this afternoon, Senator? I'm sorry, Transportation upon adjournment this afternoon in the Senators' Lounge; Transportation this afternoon.

Mr. President, Government Committee has selected Senator Bernard-Stevens as Vice-Chair.

Mr. President, Senator Conway would like to add his name to LB 140 as co-introducer; Senator Beck to LB 102 and to LB 141; Senators Smith and Hartnett to LB 58; Senator Hartnett to LB 98; Senator Rod Johnson to LB 84.

Mr. President, the last note is a Reference Committee meeting at two-thirty this afternoon in Room 2102; Reference Committee at two-thirty in Room 2102. That's all that I have.

PRESIDENT: Senator Emil Beyer, for what purpose do you rise?

SENATOR BEYER: Mr. Speaker, a point of personal privilege. I hope that the senators have noticed that we have a familiar face back in the Legislature and that's our Page Supervisor, Kitty Kearns. We're glad to have her back and we've missed her and we wish her good health from now on. (Applause.)

PRESIDENT: Thank you. Ladies and gentlemen, would you please listen as your Speaker speaks.

SPEAKER BARRETT: Thank you, Mr. President, and members, just a reminder to committee chairs, committee clerks, if you plan to have a hearing next week, I believe the first day would be the

January 24, 1989

LB 1-6, 8-12, 14-17, 35, 36, 38, 53
57, 67, 71, 79, 103, 123, 133
158, 180, 181, 190, 223, 236, 255
257, 277, 295, 297

LB 255 to General File, LB 257 to General File with amendments, LB 223 as indefinitely postponed. Banking, Commerce and Insurance Committee, whose Chair is Senator Landis, reports LB 295 to General File and LB 297 as indefinitely postponed. Your Committee on Revenue, whose Chair is Senator Hall, reports LB 133 to General File, LB 277 General File, LB 236 General File with amendments, LB 67 indefinitely postponed, LB 71, LB 103 and LB 181 all indefinitely postponed, all signed by respective Chairs. (See pages 413-14 of the Legislative Journal.)

Mr. President, I have notice of hearing from the Urban Affairs Committee, that is signed by Senator Hartnett; from the Education Committee signed by Senator Withem and from the Retirement Systems Committee signed by Senator Haberman.

Your Committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 35 and find the same correctly Engrossed, LB 36, LB 38, LB 53, LB 57, LB 79, LB 123, LB 158 and LB 190 all correctly Engrossed. (See pages 415-16 of the Legislative Journal.)

Mr. President, a communication from the Governor addressed to the Clerk. (Read communication re: LBs 1-6, LBs 8-12, LBs 14-17. See page 416 of the Legislative Journal.) Mr. President, that is all that I have at this time.

SPEAKER BARRETT: Thank you. Proceeding then to General File discussion, LB 180.

CLERK: Mr. President, 180 is a bill introduced by Senator McFarland. (Title read.) The bill was introduced on January 5, referred to Education. The bill was considered on the floor, Mr. President, on January 19. I now have pending an amendment from Senator McFarland. Senator, I understand the amendment you had printed on page 402 you want to withdraw that amendment.

SENATOR MCFARLAND: I'd like to withdraw that, Mr. Clerk.

CLERK: Mr. President, Senator McFarland would move to amend the bill and, if I may, Senator, I'll read the language.

SENATOR MCFARLAND: Please.

CLERK: (Read McFarland amendment. See page 417 of the Legislative Journal.)

SENATOR HANNIBAL: Thank you, Mr. Speaker. Just one question of Senator Baack, if I may. Senator Baack, you have listed under proponents, in the committee statement, the Director of Administrative Services. Could you tell me who that is?

SENATOR BAACK: It's listed as Larry Barry, which is supposed to be Larry Bare.

SENATOR HANNIBAL: Ah, thank you very much. (Laughter.)

SPEAKER BARRETT: Anything further? Any closing statement, Senator Baack?

SENATOR BAACK: No, I just move for advancement.

SPEAKER BARRETT: Thank you. The question before the body is the advancement of LB 255 to E & R Initial. Those in favor vote aye, opposed nay. On the advancement of the bill. Have you all voted? Record, please.

CLERK: 29 ayes, 0 nays, Mr. President, on the advancement of LB 255.

SPEAKER BARRETT: LB 255 advances. LB 257.

CLERK: LB 257, Mr. President, introduced by Senator Baack. (Read title.) The bill was introduced on January 9, referred to the Government Committee, advanced to General File. I do have committee amendments pending by the Government, Military and Veterans Affairs Committee, Mr. President.

SPEAKER BARRETT: To the Chairman of the Government Committee, Senator Baack.

SENATOR BAACK: Yes. Mr. Speaker and members, this is another bill that was brought to the committee...brought to me by the Department of Administrative Services. I think what I'll do is I'll kind of go through and explain the bill now and then we'll talk about the amendments, because they don't make much sense until we explain the bill first. This bill is a little more complicated than the last one and deals with a little more substantive matter. What it talks about is it talks about bonds which are currently provided to...by contractors to guarantee the payment of laborers and suppliers when they are working on a

project for a state agency. Under...with LB 257 what we would be doing is we would be saying that any project that is less than \$15,000 there would not be a requirement for that bond. The agency could request a bond, but we would not have...that would not be a requirement for a bond. The reason for this is that a number of the small contractors have felt that the fact that we had to have a bond for these small projects precluded them from bidding on the projects because the bonds cost them too much and they simply could not bid on these small projects. There was...and the one change that we made, too, is this new exemption language. The original statute reads that any state agency or political subdivision must have this bond. This new exemption language only applies to state agencies. We are going to have a couple of bills that are going to be heard by the Government Committee a little later on, from Senator Pirsch and also from Senator Scofield. We'll deal with the political subdivisions, because they want some of these same kind of requirements for political subdivisions. Those bills...we talked about it in committee as to whether we ought to just amend this in, because there was a lot of sentiment to do that. But my suggestion was that we wait until those bills are heard at least, have their hearing, and then we can come back and we can possibly hold this bill up on Select, or whatever, and then just amend that process into it. But I think we ought to have the hearing process before we do that. So, that is what we decided to do as a committee. It also talks about, it also tends to make some agency-to-agency kind of things more consistent, because in the original statute only DPI and Department of Corrections were under some of the language that deals with this. Now this says that all state agencies will be under these bonding requirements, not just those two. It also takes all of the administrative and rule making authority and puts it under DAS as far as advertising for bids, and takes out the language that DPI and Department of Corrections had for making bids...for advertising bids for their projects. The committee amendments, we'll get to those now, the committee amendments are simply...there was some language that was inadvertently stricken in the drafting process. So what we need to do is we need to reinstate that language, because the language will then require that all bids, that all bids be accompanied by a certified check or a bid bond and that language was inadvertently stricken and we didn't want to strike that language. So the committee amendments would simply put that language back into the statute that was stricken. With that, I'd answer questions and, if there are none, I'd urge the

adoption of the committee amendments.

SPEAKER BARRETT: Thank you, sir. Discussion on the committee amendments to LB 257? Seeing none, Senator Baack, are we ready to proceed with the vote?

SENATOR BAACK: You bet, yes.

SPEAKER BARRETT: The question is the adoption of the committee amendments to 257. Those in favor vote aye, opposed nay. Record, please.

CLERK: 30 ayes, 0 nays, Mr. President, on the adoption of committee amendments.

SPEAKER BARRETT: The amendments are adopted. To the bill, Senator Baack, as amended.

SENATOR BAACK: Yes, I think I went ahead and explained the bill already. The amendments did not change my explanation. So, with that, if there are any questions, I'll be glad to try to answer them; if not, I just urge the advancement of the bill.

SPEAKER BARRETT: Any discussion on the advancement of LB 257? Seeing none, the question then before the body is the advancement of LB 257 to E & R Initial. All in favor of that motion vote aye, opposed nay. Record, please.

CLERK: 25 ayes, 0 nays, Mr. President, on the advancement of LB 257.

SPEAKER BARRETT: The bill is advanced. LB 295.

CLERK: LB 295, Mr. President, was a bill introduced by Senator Abboud. (Read title.) The bill was originally introduced on January 10, referred to Banking, advanced to General File. I have no amendments to the bill, Mr. President.

SPEAKER BARRETT: Thank you. Senator Abboud, for the introduction of 295.

SENATOR ABBODD: Yes, Mr. President. There are no amendments that were adopted by the committee. It's a pretty basic bill. It amends the Nebraska Long-Term Care Insurance Act that we passed in 1987. That was based on the National Association of

January 26, 1989

LB 43, 45, 113, 133, 134, 168, 169
171, 172, 255, 257, 277, 295

SPEAKER BARRETT PRESIDING

SPEAKER BARRETT: Welcome to the George Norris Legislative Chamber, the opening of the 15th day in this, the First Session of the Ninety-first Legislature. For our opening prayer the Chaplain of the day, the Reverend David Quam, Central Alliance Church in Lincoln. Pastor Quam, please.

REVEREND DAVID QUAM: (Prayer offered.)

SPEAKER BARRETT: Thank you, Reverend Quam, hope you can come back again. Roll call.

CLERK: Twenty-nine members present this morning, Mr. President.

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

CLERK: No corrections, Mr. President.

SPEAKER BARRETT: Any messages, reports, or announcements?

CLERK: Mr. President, your Committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 134 and recommend the same be placed on Select File; LB 255, LB 257, LB 295, LB 133, and LB 277, those on Select File, some of which have E & R amendments attached. (See page 449 of the Legislative Journal.)

Mr. President, your Committee on Enrollment and Review respectfully reports they have carefully examined engrossed LB 45 and find the same correctly engrossed; LB 168 and LB 169, also correctly engrossed.

Mr. President, your Committee on Natural Resources, whose Chair is Senator Schmit, to whom was referred LB 43 instructs me to report the same back to the Legislature with the recommendation it be advanced to General File; LB 113, LB 171, LB 172, all advanced to General File, all signed by Senator Schmit as Chair.

Mr. President, a hearing notice from the Natural Resources Committee for Thursday, February 2. That is all that I have, Mr. President.

SPEAKER BARRETT: Thank you. To item number five on the agenda,

February 27, 1989

LB 257, 335, 336, 436, 497, 532, 540
654, 670, 705, 800, 809

SPEAKER BARRETT: Thank you. You've heard the closing and the question is the advancement of LB 336. Those in favor please vote aye, opposed nay. Voting on the advancement of the bill. Have you all voted? Record, please.

CLERK: 27 ayes, 0 nays on the advancement of 336, Mr. President.

SPEAKER BARRETT: LB 336 is advanced. For the record, Mr. Clerk.

CLERK: Mr. President, I have notice of hearing, appointment, gubernatorial conferee hearing by the General Affairs Committee, Mr. President.

Senator Pirsch has amendments to be printed to LB 257. (See page 886 of the Legislative Journal.)

Urban Affairs Committee whose Chair is Senator Hartnett reports LB 670 is indefinitely postponed and LB 800 as indefinitely postponed. (See page 886 of the Legislative Journal.)

Mr. President, Senators Goodrich, Nelson and Lowell Johnson would like to add their name to LB 809 as co-introducer. (See page 887 of the Legislative Journal.) That's all that I have, Mr. President.

SPEAKER BARRETT: Thank you. Senator Hall, would you care to adjourn us until tomorrow morning, please.

SENATOR HALL: Mr. President, I would...as soon as we drop these on the Clerk's desk, is that possible? (laughter) My committee, what can I say? We could read those in I...

SPEAKER BARRETT: Any messages on the President's desk, Mr. Clerk?

CLERK: Mr. President, I have some late messages that have arrived. Your Committee on Revenue reports LB 705 to General File with amendments, LB 540 General File with amendments, LB 497 indefinitely postponed, LB 532 indefinitely postponed, LB 436 indefinitely postponed, LB 654 indefinitely postponed, and LB 335 to General File with amendments attached. (See pages 887-91 of the Legislative Journal.) That's all that I have, Mr. President.

March 13, 1989

LB 95, 140, 257, 280, 289, 311, 330
336, 387, 395, 438, 444, 478, 561
588, 603, 606, 643, 683, 705, 710
721, 736, 739, 744, 761, 762, 767
769, 780, 807

indefinitely postponed; LB 478, indefinitely postponed; LB 561, indefinitely postponed; LB 387, indefinitely postponed, all those signed by Senator Chizek as Chair of the Judiciary Committee. (See pages 1081-82 of the Legislative Journal. Journal page 1082 shows LB 721 as indefinitely postponed.)

Mr. President, a series of priority bill designations. Senator Hall would like to designate LB 762 as a committee priority. Senator Hartnett designates LB 95 and LB 444 as Urban Affairs priority bills. Senator Hartnett chooses LB 603 as his personal priority bill. LB 739 has been selected by Senator Hannibal; LB 606 by Senator Schimek; LB 761 and LB 289 by the Natural Resources Committee, and LB 807 by Senator Schmit, personally. LB 769 by Senator Labedz; LB 705 by Senator Ashford; LB 438 by Senator Wehrbein; LB 710 by Senator Scofield; LB 643 by Senator Bernard-Stevens; LB 588 by Senator Chambers; LB 739 by Senator Hannibal; LB 330 by Senator Pirsch; LB 767 by Senator Smith; LB 736 and LB 780 by General Affairs Committee; LB 395 by Senator Peterson. Senator Lamb selected Transportation Committee's LB 280 as a priority bill. LB 311 has been selected by Senator Landis as his personal priority bill; LB 683 by Senator Schellpeper.

Mr. President, I have a series of amendments to be printed. LB 744 by Senator Withem; LB 336 and LB 257, those by Senator Withem. (See pages 1083-88 of the Legislative Journal.)

I have an Attorney General's Opinion addressed to Senator Haberman regarding an issue raised by Senator Haberman. (See pages 1088-90 of the Legislative Journal.)

Mr. President, Natural Resources Committee will have an Executive Session at eleven-fifteen in the senate lounge, and the Banking Committee will have an Executive Session at eleven o'clock in the senate lounge. Banking at eleven o'clock, Natural Resources at eleven-fifteen. That's all that I have, Mr. President.

SPEAKER BARRETT: Thank you, Mr. Clerk. Proceeding then to Select File, LB 140.

CLERK: Mr. President, 140 is on Select File. Mr. President, the bill has been considered on Select File. On March 2nd the Enrollment and Review amendments were adopted. There was an amendment to the bill by Senator Chizek that was adopted.

roll call vote and perhaps a check in before we get to that. I know we're under call.

SPEAKER BARRETT: Thank you. Roll call has been requested. Members are asked to again record their presence. Senators Withem, Labeledz and Lindsay. Thank you. Members, return to your seats for a roll call vote, in reverse order. Shall the bill be advanced? Mr. Clerk.

CLERK: (Roll call vote taken. See pages 1597-98 of the Legislative Journal.) 23 ayes, 16 nays, Mr. President, on the advancement of the bill.

SPEAKER BARRETT: Motion fails. The call is raised. Anything for the record, Mr. Clerk?

CLERK: Mr. President, just one item. I have amendments to be printed by Senator Baack to LB 257. That's all that I have. (See page 1598 of the Legislative Journal.)

SPEAKER BARRETT: Thank you. To the next bill on General File, LB 247.

CLERK: Mr. President, 247 is on General File. The bill was introduced by Senator...

SENATOR WITHEM: We advanced that bill, I'm hoping we advanced that bill.

SPEAKER BARRETT: I'm sorry. Senator Withem, you're correct.

CLERK: Mr. President, LB 588 was a bill introduced by Senator Chambers. (Read title.) The bill was introduced on January 18 of this year, referred to the Government, Military and Veterans Affairs Committee for public hearing. The bill was discussed on March 29 of this year, Mr. President. At that time Senator Labeledz had an amendment to the committee amendments. That amendment was adopted. Senator Smith then moved to reconsider the adoption of that amendment. That reconsideration motion is now pending, Mr. President.

SPEAKER BARRETT: Thank you. Is anyone prepared to handle the reconsideration motion which was filed by Senator Smith? Anyone authorized to handle it? Senator Chambers.

May 16, 1989

LB 257, 272, 272A, 272, 813
LR 216

the question about the agenda tomorrow and while Rome continues to burn may I suggest to you that there is...that there is a motion on the agenda tomorrow to suspend the rules to permit consideration on Final Reading of bills having a fiscal impact of a million dollars or less. I want the body to think about it this evening, it is published in the Journal. I continue to suggest to you that you are in very deep water, very deep water. As of this morning we had about 30 hours of Final Reading stacked up. It is humanly impossible for our two Clerk's to handle the amount of Final Reading now backed up in the three days, the first three days of the week. We need to start getting the logjam unjammed. I would hope that you would give that some consideration. I have shared it with a member or two of the Appropriations Committee and I don't believe there is any particular problem in their minds. So that is the reason for the motion tomorrow. Also, because some of you continue to ask, I continue to suggest to you that 813 and 814 must move tonight along with four other bills that are unamended at the present time and can move very quickly. We presently have seven amendments remaining on 813, seven amendments remaining on 814. I told the governor's office early on that this Legislature would do everything in its power to get the budget bills to her by Friday evening. That would give the executive branch ample opportunity to consider vetoing, over the weekend, and use some great care and diligence. As announced earlier, it would give this body ample time then to give a lot of consideration to whether the vetoes would be sustained or overridden. At the present pace it appears we may not be able to hold our end of the bargain and then all bets are off. All bets are off, I guarantee you. Any questions? Senator Landis.

SENATOR LANDIS: Other than if anybody is interested in getting some pizza I would make a list and a... we will be here for a long time.

SPEAKER BARRETT: Bully. Thank you Sir. The call is raised. Mr. Clerk, the next amendment.

CLERK: If I may, right before that, a motion from the Speaker regarding rule suspension. Amendments to LB 272 by Senator Ashford. Senator Scofield has amendments to 257. New resolution LR 216. (Read brief description.) New A bill, Mr. President, 272A by Senator Landis, appropriate funds to implement LB 272.

amendments that I understand he is considering withdrawing.

SENATOR CHAMBERS: I have considered it. I ask to withdraw them.

CLERK: Mr. President, Senator McFarland, you have the next motion, Senator, which is a suspension motion.

SENATOR MCFARLAND: I would like to withdraw that at this time.

CLERK: Mr. President, Senator Chambers would move to indefinitely postpone LB 224. Senator McFarland has the option to lay the bill over, Mr. President.

SENATOR MCFARLAND: And I would like to lay the bill over. Senator Chambers and I are going to visit and try and see if we can work out any compromise here, and I would ask it lay over.

SENATOR LANDIS: An admirable decision on both your parts, gentlemen, thank you. The bill will be laid over. Mr. Clerk, what is the next order of business? Senator Pirsch, the two items before yours on the Select File listing of the Speaker, LBs 257 and 240, both have their introducers absent at the present time, and unless I have a signal from somebody who is prepared to take up LB 240, the Chair would suggest we go to LB 87, to change provisions for consultations regarding plea bargains, and is prepared to call upon you to introduce that measure, if you are going to take that moment up, that issue up. Would you like us to stand at ease for a moment while you prepare or are you ready to go on with LB 87?

SENATOR PIRSCH: Ready to go.

SENATOR LANDIS: Are you ready to go? Fine, thank you. Mr. Clerk, would you read about LB 87 and inform us of that measure, please.

CLERK: LB 87 is on Select File. The first order of business are Enrollment and Review amendments, Mr. President.

SENATOR LANDIS: The Chair would normally call upon Senator Lindsay to adopt the E & R amendments. He is not there. Perhaps, Senator Pirsch, you would move to adopt the...Senator Scott Moore, the E & R Chairman emeritus, would you address the E & R amendments, please.

January 17, 1990

LB 257, 871, 888, 890, 894, 909, 917
924, 932, 946, 954, 978, 990, 992
1018, 1028, 1046, 1047, 1079, 1080, 1085
1104, 1107, 1115, 1118, 1162-1169
LR 240

Services Committee, all signed by their respective chairs. (Re: LB 1104, LB 992, LB 894, LB 1028, LB 932, LB 909, LB 1079, LR236, LB 1115, LB 1107, LB 890, LB 924, LB 990, LB 1118, LB 978, LB 1018, LB 871, LB 1046, LB 1047, LB 917, LB 1085, LB 954, LB 946, LB 888, LB 1080. See pages 358-59 of the Legislative Journal.)

Mr. President, new bills. (Read LBs 1162-1169 by title for the first time. See pages 359-60 of the Legislative Journal.)

Mr. President, a new resolution by Senators Moore and Hall. (LR 240.) It would propose an amendment to Article VII, Section 10 of the State Constitution. That will be referred to Reference Committee, Mr. President. That's all that I have, Mr. President. (See pages 361-62 of the Legislative Journal.)

PRESIDENT: Thank you. We'll move on to Select File, number 2, LB 257. Mr. Clerk.

CLERK: Mr. President, 257 is on Select File. The first order of business are Enrollment and Review amendments, Mr. President.

PRESIDENT: Senator Baack, would you handle that, please.

SENATOR BAACK: Sure, I would move that the E & R amendments be adopted.

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

CLERK: Mr. President, the first amendment I have to the bill is by Senator Pirsch. I have a note that she wants to withdraw, Mr. President.

PRESIDENT: Senator Pirsch, are you present?

CLERK: She's excused, I believe, Mr. President, until she arrives.

PRESIDENT: Okay, she is present somewhere. We'll withdraw them and check to make sure that's correct.

CLERK: The next amendment, Mr. President, is by Senator Withem. Senator, your amendment is on page...well, it was printed last year.

PRESIDENT: Senator Withem, please.

SENATOR WITHEM: I would withdraw that amendment.

PRESIDENT: It is withdrawn.

CLERK: The next amendment, Mr. President, is by Senator Baack. Senator, this is an amendment from last year as well. (Baack amendment, AM1305, is on page 1598 of the Legislative Journal, First Session, 1989.)

PRESIDENT: Senator Baack, please.

SENATOR BAACK: Yes. Mr. President and colleagues, I will explain just a little bit about the bill. I know we need a little refresher on this because it's been...you know, it was last year that we dealt with this last. What the bill deals with is payment bonds that are issued on state projects. That was...the impetus of the bill was that if a project that the state was involved in was going to cost \$15,000 or less, then the state could, at their discretion, the agency could, at their discretion, waive the filing of a payment bond. And that was the impetus of LB 257. DAS brought it to me saying that it was too costly to always take out bonds for these small projects, they would like a waiver on the projects under \$15,000. Senator Pirsch and Senator Scofield also brought bills to the committee that we looked at dealing with this same situation. Senator Pirsch's bill dealt with more local government projects, not just state projects, and Senator Scofield's bill also dealt with the issuance of either a letter of credit or a bond on certain projects. So what we did was we combined these ideas and we put them into 257 and we...what it says, there's a couple of other things that it does. It has...also has clarifying language in the statute that says that all of the state agency construction projects that cost more than \$15,000 must be advertised and awarded to the lowest bidder. I was not aware that all the agencies did not have to do that before, but under present statute that was only specified for DPI and for Department of Corrections. This now puts all the agencies under that. It also talks about the performance bond in this bill, and it says that on a performance bond, again, at the discretion of the agency, they can waive a performance bond on a project that costs less than \$15,000. And it also provides that all agencies have to have performance bonds on projects over \$15,000, again

to make all the agencies uniform rather than just DPI and Department of Corrections having to have these. And it also...the bill would also place all advertising procedures for state projects under the rule and reg making authority of DAS, and it would eliminate specific advertising requirements that are currently in place only for DPI and Department of Corrections. So that is what the bill does. Now, my amendment...what my amendment does is it says that for local projects, on local projects that cost \$5,000 or less, those local projects, at the discretion of the local board, they could waive a payment bond on projects of \$5,000 or less. There will be discrepancy. At the state level, they will be able to waive them on \$15,000 or less, at the local level only \$5,000 or less. The reason the two numbers are in there is because we felt that the state would have a better opportunity of covering a \$15,000 loss than would a local entity, so they would only have to cover a \$5,000 loss, if they did not issue a bond. It still...and it meets the criticism, the original criticism of the bill was that we were mandating that they not have a bond on these. This bill makes it very...it makes it voluntary, it makes it at the discretion of the local board or the discretion of the state agency as to whether or not they want to waive the bond requirements. I think that that's all that I would have to say on it. If someone has some questions about it, I would be glad to try and answer their questions. I had a number of discussions with different bonding people, and they seem to be fairly well satisfied with this process, as long as we kept the numbers at 5 and 15, which we have done in the bill. So, with that, I would agree to answer any questions, if anybody has any.

PRESIDENT: I have three lights on. Please advise if you wish to speak about the Baack amendment. Senator Withem.

SENATOR WITHEM: Yes, Mr. President, members of the body, I will support the Baack amendment and support the bill in the form that it will be in at the end of the...putting the Baack amendment on. We've had a number of bills like this in the last several years, and I just wanted to make a comment or two about this whole concept of performance bonds. Some of the very small contractors who can't get bonded want to be able to do work for the state, for the local subdivisions by showing some other form of security. The performance bond is a far, far preferable form of security because when a contractor gets a job, midway through that job, and if for some reason they cannot carry out what they agreed to perform, whether it's to build a new building, or

repair a building, or install some new equipment, or whatever it is, the bonding company will come in and they will stand then in the place of that contractor that went bankrupt and was unable to perform. That's a far, far preferable situation than having some other form of security there that the subdivision gets the money but then has to go out and rebid the project, probably at a higher rate at that time. The subdivision then has to go in and clean up all of the problems and stand in the place then of the contractor. And a performance bond is a far, far preferable method of security than any of these other types of securities that we deal with. Now what the bill does is give some relief for small, small projects; a small project for a subdivision of \$5,000, or the state at 15, that's probably acceptable. But to open this up any more and have other forms of security, other than performance bonds, in those sorts of situations is probably not a good idea. My original amendment would have put the limit at 10,000 for the state instead of 15, and that's probably quibbling over very small items. And, for that reason, I'm going to offer support to the Baack amendment and to the bill. But if it got much higher than that, I would recommend fairly strongly that we not do this, that performance bonds sometimes seem a hassle for the small contractors, they sometimes seem a hassle for the subdivision, but they are there to protect the taxpayers to make sure that when a project is contracted for that they...that there will, in fact, be a performance. And if a contractor cannot get bonded, maybe they ought not be bidding on this type of project, because they may not be able to complete it satisfactorily. So, for that reason, somewhat reluctantly, I guess, I'm supporting both the bill and Senator Baack's amendment because it makes the bill better than it was previously.

PRESIDENT: Thank you. Senator Nelson, did you wish to speak about the Baack amendment?

SENATOR NELSON: I'll speak on the...no, I believe I will...just...

PRESIDENT: All right.

SENATOR NELSON: Not much difference here. Senator Baack, I have a few questions to ask and things that come to mind. I'm not sure whether I will support the bill. And I certainly couldn't support more than the 15,000, and I, too, for...the same as Senator Withem. I would prefer that to go down to

10,000 at least, and we're nitpicking over a small amount of money when we're talking large amounts in the end result. But for the services for the bonding company for municipalities, for the work that...I think a bond is one and a half or two percent, not a lot of money, 225, 250 dollars. And the legal work and the work that the bonding company does in regard to lien waivers and legal documents and so on, it would seem to me that yet the 225, 250 dollars would be a minimal amount for the protection of the city. I had a very firsthand incident that went on for years, and I think it's maybe finally settled. The bonding company really didn't come through, a project in a small town west of Grand Island, and it fell back on the company then, the subcontractor, and eventually that company went bankrupt and the other fellow, and the products limitation of four years had ran out. The attorney left it sit on his desk until the time limit went out. It was a big mess. And I would be very...I'm very hesitant to support the bill for that reason. I see what you're coming at and a minimal amount. But again, on the other hand, for the small amount of the charge, and I know some small contractors it's a way that maybe they can get a job, maybe they can stay in business. Do you have any thoughts on the 225, the 250, the legal fees and so on that are provided by the bonding company?

PRESIDENT: Senator Baack, would you respond, please.

SENATOR BAACK: Yes. Senator Nelson, you know, I agree with you. In many cases, it is quite a small amount. But for some of the small contractors and stuff cash flow is a very difficult thing for them when they're bidding on these contracts. And in talking...the testimony that came before the committee, they demonstrated to us that that's very difficult to come up with that cash right up front sometimes on some of these projects. So it creates some cash flow problems for some of these small entities. But the thing that needs to be stressed is that this bill is not mandatory. You know, the local governing agency, if they decide that they want to have a bond, they can require a bond. They can do that. But in a case where the project may be...and in local entities it has to be less than \$5,000, the project. So, if they decide it doesn't need a bond, they can do that, but they can still require a bond if they want to. So there is some discretion in there.

SENATOR NELSON: Thank you.

PRESIDENT: Senator Baack, would you like to close on your amendment first?

SENATOR BAACK: No, I...well, I would, yes. I would like to thank Senator Withem for his explanation of the bonding and the irrevocable letter of credit. We had a number of discussions about that in the committee and there was some good testimony. I learned a lot about bonding and irrevocable letters of credit that I didn't know before. So I think that...I think this bill is very reasonable right now at this level. I will be the first to tell you that if we run into some problems with it, we will be back to change that. But I don't think we will. I think that the local entities can use their discretion in this and require the bonds when they think they're necessary, and I don't think we're going to create any real problems here. So, with that, I would just urge the adoption of the amendment. Thank you.

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

CLERK: 26 ayes, 0 nays, Mr. President, on adoption of Senator Baack's amendment.

PRESIDENT: Thank you. Senator Baack, on the advancement of the bill.

CLERK: Mr. President, I have an amendment to the bill by Senator Scofield. Senator, this is the amendment you had filed with me last year. (See page 2426 of the Legislative Journal, First Session, 1989.)

PRESIDENT: Senator Scofield, please.

SENATOR SCOFIELD: Thank you, Mr. President, and members, we did work on this amendment last year with Senator Baack's committee counsel. The reason I bring you this amendment is because of the problems that I think potentially all states are faced with in terms of environmental liability. Senator Baack just talked about the likelihood of taxpayers sometimes ending up picking up the tab if we don't have adequate protection for them whenever a license is issued in the state. This amendment, and you have a handout before you that was just passed out of what essentially the amendment has to do, but it has to do with the bonding

requirements for proof of responsibility on permits and licenses, only those issued by our State Environmental Protection Act. And it...so, if you get a permit or a license issued by the Department of Environmental Control, this amendment would apply. It is a lengthy amendment only because of the whole...the language had to be changed throughout the act. But the substantive language is on page 20 of the amendment. It's a very simple concept. What the language says is that if the financial responsibility is \$1 million or more, for any permit or license granted, then proof of financial insurance may only be made by a surety bond. Any permit or license valued less than \$1 million proof of financial responsibility may be made by other options listed in the Environmental Protection Act. And other acceptable forms of proof are pretty standard, deposit of cash, escrow account, a bond of the applicant without a separate surety upon satisfactory demonstration to the director that such applicant has the financial means sufficient to self-bond. The purpose of this amendment is to provide additional protection on licenses or permits which have been valued by the Director of the Department of Environmental Control as potentially being...costing up, over \$1 million or more in the event that the "permitee" or licensee should abandon or default or otherwise be unable to meet the license or the permit. And let me give you an example, for instance, that would come out of my own district but could apply to other kinds of activities that have already happened in this state where essentially taxpayers have been left holding the bag. In my district, we have a uranium mine. Other states have had history of companies going bankrupt or whatever, walking away and their bonding company defaulted and here sat the taxpayer with the responsibility for picking that up. Senator Baack has a hazardous waste site coming into his district. As we continue to build more and more sites, governed by the EPA act, it's important right now that we get out front and protect the taxpayer and make sure that we've got good, solid financial assurances behind these very expensive structures so that the taxpayer doesn't get stuck in the event that something goes wrong. And right now I think our requirements are too lax and, frankly, are much less stringent than what a lot of other states are starting to require. The whole area of environmental liability is just emerging and many of us have been concerned, over the years, about the lack of super fund money, for instance, to take care of problems, say, in Hastings or Grand Island, and so it's just an emerging area that I think we need to get on top of. We just finished a

report this summer, as a matter of fact, that was very well done by Jeannie Glenn-Heck, in the Appropriations Committee, looking at the whole area of environmental control and specifically the ability to meet financial responsibility. That's becoming an increasingly critical issue for environmental protection agencies. And there is a general accounting office study which pointed out that the lack of available or affordable insurance makes financial responsibility tests especially important. A lot of these companies cannot get adequate insurance. If you look at, for instance, the State of Illinois, their statutes show that other...it's an illustration of another state that has very intensive proof of financial responsibility criteria based upon the type of licensee and the volume and design of a particular facility. So it seems to me this isn't anything outrageous, and it's only prudent to require that the Director of Environmental Control require a surety bond if the amount of the financial responsibility is valued at \$1 million or more. If you look at the increasing concerns that we have over insurance and financial responsibility within the whole developing area of environmental industries, and usually they tend to center around disposal facilities, but there could be other instances where this would apply as well, it seems to me that we, as state legislators, have an obligation to further ensure that "permitees" and licensees would be adequately...could adequately assure the taxpayers of this state that they could meet any closure costs, or that if anything goes wrong with one of those facilities, it will, in fact, be covered by the developer rather than by the taxpayer. So I would suggest that the provisions in this amendment are very uncomplicated, regardless of the length; and compared to some of the tests of financial responsibility that other states are requiring, that this is a prudent step in terms of protecting the taxpayers in line of the kinds of environmental disasters that we might be faced with paying for down the road. I think we probably need to continue to monitor this thing, and there is probably a need to look a little more carefully than this at the whole area of environmental liability. But this is a good first step. If you haven't had a chance to look at the report that was put out this fall on environmental liability and what the implications are, even for us as a state government, I would recommend that to you. It is very, very well done. With that explanation, I would be happy to respond to questions, and otherwise stress once again that, at this point in the day, pollution insurance is scarce and it's expensive and we just need to make sure that people demonstrate financial

responsibility through some fairly strict language so that we can protect ourselves and our constituents as taxpayers from getting stuck with what could be a very expensive tab down the road. Thank you.

PRESIDENT: Thank you. Senator Landis, please, followed by Senator Baack and Senator Morrissey.

SENATOR LANDIS: Thank you, Mr. Speaker. I'm trying to understand and I perhaps would need some clarification. Let me see if I understand the situation, Senator Scofield, and then I'll give you a moment to respond. I read your brief outline of the amendment. It suggested that we needed a million dollar surety bond for those in which the financial responsibility was over \$1 million, and that the appropriate form was a surety bond and only a surety bond, that was the right way. My question is this, and I will give you some time to respond, this...it is possible, under this amendment, to have the following scenario, which I think might be counter-productive. You could have an entity that had an obligation to show financial responsibility of a million dollars, they have a million dollars in cash in a reserve, but that would not be sufficient, they would need to get a surety bond. In the event they could not find a surety bond to assure that they could pay for a million dollars loss, which, in fact, they could because they had a million dollars cash, they could not go forward as a project. If that is true then the whole issue turns on the availability of surety bonds, which are markets that are as volatile as the insurance market for liability is as well, meaning it's possible that surety bonds cannot exist, or that companies are unwilling to take them on, or, as we found in another situation for a million dollars of liability insurance for a hospital, the premium for one year was \$1,250,000. In other words, if we have one and only one mechanism of security, and that's a surety bond, if there is any fluctuation in the surety bond market, if it dries up, a permit holder who had a million dollars in cash and reserve would be out of luck because they couldn't meet our one and only one mechanism for financial responsibility, which is tied to a relatively volatile and somewhat unpredictable market, and that market is the surety bond market. Now, I don't say that's a reason to vote against the amendment, but I'm trying to scratch my head and say is the surety bond the only appropriate mechanism financial...for financial responsibility for somebody who is indeed financial responsible, has, let's say, a million dollars in cash, but who would be forced to pay a million-five

in surety bond premiums, or, in fact, could not find a company who would choose to write them as a surety. Senator Scofield, I've got some time left, it's your chance to respond.

PRESIDENT: Senator Scofield, please.

SENATOR SCOFIELD: Thank you for raising those points, Senator Landis. And I think your discussion very accurately points out the difficulty and the dilemma that we face as we try to represent the interests of our taxpayers because of the lack of...well, the best example is the insurance out there, and in some cases you can't get it. So what we are allowing to happen right now is for people to come in that even insurers won't come in and underwrite, and you may be right about the volatility of that market. But I would suggest to you that there probably isn't always an adequate way even to monitor the instance of having cash on hand. And the long-term cost of some of these mistakes to the taxpayer are going to be very great, and I would suggest that it might be well...at this point, yes, the best thing that we have been able to discover to really guarantee the taxpayer that they're not going to pick up a big ticket item down the road is to require a surety bond. We now, as a matter of fact, on some very complicated and expensive projects, accept a letter of credit.

PRESIDENT: One minute.

SENATOR SCOFIELD: We have foreign investors, we can't determine what percentage of this uranium mine, for instance, is owned by foreign people, but we do know it's owned by Canadians, West Germans and Koreans. What do they care if they leave a ground water disaster in western Nebraska? For instance, there are other examples around of where I think we've just stacked the deck against the taxpayer in our rush to permit and license some of these places. And I think the other advantage here, too, is that the security bond involves extra background checks on companies, check their past environmental records that you don't get. So even if you do have that million bucks, and you walk in and say, hey, I've got the million right here in the bank, who knows it's going to be there tomorrow. You need the background check, you need the stringent requirements to really protect the interests of the taxpayer. I would cite to you, for instance, what Illinois requires, they are very specific requiring proof of financial responsibility for hazardous waste disposal licensees. They lay out criteria in terms of a racial or total

liabilities to networks, less than 2.0, a ratio of the sum of net income plus depreciation, a lot of other things that you probably don't want me to go over here on the floor. They look at net working capital, tangible net worth, tangible net worth of at least 10 million bucks. We don't do that very much in Nebraska, not to my satisfaction at all.

PRESIDENT: Time.

SENATOR SCOFIELD: I think what we're doing right now is jeopardizing the taxpayer. I think it's wise we adopt this.

PRESIDENT: Thank you. Senator Baack, please, followed by Senator Morrissey.

SENATOR BAACK: Yes, Mr. President and colleagues, I rise in support of the amendment, I think. I'm not quite sure, because I'm not sure, after listening to Senator Landis and thinking about this, I'm not sure exactly what we're getting into here and I think that Senator Landis's scenario could happen, very easily could happen. So we might be running into some problems here. But I am going to support the amendment. I think that if we do create some problems here, there are ways of dealing with those problems as we...as they come up. If we do run into some problems, we can deal with those down the road, if we run into some problems with this. But I think that what Senator Scofield is trying to do is admirable. I think what she's trying to do is provide some protection there for the public in some of these environmental issues. She's trying to provide some protection there, some liability protection. So I think that's admirable. I'm not absolutely convinced that the surety bond is the absolute way we should go, but I think it's one method of looking at it. But we could create some problems with it later on down the road. But I'm willing to support it for now. And, if we run into problems down the road and have some problems with this, I certainly will bring back legislation that would change that in the future. But I think what we're...the goal is laudable. And, hopefully, this gets us to that goal. So I would urge your support of the amendment. I'm going to do so, too. Thank you.

PRESIDENT: Thank you. Senator Morrissey, please, followed by Senator Scofield.

SENATOR MORRISSEY: Thank you. Mr. President and members, I'd

rise in support of Senator Scofield's amendment simply because of some of the things I have seen developing, some of the trends. There seems to be a trend in the country for...in the case of, say, waste disposal, hazardous waste disposal of one sort or another for these large corporations that generate some of this waste to support or set up even a small company to dispose of that waste. And that small company, many times, in all the reading I have been forced to do in the last year or so, is on financially shaky grounds, and thus, if through the storage of this waste, or whatever, something should happen and they go under, then what happens? These folks go under, declare bankruptcy, they're gone. And they may have had a history of doing this in the past. I think what Senator Scofield is trying to do is correct, we need to study these folks, we need to study their history, we need to study their past and we need to take a look at some of these alarming trends that are moving across the country in these disposal facilities. So I would support Senator Scofield in her effort.

PRESIDENT: Thank you. Senator Scofield, followed by Senator Owen Elmer.

SENATOR SCOFIELD: Thank you, Mr. President. I wanted to just continue this discussion that Senator Landis raises, because the point he makes is...I take seriously. But from what we have looked at, at this point, and maybe Senator Landis can respond, I think he's preoccupied at the moment, but the only thing that we can find that involves the kind of background check that I think is in the best interest of taxpayers, to make sure that they don't get stuck with the tab, Senator Landis, is a surety bond. We haven't been able to find anything else that satisfies that kind of a requirement. And it seems to me that there is always the temptation to come in and take a risk and say, well, if everything goes wrong, I'll be gone and the good old taxpayer can be there and they can pick it up. And often that happens 10, 20, 30 years down the road. And we are seeing some examples of that right now with other environmental accidents that you and I and the people we represent are going to pay for. And so this is an initial step in that direction to try to assure that we have thoroughly checked out these activities and to make sure that the polluter pays, that the taxpayer does not pay. If you'd care to have the rest of my time to comment on that, if there is another mechanism, I'd like to hear about it. But we haven't been able to find anything else.

PRESIDENT: Senator Landis.

SENATOR LANDIS: Members of the Legislature, upon reflection, I was persuaded by Senator Scofield's argument that the present circumstance is sufficiently without guidelines, limitations, standards or examination, that we really should tighten things up. And, on that basis, I'll vote for the Scofield amendment. I do think the Scofield amendment puts us perhaps in the situation of being at the mercy of a private entity to exonerate the public interest. In other words, if St. Paul Surety Company stops writing ecological risks or surety bonds, the State of Nebraska has no way of granting a permit, under this system. Our ability to grant that permit comes to an end because that which we require, a surety bond, doesn't exist in the marketplace. Well, perhaps an alternative should exist, but that's maybe for a better day...another day to be improved. With respect to a background check, it's a good idea, but again what you're doing is asking the private marketplace, and you're placing your assurance in the private mechanism which may or may not exist, which may...well, which we do not review, which we do not standardize, which we have no greater faith in, other than that that is a practice of their business to do. We have no oversight of their background check because it's not our background check. If the argument is we should have a background check, why not ensure it by doing it in house, making this our function and our responsibility rather than relying it on...in the private marketplace. In summary, let me say that although I think the amendment could be improved by the existence of an alternative mechanism of showing financial responsibility and therefore not placing ourselves at the mercy of the private marketplace, I do think the amendment is a better piece of public policy than the public policy we have today. And, for that reason, even though I think it draws the net a little too tight and limits some options that are reasonable, it's probably better than the situation today in which items as hard to check on and as easy to manufacture as a letter of credit could be used to secure financial responsibility when, in fact, there is very little reason to believe, it seems to me, that a letter of credit is an adequate guarantee of the taxpayer being relieved of responsibility because there will be some private entity to respond to a need. In that sense, the Scofield amendment probably is better public policy than what we have today.

PRESIDENT: Thank you. Senator Owen Elmer, please.

SENATOR ELMER: Thank you, Mr. President. It seems we have a bill here that was to allow small companies to be able to bid on state projects, if they're less than \$15,000. We have added here another thing that is requiring a million dollar bond, which I don't think is available. And I wonder, would Senator Scofield answer me a question. Would this apply to someone that's trying to set up a regional landfill, for example?

SENATOR SCOFIELD: (Mike not activated immediately.) ...it applies. If you need to get a license or a permit from the Department of Environmental Control, it does apply.

SENATOR ELMER: I see. I think these might be two separate subjects and that this one should have a public hearing and see what the ramifications are. I'd ask the Chair for a germaneness ruling on this, please.

PRESIDENT: Okay, thank you. Senator Scofield, would you like to speak about the germaneness of the situation.

SENATOR SCOFIELD: Yes, Mr. Speaker, thank you, or Mr. President. I don't see any problem with germaneness on this particular issue. It is simply bonding and changing bonding requirements, and that's all it is. I think it fits completely within our germaneness standards.

PRESIDENT: In regard to the germaneness of the situation, there is...one could go either way, I suppose, and be happy with it. But they both have to do with bonding, which is the same. There is a large variance in the amount that we're talking about, they're also in different sections of the bill, 181 goes to the administrative department, and 83 goes to the state institutions. However, they both seem to deal with construction of a sort; one we think of mostly as above ground, and the other probably mostly below ground. But we're still talking about bonding. So I'm going to rule that it is germane, and you can take it from there. Were you through, Senator Elmer? Okay. Senator Schmit, please.

SENATOR SCHMIT: Mr. President, speaking to the germaneness rule, I oppose the position of the presiding officer that it is germane. It's a totally different chapter and section of the statute. When you speak in reference to the bonding issue I just want to point out that there is a considerable difference

in the intent of the bill. The original bill dealt with a minor size of contract, and certainly a million dollars is not a minor contract, it's a totally different issue. I want to add also that you would not be able to buy that kind of a bond. You'd have to...you'd no doubt have to put up a million dollars cash. It's easy for us to casually make these requirements on this floor and then find out that business cannot function under those kinds of conditions. I think that at the very least, as Senator Owen Elmer has pointed out, this is a major deviation from the original bill. It ought to be sent to the committee for a hearing, it ought to be approached in a totally different procedure than we are approaching. I object to the ruling based upon the fact that it is...does not address the sections of the bill contained in LB 257 and ask that the Speaker's decision be overridden.

PRESIDENT: That's a motion that the Speaker's decision be overridden. We're speaking about that at the moment. Senator Hall, did you wish to speak about that? Okay.

SENATOR HALL: Yes, Mr. President. I rise respectfully to support Senator Schmit's motion to overrule the Chair on this issue. The bonding issue, as he has stated already, is clearly, I think, outside the germaneness of the bill. And it also, from listening to the discussion, leads me to believe that a bond is an end all in itself and guarantees everything. I mean, clearly a bond does nothing more than what those who are responsible for it, oversight and regulation of it, would allow. I can just go back a year or two, to the discussion that we had, for example, on a construction project, namely the pharmacy building at the med center. All those contractors were bonded as well. The taxpayers ended up rebuilding that building, or at least the cost of rebuilding that building to ensure the safety there of a structure less than 15 years old. So those issues are...the bond itself is only as good as those who have oversight and regulation. If the issue is one of how is it going to be managed, administered or whatever, I think that, for my money, I would allow some flexibility in the operation, as Senator Landis stated earlier, so that those individuals who have a good track record in regards to running these types of facilities, as opposed to someone who basically has the ability to get a bond or require that a bond would have to be given, is basically the threshold at which someone can enter to bid. That's really what you're doing. I don't think that the nature of some of these types of facilities would allow a bond under, although,...a

million dollars, even though Senator Schmit says the bill deals with small operations, I have to think that, unfortunately, in today's age that a million dollars isn't all that much money anymore. With that, I would respectfully vote to overrule the Chair's germaneness issue. Thank you.

PPRESIDENT: Thank you. Senator Elmer, please, followed by Senator Scofield.

SENATOR ELMER: Thank you, Mr. President and Senator Schmit and Senator Hall. The original intent of this bill is to give an opportunity for small businesses to bid on state projects. That's the original intent and the purpose of LB 257. The intent of this amendment is to provide environmental...some sort of an assurance that environmental cleanups would be handled by this bond that I don't think can even be bought. Therefore, I would suggest that this is entirely two different subjects and departs substantially from the original intent of the bill and would certainly support the overrule of the Chair motion.

PRESIDENT: Thank you. Senator Scofield, please.

SENATOR SCOFIELD: Thank you, Mr. President and members. If you look at this amendment carefully, it doesn't really go out into the directions I think that is being represented here by the people who are making the motion to overrule the Chair. We're simply looking at bonding mechanisms here and ways of protecting the public interest. The fact that we happened to set a particular threshold here for certain projects that require a particular bond in no way goes beyond our germaneness rules in this body. And I would suggest to you beyond that that it is being suggested here that you can't get a bond for a million dollars. I have a brother-in-law, I guess now I have to call him a brother-in-law once removed, but nevertheless he is still in the construction business. It's not that difficult to get a million dollar bond and so I don't think that's a valid argument at all. Also, the example given about the pharmacy building, frankly, the problem we ran into with the pharmacy building was the statute of repose which essentially lets people off the hook after 10 years. We ought to look at that, as well, to protect again the taxpayers. Finally, I guess I would make the point here that this is not a vast departure from the purposes of 257, which I perceive is protection of the public through the bonding mechanism and I would suggest to you that if no company, if no surety will write an environmental bond for one of these kinds

of projects that we're developing, we need to look at that project again very, very closely. I can't...otherwise that puts the state in a very difficult position and the taxpayers that we represent, and so I think this is absolutely consistent with the rest of the bill. It's simply the purpose of bonding to protect the public interest and I would urge you to sustain the Chair. Thank you.

PRESIDENT: Thank you. Senator Lamb, please, followed by Senator Elmer.

SENATOR LAMB: Well, Mr. President, members, I would only make the point that, since there seems to be a real question as to the germaneness, that there is ample opportunity at this point to still introduce a bill rather than hooking it onto this bill, and would suggest that that might be the proper way to go at this time. Thank you.

PRESIDENT: Thank you. Senator Elmer, please.

SENATOR ELMER: Thank you, Mr. President, I think the point that we need to make here is that many projects that do not present an environmental threat, those bonds can be bought for, but we have many, many entities out there trying to establish regional landfills and projects like that that the state desperately needs. And this bond, I don't believe would be available for that type of a construction and the original bill is a very laudable thing, aimed at letting someone come in and do a drywall project or some divisions in the Capitol that require less than \$15,000. This particular thing is entirely different and would require this large bond. I think it needs to be looked at, needs a public hearing, needs to find out these questions about whether or not this fiscal responsibility is even available, or a bond such as this. And for those reasons, I'd certainly ask the body to overrule the ruling of the Chair.

PRESIDENT: Senator Scofield, I would call on you, but the Clerk reminds me that you have spoken once about the overruling of the Chair motion, so, sorry about that. I shouldn't have let Senator Elmer speak, but I made a mistake. Senator Schmit, you may close on your motion to overrule the Chair. While we're waiting for Senator Schmit, Senator Lindsay, you wished to be recognized. Just a moment, Senator Schmit, please.

SENATOR SCHMIT: Yes, Mr. President, members, I...

PRESIDENT: Senator Schmit, just a moment. Senator Lindsay was rising for a point of personal privilege. State your point, please.

SENATOR LINDSAY: Thank you, Mr. President. This morning I had a very unique opportunity to witness one of the miracles in life. At seven-sixteen this morning, John William Lindsay was born, seven pounds, four ounces. Both mother and child are doing very well, both sleeping right now. The father is kind of running on adrenaline, and, for the record, I guess I'd point out that he was due January 22, he was born five days early, obviously, takes after his mother as the Sergeant at arms can attest, his father is never on time. Just wanted to share that with you, and I guess there are some doughnuts that are going to be going out around. (Applause)

PRESIDENT: We certainly do congratulate you and thank you for letting us in on the secret. We appreciate it. Senator Schmit, now on your closing to overrule the Chair.

SENATOR SCHMIT: Mr. President, I always leave it to Senator Lindsay to upstage me. Anything I'm going to say is kind of anticlimactic after that, and, Senator Lindsay, I want to add my congratulations and look forward to your making many similar announcements over the next 20 years. And I'll be looking for a cigar also, I might add. I would just like to reiterate Senator Lamb's argument. I believe the proposal is not germane, Senator Scofield, and I believe that it would be much better if we were to allow you to introduce a bill which could come into the committee, the hearing could be held, the public could testify. There is plenty of time for that to be done yet and I believe the public could be far better served rather than for us to act precipitously here on an issue which I believe has an impact far beyond what it might appear to be at this time. And so with all due respect to Senator Scofield's good intentions, I would ask that you support my motion to overrule the Chair and follow a more normal course for the implementation of this kind of language into law. Thank you.

PRESIDENT: Thank you. The question is, shall the Chair be overruled? All those in favor vote aye, opposed nay. As of the presence of the members of the Legislature, 22 are required to overrule the Chair at this point. Have you all voted? Senator Schmit.

SENATOR SCHMIT: Mr. President, I reluctantly ask for a call of the house, please. (inaudible)...again. I'll accept roll call votes, call in votes, pardon me. I'll accept 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: 13 ayes, 1 nay to go under call, Mr. President.

PRESIDENT: The house is under call. Will you please return to your seats and record your presence. Those not in the Chamber, please return to the Chamber and record your presence. Call in votes are authorized. Senator Scofield.

SENATOR SCOFIELD: Roll call vote.

PRESIDENT: Excuse me?

SENATOR SCOFIELD: I would request a roll call in reverse order.

PRESIDENT: Okay, a roll call vote has been requested. Thank you. Senator Schmit.

SENATOR SCHMIT: Would it be possible to explain the issue on which we are voting because a large number of the members have been off the floor and may not be knowledgeable about the issue. Can you give an explanation?

PRESIDENT: Senator Schmit, it will be stated that the purpose of the vote is to overrule the Chair. Please record your presence if you are here. Senator Beck, would you record your presence, please. Senator Ashford. Senator Haberman. We're looking for Senator Ashford, Senator Haberman and Senator Chambers. We are all present now with the exception of those who are excused. The question is, shall the Chair be overruled? The question of germaneness was brought up and the Chair ruled that the Scofield amendment was germane and the question now is, shall the Chair be overruled? Still requires 22 votes to overrule. A roll call vote has been requested. Mr. Clerk. Senator Pirsch requests reverse order.

CLERK: (Read roll call vote. See pages 363-64 of the Legislative Journal.) 23 ayes, 15 nays, Mr. President, on the

motion to overrule the Chair.

PRESIDENT: The Chair is overruled. The call is raised. The question now is the advancement of the bill. Senator Baack.

SENATOR BAACK: Yes, well, I hope we haven't gotten away from the idea of the bill. We kind of got off on a different tangent here on the environmental things, but what the bill does is the bill talks about payment and performance bonds and it says that the state on projects costing less than \$15,000 can, at their discretion, waive those bonds. Any state agency can do that, and it also provides that any local entity on a project that costs \$5,000 or less has the discretion to waive a bond in that case. What the bill is intended to do is to allow some smaller contractors an ability to bid on smaller state projects which they have been precluded from doing before because they had trouble with their cash flows in meeting the bond requirements. That is what the bill does right now. With that, I would just urge the advancement of the bill. Thank you.

PRESIDENT: Any further discussion? If not, the question is the...Senator Scofield.

SENATOR SCOFIELD: Thank you, Mr. President, my light may be defective here. I would urge you to advance this bill. It's a good bill, it's a good bill for small contractors. It's very important to the kind of communities I represent, but I'd also like to put in a plug for little John William Lindsay and others like him because the issue that we've just finished discussing is very important to their future. And, as Senator Landis has pointed out, and I agree with him, the amendment I offered is better public policy than we have today and if you're not aware of how wide open things are out there right now, you need to be aware of that and we need to address that. Given a short session, I'm reluctant to say I'm going to bring in another bill, but with the kinds of things that are happening environmentally in this state, perhaps that should be a priority even in a 60-day session. And so, once again, I would urge to take a look at that issue and take a look at the report that has recently been completed and we need to address that issue before we go much further in developing some of these facilities that, frankly, can't get insurance, probably can't get a bond, and you and I and the little John William Lindsay and his peers are going to pay for if we don't clean up our act in Nebraska. But with that, I would say for today let's just advance this bill.

Thank you.

PRESIDENT: Thank you. Senator Baack, would you like to close on the advancement of the bill? Okay, the question is the advancement of the bill. All those in favor say aye. Opposed nay. It is advanced. Move on to Senator Landis's motion. Mr. Clerk.

CLERK: Mr. President, Senator Landis would move to suspend the rules and permit the reading of LB 272A on Final Reading today.

PRESIDENT: Thank you. Senator Landis, please.

SENATOR LANDIS: Mr. Speaker, members of the Legislature, I know it may not show sometimes but, in fact, I did go to law school years ago. At the end of the sixties, I went into law school and about 1971 I graduated. Then we went through a ritual called the bar exam which is a two-day very strenuous examination and I went through that test and there was no way to tell whether you were doing well or not. And, of course, there were lots of stories as to who failed and who didn't and what went into failing or not, and if you didn't pass it, you had to wait six months and it was really a rather traumatic experience. I had never had, in all of my law school career, a failure of, oh, the ability to sleep or eat or a real case of nerves. I didn't even have it when I was getting ready for the bar exam. But after you had taken the bar exam you had to wait six weeks to find out the results. Now they had done the grading in a relatively quick period of time, I think in the first week, but for some reason you had to wait six weeks to find out. And I had had three years of law school, I had this very vital necessary professional credential which was at risk, I had taken the exam, there was nothing I could do and now the clock was running for six weeks. Midway through the six weeks I wound up going to the doctor, asking if I had developed an ulcer because I couldn't eat, I couldn't sleep, I had pains in my stomach and I thought, I don't know what is happening but I have developed an ulcer. And in the middle of the examination the doctor was trying to explain why I was having these feelings because he said, you know, there is nothing wrong with you, Dave. You don't have an ulcer. And I told him I was in the middle of waiting for my grades from the bar exam. And he said, well, that's it. You know, there is just a real difficult, physical emotional problem when you've got this situation that you're helpless to do anything about, but you've got to wait and let

January 19, 1990

LB 87, 159, 163, 163A, 220, 240, 257
313, 315, 397, 399, 486, 488, 488A
756, 856, 911, 963, 1002, 1026, 1033
1037, 1050, 1051, 1090, 1108, 1109, 1141
1168, 1181, 1190
LR 239, 240

PRESIDENT: Okay. Thank you. Senator Ashford, you are next, but may I introduce some guests under the south balcony, please. We have from District 22, which is Senator Robak's district, Dianne Foltz of Platte Center and Betty Grant of Columbus, Nebraska. With them are three AFS students, Jean/David Miquel of Paris, France, and Patty Cervantes from Bolivia, and Shane Walker from Australia. Would you folks please stand and be recognized. Mr. Clerk, you have something for the record?

CLERK: I do, Mr. President, very quickly. Enrollment and Review reports LB 163 to Select File, LB 163A to Select File, those signed by Senator Lindsay as Chair. Agriculture Committee, whose Chair is Senator Rod Johnson, reports LB 856 to General File. (See page 429 of the Legislative Journal.)

Mr. President, Senator Coordsen, as Chair of the Business and Labor Committee, has selected LB 313 and LB 315 as the committee priority bills for the year. And Enrollment and Review reports LB 87, LB 220, LB 240, LB 257, LB 397, LB 399, LB 486, LB 488, LB 488A, LB 756 all correctly engrossed. Those signed by Senator Lindsay as Chair. (See pages 430-33 of the Legislative Journal.)

Mr. President, notice of hearings from the Education Committee and from the Natural Resources Committee, signed by the respective chairs. (Re: LB 1190, LB 1181, LB 1168, LB 911, LB 1050, LB 1090, LB 1033, LB 1037, LB 963, LB 1026, LB 1108, LB 1109, LB 1141, LB 1002, LB 1051, LR 239 and LR 240.) And Senator Haberman has amendments to be printed to LB 163. That's all that I have, Mr. President. (See pages 433-34 of the Legislative Journal.)

PRESIDENT: Senator Ashford, did you wish to speak on the first set of Kristensen amendments?

SENATOR ASHFORD: I call the question.

PRESIDENT: Oh, you call the question. The question is, shall debate cease? All those in favor...Do I see five hands, first? I do. The question is, shall debate cease? All those in favor vote aye, opposed nay. What do you think, Senator Ashford? Record, Mr. Clerk.

CLERK: 16 ayes, 0 nays to cease debate, Mr. President.

January 26, 1990

LB 87, 257, 397

CLERK: (Read LB 87 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 87 pass? All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

CLERK: (Read record vote as found on pages 518-19 of the Legislative Journal.) 39 ayes, 0 nays, 1 present and not voting, 9 excused and not voting, Mr. President.

PRESIDENT: LB 87 passes. We're going to skip LB 220 and go to LB 257.

CLERK: (Read LB 257 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 257 pass? All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: (Read record vote as found on pages 519-20 of the Legislative Journal.) 41 ayes, 0 nays, 8 excused and not voting, Mr. President.

PRESIDENT: LB 257 passes. LB 397.

CLERK: Mr. President, I have a motion on the desk.

PRESIDENT: Okay.

CLERK: Senator Schmit would move to return the bill for specific amendment.

PRESIDENT: Senator Schmit, please.

CLERK: I have an amendment from Senator Schmit first. Mr. President, I then have a motion from Senator Labedz to return LB 397 to Select File for specific amendment.

PRESIDENT: Senator Schmit withdrew his motion. We now have Senator Labedz's motion. Senator Labedz, please. (Labedz amendment appears on pages 520-23 of the Legislative Journal.)

SENATOR LABEDZ: Thank you, Mr. President. First, before I go

January 26, 1990

LB 87, 257, 397, 486, 534, 601, 730
756, 818-820, 1009A

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 819 pass? All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

ASSISTANT CLERK: (Read record vote as found on page 530 of the Legislative Journal.) The vote is 45 ayes, 0 nays, 2 present and not voting, 2 excused and not voting, Mr. President.

PRESIDENT: LB 819 passes. LB 820.

ASSISTANT CLERK: (Read LB 820 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 820 pass? All those in favor vote aye, opposed nay. Record, please.

CLERK: (Read record vote as found on page 531 of the Legislative Journal.) 47 ayes, 0 nays, 2 excused and not voting, Mr. President.

PRESIDENT: LB 820 passes. (Gavel.) If I could have your attention a minute, Speaker Barrett has an important announcement for you.

SPEAKER BARRETT: Thank you, Mr. President. Very briefly, to all members, the video taping will take place now. We'll complete it in Room 2102. At the conclusion of Final Reading, those of you who have not taken advantage of the taping, which is now in progress, please go over to 2102 at your leisure. This will be the last time that they are here in the building. Thank you, Mr. President.

PRESIDENT: Thank you. While the Legislature is in session and capable of transacting business, I propose to sign and do sign LB 87, LB 257, LB 397, LB 486, LB 756, LB 534, LB 601, LB 730, LB 818, LB 819, and LB 820. Mr. Clerk, anything for the record?

CLERK: Mr. President, I do, thank you. I have notice or report of registered lobbyists for the period January 19th through January 25. New A bill by Senator Moore, LB 1009A. (Read by title for the first time. See page 532 of the Legislative Journal.)

January 26, 1990

LB 87, 240, 257, 397, 486, 534, 567A
567, 601, 730, 756, 818-820, 960A
LR 248

CLERK: 25 ayes, 0 nays, Mr. President, on the advancement of 567.

PRESIDENT: LB 567 is advanced. Do you have anything for the record, Mr. Clerk?

CLERK: Mr. President, I do. New A bill, LB 960A offered by Senator Withem. (Read by title for the first time. See page 536 of the Legislative Journal.)

Bills have been presented to the Governor that were read on Final Reading this morning, Mr. President, as of 10:50 a.m. (Re: LB 87, LB 257, LB 397, LB 486, LB 756, LB 534, LB 601, LB 730, LB 818, LB 819, and LB 820. See page 536 of the Legislative Journal.)

New resolution, LR 248, offered by Senators Rogers and Lamb. (Read brief description of resolution. See pages 636-37 of the Legislative Journal.) That will be laid over, Mr. President.

Senator Baack has amendments to be printed to LB 240 in the Journal. (See pages 537-41 of the Legislative Journal.) That's all that I have, Mr. President.

PRESIDENT: Thank you. We'll go on to LB 567A.

CLERK: Mr. President, 567A, (title read.) Senator, I have two amendments filed. I assume the latter in time is the one you prefer?

PRESIDENT: Senator Withem, please.

SENATOR WITHEM: Yeah, this reduces the appropriation bill by \$6,000, I believe, reflecting the amendment we made, taking the commission out and it also changes the years, would urge the support of the amendment.

PRESIDENT: Any further discussion on the Withem amendment? If not, the question is the adoption of the Withem amendment. All those in favor vote aye, opposed nay. We're voting on the adoption of the Withem amendment. Record, Mr. Clerk, please.

CLERK: 25 ayes, 0 nays, Mr. President, on adoption of the amendment.

February 1, 1990

LB 87, 163, 257, 397, 486, 534, 601
610, 688, 692, 730, 756, 818-820, 923
956, 980, 1021, 1067, 1069, 1230

9:00 a.m.

SPEAKER BARRETT: Have you anything for the record?

CLERK: I do, Mr. President. Your Committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 956 and recommend that same be placed on Select File; Transportation Committee reports LB 980 to General File with committee amendments, and LB 1021 as indefinitely postponed, those signed by Senator Lamb; Health and Human Service Committee, I am sorry, Banking Committee reports LB 1069 to General File with amendments, and LB 1230 indefinitely postponed, those signed by Senator Landis; and Health and Human Services Committee reports LB 1067 to General File, LB 688 General File with amendments, and LB 923 General File with amendments, those signed by Senator Wesely. (See pages 619-25 of the Legislative Journal.)

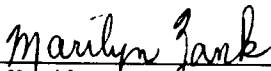
A communication from the Governor to the Clerk. (Read. Re: LB 87, LB 257, LB 397, LB 486, LB 756, LB 534, LB 601, LB 730, LB 818, LB 819, LB 820. See pages 625-26 of the Legislative Journal.)

Mr. President, Senator Moore has amendments to LB 163 to be printed; Senator Wesely amendments to LB 610 to be printed. (See pages 626-28 of the Legislative Journal.)

And, Mr. President, a hearing notice from Retirement Systems Committee. That was given to me by Senator Haberman; and, finally, Mr. President, I have a request from Senator Abboud to add his name to LB 692 as co-introducer. That is all that I have, Mr. President.

SPEAKER BARRETT: Thank you. The motion before the body is to adjourn until tomorrow morning at nine o'clock. All in favor say aye. Opposed no. The ayes have it. Motion carried. We are adjourned. (Gavel.)

Proofed by:


Marilyn Zank