

January 9, 1989

LB 50, 84, 275, 279

Mr. President, a request from Senator Wehrbein to add his name to LB 50; Senator Robak to LB 275; and to Senator Korshoj to LB 84. (See page 129 of the Legislative Journal.)

Mr. President, one last bill, LB 279 offered by Senator Landis. (Read by title for the first time. See pages 129-30 of the Legislative Journal.)

Mr. President, I believe that is all that I have. One final reminder, Senator Lamb would like a meeting of the Transportation Committee upon adjournment in the Senate Lounge. That is all that I have, Mr. President.

Notice of hearing from the Banking, Commerce and Insurance Committee for Tuesday, January 17. And that is all that I have, Mr. President.

SPEAKER BARRETT: Thank you, Mr. Clerk. Senator Dennis Byars, your light is on. For what purpose do you rise?

SENATOR BYARS: There being no further business to come before this body this afternoon, I would move that we would adjourn until nine o'clock tomorrow morning, January 10.

SPEAKER BARRETT: Thank you. You've heard the motion. Those in favor say aye. Opposed no. Ayes have it, we are adjourned.

Proofed by:

Marilyn Zank
Marilyn Zank

January 25, 1989

LB 13, 18, 19-32, 58, 62, 70, 115
128, 134, 142, 156, 255, 279, 283
284, 296, 298, 312, 321, 322

SPEAKER BARRETT: Thank you. You have heard the closing on the advancement of 134. Those in favor of the motion to advance the bill please vote aye, opposed nay. Have you all voted on the advancement of LB 134? Record, please.

CLERK: 32 ayes, 0 nays, Mr. President, on the advancement of 134.

SPEAKER BARRETT: LB 134 is advanced to E & R. Anything for the record, Mr. Clerk?

CLERK: Mr. President, I do. Thank you. Your Committee on Transportation, whose Chair is Senator Lamb, to whom was referred LB 115, instructs me to report the same back to the Legislature with the recommendation it be advanced to General File; LB 283, General File; LB 284, General File; LB 58, General File with amendments; LB 142, General File with amendments; LB 156, General File with amendments; and LB 128 indefinitely postponed. Those are signed by Senator Lamb. (See pages 439-41 of the Legislative Journal.)

General Affairs Committee, whose Chair is Senator Smith, reports LB 298 to General File, LB 70 to General File with amendments, and LB 62 indefinitely postponed. Those signed by Senator Smith as Chair. (See page 441 of the Legislative Journal.)

Your Committee on Education, whose Chair is Senator Withem, reports LB 312 to General File with amendments. That is signed by Senator Withem. Banking, Commerce and Insurance reports LB 279 to General File; LB 296, General File; LB 321, General File; LB 322, General File; those signed by Senator Landis as Chair. (See page 442 of the Legislative Journal.)

Mr. President, I have hearing notices from the Natural Resources Committee, signed by Senator Schmit; Health and Human Services, signed by Senator Wesely. That's 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 LB 13, LB 18, LB 19, LB 20, LB 21, LB 22, LB 23, LB 24, LB 25, LB 26, LB 27, and LB 28, and LB 29, LB 30, LB 31, and LB 32. The next bill, Mr. Clerk, LB 255.

CLERK: 29 ayes, 0 nays, Mr. President, on the advancement of LB 312.

PRESIDENT: LB 312 advances to E & R Initial. LB 279.

CLERK: LB 279, Mr. President, offered by Senator Landis. (Read title.) The bill was introduced on January...early January, referred directly to Banking Committee for public hearing, advanced to General File. I have no amendments to the bill, Mr. President.

PRESIDENT: Senator Landis, please.

SENATOR LANDIS: Mr. President and members of the Legislature, before you is LB 279, one of the changes suggested by the Task Force that Director Bill McCartney has chaired over this last year with the assistance of former Senator Wiley Remmers and his staff. A number of the provisions that the Task Force agreed to were placed in a very major bill, LB 92. About three or four ideas that were somewhat related but not directly on point were also introduced as separate bills and this is one of those. Now, this is a bill that changes the authority level for writing insurance or for retaining insurance for what's called an industrial insured. So let's start at square one. In Nebraska, there are domestic insurance companies and foreign insurance companies. And domestic insurance companies are those that are authorized directly under Nebraska law. We are their state of origin, if you will. There are also foreign insurance companies, companies that began in another state but have made special application to come to Nebraska to write business. When they come here, they have to prove up their financial solvency. They have to prove up their relationship to a home state and that they are governed. And they have to ask for a certificate of authority to do business in Nebraska. All companies then that write business in Nebraska are either domestic or foreign and they have got a certificate of authority. So far, so good. However, there is a list of exceptions to that rule by which an insurance company that is not admitted to this state can write insurance in Nebraska and those exceptions are called the Uniform Unauthorized Insurers Act, and we passed that act about 20 years ago in 1969. One of the exceptions to doing business in this state, to the normal rule of having a certificate of authority, is an industrial insured. What's an industrial insured? As a matter of fact, this is just a term of art made

up because it makes you feel like it's going to be some kind of an industrial company; it's not. All it is is a company that has a retained expert on board that writes as a risk manager the insurance for the company, doesn't do their workmen's comp in that area, retains, as I say, a license insurance consultant and then who also has an aggregate premium of, at this point, \$25,000 and at least 25 employees. LB 279 changes those last two standards. They raise them from 25 to \$100,000 of aggregate premiums and they raised from 25 to 50 the number of full-time employees that qualifies one to be an industrial insured. If you have got this risk manager, if you're writing a \$100,000 worth of premiums, I'm sorry, not writing but paying a \$100,000 of premiums and you have 50 full-time employees, you can write business insurance with a company that is not admitted to this state. What's the theory? The theory is that you're now at a large enough organization, that's sophisticated enough, that has enough of a premium to go to other markets, defend themselves, protect themselves, have a risk manager on board and not need the oversight protection of our own Department of Insurance. These numbers have not been raised in 20 years. That's why they appear large when you consider the changes, but writing a \$100,000 of premiums is a rare phenomenon. Fifty employees, well, that's not quite so rare. But this is a sophisticated operation that has a risk manager on board and at this point the theory of the underlying law is you don't have to protect these big boys like you do most other individuals who buy much smaller amounts and who need the protection and oversight of the Director of the Department of Insurance. I move the advancement of LB 279. I am open to answering any questions you may have.

PRESIDENT: Any further discussion? If not, the ques...Senator Pirsch, please.

SENATOR PIRSCH: I just have a couple of questions for you, Senator Landis. We also are making sure that the insurance consultant is licensed. Right?

SENATOR LANDIS: Uh-huh.

SENATOR PIRSCH: The previous word was qualified.

SENATOR LANDIS: Right. And, by the way, that's a product of this law being 20 years old.

SENATOR PIRSCH: Okay.

SENATOR LANDIS: We now have a licensure in this form and we have moved from qualified to licensed to approximate that.

SENATOR PIRSCH: So that's no problem, of course...

SENATOR LANDIS: It's not.

SENATOR PIRSCH: ...for that insurance consultant. What actually...all of those companies, I assume, that started out with this original bill 20 years ago have now all grown to fit this still.

SENATOR LANDIS: We don't know that. The Task Force was composed of largely insurers and there was not...there was not a register, if you will, for companies that qualify for this so that we didn't know which ones were or were not growing to this level of standard. The numbers were chosen, basically, on the theory of trying to update the costs of insurance which have gone up very much and just the growth factor of the economy over 20 years. That's why the numbers were selected as they are. That's why, by the way, the premium amount has grown four times but the size of employees has grown twice because the costs of insurance have gone up considerably more than simply just the growth of the economy.

SENATOR PIRSCH: Do we...does the State of Nebraska receive this insurance premium tax or would this be considered outside?

SENATOR LANDIS: This is outside our normal taxation.

SENATOR PIRSCH: Of our state.

SENATOR LANDIS: And we would not receive premium tax from a policy written under this formula.

SENATOR PIRSCH: And that, of course, is why we don't have records then of...

SENATOR LANDIS: That's right.

SENATOR PIRSCH: ...how this would affect. And the real basis for the effect is for those insurers that are within the State of Nebraska, wanted some kind of benefit from that?

SENATOR LANDIS: The underlying...the underlying law itself or the recent change, Carol? Which one do you want to talk about?

SENATOR PIRSCH: Well, no, for this change.

SENATOR LANDIS: Okay, this change was an acknowledgement by those Task Force members, and those are domestic and foreign companies but who are certified to do business in the State of Nebraska, that this law was 20 years old and these standards that we put in now needed to be elevated to approximate the same kind of risk or entity that it did 20 years ago.

SENATOR PIRSCH: What benefit, though, does that do for then?

SENATOR LANDIS: It would...if the...if the list of companies remains the same, then there is no benefit. If the list were to be different significantly and if there were companies that used to be able to qualify that could no longer qualify because of the raised limits, they would be forced to write their insurance policies with either a domestic or foreign company that was admitted to Nebraska.

SENATOR PIRSCH: Okay. Thank you very much.

SENATOR LANDIS: Sure.

PRESIDENT: Would you like to close, Senator Landis?

SENATOR LANDIS: Actually, I think the question is by Senator Pirsch was very helpful in continuing to flush out the bill and I think that says it all. I will just move for the advancement of the bill.

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

CLERK: 26 ayes, 0 nays, Mr. President, on the advancement of LB 279.

PRESIDENT: LB 279 advances to E & R Initial. LB 296.

CLERK: LB 296, Mr. President, offered by Senator Abboud. (Read title.) The bill was introduced on January 10, referred to the Banking Committee advanced to General File. I have no

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

March 13, 1989

LB 49A, 77, 161, 162, 183, 215, 226A
258, 272, 279, 319, 325, 335A, 357
377, 415, 431, 468, 477, 498, 537
539, 541, 568, 569, 572, 575, 586
591, 628, 630, 633, 646, 660, 662
671, 678, 714, 720, 747, 766

LB 335A for the first time by title. That is offered by Senator Korshoj. Read LB 49A for the first time by title. Read LB 226A for the first time by title. See pages 1100-01 of the Legislative Journal.)

Mr. President, Business and Labor Committee reports LB 415 to General File with amendments, signed by Senator Coordsen as Chair of the committee. General Affairs reports LB 477 indefinitely postponed, LB 568 indefinitely postponed, LB 572 indefinitely postponed, LB 660 indefinitely postponed, LB 766 indefinitely postponed. Those are signed by Senator Smith as Chair. Urban Affairs reports LB 498 as indefinitely postponed, LB 633 indefinitely postponed, LB 671 indefinitely postponed. Those are signed by Senator Hartnett. (See page 1101 of the Legislative Journal.)

I have amendments to be printed, Senator Wesely to LB 279; and Senator Schellpeper to LB 357. Mr. President, Health and Human Services Committee reports LB 537 to General File with amendments, LB 645 to General File with amendments, LB 662 to General File with amendments, and LB 539 indefinitely postponed, those signed by Senator Wesely as Chair. (See pages 1102-07 of the Legislative Journal.)

Mr. President, priority bill designations; Senator Morrissey selects LB 569; Senator Kristensen, LB 586, Senator Chizek, LB 747 as his personal priority bill, and LB 215 and LB 377 as Judiciary Committee priorities; Senator Warner has LB 468 and LB 258 by Appropriations Committee; Banking, Commerce and Insurance offers LB 319 and LB 272 as priority bills; Senator Barrett has LB 575 as his personal priority bill; Senator Warner, LB 77 as his personal priority bill; Senator Coordsen offers LB 541 and LB 630 as Business and Labor priority bills; Senator Goodrich has selected LB 591 as his priority bill; Senator Rod Johnson has selected LB 161 and LB 162 as committee priority bills, and LR 2CA as his personal priority resolution; Senator Wesely selects LB 431 as his personal priority bill, and LB 678 and LB 720 as Health and Human Services priorities; Senator Hefner selects LB 325 as his personal priority bill; Senator Lowell Johnson selects LB 646 as his personal priority bill; Senator Robak, LB 628 as her priority bill; and Senator Conway, LB 714 as his priority bill.

And Senator Baack, Mr. President, has amendments to be printed to LB 183. (See pages 1109-10 of the Legislative Journal.) And

there is no realistic chance to put anybody on a board coming from a district that large.

SENATOR HANNIBAL: And so you're coming up with the idea that you need to have seven districts, so that you could bring the districts down to a smaller amount.

SENATOR CHAMBERS: Right, and then, if you marshal everybody whose an eligible voter and make an appeal to others, there is a chance.

SENATOR HANNIBAL: Let me....You're on my nickel.

SENATOR CHAMBERS: Oh, I'm sorry.

SENATOR HANNIBAL: Let me ask you one other question then. Would you admit that you would have a better chance of having representation if you had districts by the primary, even if they were seven, had the primary by district, and then the election at large?

SENATOR CHAMBERS: No, because what can be done then is to influence the district election by people outside the area supporting a particular person and make sure that they are one of the two that makes it to the General, then they support the one in the General that they want, knowing that he or she will not truly represent the interests of that district.

SENATOR HANNIBAL: All right.

SENATOR CHAMBERS: And that has been done in other places.

SENATOR HANNIBAL: Well, thank you. I appreciate your....
(POWER OUTAGE. End of debate recording for the day.)

(LB 741A and LB 678A were read by title for the first time. Senators Wesely, Landis, and Hartnett asked that amendments to LB 279 be printed in the Journal. See page 1396 of the Legislative Journal.)

April 3, 1989

LB 147, 279, 281, 319, 340, 340A, 410
414, 587, 588, 733

SENATOR PIRSCH: And under the present law that...you could do nothing really.

SENATOR LANDIS: That is not embezzlement, that's right. Embezzlement is where you steal money from the firm.

SENATOR PIRSCH: Right. Thank you, I appreciate the explanation...

SENATOR LANDIS: Sure, you bet.

SENATOR PIRSCH: ...and I support this bill.

SPEAKER BARRETT: Thank you. Any other discussion? Seeing none, Senator Landis, anything further?

SENATOR LANDIS: Waive closing.

SPEAKER BARRETT: Thank you. Closing is waived and the question is the advancement of LB 319 to E & R. All in favor vote aye, opposed nay. Record, please.

CLERK: 27 ayes, 0 nays on the advancement of 319, Mr. President.

SPEAKER BARRETT: LB 319 is advanced. Any messages on the President's desk?

CLERK: Yes, Mr. President, I do. Senator Hartnett has amendments to be printed to LB 588, Senator Chizek to LB 279, Senator Chambers to LB 281, Senator Landis to LB 279. (See pages 1462-64 of the Legislative Journal.)

Enrollment and Review reports LB 147, LB 340, LB 340A, LB 410, LB 414, LB 587 and LB 733 as correctly engrossed. (See page 1457 of the Legislative Journal.) That is all that I have, Mr. President.

SPEAKER BARRETT: Thank you. Senator Peterson, would you care to adjourn us until tomorrow?

SENATOR PETERSON: Mr. President and members, I'd be delighted to adjourn us till tomorrow morning at ten o'clock, is that, Senator Barrett, beings we lost an hour?

SPEAKER BARRETT: Thank you. Proceed then to LB 279.

CLERK: Mr. President, I have no E & Rs to 279. I do have amendments offered by Senator Wesely. Senator, I have AM817 in front of me. I understand you'd like to withdraw and substitute AM1192. Is that correct, Senator? (Wesely amendment appears on page 1102 of the Legislative Journal.)

SENATOR WESELY: Yes.

SPEAKER BARRETT: If there is no objection, so ordered.

CLERK: Mr. President, Senators Landis and Wesely would move to suspend the germaneness rule so as to permit consideration of AM1192.

SPEAKER BARRETT: Senator Landis, will you handle it? Thank you.

SENATOR LANDIS: Yes, Mr. Speaker, members of the Legislature, LB 279 is a bill that arises out of the insurance task force that we've spoken several times of on the floor so far this year. It has stayed behind the other task force bills to serve as a trailer, should there have been needs for amendments to those bills. Consequently, as a trailer bill it is strategically located as one might imagine on Select File to serve as the catchall for insurance issues that need to be dealt with this year. The amendment that Senator Wesely and Senator Hartnett and myself offer is an amendment that has two elements to it that come from previously adopted bills that the Banking, Commerce and Insurance Committee heard, took public testimony on and reported out of committee. And, frankly, they are now appropriate to serve as amendments to this bill, but probably are not close enough to qualify for the germaneness rule. For that reason I wish to suspend the rules to allow these two considerations and let me tell you what the two bills are, the two ideas. The first bill creates an exception to the insurance statutes governing service contracts. What is a service contract? Well it's where a merchant or wherever holds out a contract to an individual and says if something goes wrong with your home or your plumbing or your siding or something else, you pay us a monthly rate and we'll take care of it when that problem arises. The contract has a monthly payment for it usually and they receive the service as the service is needed. The fact is that this approximates an insurance contract and we

have historically regulated it as insurance. For that reason the Insurance Department has standards of capitalization to prove that these kinds of companies are solvent. In some locations they have been fly-by-night operations and we've learned, to our dismay, that the companies come in, secure a bunch of policyholders, if you will, and then don't perform the services. Nebraska has a service contract law creating some standards for those kinds of companies before they can do business and standards of financial responsibility once they are up and running. We have a couple of natural gas companies that want to operate some gas appliance repair contracts. Now this is Minnegasco and Peoples and basically they want to be able to hold out to their ratepayers this service contract notion that says, listen, if you've got some gas appliances in your home and they become faulty, we'll come out and do the repairs and we'll just have you pay a service fee for us. Utilities that have a great deal of capital investment in the state are not fly-by-night operations and there is no need to have them prove the financial responsibility standards that other companies of less quality pedigree need to prove up. In fact, our service contract law is rather spotty and there are a series of preexisting exemptions so this has not been a real high wall that has served as a real detriment or obstacle to other companies. The first part of this amendment creates an exception to the service contract law for these natural gas utilities to allow them to do service on home repair items or home appliances that use their form of energy as a way of keeping those appliances in repair and yet costing out those expenses over time to a service contract. That's the first part of the amendment. The second part of the amendment is a series of changes to our comprehensive health insurance program commonly called CHIP and there are four elements to that, but Senator Wesely is here on the floor and rather than for me to go over them, I thought I'd ask Senator Wesely to explain those four provisions briefly to you. I'll ask to suspend the rules and then adopt the amendment. Senator Wesely has the remainder of my time.

SPEAKER BARRETT: Senator Wesely.

SENATOR WESELY: Thank you, Mr. Speaker, the amendments we're offering, Senator Landis, Senator Hartnett and myself, again, have two parts. The second part deals with the comprehensive health insurance program. There's Senator Chizek. Senator Chizek and I sponsored and passed a bill several years ago and

I'm very proud of that piece of legislation. Something like 1,300 individuals are now under that plan, paying premiums and having coverage for their health insurance needs. These are people that could not otherwise receive health insurance, were denied by existing health insurance companies and we have pooled the health insurance industry in the State of Nebraska together provide insurance for these difficult cases in providing help to these people and it's a godsend, in fact, to these individuals. I want to run through what the amendment does and it's through a series of negotiations that have been held by a number of people. I'm trying to deal with some concerns about the CHIP program. First off, the first part of the amendment deals with the waiver provisions under the current act. LB 380 is the bill that was introduced to deal with that. It was advanced unanimously by committee and will be part of this amendment and it says the waiver now provided for preexisting conditions when you shift into the CHIP plan, would not be allowed if you've been involuntarily terminated. You'd have to take the six-month waiver in any event. And the fear here and the problem here has been dumping of individuals out of a plan into the CHIP program that are at risk for immediate needs and to save money and to make sure we don't get the dumping problem that some people feel is occurring, others would dispute, but there is some history here. We are asking that that waiver be stricken from the statute so that that would no longer be provided and a waiting period would be required. Additionally, to save money we are authorizing the CHIP board to enter into contracts for an HMO or PPO. This would be at their option if they felt it could save money and still provide good coverage. It would be allowed for them to move in this direction. In addition, the CHIP board would be allowed to cancel policies and reoffer the policies with different provisions and on this point, for Senator Chizek's benefit, there is currently a 90-10 plan in place and the plan is to go to an 80-20 plan and I've just called over to the Insurance Department and they tell me it isn't planned to eliminate the 90-10 and go completely to the 80-20, but the plan is to have both offered and the 80-20 would be at a lower cost than the 90-10 plan. And so that's...the intent is not to completely wipe out the 90-10, but to make sure that we have ability to convert into the 80-20 if these current people want to do that, evidently. That's what I've been told just a few minutes ago and that was a concern of Senator Chizek. In addition there is a stop loss provision of \$5,000 so no individual under that copayment of either 10 or 20 percent would ever have to pay more than \$5,000 in a calendar year. Again,

that is negotiable by the board. Finally, in exchange for these cost saving measures we also want to provide better representation to the individuals as part of the CHIP program and so one member of the nine-member CHIP board will now represent the health advocacy organizations involved. Those are the people that are covered by the CHIP board and they will now have representation on the board. And finally, as an understanding in the negotiations involved...

SPEAKER BARRETT: One minute.

SENATOR WESELY: ...I met with insurance director...one more minute, I met with the insurance director, Bill McCartney and he indicates to me as a result of the changes being proposed in this amendment that the proposed 50 to 60 percent premium increase now under consideration by the insurance director will not be provided, that there will be at the most a 10 percent increase in premiums because of the cost savings from these amendments. So I feel that these are very good amendments that will save money and at the same time recognize the need to contain costs on the premiums so that we don't lose people from the program. If there are any questions on it I'd be glad to answer them and would support the suspension motion and then support the adoption of the amendment.

SPEAKER BARRETT: On the motion to suspend the rules, Senator Hartnett, followed by Senator Wittem.

SENATOR HARTNETT: Mr. Speaker, members of the body, I rise to support the suspension of the rules. This...my part of the bill, there's two parts, Senator Wesely, and my part is LB 776 which was heard by the Banking and Insurance Department and really what it does is it exempts natural gas companies that will allow service contracts on gas and electrical appliances and heating and cooling systems, exempt them from regulation from the Department of Insurance. Natural gas companies have been issuing contracts since approximately 1977 and have just come recently to the attention of the Insurance Department that they should have been regulating. They haven't been regulating and so this simply kind of clarifies that. Like Senator Landis says, that they have...they are not fly-by-night operations, the two companies that want to do this, Peoples and Minnegasco are long-time corporate citizens of this state and they have been doing this and so it just simply clarifies the law dealing with this section. So I rise to support the suspension of the rules

and the adoption of this amendment. Thank you.

SPEAKER BARRETT: Thank you. Senator Withem, followed by Senators Hall, Chizek and Nelson.

SENATOR WITHEM: Yes, Mr. President, Mr. Speaker, members of the body, I have a question. I don't know if it is for Senator Hartnett or Senator Landis or both or whatever. Some people discussed this amendment with me yesterday and yesterday it made sense to me to...that there was some new interpretation that brought these utilities under their service contracts, were counted as insurance and that they never had been before and this is a clarification amendment and that's how I understood it yesterday. In some of Senator Landis's introduction of the bill though, he indicated a difference between the way that the utilities writing service contracts will be treated versus the way a private service contractor may be treated. So I guess I'd like one or the other of you to explain to me that if Senator Wesely and I go into business to repair water heaters and we go out and sell these service contracts to people in the Lincoln area and we come under some sort of Chapter 44 regulation here, how are we regulated versus what's going to happen with the utility companies that are in that business if this amendment is successfully adopted?

SPEAKER BARRETT: Senator Landis.

SENATOR LANDIS: Thank you. Senator Withem has correctly identified that there is going to be a distinction there and the distinction is, if he starts his business up, there is no notion as to how solvent he is, what kind of financial responsibility he has, what kind of history as an entrepreneur he is, what kind of backing there is for this basic insurance policy that he is giving. Now the state has recognized in a wide variety of circumstances that where there is a course of conduct or a history or a capital investment, there are a series of exclusions from our existing law but the distinction is this. The distinction is that history tells us where...

SENATOR WITHEM: I understand the rationale for treating them differently than particularly the Wesely-Withem corporation. It would be somewhat of a fly-by-night operation, I'm sure, but what would we have to go through that Peoples and Minnegasco are not going to have to go through?

April 4, 1989

LB 279

SENATOR LANDIS: Thank you. You'd have to go through either offering a bond or putting up a substantial cash reserve, separating money out, basically like the capitalization requirements that an insurance company would have if they were to write insurance in this state.

SENATOR WITHEM: And why is it that Peoples and Minnegasco are such large corporations that they can't afford this, but why is this bond a significant burden back upon them?

SENATOR LANDIS: It is the taking of their...taking money out of their operation, putting it aside in a reserve that they do not have access to and it's dropped out of their cash flow and not...

SENATOR WITHEM: As it would be for Senator Wesely and I to take money out of our and set it aside and the rationale is that we need this regulation and because of their established track record, they don't?

SENATOR LANDIS: That's correct.

SENATOR WITHEM: Okay. Senator Hartnett, I punched my light again because I have some comments to make, but, Senator Hartnett, if you would like to...

SENATOR HARTNETT: I think that other companies are exempt from that, Senator Withem, under Section 5 of the amendment. The company you're talking about, if you opened a company, they're not liable to Section 44. It simply brings the gas companies that we talked about to the same statute as a small company, so that they're both exempt from, as I read it, from...

SENATOR WITHEM: Well, that's a different reading that I'm getting from Senator Landis.

SPEAKER BARRETT: One minute.

SENATOR LANDIS: (Mike not activated immediately.) ...setting. There are a series of preexisting exemptions. This adds it to it and one of those exemptions is, where you sell a product, you may service that product over time and add a service contract without having a cash set-aside situation.

SENATOR WITHEM: Okay. But the situation I was describing was

not that situation.

SENATOR LANDIS: Right.

SENATOR WITHEM: The situation I was describing was...

SENATOR LANDIS: Just the service contract.

SENATOR WITHEM: ...a service only sort of business. We had not sold the product.

SENATOR LANDIS: That's true, that is different.

SENATOR WITHEM: Okay. Yeah, I can understand Section 5 now. I understand that. And I think Senator Landis's interpretation is probably correct. I guess...I've got somewhat of a concern. I have a concern about utility corporations getting into this particular business anyway, competing, because they have a ratepayers base that conceivably they can use as a subsidization of their business...

SPEAKER BARRETT: Time has expired.

SENATOR WITHEM: I've got my light on, I'll speak again at a later date.

SPEAKER BARRETT: Thank you. Senator Hall.

SENATOR HALL: Mr. President, I'd like to let Senator Withem continue because I'm interested in this area of discussion. I'd give him the balance of my time.

SPEAKER BARRETT: Senator Hall extends that courtesy. Senator Withem, proceed.

SENATOR WITHEM: Well, thank you, I won't need all of it I don't think. I was just going to say that I've got a concern about this area anyway because of the small business person such as Senator Wesely and myself example, trying to make a living in a given area, competing against a utility corporation, to have the possibility, and I know they always indicate that they don't do this, but they have the possibility of cross subsidization, using the ratepayers dollars to help subsidize their service business. And they talk about the differing accounting and all that, but the possibility is still there that that large

corporation that is providing gas, natural gas on an exclusive basis to the City of Lincoln, for instance as Minnegaso is, using some of those resources to support, to establish a service business and that service business then competes with small businessmen attempting to make a living. I'd like to clarify that...it's true, I work for a group of people that are in the contracting business, I want to make that very clear. I don't think any of the contractors for whom I work are in this particular line of business, so I don't think...I'm not talking from conflict of interest here, I'm talking from kind of a knowledge viewpoint that this is a very real issue. And if it were simply treating service contractors, treating gas companies, utility companies the same as the service contractors, that would be one thing but what this is doing is giving a further competitive advantage to those gas companies, the utility corporations that the small businessman doesn't have. So for that reason I think I question the amendment and it's not the same. Section 5 does not exempt a person that is in service only business. Section 5 only exempts a company that sells a product and it's part of that sale contract they are issuing a service contract on that specific product. If I choose go out and knock on Senator Abboud's door to try to get a service contract with him to service a preexisting water heater, a preexisting furnace, a preexisting gas dryer and Peoples Natural Gas does the same thing, I would be regulated and they wouldn't be and that's a concern that I have. Senator Hall, I'm sorry, if you have anything additional to say with your time I would...

SENATOR HALL: Thank you, Mr. President and Senator Withem, I appreciate the discussion. I will support the motion to suspend the rules. I'll make that clear, but I will, I think, ask for a division of the question when the rules have been suspended and the amendment is before us because I'm not...I clearly understand the purpose of the portion of the amendment that Senator Wesely and Landis explained, but I'd like a little better clarification on the intent of the amendment that I think is the portion that Senator Eartnett offered as a bill to the body. So with that, I do intend to support the rule suspension motion. Thank you, Mr. President.

SPEAKER BARRETT: Senator Chizek.

SENATOR CHIZEK: Mr. President and colleagues, I have a question for Senator Landis and then Senator Wesely.

SPEAKER BARRETT: Senator Landis.

SENATOR CHIZEK: Senator Landis, basically what this is doing is allowing them to sell insurance?

SENATOR LANDIS: It allows them to sell services in a short time. You can call it an insurance if you wish.

SENATOR CHIZEK: Kind of like the insurance policy on extended warranty on an automobile?

SENATOR LANDIS: If you wish to use that characterization, I can understand where your argument is leading to and you're entitled to do that if you wish.

SENATOR CHIZEK: I was just wondering if it is somewhat similar, Senator, to LB 529 in terms of people selling insurance and...

SENATOR LANDIS: Well I don't see it that way, but I'm sure you do.

SENATOR CHIZEK: I'm certain you don't, Senator. (laughter) Senator Wesely, would you one more time for the benefit of the body, I understood you to say that in your conversation with them, this amendment would allow those people who participate in the CHIP's program, that they are going to offer an 80-20 but they are still going to offer 90-10 but at a higher rate. Is that what I understood? And they also gave you an assurance in writing or verbally that the rates would not go up over 10 percent?

SENATOR WESELY: Yes, Senator Chizek, on the first point I did have my staff call over to the Insurance Department employee working with the CHIP program. He indicated to me that the plan was to go to the 80-20, keep the 90-10 and they need this amendment to make sure those under the old plan under 90-10 could, if they want to, shift to the 80-20. I'm not sure about all the details, but that's through that methodology what I understand is the situation. But they would absolutely have the right to do that and that would continue, so, yeah, the plan is to have both plans and then have a higher rate for the 90-10 is what I've been told.

SENATOR CHIZEK: Okay, they are going to have a higher rate for

April 4, 1989

LB 279

the...

SENATOR WESELY: 90-10.

SENATOR CHIZEK: ...90-10.

SENATOR WESELY: Right.

SENATOR CHIZEK: And they have not established the rate yet for the 80-20?

SENATOR WESELY: Yeah. I think maybe on both rates they're now...they made a presentation last week to the Director of Insurance, had a hearing on it and on your second question about the rate increase, the proposal was for a 50 to 60 percent rate increase and the director said with the cost savings that we're proposing here, that that increase will not be more than 10 percent. It may have no increase at all for next year.

SENATOR CHIZEK: Okay, I just wanted to be sure, Senator, that you had that assurance from them.

SENATOR WESELY: Yes.

SENATOR CHIZEK: That they were going to offer 80-20, 90-10, 90-10 at a higher rate. Those people that have 90-10 now may keep it but at a higher rate and not necessarily the 50 percent increase they were talking about...

SENATOR WESELY: Right..

SENATOR CHIZEK: ... week or so ago.

SENATOR WESELY: That is my understanding and if that is not correct, I will be the first one to come back and make a correction because the Director of Insurance is not available and I'm talking to a staff member, but the one who is directly in charge of the program so he should know and I trust his comments.

SENATOR CHIZEK: Thank you.

SPEAKER BARRETT: Senator Nelson.

SENATOR NELSON: Senator Wesely, would you also respond to some

questions? I, too, have a constituent, in fact two of them. They are very much concerned about the CHIP program. They were in with one group and when the group went from one insurance company to another, the company that was able to underbid them and got their group policy, then excluded about three people that was in the original group and told them the only other resource, and I worked on it, was the CHIP's program. Okay, now if I understand you correctly, there will be a six months waiting period before they can be into the CHIP's program.

SENATOR WESELY: Right.

SENATOR NELSON: And I can see where that may be a, you know, a considerable savings but, again, you know, a family that's been in a program, for example, for five years or so and they have a serious illness or a kidney disease or the one that I'm referring to is maybe a heart and lung transplant that is considered to be a very high risk surgery and the asking cost figure is over \$500,000 for something like that. They just kind of have to hope and pray then for six months that they don't need any coverage or in order to work out these rates. Am I correct now?

SENATOR WESELY: Well, I'll tell you frankly, the scenario you just outlined is exactly what we're trying to stop.

SENATOR NELSON: I know that.

SENATOR WESELY: They shouldn't be doing that. They shouldn't be dumping those people off their plan and we don't want them to do that anymore and part of the thing we hope to do is by not allowing that waiver, is to stop that in the first place. They shouldn't be off that private plan. That is wrong.

SENATOR NELSON: I know it's wrong but I didn't know what, you know, how it was worked out or how that they would be covered then.

SENATOR WESELY: Well, see...

SENATOR NELSON: And they will have the...go ahead, the alternative then to go one of the two rates after six months waiting period.

SENATOR WESELY: Right. But the thing is, they can tell them

right now, look, if we dump you off this plan then we can cut your rates down and we'll stick it to the CHIP program, see, and you won't have to wait any because they've got this waiver thing and so everybody says, well, okay, we'll go for that. If you got this waiver in there, hopefully the employees and employers say no way, we're not going to go for that. You can't do that to us, that's wrong. And so we hope that by stopping the waiver we'll stop that dumping and that's just not the right thing to do. They are taking advantage of us and that's wrong.

SENATOR NELSON: I know that and I know that's what has happened. Well, thank you. I think you cleared up my question, not that I like the answer, but I think you cleared it up.

SPEAKER BARRETT: Senator Withem. Additional discussion on the suspension motion, Senator Withem. Senator Hartnett.

SENATOR HARTNETT: (Response inaudible.)

SPEAKER BARRETT: Thank you. Pardon?

SENATOR HARTNETT: I'll call the question.

SPEAKER BARRETT: Senator Hartnett moves the previous question. Five hands please? I do. Those in favor of ceasing debate please vote aye, opposed nay. Shall debate cease? Record.

CLERK: 25 ayes, 2 nays to cease debate, Mr. President.

SPEAKER BARRETT: Debate ceases. For closing, Senator Landis.

SENATOR LANDIS: Mr Speaker, members of the Legislature, remember this is the rule suspension, not the underlying issues. I would certainly accept Tim Hall's notion of dividing the question if we need to. If we suspend the rules we can get on to the question of whether we should adopt these two ideas or not to the bill, and there will be plenty of time for a substantive exchange of arguments and ideas and questions at that point. Having invested this amount of time, I hope it will allow us to suspend the rules to consider the adoption of these amendments. With that, I'd ask for the rule suspension from my colleagues so that we may discuss these two concepts. Thank you.

SPEAKER BARRETT: The question is, shall the rules be suspended?

All in favor vote aye, opposed nay. Record.

CLERK: 31 ayes, 0 nays, Mr. President, on the motion to suspend the germaneness rule.

SPEAKER BARRETT: The rules are suspended. To the amendment, Senator Hall.

SENATOR HALL: Mr. President, I would ask for a division of the question with regard to the amendment and the division being the issue, the first part dealing with the language that dealt with the utility companies as opposed to the second half that dealt with the insurance issue and the CHIP's program.

SPEAKER BARRETT: Thank you. Senator Landis.

SENATOR LANDIS: As far as I'm concerned, I think the issues are divisible and I would certainly consent to that. I don't have any difficulty with the ideas being taken up separately. And perhaps, the CHIP's first, and then the service contracts because that's the one that we're talking about.

SPEAKER BARRETT: The issue is divisible in the opinion of the Chair, and probably can be divided on page 3 at the conclusion of Section 3. The division will be between Section 3 and Section 4, the first part speaking to the matter of utilities contracts, service contracts; the second part to the matter of the insurance or CHIP's, and, Senator...I think in the opinion of the Chair, let's take the second part first. Agreeable? Thank you. Discussion on the second part of the divided question, Senator Wesely.

SENATOR WESELY: Thank you, Mr. Speaker. I have gone over this amendment and I would be happy to answer any further questions. Senator Nelson, Senator Chizek had questions I hope I answered. Once again, for all your benefit, the amendment would do the following things. Number one, the current provision for a waiver for those people that leave a current plan involuntarily and move into the CHIP plan, that waiver of the six-month waiting period would not be allowed. And following Senator Nelson's questions, we have had a dumping problem with private insurers trying to cut costs and moving high risk people into the CHIP program. That was not the intent of the program. The program was for those people now with insurance to continue with that insurance and not to have their high risk people moved out

of that private insurance effort. We were looking for those individuals that at no time have been able to get insurance and are out there with a preexisting condition and apply and can't get insurance. There are many folks out there like that. Those are the folks legitimately that need coverage and we want to bring them under the umbrella of the CHIP's program. With the dumping problem, what you have is adverse selection. You have people moving into the program and those people drive up costs tremendously and it's a high cost, high risk situation and we're going to try and stop that activity. The second change, again, allows the CHIP board to go into the HMOs and PPOs and this could save money and we think they ought to have the authority to do that. The third change is the 90-10 question Senator Chizek raised, and this would allow certain policies to discontinue and new policies be offered so that we could have an 80-20 plan and have the 90-10 people move into the 80-20 plan. At this time, what I am told is that there is no plan to eliminate the 90-10 but to just offer the 80-20 in addition at a cost savings. Fourth, this would allow for one of the nine members of the board to be represented to health advocacy organizations. That's in addition to a public member now on the board. The groups involved with this have felt the need to have more representation. The other members of the board are all insurers on the board and would continue to be part of the board, but to broaden the representation we would add this individual to represent those that are served by the CHIP board. And finally, again, in recognizing the agreement by the insurance director in working with me on these amendments, that as a result of these cost savings there will be no need for an increase in premiums this year or at most a 10 percent increase. And that is something I want for the record to say that I am very committed to, that the 50 or 60 percent increase would wipe out people's ability to be in the program, the very people we want in the program and there is no reason to have that sort of an increase with the cost savings we're proposing here. We can reevaluate that in the future, but for now, I definitely want to hold the director to that commitment and without it I couldn't support the provisions of this amendment, but I trust him and we've worked together and I feel that that will be correct. Senator Nelson keeps putting a finger up and I don't know if she wants a beer or what, but... (laughter) I'll be glad to...

SENATOR NELSON: Ten seconds.

SENATOR WESELY: ...I'd be glad to give her whatever time she needs

SENATOR NELSON: Senator Wesely, then that I have this exactly right, if they go from one group then, I understand individually into the CHIP program, but say they're in a group policy now and then they go to a new insurance company and the new insurance company cuts them out. They still got to wait the six months period.

SENATOR WESELY: Yeah.

SENATOR NELSON: That's all I wanted. Thank you.

SPEAKER BARRETT: Thank you. Discussion on the second part of the divided question, Senator Abboud. Senator Chizek. Senator Chizek. Yes, we are on the second half of the divided question. We're on the insurance section, the CHIP's sections, Senator Chizek.

SENATOR CHIZEK: Okay, I want Senator Landis's, the other half of it, the division is what I want.

SPEAKER BARRETT: Senator Hall.

SENATOR HALL: (Response inaudible.)

SPEAKER BARRETT: Not on this part. Anyone else? If not, Senator Wesely, any closing statement? We're ready to call for the vote.

SENATOR WESELY: Thank you, no, Mr. Speaker, I think these are needed improvements and through negotiation I think are a reasonable compromise. If any information I've got doesn't prove to be the case, I will certainly be back to let you know that but I think we're in good shape and I'd ask for the adoption of the amendment.

SPEAKER BARRETT: Thank you. Shall the amendment as divided be adopted? All in favor vote aye, oppose! nay. Please record.

CLERK: 26 ayes, 0 nays, Mr. President, on adoption of Senators Landis and Wesely's first amendment.

SPEAKER BARRETT: The amendment is adopted. To the first part

of the divided question, Senator Hartnett.

SENATOR HARTNETT: Yes, Mr. Speaker and members of the body, I think Senator Hall and Senator Withem raised some very legitimate points because I think I had the same concerns and I had some concerns from small manufacturers or repairers when I first got this bill, but what we do have, I think to answer Senator Withem's question, earlier question, is that there are two things that utilities, I think Peoples Natural Gas has been in the business I think since about 1977 offering a utility. There is rates and there is service, those service contracts, if you can look at them as being separate pots or something. They are separate. The utilities is...the rates are over here, those are...and because the bill is written as it is is to by regulated natural gas or electric utilities, they cannot subsidize the service contract. So that is the reason the amendment of the bill was drafted in this particular fashion. So it simply allows the gas companies to do the same thing that Peoples has been doing since 1977 and really the Insurance Department just discovered that they should be regulating these areas and so forth. Right now, if you are a...you sell an appliance, I'm a dealer, I sell an appliance, you're exempt from your contract if you have a service contract on it, you're exempt right now under this...the particular statutes. If you repair an appliance, if I'm a repair shop, you're also exempt under the exemptions that are in the bill. If you are authorized a service facility by a manufacturer-retailer, you also are exempt under the different exemptions that have been put up. And if you're a manufacturer-retailer you also are exempt. So what this does is simply...doesn't change the playing field. It doesn't make the big Peoples Natural Gas and Minnegas have any advantages over the small manufacturer. It simply keeps them the same thing, something they've been doing, so it is...that is really the purpose of this particular bill that I introduced LB 776 to the Banking and Insurance Committee. So with that, I'd try to answer any questions or so forth.

SPEAKER BARRETT: Thank you. An amendment on the desk, Mr. Clerk.

CLERK: Mr. President, Senator Withem would move to amend this portion of the amendment referenced on page 3, lines 9 and 10 by striking the language which reads, "by a regulated natural gas or electric utility". (Withem amendment appears on page 1500 of the Legislative Journal.)

SPEAKER BARRETT: Senator Withem.

SENATOR WITHEM: Mr. President, members of the body, this is a pretty simple bill and it's a pretty simple language and I think it will be complicated to see what I am doing with my amendment. If you'll open your bill books to AM1109, page 3, the operative section of this amendment is only five sentences long. My amendment strikes the words "by a regulated natural gas or electric utility". The purpose of this amendment is to see to it that if this is an exemption that is valid for regulated natural gas or electric utility companies that may, in fact, be in competition with individuals in private industry, it ought to be good for those people in private industry also. Now the facts that I've been told about this by the folks in the Rotunda, and I have absolutely no reason to disbelieve them at this point, is that currently the Department of Insurance, the past practice by our Department of Insurance is not to regulate anybody selling service contracts, that they have not been defined as insurance operationally in the past; that the Wesely-Withem Heating, Venting and Air Conditioning Service and Repair Corporation would not have been required to post a bond or any of these other sorts of things under the regulatory provisions; that only when one of these utility corporations, only when it is brought to the attention of the Department of Insurance that the utility corporations were in this business, did they say kind of...something along the lines of the following. Hey, we're not really sure that you need to be regulated here, it's a gray area but you ought to go in and get it clarified. I guess what I'm saying, if we're going to clarify it I have no problem. If those are the facts and all we're doing is clarifying, keeping status quo in practice and part of status quo in practice is that the Withem-Wesely Corporation is not regulated under the service contracts either, then I think that it's probably appropriate that we change this bill so that we continue not to be under this regulation like we're not now. If, on the other hand, there's an objection to doing this, then I don't see a real need to open up the exemption for anybody. If we're going to treat utility corporations in this business one way, private contractors differently, then I think we have a problem. What my amendment does is it says that these service contracts will not be subject to this type of insurance regulation. Would urge you to adopt the amendment.

SPEAKER BARRETT: Discussion on the Withem amendment to the amendment, Senator Chizek, any comment? Thank you. Senator Hall.

SENATOR HALL: Mr. President, members, I rise in support of Senator Withem's amendment to the amendment. It clarifies the only concern that I had with regard to the amendment and the reason for the division of the question. With the adoption of Senator Withem's amendment I think it clarifies the issue and has a level playing field there for all those in the industry and I would urge the adoption. I understand that Senator Hartnett feels that this was already currently practiced, but I think all we do here is clarify that point. I would urge the adoption. Thank you.

SPEAKER BARRETT: Thank you. Senator Abboud, on the amendment.

SENATOR ABBOUD: Yes, Mr. President, I had my light on earlier. I'd just like to comment as to the purpose of these two amendments. Both of the amendments that are attached to LB 279, or that have been before us, the CHIP's amendment as well as the service contract amendment are two distinct issues that were attached to a bill that had basically nothing to do with these two particular sections of statute and as a result the rule suspension was the rule of order and that was the reason why the introducers of these amendments chose to take that approach. I view this particular amendment in light of utility company versus the service, or the contractors that are involved in this business. As a member of the Banking Committee I heard the discussion of this particular hearing and at this particular time the reason this bill was brought in was there was concern that this was an unregulated area and though there were no problems at this time, that the groups involved, or one particular group, the natural gas group, felt that it would be better to be regulated, or follow the Department of Insurance's request to place themselves into the statute. So really we're talking about an area that really doesn't deal with insurance, but it deals with an area between competing interests in the providing of a service contract. The particular amendment that we're talking about, Senator Withem's, would allow contractors to become involved in this as well as the natural gas and the electric utilities and I guess in that particular regard that would be fine. We're just expanding the regulation to include those particular areas. It really doesn't make much difference to me whether this...Senator Withem's amendment is attached or

not, but I probably will be supporting the particular amendment because it deals with the overall regulation and it probably broadens it rather than narrows the approach. I will say though that, in conclusion, that what we're talking about with this amendment, the last amendment we just adopted onto LB 279 were issues that were completely separate that had absolutely nothing to do with the bill and the sponsor of the bill has agreed to allow these amendments to be adopted onto the bill because of the session and the possibility that these two issues will not be considered.

SPEAKER BARRETT: Senator Landis.

SENATOR LANDIS: Mr. Speaker, members of the Legislature, I am not going to add to the litany of agreement. I violently disagree with the amendment. It is one that has had no public hearing. It flies in the face of the history of service contracts. It means that somebody can come in with no capital investment, no track record, start a company, do this kind of work, go out, get a bunch of subscribers and go to California. That's why we have a service contract law. Now, the point that Senator Withem makes is, you know there may be a competitive disadvantage for somebody who wants to do that kind of a job and a regulated natural gas company if the regulated natural gas company gets out of this capitalization requirement, basically, that we have in the law. Fair enough, I confess that's true. There is a difference and there may be a competitive disadvantage if that occurs. But where is the history of wrong? The history of wrong is where you have a fly-by-night organization that has no capital investment, who starts it up, who goes out and gets subscribers and goes out of business. That's where the history of wrong is. You can have two or three different theories of regulation, but my notion is this. You regulate where the marketplace doesn't give you adequate remedy, where the marketplace doesn't take care of itself and with a regulated natural gas company do you have somebody whose name is on the contract, who has a presence in this state and won't be able to leave. Well, yes, you do. They have a whole bunch of underground pipelines. They have a whole bunch of buildings. They have a whole bunch of capital investment in this state that they can't pack up and take anywhere. You don't have to worry that they're going to fly out of town. So maybe we don't need to extend regulation to them in the same way we would if somebody simply comes to this state, starts a business, gets a bunch of subscribers and then decides that it's time to visit

Tahiti. And Senator Withem's amendment says rather than the identity of the person who is giving the contract or making the contract, we should allow certain kinds of contracts to go unregulated. It depends on what the service contract is about rather than who is making the service contract that we should create the exemption. No, my theory is this. The exemption goes to people who you have a logical, rational reason to suspect will be able to stand by their contracts. They should be able to get out of (inaudible), and we have 12 exceptions in there. But if you don't have that situation, regulation makes sense. The difference may create a competitive disadvantage. I would confess that that's true, but rather than leave Nebraska consumers at the mercy of somebody knocking on their door and high pressuring them into a service contract, which is exactly what has happened in other states and which is why these kinds of laws exist, rather than to put those consumers at risk, which is what the Withem amendment does, you should defeat the Withem amendment. Now if that means that you have to imperil Senator Hartnett's bill because you don't want to create a distinction between a potentially fly-by-night operation and a natural gas company that has a huge capital investment in this state and you don't want to create a competitive disadvantage, well then I guess you have to let the chips fall where they may and vote against Senator Hartnett's bill. But the one person you don't want to disadvantage in my mind is the consumer who is going to have these people knocking at their door because they are not able to defend themselves, know what the situation is, know what the track record of the company is, know whether or not they have the financial resources to back up the contracts they make. They are the person that Senator Withem leaves out to dry and we shouldn't do it. Now, whether or not the natural gas industry is prepared to make a broader exception that lets them out plus the fly-by-nights, well that's...they...you can make an agreement with the lobby as far as I'm concerned, but that's not who we have to defend here.

SPEAKER BARRETT: One minute.

SENATOR LANDIS: It's the consumer we should defend and you can't defend the consumer and vote for the Withem amendment. You do protect other contractors who are private and who may suffer a competitive disadvantage, that's the person you protect, agreed, and there may be a legitimate argument there but you've picked the least able person to defend themselves to imperil with this amendment. I'd suggest you defeat the Withem

amendment. Now, if you're squeamish about creating a competitive disadvantage, vote against the Hartnett provision itself. I think there's a rational justification. Natural gas companies, electrical companies have enough presence in this state, they have enough of an investment that if they put their name on the contract, they are going to live up to it. We don't need to have a big capital investment, or capitalization standard for them with respect to this state. For others who are giving service contracts, I would suggest that we do. Now there are different rationales in other portions of this law...

SPEAKER BARRETT: Time has expired.

SENATOR LANDIS: ...that justify a series of other exceptions and I can try to do my best to justify those, but don't leave the consumer out to dry. Don't adopt the Withem amendment.

SPEAKER BARRETT: Senator Withem.

SENATOR WITHEM: Yeah, what started as a fairly simple issue seems to be escalating here. We have got two different pictures of reality, one of Senator David Landis, who has this image of reality out there that people that are in this business of servicing electrical appliances, gas appliances, heating and cooling systems, that this industry is peopled by fly-by-night operators whose only purpose for existence is to bilk the poor unsuspecting public out of their life savings and are on their way to Las Vegas as soon as they get a contract signed, and that the big wonderful regulators of the Department of Insurance are the only thing currently standing between the consumer and ultimate ruin, versus what I hear out in the lobby that they aren't even...bother to regulate any of this stuff anyway. Now I am getting different pictures from different people and I don't know which is the case. If we need regulation, if this is an area where the consumers are being raped on a daily basis and need this grand protection from these evil people, then the consumers need the protection from everybody, and you ought to vote against my amendment, and you ought to vote against the Hartnett amendment. If, on the other hand, what is happening is what my friends out in the lobby are telling me is that nobody is being regulated, that this is something that they aren't...the Department of Insurance isn't even sure was supposed to apply to these particular cases, just became aware of it last year, and said to the utilities, hey, we might have to start regulating in this area if you don't get yourself

exempted, then you ought to exempt everybody from it because that is what is continuing status quo. I am a little frustrated as you can tell because I am getting two different pictures painted here, and they can't both be right. This issue of utility corporation conflict competition with private industry is a big issue in the national ba...it is not big in the sense that it is not bringing legislatures to its knees, and it is not, you know, the major issue of any session. It is not on the watershed, but it is something that is being debated and argued in legislature after legislature after legislature. I have been urged by some people, and, again, I want to point out these are not the people I work for, these are some people that I happened to become acquainted with as I think Senator Hall happened to become acquainted with some of them. I have been urged to bring this issue to the floor of the Legislature to attempt to deal with it. I have resisted that because, by and large, I think the utility corporations in this state are doing a fine job and don't need to be harassed, but all I am asking for this amendment is that in this particular situation in regulation by the Department of Insurance that they all be treated the same. And, frankly, I don't care one way or the other, whether it is the private, that everybody is exempted or that nobody is exempted. You know, my position on the issue is that the Withem amendment treats everybody the same. It becomes a level playing field and it is not really a level playing field when you talk about the type of people that are in business, five or six employees, versus a corporation, and I understand all of the arguments about cross-subsidization and the abilities of, you know, city councils to check their books to see if there is cross-subsidization. I also know how difficult it is to really distinguish when you start assigning assets of a common building, common, owned materials to one side of the operation versus the other to really be sure that there isn't this cross-subsidization going on. I hope, like I say, I resisted bringing this as an issue even though I have been urged to do so, but I guess it appears to be here. All I am saying at this point is let's keep the playing field level and...

SPEAKER BARRETT: One minute.

SENATOR WITHEM: ...let's support this amendment.

SPEAKER BARRETT: Thank you. Senator Hartnett, followed by Senator Conway.

April 18, 1989

LB 99, 240, 279, 361, 361A, 546, 548
582, 582A, 608, 637, 761, 777, 790

Record, Mr. Clerk. Senator Chambers.

SENATOR CHAMBERS: I want a call of the house and a roll call vote.

PRESIDENT: Okay, the question is, shall the house go under...okay, we are under call, Senator Chambers, but we will check in. Yes, all right. Please record your presence. Senator Lynch, would you record your presence, please. Senator Hefner, would you push...pardon me. Record your presence, please. Yes, we are, but we're checking in. Please. Senator Wesely, we're looking for and Senator Schmit. Did you ask for a roll call vote, Senator Chambers? All right. Okay, the question is the adoption of the Chambers amendment. Roll call vote has been requested. Mr. Clerk.

CLERK: (Roll call vote read. See page 1749 of the Legislative Journal.) 21 ayes, 24 nays, Mr. President.

PRESIDENT: The amendment fails. Do you have anything else on the bill?

CLERK: Nothing.

PRESIDENT: Do you have anything for the record, Mr. Clerk:

CLERK: I do, Mr. President. Mr. President, your Enrolling Clerk has presented to the Governor bills read on Final Reading this morning. (Re: LB 546, LB 548, LB 582, LB 582A, LB 608, LB 637, LB 777, LB 790 and LB 99.)

I have a motion to be printed by Senator Landis. (See page 1750 of the Legislative Journal. Re. LB 361 and LB 361A.)

PRESIDENT: The call is raised.

CLERK: Transportation Committee gives notice of confirmation hearing.

Amendments to be printed to LB 279 by Senator Chizek, and Senator Hall to LB 240. (See pages 1750-53 of the Legislative Journal.) That's all that I have, Mr. President.

PRESIDENT: May I introduce some guests, please. In the north balcony Senator Byars has 80 fourth graders from Anderson Grove

April 20, 1989

LB 247, 279, 646, 710
LR 80

PRESIDENT: LB 710 is advanced. LB 646. Anything for the record, Mr. Clerk?

CLERK: Mr. President, new resolution, LR 80 by Senator Bernard-Stevens. (Read brief description. See pages 1799-1800 of the Legislative Journal.) Will be referred to the Executive Board.

Senator Chizek has amendments to LB 279 to be printed. (See pages 1800-01 of the Legislative Journal.) That is all that I have, Mr. President.

PRESIDENT: Okay, LB 646.

CLERK: Mr. President, 646, Senator, I have E & R amendments pending.

PRESIDENT: Senator Lindsay, please.

SENATOR LINDSAY: Mr. President, I move the adoption of the E & R amendments to LB 646.

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

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

PRESIDENT: Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move that LB 646 as amended be advanced to E & R Final.

PRESIDENT: You've heard the motion, all in favor say aye. Opposed nay. It is advanced. LB 247.

CLERK: Mr. President, LB 247, the first item I have, Senator, are E & R amendments.

PRESIDENT: Senator Lindsay, please.

SENATOR LINDSAY: Mr. President, I move that the E & R amendments to LB 247 be adopted.

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

have brought us this bill, along with the Governor, for making the idea of property tax relief more than just an empty phrase that we have been passing around year after year. I think all parties have gone to making this a very serious discussion. Now let me tell you that I have got a choice between LB 809 and 84 and I also think the new compromise notion is worthy of our thoughts. Senator Byars, I know, as the chief proponent and priority of 809 as your bill, I want to tell you that, of the three, I'm not going to vote for it on this level and I will tell you, because it fails to give a second year of assurance of property tax relief, I think it's going to be tough for the public to understand why one year they would get one level and the next year they get another level and they don't know until November or sometimes after there because of this difficult phenomenon. I'd just as soon have a program that we have some confidence in, that if, in fact, we do it for one year, then we re-up it for the next year rather than we have this...this ever changing sort of steam valve approach. And, for that reason, I hold 89...809 one step below 84. This amendment goes a long way toward solving a problem that 84 has for me and that is that it recognizes we have got the money to do it this year and it saves for another day the question of re-upping the program with the appropriate funding. It doesn't get us in trouble next year. That is why this amendment is so important. In the past, I have had some difficulty because if 84 is a two-year program, it seems to me we haven't made appropriate acknowledgement for funding, this amendment does that and, for that purpose, I'm glad. But 84, itself, can be improved and I will tell you why and the new compromise discussion points it out. It really is a blending of two different programs, a rebate program and a homestead program and that makes it two levels of administration and pretty costly to do, pretty costly to do, might be some problems in the way that it gets carried out. But it's better than LB 809, in my sense, because it's more understandable, it's certain and it has elements of targeting that I like. Frankly, the discussion that's come up in the last couple of days in the compromise certainly has some virtues, easier administration, more understandable than either 809 or even the mixed formula of 84. The difficulty is there aren't any caps in it for me and I, too, am awaiting the Attorney General's notion. I, on the other hand, have suffered, as you have, from not being able to see the compromise language. I have asked for a copy of it. It's now up in the bill drafters. When it comes down I'm going to put it into the Journal, not on 84, not on LB 809; there is an insurance bill, LB 279, that everybody and their dog has put an

will be. Hopefully, we'll be able to fund a property tax rebate in the area of \$94 million again next year. But I'm satisfied this year to take it one year at a time, give back \$94 million to the homestead...for the homestead exemption, next year come back, if there is additional revenue at that time, let's give that back to the homeowner once again. Thank you.

PRESIDENT NICHOL PRESIDING

PRESIDENT: Mr. Clerk, do you have anything for the record?

CLERK: Mr. President, I have a motion by Senator Chambers to reconsider a vote taken yesterday. That will be laid over, Mr. President. Health and Human Services Committee reports LB 462 to General File with amendments. I have amendments to be printed to LB 769 and LB 279. (See pages 1911-12 of the Legislative Journal.)

Mr. President, I have an amendment to LB 84. Senator Bernard-Stevens would move to amend the bill. (Senator Bernard-Stevens' amendment appears on page 1912 of the Journal.)

PRESIDENT: Senator Bernard-Stevens, please.

SENATOR BERNARD-STEVENS: Thank you, Mr. President. In following up on the statements I made earlier, I'll at least put the membership on a vote, and I'll make sure, hopefully, it will be a record vote, and we'll put ourselves, at least, on the line. If we are truly going for significant property tax, which LB 84 or LB 809 are, it is significant property tax relief. And I understand Senator Schmit's argument, it may be deleted a great deal because of LB 361, and I understand that, and he's absolutely correct. But to just go for one year and then to put off any future funding mechanism for an entire year and say we'll look at it later is once again skipping a beat and saying we're going to dodge that bullet, we're going to be able to come up with some positive things here, say, look at what we did. But we again dodged the bullet, and that bullet is in order to get significant property tax, we've known it since the Syracuse Study, and I think members knew it way before then, you have to broaden your tax base to do it, you have to have enough money and enough ways to support that to do it. So my amendment is very simple. It would once again put it to a two-year program, LB 84, and we'd have a half cent sales tax increase in order to fund the second year. It's quite simple. I think I know what

May 10, 1989

LB 228, 279, 588, 769, 813

that Senator Moylan wants is that they be nominated by district and, as Senator Hall pointed out in his questioning with Senator Labeledz, elected at large. This would not ensure the representation in each district by the person of the district's choice. It's a stratagem and, again, it's a chance for her to work off her peak that she feels because of 769. Again I say, I understand that and I believe she should be allowed to continue offering her amendments until she exhausts her amendments or exhausts herself. But, at any rate, I oppose this amendment, as I did the others.

PRESIDENT: Thank you. Senator Goodrich, please.

SENATOR GOODRICH: I move we adjourn until tomorrow morning at 8:00 a.m.

PRESIDENT: Mr. Clerk, do you have something to put into the record?

CLERK: Mr. President, I have amendments to be printed to LB 769, LB 228, and LB 813, and to LB 279. That's all that I have, Mr. President. (See pages 2289-91 of the Legislative Journal.)

PRESIDENT: Speaker Barrett, Speaker Barrett, are you recommending eight or nine tomorrow?

SPEAKER BARRETT: Eight o'clock.

PRESIDENT: Eight.

SPEAKER BARRETT: Absolutely.

PRESIDENT: Okay.

SPEAKER BARRETT: Thank you.

PRESIDENT: The motion has been made to adjourn until eight o'clock tomorrow morning. All in favor say aye. Opposed nay. You're adjourned until eight o'clock tomorrow morning. Thank you very much.

Proofed by:

Sandy Ryan
Sandy Ryan

May 18, 1989

LB 89, 137, 137A, 211, 215, 228, 279
289, 289A, 352, 639, 651, 651A, 761A
762A, 815A, 817A

Teachers buy books. Teachers buy supplies for kids that don't have them. They take money right out of their own pockets and give it to kids. And so it's...I guess that's one of the reasons why I feel very strongly about giving the money directly to teachers. Senator Warner's remarks struck a chord with me and reminded me of all the contributions that I know that individual teachers make to kids. And so I would urge us to get on with it. Let's pass this bill. It's time we did something for teachers.

SPEAKER BARRETT: Senator Schellpeper.

SENATOR SCHELLPEPER: I will give my time to Senator Moore.

SPEAKER BARRETT: Senator Moore.

SENATOR MOORE: Yes, Mr. Speaker. just to say I guess it's time to withdraw this. I apologize to the...to the original supporters of this bill, at least, because I think some of them wanted to read it tonight and because if my amendment was adopted, they couldn't, but I think it makes it a better bill, obviously, a bill that I can now support and I think there has been some fights among some varying entities on this bill. I think now we've got a bill that really does help education in the state. And, with that, I withdraw the amendment. The last things I will say on LB...the last things that all of us will say on LB 89 and come Monday we'll pass the bill over to the Governor.

SPEAKER BARRETT: Thank you. It is withdrawn. Anything further, Mr. Clerk?

CLERK: Nothing further on that bill, Mr. President.

SPEAKER BARRETT: Yes, for the record.

CLERK: Mr. President, amendments to be printed, Senator Scofield to LB 761A; Senator Chizek to LB 279. (See pages 2546-47 of the Legislative Journal.)

Mr. President, your Committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 137, LB 137A, LB 211, LB 215, LB 228, LB 289, LB 289A, LB 352, LB 639, LB 651, LB 651A, LB 761A, LB 762A, LB 815A and LB 817A, Mr. President. (See pages 2548-50 of the Legislative

May 19, 1989

LB 258, 279, 301, 302, 305, 308, 309
309A, 310, 355, 355A, 469, 588, 727
813, 814, 816, 816A

and not voting, 1 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 816 passes. LB 816A.

ASSISTANT CLERK: (Read LB 816A on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 816A become law? All in favor vote aye, opposed nay. Have you all voted? Please record.

ASSISTANT CLERK: (Record vote read. See pages 2566-67 of the Legislative Journal.) The vote is 46 ayes, 0 nays, 2 present and not voting, 1 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 816A passes. Pursuant to the agenda that you have in front of you, we will proceed to Select File and then return to item 6, Select File, LB 525, which was bracketed at one-thirty. The call is raised. And while the Legislature is in session and capable of transacting business, I propose to sign and I do sign LB 813E, LB 814E, LB 301, LB 302, LB 308E, LB 309E, LB 309AE, LB 469E, LB 727, LB 305, LB 310E, LB 816 and LB 816A. Mr. Clerk, proceed to LB 279.

CLERK: Mr. President, I have some items for the record. May I read?

SPEAKER BARRETT: Certainly.

CLERK: Mr. President, explanation of vote by Senator Beck. (See page 2567 of the Legislative Journal.)

I have a report of Registered Lobbyists for this week. (See page 2568 of the Legislative Journal.)

Mr. President, Enrollment and Review reports LB 258, LB 355, LB 355A and LB 588 as correctly engrossed. (See pages 2567-68 of the Legislative Journal.) Those are offered by Senator Lindsay as Chair of Enrollment and Review.

Mr. President, LB 279 is on Select File. I have no E & R amendments to the bill. I do have other amendments, however. The first is by Senators Landis, Wesely and Hartnett. Senator, I have AM1192 in front of me. That was printed earlier this year. It's on page 1464.

SPEAKER BARRETT: Senator Landis, will you handle the amendment?

SENATOR LANDIS: I will. As I recall, Mr. Clerk, we had an amendment that was divided in half. We adopted half of the amendment. Senator Withem offered a floor amendment to the second half of an amendment to LB 279. Is that the portion that we now are referring to?

CLERK: Well, Senator,...

SENATOR LANDIS: Let me approach the Chair and just take a look at the amendment.

SPEAKER BARRETT: Certainly.

CLERK: Mr. President, Senator Landis is correct. We had divided the amendment. The first portion had been adopted, I believe, by the body. The second portion was under consideration. Senator Withem then offered an amendment to that amendment. That amendment is now pending.

SPEAKER BARRETT: Senator Withem, please.

SENATOR WITHEM: Yes, just to get a couple of things in the record here. When this amendment was being considered on the floor we were discussing service contracts. It aroused my interest and we had a fairly lively debate on the whole subject. Since that time I've had an opportunity to learn a little bit more about the service contract statute. Some years ago the Legislature passed a statute regulating service contracts as if they were insurance. Then it appears, historically, I don't know whether at that time or throughout the years we have basically amended that statute by exemption. We have exempted almost anybody. As a matter of fact, if this amendment of mine were to pass, as I read it in its full context, it would say everybody that sells a service contract shall be regulated, except anybody that sells a service contract. We would effectively negate the whole situation, if this were to go through. In some discussions with people that are in this business it...I, personally, have come to the conclusion that we need some regulation of service contracts, that the current standard of regulation probably went a little bit too high, a little bit too tough to meet; we probably exempt way too many people, and that we should probably do a study on this issue and

attempt to change our service contract statute to (a) make it a lower level, a more possible level for people to comply with, while at the same time bringing people back in that have been exempted. At this point, though, it probably makes sense, at least for the interim, to go ahead and allow this particular service contract for the utilities that are selling, it's one that has not been regulated in the past, is not currently being regulated. Passage of the Landis amendment without the Withem amendment to the amendment will basically maintain the status quo as we're doing the study. So I will be withdrawing my amendment to the amendment and will be supporting of the Landis amendment, with the understanding that we're going to do a very serious look at the way in which we regulate service...individuals who sell service contracts. With that, I would withdraw my amendment.

SPEAKER BARRETT: Thank you. The Withem amendment is withdrawn. Back to the amendment.

SENATOR LANDIS: Thank you, Mr. Speaker. I will briefly recharacterize, for the body, the amendment and then we'll be able to proceed. Let me, by the way, acknowledge that the Banking Committee has already prioritized our studies, and that the service contract study is one of the two or three top priorities for us this year. A service contract is where you make a prepayment for service. It is regulated. We're making another exemption, which we have a number of in our statutes, in this case for home appliance service by natural gas industries and utilities which are regulated. The reason being, there is a presence in the state sufficient to assure a consumer of an adequate remedy, and somebody to sue, if the contract goes bad. And, for that reason, I would urge the adoption of the amendment. Thank you.

SPEAKER BARRETT: Thank you. Discussion on the second part of the divided question. Senator Warner, would you care to discuss it, the Landis amendment? Thank you. Senator Abboud. Thank you. Senator Hartnett.

SENATOR HARTNETT: Mr. Speaker, members of the body, I brought this bill to the Banking and Insurance Committee this year, LB 766 was advanced out of committee. And I think it just adds, as Senator Withem and Senator Landis have said before, adds the issuance of service contracts by heating and cooling systems, electrical companies. So it simply...and I think Senator Withem

May 19, 1989

LB 279

is right, this will be the seven people...seventh group of people exempt from service contracts. And very few people are covered by a service contract. In fact, I think looking with the Insurance Department there is only two companies covered by it, so I think that Senator Withem and I offered the study resolution to the Banking, Insurance Committee. I think that it's a reasonable thing to do, and I think that I will be...my staff and I will be working with the Banking, Insurance people to...this summer, in the interim, to bring up something like Senator Withem says to look at, so we have better control over the whole area of service contracts. With that, I would ask you to adopt this amendment.

SPEAKER BARRETT: Thank you. Senator Landis, there are no other lights, if you'd care to close.

SENATOR LANDIS: I'll close on this amendment. We have several others and I'll explain them as we go, step by step. But let's please adopt this amendment. Thank you.

SPEAKER BARRETT: Thank you. The question is the adoption of the Landis-Wesely-Hartnett amendment. Those in favor vote aye, opposed nay. Voting on the Landis amendment. Please record.

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

SPEAKER BARRETT: The amendment is adopted.

CLERK: Mr. President, the next amendment I have is by Senator Wesely. Senator, I have a note you want to withdraw this amendment.

SPEAKER BARRETT: It is withdrawn. It is withdrawn, Senator Wesely, is that correct?

CLERK: Senator Wesely, withdraw the amendment? Right. Thank you.

SPEAKER BARRETT: It's withdrawn.

CLERK: The next amendment, Mr. President, is by Senator Chizek. Senator, I have AM1180 in front of me.

SPEAKER BARRETT: Senator Chizek.

CLERK: It's on page 1462 of the Journal.

SENATOR CHIZEK: What was that amendment number, Mr. Clerk?

CLERK: AM1180, Senator.

SENATOR CHIZEK: Okay. Mr. Speaker, colleagues, the amendment provides that basically any health care program administered by the state that includes payments to pharmacies, that the state must provide notice of change...oh, I'm sorry, I think I've got the wrong amendment, Mr. Clerk.

SPEAKER BARRETT: AM1180.

SENATOR CHIZEK: Bear with me a minute. That...withdraw.

SPEAKER BARRETT: Withdraw?

SENATOR CHIZEK: Withdraw.

SPEAKER BARRETT: It is withdrawn. Thank you.

CLERK: Senator, the next amendment is by yourself. Senator, I have AM1179 now pending.

SPEAKER BARRETT: (Gavel.) Senator Chizek, please.

SENATOR CHIZEK: Withdraw that also.

SPEAKER BARRETT: It is withdrawn.

CLERK: Senator Chizek, I now have an amendment, it's a repealer of LB 44-392 (sic), Senator.

SENATOR CHIZEK: Withdraw.

CLERK: Withdraw?

SPEAKER BARRETT: It's withdrawn.

CLERK: I now have an amendment from you, Senator, it's a floor amendment, it's on page 1750 of the Journal.

SENATOR CHIZEK: Withdraw.

CLERK: Withdraw.

SPEAKER BARRETT: It's withdrawn.

CLERK: I now have an amendment from...well, it's drafted, Senator, by yourself and Senator Wesely. I believe it was a floor amendment to an earlier Landis amendment that we adopted.

SPEAKER BARRETT: Senator Chizek.

SENATOR CHIZEK: I'm sorry, a little confusing, Pat. Too many amendments.

CLERK: It's early.

SENATOR CHIZEK: Thank God.

CLERK: Senator, this is an amendment offered by you and Senator Wesely. It's an amendment to the Landis amendment that's already been adopted. This is AM1439.

SENATOR CHIZEK: I'm going to let Senator Wesely handle that.

SPEAKER BARRETT: The Chair recognizes Senator Wesely. (Gavel.)

SENATOR WESELY: Thank you. Mr. Speaker and members, Senator Chizek drafted this amendment and I co-sponsored it with him. It is found on page 1800 of the bill. It does clarify an earlier amendment that I had adopted to the bill. Senator Chizek had raised concerns about the CHIP program and its cost, and Senator Chizek had myself and a representative of the Insurance Department sit down and discuss this issue. This amendment would clarify the earlier amendment by specifying that the health agency representative that we added in the earlier amendment to the CHIP board would be selected by the Director of the Department of Insurance. It would also strike language that allows a CHIP board to recover prior losses when setting new rates or policies. This is an attempt to try and not have us back up and add to the burden of these individuals in a retrospective fashion. This adds to the earlier amendment, which again did add a health agency representative on the board, give authorization to the CHIP board to contract with PPOs and HMOs, did allow the conversion of policies by the CHIP board, and also allowed that the waiver that is now provided for in the

CHIP language would be deleted for a waiting period, so that we could contain costs. All of these items pulled together have led to an improvement in cost containment under the CHIP program and will result, under the Director of Insurance, to have a premium increase of less than 10 percent this year in the negotiations that we've had on this issue. So I want to commend Senator Chizek for working on this compromise and hope that you will adopt this amendment. I give the rest of my time to Senator Chizek.

SPEAKER BARRETT: Senator Chizek.

SENATOR CHIZEK: Mr. Speaker, colleagues, as Senator Wesely said, this is a compromise. I think no one is completely happy. I think it's a long way from where we were earlier, and I would urge your adoption of the amendment.

SPEAKER BARRETT: Thank you. Senator Landis, any discussion?

SENATOR LANDIS: This language is entirely satisfactory to me. I urge its adoption.

SPEAKER BARRETT: Thank you. Senator Abboud. Thank you. Any other discussion? Any closing comment, Senator Wesely? Thank you. The question is then the adoption of the amendment. All in favor vote aye, opposed nay. Record.

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

SPEAKER BARRETT: The amendment is adopted.

CLERK: The next amendment, Mr. President, is by Senator Landis. I have a note that he'd like to withdraw.

SPEAKER BARRETT: Senator Landis.

SENATOR LANDIS: Mr. Speaker, at one time you might recall we were arguing about property tax relief, and the Governor had a compromise measure and nobody wanted it on their bill, so I put it in the Journal, had it printed and put it on 279. Well, the arms of this tree, the branches are not strong enough to bear this much weight nor fruit, and I would urge the withdrawal of this amendment.

SPEAKER BARRETT: So ordered.

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

SPEAKER BARRETT: Senator Haberman. Senator Haberman, please. Senator Haberman, proceed.

SENATOR HABERMAN: Mr. President, members of the body, due to some misunderstanding, the seminars that are to be held by the Nebraska Land and Title Association, the hours in the bill were reduced. Since that time there has been some negotiations, shall we say, is that a fair word, with the Insurance Department and with members of the committee to reinstate in the bill that there will be six hours of continuing education for persons who handle title insurance. They have to take six hours of seminar training, or schooling, or whatever you want to call it, every two years; six hours every two years. The bill, I say, by error or otherwise reduced to three hours. Now, the six hours are being provided in four separate seminars that these people can go to be qualified for attending the continuing education. The Nebraska Land Title Association, twice a year, will hold a seminar worth six hours of credit. The Nebraska Business Institute, once a year, will hold a seminar worth six hours of credit. The Bar Association, once a year, will hold a seminar worth six hours of credit; and the private underwriters, once a year, will hold a seminar worth six hours of credit. The reason there are so many people holding these seminars at different times is to make it easier for those folks to attend the seminars at their convenience. They can attend any one of these to get six hours credit, every two years. So, as I stated when I opened, the legislation calls for three hours and the amendment changes the figure three to the figure six. Therefore, I ask you to adopt this amendment.

PRESIDENT NICHOL PRESIDING

PRESIDENT: Thank you. Senator Hartnett, please.

SENATOR HARTNETT: Mr. President, members, is this germane? I guess I raise the question about the germaneness of the issue. This...

PRESIDENT: Senator Landis, please.

May 19, 1989

LB 92, 279, 466

SENATOR LANDIS: Thank you. LB 279 is a trailer bill, designed to allow us to respond to issues to the very, very major rewrite of insurance law, LB 92, that we previously passed. The issue that Senator Haberman is adjusting...is adjusting in this amendment is one that arose in LB 92. In LB 92 our current law was changed from six down to three. His amendment now raises that from three back to six. And 279, in its capacity as a trailer bill to carry follow-up issues to LB 92, is, in my estimation, quite germane. Frankly, we have suspended the rules on all the rest of the amendments because they were not germane. This is the only germane amendment that has been offered to the bill.

PRESIDENT: Does that satisfy you, Senator Hartnett? Okay. Were you through speaking, Senator Hartnett? You withdrew your request for a ruling on it. Okay.

SENATOR HARTNETT: Yeah.

PRESIDENT: Okay.

SENATOR HARTNETT: Mr. President, members of the body, I guess I rise in opposition to Senator Haberman's amendment, because I introduced a bill into the Banking and Insurance Department...Committee this year, LB 466, which was advanced out of the committee with six yes votes and present and not voting, two people. And it simply deals with attorneys. I think one of the things that we have discovered, and I did it for some attorneys in my area that are abstractors and so forth, is the lack of courses and the lack of quality of the courses. So I think that is why we're raising it up again to six hours again. I think...I listened to Senator Haberman, he says they're going to have more of the seminars and so forth and maybe we should do that first and then see if they need to be raised to six hours. So I guess I would oppose this amendment.

PRESIDENT: Thank you. May I introduce some guests, please, in the north balcony. Senator Hall has 30 eighth graders from Mars Junior High in Omaha with their teacher. Would you folks please stand and be recognized. Thank you for visiting us today. Senator Abboud, please.

SENATOR ABBOUD: Well, Mr. President, colleagues, I would challenge the germaneness. I serve on the Banking Committee as well, and I'm well aware of what LB 92 did. But this,

unfortunately, is not LB 92. If you look at the description of LB 279 it provides information dealing with Unauthorized Insurers Act, and it deals with a different section of statute than this current amendment. So I would ask for a ruling of the Chair as to the germaneness.

PRESIDENT: Thank you. Senator Landis, please, followed by Senator Kristensen.

SENATOR LANDIS: If the Chair wishes to rule it nongermane, I will be happy to offer a motion to suspend the rules. I don't wish to disturb the body on that respect. I do want a chance, because my light is on, to respond to the argument that Senator Hartnett gave, but if the Chair wishes to rule in either direction, (interruption).

PRESIDENT: As I understood, he withdrew his objection to the germaneness.

SENATOR LANDIS: Senator Hartnett did. I think Senator Abboud is now renewing that objection.

PRESIDENT: Oh, is that correct, Senator Abboud?

SENATOR ABOUD: Yes, it is, Mr. President.

PRESIDENT: Okay, Senator Landis, would you like to respond to that? More than you have already.

SENATOR LANDIS: I have already spoken on the other, and I will let the Chair rule, and I will respond appropriately afterwards.

PRESIDENT: Offhand, I would think that it should be germane since this is a trailer bill, so I will rule that direction. Senator Abboud.

SENATOR ABOUD: Well, it is an interesting theory, Mr. President. I won't challenge.

PRESIDENT: Thank you. Senator Kristensen.

SENATOR LANDIS: (Mike off) but it has just disappeared and I...

PRESIDENT: No, I thought you did not wish to speak, Senator Landis. You were ahead of Senator Kristensen, and I am sorry.

SENATOR LANDIS: When I push my button that means I want to talk, and that's how come I done that.

PRESIDENT: Oh, pardon me. Senator Landis, would you go before Senator Kristensen, please?

SENATOR LANDIS: Thank you. Mr. Speaker, I want to tell you why I support the Haberman amendment. There is two issues here, and Senator Hartnett is quite right, we did have a bill that he brought to us on abstractors, which is a somewhat related area, and there has been some professional jealousy between the attorneys and the abstractors, and we reported the bill out of committee, as I recall, to the floor. Land title agents serve a different function and it is a more difficult legal analysis that they do than an abstractor does. Both abstractors and land title agents tell me that this business is more complex. The reason that this amendment was changed in the first place, the reason the task force suggested it dropping from six to three of hours was because the Department of Insurance had received a number of complaints from throughout the state by agents who said, we could not get relevant coursework by the time we needed to renew. It proved to be very difficult for us to find a form or a format for us to take continuing education. The department was weary of dealing with complaints they had no method of response for. They agreed with the task force to drop the number of continuing education hours from six to three in '92. Since that time, the Land Title Association has upped by two their commitment either to personally or through underwriting an assistance of another group see to it that there are six hour continuing education classes around the state in a year's time. Basically, it will be at least on a quarterly basis, which because these are two-year renewal types will give every agent at least eight opportunities to get continuing education. That is satisfactory to the department now. They have removed their objections. The change from six to three was their idea to begin with. They agree with this amendment. I endorse it and Senator Haberman endorses it. It seems to me to be a reasonable accommodation because we had a number of complaints and now I think we have an adequate remedy for those complaints. I urge the adoption of this amendment.

PRESIDENT: Thank you. Senator Kristensen, please.

SENATOR KRISTENSEN: Thank you, Mr. President and members.

Senator Hartnett, if I could ask you a few questions so I understand fully what we are trying to do here, what your bill did. Wasn't some of the problems with these courses not necessarily the idea of the number of actual seminars held but the amount of course offerings in that you couldn't get credit even though there may be a number of courses there, but the actual program are broken down into numbers of little titles and areas that they concentrated on. Our problems really were that you couldn't go to one seminar, if two seminars had the exact same course offerings, you couldn't get credit twice for the same subject area, and so that was part of the problem with course offerings, is that correct?

SENATOR HARTNETT: Yes, that is as I understand it, from...some attorneys brought this bill to me to be addressed by the Legislature, but I think also is that some of the coursework that could be covered by the seminars done by the attorneys in their seminars was not "given the stamp of approval" by the land title people. So I think that is part of the problem is that there was a very real restriction as far as what was, you know, what was amenable or approved by the Insurance Department. I think, does that...

SENATOR KRISTENSEN: Okay, and the approach the Land Title Association have is probably a good one, as Senator Landis has pointed out, but they are going to begin and over the next period of time to increase the numbers of seminars, if I hear Senator Landis correctly, that they are going to move in that area. Is that your understanding as well?

SENATOR HARTNETT: Yes.

SENATOR KRISTENSEN: Senator Landis, if I could ask you just real quickly so I have an understanding of what we are doing.

PRESIDENT: Senator Landis, please.

SENATOR KRISTENSEN: Isn't part of the problem the course offerings, themselves? That those numbers were really limited and that is what they are going to try to expand in the future is the course offerings, themselves?

SENATOR LANDIS: You are confusing two issues, Doug, when you ask it in that way. The abstractors' issues, which is what Paul brought to the Banking Committee, did have an argument about the

limited nature of offerings.

SENATOR KRISTENSEN: Okay.

SENATOR LANDIS: That issue is contained in LB 476, I believe, Paul, LB 466?

SENATOR HARTNETT: Four sixty-six, yeah.

SENATOR LANDIS: That bill has been advanced by the Banking Committee. It is now on General File. With respect to land title agents, there the focus has not been on the limitation of subject matter. It has been on the availability of courses on a geographical basis and on a time basis. So it is important to separate the abstractor's question, for which we have adequate remedy on General File, from this issue which arose from the insurance aspect task force.

SENATOR KRISTENSEN: Okay, thank you. And I thank you, Senator Landis, for explaining that to me in terms of where we ought to head. I guess I still think that there is a strong message that we want to send back. I strongly support continuing education, be it for lawyers, plumbers, doctors, or whoever. I think that those are very good. I am a little concerned here that maybe we aren't putting the cart before the horse. Maybe if we would get the seminars in place and then come in and increase it, that would kind of hold the association's feet to the fire to make sure that they provided those things ahead of time, and then let's increase it. I think Senator Haberman would be correct then in talking about the numbers of course offerings, and those sorts of things, so, at this point in time, anyway, I think both sides probably have some good points. I would like to see them put the seminars in place first and then let's up the requirements if we think that is necessary. Thank you.

PRESIDENT: Thank you. Senator Haberman, please.

SENATOR HABERMAN: I will wait and close.

PRESIDENT: All right. Thank you. Senator Abboud, please.

SENATOR ABOUD: Mr. President, I rise in opposition to the amendment, as well. This is, basically, in essence, a turf battle between two competing associations. In essence, what you had is a number of complaints from attorneys to the Bar

Association that when they sought to get increased...sought to take care of the six hours of continuing education, that the Title Insurance Association or the Nebraska Land Title Association was very uncooperative. They did not offer the seminars that were needed, in the opinion of a number of bar members. They did not offer them often enough, and it caused a great deal of hardship to the members that were attempting to complete these requirements which were established by the State of Nebraska. Now as we are aware in dealing with issues such as continuing education, the State of Nebraska allows these associations to establish all criteria. We give them a pretty broad brush to paint whatever classes they choose to offer for those members of the association, and serving on the committee, I was quite surprised by this association, Title Association, when they disregarded, I felt, legitimate members' concerns as to not having enough classes offered for their membership, and I thought it was in the best interest of title insurance to offer as many classes and as varied a classes as possible, and the classes that are offered by the Bar Association are excellent classes, and there is a great deal of number so that you will have Bar Association meetings across the state, whereas, the Title Association is rather limited in the locations and the type of classes being offered. It is nice to see that they finally budged when we passed a bill that provided the reduction in hours, and, unfortunately, it had to come to something like that, but it still doesn't change the problem that they are having and the problem that I have received. I have never done any title insurance. It is a rather specialized area and, in that regards, it doesn't really make a lot of difference to most attorneys what the continuing education classes are required in this area but, I think in the best interest, I think that there should be a large class offering and I think that is where the real concern is. I am rather disappointed by this amendment. The only thing that they have done is in seeking these hours is to tell the Legislature that, hopefully, they will offer more classes. But there is nothing in statute that requires this particular statement on their part, and this amendment does one thing. It increases the hours from three to six. They haven't shown any need in the committee or since that time for this need in increased hours, and I would urge the body to reject it.

PRESIDENT: Thank you. Senator Landis, please, followed by Senator Hartnett. Senator Landis.

SENATOR LANDIS: I will pass at this point, thank you,

Mr. Speaker.

PRESIDENT: Senator Hartnett, please.

SENATOR HARTNETT: I wanted, Mr. President and members of the body, I simply want to clear up some misinformation, I guess, or something, and I want to get it on record, I talked with Senator Landis, is that my bill that I had in LB 466 that was voted out of committee simply dealt with both title insurance and with abstractors, because normally...and it was with attorneys and they normally practice or have both, wear both hats. They are title insurance people and they are also abstractors, and so I guess what I heard is I guess from my people is that I think they have no problem with continuing education. It is simply the quality and how much is offered, is that sometimes they have the seminars and meetings simply to get people to go and they count them as seminars, and I guess I have problems with there, I think if we are going to require continuing education of anybody, it should have some, you know, it should have some value, and I guess that is where I am coming from, and I think that is what the people that have talked to me, and the attorneys that have talked to me is if it had, whether it was six hours or three hours, if there was some flexibility, and if the courses were of better quality, I guess, in their eyes, and I think they see themselves, I guess, maybe attorneys, we have some on the floor here, see themselves better than the rest of us because of their, you know, extensive sense of training. So for that reason, I simply want to kind of oppose this amendment at this particular time.

PRESIDENT: Thank you. Senator Haberman, would you like to close on your motion, please? You are closing.

SENATOR HABERMAN: Mr. President, members of the body, I would like to call to the attention of the body that this really isn't an increase of three hours because the present law calls for six hours instead of three. Now to answer the objection as to the quality of the seminars from some of the attorneys, that objection really, folks, will go away because the Bar Association is holding their own, and if a Bar Association is holding a seminar and they are in control of the subject matter, it surely isn't anybody's fault, except maybe theirs, as to the quality of the subject matter. Also it was brought up, Senator Kristensen says he supports continuing education. I do, too, and that is what this is all about. So we know that quality is

not a factor. Somebody said, well, let's put these, all of these new hours into place first. I will say this. I will trust these folks. I will trust them, the Nebraska Land Title Association, I will trust the Nebraska Business Institute, I will trust the Bar Association, and I will trust the private underwriters that they will put into effect each and every one of them what they say they will do, and have seminars. One will have twice a year for six hours, one will have once a year, and I will trust that those folks would do that. If they don't, I will be back here next year with legislation removing this. I will give the rest of my time to Senator Landis, and please give some to Senator Kristensen.

PRESIDENT: Senator Landis, please, you have three minutes.

SENATOR LANDIS: Thank you. I won't need all of that time. I support the Haberman amendment. There has been continuing discussion which the Banking Committee has monitored between various professional agencies. That has continued even as we speak. We have a bill on General File on the abstractors and I can report to the group that there is agreement from the abstractors group and the Nebraska Bar Association to support that issue next year, and my commitment is there to do the same. Although it would be possible to do that now, it is unnecessary, in my estimation. I am voting for the Haberman amendment and I anticipate that next year we will make an adjustment, not in the land title area, but in the abstractors area of reducing from six to three hours in that area with the agreement of the Bar Association and the abstractors, and I will yield the remainder of my time to Senator Kristensen.

SENATOR KRISTENSEN: Thank you, Senator Landis, and thank you, Senator Haberman, for part of your time of closing. I think that Senator Landis has explained this very well, and that would be a very acceptable understanding and, with that, I would support the Haberman amendment providing that we look at, and everyone has agreed to it, and it seems reasonable that we will examine the area and reduce down to three hours the abstractors at our earliest convenience next session. So, thank you.

PRESIDENT: Thank you. The question is the adoption of the Haberman amendment. All those in favor vote aye, opposed nay.

SENATOR HABERMAN: To save time, I think I will ask for a call of the house and take call in votes.

May 19, 1989

LB 279

PRESIDENT: Okay, the question is, shall the house go under call? All those...

SENATOR HABERMAN: Never mind.

PRESIDENT: You want to withdraw your motion? Record, Mr. Clerk.

CLERK: 25 ayes, 1 nay, Mr. President, to adopt Senator Haberman's amendment.

PRESIDENT: The Haberman amendment is adopted. Do you have anything further on it, Mr. Clerk.

CLERK: Mr. President, Senator Chizek would move to amend. Senator, I also have your amendment to the amendment. Would you like to take that up now or...

SENATOR CHIZEK: Yes.

CLERK: Mr. President, Senator Chizek has an amendment to the bill. He has an amendment to that amendment.

PRESIDENT: Senator Chizek, please.

SENATOR CHIZEK: Mr. President, members, the amendment to the amendment simply strikes the last language of AM1903 and changes basically so there was no confusion between the "shall" and the "may". We thought there might have been a problem with "shall" and changed it to "may". And the amendment to the amendment also changes State of Nebraska to Nebraska Medical Assistance Program which further clarifies it so that we don't get confused or involved with any other federal programs and I would ask for your adoption of the amendment to the amendment.

PRESIDENT: Okay, Senator Wesely, do you wish to speak to the amendment to the amendment?

SENATOR WESELY: Yes. I would support the amendment to the amendment. Concerns have been raised by the Department of Social Services and these amendments will deal in part with those concerns. We do need these amendments. So I would support them very much.

PRESIDENT: Thank you. Senator Chizek, would you like to close on your amendment to the amendment?

SENATOR CHIZEK: Would just ask for adoption of the amendment to the amendment.

PRESIDENT: Okay, the question is the adoption of the amendment to the Chizek amendment. All those in favor vote aye, opposed nay. Voting on the amendment to the Chizek amendment. (Gavel.) Ladies and gentlemen, since several of you are missing, I would certainly appreciate your cooperation, if you choose to vote, I'd appreciate it. Record, Mr. Clerk, please.

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

PRESIDENT: The amendment to the amendment is adopted. Now, Senator Chizek, we're back on your amendment.

SENATOR CHIZEK: Mr. President and colleagues, this is a compromise amendment between pharmacies and the carriers that many of you have heard about. And, basically, it provides that any program provider that is administered by the State of Nebraska that includes payments to pharmacies, that notice must be provided of change and allow 60 days for those pharmacies to either accept or reject becoming a contracted provider. And, under state procedure, all changes as far as regulations, etcetera, must go through a public hearing anyway and also it allows the administrator discretion on paying, as I had mentioned earlier, on the "may" to the "shall"... "shall" to the "may". And I would ask for your adoption of the amendment.

PRESIDENT: Thank you. Senator Wesely, please.

SENATOR WESELY: Thank you. Mr. President and members, I...this amends an area of law that I was involved in about six or seven years ago. What we set up was the authority for the Department of Social Services to contract with providers under the Medicaid program in an attempt to save money. By contracting, you provide volume and by providing volume you can have lower costs. And so we have tried to allow for that authority. It hasn't really been pursued to the degree that I would like to have seen but it was looked at and is being considered again, especially in the area of pharmacy benefits. The amendment that was adopted makes this amendment itself, in my estimation, pretty

innocuous. It does deal with the idea of providing notice and that is reasonable. It also provides an optional ability for recipients to go to pharmacy services outside of the contracted services but it makes it optional, not mandatory. As a result, it won't supersede that earlier legislation I was talking about which would still be in effect dealing with contracting services. So it is, I think, an agreeable amendment with an understanding again that we're trying to make it a fair situation and give an option to the department. But I, for one, want to emphasize to you that if we're ever going to save money on health care costs and health care services, you have got to be able to let the marketplace work and the marketplace won't work if you allow everybody in the world to get in on whatever contract is negotiated on, whether it be a doctor's or hospital's or pharmacist's. You have got to let competition in the marketplace enter into the health care field or we're never going to get a handle on the thing. This doesn't upset that situation, I think, unduly again because of the "may" provision in there. But I just want to raise this point once again that we have got to move forward in trying to get that competition and marketplace factor interjected and I hope some day we'll see the department pursue that and I hope that that will be soon.

PRESIDENT: Thank you. May I introduce some guests, please. Under the north balcony, Senator Rod Johnson and Senator Scott Moore have some folks from Stromsburg, Nebraska. They are Duane and Brenda Oquist and their children, Matthew, Katie, Mark and Peter. Would you please welcome them to the Legislature this morning. Thank you for visiting us. Senator Pirsch, please, followed by Senator Abboud and Senator Hefner.

SENATOR PIRSCH: Thank you, Mr. President. I just wanted to rise and give my support to this amendment. It's... Senator Wesely was very thorough in his examination of this amendment and I do want to point out that it is true that the competition and the availability of pharmacy services is very important and this is a very small step in that direction. But, again, we want that option and I think this amendment, while it is just a small step in the right direction, will accomplish at least a start. So I hope you will support it.

PRESIDENT: Thank you. Senator Abboud, please.

SENATOR ABOUD: Question.

May 19, 1989

LB 279, 706

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

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

PRESIDENT: Debate has ceased. Senator Chizek, would you like to close on your amendment?

SENATOR CHIZEK: Very quickly. Mr. President and members, the bottom line is the amendment guarantees the notification that all pharmacies have a chance to bid on the Nebraska Medical Assistance contracts after the notification, etcetera. And many of you have received letters from your people in your area in terms of the pharmacists and I would just ask for adoption of the amendment.

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

CLERK: 30 ayes, 0 nays, Mr. President, on adoption of Senator...

PRESIDENT: The Chizek amendment is adopted. Anything further, Mr. Clerk?

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

PRESIDENT: Go back to the advancement of the bill. Senator Landis, would you like to speak on that? Senator Lindsay, did you wish...Senator Lindsay, do you wish to move to advance the bill?

SENATOR LINDSAY: I move to advance the bill.

PRESIDENT: You have heard the motion. All in favor say aye. Opposed nay. It is advanced. Anything...move on to LB 706, please.

CLERK: Mr. President, on 706, Senator I have Enrollment and Review amendments pending.

PRESIDENT: Senator Lindsay, please.

May 19, 1989

LB 177, 187A, 209, 279, 285, 285A, 289A
362, 362A, 651A, 761A, 781

question is the striking of the enacting clause. Those in favor vote aye, opposed nay. Record.

CLERK: 35 ayes, 0 nays, Mr. President, to strike the enacting clause.

SPEAKER BARRETT: Thank you. Motion is adopted. The amendment is adopted. The enacting clause is stricken.

CLERK: Mr. President, if I may, your Committee on Enrollment and Review respectfully reports that they have carefully examined and engrossed Legislative Bill 177 and fine the same correctly engrossed LB 187A, LB 279, LB 289A, LB 362, LB 362A, LB 651A, and LB 781, all signed by Senator Lindsay as Chair.

Mr. President, the Enrollment Clerk has presented to the Governor LB 285 and LB 285A read earlier this evening on Final Reading.

SPEAKER BARRETT: Mr. Clerk.

CLERK: Mr. President, I have one final item. I have a unanimous consent request to unbracket LB 209, which has been pending on Final Reading.

SPEAKER BARRETT: Thank you. If there are no objections, so ordered. I have just been advised that E & R, the Bill Drafters, have done an amazingly good job and they are to be congratulated. They've been working hard on all of the bills. They've been processed and have been returned to the floor in order that adjournment might be possible should it be the will of the body. With that announcement, we can proceed into Final Reading now if that is the body's desire. We can adjourn until Monday morning at nine o'clock. Monday will be dedicated to Final Reading in its entirety, Final Reading all day. I think we need to say thank you to the Bill Drafters for the work that they have done. It is up to the body. Senator Hall.

SENATOR HALL: Mr. President, I would move that we adjourn until Monday morning at 9:00 a.m..

SPEAKER BARRETT: You've heard the motion to adjourn until Monday morning at nine o'clock. Those in favor please vote aye, opposed nay. Record, please. Members take your seats for Final Reading. Motion fails. (See vote of 7 ayes, 31 nays, as found

May 23, 1989

LB 75, 89, 89A, 147, 177, 177A, 272
279, 289A, 289, 487, 487A

ASSISTANT CLERK: (Read LB 272 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 272 pass with the emergency clause attached? All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

ASSISTANT CLERK: (Record vote read as found on page 2691 of the Legislative Journal.) Vote is 47 ayes, 0 nays, 2 present not voting, Mr. President.

PRESIDENT: LB 272 passes with the emergency clause attached. I understand we're going to skip LB 272A for the moment and continue on with LB 279 with the emergency clause attached.

ASSISTANT CLERK: (Read LB 279 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 279 pass with the emergency clause attached? All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

ASSISTANT CLERK: (Record vote read as found on page 2692 of the Legislative Journal.) Vote is 44 ayes, 0 nays, 5 present and not voting, Mr. President.

PRESIDENT: LB 279 passes with the emergency clause attached. While the Legislature's in session and capable of transacting business, I propose to sign and do sign LB 147, LB 487, LB 487A, LB 75, LB 89, LB 89A, LB 177, and LB 177A. Continue on with LB 289 with the emergency clause attached.

ASSISTANT CLERK: (Read LB 289 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 289 pass with the emergency clause attached? All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

CLERK: (Record vote read as found on page 2693 of the Legislative Journal.) 44 ayes, 0 nays, 2 present not voting, 3 excused not voting, Mr. President.

PRESIDENT: LB 289 passes with the emergency clause attached. LB 289A with the emergency clause attached.

May 23, 1989

LB 213, 258, 272, 279, 289, 289A, 355
355A, 357

may recognize you. Thank you for visiting us today. While the Legislature is in session and capable of transacting business, I propose to sign and do sign LB 213, LB 258, LB 272, LB 279, LB 289 and LB 289A. Move on to LB 355 with the emergency clause attached.

CLERK: (Read LB 355 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 355 pass with the emergency clause attached? All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

CLERK: (Record vote read. See pages 2697-98 of the Legislative Journal.) 41 ayes, 0 nays, 7 present and not voting, 1 excused and not voting, Mr. President.

PRESIDENT: LB 355 passes with the emergency clause attached. May I introduce a couple of guests, under the north balcony, of Senator Scofield. We have Kathy Andersen and her son, Jason, from Lakeside, Nebraska. Will you folks please stand so that we may welcome you. Thank you for visiting us today. LB 355A with the emergency clause attached.

CLERK: (Read LB 355A on Final Reading.)

SPEAKER BARRETT PRESIDING

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 355A with the emergency clause attached pass? Those in favor vote aye, opposed nay. Have you all voted? Please record.

CLERK: (Record vote read. See page 2698 of the Legislative Journal.) 44 ayes, 0 nays, 4 present and not voting, 1 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 355AE passes. LB 357.

CLERK: (Read LB 357 on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 357 become law? Those in favor vote aye, opposed nay. Have you all voted? Record, please.