

January 11, 1989

LB 112, 324-329

PRESIDENT: Any further dis... Senator McFarland, did you wish to speak about this? All right. You have heard the motion, the question is to withdraw LB 112. All those in favor vote aye, opposed nay. Please vote if you care to. Record, Mr. Clerk, please.

CLERK: 26 ayes, 0 nays, Mr. President, on the withdrawal of LB 112.

PRESIDENT: LB 112 is withdrawn. Senator McFarland, for what purpose do you rise?

SENATOR MCFARLAND: Mr. President, I rise for a point of personal privilege. A lot...

PRESIDENT: State your point, please.

SENATOR MCFARLAND: A lot of concern has been expressed since I was locked in the bathroom on the first day of the legislative session and that's particular concern since sometimes I work down here in the evenings. If that ever happens again, I may not ever get out. But I want to assure you that I have been given a gift from our Governor today and it's wrapped in a nice bow and it's a can opener, and if ever I have the same experience again, I will be well prepared. So I'm going to keep this in my pocket and carry it everywhere I go for the rest of this session, so the rest of you won't have to worry about it. I thank you very much.

PRESIDENT: Thank you. And with the word "can" meaning so much more than it used to years ago, I am afraid to comment further. We will move on to the introduction of new bills.

CLERK: Mr. President, new bills. (Read by title for the first time LBs 324-329 as found on pages 176-77 of the Legislative Journal.) Mr. President, that's all the new bills that I have at this time.

PRESIDENT: Senator Crosby, would you do a special task at this moment, please?

SENATOR CROSBY: Thank you, Mr. Chairman, and members of the Legislature, it's my privilege to recognize Dr. Fleischli today, of Lincoln, who is serving as doctor of the day. He is a member of my district so I'm especially pleased to see him. He's here

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LB 121, 183, 214, 320, 326, 334, 354
362, 473, 489

want to just...? I would move that we adjourn until tomorrow morning at nine o'clock.

SPEAKER BARRETT: You have heard the motion to adjourn. Mr. Clerk, do you have anything for the record?

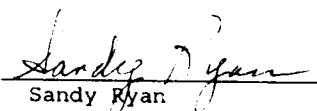
CLERK: Mr. President, yes, I do, thank you. Your Committee on Banking, Commerce and Insurance, whose Chair is Senator Landis, to whom was referred LB 214, instructs me to report the same back to the Legislature with the recommendation it be advanced to General File with amendments; LB 320, General File with amendments; LB 326, General File with amendments; LB 334, General File with amendments. Those are signed by Senator Landis as Chair. (See pages 566-71 of the Legislative Journal.)

Your Committee on Health and Human Services whose Chair is Senator Wesely, to whom was referred LB 354, instructs me to report the same back to the Legislature with the recommendation it be advanced to General File; LB 362, General File; LB 489 to General File, all signed by Senator Wesely. (See page 571 of the Legislative Journal.)

I have a series of notices of hearings from the Appropriations Committee, Mr. President, all signed by Senator Warner as Chair of the committee. Mr. President, a series of unanimous consent requests. Senator Withem to add his name to LB 183; Senator Korshoj to LB 473, Senator Smith to LB 121. That's all that I have, Mr. President.

SPEAKER BARRETT: Thank you. The question is the adjournment of the body until tomorrow morning at nine o'clock. Those in favor say aye. Opposed nay. Carried. We are adjourned. (Gavel.)

Proofed by:


Sandy Ryan

this in the state. It's not a common experience in the state now. It does seem to be something that's growing in other parts of the country and in anticipation of that trend I think Director McCartney has brought us this measure. The provisions are summarized in your committee bill book. If I had to identify them, I would say basically they are rather like the HMO provisions and it makes the Department of Insurance the ultimate regulator. Got to make your case to them, prove your net equity, maintain your net equity, a requirement of \$50,000. In the event you don't meet these standards, then it's possible to have a cease and desist order by the department. You've got to establish a complaint system inside your organization. You have to make sure that you are subject to the unfair competition in trade practices statute if in some cases there is deception. You can take a look at that summary then of the bill's provisions that appear in the bill book. If I have to characterize them generally, they are the HMO statutes tailored to the Limited Prepaid Health Organization situation. They provide the same basic oversight for complaints, for consumer problems, for oversight by the state to see that these organizations are sufficiently capitalized and well run. One additional point, there is no guarantee fund for one of these organizations should they go bankrupt. This is not a member of one of our health, life, property or casualty generally...guarantee funds, they're on their own. It's a coming phenomenon. Probably going to hit Nebraska with this. We'll be ready for the rise of Prepaid Limited Health Service Organizations. I would be happy to answer any questions and I move for the advancement of the bill.

PRESIDENT: 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 320.

PRESIDENT: LB 320 is advanced. LB 326.

CLERK: LB 326, Mr. President, introduced by Senators Landis and Weining. (Read title.) The bill was introduced on January 11, referred to the Banking Committee, advanced to General File. I do have committee amendments pending by the Banking Committee, Mr. President.

PRESIDENT: Senator Landis, please.

SENATOR LANDIS: Thank you. Mr. President and members of the Legislature, our Risk Manager, Yvonne Norton Leung, came to the committee with this measure and asked that we consider it. As it worked out, Senator Weihing, on the committee, and myself signed on as introducers simply because we had enough committee bills at the time but the committee reported the bill out by a unanimous vote. The bill allows the State of Nebraska to self-insure or to contract for related risk management services in the administration of our liability insurance policies. That is for the protection of our agencies against the losses due to our negligence in driving trucks, automobiles, snow plows, road graders and other vehicles. We have a fleet of cars and we have insurance on those cars now. Our premiums run about a million bucks a year. The losses occasioned by our cars run about \$600,000 a year. If we self-insure and if the trend holds, we'll save money. If the trend doesn't hold and for some reason we have a disastrous occasion, if you're self-insured and you're standing naked, it's possible to have some kind of considerable loss. Now that's the virtue of having insurance. What this bill says is that we may self-insure. Number one, we don't have to have an insurance policy and we can simply stand bare, or if we wish to, we can organize for a related risk management service and basically have our set of risks insured by a company in a stand-alone format that is designed to get from us the amount of money to pay off our losses. In that kind of format, basically, you pay for your loss rather than paying a premium by which you put money aside for the future. So the Risk Manager is authorized by this bill to continue doing what we're doing now, which is to have our own insurance policy with a major carrier, or to self-insure, and that is to make a contract with a risk management service or to self-insure ourselves and pay for those services, allowing ourselves then to fund this out of the state self-insured property fund or the state self-insured indemnification and liability fund as appropriate funds that exist already. The bill has the expectation, but not the promise, the expectation of saving us, oh, between a quarter of a million and a half a million dollars a year. I urge for the advancement of the measure.

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

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

PRESIDENT: The committee amendments are adopted. Senator Landis, on the advancement of the bill, please.

SENATOR LANDIS: Ah, I guess that's right, we were talking about the committee amendments. Self-insurance, remember, is based on the idea that you pay your losses. You pay for your losses. The virtue of having this measure is to give us a competitive method. Even if we don't use 326 for self-insurance, the fact that we can self-insure is a fact that we can take to the insurance companies whom we ask to bid for our business and to remind them that if their premiums are exorbitant, we can, in fact, self-insure. I think it has the additional inability to create some leverage for us should we wish to continue with the idea of using an insurance policy. One of the difficulties is that it is hard to find insurers who will do this business. Oddly enough, we don't find a lot of clamoring to do the state's business. I would move for the advancement of the measure.

PRESIDENT: Any further discussion? If not, 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 326.

PRESIDENT: LB 326 advances. LB 334, please.

CLERK: LB 334, Mr. President, introduced by Senator Haberman. (Read title.) The bill was introduced on January 11, referred to the Banking Committee for hearing, advanced to General File. I do have Banking, Commerce and Insurance Committee amendments pending.

PRESIDENT: Thank you. Senator Landis, please.

SENATOR LANDIS: Thank you, Mr. President, and members of the Legislature, I am getting worn out here but I will...I think I've got it in me to do one more bill here.

PRESIDENT: That's fine, we're enjoying it.

SENATOR LANDIS: Okay. To understand this bill, you have to

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365, 489

County senators supported it and some of them opposed it. So it was very difficult for me, being 150 miles from Douglas County, to know exactly what to do and this is why I held out for the amendment that it be brought up to a vote, both whether they would allow Douglas County to purchase Ak-Sar-Ben, and also if Douglas County had to issue bonds to do this, it would have to be brought up to a vote of Douglas County voters. So I just...and I'm going to support Senator Labedz in withdrawing this now.

PRESIDENT: Thank you. Senator Labedz, would this be your closing, Senator Labedz?

SENATOR LABEDZ: Yes.

PRESIDENT: All right.

SENATOR LABEDZ: Thank you, Mr. President. I failed to also thank the senators of the Ag Committee that supported the bill in the committee hearing and every time they had an exec session and I do appreciate that fact. And Senator Hefner is right, it did allow a vote of the people as the committee amended the bill and perhaps it may come back again. In fact, I know it will and I appreciate the fact that Senator Johnson has offered the county board an interim study on the issue, and as I say again, I appreciate the fact, the support that I got and the co-sponsors also of LB 365. I urge the affirmative vote on the withdrawal of LB 365.

PRESIDENT: Thank you. The question is, shall LB 365 be withdrawn? All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 33 ayes, 0 nays, Mr. President, on the motion to withdraw LB 365.

PRESIDENT: LB 365 is withdrawn. Would you like to read in some things, Mr. Clerk, please?

CLERK: Mr. President, your Committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 320 and recommend that same be placed on Select File with E & R amendments attached, LB 326 Select File E & R amendments, LB 334 Select File with E & R, LB 354 Select File, LB 354A Select File, LB 362 Select File, LB 362A Select File, LB 489

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LB 320, 326, 334

SENATOR LINDSAY: Mr. President, I move that LB 320 as amended be advanced to E & R for Engrossing.

PRESIDENT: You've heard the motion. All in favor say aye. Opposed nay. It is advanced. LB 326.

CLERK: On 326, Senator, I have E & R amendments only.

PRESIDENT: Senator Lindsay.

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

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

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

PRESIDENT: Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move that LB 326 as amended be advanced.

PRESIDENT: You've heard the motion. All in favor say aye. Opposed nay. It is advanced. Moving to LB 334.

CLERK: I have E & R on 334, Senator.

PRESIDENT: Senator Lindsay.

SENATOR LINDSAY: You do have E & R?

CLERK: Yes, sir.

PRESIDENT: Yes.

SENATOR LINDSAY: Mr. President, I move that the E & R amendments to LB 334 be adopted.

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.

SENATOR LINDSAY: Mr. President, I move that LB 334 as

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LB 187, 187A, 214, 214A, 224, 320, 326
334, 354, 354A, 421, 516, 556, 638

PRESIDENT: The motion fails. Mr. Clerk, do you want to read in some things before we proceed?

ASSISTANT CLERK: Yes, Mr. President. I have priority bill designations from Transportation Committee and Senator Carson Rogers. Government Committee reports LB 638 to General File with committee amendments. Committee on Enrollment and Review reports the following bills correctly engrossed--LB 187, LB 187A, LB 214,...

PRESIDENT: The call is raised.

ASSISTANT CLERK: ...LB 214A, LB 320, LB 326, LB 334, LB 354, LB 354A, LB 421, LB 516, and LB 556. That is all that I have, Mr. President. (See pages 988-91 of the Legislative Journal.)

PRESIDENT: We're back on the advancement of the bill. Senator McFarland, on the advancement of the bill, followed by Senator Chambers and Senator Hefner.

SENATOR MCFARLAND: Yes, I'd like to address some of the concerns that Senator Chambers has raised because he's really overstated, he's misled and he had not apparently read the bill in detail, as he tries to convey to us. Let's just look at one thing. He's alleging that this is going to be a state enforcement procedure, an...

PRESIDENT: The call is raised.

SENATOR MCFARLAND: ...agent for the NCAA. And all it is to do is to protect eligibility of college athletes for the institutions. Well the fact of the matter is that in the part dealing with the noneligible student athlete we say that they cannot be contacted either, unless the sports agent registers with the Secretary of State. Earlier Senator Chambers said, well why should they have to be concerned, if they don't have eligibility, why should they have to be concerned about whether the sports agent registers with the Secretary of State. The reason is we're concerned about all athletes, eligible, noneligible, high school athletes, athletes who may be in professional school or graduate school or whatever. The goal of the bill is to protect athletes from being exploited by sports agents. If you read that particular provision that talks about noneligible student athletes they can be contacted, it's on page 4, they can be contacted if the sports agent is registered.

amendment is we are...on Select File, we caught a couple of unlawful delegations of authority in the bill. We found a couple more in there that we needed to correct so that's the first thing that we do here. The second thing that we do here is a little more substantive. And what it says is that it would make the payment of attorney's fees permissive in condemnation actions when there is a settlement made and that is current law. That's what we have now in Nebraska. Under the original bill, this would have made the payment of those fees mandatory. And we found that...when the bill was drafted, we kept...we tried to meet all the federal requirements as we did it. We found in searching over the bill for these...for the unlawful delegations that this was not something that we had to do. We did not have to make the payment of these fees mandatory. We could make it permissive and still stay in compliance with the feds. So we went back, changed it to permissive and that would be...just keep the law as it is today. We're not making a change in making these fees mandatory. With that, I would just urge you to return the bill to Select File and to add this amendment. Thank you.

SPEAKER BARRETT: Thank you. Any discussion on the Baack motion to return the bill? If not, those in favor of that motion please vote aye, opposed nay. Record.

CLERK: 31 ayes, 0 nays, Mr. President, on the motion to return the bill.

SPEAKER BARRETT: The bill has been returned. Senator Baack.

SENATOR BAACK: I have already explained the amendment. I would just move the amendment.

SPEAKER BARRETT: Thank you. Any discussion? Seeing none, those in favor of the adoption of the amendment vote aye, opposed nay. Record.

CLERK: 34 ayes, 0 nays, Mr. President, on adoption of Senator Baack's amendment.

SPEAKER BARRETT: The amendment is adopted to 254E. Shall the bill be readvanced? Those in favor say aye. Opposed nay. Carried. It is readvanced. Mr. Clerk.

CLERK: (Read LB 326 on Final Reading.)

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LB 326, 334, 421

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 326 with the emergency clause attached become law? All in favor vote aye, opposed nay. Have you all voted? Please record.

CLERK: (Record vote read. See pages 1199-1200 of the Legislative Journal.) 37 ayes, 0 nays, 3 present and not voting, 9 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 326E passes. LB 334.

CLERK: (Read LB 334 on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 334 pass? Those in favor vote aye, opposed nay. Have you all voted? Please record.

CLERK: (Record vote read. See pages 1200-01 of the Legislative Journal.) 42 ayes, 0 nays, 7 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 334 passes. LB 421.

CLERK: Mr. President, I have a motion. Senator Smith would move to return LB 421 to Select File for a specific amendment. The amendment is found on page 1191 of the Journal.

SPEAKER BARRETT: Senator Smith, please.

SENATOR SMITH: Thank you, Mr. Speaker. Members of the body, you remember that LB 421 was a bill which set forth procedural requirements when municipalities were attempting to go through the process of annexation. And you will also remember that when the bill moved from Select I attached an amendment that would have placed not only the first class cities under this process but all classes of cities, including metropolitan and primary. And since that time have sat down and visited with representatives from Omaha and Lincoln and I have seen...they are both, by the way, home charter communities, and they have shown me their policies, their processes and procedures and it would make it almost impossible, in fact, it would be impossible to follow this process which I have set out which originally was intended for first class cities. For that reason, what I am

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LB 155, 326, 334, 336, 440, 441, 489
516, 556, 623, 744
LR 58, 59

return to your seats, we will continue with Final Reading, please. While the Legislature is in session and capable of transacting business, I propose to sign and do sign LB 556, LB 516, LB 489, LB 440, LB 334, LB 326. Okay, Mr. Clerk.

ASSISTANT CLERK: (Read LB 441 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 441 pass with the emergency clause attached? All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

ASSISTANT CLERK: (Record vote read. See pages 1205-06 of the Legislative Journal.) The vote is 40 ayes, 0 nays, 4 present and not voting, 5 excused and not voting, Mr. President.

PRESIDENT: LB 441 passes with the emergency clause attached. While the Legislature is in session and capable of transacting business, I propose to sign and do sign LB 441 with the emergency clause attached. Mr. Clerk, do you have something for the record?

CLERK: Mr. President, I do. Your Committee on Enrollment and Review respectfully reports they have carefully reviewed and examined LB 155 and find the same correctly engrossed; LB 336; LB 623, and LB 744, all reported correctly engrossed. (See pages 1206-07 of the Legislative Journal.)

Mr. President, I have a report of registered lobbyists for this past week.

New resolution, Mr. President, LR 58, by Senator Rod Johnson. (Read brief description of LR 58 as found on page 1209 of the Legislative Journal.) That will be laid over. LR 59, by Senator Rod Johnson. (Read brief description of LR 59 as found on page 1209 of the Legislative Journal.) That's all that I have, Mr. President.

I do, excuse me, I do have one other item. Hearing notice, confirmation hearing notice from the Judiciary Committee. (See page 1210 of the Legislative Journal.) That's all that I have, Mr. President.

PRESIDENT: Thank you. I would like to introduce some guests in the north balcony. Senators Barrett, Baack, Elmer, Haberman,

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LB 89, 326, 334, 440, 441, 489, 516
556, 711
LR 60

only one absent, Senator Chambers, at this point. Should we go ahead, or would you prefer to wait? A roll call vote has been requested. Members, please return to your seats for a roll call vote. The question before the body is the adoption of the Chambers amendment to the Schmit amendment to LB 89. Mr. Clerk, proceed.

CLERK: (Roll call vote taken. See page 1213 of the Legislative Journal.) 10 ayes, 29 nays, Mr. President, on adoption of the amendment.

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

CLERK: Mr. President, new resolution. LR 60, by Rod Johnson, asking the Legislature to declare the week of March 19 through the 25th as Agriculture Week. That will be laid over. Your Enrolling Clerk has presented to the Governor bills read on Final Reading this morning, Mr. President. (Re. LB 326, LB 334, LB 440, LB 489, LB 516, LB 556, and LB 441.) Banking Committee reports LB 711 as indefinitely postponed. Government Committee offers a confirmation report, that is signed by Senator Baack as Chair. That's all that I have, Mr. President. (See pages 1213-14 of the Legislative Journal.)

SPEAKER BARRETT: Thank you, Mr. Clerk. The Chair would like to take just a moment to advise the membership that we will be on a full day schedule beginning Monday. This next Monday we will be on the floor all day. The second announcement that I'd like to share with you is the fact that the following Monday, that is specifically March 27th, it is my plan at this moment to convene at one o'clock, Monday afternoon, March 27th. You will have Monday morning off, that's the Monday following Easter. We will convene at one o'clock, Monday afternoon, the 27th of March, and hopefully work a little later that day than we normally would. Anything else, Mr. Clerk?

CLERK: Not at this time, Mr. President.

SPEAKER BARRETT: Thank you. Senator Robak.

SENATOR ROBAK: Mr. Speaker, I move we adjourn until Monday morning at nine o'clock.

SPEAKER BARRETT: You've heard the motion offered by Senator

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LB 326, 334, 340A, 340, 378A, 408A, 410
412A, 414, 440, 441, 489, 516, 556
574A, 714

SPEAKER BARRETT: Is there any discussion? Seeing none, those in favor of the advancement of LB 714 to Enrollment and Review please vote aye, opposed nay. Record, please.

CLERK: 34 ayes, 0 nays, Mr. President, on the advancement of LB 714.

SPEAKER BARRETT: LB 714 is advanced. Anything for the record?

CLERK: Mr. President, Enrollment and Review reports LB 340A to Select File; LB 378A to Select File; LB 408A, Select File; LB 412A, Select File; LB 574A, Select File; LB 410; LB 414, Select File. That's all that I have, Mr. President.

SPEAKER BARRETT: Thank you. Senator Schellpeper, would you care to recess us until one-thirty.

SENATOR SCHELLPEPER: Yes, I will. Mr. Speaker and members, I would move that we recess until one-thirty.

SPEAKER BARRETT: You have heard the motion to recess until one-thirty. Those in favor say aye. Opposed no. Motion carried. We are recessed. (Gavel.)

RECESS

SPEAKER BARRETT PRESIDING

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

SPEAKER BARRETT: Thank you, sir. For the record, Mr. Clerk.

CLERK: Mr. President, a communication from the Governor to the Clerk. (Read communication re signing of LB 326, LB 334, LB 440, LB 489, LB 516, LB 556, and LB 441. See pages 1259-60 of the Legislative Journal.)

Senator Bernard-Stevens has amendments to LB 340 to be printed, Mr. President. (See pages 1260-61 of the Legislative Journal.) That is all that I have, Mr. President.

SPEAKER BARRETT: Thank you, sir. Before proceeding into the