

will meet for a brief Executive Session, in Room 1003, upon recess to select a Vice-Chair. Appropriations Committee upon recess in Room 1003 by the Appropriations Committee.

Mr. President, I also have the Committee on Committees report as offered by Senator Lowell Johnson and the Committee on Committees. Also an acknowledgment, Mr. President, that Senator Beyer has been selected...Senator Emil Beyer has been selected as Vice-Chair of the Committee on Committees.

PRESIDENT: The Chair recognizes Senator Lowell Johnson. Could we have your attention for just a moment, please. (Gavel.) Could we have your attention just a moment, ladies and gentlemen. If we could have your attention just a moment, we won't request your attention too long today, but Senator Lowell Johnson has an announcement.

SENATOR L. JOHNSON: Mr. President and members of the Legislature, your Committee on Committees met yesterday, and after careful deliberations completed the committee roster, which you find on your desks, which has been placed there by the Clerk. The report was unanimously adopted by the Committee on Committees, and I, therefore, move at this time that it be accepted and approved by the Legislature.

PRESIDENT: Is there any discussion? If not, the question is the adoption of the report. All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 28 ayes, 0 nays, Mr. President, on adoption of the Committee on Committees report.

PRESIDENT: The report is adopted. Back to you, Mr. Clerk. We're ready for the introduction of new bills. Mr. Clerk.

CLERK: Mr. President, new bills. (Read LB 1-80 by title for the first time. See pages 44-61 of the Legislative Journal.)

PRESIDENT: If I could have your attention just a moment, please, we'll introduce a couple of guests. Over under the north balcony, our first doctor of the day for this year is Dr. Dale Michaels of Lincoln, Nebraska. He's from Senator Warner's district. He's here to take care of us on behalf of the Nebraska Academy of Family Physicians. So would you welcome Dr. Michaels. Would you please stand, Doctor. Thank you for

February 10, 1989 LB 35, 36, 38, 42, 44, 45, 51
53, 60, 79, 110, 123, 140, 168
169, 189, 190, 207, 408, 607, 610
708, 775
LR 2, 29

for the record, Mr. Clerk, at this time?

CLERK: I do, Mr. President. Mr. President, your Committee on Judiciary whose Chair is Senator Chizek reports LB 42 to General File; LB 44, General File; LB 708, General File; and LB 110 as indefinitely postponed. Those are signed by Senator Chizek.

Mr. President, Revenue committee whose Chair is Senator Hall reports LR 2CA to General File; LB 607, General File with amendments; LB 775, General File with amendments. Those are signed by Senator Hall. (See pages 690-91 of the Legislative Journal.)

Health and Human Services Committee whose Chair is Senator Wesely reports LB 610 to General File with amendments. (See page 691 of the Legislative Journal.)

Mr. President, Report of Registered Lobbyists for this past week as required by statute. (See page 692 of the Legislative Journal.)

I have amendments to be printed to LB 408 by Senator Barrett.

Mr. President, communication from the Governor to the Clerk. (Read communication regarding signing of LB 35, LB 36, LB 38, LB 53, LB 79, LB 123, LB 190, LB 51, LB 60, LB 189, LB 207, LB 45, LB 168 and LB 169. See page 693 of the Legislative Journal.)

Mr. President, your Committee on Enrollment and Review reports LB 140 to Select File with E & R amendments attached. (See page 693 of the Legislative Journal.) That's all that I have, Mr. President.

PRESIDENT: We'll move on to LR 29, please.

CLERK: Mr. President, LR 29 was offered by Senator Langford. It's found on page 656. (Read resolution.)

PRESIDENT: Senator Langford, please.

SENATOR LANGFORD: Mr. President and colleagues, I offer this resolution with a great deal of joy because this gentleman plays cards and plays golf with Jack, my husband, every day, practically, in the summer. He has been instrumental in the

February 2, 1990

LB 42, 164, 632, 750, 794, 831, 841
843, 861, 881, 902A, 925, 932, 952
956, 1028, 1059, 1219
LR 250

CLERK: Mr. President, I do. Revenue Committee, whose Chair is Senator Hall, reports LB 831 to General File; LB 932, General File; LB 1219, General File; LB 952, General File with amendments; LB 1028, General File with amendments; LB 750, indefinitely postponed; LB 794, indefinitely postponed; LB 841, LB 861, LB 881, all indefinitely postponed. Signed by Senator Hall as Chair. (See pages 648-49 of the Legislative Journal.)

Amendments to be printed by Senator Hefner to LB 1059; Senator McFarland to LB 632; Senator Ashford to LB 164; Senator Withem to LB 843; Senator Moore to LB 925; Senator Wesely and Schmit to LB 956. (See pages 649-55 of the Legislative Journal.)

Mr. President, LR 250 offered by Senator Withem. (Read brief description of LR 250 as found on pages 655-56 of the Legislative Journal.) That will be referred to the Executive Board.

Mr. President, new A bill, LB 902A by Senator Hall. (Read by title for the first time as found on page 656 of the Legislative Journal.)

Mr. President, Senator Kristensen has designated LB 42 as his priority bill for the session.

And, finally, Mr. President, a report has been filed by the Appropriations Committee pursuant to Rule 8, Section 3, of our rules. I believe copies of the report have been distributed to the members. That's all that I have, Mr. President.

SENATOR HANNIBAL: You have before you a motion to adjourn until Monday morning at 9:00 a.m. All those in...excuse me. All those in favor say aye. Opposed nay. We are adjourned.

Proofed by:

La Vera Benischek
LaVera Benischek

to be held beginning at twelve o'clock noon on Thursday. And I apologize to the members. I wanted to get this on the agenda yesterday but I attended a funeral yesterday morning and it was my fault that I did not bring it to the attention of the Speaker and so I have asked your indulgence to bring it to your attention and allow us to reschedule those bills. We will then notify both by press release and by telephone the number of the people who we know will want to be here tomorrow. I am sure we can get the publication process completed and I would ask your indulgence to suspend those rules.

PRESIDENT: All right, Senator Schmit, you meant that the funeral was Wednesday afternoon. Did you have...

SENATOR SCHMIT: Yes, the funeral is Wednesday afternoon, same time as the hearing.

PRESIDENT: Very good. Any further discussion? If not, the question is the suspension of the rules. All those in favor vote aye, opposed nay. It requires 30 votes. Need a little bit of help. Record, Mr. Clerk, please.

CLERK: 32 ayes, 0 nays, Mr. President, on the suspension of the hearing notice rule.

PRESIDENT: The rules are suspended. Senator Schmit.

CLERK: Mr. President, pursuant to that action, I have a hearing notice from the Natural Resources Committee, notice of cancellation and a resetting of hearings. That's all that I have, Mr. President.

PRESIDENT: Thank you. Anything further for the record at this time, Mr. Clerk?

CLERK: Not at this time, Mr. President.

PRESIDENT: All right. Shall we move on to General File, please.

CLERK: Mr. President, LB 42 was a bill introduced by Senators Schmit and Ashford. (Read title.) The bill was introduced on January 5 of last year. At that time, it was referred to Judiciary Committee, Mr. President. The bill was advanced to General File. I have no amendments to the bill.

PRESIDENT: Senator Schmit. Senator Landis, are you going to handle this or Senator Schmit? Okay, Senator Schmit, please.

SENATOR SCHMIT: Mr. President and members, LB 42 is a bill which I introduced, along with Senator Ashford, and I believe Senator Ashford is here also, and is a bill to increase the salaries of judges. As you know, our judges' salaries have to be approved by this Legislature and the Legislature has historically taken an interest in providing equitable compensation for the members of the judiciary. At the present time, the salaries for the judicial members of government are in the lower echelon of salaries across the United States. All of us have heard the various arguments for salary adjustments for constitutional officers. We have heard the necessary arguments for salary adjustments for individuals of the university and other state employees. We have made some substantial adjustments in those areas and we are offering here a substantial adjustment also. I just want to say that we know that the judicial system is only as good as the individuals who are empowered to enforce those rules of the court. We know that if we are going to have equity before the courts, we have to have good minds on the bench. We know that we spend many hours on this floor in an attempt to try to bring about some sort of justice relative to the statutes. We enact many statutes into law and those statutes are only as good as the court system which then sees to it that those statutes are enforced. We have had many arguments on this floor over the years relative to judges' salaries. We recognize that there are many times when we find an individual citizen who has had an unfortunate conflict with a judge and bring it to our attention and perhaps the conflict of interest or the comments about the judges, if they are negative, may be in some cases justified. All the more reason, in my opinion, for us to try to find some equitable compensation for judges which will allow judges to participate in their profession without the problems of monetary concerns which might, in fact, even impede their judgment. As you know, judges are prevented from having outside employment. They cannot take other and they cannot accept other income and they are confined to the income they receive from their profession. I know that many times we have had appointees or we have had individuals who have...would have made excellent appointees who have declined to take an appointment to the bench. I have had a number of individual lawyers speak to me about their concerns in this regard. I have had a number of lawyers, in fact, speak to

me about the inadequate salary of the Attorney General and I believe that even today with the salaries we have proposed for the Attorney General that that salary is not adequate. I think that, as you can see, and we know Mr. Spire is leaving the office, there are not very many persons who have aspired to that office and I think that is indicative of the fact that the salary is perhaps not conducive to bringing to that office the kind of experience and the kind of dedication that we would like to have there. I know that as we discuss this issue here this morning there will be some arguments made in support of the bill. There will be some arguments made in opposition to the bill. There will be good arguments made on both sides and I ask you...and I encourage full debate. I think it is important that the public understand that this is not an issue which this Legislature or that myself or Senator Ashford or others, Senator Kristensen, Senator Landis, all many of whom are interested in this bill, take lightly. We consider the salary bill to be an equitable one. We appreciate the fact that the Judiciary Committee did, I believe, put it out in the manner in which it was introduced. I believe they put it out without a dissenting vote and I think that that's important. I just want to call your attention to some of the competing salaries that we have to look at when we adjust these salaries for our judges. The Dean of the UN-L Law College earns \$115,000. The U.S. Court of Appeals judge earns \$102,500. The U.S. District Court judge earns 96,000. The U.S. Magistrate earns 88,000. The Douglas County Attorney collects \$82,700. I could go on. And I want to just say this, the fact that some of these positions command a certain salary does not automatically, does not automatically ensure or guarantee or qualify any other position for a specific salary. But I think it does us some good to realize that the highest court in Nebraska at the present time, the judge of the Nebraska Supreme Court, draws a salary of \$66,689. Now all of us work every day with many fine lawyers. We work with them as individual lawyers. We work with them as friends. We work with them as lobbyists. We work with them in many capacities. I think we recognize that \$66,000, although it is a lot of money, is not a lot of money for a well qualified, dedicated attorney. I know that there are many attorneys in this state whose incomes are many times that and would never consider sitting on the bench and who many not consider sitting on the bench regardless of what the salary is. But I can tell you also that I know of attorneys who would not take the appointment because of the salary limitations. There are also many other requirements that go into being a judge and I think we all recognize that. But

when you get before a judge, when you get before a court, you hope that you have before...that you are before an excellent mind. You hope that you are before a man or a woman who is well educated. You hope that you are before an individual who has a broad base of experience. We hope that you have...we hope that you are before an individual who is knowledgeable in the law, knowledgeable in life, knowledgeable in the practice of his profession and to do that you are going to have to pay those individuals. The Supreme Court...the Chief of the Nebraska Supreme Court, Norman Krivosha, left the bench and as a relatively young man, and I am sure we all recognize that he would perhaps have still been there had the salary and the compensation been different. I think that we have today, we have an excellent court. We have a wide variety of judges. I believe that we have seen an improvement in the bench in the 22 years that I have been in this body, and I believe a part of it is due to the fact that this Legislature has seen fit to adjust salaries and to try keep salaries somewhere compensable with the profession and the demands of the profession. I do not believe we will ever get those salaries to the point where perhaps some individuals would like to see them. We will never get them to the point where they will be truly competitive with the outside world but they should at least be in an area where the individuals feel comfortable. And I can tell you very honestly that I believe this bill does that. There are all sorts of other ideas relative to what should be compensable. I am going to not mention it here today, but I would just ask you to go back and review the improvements we have made with the state employees in the last few years, the improvements we have made to salaries at the university system. And when you do that, I think you will recognize that these salaries are a modest increase. I want to point out also that the total amount of money is not that substantial. If you raise...if you were to raise these salaries by this amount, the total amount of the money is not that significant. What is significant to me and I believe to you and to the people of Nebraska...

PRESIDENT: One minute.

SENATOR SCHMIT: ...is the type of justice and the type of performance you receive. I know there will be...there will be people who will be able to cite examples where they feel perhaps the system hasn't worked. In that case, I want to say all the more reason to have a competent, capable individual on the bench. And I can tell you, very honestly, that I think we have

that kind of a bench now, and I would hope that we would continue to improve it and that we would continue to attract to the bench the type of individuals whom you and I want to see there. And so, at that time, I will rest my case and I'm sure there will be many persons who will want to discuss the issue. Thank you.

PRESIDENT: Thank you. Senator Haberman, please, followed by Senator Wesely and Senator Chambers.

SENATOR HABERMAN: Mr. President and members of the body, Senator Schmit, would you reply to a question, please.

PRESIDENT: Senator Schmit, please.

SENATOR HABERMAN: I think Senator Chizek has already informed you what I'm going to talk about. How can we advance this bill when the dates are wrong in it, Senator Schmit? We can't conform to what the bill says.

SENATOR SCHMIT: So, Senator, we'll have to amend...

SENATOR HABERMAN: It says July 1, 1988, and that's gone, done.

SENATOR SCHMIT: Are you asking me a question?

SENATOR HABERMAN: Yes. How are we going to conform...

SENATOR SCHMIT: We'll have to offer an amendment for that, Senator.

SENATOR HABERMAN: Pardon?

SENATOR SCHMIT: We'll have to offer an amendment to correct the dates.

SENATOR HABERMAN: You say you do have amendments?

SENATOR SCHMIT: We will offer an amendment for that, yes.

SENATOR HABERMAN: Today?

SENATOR SCHMIT: We will offer it sometime today, yes.

SENATOR HABERMAN: Okay.

SENATOR SCHMIT: Uh-huh.

SENATOR HABERMAN: Thank you.

PRESIDENT: Thank you. Senator Wesely, please, followed by Senator Chambers, and Senator Kristensen.

SENATOR WESELY: Thank you. Mr. President and members, I have supported and will continue to support increases in judges' salaries to recognize the important work that they do and try to bring them in line with what other types of judges' salaries are in other states, as well as commensurate salaries for attorneys. The only thing I would note, obviously, it is a 20 percent increase, is a very big increase and I have some concerns about that. More than that, what I would raise once again is, as the judicial branch comes to the legislative branch asking for salary increases, once again I note that this branch of government is shut out of the process of the nomination and selection of judges, that this legislative branch is not asked to be involved whatsoever on those judges that are now coming back to us asking for a salary increase. And I think that's a travesty. We have three separate branches of government but this branch of government has only asked for salary increases. It asked for adjustments like the appellate court that we're considering. But when it comes time to selecting who the personnel running that third branch of government are in the judicial branch we have nothing to say whatsoever, not even in the selection of the screening committees that work out there. We have no nomination authority after the Governor makes a selection, and it infuriates me that here we are being asked once again to provide additional salaries to judges we have no input whatsoever on how they're selected. That gets into quality, that gets into questions that I think many people could raise about the type of judges we do have, and it seems inappropriate to me to continue to have this situation and inequity that this legislative branch of government is not involved in that process. We have to get involved in it and I ask all of you to keep that in mind as we consider this issue.

PRESIDENT: Senator Chambers, please.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I want to call the body's attention to what is being done here and I want it as a matter of record. If the bill were to be

enacted as written... I wish Senator Schmit were here, but let me read anyway the figures based on what we have here. The current salary of the Supreme Court judges is about \$66,000. On July 1, based again on the figures here, and even if the dates would have to be pushed back somewhat to accommodate the lateness of the bill, the difference in the amounts would remain the same. July 1 they go up to \$70,000 which is about a \$4,000 increase. Six months later they get a \$14,000 increase. Senator Weihing, are you hep to that? Six months later they get a \$14,000 increase to \$84,000; then July 1, 1991, another six months passes and they get nearly a \$6,000 increase to \$89,900; then one year later, July 1, 1992, they get an additional \$6,000 increase, up to \$96,200. This is a substantial amount that is being put into this bill at one time. There should not be that gigantic 20 percent increase in their salary. I told Senator Schmit that I intend to fight this bill and I do. Senator Wesely mentioned some of the concerns that I have about the way the judiciary deals with the Legislature. I had given some of my negative reactions to the court and the way they operate when we talked about LR 8 which is designed to take certain constitutional rights of appeal to the Supreme Court away from the citizens. So this Supreme Court has come before the Judiciary Committee and has talked to other senators to oppose bills that would give the Legislature and the public some input into how that branch of government operates, the type of input which is justified, namely, something to say about how these judges are selected. They can come in and oppose those bills. When it comes to getting less work for themselves, they have a lineup of people who are at their beck and call, they pull the string and they jump; Little Sir Echo, Little Miss Echo, if there happen to be any of those. So you can count on a certain lineup of people in here to support any bill that the judges want, to oppose any bill or proposition that the judges oppose. To me, they don't walk on water. They cannot, by speaking, change water into wine. Although when you read some of their opinions and the way they twist facts and write judicial fiction, you would get the impression that they think that by stating something which is contrary to all logic that something becomes a reality. It becomes a reality in terms of deciding cases because the law, itself, is a realm shot through and through with fiction. Judges, law professors and any student halfway through the first year of law school understands what is meant by the term "judicial fiction". They fabricate the existence of something which does not really exist and then will treat it as though it does exist for the purpose of fashioning

rules of law that will be applied to actually existing things, fact situations and people. As a result, you have to have a particular type of training to read the law and make sense of it. And you make sense of it only by voluntarily suspending your disbelief, which is what you have to do in fiction to allow certain plots to go ahead and develop because there is no way in the real world that plot situation could exist. One of the things that has particularly griped me is something that happened to me, personally, in the court. They have got poor Senator Kristensen, a freshman senator, running down here puffing and panting and falling all over himself because these judges are overworked. I win a case on a trivial matter, a speeding ticket, I win before the Supreme Court. They reverse, but they decide that I should go to trial on it again, and the dissenting judge, an intelligent person who recognizes the concept of stare decisis or precedent, using prior decisions to influence what future decisions will be, pointed out that in a case like this the court has always reversed and dismissed.

PRESIDENT: One minute.

SENATOR CHAMBERS: But in order to require me to go to trial again, before these overworked judges, they changed their precedent. Now how am I to believe that they didn't do that just because I'm who I am? I believe that's why they did it. I know, to a moral certainty, that's why they did it. Then they want me to come in here and give them what amounts to an \$18,000 increase by January 1 of 1991 over what they get now; \$18,000 increase. And they're not doing the kind of work that justifies that kind of increase. Then when you place that particular horse in its location, there is a cart behind that horse full of dunderheads and incompetents called various levels of judges who automatically will be given increases, too.

PRESIDENT: Time. Senator Kristensen, you are next but may I make a couple of announcements. Senator Schellpeper has guests under the north balcony. We have Harry and Doris Knoobbe from West Point, and J.D. Alexander of Pilger, and Herb Albers of Wisner. Would you folks please stand and be recognized by the Legislature. Thank you for visiting us today. I have also been asked to announce that the members of the National Federation of the Blind are now hosting their annual breakfast and reception in Room 2102. You are welcome to go there. Senator Kristensen, followed by Senator McFarland and Senator Lindsay, please.

SENATOR KRISTENSEN: Thank you, Mr. President. I'm still huffing and puffing trying to get from my chair to my microphone so I can respond to Senator Chambers. However, I don't believe that his remarks probably at this point need to be responded to as much as the facts do. We have a problem and it's a problem that we have had for some time, and I want to go back and fill in for the record a few things for us to review. And I'm going to pull out the facts if I can get them here. Right now, the judges earn about...and this is the Supreme Court judges, they earn about \$66,600. And this bill would call them to raise to about \$70,000 this year and in 1991 is when there would be the increase to about \$84,000. Now the reason that we do that isn't just pulling those figures out of the hat. Back in 1975, our judges ranked about 24th in this country in judicial salaries and they were paid about \$35,000 at that time. From 1975 until 1990, they have slipped from 24th in the country down to 44th. We're very near the bottom in judicial salaries in this state. What this would do, this increase would put them back up into the middle by 1991, next year, with a salary of approximately \$84,000. That would put them into the realms of the Iowas, the Minnesotas and the Kansases for judicial salaries. Our rank right now I said was 44th; the highest paid Supreme Court in this country is in California, \$115,000. The average is right around 84,000, 82- to 84,000. Those are similar states that surround us. That's the Missouris, Minnesota, Iowa, all of our surrounding states have gone through this. And you say, well, those are states with larger population. Well, that's not...that's true, but the workload is higher in Nebraska for the appellate level than it is for the tri-level and thus what we're trying to do at this point is put those salaries back up into the middle with our surrounding states. If we would do that, we would be very, very comparable in terms of what we pay our entire salaries. The other thing we need to look at is that our salaries are not just for the Supreme Court judges, they also go to the trial courts, for the district judges and for the county judges, and their salaries would also rise. The raise in salary for the District Court would go up to \$77,000 by 1991. With that, I would ask if anyone has questions, we would be glad to respond to it and would urge you to move and advance LB 42. Thank you.

PRESIDENT: Thank you. Senator McFarland, please.

SENATOR MCFARLAND: Thank you, Mr. President. The issue here with the judicial salary increase is just a matter of fairness.

I am sure you have heard that before. What we're trying to do by passing this bill out of the Judiciary Committee is to provide a level of income to judges in our state that should be commensurate with the job requirements, the market forces and the abilities that they have. If you compare judicial salaries in Nebraska with the salaries of other attorneys in the public sector, I think you will find that our judges rank very low in comparison and perhaps some of these statistics have been given, but, for example, the Dean of the Law School makes \$115,000 a year. All of the federal judges make in the neighborhood of 88- to \$102,000 a year. The bankruptcy court judge, the Douglas County Attorney, other...the median salary of professors of law at the University of Nebraska, all of those are much higher than what we pay the judges on our Supreme Court and our District Courts. That position as a judge is a very important one. It fulfills a tremendous responsibility to the people of our state. We rely upon judges to be beyond reproach, to be competent scholars, to decide very difficult issues that exist in our society. And, for that reason, it's only fitting that they be paid accordingly and paid commensurate with what other attorneys are earning in the public sector and in the private sector, I might add, as well. If we are going to keep a quality judiciary in our state, I think we need to make sure that we have a salary commensurate with the job requirements. My fear is that if we do not increase the salaries as are needed, we will not continue to be able to attract quality and qualified and competent people to the bench. And, as a result, we will have a diminishment in the type and quality of judges that we have. It is unfortunate that we don't pay our judges as well as we should. It seems to me that the type of judge that you want is that you want the elite of the legal profession to be judges. You want the people who are legal scholars, who are beyond reproach, who will judge fairly and accordingly, not to their own personal predispositions, but according to the dictates of the law and according to the objective standards that we require of them. For that reason, I think that the percentage increase in the bill is not only fair, it is reasonable and it should be adopted. And I would urge you to support the bill in its present form. Thank you.

PRESIDENT: Thank you. Mr. Clerk, I understand we have an amendment.

CLERK: Mr. President, Senator Haberman would move to amend the bill. (The Haberman amendment appears on page 769 of the

Legislative Journal.)

PRESIDENT: Senator Haberman, please.

SENATOR HABERMAN: Mr. President and members of the body, my amendment strikes the 20 percent increase that the bill has in it for January, 1991, and it changes it to 7 percent, July 1, 1990; 7 percent, 1991; and 7 percent, 1992. Now some of the reasons that I am doing this is for the information of the body. The judges' salaries in the past eight years have increased 38 percent, 30 percent...38 percent increase in eight years. So if we say, okay, we're going to give them 20 percent, January 1, 1991, that would be a 58 percent increase in nine years and I think this is a little heavy. I think it's a little heavy. I am not denying them an increase. I am not doing that. I'm saying we're going to spread the increase out over three years and, really, instead of getting 20 percent, they're going to get 21 percent over the three years. Now we also have a problem coming up. As you all know, when a new judge is appointed, the salaries automatically increase. There will be two new judges appointed sometime in May. So if this bill passes in its present form or any form, the minute those judges are appointed the increase in salary is going to go up. I would also like to call to the attention of the body that if this bill passes, there will be an increase of about \$470,000 per year for retirement benefits and it's going to reach the point in a year or two where the state is going to have to start contributing to the retirement of the judges. So I would like to ask you to support my amendment. It does not take the raise away. It says no 20 percent in 1991 but gives them a 7 percent for '90, '91 and '92. Thank you, Mr. President.

PRESIDENT: Thank you. Now we're speaking about the Haberman amendment. Senator Lindsay, did you wish to speak on it? Okay. Senator Hefner, on the Haberman amendment. Senator Chizek, on the...no. Senator Chambers, on the amendment.

SENATOR CHAMBERS: Yes, Mr. Chairman and members of the Legislature, and on every other opportunity that I am presented will I speak on whatever is before the body and against this bill and against the concept of it and against the notion that these judges, because of their conduct, merit this increase. It would be better for Senator Kristensen to say that you just want to give them an increase so they're making as much as other judges rather than talk about the quality of the judicial

activity. If Senator Kristensen...Senator Kristensen, I want to give you a chance to get back to your seat so that I can ask a question that you might deign to answer based on its quality. Senator Kristensen, will you respond to a question?

PRESIDENT: Senator Kristensen.

SENATOR KRISTENSEN: Yes.

SENATOR CHAMBERS: If this bill were enacted, and I'm not talking about the amendment right now, will other judges at other levels automatically receive an increase in salary?

SENATOR KRISTENSEN: Yes.

SENATOR CHAMBERS: And that salary will be a percentage of whatever the chief judge salary would be?

SENATOR KRISTENSEN: Yes.

SENATOR CHAMBERS: Okay, thank you. I wanted that factual matter into the record because Senator Lindsay, I mean, Senator Kristensen may not feel the necessity to respond to the other comments that I make. Senator Schmit, would you respond to a question? He shook his head no. Very well. Senator Schmit knows what I'm going to ask him because he may have seen this article headlined in the Omaha World-Herald, "Judge Allows Use Of Lies To Coax Confession." A Supreme Court judge and his cohorts, his co-conspirators who were after the truth, officially allowed the use of lies to coax a confession from an individual. And the little caption above the main headline says, "Action By Police Not Improper." Now let me read to you from this. If we were talking about politicians such as ourselves, there would be no problem. Nobody thinks of us as being honest. Nobody thinks of us as having integrity. We will do anything in the minds of the public, no matter how vile, no matter how foul, no matter how illegal, unethical or whatever. But I'm talking about the judges. I'm talking about the gentry of the robe. They're the ones who rule this way. And let me read this for you. "Nebraska Supreme Court judge said Friday that police officers may sometimes use lies to coax confessions from crime suspects. Ruling in a drug case from Douglas County, Judge Dale Fahrnbruch said Omaha police officers did not act improperly when they prompted a man to confess to holding a bag of crack cocaine by telling him that his fingerprints had been

found on the bag. The man's fingerprints were not on the bag and the officers knew they weren't, Fahrnbruch said. 'While the artifice set up by officers Clark and Sundermeier is clearly deceptive, it is not necessarily an offensive police practice', Fahrnbruch wrote in his opinion." Ladies and gentlemen of the Legislature, and whoever out there may be watching and listening, how in the world can we consent to a principle of jurisprudence that says that deception and lying may be used by the police and it's not offensive?

PRESIDENT: (Gavel.) May we please hold the conversation down so we can hear the speaker, please.

SENATOR CHAMBERS: Thank you. Thank you. Thank you, "Judge" Nichols. Ladies and gentlemen of the jury, to resume where I was...from the point at which I was cut off, I wonder how many people in here would like to be tricked by lies into confessing or admitting something. I wonder how many people in here would like to authorize the police, as has been done through this Supreme Court decision, to deliberately use lies.

PRESIDENT: One minute.

SENATOR CHAMBERS: If a person has done something wrong that is a violation of the law, that person should be punished when properly charged, tried, convicted. However, the method and the procedure by which that conviction is obtained by the state should be one that does not include deliberate deception and lying. How can the Supreme Court uphold lying by the police and then make it a crime for a common citizen to lie to avoid a punishment? If you or I lie under oath, then we're guilty of perjury. If a cop, in discharging his official duties, lies so that somebody can have his or her freedom taken away, the Supreme Court says that's all right, and these are the kind of people I'm supposed to vote more money for. Why, I would like to cut their salary. Unfortunately, that cannot legally be done. But if it were the judges ruling, the absence of legality wouldn't make any difference, because the law is what they say that it is and lying becomes truthful. That which is contemptible becomes honorable. That which is offensive becomes desirable.

PRESIDENT: Time.

SENATOR CHAMBERS: And I say that is contemptible and

reprehensible and I shall fight this bill to...not my last breath, because I'm not going to die over this but I'm going to fight it hard.

PRESIDENT: Thank you. Senator Hefner, please. Did you wish to speak about the Haberman amendment?

SENATOR HEFNER: Mr. President and members of the body, I rise to support Senator Haberman's amendment. I think it's more realistic. As the bill is originally proposed, if my calculation is correct, and if it isn't, I would like to have somebody correct me, but I believe that this is over a 50 percent increase in the period of three years, over a 50 percent increase, because we're taking the Supreme Court judges from 63,513 to 96,204. Senator Chambers, is that right? Okay, about a 51 percent increase. Okay. Okay, I think that's too much. And I don't have anything against the judges. They're doing a good job. But I don't think the State of Nebraska can afford a 51 percent increase over a period of three years. If we give it to the judges, then the university professors will want more and it will just trickle down and down and down. And here we have only been able to give the state employees a 3 or 4 or 5 percent increase a year. When we have a vacancy in the judgeship, whether it be on the county level or district level, we don't seem to have any problems. I know in my area we have...we usually have seven or eight of them that apply for it. So we can't say that we have a shortage of attorneys that want to be judges. It's a prestige job. And then along with the increase in salary, well, the fringe benefits will go up. The retirement program will go up and our judges have a very good retirement system that some of the other people don't have. So I just say consider all those when we're voting on this amendment and on this bill. But I think that the Haberman amendment is more realistic, it's more down to earth. As I understand it, Senator Haberman, is that right, you start out with a 7 percent increase the first year? Three sevens. Okay. I just think that that's more realistic and I would urge your support of the Haberman amendment.

PRESIDENT: Thank you. I would like to direct your attention to the back of the room for a moment. I have been asked to announce that Senator Lindsay has his wife there, Mary Beth, and their newborn son, John William. So if you would like to have a look at mother and baby, go to the back of the room, please. Senator Korshoj has some guests from his district. Under the

south balcony, we have Gary, Virginia and daughter, Toni Kirch from Blair, Nebraska. Would you folks please stand and be recognized. Thank you. Senator Korshoj, would you like to speak on the Haberman amendment?

SENATOR KORSHOJ: Mr. President and members, I do have a couple of questions for Senator Kristensen.

PRESIDENT: Before you respond, Senator Korshoj: (Gavel.) Let's hold the conversation down, we're getting a little noisy and it's difficult to hear. Senator Kristensen, would you respond, please.

SENATOR KRISTENSEN: Sure.

SENATOR KORSHOJ: This might not be directly in connection with the pay raise, but do we not have 48 district judges?

SENATOR KRISTENSEN: Yes.

SENATOR KORSHOJ: Now, I...

SENATOR KRISTENSEN: The reason I have hesitated is whether it's 47 or...that's the number of county judges. Do you need to know that right now?

SENATOR KORSHOJ: No, I do not. Have we ever considered redistricting?

SENATOR KRISTENSEN: Yes. That's...we...we...I don't remember the last year in which the state did redistrict our District Court boundaries, but we do that, for example, my district takes in about seven counties and that has changed from time to time, but it's been pretty stable right now.

SENATOR KORSHOJ: Well, the reason I'm asking that, I've got a sign down in my office that says, I believe everybody should work, especially those who have a job. And we've got...we've got a lot of judges that if we redistrict, it would require them to travel a little and so forth and so on. It would help the caseload. It would probably help to not have an appellate court. I do not know. But I think that if we would probably put them all to work and redistrict, we could save a lot of money, probably not need as many judges and get the pay raise that way. That's just a thought I have.

SENATOR KRISTENSEN: Which...do you have judges that you think aren't working?

SENATOR KORSHOJ: Oh, there's...I think that's probably a known fact throughout the state, they're part-time.

SENATOR KRISTENSEN: Well, I just think that's entirely wrong and I will tell you why. I have got a...

SENATOR KORSHOJ: Quickly, please.

SENATOR KRISTENSEN: I've got district judges that travel in the morning and they travel over 150 miles to get to where they have got to go during the day, just to hear cases. And, sure, they aren't, while they're driving, setting there making decisions, making rulings and so on, but those guys have got a lot of...and they travel that every day of the week and if you think that their numbers are down because they're traveling, that isn't...that isn't true because they're going to places that ordinarily would not get a judge if they didn't go.

SENATOR KORSHOJ: I agree there's a lot of judges that are overworked. I'm not saying that. I'm saying by redistricting we could spread the workload out better in the more populated areas of eastern Nebraska, not greater or etcetera and etcetera.

SENATOR KRISTENSEN: Yeah...

SENATOR KORSHOJ: But I think it should be considered. But I don't believe that we can afford this pay raise we're talking about now and that's really basically all I have to say. But I wondered if we had ever considered redistricting. So I know it would cause some inconvenience while the present judges are on but they could sure help the caseload.

SENATOR KRISTENSEN: Do you have any time left that I can respond to that?

SENATOR KORSHOJ: You can have all the rest of my time.

SENATOR KRISTENSEN: We have...when we have a...Senator Korshoj, when we have a vacancy for a district judge, for example, out there, we have a commission that meets, and it's called a Resource Commission, to decide which area needs an additional

judge. For example, let's say that the judge out in my district dies, they will meet to decide whether they replace that judge in my district or whether that judge can be placed in another area of the state to meet numbers. So we don't necessarily need to redistrict. What that Resource Commission does, though, is address your problem when there's a vacancy of where is the most need for that judge? Now, oftentimes that is, you know, with most population, case filings and so on. They're now starting to factor in drive time, which is good for you and I out in the less populated areas.

SENATOR KORSHOJ: We had this case in northeast Nebraska also where the judge got a different county and they swing right around.

SENATOR KRISTENSEN: Yeah.

SENATOR KORSHOJ: Thank you.

PRESIDENT: Thank you. Were you through, Senator Kristensen? Senator Lindsay, please, on the Haberman amendment.

SENATOR LINDSAY: Thank you, Mr. President, and members of the body, I rise in opposition to the Haberman amendment and in support of the bill. We listened to Senator Chambers' arguments about some of the decisions that come out; and if we can just assume, for the sake of argument, that everything he says is correct as far as the quality of judges, what that tells me is that we're not paying judges enough to get the good quality people. He talks about cutting their salaries, what we should be doing is increasing if that's the case, increase them to the point where we get competent people in there, if that's the argument. In 1975, Nebraska's salary ranked 24th in the country. By 1980, we were down to 40th; by 1990, down to 44th. I suggest, with the Haberman amendment, we'll continue to go...to spiral downwards and before long the decisions that Senator Chambers refers to will be the norm rather than the exception. Some of the decisions that Senator Chambers refers to, I think he talked about an appeal bond, those types of things, I would agree, they're wrong. But I don't think that's the reason to penalize the good judges, to drive them out of office so that all we have got is attorneys who may not be able to make that much in private practice, wanting to get those jobs because they pay more. I don't think that's the approach we want to take to our judiciary. Our judiciary is intended to

protect, as a last resort, protect the rights of the individuals. I don't think that we can...that we want to put people who are less than qualified in there and by paying less that's what you get. And if I could refer to Senator Chambers, if I could just point out to him, a wise member of this body, intelligent, well respected, well read, admired, once said on the floor of this body, quoted industrialists and said if you pay peanuts, you get monkeys. I suggest to you let's not pay peanuts, let's keep our judiciary strong.

PRESIDENT: Thank you. Senator Kristensen, followed by Senator Chambers.

SENATOR KRISTENSEN: Thank you, Mr. President. Senator Lindsay, I didn't say that. I would like to respond a little bit to some of the charges here. I think every one of us probably have a beef about ways the judges have ruled, about their demeanor upon the bench, and I would venture to say that every one of the judges probably have a beef with us for the type of legislation that we may pump out and make them rule on and they probably get very frustrated with the care that, for example, I talked to Senator Peterson here just a little bit ago and some frustrations about taking care of foster care, and about how judges, we don't like the sorts of things they do. Well, sometimes we're the ones as a Legislature that have created that nightmare for them to deal in. I would think that I could probably share with you a number of stories where I'm frustrated at the rulings that I got for particular clients. And I'm angry because maybe I didn't win, maybe I didn't get treated as well as I thought. But, quite frankly, in the long run the system works real well and I'm very satisfied with that system. But the problem is, that I see, is going to be...we're going to continue to fall further and further behind in the payment of judges. If you want to compare what judges make to some of what our other public sector attorneys make, the Dean of the Law School makes \$115,000. The Omaha City Attorney makes \$84,000. Even with the bill as it is, we won't get up to those levels for two more years and certainly their salaries are going to continue to increase. If we would solely base our decisions on pay, on an isolated ruling here or there, Senator Chambers didn't bother to go ahead and read you the full opinion about why the judges came to the decision that they came to. And if you would give me the cite, I will probably go find that case real quick and give you the Paul Harvey rest of the story. But I think it's important for us to look at that if we adopt the

Haberman amendment, all we're going to be doing is maintaining and guaranteeing for the next four years that our judges are going to remain down in the bottom end of the pay scale nationally. And we can't continue to do that and expect in the future we're going to draw quality individuals to the judiciary. For the judges right now that are in, for most of them that are on the...at the end of their scale, there is going to be a lot of those judges who may retire in the next four years who won't get the benefit of the salary increase. What we're really doing is talking and addressing the judges in the future, the judges that are going to get appointed and serve in the upcoming years to make sure that we get the good quality people that we need. And, obviously, we could cut their salary, sure, and then we'll be back in here complaining more and more about, well, doggone those judges that didn't make a ruling. It's a sound policy and I also would oppose the Haberman amendment.

PRESIDENT: Thank you. Senator Chambers, please, followed by Senator Lindsay.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, that distinguished person entitled to so much respect that Senator Lindsay was referring to was myself. Being as modest and humble as I am, I hate to acknowledge it but I must in order to respond to his comment. I did quote Armand Hammer in saying that if you pay peanuts, you get monkeys. But I was talking about constitutional officers' salaries which come nowhere near approaching what we're giving to these judges, nowhere near approaching what we're being asked to give to these judges. Nobody even thought for a second of suggesting a 20 percent increase at one fell swoop then automatic raises down through the years. That has never been proposed for the constitutional officers and they had never been given a substantial enough raise to bring them into a reasonable relationship with the salary received by others. And they are accountable, they're subject to election. They can be thrown out of office. Many judges ought to be thrown out of office and with all of these lawyers falling down, genuflecting before these people, somebody needs to bring some perspective. Based on the decisions that some of them give down, Senator Kristensen, not just the decision itself, but the arrogance, the rudeness, the insults some judges from the bench pay to people before them, that is contemptible conduct, it is unprofessional. It is inhumane, because if a person responded in the courtroom to the way he or she was being treated by one of these rude judges, the judge

could find that person in contempt and use all the coercive power of the state to put that person in jail. The Governor can't do that. The Secretary of State can't do it. The President can't do it. But you put some man up there in a dress and give him a wooden hammer and he can do it. He can call you...he can use a racial slur; and if you object in the proper way and tell him what he is, you can go to jail because you were showing contempt for one who was worthy of nothing except contempt. I just asked my seatmate here...oh, and another thing that the judges have that these other people don't have, the judges have a swarm, a swarm of Gunga Dins, otherwise known as lawyers. They pop their fingers and these lawyers come out of the woodwork from everywhere. You go through an old house and you light a fire under the woodwork and you hear a snap, crackle and pop and roaches come running out like pebbles on the beach. That's the way these lawyers are when the judges summon them, like the familiar spirits to carry out the nefarious work of these judges. And Senator Kristensen knows this is true and there is no other segment of the population, no other branch of government that has at its beck and call such a fawning group of, I call them sycophants. Senator Vard Johnson said it should be pronounced "sycophants" (phonetic). But, in any case, regardless of the pronunciation, the meaning is the same and the lawyers must do the bidding of these judges because they've got to go before them. That's how they make their living. The judge does that. Senator Kristensen, I would like to ask you a question, if I may. You are a prosecutor. In how many criminal cases can you recall that a judge denied the right to a closing argument to the defendant?

PRESIDENT: Senator Kristensen, please, would you respond.

SENATOR KRISTENSEN: I don't recall ever having that happen to me, personally.

SENATOR CHAMBERS: Is it routine to allow a closing argument in a criminal case?

SENATOR KRISTENSEN: That's the general rule, yes.

SENATOR CHAMBERS: Well, when I had mine, I was denied the right to have a closing argument, just to show some of the differences in the way I'm treated and other people are treated. I'll tell you something else that happened, and I'm just giving some examples because you all wouldn't be aware of these judges since

you all have such spotless records and you never go before them. I was before a guy called "Default Williams". They called him that because he got appointed by the chief judge when the Governor was not satisfied with any of the names presented. So in the profession, the legal profession that is, among judges and lawyers he is known as "Default Williams".

PRESIDENT: One minute.

SENATOR CHAMBERS: Well, "Default Williams" is the one who would not allow me to have a closing argument, and, in addition to that, I don't have enough time to give the whole story now and I don't want to have to give the rest of the story after giving the front part and I don't want to have to try to take it up in the middle or repeat what I have already said. But this is a story that I must tell, I insist on telling. Senator Kristensen, the judges may be frustrated by some of the legislation that comes over there but it is not anything that the Legislature does directly to harm the interests of any specific judge, as judges will do specific directed things to harm the interests of individuals who come before them.

PRESIDENT: Time. Senator Lindsay, please, followed by Senator Chambers.

SENATOR LINDSAY: Thank you, Mr. President, and members, Senator Chambers, you taught me well. I've been listening to you and I listened to you a few weeks ago. You say that nobody suggested 20 percent increase at any time but I think you offered an amendment that would have given a 20.9 percent increase to the Attorney General and a 29.3 percent increase to the Governor. The amendment did fail. I supported that because I think we do have to have quality people. I support this because, again, I think we do have to have quality people. The incidents that Senator Chambers mentioned are tragic. They shouldn't happen, but I fear they will continue to happen and they will only get worse if all we have are those attorneys who maybe can't make it in the private sector going into the judiciary because we simply will not pay our judges. We have fallen further and further down and we will continue to fall further and we will continue to...we will lessen the quality of our judges. If we...I think we have to increase it. We have to keep pace. We have to make sure that our judges are being paid better than they would be in the private sector, or at least close to what they would be. We can't ask for the extreme sacrifices. I think Senator Hefner

said it's a prestigious job. Prestige doesn't pay the rent. Prestige doesn't buy food and prestige, you can only take it so long. How many members of the Legislature do you know, former colleagues, who had to leave the Legislature, even though it may be a prestigious job, had to leave the Legislature because they just simply weren't paid? If we take those same arguments that we heard in the 1988 general election, arguing for an increase in pay for the senators, take those same and apply them to the judiciary, I don't think we have any choice but to vote for this bill. We simply have to have quality people and we can't do that by paying minimum wages in a profession where the people are getting much higher than that. Again, I urge the defeat of the amendment and the advancement of the bill.

PRESIDENT: Thank you. Senator Chambers, followed by Senator McFarland and Senator Hefner.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, Oscar Wilde said, imitation is the sincerest form of flattery, and Senator Lindsay has really flattered me this morning, but he's just slightly off the mark. Senator Lindsay, there was no bill that offered a 20 percent increase to any of those constitutional officers; and if you would have looked at the fact that my amount that I proposed for an increase would be spread over a period of years, it wouldn't come out to the 20 percent increase at one fell swoop. What this bill proposes to do is immediately give a 20 percent increase and then, based on that higher salary, give automatic built-in increases on top of that 'til we reach the point that Senator Hefner mentioned of almost a 50 percent increase by the time this process is over. You go from 66,000 to 96...something like ninety-six point nine thousand dollars. So the two situations are not the same. But, again, that was not in the bill, it was an amendment that I offered, as I often will do. But let me tell you about "Default Williams" because I understand some are waiting with bated breath. I had successfully resisted a charge brought against me because it was brought under an unconstitutional provision. Judge Gradwohl ruled it was unconstitutional and dismissed, so an amended complaint was filed. I went to trial on that and some of these other things that I'm not going to take the time to tell you about occurred, but I was convicted. And you know on what basis I was convicted? "Default Williams" applied the unconstitutional standard that Judge Gradwohl had thrown out, on the basis of this standard you're guilty. I couldn't wait 'til I got out to talk to the media. I said, will you read what that

dumbbell did? I ought to be paid for giving legal clinics when I go before these judges and prosecutors. He didn't even read what his fellow judge had done, so some of the judges down there in Lancaster County got embarrassed because he sits...well, he encumbers the bench there, like a barnacle on the bottom of a ship. Somebody came to him and they tried to get his attention. They said, hey, "Default", he didn't listen, so they went (tap, tap, tap) on the top of his head and they caught his attention. They said, "Default", you're wrong, so he reopened the case. After having pronounced the sentence of guilt, a verdict of guilt and imposed a sentence he's going to reopen the criminal case. Well, what the statute says is that once a person perfects his or her appeal it gives jurisdiction to the District Court. I had perfected my appeal. He had no jurisdiction. I wrote a motion to that effect. He overruled the motion, took jurisdiction, admitted from the bench that he made a mistake and said now he's going to redo it according to the proper standard and then proceeded to impose a verdict of guilt and a sentence. Well, that will be preserved in my appeal. But he's going to get an increase under this bill. Senator Lindsay wants him to stay a judge. Senator Kristensen thinks he's worthy of money. What do you think, my, I'm a poor lay person, can't even afford a lawyer, there I am before the bar of justice, vulnerable, friendless, helpless, looking for justice from an American court and I get treated in this fashion. Imagine what that does to my concept of the judicial system in this state. Imagine how it shakes my confidence, Senator Hannibal, my belief that justice is blind in the sense of not recognizing your money or your position in reaching a decision. Now, I have read that justice is blind but I have never read that justice is stupid, but my experience has indicated to me that's the case. Don't get offended at me talking about a dunderhead like that because the facts establish he is a dunderhead, but one of these dunderheads can sit on the bench and say that to somebody who dare not respond. Now he can take another crack at me and his buddies in the Supreme Court can punish me.

PRESIDENT: One minute.

SENATOR CHAMBERS: They've got a way to get their revenge, but do you think that's going to cause me to stand on this floor and pretend that we've got competent, qualified, fair-minded people sitting on the bench as judges? If I use...Senator Hefner, if I used profanity, I could find the appropriate language, it would be inappropriate on this floor, to give release to the

indignation that I feel. But having denied myself the luxury of the use of that kind of language, I have to try to find ordinary English to say what it is that I feel. But this is one of those occasions and this is one of those subjects that requires something stronger than ordinary language. So, as a result of that, I have got to speak on a number of occasions to try to make the point. I'm going to support Senator Haberman's motion. I will not support the bill, but it comes closer to making a decision that has a bit of rationality.

PRESIDENT: Time. Thank you. Senator Haberman...no, excuse me. Senator McFarland, followed by Senator Hefner.

SENATOR MCFARLAND: Thank you, Mr. President. I'm listening to some side comments here. I will compose myself. Senator Baack is in his usual good humor today. When you appear before the judge in any court, you don't always win the cases that you think you should win. And sometimes that's the...the hard reality of the matter is no matter how hard you work or how strongly you feel about a case, you sometimes don't get the decision that you're satisfied with. You have a right to an appeal. It's something that can be done and you get a fair hearing before the higher court. Now, that doesn't mean that the system is unfair necessarily. That doesn't mean just because you happen to lose a case that you feel very strongly about that the decision is wrong. The fact of the matter is that the courts in our society have been a forum in which the poor, the impoverished, the indigent have been able to have a fair hearing that they would never get here in the Legislature or before the executive department. The judiciary provides a forum for people to come and air their grievances and even provides, if they're too poor to afford a lawyer, a mechanism whereby they can have a lawyer appointed for them. Those kind of procedures are available and the judiciary is one of the strengths of our entire form of government because if we didn't have the judiciary where people could bring their grievances before an impartial judge, our society would break down because we certainly do not have those type of...the individuals being able to have any influence in the Legislature or the executive department. The question is whether we want to pay those judges a fair salary. What is fair? It's all relative. To my way of thinking, fairness is determined by the comparable wages paid to other attorneys in the public sector and the private sector and make a comparison and see what it is and compare it to what our judges are making in comparison to judges in the other states.

When you just take those comparisons into account, I think you have to say that this increase is not only fair, it is long overdue. If we enact the bill as it is, as Senator Schmit has brought it before the Judiciary Committee and as it was advanced out of the Judiciary Committee, we will, bringing our judges into some kind of fair relationship with attorneys in the public sector such as the Dean of the College of Law or the federal court judges or college professors, law professors and so on, if we enact the bill as it is we will be bringing them into a fair relationship with what many of the attorneys make in private practice. An excellent attorney in private practice or a very good attorney in private practice will easily make over \$100,000 a year. That's the plain, hard fact of the matter, and their services are worth that. The cases they handle are worth that. They are well worth the money that people pay them to handle some exorbitant and huge type of legal disputes. It seems to me if we have those type of lawyers being paid that amount, that we should have the judges who are presiding in these courts of law to be paid a comparable amount. What we really want to achieve is, I think, my goal is that we would get the better lawyers in the legal profession...

PRESIDENT: One minute.

SENATOR McFARLAND: ...to seriously consider a judgeship and not have to just disqualify themselves or discount even considering a judgeship because the pay is nowhere commensurate with what some of these excellent attorneys are making in private practice. And I've had some private attorneys who I know are making over 100,000 a year, some over \$200,000 a year, and some even more than that frankly, who have said, you know, I would be interested in being a judge, but there is no way that I would even consider it for the meager wages that are paid to them. I think we need to have qualified and competent and very distinguished people on the bench and I think the only way we're going to do it is by paying them an adequate salary. And you can take exceptions and you can try to dramatize and you can talk about your own case and you can try to ridicule and joke and laugh about it, but it is not a joking or laughing matter. It is a very serious matter. We need a good judiciary in our state and I think by passing the bill as it was advanced out of Judiciary we can come within the range of improving...

PRESIDENT: Time.

SENATOR MCFARLAND: ...the salary structure so that we continue and will maintain a competent and excellent jury, or excellent judiciary in the State of Nebraska.

PRESIDENT: Thank you. Mr. Clerk, you tell me we have something.

CLERK: Mr. President, Senator Chambers would move to amend Senator Haberman's amendment.

PRESIDENT: Senator Chambers, please.

SENATOR CHAMBERS: Mr. Chairman, my motion, my amendment to Senator Haberman's amendment would change that percentage increase from seven to five. That's my amendment to Senator Haberman's amendment. You know, Senator McFarland almost brought tears to my eyes when he talked about how this is not a laughing matter, this is not a joking matter, it's serious. Do you notice how lawyers say that only when somebody is opposing what the judges want? He knows there are not representative females as judges. There is not a black judge in this state. Does that bother him? Is that a laughing matter? Is that a joking matter? Where are the lawyers and their concern for equity? Where are they? And I have discussed this with Chief Justice Hastings when he was before the Judiciary Committee. There were reporters there but they're not going to write any of these kind of things that I'm saying because it is white people protecting white people. It is a white male dominated system and you have white male reporters or white females who work for white males, and there are certain subjects that are verboten. They are not to be written about, they are not to be discussed, but people on the outside see it. And when I was trying to talk to the judge and there was some elderly lawyer from Omaha that I raised the issue with when they were trying to get us to vote to put two more district judges into the system. I asked him, have there never been qualified females, never? He said, well, more of them are coming out of law school now and I was wondering why he wanted to make it a numerical thing, that until a certain number of females were in the profession, none would be considered qualified to be a judge. Crazy. Chauvinistic. And there has never been a black district judge in this state. They had one black female municipal judge and I was more critical of her than anybody else because she was not qualified to be a judge. The stakes are too high, too many people's interests can be ruined by somebody like that, but I think they deliberately

put her there to create the impression that no black person was competent or qualified to be a judge and they can forever point to her as exhibit number one. And I don't see Senator McFarland complaining about that situation because it doesn't impact on him. He's not a female and he's not a black male. So, the judicial system is fine with him and he doesn't want me to ridicule them and criticize and make jokes about the way they shot me through the grease. Why, he ought to be glad to see a man who can be walked upon in the way that I was in the courthouse and still make a joke about it. There are others, who if they were treated like I have been treated, would put camouflage paint on their face, put on camouflage garments and go get them an Uzi and they would have judges oozing life by the time they got through, but that's not my way. I'm merely using words and it cuts poor Senator McFarland to the quick. I didn't know the lad was so sensitive. Now, what do I owe these judges? I don't owe them anything. What do I fear from these judges? I don't fear anything from them. Senator McFarland can go before them and they can rule against him or chastise him in some fashion. They rule against me already. So what? These are just little men, small men, small-minded men. They're like the Clark Kent syndrome, go in the telephone booth and take off their regular clothes and put on their judge clothes and they become supermen and they thunder from that bench. They thunder in the same way the humming bird thundered after eating beans. Thunderbird is what the humming bird became. Judges do like this, and you see it in their opinions. Senator McFarland, every lawyer here knows it and suddenly people are going to cringe and get all uptight. I'm just using standard English in expressing myself. So, we have thunderbirds sitting on the bench, expelling and exhaling into the environment that others must breathe and be exposed to, some of the foulest things imaginable. Little guys who run from their shadow, who are not involved in any of the social issues of the day, who hide in their courtrooms and can send people to jail if they don't like them. And they thrive, Senator Hefner, in the same way that Dracula thrived on drinking the blood of people. They thrive on the trembling and the fear that they observe in the people who come before them, and they take offense at somebody who does not shake and quake. You know there were people who would not take their hat off when they went into the courtroom or before the king saying that they would show that kind of regard only for the God that they believed in. Do you know there are judges who want to make people stand up when they come in the courtroom because they people would not respect them enough to do that so

if you don't stand up they can charge you with contempt? What kind of nonsense is this? What kind of weak people are these who must insist that other human beings stand up when they come into a room? This is a system that is supposed to mete out justice to people, that are supposed to treat human beings as though they all have human rights, a certain modicum of respect that they are entitled to. There is a federal district judge in Lincoln who has been recognized many times as being a very humane and thorough person, a scholar. He has been reversed on occasion because nobody, present company excepted, is perfect. Now, before you jump to a conclusion, who all are embraced in the term present company? Why, everybody in this room. Oh, maybe that's why you're laughing. You know yourselves better than I do. (laughter) At any rate, at any rate, Judge Urbom, when he was handling some cases dealing with the Native Americans, they would not stand up when he came into the courtroom and the bailiff and others were upset and Urbom said, it's not necessary that they or anybody else stand up when he enters the courtroom. Here is a man who doesn't need that coerced show of respect in order to have a sense of being, and an identity. But these other rascals and rascallions need that, so they stride and strut into the courtroom and you take them out of there and they are the most insignificant people you can find. They get jostled when they go into the grocery store. If they rode a bus they would get jostled off the bus and then they are going to take it out on the people who come before them. Clark Kent and Superman, put on his judge clothes and he is Superman, and he really is. As a matter of fact, he is God in the courtroom. The gods you all talk about can't do anything, but by God, that god who sits on that bench can do something and he can order other people in the courtroom to do things. He'll call the bailiff. He'll call however many deputies are necessary to drag you out of that courtroom and puts your worthless hide in jail if you don't properly respect him. I asked this elderly lawyer whether or not if a judge used a racial slur from the bench and it was directed at me, I should respond in kind to him, and do you know what that lawyer said? I wouldn't recommend it because of what the judge can do. What kind of sense does that make? What I'm doing with my amendment is giving them more than I think they're worth, but trying to give them something. I'm saying let that first increase be 5 percent.

PRESIDENT: One minute.

SENATOR CHAMBERS: And after that the built-in increments are still there. Sometimes it is wise to accept what you are offered, but sometimes it's good not to because you may have the strength to reject that and, nevertheless, get exactly what it is that you're after. But what these judges are being offered in this bill, LB 42, as written is unconscionable. So I'm in support of my amendment and I hope I can get enough to add it.

PRESIDENT: Thank you. Senator Hefner, did you wish to speak about the Chambers amendment?

SENATOR HEFNER: Mr. President and members of the body, this amendment I believe is a little too low. I said I'd support Senator Haberman's amendment and I was prepared to add an amendment a little while ago that would say we'd give them a 10 percent increase the first year and then a 5 percent for the next two years, but Senator Haberman's came closer to my thoughts than did Senator Chambers'. And, Senator Chambers, I'm looking at this from a little different angle. I think our judiciary is doing a good job. I don't have anything against our judges because I think they're doing a good job and I know you have a difference of opinion there. But I wish somebody would answer this question for me. If we're paying our judges such a low salary, why do we have so many attorneys coming forward when there is a vacancy? Would anybody care to answer that for me? Okay, you can probably answer it in your closing then, or when you get a chance to talk. But, Senator Lindsay, you said prestige won't pay the rent. Well, anybody that is getting sixty some thousand or fifty some thousand, I think that would pay a lot of rent. That would pay a lot of groceries so I don't think we're down that far. But I certainly will support a little. I think that when we have a vacancy, we have a lot of qualified attorneys come forward and submit their application and so...and like I said before, they have a good retirement program and I feel that's worth a lot. A lot of private attorneys don't have that when they practice in their private practice and so I think we need to think about that. And so at this time I'm going to oppose Senator Chambers' amendment, but support Senator Haberman's because I feel that is more in line. At the present time we have a good economy and maybe it wouldn't hurt us to pay a little more but what's going to happen down the road? I don't think our economy can stay this strong and then we're going to be short of funds again and we're going to have to cut here a little and cut there a little. So I would say that we should probably be realistic about this and go just a

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little slower than what the original bill proposed.

PRESIDENT: Thank you. Mr. Clerk, do you have something you'd like to read in at this time?

CLERK: I do, Mr. President. Very quickly, two new resolutions. (Read brief descriptions of LR 254 and LR 255. See pages 770-71 of the Legislative Journal.)

Mr. President, Government Committee reports LB 1107 to General File with amendments, LB 1172 General File with amendments, those signed by Senator Baack. Education reports LB 913 indefinitely postponed, LB 1201 indefinitely postponed, LR 240CA indefinitely postponed, those signed by Senator Withem. And Government reports LB 1184 to General File with amendments. Amendments to be printed to LB 520 by Senator Schellpeper, Senator Kristensen to LB 159 and Senator Beck to LB 163. That's all that I have, Mr. President. (See pages 773-77 of the Legislative Journal.)

PRESIDENT: Thank you. Senator Haberman, you are next followed by Senator Schmit.

SENATOR HABERMAN: Mr. President, members of the body, in my 12 years in the Legislature I have had very, very, very few occasions to agree and be on the same side as Senator Chambers, so this is a new for me. I do agree with Senator Chambers' amendment, cutting the 7 percent to 5 percent as this would still end up a 53 percent increase in 11 years. Although I do not subscribe to some of the other thoughts that Senator Chambers had about judges, I would like to put in the record that I do subscribe to his amendment in cutting the 7 percent to 5 percent as a 53 percent increase in 11 years is a considerable amount of increase and I do support that part of his amendment. Thank you, Mr. President.

PRESIDENT: Thank you. Senator Schmit, please, followed by Senator Chambers.

SENATOR SCHMIT: Mr. President and members, you know I always wish some time that I could be on an issue that is riding the wave of popularity. It seems to me like I'm either ahead or behind of the power curve all the time. One of my concerns many years ago, and Senator Chambers addressed that concern with me, was the drug problem. You go back and check the record, it was

the early 1970's when this Legislature passed a series of bills that I believe were instrumental in giving the Nebraska law enforcement and judicial system the tools they needed to curtail the traffic in drugs. But unfortunately as I recall, Senator Exon, then Governor Exon, he vetoed all six of those bills. We did override the bills, but I will paraphrase one of his remarks in the veto message and he said something to the effect, takes more than just money to solve the problem and he was right, he was right. I didn't agree with him at the time, but I can tell you that he was right because we passed those bills and we did some things, we put some money in the till but we did not take the additional step of getting the people we needed in those areas to resolve the problem. We made some progress but not very much. Now 15, 16 years later it has become popular to be against the drug traffic. Ernie, we were just a long ways ahead of our time. We tried to do something, but no one would listen. Kind of interesting that last session I introduced a couple of bills to provide for a million dollars of overtime for the highway patrol so that they could have men on duty, not have to jerk them off and tell some drug dealer come back tomorrow morning at eight o'clock, that we're going off duty now at five, come back at eight o'clock and I'll start my surveillance again. The Appropriations Committee did put \$250,000 in that program. This year that million dollars is one of the Governor's mainstays of the anti-drug program. I also had a bill last year to provide money for a helicopter. That didn't make it out of committee. I have introduced that bill again this year. It so happens that I believe that could also be an effective instrument and that it could save enough money in some areas to pay for itself very rapidly. We can do whatever we want to do in this body relative to judges' salaries, but it doesn't make any difference if you pay an individual 100,000, 50,000, 25,000 if you don't have the kind of people who have the dedication and the intellect and the desire and the fire in their belly to enforce the law and do the job, we're going to have problems, we're going to have problems. We can build more penitentiaries. You know we can spend another 14 million bucks to build more penitentiaries and we can fill it up in a week, we can fill it up in a week. We demand tougher sentences, longer sentences, lock them all up, throw away the key and say, my gosh, we don't have enough room, got to do something about it. What you need is a judge on the bench who has got the intelligence and the dedication to find out who needs to be locked up and who doesn't need to be locked up, the judge who knows who can be a likely candidate for probation and who isn't, a judge who understands

why the individual is there. One of the things that I have learned on this Franklin investigation, there was a young lad, been sentenced to I believe 15 years at the penitentiary. The system of justice worked very rapidly for that individual. He was a dope trafficker they said and he was a...I believe he fired a couple of shots at a house or something and wounded some people. The story in the paper said what a tough guy he was.

PRESIDENT: One minute.

SENATOR SCHMIT: Well that system worked awfully rapidly for that individual and he is out there and he is going to spend a long time there. Why? Because nobody really cares. I don't know what judge sentenced him, but one of the things that caught my eye was this. The young lad had been in and out of 27 foster homes during the course of his life. Ladies and gentlemen, had I been the judge on the bench I think I would have taken that into consideration. Admittedly, he committed a serious crime, but the State of Nebraska was responsible to a certain extent for a young man that went through 27 foster homes while growing up. Now, ladies and gentlemen, I'm maybe delivering a message to the judiciary, but I want those kind of things considered by the judges and I want people who have got enough brains and common sense to say, yeah...

PRESIDENT: Time.

SENATOR SCHMIT: ...we ought to consider that, but instead we take a young lad who has no one to speak up for him, who has no parents, no family, give him 15 years.

PRESIDENT: Time.

SENATOR SCHMIT: Thank you, Mr. President.

PRESIDENT: Thank you. Senator Chambers, please.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, let me mention why it's good that Senator Schmit mentioned some of the things that he mentioned and to tell you why I bring up some of the specifics that I do. If you speak in generalities, first of all, people are going to say that there is no valid complaint that you have, give me something specific. When you give the specifics they say, everybody has had a case that didn't turn out the way they wanted. What is really meant is

that no criticism is to be leveled at the judges, but as a class, and they are a class, they are the most privileged, powerful class in this society. And the problem is that the chief judge will admit himself that there are judges who are not up to snuff. But the problem is nobody rides herd on them. Nobody brings them in line. Nobody will deal with them. There was a judge, and I referred to him as the randy-rogued rogue of some county, I forget what county it was, and you know the way he was treating his female employees? He was feeling on them, yes, you young lady Pages. He'd wrap them up in his robes. This is a judge, make references to various parts of their anatomy and the judicial system couldn't decide what to do with him. It's clear to everybody else what ought to be done with him. The last scene in the Frankenstein movie should have been replayed where people have pitchforks, they have torches and they have various types of wood and they come to the castle and burn it to the ground and destroy Frankenstein, they think. Well, the judge should have been ridden out of town on a rail. I sat back and watched and listened and read, and the judicial system was going through agony because they couldn't justify what this rat was doing. But they couldn't find it within themselves to do anything. So I made it public that at the next convening session of the Legislature I was going to bring in a resolution of impeachment, that judges are subject to be impeached by the Legislature and if that rat's conduct did not merit impeachment, nothing did. Miracle of miracles, they found a way to remove him from the bench. Why should a politician have to inject himself into the activities of the judiciary, those elevated, high-minded, high-souled individuals to get them to remove this rotten apple when they protect one who does these kinds of things? Then his wrongdoing becomes the wrongdoing of all of those because they ratify and endorse what he has done. Without consistent criticism the judiciary will become even more arrogant than Donald Trump said Ivana was becoming and he said because he didn't want to create another Lenora (sic) Helmsley, he was going to fire her...he was going to divorce her, and he was going to give her \$25 million. And she looked at Trump's bank account and saw billions and she said, now for one of these little peasant girls \$25 million might sound like a lot, but you must remember, Donald, I've been around you a long time and I've gotten accustomed to thinking in terms of billions, so \$25 million, that's peanuts to me, that's chicken feed and I'm not a chicken, and, Donald, I'm going to get some of that money, and she's going after it. Now, when I apply what I've just said...

PRESIDENT: One minute.

SENATOR CHAMBERS: ...to the judicial system, we have a set of circumstances where judges want to come in here and give the impression that all of them are great. When you can give them specific examples, then they will admit there are problems; but you never see a program put together by the Chief Justice or any collection of judges to correct and remedy those deficiencies. They would rather hide them, pretend that they don't exist, sit back, wait it out and hope these rats don't do too much that has a high enough profile for the public to become aware of it. I think what we ought to try to do is get a consensus on a reasonable increase if there must be an increase and the Legislature is determined to give one; 5 percent you may think is low, I don't; 20 percent is way too high. So somewhere between there we should be able to strike an accord. Five percent, Senator Wesely, may be too low, twenty is too high. If Senator Langford, if it was her bill, I'm sure she and I could reach an accord because I'd raise my offer to 5.5 percent.

PRESIDENT: Time. Thank you. Senator McFarland, please, followed by Senator Schellpeper.

SENATOR MCFARLAND: Thank you, Mr. President. There are a number of good things that happen in courtrooms. You wouldn't expect it hearing the debate today. Maybe it's a distorted view, maybe you're only getting one perspective. We happen to have a law firm that represents a lot of people, particularly employees. We happen to file a lot of federal cases, civil rights cases. We have won several of them. We have lost some that we thought we should have won, that we thought the judge did not rule in our favor, but that is what happens on occasion. We have represented minorities on race discrimination charges and we've been successful. And the judges in the state and federal courts are the ones that issue those rulings and compel the employers and the state and whoever is the defendant to reinstate these people to their jobs, to pay them back wages, to give them benefits and commensurate compensation to make them whole as far as their damages are concerned. We have represented women in cases of sex discrimination and sexual harassment cases and the judges in those courtrooms are the ones that issue the rulings that uphold the rights of women not to be sexually discriminated against and uphold the rights of women not to be sexually harassed in the workplace. Those kind of

cases are decided by judges, both in the state and the federal courts and we've been successful with them. And to try and create specific examples and then try to say that that represents the way the judiciary performs in our state and federal government is ludicrous. It is an outrage that those kind of things are said. There are examples where judges have not performed as well as they should have and there are some judges who should not be judges. There are some lawyers who should not be lawyers. There are some legislators who should not be legislators. There are some doctors who shouldn't be doctors and in every profession or every occupation there are some people who do not measure up. But to try and generalize from a few specific instances is unfair and unreasonable. There may be a purpose. I mean one may feel bitter, one may feel hurt, one may feel slighted by the entire system and one may want to make those kind of criticisms because of those hurt feelings and those past injustices that one may have suffered, but what we're trying to deal with here is not from... a view of any one person's perspective and how skewed or slanted that may be. We're trying to deal with reality and what the situation is in the judiciary in our state. I guarantee you that the salary that is provided for in this bill is fair and reasonable. It's not excessive. It's not inadequate. The only reason that I hear that may be a valid question of it is the significance of the raise and the reason for the significance of the raise is because of the relatively low salary that has been paid for the past several years. I think it has been mentioned that we ranked 24th at one time in judicial salaries. Now we're down to 44th. That is something we should not be proud of. There may be a lot of applicants for judicial openings. That doesn't mean that we couldn't have better applicants. My perception is that when we have a judicial opening, we get some very, very qualified candidates who are willing to make the sacrifice and...

PRESIDENT: One minute.

SENATOR McFARLAND: ...make the...take the relatively modest pay that is offered right now. What I'm afraid of also is there are a lot of persons who apply for those jobs who are not as experienced as maybe they should be, maybe not as well educated as they should be, maybe need a few more years of practice, maybe need a few more years of education or maybe a few more years of trial experience or experience in particular general broad background in the law to be good candidates. My fear is

that if we continue with the salary increments that are presently there that we will end up not having the high quality people apply at all and we need to keep some kind of...

PRESIDENT: Time.

SENATOR MCFARLAND: I'm sorry, did you say time?

PRESIDENT: Yes, but please finish your sentence.

SENATOR MCFARLAND: We need to keep a high quality of person on the bench. It is an integral function that they perform in our society and I assure you that in five, ten, fifteen, twenty years there will be women on the bench, there would be blacks on the bench, there will be other minorities on the bench. The time is coming. It has not arrived yet, but it will arrive in the future and I can assure you that I'm not proud of the situation we're in now, but I think that the number of women, the number of minority lawyers that we have now, we're going to have them represented on the bench in the next few years. Thank you.

PRESIDENT: Thank you. Senator Schellpeper, please, followed...

SENATOR SCHELLPEPER: I call the question.

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. Record, Mr. Clerk, please.

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

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

SENATOR CHAMBERS: Yes, I would. Mr. Chairman, if Senator McFarland were at his desk I'd ask him the question that is burning in my mind and that question is, why does he take so many of his cases when they relate to discrimination or sexual harassment to the federal court rather than the state court and the answer is obvious. There is a better quality of justice that you're likely to receive in the federal court than in the state courts. He knows it and I know it and as a matter of fact, that's why a federal court system was created in the first place to protect people against the discriminations of various

kinds that could happen within a state. There was a court system that existed at the same time and in the same location that a state court system existed, but it offered citizens the opportunity to receive justice that it was felt by the framers of the Constitution of the United States, a type of justice they could not get in the states' courts. The whole concept of diversity of citizenship was based on that idea, that if you have to bring your case to a state and your case involves an individual in that state who is going to be favored in the courts of that state, you should have a court system where you will have a better chance to receive justice and that was one of the moving factors for having a federal court system and it is why discrimination cases are taken to federal court rather than state court. Senator McFarland is content to allow the appearance of black people, other non-white people and women on the bench. He is willing to allow that to occur with what is known in the legal profession as all deliberate speed which means it will never occur. As long as nothing is being done to change the situation, the situation is not going to change. There is no incentive on the part of these males, many of whom are incompetent and are political hacks and only for those reasons were they placed on the bench in the first place, there is no incentive for them to change a good thing. Another factor that concerns me about the way judges fail to do their job, when they're appointing counsel in cases where somebody may face the death penalty, the judges themselves should insist that the individual representing such a person who runs the risk of losing his life, his life because in Nebraska no woman has ever been sentenced to death and never will be and I'm glad of that. That is one fewer class of persons that I have to worry about, trying to rescue from the viciousness of the execution syndrome. But a person who runs the risk of losing his life, should have legal counsel that is competent and experienced. Often the person has a public defender who may mean well, but has not even had a sufficient amount of experience in handling criminal cases. It should not take legislation to set standards of qualification as such an appointed counsel should have to meet. The judges will not do it on their own. They're not responsible enough, they're not concerned enough. Judges on the U.S. Supreme Court, even some of those who have voted to uphold death sentences, have pointed out that they have reviewed numerous cases where a lawyer failed to object in a timely manner, a lawyer failed to challenge the make-up of a jury. There were people sentenced to die who should not have been sentenced to die, but they had inadequate counsel. So even in a

literal life and death situation, the judges did not assume their responsibility. And Senator McFarland wants to stand here and try to give the impression that the job they are doing is adequate. It is not. And if there are judges who should not be judges, why will he never call one of them by name?

PRESIDENT: One minute.

SENATOR CHAMBERS: I identified "Default Williams" for you. Why does everybody know these judges who should not be judges, but they're all afraid to mention who they are or try to initiate any action to correct the situation? Because it's just words, empty words, that are to be spoken and forgotten. And I'm sure if Senator McFarland would take a transcription of his remarks and present it to the judges, they would be very proud, they would be very pleased. I don't know if they knight lawyers by hitting them on the head with a sword like the king and the queen do, but they'd probably do whatever the equivalent is in the legal profession. My amendment, remember, is to amend Senator Haberman's amendment. It would say that they start with that 5 percent increase, then they continue to get those increments which are built in and not built in for anybody else. I hope you will vote for this amendment.

PRESIDENT: The question is the adoption of the Chambers amendment to the Haberman amendment. All those in favor vote aye, opposed nay. Have you all voted? A simple majority. A record vote has been requested. Have you all voted? Record, Mr. Clerk, please.

CLERK: (Read record vote.) 8 ayes, 18 nays, Mr. President, on adoption of the amendment.

PRESIDENT: The amendment to the amendment fails. We're back to the Haberman amendment and, Senator Chizek, you had your light on a while ago. Do you want to, now we're back to the Haberman amendment? Senator Chambers, please.

SENATOR CHAMBERS: Mr. Chairman, members of the Legislature, something just occurred to me, well it didn't just occur to me, but I decided to say it. I hope you defeat all of these amendments, although I'm going to support them, so that there will be a 20 percent increase at the first fell swoop, then all these increments, and let people see what this Legislature is doing. First of all, it's going to create an appellate court so

that these judges won't have that much work to do. Then it's going to give them this huge increase, move from 66,000 to \$96,000 in two years, a \$30,000 increase in two years. Their salary is not \$30,000, they get an increase of \$30,000 in two years. Good work if you can get it. Somebody said...well, Senator Kristensen had said the judges are earning \$66,000 now. Somebody other than myself, and Senator McFarland, but who sits in this row on this side of the aisle had indicated that they might be paid \$66,000 but they are not earning it, and that is true. These guys get this money, they can set their own schedule, they do sloppy work, and if you read some of the Supreme Court opinions as I do you can see it, and then they come in here. They get the creation of an appellate court amendment, submitted to the voters because this Legislature is going to give enough votes to that thing to put it on the ballot, so they reduce the amount of work. Then they're going to vote to give them a \$30,000 increase in salary in a two-year period. I read some places where people are upset at the modest increase we gave some of the constitutional officers over a four-year period. We're not talking about \$30,000 in two years, Senator Langford. You're going to vote to give them \$30,000 in two years? I got one no. Do I hear another no? Senator Haberman, are you going to vote to give them \$30,000 in two years, 30,000 in two years? What do you tell me, yes or no? Three votes. Do I hear four? Are there four, four, four? I got four. We have some people who I think are not going to vote to give that \$30,000 increase in two years. And let me make something clear here. I don't blame the judges at all. I don't blame them at all. I wouldn't blame them if they tried to get the \$30,000 at the first fell swoop and then increment it on up from there. People are going to try to feather their nest the best way that they can. And you notice how they are always portrayed as being disinterested in the affairs of the world. They are above all of that, but when it comes to that moola, here they come running, give me some money. They can get down and dirty when it comes to trying to get that money. They will get as deeply involved in this dirty political process as anybody or any lobbyist has ever gotten. They will grovel, they will beg, they will cajole, they will lobby, they'll do anything to get that money because money is the god of this world. And when those judges say in God we trust, they mean it, and the god they're talking about is green, that filthy lucre. Judges love that money. You could take a fishing pole and put some of that money on the end of that string and jerk it around and you would have them jumping around like little puppets on a string,

following that money. That's what they are doing and who can blame them? These are the times when it becomes clear that they are just people with a job like anybody else and they put on that front and want that appearance generated that they're somehow different and of a better cut than ordinary human beings. So Senator Haberman's worthy amendment will probably be defeated and you'll be left with what the lawyers have been compelled to support.

PRESIDENT: One minute.

SENATOR CHAMBERS: And that is that 20 percent increase, just like that, and then these built-in increments so that it totals \$30,000 by 1992. They are going to get in a six-month period a \$14,000 increase, just like that. And I'm sure that there are people who would be more than satisfied with a \$14,000 salary. That is not to say the judges should get paid minimum wage. Minimum wage is too much.

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

SENATOR HABERMAN: Mr. President, members of the body, so that there isn't any misunderstanding, as the bill stands now as written it calls for 20 percent increase in January of 1991. The bill calls for a 7 percent increase July 1, 1991. So in one year, fellow legislators, it's a 27 percent increase. The bill also calls for a 7 percent increase July 1 of 1992, which would be a 34 percent increase in two years. Now the amendment, the amendment I feel is very fair, very practical and can be afforded. The amendment strikes the 20 percent increase, this healthy increase, January of 1991, and in its place the amendment says the salary shall increase 7 percent, July 1, 1990, 7 percent July 1, 1991, and 7 percent July 1, 1992, which is a 21 percent increase over a three-year period. I can support this. I think it's fair and I ask this body to support the amendment. Thank you, Mr. President.

PRESIDENT: Thank you. The question is the adoption of the Haberman amendment. All those in favor vote aye, opposed nay. Requires 25 votes. Senator Haberman, please.

SENATOR HABERMAN: Mr. Speaker, I ask for a call of the house and a roll call vote.

PRESIDENT: And a roll call vote?

SENATOR HABERMAN: Yes, please, in regular order.

PRESIDENT: The question is, shall the house go under call? All those in favor vote aye, opposed nay. Record, Mr. Clerk.

CLERK: 13 ayes, 0 nays to go under call, Mr. President.

PRESIDENT: The house is under call. Will you please record your presence. Those not in the Chamber, please return to the Chamber and record your presence. Please look up to see if you have turned on your light. Thank you. Senator Landis, would you like to light up, please. Thank you. We're looking for Senator Barrett, Senator Bernard-Stevens, Senator Scofield, Senator Hall, Senator Hannibal, Senator Wehrbein and Senator Labeledz and Senator Rod Johnson, also Senator Scott Moore. Still looking for Senator Bernard-Stevens, Senator Moore. All are now present that are not excused and the question is the adoption of the Haberman amendment. Roll call vote in regular order. Will you please hold the conversation down so the Clerk can hear your response, please. Thank you. Mr. Clerk.

CLERK: (Read roll call vote. See pages 778-79 of the Legislative Journal.) 21 ayes, 20 nays, Mr. President, on adoption of the amendment.

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

CLERK: No, I do not, Mr. President.

PRESIDENT: Okay, we're back on the bill itself.

CLERK: Mr. President, I might, I have one announcement. Business and Labor...

PRESIDENT: All right, call is raised.

CLERK: ...will be meeting in Executive Session in the Senate Lounge at eleven forty-five. Mr. President, I do have an amendment. Senator Chambers would move to amend the bill. (Chambers amendment appears on page 779 of the Legislative Journal.)

PRESIDENT: Senator Chambers, please.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I've listened to the lawyers. I heard the lawyers, and I think they have indicated that if we offer an adequate salary then we might have a chance to get better judges. Senator Kristensen, may I ask you a question?

SENATOR KRISTENSEN: Sure.

SENATOR CHAMBERS: Has that been one of the arguments for a substantial increase that if you have a good salary you have a better chance of attracting qualified people?

SENATOR KRISTENSEN: In the future, yes, that's true.

SENATOR CHAMBERS: Thank you. Senator Lindsay, may I ask you the same question, and what would your response to the question be?

SENATOR LINDSAY: Yes.

SENATOR CHAMBERS: Thank you. Senator McFarland, is that your position also?

SENATOR MCFARLAND: I think that we should increase it, I would even double it or triple it, I think that would be appropriate.

SENATOR CHAMBERS: Okay. Mr. Clerk, would you read the amendment, please?

CLERK: Page 2, line 12, strike "twenty" and insert "fifty".

SENATOR CHAMBERS: Thank you. Members of the Legislature, let us take these people at their word, and I'm going to vote this amendment that I'm offering and if this amendment is adopted I will support the bill all the way across the floor. It's one of those all or nothing propositions. If it is felt that what is considered a reasonable increase is too small to attract quality judges and the goal to be achieved in raising the salary is to attract quality judges, then the increase has to be substantial enough to accomplish that purpose. There are lawyers who would be making more than a judge would make if you tacked on 20 percent to what is being made by the Chief Justice. And, remember, the salary that I'm adding the increase to would be

that of the Chief Justice, and then the others follow suit, and I mean this amendment. I'm going to try to achieve with money what cannot be achieved through dedication and honesty. I'm going to try to buy a competent, honest judiciary. Will Rogers said America has the best politicians money can buy, I want to get the best judges that we can purchase, and this amount should put us in the running. We can get some of the lawyers out of their high-priced, mahogany paneled offices and put them in the marketplace, and that's really what we're talking about with this bill to raise the judges' salary. I'm as serious as a gallstone... Senator Baack's comment was too good to let go, he said that maybe it will pass. (laughter) This role of which I'm a part consists of very clever people. I've got tall, steely-eyed, former athlete Jim McFarland on my left. I have somewhat shorter, unassuming, very low key, highly intelligent, dry-humored Senator Baack on my right. I'm too modest, as I said earlier, to describe my attributes, but one of them is that I can be persuaded and one that would be added to that is generosity, if I can be shown that generosity is going to achieve a worthwhile goal. If, through the expenditure of money, we have a better chance of getting females on the bench, fine; non-whites on the bench, fine. And I'm not saying that there would be an automatic uplifting of the entire quality of justice in this state because although with bread a little leaven leavens the whole, we could not expect a few people sprinkled here and there throughout a system as bad as this one to completely change its thrust or to improve it entirely, but they might serve as an example and show the people what a judge ought to be, place a higher expectation in the minds of the public with reference to people who serve as judges. If my amendment is adopted we will increase that \$66,000 by 50 percent. That would be \$99,000. They would be making, when they can first legally be paid this amount, \$99,000. That should be enough to perk up the interest of some of these lawyers out there who, but for the small salary, would consider being judges. As a matter of fact, when those who sit on the nominating committee, commission, see what this salary is, they'll put their own names into the hopper. They'd all like a little bit of that long green. Senator McFarland said that their salaries should be doubled or tripled. This is a giant step in that direction. Instead of wearing the ballerina slippers of Senator Haberman's amendment and taking tiny, mincing steps, I'm putting on the seven league boots and we're going to cover some territory of substance immediately. So I would expect Senator Kristensen, Senator Lindsay, Senator

Abboud, Senator McFarland, Senator Landis and any who are aspiring to be attorneys to vote for this amendment. And those who are aspiring, I will not call by name because sometimes sanity takes hold before too late, but I'm hoping that this amendment will be adopted and if it is, not only will I support the bill across the floor by voting for it, I will speak in favor of the bill.

PRESIDENT: Senator McFarland, please, followed by Senator Schmit.

SENATOR MCFARLAND: Thank you, Mr. President, sometimes it's difficult to maintain composure and your seriousness in some of these debates. The idea of the 20 percent raise wasn't just pulled out of the air or out of the nitrogen. The idea, when, as I understand it, when people looked at what a reasonable increase would be was that a 20 percent increase will put Nebraska's judicial salaries in the middle of the 50 states. That is approximately where we were several years ago. We were paying judges at about the 24th, 25th, 26th rank statewide in comparison to other states. The 20 percent increase in this bill would put Nebraska back in the mid-range of states paying judicial, as far as paying judicial salaries, so there is a basis for it and I think there is a reasonable basis for it. I think Senator Schmit was very ambitious and very forthright and very sincere when he brought this bill to the Legislature. Senator Schmit is not a lawyer. It is not a lawyer's bill. He is a senior member of this Legislature who has been here for a number of years, saw the need to increase judicial salaries because we are ranking so far behind other states and Nebraska doesn't need to be at the bottom in comparison with other states in this area. As a matter of fact, Nebraska doesn't need to be at the bottom of states in any category. We should be proud of our state, proud of the people who serve as public servants, proud of the people we represent in our state as a whole, whether that be teachers or employees or state workers or professional people, we ought to be proud of the type of people we have in our state because we have a wonderful state and wonderful people to represent. It seems to me that the 20 percent is a fair, mid-range point to go to. We have been delaying any increase for far too long. We have an economy that is in fairly good shape now. We have a General Fund that is in fairly good shape. It is only appropriate that that increase and that injustice of the lack of salary increases in the past now be remedied. I would like to address one minor point before

I forget. Senator Chambers makes some wild generalizations. Sometimes there's a tinge of merit to them but many times they are just so overstated and overdramatized that they are not accurate in any way. With respect to civil rights, I can tell you that we are tending to go more to the state courts now, that when we represent clients, particularly if the defendant is a public entity like a political subdivision or the state or the federal government, particularly if it is the state or county or a municipality, we are going to the state courts with civil rights cases because we don't have to deal with the defense of sovereign immunity. We believe, in our firm, quite frankly, that the judges in Lancaster County are very competent and able legal scholars. They are handling more and more of these kind of cases, so we are beginning to take more of these discrimination, employment matters, civil rights matters, to the state district court here in Lancaster County.

PRESIDENT: One minute.

SENATOR MCFARLAND: One of the reasons people have traditionally went to the federal courts is because it is generally federal law, although we have state civil rights law now, too, that is modeled after the federal law. One of the reasons I think lawyers often go to the federal courts is because for so long federal judges have handled these cases so they are more familiar with them, but I think the trend in the future will be to take them to state court and I think you get a more...for a lot of reasons state judges are handling more of these cases, you get a quicker trial, you don't have to encounter some of the defenses that you encounter in federal court, and as a matter of fact, I think the trend will be to see all these cases in state court. And I think it's unfair to categorize and say that necessarily the state courts are inferior to the federal courts and sometimes I would much rather be in state court than federal court on certain issues. I think as a general rule the federal judiciary has been a little more prestigious position in part because of the higher salary they have received; and I think there shouldn't be that much disparity between the federal bench and the state bench here in Nebraska, so I would urge the 50 percent, I think is, if you want to raise it that high I suppose you could, I'd still vote for it. I think the idea of the 20 percent is reasonable. We wanted to get Nebraska judges in the mid-range of...in comparison with other states and what they pay their judges, so I think the 20 percent that Senator Schmit has brought in his bill is correct.

February 14, 1990 LB 42, 159, 313, 642, 851, 856, 857
874, 893, 901A, 957, 960, 964-966, 984
997, 1044, 1064, 1080, 1090, 1161, 1184
1193, 1232
LR 11

SPEAKER BARRETT: Thank you. Mr. Clerk, you have a motion?

CLERK: Mr. President, I have a priority motion by Senator Langford, that's to adjourn the body until February 15, 1990. I assume that's nine o'clock, Senator. I do have some items.

SPEAKER BARRETT: Anything for the record, Mr. Clerk?

CLERK: Yes, I do, Mr. President. I have amendments to be printed to LB 42 by Senator Baack. (See pages 793-94 of the Legislative Journal.)

Mr. President, Enrollment and Review reports LB 1064 to Select File with Enrollment and Review amendments. LB 851, LB 856, LB 857, LB 874, LB 893, LB 957, LB 964, LB 966, LB 984, and LB 997 are all reported correctly engrossed. Those are signed by Senator Lindsay as E & R Chair. Banking Committee reports LB 1161 to General File with amendments, and LB 1193 as indefinitely postponed, those signed by Senator Landis as Chair of the Banking Committee. (See pages 794-96 of the Legislative Journal.)

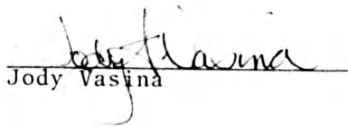
I have a new A bill, Mr. President. (Read LB 901A by title for the first time. See page 796 of the Legislative Journal.)

Mr. President, I have a confirmation report from the Health and Human Services Committee, that is signed by Senator Wesely as Chair. I have a series of priority bill designations. Senator Schellpeper selects LB 1080; Senator Crosby, LB 965; Senator Scofield, LB 1184; Senator Richard Peterson, LR 11CA; and Senator Withem, Education Committee priorities are LB 960 and LB 1090.

Mr. President, Senator Abboud would like to add his name to LB 1044, Senator Crosby and Chambers to LB 642, Senator Elmer and Peterson to LB 159 and AM2372, and Senator Morrissey to LB 1232. I believe that's all that I have, Mr. President.

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

Proofed by:


Jody Vasina

SPEAKER BARRETT: Thank you. Proceeding then to General File, LB 42.

CLERK: Mr. President, LB 42 was a bill introduced by Senators Schmit and Ashford. (Read title.) The bill was discussed, Mr. President, on Monday, February 13, I believe. At that time, there was pending an amendment offered by Senator Chambers. Senator Chambers' amendment would strike "twenty" and insert "fifty", Mr. President. That amendment is currently before the Legislature.

SPEAKER BARRETT: On the Chambers amendment to LB 42, Senator Chambers. The Chair recognizes Senator Chambers.

SENATOR CHAMBERS: Thank you, Mr. Chairman, and members of the Legislature. This is an amendment that I offered yesterday to this bill and what it would do is raise the percentage of increase for the judges from 20 percent to 50 percent. This is being done pursuant to the thrust of the discussion that I listened to and absorbed from the supporters of increasing the salary of the judges. The main point seemed to be that if you want competent qualified people to even make themselves available to be selected for the position of judge, you must offer them a salary which might be, to some extent, competitive with the salary they command as a shyster out here among the public. So, since we want the highest-priced shyesters that we can get to serve on the bench, we have got to pay them. My amendment is going to take the supporters at their word, give a substantial increase to these people who sit on the bench, and we will see what happens. The one who has spoken out most forcefully in favor of a raise of the magnitude that I am suggesting here was Senator McFarland. He said you should double or triple the wages received by judges, so I think he should support this amendment that I am offering. As I stated when I presented it the first time, I am going to support this amendment. If it is adopted, I will support the bill all the way across the board, and I will speak in behalf of it, and give a rationale as to why I think we should support the bill with this amendment attached, but only if this amendment is attached. I am going to tell you why I have a little problem. I wish Senator McFarland were here but, wherever he is, he may be listening. I had a bill that was designed to prevent the university from continuing to discriminate against certain categories of athlete. Senator McFarland, during the course of

his discussion of this bill, talked about the cases that he brings on behalf of people who have been victimized by discrimination. He talked about how he has brought such cases in state court and federal court. Then he leads the charge against a bill that would prohibit discrimination. I see an inconsistency. When it comes to the poor athlete, and I mean literally poor in the sense of being impoverished, he has no compassion in his heart. He is more concerned about the financial solvency of the Athletic Department than he is about the welfare of these athletes. So if his view is so skewed on a matter such as this, how can we place confidence in anything he says about why we should give these judges an increase in salary? He doesn't even want to allow the players who do so much for this school and this state to receive that to which they are entitled under the law in various university programs. So I find it very inconsistent and I hope that he gets here before we finish this discussion because I want to confront him with it directly. And, Senator McFarland, if you are listening, I wish you would come on back. Please come back. Do you know why I have to use these opportunities? Because life is like a seamless web, and various principles that we discuss in one context...

SPEAKER BARRETT: One minute.

SENATOR CHAMBERS: ...spill over into others, and this is one of those. We are talking about equity. Senator McFarland thinks it is equitable to increase the salary of judges on the Supreme Court from 65,000 to 96,000 in two years, but he believes that the athlete who has been deemed needy should be entitled to nothing. Not only should he be entitled to nothing in terms of aid, but he should not be entitled to relief from this Legislature. What he ought to do is not talk about this bill any more. Here he is and my time is up but I hope that he heard the comments that I made and I hope he will address them, because right now I see him astraddle a fence made of Gillette razor blades.

SPEAKER BARRETT: Thank you. Senator Schmit. Discussion on the Chambers amendment, Senator Schmit. Senator Schmit, followed by Senators McFarland and Chambers.

SENATOR SCHMIT: Mr. President, and members, I don't...I haven't read the entire amendment of Senator Chambers, but if it was just a one-shot 50 percent amendment, Senator Chambers, and get

all of our money up front, I could probably support that. One of my concerns about the various amendments that we have got here before us are that we get into sort of an auction. At least Senator Chambers started high enough that we can make some kind of sense out of it. I guess my concern is that we talk a lot on this floor about not being able to have any influence over who gets appointed judge, and we don't have any control over them, and we don't approve of their performance. Well, I wish that I had a chance to have something to say about the various professors at the University of Nebraska. I wish I had a chance to say something about the various other individuals who head the various agencies, some of whom I think do an excellent, some of which I am less than enthusiastic about. I don't know exactly what percentage of salary increase we have given the professors at the university the last four years, but someone tells me that when you compound it, it is about 50 percent. I do not know what percentage we have given the state employees, but I believe it was a rather generous improvement, and the Legislature has nothing to do with that. One of the problems with this body is that we always pick on those who are visible and who are attackable, I guess, if there is such a word. In other words, we can all fight the judges, and so we take them on. I think that Senator Chambers has a reasonable amendment. I am sure it is not going to get much support but it is a reasonable amendment, and I wouldn't mind putting it up there and then taking a look at what did happen. I have been reading some of the comments in the paper, some of the remarks, went through the transcript, I have listened to some of the debate on the floor when I was not on the floor, and I have reread some of the letters I received from people who say, well, there are ten persons who would take every vacancy. And I just have to wonder a little bit what would happen if those ten persons, one of them were appointed at some time, and the person who wrote me the letter found themselves depending upon that individual for a proper judicial decision. We spend hundreds of millions of dollars on this floor every year and, at some point in time, most of those bills are going to call for a judicial decision. It would be very, very unfortunate if that individual who happened to make a decision on a bill did not have the background, the experience, the temperament to make a proper decision. I apologize to Senator Chambers because I am not speaking directly to his amendment. I am just speaking to the entire concept of...concept of judges pay raises. Let me tell you, if you are looking to be popular anywhere in Nebraska, you wouldn't introduce a bill to raise judges' pay. There are

only a few hundred of them. They can't get involved in politics. They don't have enough money to make any contributions, and most of them are at a stage in their life where they really don't care to get involved. You can make a lot more political hay by introducing almost any other kind of bill, but I can tell you that unless you have a proper judicial system in place, unless it is staffed with the proper kind of individuals, then the rest of what we do on this floor is not going to be of much consequence. At some time, you are going to wonder why. I can't help but notice in the paper this morning there is a full section almost devoted to the war on drugs, but I can tell you this, ladies and gentlemen,...

SPEAKER BARRETT: One minute.

SENATOR SCHMIT: ...no matter how much money this Legislature throws into the war on drugs, and we have been doing that for 20 years, no matter how much emphasis we place upon the law enforcement, no matter how many tools we give them, no matter how many new prisons we build, unless you have the proper individual sitting on the bench to make the proper decision relative to the offender who is before him, it isn't going to make much difference. You are not going to curtail the war on drugs. The judge is going to make that decision. Now you can have a hanging judge, you can have an easy judge, you can have a smart judge or a less intelligent judge, but it is the way their system is perceived to be to the individuals who carry out the trade that is going to have more impact upon the so-called drug traffic than any other one thing. So, Senator Chambers, I am going to reserve judgment. I don't know if I am going to vote for your amendment or not. If I thought you had a chance in the world to get the votes, I would support it, but I do not want to participate...

SPEAKER BARRETT: Time.

SENATOR SCHMIT: ...in what they call the reverse auction where we start at the twenty and go on down. I at least appreciate your going in the other direction.

SPEAKER BARRETT: Senator McFarland, please.

SENATOR MCFARLAND: Thank you. Mr. Speaker, fellow Senators, this, as I understand it, this amendment calls for a 50 percent increase in contrast to the 20 percent that is in the bill. It

is true that I did say that it should be doubled or tripled. I said it facetiously and I trust everyone else took it in that manner. I was not serious about it. The 20 percent is a figure that was arrived at to try to bring the judicial salaries in Nebraska back into the middle range of rank in comparison to other states. There was testimony day before yesterday about us at one time ranking 24th in the nation, right about at the middle, as far as what we paid our district court judges. The 20 percent increase would bring us into that middle range again. I think that is the purpose of the bill. I think that is particularly fair and I think it is appropriate and shouldn't be amended, or it should be enacted in that form. I think it is important that we have good judges on the bench. I think if we are going to, in the future, have good candidates continue to apply, that we need to bring that salary into that range. I would like to say a couple of things. Usually in my comments on bills, I try to and I think almost always do, I don't recall exceptions, I try to speak to the issue at hand and not get involved in making comments about other senators or other people. I suppose it is natural if one has been angered, to strike back in anger; if one has been laughed at, to try to make fun of someone else; if one has been humiliated, to try and humiliate someone else; if one has been demeaned, to try to demean someone else, that is a natural human tendency. That is something that I used to do when I was brought up. If someone pushed me, I pushed back, usually twice as hard. If someone said something, I said something back. If someone challenged me, I accepted the challenge. That was part of my makeup, that is the way that I grew up, that is the way I acted for a considerable amount of time. I am sorry to say it's sometimes the way I act even now on occasion. It is not something, though, that has ever achieved very much. Somebody said if you believe in the biblical statement about an eye for an eye, and a tooth for a tooth, if everybody practiced that, we would all go around sightless and toothless. You never achieve something in that manner. So my tact in this legislative body, if there has been criticism leveled, it has either been at the specific proposal itself or at a group, such as a committee, such as an office, such as the Legislature, as a whole. If we resort to try to mock or demean or criticize or anger or make fun of or ridicule, that does not accomplish anything and I think it demeans the person who does try to resort to those tactics. Those tactics are never productive, and those tactics only, to my way of thinking, embarrass the senator, whoever he or she may be, who resorts to them. They don't achieve anything. They

don't, as a rule, they don't really do anything except cause bad feelings. My thought in service in this Legislature is that every person in this Legislature is a friend of mine. It is a brother or sister of mine.

PRESIDENT NICHOL PRESIDING

PRESIDENT: One minute.

SENATOR McFARLAND: They, as persons, are equally worthy in God's eyes and in my eyes. If there has been any time that I have resorted to a personal attack on a senator and it has been interpreted that way, then it is something that I should be criticized for, but I can tell you my intent has always been to try to stick to the issue, if any criticism was leveled, to criticize as a group. I think we would all be better off with that, and if occasionally a senator resorts to personal and demeaning attacks, I think we should remember that that person may have been subjected to them in the past. They may have been ridiculed. They may have been demeaned. They may have been chastised. They may have been made fun of. They may have been hurt. It is a natural tendency to resort in kind, but when I am treated in that manner, as much as I would like to respond in anger, I, so far, have been able to restrain myself and I think it is an appropriate and a dignified way to conduct oneself in the Legislature. Thank you.

PRESIDENT: Thank you. Senator Chambers, please.

SENATOR CHAMBERS: Mr. Chairman, and members of the Legislature, Big Jim was cookin'. He was cookin' 'cause he had been stung, and he didn't even hear what I said, but in case some of you are not perceptive, I am the one about whom he was speaking. And I did hark back to a bill of mine which I had amended after having discussions with Senator McFarland, to make... I am talking about LB 708... to make it possible for the university to have a lawsuit without being exposed to a penalty, I removed the penalty pursuant to Senator McFarland's amendment. I supported it. Then I put a delayed date for it to take effect after discussions with Senator McFarland. Then for the first time what to my wondering ear should come but a statement against the bill by Senator McFarland, for the first time when it came a motion to move the bill. Had I known that was going to be his position after numerous discussions with the Athletic Department personnel, I certainly would not have agreed to amend the bill

because I had no intention of doing that, and I am glad to see that Senator McFarland is such a detached lofty individual that when things are said, he does not respond in kind. But he cannot place on me the strictures that he places on himself and when, in the course of legislative events, certain occurrences take place I am going to memorialize them whenever I think it is appropriate. And, in case Senator McFarland hadn't heard the thrust of what I said before he arrived, I had talked about the great inconsistency I can see in a man who wants to give judges a \$30,000 increase in two years when he speaks against removing discrimination from athletes. I talked about the inconsistency in his speaking about the cases he has brought in behalf of people who had been discriminated against, then he votes to uphold continued discrimination by the university from which he graduated, discrimination against students, discrimination which violates the role and mission of that university, and I am in the process of researching the statutes to write as scorching a letter as I can to all of the hypocrites who stand on this floor, who sit in positions of chief executive officer, who serve as athletic director and coach, who endorse this kind of discrimination against these athletes because, as a class, they are small; as a political force, they are weak and virtually voiceless; and if my words are too scorching for my colleagues to feel comfortable with, deem this room to be a kitchen and you know what that old guy from Missouri said when the temperature rises to a level where the comfort zone is such that you would rather be someplace else. That is why we have feet. That is why we have legs. That is why we have the power to make our musculature move in response to the dictates of our brain. In other words, we walk or run and I believe all of this is fair debate. We are talking about people who make judgments on others all the time as their profession. They are paid to do that, and why is a man, why are people going to be in favor of paying those people great amounts of money to make just decisions when we, as legislators, engage in such injustice? Why are we going to toot our horns about the cases we handle to do away with discrimination against others, and then when we place official acts, our act underscores, endorses, and ratifies a more insidious kind of discrimination.

PRESIDENT: One minute.

SENATOR CHAMBERS: My amendment says that we should increase that 20 percent increase to 50 percent. And I want Senator McFarland to be aware of something. When I make these comments,

they are not directed against Senator McFarland as a person. If he were just a person, he wouldn't be in the Legislature, but when he comes in this Legislature where verbal combat is the order of the day, he has got to expect it. Now the referee gets in the ring, Senator McFarland, between "Buster" Douglas and Mike Tyson and he stays out of the way and they don't deliberately hit him. But when Mike Tyson is standing in front of "Buster" Douglas trying to do damage, Douglas is not just going to roll over and let Mike Tyson beat a tattoo upside his head. He is going to go what pugilists do when they step into what has been called the squared circle, and they don't always conduct themselves according to the Marquis of Queensberry rules. So this is not a sewing circle. This is not merely a debating society. We deal in literal life and death issues. We deal with the welfare and destinies of citizens, and I am far more concerned about the destiny...thank you, Senator Lamb,...of the weak and defenseless than I am the destiny of those judges who have a swarm of lawyers to speak in their behalf,...

PRESIDENT: Time.

SENATOR CHAMBERS: ...a host of legislators to carry out their will.

PRESIDENT: Thank you. Senator McFarland, please.

SENATOR MCFARLAND: Just call the question, Mr. President.

PRESIDENT: Thank you. You were the last one so, Senator Chambers, would you like to close on your amendment, please.

SENATOR CHAMBERS: Mr. Chairman, I think he'd better call the question because I was going to put my light on to speak again. So since he has called it, then that has got to be done. Otherwise, I am going to speak again without it being my closing.

PRESIDENT: I believe that you have spoken three times, Senator Chambers.

SENATOR CHAMBERS: Today.

PRESIDENT: No, on this amendment.

SENATOR CHAMBERS: Show me where, if I speak, it carries over

from one day to the other and I will accept it.

PRESIDENT: There are no other lights on. Did you want to put your light on?

SENATOR McFARLAND: (Mike off.) Mr. President, I called the question (inaudible).

PRESIDENT: Okay, there weren't any lights on when you called the question.

SENATOR McFARLAND: Actually, Mr. Lieutenant Governor, I will just withdraw the calling of the question.

PRESIDENT: Okay.

SENATOR McFARLAND: That would be easier and then if Senator Chambers wants to speak three, four, or five times, that is fine.

PRESIDENT: Okay. Senator Chambers, please, did you wish to speak? In looking at the deal today, and I don't remember from yesterday, but looking today, this is only your second time. Do you want this to be your second time?

SENATOR CHAMBERS: Yes, and then I will close if nobody else wants to speak.

PRESIDENT: Okay.

SENATOR CHAMBERS: All I can say is, Senator McFarland, at least don't look back in anger. Yesterday poached Congressman, today boiled senator. In each case, hot water is that in which the individual has been placed. Mr. Chairman, and members of the Legislature, Senator McFarland is a good person to have ranged against you because he does try to marshal arguments and he tries to be logical and reasoned in his presentation, and I think that is a good way to be. However, there are some issues which are so important that whatever method can be used to bring about a result that is desirable has to be used, and I am going to talk every time I get an opportunity about the official discrimination being carried on by you all's university. I have heard people talk about restructuring the education system, but they never talk about doing away with that university's formal policy of discriminating against students in order to have a

successful athletic program. I have yet to hear those who talk about restructuring the education system deal with the primary role of this university. The statute says the priority number one of the university is to deal with undergraduate instruction, not an athletic program. This Legislature has established university systems of giving aid to students. It has set up aid programs for students and the senators who voted for those programs know that there are certain classes of students who are denied that aid in a discriminatory fashion, and yet they refuse to do anything to correct it. Then they go run around here talking about you are going to have a better system because you have this board or that board. You have to look at what it is a board is doing as to whether or not you can give a determination that it is good, and I am going to lay on that issue. And do you know what the NCAA ought to do? The NCAA ought to follow some of these young athletes who are denied that aid, because if you are needy and you cannot get the assistance that the university sets up, in order for you to live, you are getting money from someplace. You are getting help from somebody, and the NCAA rules that you cannot accept such aid, so you know what they are telling the player? In order for the university not to do this, then we are going to require the student to violate other rules, and I think that is unconscionable. Why should we give these judges all of this money? Why should we give it to them? Because there is a benefit to be derived by giving them all of this money. Some people say that there should not be an association made between the work that an individual does and the pay he receives. I read in the paper this morning where presiding Judge Buckley in Douglas County said that he is going to give a narrow charge to the grand jury that is to look into the Franklin matter. He said that anything relative to money issues will not be available for the grand jury. I had stated that if the judge gives a narrow charge, it is a cover-up, and I want Judge Buckley to know that before he makes that blunder, that if he restricts the individuals who can be looked at by the grand jury and their conduct, he is engaging in a cover-up deliberate and intentional. He knows the names of some of these prominent people and he has determined already that they are not officials of the Franklin community, Credit Union.

PRESIDENT: One minute.

SENATOR CHAMBERS: He knows that they are not on the Board of Directors. He knows that they are not employees. So by giving a charge as restrictive as what it was indicated in the paper

this morning he intends to give, the very ones who are rumored about that led to the calling of a grand jury have been exempted from scrutiny by Judge Buckley. So a worse rumor is going to be making the rounds. What incentive does Judge Buckley have to fashion this blatant cover-up? What motivates Judge Buckley to prevent the grand jury from looking at any and every issue associated with the Franklin matter, growing out of it, or associated with it, and those people who may be involved, whether officially connected with Franklin or not?

PRESIDENT: Time.

SENATOR CHAMBERS: Then I will give my close.

PRESIDENT: Right.

SENATOR CHAMBERS: A man such as that should not be rewarded for those types of activities, and this that I am talking about is the reality in this society. It shows the kind of conduct of certain individuals called judges whose salary you want to increase in such a generous manner, and I have an amendment up there that will help you give that increase. But those of you all who are friends to Judge Buckley, those of you all who want to respect Judge Buckley, ask him why is he the chief architect of the cover-up, and that is what it is. That is all that it can be. He and his other cronies up there have made comments about the number of rumors circulating and that calling a grand jury will restore integrity to the legal system, that it will restore the public's trust and confidence in that system, then he sits up there and wants to hermetically seal the investigation in such a way that it cannot go where it will logically be led. Then he appoints Judge Van Pelt, former Judge Van Pelt, a very nice person, I like him; no prosecutorial experience, nothing to fit him for this kind of job, and you shouldn't leave it to a person who has to hire all of the expertise. He should know enough to be aware of how to direct the people who are hired. He should know what factors need to be looked at. He should know what trails need to be followed, and he should have some general idea of where he wants the investigation to go. Nice guys finish last, and those who follow nice guys finish even farther behind than last. This is one of the most significant issues to confront this state. I think when Bob Spire asked for the convening of a grand jury he had the intention of trying to find a way through the system and the mechanisms inherent in that system to bring a credibility to

the entire system, and they gave Judge Buckley the power. I have to quote something Don King, who is a boxing promoter, said by quoting Lord Acton. "Power corrupts. Absolute power corrupts absolutely." And there are a lot of people out there, there are some people in this body who know that what I am saying is true but it won't be said, but it has got to be said, and it has got to be said in a public forum, and it needs to be said by a public official. Our responsibility goes beyond just enacting legislation, resolutions, and carrying on oversight. We have to inject ourselves into the issues that are of concern to the public, and this is an issue that is on the public's mind. Senator DeCamp has been condemned for writing a memo and circulating it. Some man who is going to run for the Legislature in Omaha is condemned for having spread it among thousands of his constituents or constituents-to-be. So the pot boils, the rumor mill works overtime, the Attorney General tries to find a way to deal with the underlying causes. The judges convene a grand jury. Then they bring in Judge Buckley, bring in Judge Buckley to contain it all, to contain it. That is what the President's men attempted to do until Watergate exploded and got completely out of control, and the Watergate syndrome was worse than the matters that led to the whole Watergate activity. The cover-up and the damage to the government was worse than the original break-in at the Watergate Hotel. It would be better not to have a grand jury at all than to have one whose activities are tainted, are suspect, and a grand jury which, because of the shackles placed on it, cannot go after all of the information necessary to arrive at a definitive conclusion of some kind. What they will have to come back and say is, we saw things that needed to be looked at but we could not look at them. So what we have to say is, we are no better off in terms of giving the public something than we were before we started. But, in spite of all that, I am offering this amendment to increase those judges' salaries by 50 percent, and I am asking that you vote to adopt it.

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

SENATOR CHAMBERS: May I help you?

PRESIDENT: One of us need a little help. A record vote has been requested. Record, Mr. Clerk, please. A roll call vote has been requested. Mr. Clerk.

February 15, 1990 LB 42, 50, 143, 159, 240, 240A, 259A
350, 350A, 465, 692, 742, 844, 866
905, 919, 1080A, 1082, 1141, 1183
LR 8, 239, 256

CLERK: (Roll call vote taken. See page 830 of the Legislative Journal.) 2 ayes, 28 nays, Mr. President.

PRESIDENT: The motion fails. Anything for the good of the cause, Mr. Clerk?

CLERK: Yes, Mr. President, I do. Mr. President, Senator Kristensen has amendments to be printed to LB 159; Senator Withem to LB 259A. (See pages 830-32 of the Legislative Journal.)

A new resolution, LR 256 by Senators Wesely, Withem, Bernard-Stevens. (Read brief explanation. See pages 832-33 of the Legislative Journal.) That will be laid over.

An announcement from the Speaker regarding afternoon sessions next Tuesday, Mr. President; a reminder of the membership. Confirmation report from the Nebraska Retirement Systems Committee. That is offered by Senator Haberman.

Bills have been presented to the Governor, Mr. President, as of 10:43 a.m., those read on Final Reading this morning. (Re: LB 50, LB 143, LB 240, LB 240A, LB 465, LB 350, LB 350A, LB 692, LB 742.) LR 8 presented directly to the Secretary of State.

A new A bill, LB 1080A by Senator Schellpeper. (Read for the first time by title. See page 834 of the Legislative Journal.)

Mr. President, Revenue Committee reports LB 844 to General File, LB 919 to General File, LB 1183 General File, and LB 1082 as indefinitely postponed. Those all signed by Senator Hall.

Mr. President, priority bill designations, Senator Byars has chosen LB 905; and Senator Lamb LB 866.

Mr. President, Education Committee, whose Chair is Senator Withem, reports LB 1141 to General File with committee amendments attached, signed by Senator Withem; and Education Committee reports LR 239CA to General File with committee amendments attached. (See pages 834-36 of the Legislative Journal.)

Finally, Mr. President, Senator Rogers would like to add his name to LB 866; and Senators Weihsing, Goodrich, and Coordsen to

February 16, 1990 LB 42, 708, 923, 931, 1153, 1172, 1210
1211, 1244, 1245
LR 233

linear would be based on pipes, and we are talking about pipes, 260 feet of those or less would be exempted from the license, businesses working in those. For 160 square feet or fewer, you would be exempted from the license for those businesses doing those asbestos projects. And, in addition, we dealt with the committee amendment and the E clause has been added, and I'd ask very much 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 923.

PRESIDENT: LB 923 is advanced. Do you have anything for the record, Mr. Clerk?

CLERK: Yes, Mr. President, I do. Thank you. I have a Reference Report referring LB 1244 and LB 1245. That is offered by Senator Labedz as Chair of the Reference Committee.

Mr. President, priority bill designations, Appropriations Committee chaired by Senator Warner selected LB 1210, LB 1211; Senator Chambers has selected LB 708; Government Committee has designated LB 931 and LB 1172; Speaker Barrett has selected LB 1153; Senator Coordsen, LR 233CA.

Mr. President, committee hearing notices from Appropriations Committee and from the Business and Labor Committee, signed by their respective Chairs. That is all that I have, Mr. President.

SENATOR HANNIBAL PRESIDING

SENATOR HANNIBAL: Thank you, Mr. Clerk. Before we move on to General File, LB 82 (sic), I would like to take this opportunity to inform the body that Senator LaVon Crosby has in the south balcony 13 Girl Scouts and their leader from Calvert School in District 29. Would you girls all please rise and let us welcome you to the Legislature. Thank you for joining us today. Mr. Clerk, LB 42.

CLERK: Mr. President, LB 42 involves judicial salaries. The bill has been discussed on two occasions. I have pending,

Mr. President, at this time an amendment to the bill from Senator Haberman. Senator, this is your amendment, AM2540.

SENATOR HANNIBAL: Senator Haberman, please, on the amendment to LB 42.

SENATOR HABERMAN: Is that the first one or the second one, Patrick?

CLERK: I think this is the...this is the first one that I have, Senator. It is the bill drafting version as opposed to the handwritten version.

SENATOR HABERMAN: Is Senator Baack's amendment up next?

CLERK: Yes.

SENATOR HABERMAN: I will pass this and go on to Senator Baack's. I have an amendment on that, too, I think.

SENATOR HANNIBAL: It is withdrawn.

CLERK: Mr. President, Senator Baack would move to amend the bill. Senator, your amendment is on page 793 of the Journal.

SENATOR HANNIBAL: Senator Baack, please.

SENATOR BAACK: Yes, Mr. Chairman, and colleagues, I don't often get involved in these debates that the lawyers seem to get involved in in this body, but it seemed like that this might be the time to try and provide a possible reasonable compromise on this bill. I voted for Senator Chambers amendment to give them a 50 percent increase because I do believe that we do need to increase judicial salaries, and I do believe in the concept that if you do offer a good salary and good compensation you do enhance the chances of improving quality. There is no guarantee of that, of course. We can't always have that, and Senator Chambers mentions a number of cases that show that there are judges out there that sometimes don't necessarily use the best common sense, but there is no way that we can legislate common sense, I don't think. So what my amendment does is my amendment would take that initial bump that is in the bill of 20 percent, and my amendment would say that would be...my amendment actually just states the salary of seventy-nine, five, is what the salary would be beginning on January 3rd of 1991 for a Supreme Court

judge, and that means that it is about a 13 to 13 1/2 percent bump is exactly what that is rather than the 20 percent bump. It also leaves in place the other two 7 percent increases coming down the line. The fiscal impact of my amendment would be in '90-91, the fiscal impact would be \$523,000 over what is now expected, and in '91-92, the fiscal impact would be \$1.6 million. I think that, you know, we have had a lot of discussion. The numbers have been bounced around. We have gone down to...we have had amendments that dropped it to 7 percent. We have had amendments that talk about dropping it to 5 percent. Then the original one is 20 percent. We've talk about 50 percent. All of those have been rejected. I think that this compromise down to about 13 percent is not going to quite get us to the median of judges salaries but I think it still puts us a step in the right direction to providing a salary enhancement for the judges and, hopefully, by doing that, we will also be able to enhance the quality of the people who want to serve in the judgeships in this state. With that, Mr. Chairman, I would just urge adoption of the amendment. I will be happy to try and answer any questions if I can. Thank you.

SENATOR HANNIBAL: Thank you, Senator Baack. On the amendment, Senator Schmit, please.

SENATOR SCHMIT: Mr. President, as I have said earlier, we get into this sort of auction all the time, and it is sort of a demeaning thing, I suppose, and I do not know how you get around it. Apparently, we do not. I really don't know what to say. At this point, I, Senator Baack, probably will not support your amendment and that is probably the height of foolishness on my part because it is a much more generous amount than has been offered previously with the exception of Senator Chambers amendment, which didn't get exactly overwhelming support. But my concern is I guess the attitude or the approach that we take to judicial salaries. We argue, we debate, we posture, we engage in all the usual rhetoric and that is part of the system I guess, but we totally are exempted from participation in the really major salary discussions that affect the taxpayer of the State of Nebraska and the persons who do most of the work for the State of Nebraska, the state employees. We are out of that process. I do not know and I have not tried to determine exactly, I visited a little bit with our former colleague, Senator Rupp, about the salary increases for the university, but I want to point out that those university professors salaries have increased I am confident by a substantially greater margin

in the last three or four years than have the judicial salaries, and the professors at the university almost without exception are not limited to their university income. They have the opportunity, in fact, they have many excellent opportunities to add to their income, and I am not opposed to that. I am not opposed to paying the university good salaries, but I would suggest that when you look at the equity between judicial salaries and the salaries at the university, you will find that the judicial system is in a very poor second place. Another thing that is of concern to me is that the judicial system not only has to be above reproach, it has to...anyone who participates as a judge has to avoid, as they say, even the appearance of impropriety, and that means that most of them have lived rather circumspect lives. If they don't, they don't remain as judges. I had better be careful here, as I look at the lady judge who retires doesn't lead a circumspect life, I don't mean that, but the point is that they just don't have the opportunity to bring in additional income. Many of them, if they enter the judiciary at a younger age, have not had the opportunity to build a substantial practice, so they do not have money to invest, which is one of the few additional incomes they can enjoy. And my concern is that if you want to build a solid judicial system, it ought to be built on an independent basis, and it ought to be built on a basis that is free from reproach, and free from temptation. And I know that the salaries that I spoke about, the 20 percent increase the first year is a substantial one. I don't apologize for that. I think it was needed. I appreciate the additional money which Senator Baack has talked about here over what we had talked about with Senator Haberman's amendment, but I don't think it is sufficient,...

SENATOR HANNIBAL: One minute.

SENATOR SCHMIT: ...and I am afraid that the time will come when we will regret it. Unfortunately, if we do not build a good solid judicial system and have competent members of that body, then the entire system, as I have said, of government is going to not function well, and I don't think we want that. I am going to listen to the debate and I will make up my mind on the vote probably a little later on but I just want to call your attention to the fact that it is easy to be in the position of criticizing judges. They are not politically powerful. They don't have much money for campaigns, if any. They don't even get involved in the process of putting up signs, and so if you want to fight someone, they are an easy target, a lot easier

than any other entity of government.

SENATOR HANNIBAL: Thank you, Senator Schmit. I understand we have an amendment to the amendment.

CLERK: Mr. President, Senator Haberman would move to amend Senator Baack's amendment. (See FA365 on page 844 of the Legislative Journal.)

SENATOR HANNIBAL: Senator Haberman, please.

SENATOR HABERMAN: Mr. President, and members of the body, it has been stated on the floor that it is tough, it is rough, it is hard to get people to seek judgeships. If you will please look at the handout that is on your desk, there was one judgeship open in Lancaster County, and 15 attorneys applied for that one judgeship. That shows that there is the interest. Now this was before this salary increase. Now over the past four years, there has been 27 positions open for judges; 279 attorneys applied for those 27 positions, 279 people applied for 27 positions. That was before, that was before this increase. Almost unbelievable, isn't it, that 279 people would go after 27 positions if the salary was too low. So we are completely ignoring that. We are ignoring that. We are saying the salary is too low, we can't get people to apply for judgeships. Now it has also been said to get quality judges, we need this increase. Well, are they inferring that the judges we have now are not quality judges? Is that what they are telling us? I don't think that is true. I don't think that the salary increase...what is quality? I would like to have some of these people who made that statement get up and tell me what is a quality judge compared to a nonquality judge? Now if you will look at the sheet, on the second sheet, you will see, for example, that the 13 people, for example, in '85 wanted a county judgeship in Omaha, but somebody decided that only four of them were quality. So I think maybe we ought to discuss that a little bit. Now what my amendment does, it takes out the 13 percent increase thereby allowing the judges only \$22,500 increase instead of a \$25,000 increase in a three year period. They still receive a \$22,500 increase in the three-year period. I also found out one other thing that I didn't know until yesterday. If this bill passes, if this legislation passes with that 20 or 13 1/2 percent increase, for the first time in history, it is going to cost the General Fund in the State of Nebraska \$500,000, or a million dollars in two years to fund the

retirement plan, and then it happens every two years. That has never happened, that has never happened. The retirement fund has been funded through the \$1 fee on the cases, but if this goes through, if we pass this bill, it is a million bucks every two years out of the General Fund. That is excessive in my opinion. So my bill, again, allows them a \$22,500 increase in three years, and I think that is fair. It is up front and I would ask the body to accept my amendment. Thank you, Mr. President.

SENATOR HANNIBAL: Thank you, Senator Haberman. Senator Hefner, do you want to speak on this amendment? He passes. Senator Schmit, did you want to speak on the amendment to the amendment?

SENATOR SCHMIT: Well, Mr. President, and members, Senator Rex Haberman talked about how many people want to be judges, how many people, how much money members were making and that sort of thing. I think maybe, Senator Baack, I like your amendment a little better now, but I just want to say this, the number of people who apply for the judicial appointments is not important. It is the quality of the people that apply, and usually, usually that is affected by the starting salary. You know there is an airline that starts their pilots at about half of what another airline starts their pilots at. As far as I am concerned, I'd just as soon fly with the airline that pays their pilots 85 or 90 thousand dollars, as to fly with one that pays them half of that, and I think we have the same system here. It all good conscience, when you bring people into the judicial system, you hope they are going to be there awhile. If you make the wrong appointment, if you make the wrong decision, and you do not get a competent and qualified, dedicated individual with good judgment, you are going to be stuck with him or her, and I hope that does not happen. I don't know how you equate money with quality, but I can tell you one thing, what little experience I have had with the hiring of people, you can pay too little. You can pay too little, and I know that whether it is on the farm or any other business, you don't want to send a \$3.50 an hour man out on a \$140,000 combine. You get the same thing here, you can, sure, you can hire somebody. There are a lot of guys just getting out of law school, and gals, you can probably hire for 25,000. I don't think we want them sitting on the bench. We want people who have experience, maturity, background, and we want in a situation where it is going to be there for awhile, and we don't want them to have to be concerned about their own personal finances. It should not be that way, and so I would

oppose the Haberman amendment.

SENATOR HANNIBAL: Thank you, Senator Schmit. Senator Haberman, for what purpose do you rise?

SENATOR HABERMAN: Mr. Speaker, I rise to withdraw my amendment and support the next amendment.

SENATOR HANNIBAL: It is withdrawn. Mr. Clerk, do we have another amendment on the desk?

CLERK: Mr. President, Senators Chambers and Hefner would move to amend Senator Baack's amendment. (See FA366 on page 844 of the Legislative Journal.)

SENATOR HANNIBAL: Senator Hefner, are you handling the first or is it Senator Chambers? Who is...

SENATOR CHAMBERS: We may do it together. Senator Hefner, would you like to lead off or shall I?

SENATOR HANNIBAL: Since this will be historic, I will recognize Senator Hefner.

SENATOR HEFNER: Mr. President, and members of the body, if this causes a snowstorm, so be it, but Senator Chambers and I offer this amendment in good faith. Remember, Senator Chambers had several different amendments, one that didn't allow much, another one that allowed a 50 percent increase, and, of course, I thought a 50 percent increase was too much, and really down in his heart I believe he did, too, but what this amendment would do is allow a 10 percent increase the first year, and then a 7 percent and 7 percent. And, remember, the judges will get a 5 percent increase July 1st, 1990. So this will be in 1991. I think this is a reasonable compromise. I couldn't support a 13 1/2 percent increase nor could I support the 20 percent increase, but I realize the judges in Nebraska need more money and this way it will get them a little closer to some of our surrounding states. I don't know how long our good economy is going to last. I know that the economy goes in cycles. It will go up for awhile, and then it will probably level off or maybe even drop a little, but we do know that we are approximately \$26 million below our projection. So I feel that this 10 percent for 1991 would be more reasonable than the 13 1/2 percent or the 20 percent, and so I would urge you to

support Chambers, Senator Chambers and my amendment.

SENATOR HANNIBAL: Senator Hefner, are you relinquishing the rest of your time to Senator Chambers?

SENATOR HEFNER: Yes.

SENATOR HANNIBAL: Senator Chambers, you have approximately 7 minutes and 40 seconds.

SENATOR CHAMBERS: Thank you. Mr. Chairman, and members of the Legislature, Senator Hefner is right in what he said about the two amendments I had offered previously. I had offered an amendment to raise the amount by 5 percent. Then I offered an amendment to raise the amount by 50 percent, and when that wasn't adopted, I was miffed and I had made up in my mind that that would be the last time I would ever try to do anything for the judges, but I'd conversed with Senator Hefner on this matter and some of the other senators, and we decided that 10 percent is a good amount, and that is why both of our names are on that amendment. I would like to ask Senator Lindsay a question, if I may, because he had quoted me quoting Armand Hammer about if you pay a certain thing, you get a certain thing.

SENATOR HANNIBAL: Senator Lindsay.

SENATOR CHAMBERS: Senator Lindsay, could you give that quote again.

SENATOR LINDSAY: If I recall, it is if you pay peanuts, you get monkeys.

SENATOR CHAMBERS: Right. Now what do you have to pay to get kangaroos?

SENATOR LINDSAY: Senator, I have never been to Australia.

SENATOR CHAMBERS: That is a rhetorical question. Some people feel that we have kangaroo justice because of the lack of qualification of judges. If there is a way to tie qualification to money, then take this increase, because compared to what was being offered in the original bill, this 10 percent may seem modest, but sometimes greed can cause people to reach too far, try to grab too much. In keeping with the issue that Senator Lindsay raised about the peanuts and the monkey, I have read and

I have heard it stated that the way they trap a monkey is to put an item of food that the monkey wants into a container which is stationary and unmovable. That monkey puts his or her paw into the container, grabs the food, and the opening is too small to allow a closed fist to emerge although an open hand could enter. The monkey is either so greedy or so silly that he or she refuses to open the fist and his or her greed traps the monkey. I think the judges did that when they came in with a 20 percent, so what Senator Hefner and I are trying to do is enlarge the opening so that they can keep their greedy little fist closed but they will be able to withdraw it with a modicum of dignity. In all seriousness, I doubt that the 20 percent is going to go, but if the judges are so greedy and if those carrying the water for the judges agreed to that notion of greediness, all amendments will be rejected and the judges may wind up getting those increases that are already a matter of law, and they will get them because they have been promised. But you will notice how their begging overlaps. They don't allow one triumph based on their panhandling to run its course before they are back here panhandling again. If we give them this 10 percent on top of the five that they will get in July, that increase by 10 percent will give them about a \$7,000 jump in January. Seven thousand dollars is a nice piece of change. I believe that it is reasonable, if you can talk about reasonableness in this whole set of circumstances. I would like to ask Senator Kristensen a question, if I may.

SENATOR HANNIBAL: Senator Kristensen, would you respond?

SENATOR KRISTENSEN: Yes.

SENATOR CHAMBERS: Senator Kristensen, are you locked into the 20 percent so that you would not consider a lesser increase?

SENATOR KRISTENSEN: Senator Chambers, I think the 20 percent is a fair, good figure. If you are asking me do I think that there may be some room in the middle, maybe, maybe.

SENATOR CHAMBERS: A little room in the middle to muddle.

SENATOR KRISTENSEN: Maybe.

SENATOR CHAMBERS: Okay, now let me ask you this question, if I may. Well, never mind, I will wait until I turn my light on and have my time because I may want to discuss a couple of things

with you and I would run out of time before I've finished. So, Mr. Chairman, how much time do I have on this one?

SENATOR HANNIBAL: You have a little over three minutes.

SENATOR CHAMBERS: I will give this time back and then wait until I turn on my light.

SENATOR HANNIBAL: Thank you. Next to speak on the amendment to the amendment would be Senator Schmit, but before he does, I would like to take this opportunity to recognize some guests of Senator Kristensen. Under the north balcony, we have Mr. Al Smith and his son, Mike, and they are from Kearney. Would you both please rise and be recognized by the Legislature. Thank you for joining us today. Senator Schmit is next to speak. I don't see him here so I will recognize Senator Baack.

SENATOR BAACK: Mr. Chairman, and colleagues, I do rise in opposition to this amendment. I think that the original amendment that I offered at 13 1/3 percent is a reasonable compromise. I think that, you know, anytime you have a bill like this, of course, you are going to have an auction on the numbers. We all know that when it comes in, but I think that in this case I think that we need to raise the salaries to the point that we feel comfortable that we are going to be able to increase the quality that we have in the judicial system. There is no guarantees, of course, but we are going to try and do that. And I think that that 13 percent, 13 1/2 percent is a very, very reasonable compromise in this case. I think that we do need to increase the salary. I think that is very evident that we do need to do that. I think 13 1/2 percent moves us much closer to the median salaries in this country and moves us up on that scale to the point where I think we can attract the kind of people that we need to have in our judicial system. So with that, I will oppose this amendment of Senator Haberman's and urge the body to do so, also, and, Senator Chambers, now I will sit down and be quiet.

SENATOR HANNIBAL: Thank you, Senator Baack. Senator Chambers, you are recognized for your own time.

SENATOR CHAMBERS: Mr. Chairman, and members of the Legislature, I didn't know that Senator Baack would stoop to the level of revealing confidential communications in that fashion. Senator Kristensen, if you don't mind, Senator Baack's original

amendment would have given an increase of 13 percent, correct?

SENATOR KRISTENSEN: No, I think it was framed in terms of an actual number of a salary, not a percentage increase but it equates to around 13, 13 1/2.

SENATOR CHAMBERS: Okay. Have you ever been to the Hilton Hotel?

SENATOR KRISTENSEN: I plead the Fifth Amendment.

SENATOR CHAMBERS: It is relevant. This is relevant, and if you answer the question, you will see the relevancy.

SENATOR KRISTENSEN: Yes, I have. Yes, I have.

SENATOR CHAMBERS: Have you noticed that they don't have a thirteenth floor listed on the elevator?

SENATOR KRISTENSEN: No, I didn't know that.

SENATOR CHAMBERS: Oh, you didn't know that. Well, there are a lot of hotels that don't have a thirteenth floor because people are superstitious. What is the superstitious fear of the number 13 called, do you know? Can you think? I think it is triskaideka...

SENATOR KRISTENSEN: I don't see...yeah, "triskaidekatonomy" or something like that, right, yeah.

SENATOR CHAMBERS: ...phobia. All right, now if we change that, if we transpose some of those letters, we come up with trick, instead of trisk, we come up with trick. We don't want to deal in any trickery and that is why I want everything we do to be in the record. I believe that a 10 percent increase, Senator Kristensen, on top of the five that they are going to get before this would kick in is reasonable. Then they get a 7 percent and a 7 percent, both of which are already in the law now. Would you agree with that so far? There are two 7 percent increases...

SENATOR KRISTENSEN: Well, I agree as to the law. That you feel that that is reasonable, I happen to think that it is not.

SENATOR CHAMBERS: No, not the reasonableness but those

increments are already in the law, the seven and the seven.

SENATOR KRISTENSEN: That is going to get them to this July, right. There is already an increase that is going to get them into July and that figure comes I think at five, if I remember right.

SENATOR CHAMBERS: And then I believe there are a couple more after that. Okay, there are a couple more after that, but the point I am getting to is that even if we didn't do this, if we did nothing, they have got a total of three increases that they would get, five, seven, and seven.

SENATOR KRISTENSEN: No, I think the increase runs out this summer, runs out in July 1 of '90. That brings them from sixty-six, six to about seventy.

SENATOR CHAMBERS: Okay.

SENATOR KRISTENSEN: And that is where we have to take over.

SENATOR CHAMBERS: So the new sevens, the two sevens will be new increases.

SENATOR KRISTENSEN: Yes.

SENATOR CHAMBERS: They are all a part of what we are doing now.

SENATOR KRISTENSEN: Yes.

SENATOR CHAMBERS: So we are talking about giving them a total of 34 percent in increases although all the increases won't be based on the same base figure.

SENATOR KRISTENSEN: Well, they start...in the bill they start with a base year of '88, all they did was it went to July of '90,...

SENATOR CHAMBERS: Right.

SENATOR KRISTENSEN: ...with the current ones that are in law. Then these would take over, if you look at Senator Baack's amendment, it takes over in January of '91.

SENATOR CHAMBERS: Right, that would be the 20.

SENATOR KRISTENSEN: Right...that would be the 13, whatever.

SENATOR CHAMBERS: Okay, right.

SENATOR KRISTENSEN: And then you are going to go seven and seven.

SENATOR CHAMBERS: And then when do you expect that they will come in for an additional amount, some more increases? When do you think they will come in?

SENATOR KRISTENSEN: I would assume when those would run out. I think it would be truthful, I am sure they would.

SENATOR CHAMBERS: The ones that are in place haven't run out yet and here they are again. What would make you think they would wait until those run out?

SENATOR KRISTENSEN: Well, but if you don't act this year, you are going to have a gap.

SENATOR CHAMBERS: And who will that hurt?

SENATOR KRISTENSEN: All of us.

SENATOR CHAMBERS: Will it hurt the taxpayers?

SENATOR KRISTENSEN: Yes.

SENATOR CHAMBERS: Because they should be given the honor and privilege of paying some more money so the judges can get another increase or how will they be hurt?

SENATOR KRISTENSEN: They will be hurt by the lack of competence in maintaining the quality of judges.

SENATOR CHAMBERS: So if we don't give them a 7 percent increase, the quality of those on the bench now will lower, right.

SENATOR KRISTENSEN: No.

SENATOR CHAMBERS: Then they will have the same quality then that they have got now.

SENATOR KRISTENSEN: But there will be the gap and you will start to have that gap.

SENATOR CHAMBERS: All right.

SENATOR HANNIBAL: One minute.

SENATOR CHAMBERS: Mr. Chairman, and members of the Legislature, if Senator Hefner and my amendment is not adopted, I don't have a plan to offer any more attempts to amend this bill, but if Senator Hefner and my amendment is not adopted, I will not support Senator Baack's amendment, and I think there ought to be the effort to go ahead then and give the judges what they asked for. Let them run with the 20 percent, and then let all of those who vote for that gigantic increase explain and justify it in terms of how stingy we are with reference to other programs that are far more meritorious, if we are going to talk about the overall impact they would have on people in terms of numbers.

SENATOR HANNIBAL: Thank you, Senator Chambers. Senator Kristensen, your light is on, followed by Senators Haberman, Langford, Hefner, and Bernard-Stevens.

SENATOR KRISTENSEN: Thank you, Mr. President, and members. I want to go back and respond a little bit to Senator Haberman's comments about the number of people running, and I think that is correct. You can't equate the number of people who apply for a judgeship as to how attractive that may be in terms of quality of people applying. We don't have a scale that you plug in the judges into a little meter and you gauge them on them on the old quality meter. We don't do that for state senators. We don't do that for anybody else because you can't. You have got to rely on discretion. Now currently out in Buffalo County we have got a vacancy for the district judge. We have got only one application for that right now, and I am sure there might be one or two more, maybe, but I'll bet that we won't have more than three people at best to apply for that position. You really can't equate the number of people applying with the quality. Quite frankly anybody with some legal training could act as a judge. Obviously, with the less experience that they would have, the less education they have, probably the poorer quality of judge they would be but, by and large, they can at least go to court in the morning, be there on time, could read a few cases. They are qualified. They are a member of the bar. They

are above, what is it, 30, 35 years of age, have been in practice for five years, but we are not after that type of person. What we are after is the most qualified people, the people whose very lives you would trust within that. Senator Baack's amendment is attractive for one reason. A couple of years ago we recognized that the university faculty needed to have their salaries brought up. They were lagging behind in the rest of our peer institutions in the Big Eight, and so what we did is we gave them two salary increases, 10 percent one year, 10 percent the next year to catch them up, to raise them up. This is similar. You have got 13 and seven, so there is some precedent for what Senator Baack is doing here, that that was another area for where we recognized we had fallen behind. We have lacked in our obligations and in our duties to bring those people for comparable pay with people who are doing a similar job, and we are wanting to raise up that attractive scale of pay. And so what Senator Baack's amendment, what it really would do for us is not to have the huge increase the first year. It would cut it down by more than a third, and we would wind up with salaries somewhere in the range of seventy-nine, five for the district court or for the Supreme Court, seventy-three, five for the district, and sixty-seven, five for the county court. So I would urge you to defeat what has got to be the most surprising amendment in the Legislature this year, a Hefner-Chambers amendment. I never thought I would live to see the day, and if I see a Chambers-Orr amendment come in, I don't know if I can finish the session. But I would urge you to defeat this amendment, but remember that it actually occurred. Thank you.

PRESIDENT NICHOL PRESIDING

PRESIDENT: Thank you. Senator Haberman, please, followed by Senator Langford.

SENATOR HABERMAN: Well, Mr. President, and members of the body, what we are trying to be told, they are trying to tell us that for 3.3 percent, we are not going to get qualified judges, because that is what the amendment does. It only lowers it 3.3 percent. Now think about that. They are saying the 3.3 percent reduction will not get us qualified judges. I don't really buy that. I would like to throw something else out into, put it in the record, as Senator Chambers says, if a judge goes...the Supreme Court goes full term, when they retire, when they retire, they can draw \$58,000 in retirement a year, plus

social security. So really, I wouldn't feel too bad if I were a judge and I lost that 3.3 percent. I really wouldn't feel too bad about that because I get to retire with \$58,000 plus social security. That is a pretty good bundle. Plus the fact, nobody is paying any attention to this, Senator Nelson, this bill increases the General Fund approximately \$2 million or \$1 million every two years for their retirement. This has never been done before. This has never been done. I wanted to call this to your attention, Senator Nelson. All right. I will give her a second of my time. Go ahead.

SENATOR NELSON: Senator Haberman, I don't know whether you caught it or not the other day. I was going to mention that fact. Senator Hefner mentioned it a little bit, and I tried to get over there. I realize that it is back down the same...you somewhat took me by surprise on this, I didn't know, but you are entirely right. So when we are going on these retirement bills, I don't know how the young Tim Halls or the Rod Johnsons are going to pay for all of these, but I am...you are correct, the increase in the retirement is right there.

SENATOR HABERMAN: Well, not only that, folks, it's the first time that we'll use General Fund money, approximately a million dollars every two years to fund their retirement. So you have to add that onto the cost of this legislation. You have to add that on. We stand up here and try to be protective of the retirement money, try to be protective here, the patrolmen bill, for example, other bills, and we're not paying any attention to this. We're not paying any attention to the million dollars every two years it's going to cost the General Fund. So I will say again the 3.3 percent loss which is the results of the, I think it's, Senator Chambers and Senator Hefner's amendment. I think it's a good amendment and I would ask you to support it. Thank you, Mr. President.

PRESIDENT: Thank you. Senator Langford, followed by Senator Hefner. Senator Langford, did you wish to speak?

SENATOR LANGFORD: Mr. President, you're right. I say you're right, I would like to call the question.

PRESIDENT: The question has been called. Do I see five hands? I do and the question is, shall debate cease? All those in favor vote aye, opposed nay. Senator Langford.

SENATOR LANGFORD: I certainly hate to call the house but let's do it.

PRESIDENT: The question is, shall the house go under call? All those in favor vote aye, opposed nay. Record, Mr. Clerk, please. Oops! Just a moment. Now record, Mr. Clerk, please.

CLERK: 10 ayes, 0 nays to go under call, Mr. President.

PRESIDENT: The house is under call. Will you please record your presence. (Gavel.) Please record your presence. Senator Schmit. Senator Langford, would you accept call in votes?

SENATOR LANGFORD: Yes, Mr. President.

PRESIDENT: The question is, for those coming in, the question is, shall debate cease?

CLERK: Senator Hartnett voting yes. Senator Hall voting yes. Senator Peterson voting yes. Senator Lynch voting yes. Senator Scofield voting yes.

PRESIDENT: Record, Mr. Clerk.

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

PRESIDENT: Debate has ceased. Senator Hefner, would you close, please.

SENATOR HEFNER: Mr. President and members of the body, I will be brief in my remarks and then I will give Senator Chambers a little time. But I think this 10 percent increase starting January 1, 1991 is a reasonable one. It's not too bad. It would take the Supreme Court judges from a salary of \$70,000 or approximately 70,000 to a little over \$77,000, and then after that they would get another 7 percent increase the following year and another 7 percent the other following year. So that's not too bad. And I think this is a good increase. And, like I said the other day, I don't have anything against our judges. I think they're doing a terrific job. They're doing a good job and this would just kind of phase an increase in that's more reasonable than the 20 percent. And we need to remember, Senator Haberman, you mentioned it, the fringe benefits, the retirement program. And Senator Chambers has been doing a good job heading up that Retirement Committee. I commend you for it.

But this would also increase their retirement and they have a good retirement program, or at least I consider it a very good retirement program. But I think this increase is a little more reasonable and we need to remember, too, that each year it's compounded. This year, July 1st, they will get a 5 percent increase, then next January 1st a 10 percent increase; July 1, 1991, a 7 percent, and '92 another 7 percent. So...

PRESIDENT: Senator Hefner, may I interrupt. (Gavel.) A couple of things. First of all, we're still under call, and, secondly, let's hold the conversation down so we can hear the closing. Thank you, Senator Hefner.

SENATOR HEFNER: Thank you, Mr. President. I don't have anything else to say, so, Senator Chambers, would you care to finish my time?

PRESIDENT: Senator Chambers, you have about two and a half minutes.

SENATOR CHAMBERS: And it won't take me that long, Mr. Chairman. Members of the Legislature, if we adopt this amendment, then I think this bill can go ahead and move. It's clear that something is going to be done and I believe that this is reasonable. So if you adopt this amendment, I will have nothing else to offer in terms of an amendment on the bill and I think there are those who will feel more comfortable voting this amount than the 20 percent. For many of you, the 13 percent is too much also. For some, even the 10 is too much. But since the bill has gone through quite a bit of discussion, I have had an opportunity to say some things for the record that I think the judges should be aware of, and now we're at a point where we can take a reasonable proposition which is exactly midway between nothing which some think the judges are worth and 20 percent which others think they are worth. And they say a compromise is one which makes nobody happy. But I will tell you what, I believe the judges are over there just trembling in their robes with anticipation saying, if I can get...if we can get this 20 percent, I meant, this 10 percent, if we get this 10 percent, it's 7 percent more than we thought the Legislature would give, so hallelujah. Let's make the judges happy and, by taking this amendment of mine and Senator Hefner, give them 7 percent more than they expected to get.

PRESIDENT: Thank you. The question is the adoption of the

Hefner amendment to the Baack amendment. All those in favor vote aye, opposed nay. Simple majority. Have you all voted? Have you all voted? Record, Mr. Clerk, please. Roll call vote has been requested. First of all, let's check in, we're under call. Record your presence, please. We're looking for Senator Weihing, Senator Wehrbein, Senator Warner, Senator Smith, Senator Labedz, Senator Moore, Senator Robak. Please record your presence. Senator Lowell Johnson. Senator Owen Elmer, Senator Lynch and Senator Landis, please record your presence. Senator Landis, would you please record your presence. Thanks. Roll call vote has been requested in reverse order. Mr. Clerk.

CLERK: 22 ayes, 22 nays, Mr. President, on adoption of the amendment.

PRESIDENT: As I understand it, I finally get to vote until Final Reading, and I will vote yes. Senator Chizek.

SENATOR CHIZEK: Can we announce the vote?

PRESIDENT: I can only vote after it has been announced at a time that I announce it, what the result is. So the amendment to the Baack amendment passes. Now the call is raised. We're back to the Baack amendment. There are no lights on, Senator Baack, would you like to talk about your amendment as amended?

SENATOR BAACK: Well, no, I would just urge that we adopt the amendment now and move on. Thank you.

PRESIDENT: Thank you. Senator Schmit, please.

SENATOR SCHMIT: Mr. President and members, I'm not going to look at the voting list, I really don't care, because I assume that everyone votes their convictions and that's fine with me. It's amazing to me how, on this floor, from time to time we can be quite parsimonious, we can be very frugal. We can, of course, pick and choose how we want to spend the taxpayers' money and that's what we do all the time. It's amazing that under certain conditions we can be the most ardent defenders of the taxpayers' money that ever walked the face of the earth. On the other hand, with impunity we can spend money in many other cases. Admittedly, this is not a building, it's not some structure you can point to, but, as I see it, what you're looking at is whether or not the system is going to function the way we expect it to function. It is not until the system doesn't function

that you're going to be aware of the fact that you have a breakdown. It's not a big difference whether it's 10 percent or 13 percent or 20 percent, financially, we all know that. It is what it is perceived to be, the perception is the main thing. There are employees time after time, and I've hired a lot of them, who have told me, I wouldn't work for so and so for any amount of money, where I will work for someone else because I know they appreciate the work I do. Money isn't everything, I know that. But I guess the thing that concerns me more than anything on this floor is the fact that it appears as if the Legislature is saying, well, you've got to give them something so they can survive, but we really do not want to build a quality judiciary, we really do not want to attract the very best. Senator Chambers... or Senator Rex Haberman points out 279 attorneys applied for 27 positions. I will guarantee you that if you were to line them up, half of them would probably scare you to death. And let me tell you, once they're there you have got a problem if they're not good. I think, and it has been said on this floor, we have a pretty good judiciary. There are some areas where we can make some improvement and we have made some improvements in the last 15 years and I appreciate that and I want to express my appreciation to the body for those improvements they have made. But we really aren't arguing about a lot of money so far as the state is concerned. We're arguing about two things, how does it look to the members of the judiciary? And, number two, do you want to build a quality system? We understand you have got to have quality to attract good professors. I buy that. You have got to have quality to buy and pay for good equipment. You have got to have money to do the job relative to our own employees are concerned. Only last night I was visiting with some of my colleagues about some of our own staff people and it's a fact that from time to time good staff people leave. We serve as a training ground. A staff person worked for me for 15 years, took a little time off to work for Senator Zorinsky, went to a job... I don't know what he is getting, but I know it's substantially more than what I was paying. We serve as a training ground and that's fine, I guess. But the people of the State of Nebraska and this Legislature ought to have the best staff that you can... that are available. It's a strange situation. We can pay 30, 35,000 for a staff attorney...

PRESIDENT: One minute.

SENATOR SCHMIT: ...and the agencies can pay twice that, almost.

And our people are supposed to be competitive with the agency people. It doesn't make any sense. It doesn't make any sense at all. Same line of reasoning applies to the judiciary. I think we're making a mistake. I really, I guess, I might cause some people to collapse out in the rotunda but I really don't care if the bill moves or not, if you want to nickel and dime it on down another nickel or dime, Senator Hefner and Chambers, that's your prerogative. But I know Senator Chambers and Senator Hefner don't care if it passes either. I know a lot of people here do. But I am just saying that we make the entire process demeaning and we make it a mockery. As I said, it's not a popular bill to carry. None of us signed on that bill because it's going to make us any friends back home. But, ladies and gentlemen, let me tell you when the system doesn't work then someone is going to say it was the Legislature's fault.

PRESIDENT: Thank you. Senator Chambers, you're next but may I introduce one guest, please. Our doctor of the day is Dr. Dwight Rickard of Columbus, Nebraska who, of course, is in Senator Robak's district. Please welcome the doctor for the day. We appreciate your services, doctor. Thank you. Senator Chambers, please, followed by Senator Hefner.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I would like to give a little perspective on what has happened here this morning. Senator Baack's amendment would have reduced the 20 percent to 13 percent. Senator Hefner and my amendment reduced that to 10 percent. Had our amendment been rejected, there would have remained the 13 percent. When the vote breaks down 22 to 22, that lets you know that a rate higher than 10 percent puts the bill in jeopardy. No bill can move with 22 votes. I'm telling you that those judges are savvy, especially when it comes to matters like this, and they understand that everything that happens in a political body must, of necessity, be political. That is the nature of the Legislature. That is the nature of legislating. They would rather have something than nothing. Ten percent could not even get off the ground, 20 percent. That 20 percent had no chance of success. I'm not even talking about whether the Governor would veto it, I don't believe it would have gotten off this floor. So what has happened is that Senator Hefner and I have combined to provide a safety net for the judges' desire to have a pay increase. So they might view all of this with mixed emotions but I will tell you what, I'll bet not one judge in this state has so much principle that he will say, if I can't

get the 20 percent, I would rather get nothing. They will be joyful. And anybody who writes for the media can go and ask them, how do they feel about getting the 10 percent, then seven on top of that, followed by another 7 percent increase? They're happy. I don't say they're delirious. Everybody wants as much as they can get, but sometimes in a situation where we're talking about money you have to take what is available. I probably did a better job of sizing up the mood of the body than Senator Schmit did. When Senator Schmit brought the bill with the 20 percent, when Senator Kristensen supported the 20 percent, Senator Kristensen recognized that there was room in the middle to muddle from the beginning but Senator Schmit wanted the full amount because he felt that was justified, but the full amount is not available in this body. So after a little time has passed, Senator Schmit will look back on this and he will say that there should have been three names on that amendment to Senator Baack's amendment, and his should have been one of the three. It's still Senator Schmit's bill. It's still giving a pay increase to the judges. And perhaps 10 percent is more...and I mean this now without being facetious, 10 percent is more than they probably expected to wind up netting on that first jump. So the bill, in its present form, is better than it was before, but only time will determine what its ultimate fate will be. I don't like the idea of building in all these increases. Some say do it in this way to spread to it over a number of years. I would rather we just give them the amount at one fell swoop, then have them come back in again when they need an amount, because it's unwise on their part to always have in the law an increase that has been guaranteed, then before that series of increases runs out, here they come again.

PRESIDENT: One minute.

SENATOR CHAMBERS: I don't know where they're getting their political advice, but there comes a point when things take on a perception which may not reflect the reality. But things are to people what those people perceive those things to be, and the perception with the method...of the method that the judges have chosen to employ is that they're in here every opportunity and they want a string of built-in increases. That's not wise. They need some political counseling. They are going to get their appellate court amendment on the ballot. So what the public sees is in one year, while getting the Legislature to vote to cut their work load, they're being asked to give them a gigantic increase. It's just too much. The monkey needs to

open his hand and free himself from that bottle where his greed would have kept him trapped forever.

PRESIDENT: Thank you. Senator Hefner, please, followed by Senator Schmit.

SENATOR HEFNER: Call the question.

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

CLERK: 25 ayes, 4 nays, Mr. President, to cease debate.

PRESIDENT: Debate has ceased. Now, Senator Baack, would you like to close?

SENATOR BAACK: Yes. I will give a couple minutes to Senator Hefner first.

PRESIDENT: Okay, Senator Hefner, please.

SENATOR HEFNER: Mr. President and members of the body, I want to make something perfectly clear here. There was several of my colleagues wanted to know just exactly what this would do. This amendment would say we're going to give them...give the judges a 10 percent increase next year, January 1st next year, 1991, which would move it up to a little over...the Supreme Court judges a little over 77,000, then the next year it would be 7 percent which would be nearly \$5,000, and the following year, January...or in 1992 another \$5,000. And the district judges and the county judges would get this same increase. Now I know that Senator Schmit has worked long and hard on judges' salary and I commend him for it, but I just feel that the 20 percent is too much, it's too much of an increase in one year. Ten percent is more realistic. And, with that, Senator Baack, do you want to use the rest of the time?

PRESIDENT: You have approximately three minutes.

SENATOR BAACK: Yes, Mr. President and colleagues, I will just close very briefly. I think that we have had a good discussion on this issue over the last few days and we have bantered the numbers about and now we're at the point where we're going to...the initial bump on the salary is going to be 10 percent

and there will be two 7 percent increases coming down the line. I think that it's a step in the right direction. I think that we need to...we needed to provide some enhancement for the judicial salaries. I would have liked to have seen it a little bit higher but I think that right now we have reached the position of that's a fairly good compromise and, with that, I would simply urge the adoption of the amendment and then the advancement of the bill. Thank you.

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

CLERK: 29 ayes, 5 nays, Mr. President, on adoption of Senator Baack's amendment.

PRESIDENT: The Baack amendment is adopted. Now we're back to the advancement of the bill. Senator Schmit, your light is on. Senator Baack, we're back on the advancement of the bill, would you like to speak? Senator Baack, would you like to speak on the advancement? Senator Schmit. Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, this little bill is something like one that had a whole lot of people who were claiming it and now nobody wants to deal with it, and I, who am opposed to it, am the first one willing to speak on it. I think the rate should have been about 7 percent. I do think that 10 percent is much better than the 20 percent and I think the judges will be glad to get any amount. I'm not going to vote for the bill and I think I made that clear. However, those who want to see the judges get an increase could vote for a bill like this and show that they were being reasonable compared to what was originally sought. But since there are three increases built into it, three increases, the judges are coming out very well, and, although if you added all of the increases together now, it would come out 24, they're really getting more than that because it will not be 24 percent of their present salary. They're going to be up to \$70,000 in July, then 10 percent of that to make them 80 and some small change for them but quite a bit for us, then 7 percent on top of that, then 7 percent on top of that, plus, as Senator Haberman mentioned, the retirement benefits that automatically go up also. They have done very well here today and don't let that cagey Senator Schmit fool you, he knows what he has achieved by getting this 10 percent for them. He may not tell you but he

knows what he achieved. There have been times in the past when a smaller percentage increase than this was sought and it was fought much more strenuously and the judges know that. So this is like one of those sales that they talk about at these stores where they mislead the public. They will tell you it's half price, but they never say half of what. What they will do is raise the price and then cut what they raised it in half and what you pay is still more than the original price. So the judges are not getting that big mark-up but they're getting more than they expected, and more, in my opinion, based on the way we do things here than they're entitled to. But I'm not going to do anything to try to amend the bill further, to try to delay it. But I still think the amount, since they've got those other two increases built in is too much. It should have been 7, 7, 7.

PRESIDENT: Thank you. Senator Schmit, please.

SENATOR SCHMIT: Mr. President and members, I'm glad I hadn't written that congratulatory note to Senator...to the Lieutenant Governor, upon his retirement, telling him how much I valued his services. But, for whatever it's worth, Mr. Governor, you have exercised your prerogative and I recognize that and I would have chosen a different time for you to use that if it were up to me. Senator Chambers, yesterday, made a reference to the judicial system and reference to the Franklin investigation and, Senator Chambers, if I can chide you just a little bit, one of the comments you made was that they had to look into the money matters in the Franklin investigation and so with just a little bit of a twist of the knife I appreciate that remark and I hope that the judges follow your suggestion and that we do not limit the grand jury investigation to the nonfinancial matters. And I do not know how appreciative the judicial system will be, but, given the nature of the discussion and the debate, and I would assume that most of the news letters that go out this week will boast about how the Legislature once again exercised it's economic restraint and insisted upon making the judges accountable. And so, with those few remarks, why I'm not going to say anymore. I don't think it's adequate but then I have never...I have never received everything that I thought was adequate on this floor yet. I know it's a matter of compromise and I appreciate those of you who did support the bill and who did support the amendment as long as you did. And the battle may be over but the war is not over, so we'll live to fight another day. Thank you.

PRESIDENT: Thank you. Senator Schmit, you're entitled to closing if you would like. Oh, Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, my voice will come back after I pull that dagger out from under my ribs that Senator Schmit slid there. Senator Schmit, your comment is well taken but here's the difference between what I said and what it appeared you said some months ago on the Franklin matter. The impression was that the money was what was going to be sought to the exclusion of other things. My insistence is that this grand jury pursue all avenues and all aspects of the matter, so wherever we may have disagreed or misunderstood each other in the past, I think we're in lockstep now and I think what Judge Buckley does in issuing his charge may have some bearing on what happens to this bill from this point on. I do believe in giving very clear messages to those in responsible positions. And the best way to give judges a message is by dealing with their salary. If Chief Justice Hastings does not call Buckley into his office or call him on the telephone and tell him to get this thing straight on this grand jury, then Chief Justice Hastings and none of them deserve a nickel raise. We're talking about a crisis now of confidence. Senator Kristensen, when he talked about an appellate court, was talking about a backlog. We're talking now about public confidence. Every aspect of the criminal justice system has taken a battering through the handling or mishandling of the Franklin affair. It was felt that the judiciary which up till now has been out of it might be the salvation of the entire complex. Then we have a judge who makes a statement that indicates he is going to bottle everything up and his temporizing statements that he made last night in response to my accusation of a cover-up don't reassure me. I think because his statements created a very big question mark in the minds of the public, not just me, but in the minds of the public as to what that grand jury's function is, he has an obligation to lay before the public the exact charge that he gives to that grand jury. And if he says traditionally this has not been done, we're dealing with a situation which does not fall into the pattern of what is traditional. There are all types of questions raised about the ability of the system to function, and when I say system I'm talking about law enforcement and the judiciary. And if the public loses confidence, then there is a serious problem for the society within the State of Nebraska. There will be the belief that everybody is for sale or that

everybody can be intimidated or that some judge, himself, may be sitting under a sort of Damocles. That was a sword suspended by a thread over the king and they didn't know whether the thread was going to break or not. We don't have any way of knowing, but the question that would be asked by everybody, who is Judge Buckley trying to protect? And if Judge Buckley is not trying to protect anybody, then let him lay that charge out word for word for the public to see. There is nothing wrong with letting the public know what the grand jury has been told by the judge they can investigate. And a bit more on Judge...former Judge VanPelt than his qualifications, without prosecutorial experience and knowledge, you could lay an issue in his lap and he may not recognize it, not because he is deliberately trying not to do his job, he doesn't know how to do the job. He does not know, he hasn't got the training, doesn't have the experience. And when he has to hire somebody to do the job that a prosecutor does, I should have been hired as a special prosecutor because I will at least inform myself. How can you hire somebody, how can these judges be taken seriously when they put somebody in the position of the special prosecutor which is the crucial...

SENATOR LABEDZ PRESIDING

SENATOR LABEDZ: One minute.

SENATOR CHAMBERS: ...role and he acknowledges that he doesn't know what he is doing but he knows how to hire somebody? He cannot even judge of the qualifications of the person he hires. I can't tell you whether a glass blower or a gem cutter is competent and capable because I don't know anything about that. So if I hire somebody, I can only hope and pray that what they do is what I'm hiring them to do, but I don't have any independent judgment that I can make. Same way with Sam VanPelt, and his record is not sterling, in the Kirk case especially.

SENATOR LABEDZ: Time is up, Senator Chambers. Senator Schmit, there are no further lights on, would you like to close on the advancement of LB 42 to E & R Initial? I'm sorry, Senator Schmit, Senator Chambers just turned his light on.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature...

SENATOR LABEDZ: No.

SENATOR CHAMBERS: I want to...

SENATOR LABEDZ: Senator Schmit, I just took the Chair. I...there was no lights on when I sat in the Chair.

SENATOR CHAMBERS: Excuses, excuses. But from Senator Labeledz we accept that.

SENATOR LABEDZ: For whom?

SENATOR CHAMBERS: I'm not going to get in a debate or discussing with you, you're in the Chair today.

SENATOR LABEDZ: You better remember that.

SENATOR CHAMBERS: I remember it very well. In fact, I called it to your attention so you would recognize the power that you have. But I wanted to complete the comment that I was making about Judge VanPelt so it's clear in what context I'm making it. I will say again, I have dealt with Judge VanPelt and as a person I find him amiable, agreeable and as good a person as anybody else, so I'm not talking about judging him as an individual. I am talking about a job that has to be done and, in my opinion, it was given to a person who is not up to it. There is a difference between, say, a surgeon assisting in a very delicate operation, maybe not even carrying out the cutting, the sewing and whatever else is done with his or her own hands, but knows enough, can judge of the competency and qualification of those assisting him or her and can determine if the operation is being properly performed. Judge VanPelt is going to have accept whatever whoever he hires tells him. I don't know who he is going to hire. I would feel much more confident if the special prosecutor was somebody that I know of and I could cast a judgment. But if that grand jury comes back with a no bill, the questions are going to be there because the judges selected somebody whom they realized didn't know how to do the job and didn't have the ability to do the job. I also notice how careful Judge Buckley is in his use of language and it causes questions in my mind. At first, he had given a comment that made people think that VanPelt may not have been every judge's choice. So then he made a comment which muddies the water further. He said, I want to clear that up so there's no cloud over this grand jury's proceedings. There was not a

dissenting vote. That doesn't say every judge voted for him. There could have been two judges that voted and the other 10 abstained and there is not a dissenting vote. Judge Buckley could have been the only one who voted for him. Or maybe Judge Buckley didn't even vote for him but they told him somebody has got to go out there and talk to the public and you're the presiding judge so you go out there and you prettify what we have done. I don't think the judges in Douglas County realize how serious this matter is or they realize really how serious it is. And this shows again the awesome power that judges wield and why they must be held accountable, and in this particular incident, I think the judges in Douglas County have behaved in less than an exemplary fashion. They should be able to point to everything they have done in this case and have at least a consensus of the public say...from the public saying that is good. I feel comfortable with what you have done. And what the grand jury does is not within your power to control but I feel that in the realm where you were free to act you did all that a prudent person, a responsible person could be asked to do. In my opinion,...

SENATOR LABEDZ: One minute, Senator.

SENATOR CHAMBERS: ...that cannot be said of Judge Buckley and the other 11 judges. At least when a person is in court and they're tried for something, it takes 13 people to pervert the system, the 12 jurors and the judge. In this case, we have 12 but we have no countervailing voice to undo the damage done by the 12. So I hope that Judge Buckley will make me wrong. I hope that Judge Buckley will issue a charge that is broad enough to allow the grand jury to pursue everything necessary to do a thorough and complete investigation, and I think it is imperative that he publicize the exact wording of that charge. And, as for this bill, it's secondary now.

SENATOR LABEDZ: Thank you, Senator Chambers. Senator Haberman. Senator Haberman waives off. Senator Schmit, would you like to close on the advancement of LB 42?

SENATOR SCHMIT: Well, it's probably about time. You know, Senator Chambers, he suggested that maybe he and I were in lockstep on this issue. I think you have already terrified enough people of the fact that you and Elroy are in lockstep, and if the three of us got together, that would be almost something you couldn't explain. I think Senator Chambers has

made some excellent points relative to the grand jury and the judicial system and the process. He sees it from one perspective, I see it from another. He sees it as a conveyance of a message that perhaps the Legislature does not approve and, in fact, I think the message is even more plain than that that we do not approve of certain types of vacillation and equivocation. On the other hand, I look at it as a positive situation where I like to say, yes, Judge Hastings has exercised good judgment, he is a man of conviction and principle and good temperament, as are, I think, most of the rest of them. I would like to see additions to that judiciary that are even better than what we have today and I think that would go for all of the sitting judges. I don't think it's going to make much difference whether it's 10 percent or 13, or 20 percent, but eventually it's the expression of a job well done that there is some recognition by this body that they do perform well. As I said, there is no punishment factor that can be exercised by the judiciary. There isn't much that can be done that way. There isn't anything that can be...they can't withhold their political support, they can't crank up political support, so they don't have that kind of a club. All you do, ladies and gentlemen, is to do what you think is right. I know that's what you're going to do and I respect that and I accept it. I do not, as Senator Chambers suggests, jump for joy. I do accept what is the inevitable and I would suggest, Senator Chambers, and I suggested it to you the other day, if you let me know when you're not going to be here, there might be another day and I might make an end run, but now I have to worry about the Lieutenant Governor also. But, anyway, vote your convictions and we'll get on with the show. Thank you.

SENATOR LABEDZ: Thank you, Senator Schmit. We are now voting on the advancement of LB 42 to E & R Initial. All those in favor vote aye, opposed nay. Have you all voted? Have you all voted? Record, Mr. Clerk.

CLERK: 35 ayes, 4 nays, Madam President, on the motion to advance LB 42.

SENATOR LABEDZ: LB 42 is advanced. We now move to Select File. Mr. Clerk, LB 163. Items for the record, Mr. Clerk.

CLERK: Madam President, thank you. Urban Affairs Committee reports LR 11CA to General File; LB 1229, General File with amendments; LB 912, indefinitely postponed. Those are signed by

LB 1146.

SPEAKER BARRETT: LB 1146 advances. Items for the record, Mr. Clerk.

CLERK: Mr. President, Senator Hefner has amendments to LB 571 to be printed. Enrollment and Review reports LB 923 and LB 42 to Select File with E & R amendments attached. (See pages 860-62 of the Legislative Journal.)

Mr. President, Senator Hartnett would like to announce there will be a meeting of Urban Affairs at three o'clock this afternoon in Room 1019; Urban Affairs Exec Session, three o'clock in Room 1019 this afternoon. That's all that I have, Mr. President.

SPEAKER BARRETT: Thank you. Proceeding then to General File, LB 1080.

CLERK: Mr. President, LB 1080 was a bill introduced by Senator Schellpeper. (Read title.) The bill was introduced on January 10 of this year, at that time referred to Health and Human Services Committee for public hearing. The bill was advanced to General File. I do have committee amendments pending by the Health and Human Services Committee.

SPEAKER BARRETT: Chair recognizes Senator Wesely.

SENATOR WESELY: Thank you, Mr. Speaker, members of the Legislature. The bill before you, LB 1080, is a bill introduced by Senator Schellpeper, a very important piece of legislation that deals with the problems brought about by the passage, several years ago, of OBRA legislation by the Congress. This legislation makes a number of changes in standards and requirements for nursing homes across the country. And in our own state we are obviously preparing to implement that legislation as of October 1 of this year. We have a difficulty in a number of areas, and this legislation will allow us to maximize our flexibility in meeting those new standards. The amendments by the committee, number one, exempt ICFMR's from new training requirements that are provided under the bill. Those training requirements are the following--care staff members that now require 90 hours of training would have to have 115 hours; nursing assistants that now have 20 hours of training would have to have 75 hours. These training requirements would be exempted

February 23, 1990 LB 42, 348, 896A, 923A, 923

CLERK: Mr. President, the next bill I have is LB 896A. I have no amendments to that bill.

PRESIDENT: Senator Lindsay, please.

SENATOR LINDSAY: Mr. President, I move that LB 896A be advanced to E & R for Engrossment.

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

CLERK: Mr. President, the next bill I have is LB 42. I have Enrollment and Review amendments only.

PRESIDENT: Senator Lindsay, please.

SENATOR LINDSAY: Mr. President, I move the adoption of the E & R amendments to LB 42.

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

CLERK: I have nothing else pending on LB 42, Mr. President.

PRESIDENT: Senator Lindsay, please.

SENATOR LINDSAY: I move that LB 42, as amended, be advanced to E & R for Engrossment.

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

CLERK: I have...that's all the bill that I have, Mr. President.

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

CLERK: Mr. President, some items. New A bill, LB 923A, offered by Senator Wesely. (Read by title for the first time as found on page 976 of the Legislative Journal.)

I have amendments to be printed from Senator Hannibal to LB 923. That's all that I have, Mr. President. I have amendments to LB 348 from Senator Wesely to be printed. That's all that I have, Mr. President. (See pages 976-77 of the Legislative Journal.)

February 28, 1990 LB 42, 315, 348, 446, 542, 662, 663A
791, 792, 863, 896A, 922, 1004, 1004A
1199
LR 262

driver, if that's who was involved, would no longer be able to drive the truck as well. If it were a secretary or somebody in that capacity, the duties of that job would not be carried out as well. So all my words will do is focus on what the words "affect the employment relationship" will mean. So if you have any questions, I am prepared to answer them.

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

CLERK: Mr. President, Senator McFarland would move to recess until 1:30 p.m.

SPEAKER BARRETT: You have heard the motion to recess until one-thirty. Have you matters for the record, Mr. Clerk?

CLERK: If I may, Mr. President. Your Committee on Enrollment and Review reports LB 42, LB 663A, LB 863, LB 896A, LB 922, LB 1004, LB 1004A, LB 1199, as correctly engrossed. Those are signed by Senator Lindsay. (See pages 1045-46 of the Legislative Journal.)

Mr. President, I have a corrected committee statement with respect to LB 446 offered by Senator Chizek as Chair of the committee. (See page 1045 of the Legislative Journal.)

Urban Affairs reports LB 791 and LB 792 as indefinitely postponed.

Mr. President, amendments to be printed; Senator Langford and Wesely to LB 348, Senator Labedz to LB 662, Senator Lindsay to LB 542. (See pages 1046-47 of the Legislative Journal.)

And a new resolution, Mr. President, LR 262, offered by Senators Lamb, Scofield, Dierks and Peterson. (Read brief description of LR 262. See pages 1047-50 of the Legislative Journal.) That resolution will be laid over, Mr. President. That's all that I have.

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

RECESS

April 3, 1990

LB 42, 42A, 799, 1146

nay. Have you all voted? Record, Mr. Clerk, please.

ASSISTANT CLERK: (Record vote read. See pages 1835-36 of the Legislative Journal.) The vote is 41 ayes, 1 nay, 4 present and not voting, 3 excused and not voting, Mr. President.

PRESIDENT: LB 1146 passes with the emergency clause attached. LB 42. Senator Chambers.

SENATOR CHAMBERS: I want to just withdraw this bill.

PRESIDENT: Okay, you've made your point. Read the bill.

ASSISTANT CLERK: (Read LB 42 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 42 pass? All in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

ASSISTANT CLERK: (Record vote read. See pages 1836-37 of the Legislative Journal.) The vote is 36 ayes, 10 nays, 3 excused and not voting, Mr. President.

PRESIDENT: LB 42 passes. LB 42A.

ASSISTANT CLERK: (Read LB 42A on Final Reading.)

PRESIDENT: Have you all voted? Record, Mr. Clerk, please.

CLERK: (Record vote read. See page 1837 of the Legislative Journal.) 37 ayes, 8 nays, 1 present and not voting, 3 excused and not voting, Mr. President.

PRESIDENT: LB 42A passes. LB 799 with the emergency clause attached.

CLERK: (Read LB 799 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 799 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 page 1838 of the Legislative

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LB 42, 42A, 642, 656, 799, 866, 880
880A, 953A, 1004, 1004A, 1019, 1019A, 1059
1059A, 1064, 1064A, 1080, 1080A, 1113, 1113A
1136, 1146, 1184, 1184A, 1222A
LR 418

CLERK: (Read LB 1222A on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is shall LB 1222A pass? All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

CLERK: (Read record vote as found on page 1847 of Legislative Journal.) 44 ayes, 0 nays, 2 present and not voting, 3 excused and not voting, Mr. President.

PRESIDENT: LB 1222A passes. Do you have something for the record, Mr. Clerk?

CLERK: Mr. President, I do, a new resolution by the Judiciary Committee, (LR 418.) a study resolution. Enrollment and Review reports LB 1064 and LB 1064A as correctly engrossed, both signed by Senator Lindsay as Chair; and LB 1059 and LB 1059A is correctly enrolled. Enrollment and Review reports LB 1113 and LB 1113A to Select File, signed by Senator Lindsay. Amendments to be printed by Senator Hartnett to LB 953A, Senator Hall to LB 866. And, Mr. President, a confirmation report from Transportation Committee signed by Senator Lamb as Chair. That's all that I have, Mr. President. (See pages 1847-52 of the Legislative Journal.)

PRESIDENT: While the Legislature is in session, capable of transacting business, I propose to sign and do sign LB 880, LB 880A, LB 1004, LB 1004A, LB 1080, LB 1080A, LB 1184, LB 1184A, LB 656, LB 1146, LB 42, LB 42A, LB 799, LB 1019, LB 1019A, LB 1059A, LB 1059, LB 1136, LB 1122, correction, LB 1222, and LB 1222A. We're ready to go. Mr. Clerk, do you have something on the desk?

CLERK: Mr. President, motion pending from this morning was one offered by Senator Chambers and that motion was to overrule or change the Speaker's agenda to permit consideration of a suspension motion relating to LB 642.

PRESIDENT: (Gavel). Could we have your attention so we can hear the speaker? Senator Chambers, please.

SENATOR CHAMBERS: Thank you. Mr. Chairman and members of the Legislature, this is a continuation from what I was attempting

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LB 42, 42A, 571A, 834, 843, 843A, 855
855A, 880, 880A, 896A, 920, 1004, 1004A
1019, 1019A, 1043, 1059, 1059A, 1030A, 1090
1109, 1222, 1222A, 1241

Mr. President, I have received veto messages on the following bills: LB 1059, LB 1059A, LB 42, LB 42A, LB 880, LB 880A, LB 1004 and LB 1004A, LB 1019 and LB 1019A, LB 1080A, LB 1222 and LB 1222A, LB 571A, LB 834, LB 843 and LB 843A, LB 855 and LB 855A, LB 896A, LB 1043, LB 1090 has a line-item reduction, LB 920 has a line-item reduction, LB 1241 has a line-item reduction. (See Messages from the Governor as found on pages 1985-98 of the Legislative Journal.) All those, Mr. President, as I indicated, are available to the members on their desks. Have an Attorney General's Opinion addressed to Senator Schmit regarding LB 1059 and I believe that's all that I have, Mr. President.

PRESIDENT: Thank you. We have a motion from Speaker Barrett. Speaker Barrett.

SENATOR BARRETT: Thank you, Mr. President and members. I offer the motion to suspend Rule 6, Section 7, subsection (b), and Rule 5, Section 6, to permit these bills to be read on Final Reading this morning. The first part, of course is to waive the two-day limitation, and the second is to allow the A bills to be read. I would urge the body to adopt the motion. Thank you.

PRESIDENT: Thank you. Any discussion? If not, the question is the adoption of the suspension of the rules motion. All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 32 ayes, no nays, Mr. President, on the suspension of the rules to permit reading of the bills this morning.

PRESIDENT: The rules are suspended and we'll begin Final Reading. If you will find your ways to your own desk, why, we would start Final Reading. (Gavel.) Please return to your desks so we can begin Final Reading. Senator Haberman, would you come home, please? Mr. Clerk, LB 1109, please.

CLERK: Mr. President, I had amendments from Senator McFarland.

PRESIDENT: Is anyone prepared to handle Senator McFarland's motion on this bill? Senator McFarland, you had a motion on this first bill.

SENATOR MCFARLAND: Mr. President, could you read the motion for me?

be addressed. This is not an extremely expensive answer. It's, I think, a very efficient answer and I would urge that you join in overriding this veto.

PRESIDENT: Thank you. Did you say something about giving Senator Chizek some of your time? Okay, Senator Chizek, please. One minute.

SENATOR CHIZEK: Veto message. The state, however, has made a substantial commitment to the criminal justice system. To name just a few examples, overtime funds have been appropriated to the State Patrol to help fight drugs. State anti-drug abuse grants have been made to state and local governments. In addition, pilot grants will be awarded to fight the metropolitan drug and gang problem. Colleagues, that's the veto message from last year. That's the message from last year. You have all read the veto message from this year. I think it's a little strange when last year we talked about increasing funds because of gangs, drugs and problems on the street, and we know that this activity is increasing. It's a little hard to justify not having the adequate judges to deal with the criminal justice system in an area where the caseload is increasing substantially. I would urge your override of this veto.

PRESIDENT: Thank you. The question is, shall the veto on LB 880 be overridden? All those in favor vote aye, opposed nay. Senator Lindsay.

SENATOR LINDSAY: Mr. President, I would ask that the members check in. Ask for a roll call vote.

PRESIDENT: Okay. And a roll call vote, did you say?

SENATOR LINDSAY: Yes, please.

PRESIDENT: All right. Ladies and gentlemen, please check in, record your presence. Please record your presence. Senator Hannibal. Senator Hefner. Senator Lowell Johnson. Senator Landis. Senator Moore. Okay, Mr. Clerk, roll call vote on shall the veto be overridden on LB 880? Mr. Clerk.

CLERK: (Roll call vote taken. See page 2039 of the Legislative Journal.) 25 ayes, 24 nays, Mr. President.

PRESIDENT: The motion fails. LB 42, please.

CLERK: Mr. President, Senators Lindsay and Chizek would move that LB 42 become law notwithstanding the objections of the Governor.

PRESIDENT: Senator Lindsay, please.

SENATOR LINDSAY: Mr. President, I would yield my time to Senator Kristensen.

PRESIDENT: Senator Chizek, please. Pardon me, couldn't hear you. Senator Kristensen, please.

SENATOR KRISTENSEN: Despite the fact of being severely offended by that misidentification, Mr. President and members...

PRESIDENT: Well, you look alike. (Laughter.)

SENATOR KRISTENSEN: Mr. President, I don't know if we can censure you but what a way to start. We have a real problem. Senator Chambers is going to stand up in a little bit and let's see what is he going to tell us? He's going to yell, judges don't work, judges wrong me when I go to court, they don't give me a fair shake because they're just poor people, they're vindictive, they're ignorant, they're sexist, they're gender biased, and he's going to stand up and give you the same verse, second chorus of every other time he's done it. And you're going to sit there and go, do we have to listen to this again? Well, that's up to Senator Chambers, but I'm sure he'll say that to you. Well, what's the real problem, the thing we need to look at? Inadequate pay scales are undermining our judicial system by keeping the best qualified people away from the bench and it's going to get nothing worse. In the mid-1970s we ranked 24th in this country in judicial salaries, right about where you and I would like it to be because we consider Nebraska about in the middle and that's really the goal we have been after. But in the last 15 years we have fallen from 24th to 44th. And we had a bill in here, LB 42 to raise the judges' salaries and a very kind Senator Hefner and a very unwilling Senator Chambers saw the light and decided to make an amendment. And you will remember that fabled coalition that came in here and cut that in half. And the Legislature decided that that was fine, we'll do that, because it's tough to raise salaries for somebody who rules against you every now and then. It's tough to raise salaries for people who have to make hard decisions and

sometimes let criminals go, Senator Chambers, and for that real technical reason their constitutional rights, and you know it and I know it. Those judges have to make some very, very difficult decisions and, sure, we all have a judge that we probably don't like. Believe it or not, even I have a judge I don't like. But I tell you, he deserves to be paid fairly. And the people of the State of Nebraska owe it to themselves as well as the judges to fix a compensation that's at a fair level. And, yes, there is a salary increase that will end. It's a cost of living basically that's going to end in July and the next pay raise increase won't come in till 1991. Even in the Governor's veto message she talked about the severe need for judges' salaries to be increased. And, in the long term, the real...the real losers are going to be the public, not the judges. The public are going to be the real losers because we're going to lose the quality of people that are going to want to keep on the bench to continue to take the shots that a lot of people take at them and that's exactly what they are is shots. It's real easy to be a Monday morning quarterback and come down and say, I disagree with it. I do it to the Attorney General. Everyone of you have done it to a judge. I've done it too. But it's real tough to sit up there and make those tough decisions, knowing you can't go back out in the press and make those counterarguments. Quite frankly, they are very dedicated people that can't fall further behind. We cut the original bill in half here on the floor and I think that's a fair and reasonable amount to live with if you look at what the judges are going to be raised up to, approximately 83 or \$84,000, for the Nebraska Supreme Court. And, with that, I would...I'm sure there will be some other discussion but when Senator Chambers stands up to harangue the judges, just remember, it's the same verses, it's the same shots that have always occurred and we'll give it the same answer. They're dedicated people in a tough position and even he can't do it with a straight face. And, with that, I would ask you to override LB 42. Thank you.

PR.SIDENT: Thank you. Senator Haberman, please, followed by Senator Chambers and Senator Korshoj.

SENATOR HABERMAN: Mr. President and members of the body, people are saying, oh, there goes Haberman again, he hates judges. He has never supported judges. Well, that's not true. We have exceptional good judges. We have good judges. We have mediocre judges and we have poor judges. But when you increase the salary of a judge it's not increased on the performance, their

schooling, the papers they present or the reform in the system that they come up with. Everyone of them gets the increase, exceptional, good, mediocre or poor. That isn't right. That is not correct. Now I'm going to give you a couple of reasons why that isn't correct and why the judges should not receive an increase in salary. In April 8, 1990 World-Herald, there was a man who has had seven drunken driving convictions over the past 11 years, seven drunken driving convictions. Thank God he didn't kill anybody. But the district judge, the district judge sentenced this man to probation with a permanently suspended driver's license which is usually a felony. This judge took this man who had seven convictions of drunken driving and put him on probation. And you want to give this judge an increase in salary? Is that what you want to do? It's being appealed to the Supreme Court. That's going to cost the taxpayers thousands of dollars. But this judge felt he was going to teach this man a lesson. Davis originally sentenced Floral to five years in prison on a felony count. Monday the judge changed the sentence to probation, ordering that Floral abstain from alcohol and not drive, as conditions of the sentence. Now I ask you, I ask you, in all sincerity and in all honesty, does this type...does this type of action cause for an increase in salary? Now we have heard time and time again, and I have heard it time and time again in my 12 years down here, give us more money and we will give you more quality judges. They have to have more money. We don't have quality people applying for judgeships. I have a newspaper clipping here that's dated March 29th, 1990. Seven attorneys in Lincoln, seven of them are applying for county judgeship. Now if the salary is not adequate, if the salary isn't adequate, and if the hours are too long, and if the pressure is too great, why do seven attorneys wish to become judges?

PRESIDENT: One minute.

SENATOR HABERMAN: I have seen it happen, fellow senators, when an attorney arrives in court 15 minutes late and the judge says, this is my court, you're late, you're case will be next week. And the attorney says, your honor, I'm sorry, I was caught in a traffic jam and couldn't be here on time. Don't tell me your problems, this is my court, not your court, and, on top of that, you appear in my court in a suit and tie. Do not come into my court with a sports shirt. Well, fellow senators, that isn't his court, it's the court of the people. We have the finest court system in the world but you would never know it by some of

the way these judges act when you come into their court. And the attorney will say, well, your honor, my client has traveled 100 miles.

PRESIDENT: Time. Time.

SENATOR HABERMAN: He stayed all night and it has cost him a lot of money. I don't care, you're late, I will see you next week. You come back next week in my court and you be here on time. But what happens, fellow senators, when the judge is 15 or 20 minutes late? Why, that's fine. His honor couldn't be there. His court didn't start on time.

PRESIDENT: Time.

SENATOR HABERMAN: And you know what? Nobody could do anything about it. Therefore, I ask you to sustain the veto on the increase on judges' salary. Thank you, Mr. President.

PRESIDENT: Thank you. Senator Chambers, followed by Senator Warner and Senator Schmit.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, after that preempted strike by Senator Kristensen, there is no way in the world that I could say the kind of things that he has said that I would say about the judges, especially when I couldn't say it more convincingly and persuasively than he, himself, said. I meant when he was talking about their incompetency, their unfairness, etcetera, etcetera, to quote Senator Chizek. But what I am going to talk about is something that the Governor mentioned. But before I get to her veto message, I want to state here that I believe a mistake was made when all of the salaries of all the judges at all levels were tied to those of the Supreme Court. When they were tied to the salary of the Chief Justice, that was a way of insulating the incompetence from any kind of scrutiny because the arguments can be made that Senator Kristensen is making. The Chief Justice and those on the Supreme Court work very hard. They are overworked already. They have got too many cases, trying to do the best they can, and that way we never get a chance to look at that incompetency that, in fact, does exist at lower levels. And, despite what he said about the problems, you never see a rash of resignations from the bench because there is too much work and there is not enough money. They've got a comfortable feather bed to rest in for the rest of their natural lives and,

for some, their lives go on, makes you think that Methuselah might be making a comeback. But Senator Kristensen made what I think is a Freudian slip. He said the present system of salaries is keeping the best people away from the bench, not will keep, but is keeping. We don't have the best people on the bench right now. So if this salary increase went into effect, are we going to get rid of those that are not the best people on the bench? No, they will be there forever but his kind of argument is the only kind available when he cannot deal with the merits. Here is what the Governor stated. There is no question that the judges deserve an increase. This year, however, is the off budget year and should not be used for an item with such a large fiscal impact. Moreover, since I have been Governor, the judges have received a series of salary increases beginning in 1987, the last of which will take effect on July 1, 1990. This is a proposal that needs careful consideration next year during the regular budget cycle. If you add up the amounts that you find in her second paragraph that tells the amount of impact of this bill, you come to a total of \$3,787,638. Over \$3.5 million is the impact of this bill and the salaries that were started in 1987, that series, has not been completed yet. It will be completed in July of this year. As the Governor rightly points out, there can be a consideration of a big ticket item such as this next year and at that time it should be tied into a discussion of judicial redistricting. There should be consideration given to separating or breaking that coupling between the Chief Justice and all the other courts and judges. That was a mistake when it was done. I opposed it then, was trounced, and we all have had to live with it. But I what I hope you will do is consider the fact that as this bill is drafted, it contains several increments and in the same way that before the past series of incremental increases had exhausted itself, here came another series to be superimposed on that one. Again, I think the Governor is right. The next salary increase that the judges will get will be in July of this year and that is pursuant to a series that was set in motion in 1987. I had said that during the consideration of this bill, all the way up to and including Final Reading, I would not do anything to bother it and I did not. The Governor has vetoed it. It's a new game. I have stated my position. I agree with the rationale given by the Governor and I hope that her veto will be upheld in this instance. Remember, the total impact of this bill is \$3,784,638.

PRESIDENT: Thank you. Senator Warner, please, followed by

Senator Schmit.

SENATOR WARNER: Mr. President and members of the Legislature, I haven't been speaking very frequently on the status of things because it's only larger items that at least individually tend to make a difference. And I would merely comment on LB 42, while its impact initially is not so much, nevertheless, if this override is successful and if LB 1059 is successful, there would still remain 2.1 million available in a sense and still be above the statutory 3 percent reserve but it does begin to get us in difficulty in the out years because then we will have a continuation that will be higher than what could be sustained even with 6.5 percent growth during the next biennium. But that's not my...what I wish to express. Senator Chambers, has, in fact, already expressed my concern. I would have no problem at all with \$100,000 salary for Supreme Court judges. I could support that very readily. But the tie, as pointed out by Senator Chambers, that was enacted a few years ago and which, unfortunately, I have to say I voted for, but that tie makes it increasingly difficult for me to support this increase as it is proposed all the way down the line. And, for those reasons, I will not do it. But, secondly, again it has been pointed out in the case of judges it is not like other constitutional officers. Those salaries, as a practical matter, can be adjusted several times in the course of that four-year period because whenever, as you all know, whenever a new judge comes on, that's considered a new term for all and, therefore, effectively triggers the salary adjustment. So it's not the same situation as we face with the other constitutional officers, whether it's a one-shot opportunity. With those comments, I do not intend to support the override.

PRESIDENT: Thank you. Senator Schmit, please, followed by Senator Korshoj.

SENATOR SCHMIT: Mr. President and members, it's always interesting to me about how minds can be changed from one vote to another, how righteous and indignant we can be about a system that was never discussed or debated any time across the board. My friends, Senator Warner, Senator Chambers, spoke about the tie of the Supreme Court judges to the rest of the system. I do not believe there was an amendment proposed by either of those fine legislators to separate one from the other. I ask them now, is one level of justice more important than another? I don't think so. The county court handles the heavy workload in

many of those courts. They handle important cases that come before them. The district court bench is a very heavily worked bench in most areas and if it is not in certain areas, it's not the fault of the judge who happens to be sitting on that bench. Now it's good today to stand here and talk about how important is the Supreme Court bench, and I agree with them, it is important. I would suggest that had someone mentioned sometime along the line that you wanted to separate those it could have been done. I'm going to ask you, where is the real cost of employees in the state system? We know where it is, the University of Nebraska. What have we given those very good employees in the last four years? Add it up. Approximately a 50 percent pay increase in four years. How much underpaid were they, ladies and gentlemen, prior to the time you gave them that raise? I don't think they were underpaid. I never saw any mass exodus from the university system. I never saw any strikers from the university system. Ask about the opportunity to earn wages away from the system. We all know that they have the right, and probably justifiably so, to earn a substantial increase in their wages by working outside of the system, consultants, traveling, musical chair games they work out with other universities. Do the judges have that opportunity? Absolutely not. Their confined to their judicial salary.

PRESIDENT: Senator Schmit, may I interrupt you. (Gavel.) Let's hold it down so we can hear the speakers, please. It's way too noisy. Thank you, Senator Schmit.

SENATOR SCHMIT: Thank you, Mr. President. Senator Chambers says since the Governor vetoed the bill, all commitments are off. I never asked him to tell me how long his commitment was good for because Senator Chambers can always find some system whereby...or some method whereby he can justify that which he does. I fully expect him, probably, if this vote looks to be close, that he will stand up here on the rostrum and glare at someone that he...as he did last Thursday, and terrify some folks into voting for the override. He's very capable of doing it. He's done it before. I just suggest, for example, that you vote your conscience for a change. When we gave away the right to set state employees' salaries, ladies and gentlemen, we turned over the key to the exchequer to someone off the floor of this Legislature and it has been Katie bar the door ever since. But in order to show our senatorial pride, of course, we retain some of those other salary setting procedures. And we can get up here and give indignant speeches about how we're going to

hold down the cost of government by not giving the judges a raise or not giving the Governor a raise, or not giving the Attorney General a raise. All I've got to say is take a look at what you've got. If you don't like it, then perhaps you ought to vote for the raise. Senator Haberman recites all the horrible examples. Let me tell you, Senator Haberman, if they ever paid the legislators...

PRESIDENT: One minute.

SENATOR SCHMIT: ...on the basis of workload, there are some of them in here wouldn't get enough money to buy a ticket home. And if they paid them on the basis of when they come to work and when they leave, there would be some that wouldn't do too well. And if they paid us on the basis of what we accomplish, I probably wouldn't get much either. I really accept that. But the facts are that that's the system. Now if you want to let it be on a low bid basis, you can handle that also. If you think you don't like the justice you have now, try it on a low bid basis. You will find someone take a Supreme Court judge job for 15 grand and we know what will happen as a result of that. If you want that, go ahead. You can justify what you're doing. We have already spent a billion two, billion three, maybe billion five. Who knows? But, by golly, we are going to show fiscal responsibility and we're going to save 3.7 here. Tremendous saving, yes, indeed.

PRESIDENT: Time.

SENATOR SCHMIT: If the system breaks down, ladies and gentlemen, it breaks down. The bill had a lot of votes coming off of Final Reading. It ought to pass over the Governor's veto and I ask you to do so.

PRESIDENT: Thank you. Senator Korshoj, followed by Senator Lynch.

SENATOR KORSHOJ: Mr. President, I will yield my time to Senator Chambers.

PRESIDENT: Okay.

SENATOR CHAMBERS: Thank you, Senator Korshoj. Mr. Chairman and members of the Legislature, remember, I read to you from the Governor's veto and I agree with her. Now I'm sure she's not

going to come in here and glare and frighten anybody. Sometimes they say the first hen that cackles laid the egg. That's the first time I heard that I glared and it's the first time I heard somebody was frightened by it. But we need to stick to the issue here and the issue is the subject that we have been discussing. I have said, from the beginning of time when they tied the Chief Justice and the Supreme Court salary to all the other courts that it was a mistake and I told Chief Justice Krivosha that the day was going to come when he would rue it because it would stop the Supreme Court judges from getting the increases they needed because there are too many senators in other parts of the state who see these judges not doing the work they should, having a lot of idle hours and doing the kind of things that Senator Haberman mentioned. Now if people don't pay attention when I talk and hear the things that I discuss, then I can see why, on a veto override, it's the first time they heard it because it's the first time they listened. Now I didn't talk to Senator Schmit about anything. But we were here, Senator Hefner and I, trying to lower the amount of the salary increase, reduce the percentage increase, and I had indicated to Senator Kristensen and some others that if that were done, then I would not bother the bill the rest of the way across the floor. In other words, that was not a stratagem which would be used later on to try to reduce the amount more and then offer amendments to the bill. It was a situation which I did, as I said that I would do. Imitation is the sincerest form of flattery. Oscar Wilde. The picture of Dorian Gray. But, anyway, this is a situation before us which the Governor has presented so that we have an opportunity to undo that precipitated vote on Final Reading. Three point seven million dollars is a considerable amount and, based on that increase, we need to uphold the Governor's veto and tie this into other amounts that are going to be considered this afternoon. If the Supreme Court can recognize that tying their salaries to all the other court systems was a mistake, then perhaps they will work with us to bring about a change and, in addition to that, they will look at the serious problem of redistricting. As long as the majority of the population is in eastern Nebraska, we're going to have a majority of the judges being put there. The judge who is the Chief Justice has to reallocate those judges and put them where the work is. Those judges who are not doing anything or scarcely anything have an obligation to earn their salaries and they are not. We should not reward lack of work by increases in salary. And until the Supreme Court, notably the Chief Justice, will assume his responsibility to allocate the manpower in the

judicial system, seek the restructuring of the districts that is necessary, then what we're going through today is going to be repeated time after time. But when he sees that we're serious, he will do as Chief Justice, former Chief Justice Krivosha did, he will take this bull by the horns and say that we've got to look at the entire system, not deal with it piecemeal, uncouple the Supreme Court from the rest of the courts and then I think we will see progress and we can place accountability. When that happens, but only when that happens, will we have a higher quality of justice and, Senator Kristensen, we will not continue to keep the best people off the bench, as you so correctly said we're doing right now.

PRESIDENT: Thank you. Senator Lynch, please.

SENATOR LYNCH: Question.

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

ASSISTANT CLERK: 26 ayes, 0 nays to cease debate, Mr. President.

PRESIDENT: Debate has ceased. Senator Kristensen, would you close, please.

SENATOR KRISTENSEN: Thank you, Mr. President. Just to correct a few things before we start to close on this. If you're keeping tally in your sheets about how much money do we have to spend, strike out Senator Chambers' three point some million dollars. Look at fiscal year '90-91, it's \$388,000. And that's what we're really talking about here and that's what your budget increase is going to be. It's minimal this year. Sure, those increases are going to occur in further years, but if we take out and if you would add a lot of these projects into '92-93, they're all going to rise to those high levels. That's not what we're talking about. We could probably walk out of here and I think Senator Haberman, I heard him a little while ago talking about delay because he was mad at lawyers for delaying. If a guy is late for court, he shouldn't be able to control that court, Senator Haberman. There is an obligation to make that system work and that includes being responsible enough to show up on time. And I expect, if I'm late, that I'm going to be punished and I'm not...I'm not going to be treated kindly

because I'm slowing up the works for everybody else in that system. We can vote against this bill and go home and say, boy, you know, I showed those judges today. My goodness, that judge that I don't like or that judge I have heard about plays golf all the time or that judge that leaves at noon, I'm going to show them. I'm going to vote against their pay raise. And you will walk out of here. Has that done anything for the system? Not at all. I think we've got an obligation and that obligation is to the entire state to keep the judiciary at a level that at least provides an incentive for them to continue to work and be dedicated and there are a ton of dedicated judges out there. I can get a horror story from any...any occupation out here, from farmer to plumber to lawyer to lumberman. I can all find a bad example. But you're talking about an institution, you're talking about a group of people. I guess when I came down to deciding whether to talk on this bill and override it because it's a difficult thing to do sometimes, I looked at one key facet of this state. We pay a football coach in excess of a \$100,000 a year. We pay a basketball coach who wins the same number of games \$90,000 a year. But yet you're not going to pay the Chief Justice of the Nebraska Supreme Court anywhere near that? That's outrageous. And I know it's a tough vote and I know we've got a lot of other priorities to do. With that, I think that one of the priorities is to suspend the \$388,000 this year, raise those judicial salaries and do what probably is the best thing we could do for the system of justice at this time. And we're going to have a lot of other issues to talk about in the years to come. They aren't going to go away. With that, I would yield whatever time I have remaining to Senator Lindsay.

PRESIDENT: You have two minutes, Senator Lindsay.

SENATOR LINDSAY: Mr. President and members, Senator Chambers and Senator Haberman have taken some time talking about the quality of judges and I think the only response we're going to have regarding the quality of judges is to again quote Senator Chambers and, yes, flatter his sincerest form of whatever he said one day. Armand Hammer once said, if you pay peanuts, you get monkeys. Let's not get monkeys, let's get good judges. Let's vote for the override.

PRESIDENT: Thank you. The question is, shall the veto on LB 42 be overridden? All in favor of the override vote aye, opposed nay. Senator Kristensen.

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LB 42, 42A, 536

SENATOR KRISTENSEN: Mr. President, I would ask that everybody check in and have a roll call and...

PRESIDENT: All right.

SENATOR KRISTENSEN: ...regular order, please.

PRESIDENT: Did you say a roll call vote?

SENATOR KRISTENSEN: Yes, and regular order, please.

PRESIDENT: Regular order. All right. Senator Bernard-Stevens, will you check in, please. Thanks. Senator Schellpeper. Senator Nelson, would you check in, please. Thanks. Senator Schellpeper is here. And the question, ladies and gentlemen, is shall the veto on LB 42 be overridden? All those in favor vote aye, opposed nay. Roll call vote in regular order. Mr. Clerk, please.

CLERK: (Roll call vote taken. See pages 2039-40 of the Legislative Journal.) 30 ayes, 17 nays, Mr. President.

PRESIDENT: The veto is overridden. Shall we take LB 42A? Senator Kristensen, are you going to handle that?

SENATOR KRISTENSEN: Yes, Mr. President, I will do so. I would urge the body to also override LB 42A. Thank you.

PRESIDENT: Thank you. Any further discussion? If not, the question is, shall the veto on LB 42A be overridden? All in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

CLERK: (Record vote read. See pages 2040-41 of the Legislative Journal.) 36 ayes, 10 nays, Mr. President, on the override of LB 42A.

PRESIDENT: The veto on LB 42A is overridden. LB 536.

CLERK: Mr. President, Senator Ashford would move that LB 536 become law notwithstanding the objections of the Governor.

PRESIDENT: Senator Ashford, please.

SENATOR ASHFORD: Thank you, Mr. President, and members, LB 536

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LB 42, 42A, 163, 163A, 164, 164A, 503
503A, 536, 834, 843, 843A, 1004, 1004A
1031, 1043, 1059, 1059A, 1126, 1170, 1222
1222A

employee is 21, State Patrol is 21, other school employees in Omaha, no age limit and the judges are no age limit. So, therefore, I would ask that you override the veto of 834. It doesn't cost any more money. It doesn't cost any money. It will keep young people in Nebraska. It will want them to help work for the state and do a good job for the state and I ask for your override. Thank you, Mr. President.

SPEAKER BARRETT: Thank you. Discussion? Senator Elmer, followed by Senator Schellpeper.

SENATOR ELMER: Thank you, Mr. Speaker. To be very brief, and Senator Haberman said it and said it well, all private businesses are required to allow their employees to participate when they're 19. I think the state should go at least as low as 20 to give consideration, allow these young people to accumulate a little more for retirement. It's not going to cost the state any money. I would urge your override. Thank you.

SPEAKER BARRETT: Thank you. Senator Schellpeper.

SENATOR SCHELLPEPER: Thank you, Mr. Speaker, and members, I also rise to support this override. We have some very dedicated employees in this state and I think this is just another thing we can do for the employees. So I think Senator Haberman said it all and I would just move for the override.

SPEAKER BARRETT: Thank you. Anything further, Senator Haberman? If not, the question is, shall LB 834 be overridden? All in favor vote aye, opposed nay. Have you all voted? Please record.

CLERK: (Record vote read. See pages 2054-55 of the Legislative Journal.) 31 ayes, 0 nays, Mr. President, on the override of LB 834.

SPEAKER BARRETT: LB 834 is overridden. And let the record show that the Chair is certifying that the Legislature has overridden the following vetoes, notwithstanding the objections of the Governor, LB 834, LB 1043, LB 1222 and LB 1222A, LB 1170, LB 1004 and LB 1004A, LB 843 and LB 843A, LB 1059 and LB 1059A, LB 1126, LB 11...excuse me, LB 536, LB 42 and LB 42A, LB 164 and LB 164A, LB 1031, LB 503, and LB 503A, LB 163 and LB 163A, and LB 834. Anything for the record at all, Mr. Clerk?