

January 13, 1989

LB 30-34, 361, 410-460

CLERK: Mr. President, I do, thank you. I have a reference report referring LBs 374-409, signed by Senator Labedz as Chair of the Reference Committee.

In addition to that, Mr. President, I have received a communication from the Chair of the Reference Committee referring the communication received from the University Board of Regents regarding the University Health Care project. That has been referred to Appropriations Committee for public hearing.

Mr. President, your Committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 30 and recommend that same be placed on Select File; LB 31, LB 32, LB 33 and LB 34, all on Select File, Mr. President, all with E & R amendments attached. (See pages 223-26 of the Legislative Journal.)

Mr. President, new bills. (Read LBs 410-449 by title for the first time as found on pages 226-49 of the Legislative Journal.)

Mr. President, in addition to those items I have notice of hearings from the Agriculture Committee offered by Senator Rod Johnson as Chair; from the Business and Labor Committee offered by Senator Coordsen as Chair; from the General Affairs Committee. That is offered by Senator Smith as Chair. And, Mr. President, a notice of hearing from Senator Warner as Chair of the Appropriations Committee.

SENATOR HANNIBAL: Mr. Clerk.

CLERK: Mr. President, new bills. (Read LBs 450-459 by title for the first time. See pages 236-38 of the Legislative Journal.)

Mr. President, finally, I have an announcement the Urban Affairs Committee has selected Senator Korshoj as Vice-Chair of the committee.

Senator Rod Johnson would like to add his name to LB 361 as co-introducer. (See page 238 of the Legislative Journal.)

(Read LB 460 by title for the first time. See page 238 of the Legislative Journal.)

SPEAKER BARRETT: The amendment is adopted. To the bill, Senator Schmit.

SENATOR SCHMIT: Mr. President and members, I have already explained the bill. I will say it once again; it increases the Cash Fund for the Game and Parks at the various parks across the state from \$1,000 to \$5,000 and it's necessary because of the increased use of the state park system, particularly those around Omaha. And I move the advancement of the bill.

SPEAKER BARRETT: Thank you. Is there discussion on the motion to advance LB 185? If not, the question is then before the body the advancement of LB 185 to E & R Initial. All in favor vote aye, opposed nay. Record, please.

CLERK: 30 ayes, 0 nays, Mr. President, on the advancement of 185.

SPEAKER BARRETT: LB 185 is advanced. Senator Dierks, for what purpose do you rise?

SENATOR DIERKS: A point of personal privilege, sir.

SPEAKER BARRETT: State your point.

SENATOR DIERKS: I would just like to invite the body to come to Elgin for their centennial. I didn't do that in the resolution this morning. You're all invited up there and I'm not sure what day the parade is but the festivities are between the 28th of June and the 2nd of July. And there will be a parade and I will see to it that there is a car for you if you would like to ride in that parade. I'm not sure of the day of the parade. I suspect it's on Saturday, the 1st of July, but I don't know that, but we'll get that information to you. Thank you.

SPEAKER BARRETT: Thank you. And it occurs to the Chair that perhaps that announcement could have been made in the form of an amendment to your resolution. Thank you, Senator Dierks. Mr. Clerk, anything for the record?

CLERK: Mr. President, your Committee on Judiciary, whose Chair is Senator Chizek, reports LB 443 to General File; LB 556, General File with amendments. Those are both signed by Senator Chizek. Urban Affairs, whose Chair is Senator Hartnett, reports

PRESIDENT: LB 416 is advanced. LB 443.

CLERK: Mr. President, 443 was a bill that was introduced by Senators Robak, Kristensen and Pirsch. (Title read.) The bill was introduced on January 13, Mr. President, referred to Judiciary Committee. The bill was advanced to General File. I have no committee amendments, Mr. President.

PRESIDENT: Senator Robak, are you going to work again?

SENATOR ROBAK: I think so.

PRESIDENT: Okay.

SENATOR ROBAK: Mr. President and members of the Legislature, LB 443 changes the corroboration rule. Corroboration is a judicially created evidentiary rule that establishes special requirements for sexual assault prosecutions. Specifically, corroboration is additional testimony of evidence beyond the testimony of a victim. Without corroboration, a conviction for a sexual assault cannot be upheld in Nebraska. LB 443 eliminates the corroboration rule for persons 15 years of age or older. Nebraska is the only state in the Union that has retained the corroboration rule for all cases of sexual assault. Corroboration is practically required in six states since they permit third party complaints as testimony. The Pages have passed out a fact sheet outlining the corroboration rules in other states. Corroboration is not required for any other criminal testimony in Nebraska. For example, if a man shoots a gun at me and, hopefully, he is a bad enough shot to miss me entirely, he can be convicted of attempted murder on my eyewitness testimony alone. However, if that same man rapes me, the courts require additional evidence beyond my eyewitness testimony to obtain a conviction. Practically, the corroboration rule has a low threshold of compliance. Mere reporting the assault to offend by the victim satisfies the corroboration rules. The continued existence of the corroboration rule, therefore, does little to protect an innocent defendant while perpetuating an assaulting stereotype of women victims of sexual assault. Because children are not always reliable witnesses, LB 443 maintains the corroboration rule for children. The age of 15 was selected because Nebraska statutes already define children as under the age of 15 for the crime of felony sexual contact of a child. The Pages have also handed out a one-page fact sheet on the history and use of the

corroboration rule. Representatives of the County Attorneys Association, the Defense Attorneys Association and the Nebraska Domestic Violence of Sexual Assault Coalition testified in support of this bill. I ask for your support in repealing this archaic and insulting judicial rule and I will yield the remainder of my time to Senator Kristensen, the co-sponsor of this bill, along with Senator Pirsch.

PRESIDENT: Thank you. You have seven minutes, Senator Kristensen.

SENATOR KRISTENSEN: Thank you, Mr. President, members of the body, Senator Robak has done a very good job of giving you the basics of what the corroboration rule is in this state and I want to go on and add just a little to that. In Nebraska, if we have a testimony of a victim of a sexual assault case, right now for the perpetrator to be convicted, the testimony of that victim must be corroborated. The word corroboration is not one that we use in everyday language and so let me try to define it for you a little bit. Corroboration is evidence that adds some greater credence or reliability to the victim's own testimony. An example of that may be, as Senator Robak stated, if a sexual assault occurs and you promptly go and report it, meaning that if something terrible would happen to you, you would complain about it or report it to someone or you would seek medical attention or you'd do a variety of things with it. Other corroborative evidence examples may be scratches, may be torn clothes, it could be medical evidence and so on. What really the problem has become is that this is a rule that our courts have created and say a variety of things to us and it was created back in the 1800s when really we didn't have a lot of the protections in law that we have today. Part of the problem in this state also is that we can convict people with someone's testimony on a variety of crimes. One of them is first degree murder, can be convicted without corroboration, arson, burglary, can all be sustained convictions for those things. What the court really does is they make a predetermination that a victim of sexual assault needs to have more credibility to their story. Bottom line, sexual assault victims are more likely to lie about what happened to them. We don't think that's true and I think most of you don't believe that's true as well. Another problem is that they are saying predeterminedwise that a class of victims needs to have more credibility than anybody else, than any other witness. Any other witness doesn't need to have corroboration to testify. They can testify as to what they saw,

what they heard or the type of evidence that they had, not so with the sexual assault victim. Nebraska law has some other things that we've changed when you all did the change in the criminal code and some of our evidentiary standards a few years ago. We have a statute that says every person is competent to testify as a witness. Corroboration contradicts that and this is something we need to get rid of. If we're going to believe in the fact that people are competent to testify, we shouldn't have to have them jump this other hurdle. All the other constitutional guarantees are still here, the right to cross examine a witness, the right to bring in other people, the right to say to the jury, it's their word against my defendant's word and I believe there is some reasonable doubt there. This doesn't change the standard to convict somebody. All this does is remove an impediment for those people to testify. I'm sure that a question is going to arise, and as it did in committee, about why do we choose the age of 15 and above to remove corroboration. Why didn't we just take it off of everybody? And, basically, what it is, is it's an agreement. We went to the criminal defense lawyers, we went to a lot of other people and said, what can we do with corroboration? We're the last state in the Union, the last state to require corroboration for every sexual assault crime. And it is an embarrassment that we're the last state to repeal this. The basic agreement is that since there was such a large fight last year on LB 90 with the videotape depositions and although Senator Robak and I were not present for that discussion, that that was a real problem, that we fought those wars and had those discussions. We don't want to get into, with this bill, the issue of do children make up stories, do children fabricate it, are they easily manipulated and so on. Also the other reason for 15, in this state if you are age 14 or younger and someone touches you and there is a whole variety of definitions, but basically for this example, in the private parts or other areas defined by statute, that is a felony. The mere touching of it can become a felony. People tend to draw those lines as that is a natural thing, that's very serious for a felony and we're going to leave the corroboration requirement on for victims under the age of 15 and, for the record, I would assume that age 15 means at the time of the occurrence happened and not the time that they testify. I would urge that this motion under this bill be advanced on to the next round. Thank you.

PRESIDENT: Thank you. Senator Wesely, please. Senator Bernard-Stevens. Oh, excuse me. Senator, we have a motion on

the desk.

CLERK: Mr. President, Senators Chambers and Wesely would move to amend the bill. (Read amendment as found on page 744 of the Legislative Journal.)

PRESIDENT: Senator Chambers, please.

SENATOR CHAMBERS: Yes. Mr. Chairman and members of the Legislature, before I proceed I would like to ask Senator Kristensen a question.

PRESIDENT: Senator Kristensen, please.

SENATOR CHAMBERS: Senator Kristensen, would you name me two other crimes against children in this state, and by a child I meant the same ones that would be considered children under this bill that require corroboration.

SENATOR KRISTENSEN: There isn't any other requirements. If you're talking about incest, incest is not required for corroboration in this state and, other than incest, everything else requires corroboration.

SENATOR CHAMBERS: So if a child accuses somebody of having struck him or her, that requires corroboration.

SENATOR KRISTENSEN: No.

SENATOR CHAMBERS: Isn't that an assault against a child, not sexual.

SENATOR KRISTENSEN: No, it's not sexual assault, right. Any other crime doesn't require corroboration.

SENATOR CHAMBERS: So if, before the bill, we had set up all sexual assault victims as a class that are not believed, we're now creating a class of children who are the only ones who are not believed when it comes to sexual assault, but not other crimes against them.

SENATOR KRISTENSEN: Do you have a question or...

SENATOR CHAMBERS: Yes, that's a question.

SENATOR KRISTENSEN: That was more of a statement. I didn't...

SENATOR CHAMBERS: That is the question. All right, let me raise my voice at the end of it.

SENATOR KRISTENSEN: All right.

SENATOR CHAMBERS: If this amendment that Senator Wesely and I are offering is not adopted, then anybody below the age of 15 who is alleging sexual assault must have corroboration or no conviction can be obtained against the alleged perpetrator. Is that correct?

SENATOR KRISTENSEN: Yes, it keeps existing law.

SENATOR CHAMBERS: What...are there other crimes in this state that would be committed against a person 14-years-old and under which would require corroboration before there could be a conviction?

SENATOR KRISTENSEN: No.

SENATOR CHAMBERS: Thank you. Members of the Legislature, the very arguments that Senator Kristensen and Senator Robak gave for doing away with corroboration with reference to adults applies even more in the case of children. If it is so easy to establish corroboration even where adults are concerned, mentioning the things that he talked about, scratches or a torn garment or something like that, it's easy for an adult to establish that corroboration than sometimes for a child. So why do away with it? Because it is perceived to be an insulting kind of thing in the law, created by judges, to apply against this one class of victims. So now we're creating a subclass and setting them aside not through some fiat of a judge or a court but by the deliberate act of the Legislature we're creating a subclass which becomes a pool of victims and if a person who attacks one of these children is smart enough to make sure that corroboration is not there, then that child cannot go to court. The perpetrator is immune. This bill creates immunity for those who would commit crimes of this variety against children. I don't care about any agreements with criminal lawyers; I don't care about agreements with prosecutors or any of those people. We have an obligation in this Legislature to protect our children. It is one thing for something to be in existence in this state because of a legislative oversight that we were not

as attentive as we needed to be, therefore, we failed to enact legislation that would protect the children. But when it comes to our attention that such a deficiency exists in the law, we try to rectify it. We're doing the opposite thing by this bill in its present form. We are saying in the legislation that you pedophiles, you sadists, whatever we're going to call you, if you are smart enough to put a child 14 years old and younger into this situation, you're immune from prosecution, and that is a terrible thing for this Legislature to do. Rather than set up that class which has no voice, which has no person of their age on the floor of this Legislature to speak for them to plead with us, to appeal to us, to cry to us, to show us their wounds and their injuries and the brutality inflicted on them regularly, rather than create that class and put an additional burden on them by this legislation, I would seek to kill this bill. And let those adults stay in that class of those who need corroboration so that they then could be brought around to say that the same consideration I want for myself as an adult, I want for these children. That is all that my amendment would do. As far as children being unreliable witnesses, adults have demonstrated that they are unreliable and Oliver North who stood up in front of a congressional committee and raised his hand and made the hearts, Senator Langford, of every dyed-in-the-wool, right-wing conservative proud, swore to tell the truth and now, from what I hear on the radio today, he lied. He is now saying that Reagan is involved in all this, but that's not what he said under oath. So how much more unreliable can you be than that? A child is not going to testify before everybody in the world. But we have concrete examples of adults lying, so we cannot use what we would call the basic unreliability of a child as a witness as a justification for setting them aside as a class to be sexually assaulted without recourse unless the child can contrive to overcome the hurdle of corroboration. There is no corroboration required in any other crime against a child. That is the argument that Senator Kristensen gave and he is correct in the conclusion that he drew from that. If we're not requiring corroboration in other crimes, then don't require it in the crime of sexual assault, but his proviso that he doesn't agree with too strongly, I might add, is that that will apply only to adults. When we come to children we will not require corroboration in other crimes besides those of a sexual nature and then we brand them legislatively as a group of lying, unreliable little suckers who ought to be victimized by those who sexually assault children. I hope that we will adopt this amendment, then I can easily support the bill. The final



comment I'll make in this opening, remember the requirement for corroboration in this state that we have now was not something that this Legislature did. For once, the Legislature is not the culprit, the judges are and we're going to show those judges that the Legislature is more enlightened than they have been down through the years, and I applaud the Legislature for that. (Applause.) But our responsibility does not end there. The legislation that we're enacting to correct one wrong should not, by its terms, create a greater wrong to a more victimized class, to a more helpless class, to the class that at other times we always say represent our future, represent our immortality. The amendment is very reasonable and I hope that you will vote to adopt it.

PRESIDENT: Thank you. Senator Wesely is next, but, Senator, if I may introduce a guest, please, of Senator Scott Moore. Under the south balcony, we have Ron Oswald, Superintendent of Centennial High School and Mr. Dave Hirschfeld of Waco, Nebraska. Would you gentlemen please stand and be recognized. Thank you for visiting us this morning. Senator Wesely, did you wish to speak about the Chambers amendment? Okay, followed by Senator Bernard-Stevens.

SENATOR WESELY: Thank you, Mr. President and members. I did co-sign the amendment with Senator Chambers and am pleased to do so. He is absolutely right in everything he just went through for us in terms of why we need to adopt this amendment. Now, first, let me commend both Senator Robak and Senator Kristensen; their bringing in this piece of legislation is a very good step forward to deal with this corroboration question and I appreciate their initiative in this area. I am also pleased that the defense attorneys have agreed at least to some change in this area, but I am not party to that agreement and I hope that most of the members of this Legislature feel the same way. I don't know who exactly agreed to this 15-year and above cutoff, but it certainly doesn't involve me and I don't think it involves the majority of this Legislature and if Senator Robak and Senator Kristensen need to oppose this amendment because of that agreement, I can understand that. But for the rest of us, for the rest of us, let's think about what Senator Chambers had to say. We now feel that those that are 15 and older are going to be able to, on a sexual assault case, proceed without corroboration, excellent change. But we have to recognize how serious the problem has become for our children under the sexual assault laws of this state and how difficult it has been in many

cases to see justice prevail in those cases. Now we did take some steps last year dealing with videotape testimony in depositions and we did see that some adjustment was made, a very difficult change, a very argued change, but nevertheless, we still have a serious problem. We still have many instances of young children that are sexually assaulted and not able to provide the corroboration necessary to bring conviction to these individuals and I think that's wrong. And now to take this step, as Senator Chambers says, and says for those that are older and provide for them the opportunity to proceed without corroboration but not for our younger members of our society, seems to me only to reemphasize how important it is to make the change that Senator Chambers and I are offering to you today. The situation about sexual assaults on our children and child abuse of our children is such that, a serious one had gotten to a point where we need even greater attention paid to it that I've also introduced another bill, LB 721, to remove from the county attorneys and give to the Attorney General the power to act in these cases. We're finding too often that the county attorneys of this state have not proceeded in protecting our children from different child abuse and sexual assault cases, that it is a difficult area, a very difficult one to bring convictions, and so we aren't seeing progress being made to the degree it should be to protect our children from these sorts of assaults. I think, clearly, a change is needed in terms of that area of who is responsible, moving forward, and part of the problem, part of the reason we're seeing this difficulty is this very statute we're discussing today, the need for corroboration and the difficulty it brings in bringing a successful prosecution to these individuals. I can see absolutely no reason, in my mind, why we should not adopt this amendment, proceed with the bill, tell the defense attorneys, yes, there was some agreement that you reached with some members and they valiantly fought the amendment, I'm sure they will and tell you that we can't do it this year but, for the rest of us that see this case clearly, I hope we will understand that we need to proceed to protect all our citizens, all of our citizens whether they are 14 or they are 10 or they are 40 or 50 years old. In any event, if they are sexually assaulted, we should give them the opportunity to bring justice to bear on those people that assaulted them, that we should not say that for a 10-year-old child that is sexually assaulted, that they have to meet a higher standard to prove the guilt of their attacker versus a 30 or 40-year-old. I just can't even understand that, so I would ask adoption of this amendment.

SPEAKER BARRETT PRESIDING

SPEAKER BARRETT: Thank you. Senator Bernard-Stevens, on the Chambers amendment, followed by Senator Kristensen.

SENATOR BERNARD-STEVENS: Thank you, Mr. President, members of the body, I don't want to take a lot of time because of the hour this morning. I'd like to see us get to a vote on this amendment before the morning gets away from us. I rise in support of the Chambers amendment and I'd like to ask Senator Kristensen a question, if he'd so yield to one.

SPEAKER BARRETT: Senator Kristensen.

SENATOR KRISTENSEN: Sure.

SENATOR BERNARD-STEVENS: Senator Kristensen, you alluded to earlier that there is an agreement reached among competing groups which set the age at 15. Would you, briefly, and again, if I could ask briefly, inform the body, who is it that made this agreement and, again, what were they afraid of happening if they didn't set some type of limitation such as 15?

SENATOR KRISTENSEN: Well, this is not only just an agreement, but it also makes some sense to do it this way. What the fear is, is that if you have someone who is age 14 in this state if they are perpetrated upon and someone comes up and touched their breasts, the mere touching, if you can prove some gratification, is a felony in this state. There are people and there are people in this body, and I assume Senator Chambers was very uncomfortable when that law was passed and probably was one of the people that stood up and said this is a terrible thing, and now he is coming back and arguing the other way. But the agreement really is that we don't want to sit in here and have this discussion about, are children reliable or not? That's not what this is about. This isn't, as Senator Wesely was talking about, placing a higher burden of proof. The burden of proof is still the same. You've got to prove the defendant beyond a reasonable doubt. And I guess I'm somewhat offended when he says that county attorneys don't protect children. You know, they've also got an obligation to make sure that the rights of the defendant aren't trampled as well. What this amendment basically does is say, look, in the past we've made some determinations of what was a difficult issue in this body and I

think LB 90 last year, and I don't have any problems...if you want to go back down to...what is it, age 12? And we say 11 and below, it's okay to use videotape depositions, we're making some special exceptions for those as well. You know, I don't have a problem if you want to move that age down to there, but the real concern was we don't want to enter into this blood bath again of, are children reliable or are they not? And it's not a new burden and it's not placing a higher standard and it isn't placing a barrier in the law for children to testify. That law is still where it is and just because we remove it for adults doesn't make it higher for children.

SENATOR BERNARD-STEVENS: Thank you, Senator Kristensen. One of the points that I wanted to make, anticipating the senator's response, is that many people were afraid that we'd get into a blood bath as we did last year, and I question to use the term blood bath, on LB 90 on the videotaping. And what I would hope the body would keep in mind is that we must not ever be afraid of major discussion and blood letting if we wish on certain issues just because we want to try to get something through. And I suspect what is happening here is people will be saying, we'd like to get this bill passed, what obstacles could come in our way, and somebody throws out, well, LB 90 came up last year and it almost got defeated by Senator Hall and others. We had some problems with that. We certainly don't want that to happen so let's try to eliminate that whole section so we can get this bill through. I disagree with that type of logic. With that type of logic, anything controversial, we want to exclude that so we don't get anything done. The most important things sometimes done are the most controversial things and we must not, as a body, be afraid of getting into those areas and we must not be afraid, as a body, to say, yes, there could be some serious discussion, yes, it could hold things up, but this is the crux of the matter. This is the real meat of the coconut, if you wish. We need to get into these areas and I would support the Chambers amendment because it doesn't make any sense to put a different type of quality on children than we have on adults. We'll do it the whole way and if we don't need corroborating evidence on the hand, then we certainly don't need it on the other and I would hate that we would make an exception for children because we are afraid to do battle in an area that was done last year. And may I point out that we went through that last year, we made it through that last year and I think we can move on through that with the experience...

SPEAKER BARRETT: One minute.

SENATOR BERNARD-STEVENS: ...that we had last year in order to completely and support the amendment. Thank you, Mr. President.

SPEAKER BARRETT: Thank you. Senator Kristensen, please.

SENATOR KRISTENSEN: Well, in response to Senator Bernard-Stevens. It seems to me last year you made some of those decisions that there should be some breaks on ages in what we do in regards to children and I would renew that the bill, as it is, there has not been a public hearing on the Chambers amendment and that deserves some long and hard discussion in committee and let them sort out where the age ought to be and, with that, I would urge that the amendment be defeated.

SPEAKER BARRETT: Thank you. There are no other lights on. Senator Chambers, would you like to close?

SENATOR CHAMBERS: Yes. Mr. Chairman, this issue of the children was discussed in committee at the public hearing and during the Executive Session and if you look at the committee report, I'm listed as not voting because I did not want to have a no vote against the bill, but I couldn't vote for it with this provision against children. So I told the members of the committee that I would not try to hinder the bill coming out here, but that I would offer this amendment, so it doesn't catch anybody by surprise. And if you look at the letter that I handed around, I had asked Miss Kathy Moore to contact some of these groups and see what their position was with reference to singling out the children and she contacted the National Conference of State Legislatures who, in turn, contacted the American Bar Association, National Legal Resource Center for Child Advocacy and Protection. The statement there was that Nebraska would be the only state with this requirement for children. So they want to move from being the only state that requires corroboration, period, to being the only state that does this to its children. I don't think Nebraskans want that. I don't think that's the direction that the Legislature is going to go. And I do have confidence that if this bill is going to be voted up, then this amendment will be adopted first because if a child cannot even get into court, you haven't just placed a higher standard of proof, you have made it impossible for the child to even get a hearing. Where corroboration is required by law, if there is no corroboration, there cannot be a conviction,

there cannot be a conviction. If a child is put into a position to be sexually abused, as defined in the statute, and cannot provide corroboration of that abuse, no conviction can be obtained under the laws of this state against the perpetrator. So what the law would say, if you don't adopt this amendment, is that any child 14 and under who is abused and cannot provide corroboration has no recourse in the courts of this state. And I hope you will disregard all the other agreements and let those people who have agreed, argue between and among themselves, but look at what it is we're doing with this law and vote for this amendment which would remove the language that would make our children a vulnerable class and would immunize those who would attack them and be smart enough, cagey enough, cunning enough, foresightful enough to create a set of circumstances where corroboration will not be there. Then they can ply their trade with immunity.

SPEAKER BARRETT: Thank you, and the question before the body is the adoption of the Chambers amendment to LB 443. All in favor vote aye, opposed nay. Record, Mr. Clerk.

CLERK: 27 ayes, 2 nays, Mr. President, on adoption of Senators Chambers' and Wesely's amendment.

SPEAKER BARRETT: The amendment is adopted. Anything further?

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

SPEAKER BARRETT: Senator Robak or Senator Kristensen, would you care to discuss the bill further? Senator Kristensen.

SENATOR KRISTENSEN: Thank you, Mr. President. I was assuming that the body was going to do what they did to Senator Crosby, and right before you record that vote all those were going to turn from green to red but, with that not happening, I would urge that this bill be moved along. I don't enjoy the amendment. I don't think it served a purpose but that is not the issue before us. Right now, the corroboration rule is an embarrassment to this state and it is an embarrassment to a whole class of people and most of them are women who have been told that they don't have any credibility because they are a victim of sexual assault and in any other crime they have that and, based upon that, I think we should advance this on to E & R Initial.

February 14, 1989 LB 421, 443, 714

SPEAKER BARRETT: Thank you. There are no other lights on. Senator Kristensen, the Chair assumes that that was your closing. Thank you. The question before the body is the advancement of LB 443 to E & R Initial. All in favor vote aye, opposed nay. Please record.

CLERK: 33 ayes, 0 nays, Mr. President, on the advancement of LB 443.

SPEAKER BARRETT: LB 443 is advanced. Messages on the President's desk, Mr. Clerk.

CLERK: Mr. President, Retirement Systems Committee offers notice of hearing, signed by Senator Haberman as Chair.

Senator Hartnett would like to print amendments to LB 421 and Senator Robak would like to add her name to LB 714. And, Mr. President, Senator Chambers would like to add his name to LB 443 as co-introducer. (See page 744 of the Legislative Journal.) That is all that I have, Mr. President.

SPEAKER BARRETT: Thank you. Senator Abboud, would you care to dismiss us?

SENATOR ABOUD: Yes, Mr. President. I move we adjourn until February 15 at 9:00 a.m.

SPEAKER BARRETT: Thank you. You've heard the motion to adjourn until tomorrow morning at nine o'clock. Those in favor say aye. Opposed no. The ayes have it, motion carried, we are adjourned.

Proofed by: Arleen McCrory  
Arleen McCrory

February 15, 1989      LB 57, 58, 70, 74, 94, 97, 115  
116, 126, 133, 142, 156, 175A, 177A  
208, 229, 230, 233, 251, 255, 256  
261A, 263, 267, 273, 281, 284A, 295  
338, 378, 391, 398, 416, 443, 458  
459, 499, 502

SPEAKER BARRETT PRESIDING

SPEAKER BARRETT:      Welcome to the George W. Norris Legislative Chamber. Please rise for the opening prayer. Our Chaplain for the day is Father Daniel Sieker, of Blessed Sacrament in Lincoln. Father Sieker.

FATHER SIEKER:      (Prayer offered.)

SPEAKER BARRETT:      Thank you, Father Sieker. Please come back again. Roll call.

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

SPEAKER BARRETT:      Thank you. Corrections to the Journal.

CLERK:      I have no corrections, Mr. President.

SPEAKER BARRETT:      Any reports, messages, or announcements?

CLERK:      Mr. President, your Committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 502 and recommend that same be placed on Select File, LB 281 Select File, LB 416 Select File, LB 443 Select File, those signed by Senator Lindsay as Chair. Mr. President, your Committee on Enrollment and Review reports LB 74 as correctly engrossed; LB 116, LB 175A, LB 177A, LB 208, LB 261A, LB 263, LB 267, LB 273, LB 284A, LB 338, LB 378, LB 391, LB 398, LB 458, LB 459, and LB 499, all reported correctly engrossed, all signed by Senator Lindsay. (See pages 746-47 of the Legislative Journal.)

Mr. President, a communication from the Governor to the Clerk. (Read. Re: LB 57, LB 94, LB 97, LB 126, LB 133, LB 229, LB 230, LB 233, LB 251, LB 255, LB 295, LB 58, LB 70, LB 115, LB 142, LB 156, LB 256. See page 748 of the Legislative Journal.)



February 21, 1989      LB 443, 516

me to report the same back to the Legislature with the recommendation it be advanced to General File with amendments attached. (See page 815 of the Legislative Journal.)

Mr. President, Senator Wesely would like to add his name to LB 516 as co-introducer and to LB 443 as co-introducer. (See page 816 of the Legislative Journal.)

Mr. President, Natural Resources Committee will meet in Executive Session at one o'clock in Room 1520, Natural Resources, one o'clock, Room 1520. That is all that I have, Mr. President.

PRESIDENT: Ladies and gentlemen, I'd like to introduce a guest that we have at the rear of the Chamber, former Senator Tommy Fitzgerald. Will you wave your hand, Tommy, so we can welcome you. It's good to see you, Tommy, thanks for visiting us. Senator Emil Beyer, would you like to adjourn us until about ten o'clock tomorrow, about nine o'clock tomorrow.

SENATOR BEYER: Mr. Speaker and members, I move that we adjourn until nine o'clock on Wednesday morning.

PRESIDENT: You've heard the motion. All in favor say aye. All in favor say aye. Thank you. Opposed nay. Thank you, and we are adjourned, but thank you for your patience this morning with the machine. I'm sure it will be fixed tomorrow, won't it, Mr. Clerk? We are adjourned.

Proofed by:

*LaVera Benischek*  
LaVera Benischek

March 2, 1989

LB 140, 443

for. I think that emotion has taken over and we have too quickly endorsed this idea that is in LB 140 without completely examining it and, at this point in time, because of the issues that have been raised, both by Senator Warner and others, I'm not ready to support LB 140 and advancing it to E & R Final. I'm going to vote no on this measure and I'm sorry that Senator Chizek is not here today to fight for his bill because I think the principle and the idea behind it is probably a good one to promote education, but the specifics that are entailed in LB 140 are big policy issues and without a better understanding, without more discussion...

PRESIDENT: One minute.

SENATOR HALL: ...and without, in my opinion, the conscious vote of the body to say, look, we want that base to erode, I don't think that LB 140 is ready to be voted on on Final Reading. And for that purpose, Mr. President, I'm going to oppose this bill at this time. Thank you.

PRESIDENT: Thank you. Mr. Clerk.

CLERK: Mr. President, I have a motion from Senator Moore to indefinitely postpone LB 140. I assume Senator Conway, as a co-introducer, has the ability to lay the bill over, Mr. President.

PRESIDENT: Senator Conway, did you wish to respond to the friendly kill motion?

SENATOR CONWAY: I think since the kill motion is so friendly and the chief introducer, who I know feels very strong about this bill and should have the opportunity to stand here and defend himself is not here, that I think the friendly kill is in order and I think I will not take it up.

PRESIDENT: Okay, very good. We'll move on to LB 443.

CLERK: Mr. President, 443 is on Select File. Senator Moore, I do have E & R amendments, Senator.

PRESIDENT: Senator Moore.

SENATOR MOORE: I move we adopt the E & R amendments to LB 443.

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

CLERK: Mr. Clerk, Senators Chambers and Kristensen would move to amend the bill. (Amendment is on page 952 of the Legislative Journal.)

PRESIDENT: Senator Chambers, please.

SENATOR CHAMBERS: Yes, Mr. Chairman and members of the Legislature, this amendment would do two things. The first is to add the emergency clause. The second would make statutory reference that is necessary to do away with corroboration in all instances of sexual assault. The bill as drafted mentions Sections 28-319, 28-320. Senator Hall said that I'm getting old because I'm puffing. If Senator Hall had run as far as I have run, as fast as I have run it, he would be prostrate on the floor. We have to make another reference to another section of statute and that would be 28-320.01, I believe it is, so that we cover all the sexual assault instances that can occur. Since the statute does make reference to, I meant the bill does make reference to the sections of statute that describe sexual assaults, if we fail to include this one, there could be an argument made, as has been pointed out by a very perceptive committee employee, I meant senator's assistant, the argument could be made that corroboration would still be required where sexual contact is involved if the one against whom the offense is perpetrated is 15 years old or under. So all this amendment does, all of that having been said, is to add the emergency clause to the bill and to include a specific section of statute that would also be covered by the provisions of the bill so that a corroboration is not needed in that instance as the bill makes it not needed in the other two. So if you have any questions, I'm prepared to answer them and I think the only ones who have listened attentively have been Senators Robak and Kristensen and, as I look at Senator Kristensen, I think he is at least standing up but I don't know if he has listened too attentively, but anyway I will answer any questions you have and I hope you will vote to adopt the amendment.

PRESIDENT: Senator Kristensen, please.

SENATOR KRISTENSEN: Thank you, Mr. President. I echo Senator Chambers' words. What this bill was drafted for, in fact, Senator Robak's assistant Deb Thomas found this problem with the

law and deserves some credit for finding this. The bill was drafted basically to include only first degree and sexual degree...or first and second degree sexual assault, if we don't put this amendment on here, a sexual assault of a child will be left out and corroboration will still be required for the crime of sexual contact onto a child. I don't believe that is the intent of this body and in order to clear that up we have offered this amendment and I would urge its adoption and it is consistent with what you voted for the other day. Thank you.

PRESIDENT: Thank you. Senator Hall, please, on the amendment.

SENATOR HALL: Senator Chambers, where...is the amendment printed?

SENATOR CHAMBERS: No, it isn't, but I can tell you what it says.

SENATOR HALL: Okay.

SENATOR CHAMBERS: If you will turn to the bill...oh, Senator Robak has given you a copy of the amendment. The bill is just about one line that says corroboration will not be...testimony related to these kinds of sexual assaults, will not require corroboration. There are two sections of statute mentioned in the bill. There is a third one that needs to be mentioned so that in all instances of sexual assault, as laid out in the statutes, will be covered by the noncorroboration language in the bill.

SENATOR HALL: And then you also have the E clause?

SENATOR CHAMBERS: Yes, we do.

SENATOR HALL: Thank you.

SENATOR CHAMBERS: Thank you.

PRESIDENT: Thank you. Senator Chambers, would you like to close on your amendment? Okay, the question is the adoption of the Chambers amendment. All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

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

March 2, 1989

LB 187, 443

PRESIDENT: The Chambers amendment is adopted. Do you have anything else on it, Mr. Clerk?

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

PRESIDENT: Senator Moore, would you like to...

SENATOR MOORE: I would move for the advancement of LB 443.

PRESIDENT: You've heard the motion. All in favor say aye. Opposed nay. It is advanced. LB 187.

CLERK: Senator, first order on 187 are E & R amendments.

PRESIDENT: Senator Moore, please.

SENATOR MOORE: Move we adopt the E & R amendments to LB 187.

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

CLERK: Mr. President, I have an amendment from Senator Haberman, but I have a note that Senator Haberman wishes to withdraw those.

PRESIDENT: All right, we'll withdraw it.

CLERK: Mr. President, the next amendment I have is by Senator Lynch. Senator, I have AM516 in front of me. (Amendment appears on pages 952-53 of the Legislative Journal.)

PRESIDENT: Senator Lynch, please.

SENATOR LYNCH: Yes, Mr. President and members, being passed out now is a copy of this amendment. What happened was that it was my understanding that 187 did include prisoners. However, the bill, as it was introduced and brought to my attention, was that a criminal statute addressing the maintenance and upkeep of prisoners needed to be amended into the bill to make it clear that, in fact, prisoners were included in 187, and will include prisoners in the medically indigent program as well as the original intention of the bill. It allows the prisoners that meet eligibility criteria in the bill, not anybody else, just those who meet eligibility criteria. In other words, if they've

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LB 78, 129A, 131, 183, 183A, 245, 250  
250A, 340, 346A, 397, 408, 443, 447A  
499, 509, 533, 538, 576  
LR 43

advance the bill.

SPEAKER BARRETT: The motion fails. Messages on the President's desk.

CLERK: Mr. President, your Committee on Enrollment and Review reports LB 183 to Select File; LB 183A to Select File; LB 250, Select File; LB 250A, LB 340, all to Select File, all signed by Senator Lindsay as Chair of the E & R Committee. (See page 975 of the Legislative Journal.)

Transportation Committee reports LB 533 to General File and LB 245 indefinitely postponed. Those are signed by Senator Lamb. Transportation also reports LB 509 to General File; LB 78, General File with amendments; LB 131, General File with amendments; LB 538 indefinitely postponed and LB 576 indefinitely postponed, and also signed by Senator Lamb. (See pages 975-80 of the Legislative Journal.)

Senator Moore has amendments to be printed to LB 499. (See pages 980-82 of the Legislative Journal.)

Enrollment and Review reports LB 408 correctly engrossed and LB 443 correctly engrossed. Those are signed by Senator Lindsay. (See page 982 of the Legislative Journal.)

Mr. President, an announcement from Senator Smith that the General Affairs Committee will not meet in Exec Session at one o'clock. General Affairs will not have their regularly scheduled Exec Session.

Mr. President, a new resolution offered by Senator Coordsen and other members. (Briefly described LR 43 as found on pages 982-83 of the Legislative Journal.)

Mr. President, new A bills. (Read titles for the first time to LB 346A, LB 129A, LB 447A. See page 983 of the Legislative Journal.) That's all that I have, Mr. President.

SPEAKER BARRETT: Thank you. Senator Moore.

SENATOR MOORE: Mr. Speaker, I move we adjourn and, providing we can get here, I...we adjourn until Monday morning, March 6th.

SPEAKER BARRETT: Thank you. You have heard the motion to

in years to come, instead of us using our own hidden language in here referring to Class VIs, I wish all of us in here and people in the educational field, in the educational interest groups, would refer to regional high schools for what they are, regional high schools, and that's what this amendment would do. I simply urge you to return the bill to Select File for this specific amendment.

SPEAKER BARRETT: Thank you. The question before the body is the return of the bill to Select File. Those in favor vote aye, opposed nay. Voting on the motion to return the bill. Please vote if you would care to vote.

SENATOR MOORE: (Microphone not activated) ...time, if I could request us to check in and simply have a roll call vote and get on with the issue.

SPEAKER BARRETT: Thank you, sir. Members, please return to your seats and record your presence. Please record your presence. Senator Byars, please record your presence. Senators Lynch, Korshoj, Nelson, please record your presence. Senator Wesely, Senator Smith, please. Senator Schmit, please return to the Chamber, the house is under call. Members, please return to your seats in anticipation of a roll call vote. (Gavel.) The question is the return of the bill. Mr. Clerk.

CLERK: (Roll call vote read. See page 1038 of the Legislative Journal.) 21 ayes, 17 nays, Mr. President, on the motion to return.

SPEAKER BARRETT: The motion fails. Read the bill, Mr. Clerk.

CLERK: (Read LB 499 on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 499, with the emergency clause attached, become law? All in favor vote aye, opposed nay. Have you all voted? Record.

CLERK: (Record vote read. See page 1039 of the Legislative Journal.) 46 ayes, 0 nays, 3 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 499E passes. LB 443E.

March 9, 1989

LB 214, 214A, 443

CLERK: (Read LB 443 on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 443, with the E clause attached, pass? Those in favor vote aye, opposed nay. Have you all voted? Please record.

CLERK: (Record vote read. See pages 1039-40 of the Legislative Journal.) 46 ayes, 0 nays, 3 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 443E passes. LB 214.

CLERK: (Read LB 214 on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 214 become law? All in favor become law, opposed nay. Have you all voted? Record.

CLERK: (Record vote read. See pages 1040-41 of the Legislative Journal.) 46 ayes, 0 nays, 3 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 214 passes. The A bill.

ASSISTANT CLERK: (Read LB 214A on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 214A become law? Those in favor vote aye, opposed nay. Have you all voted? Record, please.

ASSISTANT CLERK: (Record vote read. See pages 1041-42 of the Legislative Journal.) The vote is 45 ayes, 0 nays, 1 present and not voting, 3 excused and voting, Mr. President.

SPEAKER BARRETT: LB 214A passes. The Chair would like to take a moment and break into Final Reading to introduce some very special guests that we have with us this morning, guests of Senator Jim McFarland. Under the north balcony with the foreign policy process, the United States Information Agency, European Regional Project, we have a number of guests, bear with me, I would ask you to stand as I try to read your names. From Poland, Andrzej Zdebski, Senior Assistant Chair of International



March 9, 1989

LB 54, 214, 214A, 284, 284A, 318, 320  
443, 499

Nebraska that probably are not too hep on complying with this law, along with some others. So I guess I just see it as an unnecessary regulation on the small businesses that really don't see a need to post at this time.

SPEAKER BARRETT: Thank you. Senator Wehrbein is announcing that he has guests in the north balcony. We have 15 members from District 2 school of Nebraska City, with their teacher. Would you folks please stand. Thank you. We're glad to have you with us. Also, Senator Ashford is announcing that his brother, County Judge Mark Ashford, is with us under the south balcony. Judge Ashford, would you please stand. Thank you. We're glad to have you with us. And while the Legislature is in session and capable of transacting business, I propose to sign and I do sign LB 284, LB 284A, LB 214 and LB 214A, LB 443, LB 499, LB 318 and LB 320. Additional discussion on the advancement of the bill, Senator Ashford, followed by Senators Wehrbein and Coordsen.

SENATOR ASHFORD: Mr. Speaker and members, I appreciate the introduction of my brother, before I have an opportunity to speak so I can just prove to you that there was a relatively successful member of my family that...other than...anyway, Senator WeiHING, could I ask you a couple of questions?

SPEAKER BARRETT: Would you respond, Senator WeiHING.

SENATOR WEIHING: Certainly, most happy to do so.

SENATOR ASHFORD: I've had some concerns raised by individuals in my district, Senator, about the effect of this legislation. One of the concerns that was raised by a couple of older local restaurants, specifically I think Johnny's was one and there are some others, that the information that is being required to be posted would, in effect, be a...could infringe on a trade secret or a secret recipe that the particular restaurant had developed. Have you heard anything about that, or...

SENATOR WEIHING: Not specifically and it should not. It is not to divulge any recipes whatsoever. It is simply to make it known as to the kind of oils that they are utilizing in their cooking process. Much of the cooking is that of the preparation of meats and vegetables and on occasion they do have those with their recipes, so just stating as to the kind of oils that they use within their general food preparation, it would not have

March 9, 1989

LB 54, 84, 140, 162A, 214, 214A, 254  
284, 284A, 318, 320, 357, 432, 443  
499, 588, 611, 652, 781  
LR 1, 7

General File; LB 432 is indefinitely postponed; LR 1 indefinitely postponed; LR 7 indefinitely postponed, and LB 588 advanced to General File with committee amendments. (See page 1049 of the Legislative Journal.)

Your Enrolling Clerk has presented the bills read earlier this morning to the Governor. (Re: LB 284, LB 284A, LB 499, LB 443, LB 214, LB 214A, LB 318 and LB 320. See page 1057 of the Legislative Journal.)

Priority bill designations: Government Committee is 640 and 639, Senator Abboud LB 592, Senator Hall LB 653, Senator Lindsay LB 681, Senator Elmer LB 429.

New A bill, Mr. President, LB 162A from Senator Rod Johnson. (Read by title for the first time as found on page 1057 of the Legislative Journal.)

I have amendments to be printed to LB 357 from Senator Schellpeper and Nelson, Senator Lindsay to LB 54, Senator Baack to LB 254, Senator Chizek to LB 140, Senator Hall to LB 781, Senator Withem to LB 652. (See pages 1049-57 of the Legislative Journal.)

Unanimous consent for addition of names as co-sponsors, LB 611 Senator Rod Johnson; and LB 84 from Senator Haberman. (See pages 1057-58 of the Legislative Journal.)

That's all that I have, Mr. President.

SPEAKER BARRETT: Thank you. The Chair recognizes the member from the 33rd District, Senator Jacklyn Smith.

SENATOR SMITH: Thank you, Mr. Speaker. I would like to make a motion to adjourn until Monday, March 13 at 9:00 a.m.

SPEAKER BARRETT: You've heard the motion to adjourn until nine o'clock Monday morning. Those in favor say aye. Opposed nay. Ayes have it, motion carried, we are adjourned.

Proofed by:

Arleen McCrory  
Arleen McCrory

March 15, 1989

LB 214, 214A, 284, 284A, 318, 320, 443  
499  
LR 2

PRESIDENT NICHOL PRESIDING

PRESIDENT: (Microphone not activated) ...Legislative Chamber. We have with us this morning as our chaplain of the day, Harland Johnson, our Chaplain Coordinator. Would you please rise.

HARLAND JOHNSON: (Prayer offered.)

PRESIDENT: (Gavel.) Thank you, Harland Johnson, for your thoughtful prayer this morning. Roll call, please.

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

PRESIDENT: Thank you. Any corrections to the Journal?

CLERK: No corrections, Mr. President.

PRESIDENT: Good. Any messages, reports or announcements?

CLERK: Mr. President, a communication from the Governor to the Clerk. (Read communication regarding signing of LB 284, LB 284A, LB 499, LB 443, LB 214, LB 214A, LB 318, and LB 320. See page 1150 of the Legislative Journal.)

Mr. President, I have a series of appointment letters that will be referred to Reference Committee. (See pages 1150-52 of the Legislative Journal.)

Mr. President, a series of reports. A report from the Department of Roads, the Highway Cash Fund, Department of Revenue; a report from the University of Nebraska, Lincoln, and a report from the Department of Education. All of those will be on file in my office, Mr. President. And that's all that I have at this time.

PRESIDENT: Thank you. We will move on to the General File and LR 2CA.

CLERK: Mr. President, LR 2 is a proposed constitutional amendment that was introduced by Senators Rod Johnson, Howard Lamb, Moore and Wehrbein. (Read brief description of LR 2.) The resolution was originally introduced on January 5, Mr. President. It was referred to the Revenue Committee for hearing. The resolution was advanced to General File. At this time, I have no amendments pending.