

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

March 2, 1989

LB 48, 49, 61, 176, 226, 298, 327
349, 391, 398, 408, 416, 458, 459
502

2 present and not voting, 4 excused and not voting,
Mr. President.

PRESIDENT: LB 502 passes. While the Legislature is in session and capable of transacting business, I propose to sign and do sign LB 391, LB 398, LB 458, LB 459, LB 48, LB 61, LB 176, LB 298, LB 327, LB 349, LB 416 and LB 502. May I introduce some guests, please, of Senator Hefner. Under the south balcony we have Mr. and Mrs. Darrell Henry of Coleridge, Nebraska. Would you folks please stand and be recognized. Thank you for visiting us today. Mr. Clerk, something for the record?

CLERK: Mr. President, your Committee on Education reports LB 226 to General File with amendments, signed by Senator Withem. Agriculture Committee reports LB 49 to General File with committee amendments, signed by Senator Johnson as Chair. That's all that I have, Mr. President. (See page 950 of the Legislative Journal.)

PRESIDENT: Thank you. We'll move on to Select File. LB 408.

CLERK: Mr. President, the first bill on Select File, LB 408. The first order of business are E & R amendments.

PRESIDENT: Senator Moore, please.

SENATOR MOORE: Mr. President, I move we adopt the E & R amendments to LB 408.

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

CLERK: Mr. President, the first amendment I have to the bill is by Senator Barrett. Senator, I have AM306, it's on page 692 of the Journal.

PRESIDENT: Senator Barrett, please.

SENATOR BARRETT: Thank you, Mr. President and members. Yes, this little amendment is on page 306 or rather 692 in the Journal. It affects only the exchange program, Mr. President. The original bill put a limitation on which would have prevented an exchange student from attending a high school within 150 miles of his own school. We heard from a superintendent in Columbus who said we may have some students who would like to go

SPEAKER BARRETT: Thank you. Senator Hefner, please.

SENATOR HEFNER: Mr. President and members of the body, I rise for the support of this appointment. Like Senator Withem says, I spoke to the Education Committee about this appointment. Dee Carlson is a constituent of mine. I have known her for a long time. She is very active in many things, many community projects, and I just believe that she would be a very good person to serve on this board. So I would highly recommend her.

SPEAKER BARRETT: Thank you. Any other discussion? Senator Withem, any closing?

SENATOR WITHEM: Well, I guess if we're going to talk this to death, I don't know how I feel on it anymore. But, no, I would...in closing, I would urge a favorable consideration of the Governor's appointment.

SPEAKER BARRETT: Thank you. The question is the adoption of the confirmation report as offered by Senator Withem. Those in favor please vote aye, opposed nay. Have you all voted? Record, please.

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

SPEAKER BARRETT: The confirmation report is adopted. To General File, Mr. Clerk, senator priority bill.

CLERK: Mr. President, the legislation scheduled for this morning is LB 49. LB 49 was introduced by Senator Dierks. (Read title.) The bill was introduced, Mr. President, on January 5 of this year. At that time it was referred to the Agriculture Committee for public hearing. The bill was advanced to General File. I do have committee amendments pending by the Agriculture Committee, Mr. President.

SPEAKER BARRETT: Thank you. Agriculture Committee Chairman, Senator Johnson, for the committee amendments.

SENATOR R. JOHNSON: Mr. Speaker and members, to refresh the body's memory, this Legislature, during the budget cutting times in the mid-eighties, made a decision to reduce the role, in fact, eliminate the role of the Department of Agriculture in the enforcement of the noxious weed program that was being carried

out in the State of Nebraska. Because of lack of funds, we eventually withdrew the department's responsibility role in the enforcement of this program. Through the years we have tried to maintain a program with the use of the counties and continuing a program that will control the noxious weeds that we have in the State of Nebraska. LB 49, introduced by Senator "Cap" Dierks, expands upon that and returns the enforcement powers back to the Department of Agriculture. The committee amendments are rather extensive and would take me a great deal of time to try and explain each of them, so I would suggest that those that are interested in this subject would turn to their bill book and look at their committee statement. You might be able to follow some of the statements I'm about to make about the committee amendments. Specifically, the highlights of LB 49, as they are amended by the committee, maintain the historical line of responsibility for noxious weeds in the state. As always, the landowner has the first responsibility in controlling noxious weeds on his or her property. Then it goes to the county noxious weed control authority. Under this bill then the Department of Agriculture would be involved through a monitoring process and, finally, the Attorney General would be used through legal action, if necessary. This bill takes the noxious weeds out of the statute and puts them under rule and reg. That is to say that, currently, under our statutes there are four specific noxious weeds that are highlighted in the statutes. It seemed more appropriate to allow the Department of Agriculture, through the development of their rules and regs, to highlight which weeds in the State of Nebraska might be noxious and that way if we wanted to add or delete the number of weeds that might be noxious in the state, that would just take a change in the rules and regs rather than a change in our state statutes.

SPEAKER BARRETT: Excuse me, Senator Johnson. (Cavel.) Go ahead.

SENATOR R. JOHNSON: Thank you. The amendments also retain the power of the counties to petition for additional weeds to be added onto a list for enforcement by the county. It also divides the enforcement between the county authorities and the director. It specifies the duties of each in statute, specifically it lists 11 duties of the Department of Agriculture director. It also specifies list...or lists duties of the county authorities and the weed superintendents. As always, the weed superintendents must be EPA certified under FIFRA and do 20 hours of continuing education annually. That is current

statute. It updates notice forms and makes it more explicit as to what the landowners must do, plus it doubles, I might add, doubles the fines from \$100 a day to a maximum of \$1,500 a day. Again, the bill retains historical procedures that failure by the landowners to control their weeds after a notice leads to enforcement by the county attorney. Immediate needs can be dealt with the by the county through the forced spraying, the cost of which will be borne by the owner or become...or they can have a lien filed against the property. The county can also sue to recover their costs of the forced spraying. The bill, as amended, also creates a fund which would consist of \$40.00 registration fee and also asks for matching fees from the General Fund. The bill still permits various procedures, such as entering lands, guaranteeing...or quarantining lands, prohibiting movement of infected equipment, etcetera, prohibits intruding on quarantine property. The bill also authorizes suits by persons and agencies to get enforcement of the law. The order of such suits is to sue the landowner first, the control authority second, the Director of Agriculture is third and then, finally, the Attorney General. Those are, as quickly as I could offer them to you, the committee amendments. They are extensive. There are some committee...or amendments to the committee amendments that will be offered by Senator Owen Elmer that will I think highlight some of the areas he has concerns with the noxious weed law and the failure of the committee amendments to identify some areas that he has concerns with. But, with that, I would offer the committee amendments to the body of the Legislature.

SPEAKER BARRETT: Thank you. Discussion on the committee amendments? Senator...excuse me, an amendment on the desk.

CLERK: Mr. President, the first amendment I have to the committee amendments is offered by Senator Elmer. Senator, I have the amendment that reads on page 2, strike line 17, show it as stricken, and insert "state shall provide for the control of noxious weeds within their jurisdiction and may appropriate money for and make". (The Elmer amendment appears on page 1074 of the Legislative Journal.)

SPEAKER BARRETT: Senator Elmer.

SENATOR ELMER: Thank you, Mr. President. I apologize to the body for bringing these amendments in this way. The bill came up on the agenda for first thing this morning rather quickly

Thursday and I had expected to have several more days to prepare and work out with "Cap" a single amendment to the committee amendments. However, coming up this way, it would allow the body to get pretty familiar with a very important bill for the state by talking about these various aspects. And, as we go through these amendments, you will probably get to know a little more about the bill and how it works. The first amendment that I offer, taking into context, looking at the committee amendments on page 2 where it amends Section 2-946.02, it currently reads, "All cities and villages in this state may provide for or appropriate money for and make the necessary expenditures for noxious weed control." With my amendment, it would read, "All cities and villages in this state shall provide for noxious weeds within their jurisdiction and may appropriate money for and make the necessary expenditures for noxious weed control." As we all know from rural areas, when we drive into Omaha and Lincoln and look at the interstates, look at the streets and valleys, there the musk thistle grows, there the bindweed grows, it seems to be uncontrolled. All this says is that these cities and the municipalities across the state shall be obligated to control noxious weeds within their boundaries. That's all the change says. I think it's logical and I would ask for your support of the amendment to the committee amendments.

SPEAKER BARRETT: Thank you. Any discussion the Elmer amendment? Senator Nelson, your light is on, would you care to discuss the amendment?

SENATOR NELSON: No, I will wait for the bill. Thank you.

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

SENATOR DIERKS: Mr. President...or Mr. Speaker and members of the body, it appears to me there might be a little error there. The part in the amendment that calls for "the state shall provide", I believe the state should not be in there. I believe that should be deleted and we're trying to find the proper form to make that change. I would like to just visit with you a little bit about the bill, if that's in order.

SPEAKER BARRETT: Senator Dierks, we have another light on, I believe on the amendment. Could we go to Senator Rod Johnson...

SENATOR DIERKS: Sure.

SPEAKER BARRETT: ...if he would care to discuss the amendment?

SENATOR DIERKS: That's fine.

SPEAKER BARRETT: Thank you.

SENATOR R. JOHNSON: Mr. Speaker, I have nothing further to add to what Senator Dierks has just raised. I think there is a concern about the amendment as drafted. Under the amendment as drafted by Senator Elmer, it appears that the state would be responsible for paying for the cities' enforcement and I don't think that's what he intended to do with his amendment and I am hoping that can be clarified and possibly Senator Elmer can respond to that. I will give the remainder of my time to Senator Elmer.

SPEAKER BARRETT: Thank you. Senator Elmer.

SENATOR ELMER: Thank you, Senator Rod Johnson. If you will look at the amendment that I provided, as it's printed, it says on line 2, strike line 17 in its entirety and insert "state shall provide for noxious weed control within their jurisdiction". Now taken into context, that says all cities and villages in this state shall provide for the control of noxious weeds within their jurisdiction and may appropriate money for and make the necessary expenditures for noxious weed control. Is there any...do you have any further question? Does that clarify what I'm talking about? See, we originally strike the original whole line.

SPEAKER BARRETT: Thank you. Senator Schmit, would you care to discuss the amendment?

SENATOR SCHMIT: I would like a question of probably first Senator Owen and then, secondly, Senator Dierks. The amendment, as you have presented it, Senator Elmer, would require the subdivisions, the cities and the villages, to control the weeds within their jurisdictions at their expense. Is that right?

SENATOR ELMER: That is correct, or contract with the county weed superintendent to do it and pay him his expense.

SENATOR SCHMIT: Thank you. Senator Dierks, do you understand the amendment in that same context? While Senator Dierks is on

the phone, I just want to say this, that it is a travesty to enact into law a bill which does not require full compliance. I can understand the problems of the cities and I can understand the problems of their jurisdictions but I am totally opposed to any bill which will allow those islands to exist within the state where enough of the noxious weed seed can be generated to totally inundate the entire state while at the same time we provide swift and severe penalties for those farmers and ranchers who do not control the weed. I am in favor of the farmer and rancher controlling the weed but I can tell you, very honestly, and all of us know that the City of Omaha has a tremendous problem. I'm not sure how they are going to do it, but I believe it must be controlled if we're going to do it. It makes no sense to allow the wasteland, to allow the area along certain right-of-ways, to allow the State of Nebraska to ignore the problem and not to make them live up to the law. I want to remind this body it's been a number of years ago the Game and Parks had a difficult problem controlling musk thistle. They made it their priority to do so and they did so and today Game and Parks, to my knowledge, as much as I've been around those areas, do not have a musk thistle problem. I don't know how they did it. You might ask them. But if they can do it, then other jurisdictions can do it also. And I want to point out that Senator Elmer will not have a bill if we do not require the cities and counties to comply with the law. And I would suggest that if you exempt them from the law, that you do not have a constitutional bill.

SPEAKER BARRETT: Thank you. Senator Elmer.

SENATOR ELMER: Thank you, Mr. President. To reiterate what the amendment does, all it does is change the permissive language of the cities may provide for noxious weed control to the cities shall provide for noxious weed control within their jurisdictions. That's all this amendment does. I see that there should be no real objection to that, knowing that it's the responsibility of every citizen in this state to make agriculture a better economic base by restricting and getting rid of these terrible problems. Thank you.

SPEAKER BARRETT: Further discussion on the amendment? Senator Dierks.

SENATOR DIERKS: Yes, Mr. Speaker, could I ask Senator Schmit a question, please?

SPEAKER BARRETT: Senator Schmit, would you respond?

SENATOR SCHMIT: Yes, I will.

SENATOR DIERKS: As you were discussing the bill, Senator Schmit, I wasn't aware of whether you were approving the amendment or opposing the amendment.

SENATOR SCHMIT: I support the amendment if it does what Senator Owen Elmer says it does and that is it requires the municipalities to control the noxious weeds within their jurisdiction.

SENATOR DIERKS: Okay. Well, I'm sorry I was on the phone when you were asking me the question.

SENATOR SCHMIT: Sure.

SENATOR DIERKS: I'm not taking any opposition to the amendment as it is written. We'll go ahead and accept that. Thank you.

SPEAKER BARRETT: Senator Rod Johnson. Thank you. Senator Schmit, your light is next. Care to discuss it any further? Senator Schmit, would you care to discuss it any further? Your light is still on.

SENATOR SCHMIT: Only very briefly, Mr. President. Some of you will recall a few years ago when, I believe it was LB 138, we passed the bill into law which took the state out of the business of controlling the weeds. I was opposed to that bill at that time and I said it was a mistake. I said we ought to have been funding it and taking care of the problem. We chose not to do so. Now that we understand that the problem is back with us, and I want to warn you and caution you that this is not...this is not a low cost bill. You are looking at tremendous cost. And, for those of you who don't know, I think I may want to get back into the weed control business again. I was in that for a while and it looks like this might be an opportune time to get back in because there is going to be a substantial amount of income derived particularly, particularly in those urban areas. I might also suggest that we might solve some of the problems of overcrowding at the penitentiaries by taking some of those able-bodied persons out and putting them to work cleaning up the cities and the railroad right-of-ways and

many other areas because it's going to be a super human task for the cities. But, again, I want to caution you, one single musk thistle can have 30, 40, 50,000 seeds in it. They will fly thousands of feet in the air and they will travel hundreds of miles. And in any given month of the year those weeds can be in bloom. They used to be sort of a perennial. Today they aren't anymore. They seem to bloom all the time and the wind blows from one direction one day and the next direction the next. And those of us who live west of Omaha think that perhaps the fact that Omaha has a high concentration of musk thistle it isn't going to threaten us, but I can guarantee you that it will and it only takes one or two small plants and I have fought them for 20 some years, 25, 30 years, and most of us in agriculture have, we know it is a tough, tough problem. We know also that it's not the only problem. The leafy spurge problem which has been pointed out by Senator Lamb and others, and Senator Owen Elmer, is also a serious problem and it's also a problem up in Senator Cap Dierks' district. So we have the cost and we have not paid much attention to this over the years and we're going to have to do it now. I'm going to suggest that it's easy to overlook these things. There's no glamour in fighting weeds. You know you're not going to make any headlines and anyone who supports this bill is not going to go back home and be able to tell his constituents in any kind of a manner that they will believe him that he performed a great public service by passing this bill into law. But it is a very important bill. It is a bill which I think needs a lot of attention but, more than that, it's going to need funding and it's one more instance where we're going to put some really serious funding responsibilities on some local jurisdictions unless we, of course, see fit to apply General Fund money there. At this time, I don't see that's forthcoming. But we're going to make it really tough on the individual landowner, on the individual jurisdictions and on the individual counties and cities and, hopefully, we will be able to conquer the problem. Thank you very much. I support the amendment and I support the bill.

SPEAKER BARRETT: Thank you. Senator Elmer, would you care to close on your amendment?

SENATOR ELMER: Thank you very much. I just want to make it very clear that all we're doing is basically changing a "may" to a "shall". And in context it says, "all cities and villages in this state shall provide for the control of noxious weeds within their jurisdiction." And that's the sum and substance of the

amendment and I would urge you to adopt the amendment to the committee amendments.

SPEAKER BARRETT: Thank you. You have heard the closing and the question is the adoption of the Elmer amendment to the committee amendments to LB 49. Those in favor vote aye, opposed nay. Record.

CLERK: 21 ayes, 0 nays, Mr. President, on adoption of Senator Elmer's amendment to the committee amendments.

SPEAKER BARRETT: The amendment is adopted. Mr. Clerk.

CLERK: Mr. President, Senator Elmer would move to amend. Senator, I have the amendment labeled number 2 in front of me. (The second Elmer amendment appears on page 1074 of the Legislative Journal.)

SPEAKER BARRETT: Senator Elmer, please.

SENATOR ELMER: Thank you, Mr. President, and members, this amendment is to address a problem that has arisen several times across the state. As I was working on this bill, originally, this came up between the City of Lincoln, Lancaster County and the Department of Roads. Some land was sprayed because noxious weeds existed thereon. It was within the jurisdiction of the City of Lincoln but the Department of Roads owned the land. The Department of Roads did not wish to pay the bill and it says nowhere in statute does it say we are responsible for paying for the spraying of noxious weeds on our property. Now this amendment adds a new subsection on page 20 of the committee amendments and says, "The responsibility for and the cost of controlling noxious weeds on all land, including highways, roadways, streets, alleys and right-of-way owned or controlled by a state department, agency, commission or board or a political subdivision of the state shall be on the department, agency, commission, board or political subdivision which owns or controls such land, and such costs shall be paid out of funds appropriated to its use. Such departments, agencies, commissions, boards and political subdivisions may control the weeds on their own or may contract with the state or any political subdivision or private enterprise for such services." All this spells out is exactly this, that if noxious weeds are being grown or appear on any land that's owned or controlled by a political subdivision in the state, then the responsibility

March 13, 1989

LB 49

for paying the costs of controlling for those noxious weeds are upon that particular department that controls that land. It makes it very clear in statute. I would urge the adoption of the amendment.

SPEAKER BARRETT: Thank you. Discussion on the amendment? Senator Dierks.

SENATOR DIERKS: Yes, Mr. Speaker and members of the body, the amendment as it's written here and you see it in front of you is already...it's current wording in Section 2-956. So it would be somewhat redundant. There is one addition and that would be the part that calls for "or political subdivisions". As far as I'm concerned, if we could add that language, that would be sufficient to take care of what I think Senator Elmer is trying to do. The state departments already have the ability to contract for services. That's no problem. Do you understand, Owen?

SENATOR ELMER: I understand.

SENATOR DIERKS: Okay. Is that agreeable?

SENATOR ELMER: To just put it like it is?

SENATOR DIERKS: No, to put in there...we already have it like it is. It's already current language. Section 2-956 contains that very same language. The one thing that it doesn't contain is the "or political subdivisions".

SENATOR ELMER: Okay, that's agreeable. Should we do that on Select?

SENATOR DIERKS: Fine.

SENATOR ELMER: Okay.

SENATOR DIERKS: That will be fine.

SENATOR ELMER: Let's make note of that and with that understanding that this is already there with that exception, and we can add it in the Select File action, I would withdraw this amendment.

SENATOR DIERKS: Did you get all that, Mr. Speaker? The

amendment is going to be withdrawn with the proviso that we will add this language, "or political subdivision" on Select File.

SPEAKER BARRETT: Thank you. The amendment is withdrawn. Mr. Clerk, have you another amendment?

CLERK: Mr. President, Senator Elmer would move to amend. Senator, I have the amendment marked number 3. (The third Elmer amendment appears on page 1075 of the Legislative Journal.)

SPEAKER BARRETT: Senator Elmer, please.

SENATOR ELMER: Thank you, Mr. President. I think that this particular amendment is a matter of clarification. During...when we're working with this bill, we refer to control in two very separate ways. We have control with respect to land, holding the land, operating the land, and we have control when it's used in respect to controlling the growth of weeds or noxious weeds. And what this amendment would do is to specify and make more clear exactly what we mean by control in both respects. The amendments says, "control with respect to land shall mean authority to operate, manage, supervise or exercise jurisdiction or any similar power. The state or federal government or a political subdivision shall not be deemed to control land on which it has an easement as long as it does not otherwise operate, manage or supervise or exercise jurisdiction over the land." Now that is, of course, for public power districts that have power lines that run across certain areas where the farmer is out actually farming the land. And the control with respect to weeds shall mean the eradication or prevention, suppression or limitation of the growth, spread, propagation or development of weeds. So that it's clear when we're referring to land or referring to weeds what control actually means in the bill. And I would ask for your support of this amendment.

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

SENATOR DIERKS: Mr. Speaker and member of the body, if Senator Elmer would strike the word "eradicate" from that.

SPEAKER BARRETT: Is that a question of Senator Elmer?

SENATOR DIERKS: Yes.

SPEAKER BARRETT: Would you respond, sir?

SENATOR ELMER: In some instances, I would think the goal of noxious weed control would be the eradication. And, however, as it's stated, it says, eradication or prevention or suppression or limitation, depending on the situation, of course. It depends on what the department would set up as their goal as to control, I would think. It doesn't say eradication is the definition, it says it's one of the possible definitions.

SENATOR DIERKS: Mr. Speaker, we will accept the amendment as it has been presented.

SPEAKER BARRETT: Thank you. Senator Schmit.

SENATOR SCHMIT: Mr. President and members, I wonder what would have happened 40 years ago when tuberculosis was prevalent in both humans and livestock if we would have had language that said, you know, you may suppress or you may limit or you may prevent the spread, and so forth. If they had not decided at that time to embark upon eradication, I doubt very much if it would have ever been eradicated. The pseudorabies bill which we are listening to this session, I believe is designed toward the goal of eradication. I know that eradication is a tough goal but I want to point out we have already left a major loophole in the first amendment when we said that those jurisdictions "may" appropriate money for the control of those weeds and rather than to say "shall". And I think that as much as possible you have got to move toward the eradication. You certainly have got to work towards suppression, limitation and the rest of those, but if you do...if your ultimate goal is not eradication, then you have the determination as to what is a substantial effort toward suppression or limitation or the propagation of the weeds. Is it fair to fly over it at 90 miles an hour at a 300-foot swathe and say you have tried to control them, or do you have to work on a really realistic proposal? One of the limiting factors we have had in the past is the matter of judgment. What does constitute an effective type of control program? And I want to point out again that what we're getting into in some instances is going to require a control program that may well be more expensive than the land is worth. And you are going to hear some screaming and shouting, as I said earlier, from landowners in the city when they get billed for cleaning up these weeds on their lots and their homes and around their buildings, but it's going to be small potatoes, ladies and gentlemen, compared to

what it's going to cost the rancher or a farmer in some of those areas where you have thousands of acres that are going to have to be sprayed, not once, not twice, but, I mean three, four, five, six times a year. I would suggest that we, if we're going to be realistic, now is the time to be that way, not just pass a bill for the public consumption.

SPEAKER BARRETT: Senator Rod Johnson, followed by Senator Dierks.

SENATOR R. JOHNSON: Mr. President and members, I really don't have any problem with what Senator Elmer is doing here. I just mentioned to him that I would prefer on subsection (b) that we change the order of which we're outlining what control shall mean in respect to weeds and pushing eradication back behind prevention, suppression and limitation. I bring this up because, for those of you who are aware of the leafy spurge problem, eradication is almost impossible and I guess while the goal is eradication of all noxious weeds, I think, in reality, we all realize that eradication, especially of leafy spurge, is going to be extremely costly and if not downright impossible. So I mentioned that to him and Senator Elmer says he has no problem we can again make some adjustments in that with Select File amendments. But as far as the other amendments are concerned, I really don't have all that many objections to the idea.

SPEAKER BARRETT: Thank you. Senator Dierks.

SENATOR DIERKS: Mr. Speaker and members of the body, Senator Johnson just said what I was going to say, only he did it much better so I will just pass.

SPEAKER BARRETT: Thank you. Senator Elmer, would you like to close?

SENATOR ELMER: Waive closing. Just ask for support.

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

CLERK: 22 ayes, 0 nays, Mr. President, or, adoption of Senator Elmer's amendment to the committee amendments.

SPEAKER BARRETT: The amendment is adopted. Mr. Clerk.

CLERK: Mr. President, Senator Elmer would move to amend the committee amendments. Senator, I have number 4 in front of me. (The Elmer amendment appears on page 1075 of the Legislative Journal.)

SENATOR ELMER: Thank you, Mr. President. This addresses a problem that has arisen numerous times out in the greater State of Nebraska during the operation of the noxious weed bill when it was being operated and as it's being currently operated. Many times on an acreage that has been set aside as noncropland or wasteland is the very area where large amounts of noxious weeds appear. Some of these when they're sprayed by the county weed control authorities end up having liens applied to the land on which the problem has arisen...or where the problem was where it was sprayed and its wasteland. This individual who owns the land may own hundreds of acres of very productive land in the county and one or two areas of wasteland. Well, if this wasteland has been sprayed, a lien been put on this property, it is only on that piece of property where the spraying has been done where the lien has been placed. What this particular amendment would do, would allow the county to place a lien on all the agricultural property owned in that county by that individual rather than just on a piece of wasteland where he may not pay the taxes on so he doesn't have to pay the bill. So this would ask that if spraying were done and a lien was placed on property, it would not just be on a single little piece of property that had very little value but on all the property that that particular individual owned in the whole county. And I would ask for adoption of this amendment.

SPEAKER BARRETT: Senator Rod Johnson, discussion on the amendment.

SENATOR R. JOHNSON: Mr. Speaker and members, few of these amendments I will find objectionable. This one, I do. As Senator Elmer has stated, it is possible, through this amendment, that I could have a piece of property sprayed that I own in one area of the county and yet a lien could be filed against not only that property but other property that I own. I guess I have some basic fundamental policy difficulties with this proposal. I understand where Senator Elmer is coming from and I appreciate that but in this case this is where he and I part ways, I guess, on ways of collecting funds. I guess taxing

land that has had no improvements done to it, in this case actually being sprayed, because I had other property that was sprayed, I think is...I'm not sure it's constitutional, first of all, but if it is, I guess I still have some reservations from a policy standpoint and would oppose the amendment on those grounds.

SPEAKER BARRETT: Senator Dierks.

SENATOR DIERKS: Mr. Speaker and members of the body, I, too, rise to oppose this amendment. I think it would probably set a pretty awful precedent were it attached. And I just...I don't believe this is what we want to do. I think that...really, I think the bill came out of committee pretty clean but all of a sudden it has some problems, I guess, but actually this is a problem that I don't think we want to add to our bill. So I would oppose that amendment. Thank you.

SPEAKER BARRETT: Thank you. Senator Schmit, on the amendment. Senator Schmit, on the amendment. Senator Elmer, would you like to close, please.

SENATOR ELMER: I had hoped we would have a little more discussion about this particular amendment. Noxious weeds are something that you're trying to control across the whole state as a benefit to the whole state. If you're working within a county, it's for the benefit of the whole county and all those counties that surround it. And this particular little problem may not be very widespread but you have a situation where an individual might have a very small area of land that's worth very little that some control measures are necessary on. It may be quite costly and rather than to pay his obligation, he chooses to pay his taxes on all the rest of his land but not on that little piece. I think it's only fair that the man be obligated to pay his just account and this is a method that could be done since it is a benefit to the whole county. And I would ask your adoption of the amendment.

SPEAKER BARRETT: Thank you. The question is the adoption of the Elmer amendment to the committee amendments. Those in favor vote aye, opposed nay. Voting on the Elmer amendment number 4 to the committee amendments to LB 49. Have you all voted? Please record.

CLERK: 1 aye, 14 nays, Mr. President, on adoption of the

amendment to the committee amendments.

SPEAKER BARRETT: The motion fails.

CLERK: Mr. President, Senator Elmer would move to amend. Senator, I have number 5 in front of me. (The Elmer amendment appears on page 1075 of the Legislative Journal.)

SPEAKER BARRETT: Senator Elmer.

SENATOR ELMER: Thank you. Number 5, I looked and it's already in statute in another area so we would withdraw this amendment number 5.

SPEAKER BARRETT: It is withdrawn. Before proceeding to the next item on the bill, the Chair is pleased to announce that Senator Langford has some guests under the north balcony, from Kearney, Buffalo County Commissioners, specifically Messrs. Kincaid, Cutterback, Woodman and Carman. Would you gentlemen please stand and be recognized. Thank you. Pleased to have you with us. The next item, Mr. Clerk.

ASSISTANT CLERK: Yes, Mr. President, Senator Elmer would move to amend. (The sixth Elmer amendment appears on page 1075 of the Legislative Journal.)

SPEAKER BARRETT: Senator Elmer.

SENATOR ELMER: Thank you. This is the one marked 6, Mr. Clerk?

ASSISTANT CLERK: Yes, it is.

SENATOR ELMER: Thank you. Amendment number 6, on page 7, line 23, of the committee amendments would add the language, "The director shall prepare, publish and revise, as necessary, a list of those noxious weeds. The list shall be distributed to the public by the director, the state agricultural extension services, the control authorities, and any other body the director deems appropriate." The success of a noxious weed program in the State of Nebraska depends on education, depends on people knowing what the weeds are, what they look like. It depends on knowledge of how to control them. The way the bill is written, it is permissive for the Director of Agriculture to disseminate these kind of materials. All this section does is require that the Director of the Department of Agriculture,

through the University Extension Service and whatever other body he deems necessary, it requires that he disseminate this information to the counties and the public so that they will know what they need to control and how they need to control them. I think it's absolutely essential that this be a part of the bill that makes it mandatory but not permissive that this publication and distribution take place. I would request your accepting this amendment.

SPEAKER BARRETT: Thank you. Discussion on the amendment. Senator Dierks.

SENATOR DIERKS: Mr. Speaker and members of the body, the amendment, as I see it, while very worthy, I think is pretty well taken care of in statute and by direction. The Extension Service in Nebraska has this responsibility currently and the bill itself on page 4 of the committee amendments does say that noxious weeds shall mean and include any weeds designated and listed as noxious in rules and regulations adopted and promulgated by the director. I think it's pretty well taken care of. The one thing in the amendment that I think will be difficult is the part where it says that these are to be distributed to the public by the director. I think that would be extremely costly for the Director of Agriculture to have to publish these noxious weeds and distribute them to the public. This is something that should be done on the local level. The County Extension people and the county weed service should be able to handle this on their own level. So I would be in opposition to this particular amendment. I don't believe it's necessary. Thank you.

SPEAKER BARRETT: Thank you. There are no other lights on. Senator Elmer, would you care to close on your amendment?

SENATOR ELMER: Well, Senator Dierks, in all candor, the people on the local level are not prepared to publish those kinds of lists. They're not prepared to make a good...a nice brochure to hand out to their farmers. This is something that needs to be done for some of this money that we're going to be appropriating. What are we going to be spending this for? We're going to give the Department of Agriculture a goodly sum to enforce the noxious weed law. We want to tell him some of the things we want him to do. And I think that the primary thing that the department needs to do with that money is educate people. How can we go out there and fight this battle with

noxious weeds without people out there knowing what they're supposed to do? And the general public does need to have this information. The control authorities do need support from the state level. This is one kind of support that we can give and give very well for this money that we're going to be appropriating to the state. Education is the basic solution to most problems, including noxious weeds. And this is one bill...or one amendment that I really feel strongly about. If we're going to have the Department of Agriculture operating this program, then it's up to the Department of Agriculture to let people know what they're supposed to do, not the county, not the city, they're not out there to promulgate and promote all this, the state is supposed to do it. I would ask your adoption of this amendment.

SPEAKER BARRETT: Thank you. You have heard the closing. The question is the adoption of the Elmer amendment number 6 to the committee amendments to LB 49. All in favor vote aye, opposed nay. Voting on the amendment to the committee amendment. Have you all voted? Record.

CLERK: 18 ayes, 1 nay, Mr. President, on adoption of Senator Elmer's amendment to the committee amendments.

SPEAKER BARRETT: The amendment is adopted. Mr. Clerk.

CLERK: Mr. President, Senator Elmer would move to amend. I have number 7 in front of me, Senator. (The seventh Elmer amendment appears on page 1076 of the Legislative Journal.)

SENATOR ELMER: Okay, thank you, Mr. President. This will be the last one I am going to offer. Eight and 9 are going to be withdrawn. Amendment number 8 (sic) spells out that any person should have the right to petition a court order requiring the control of noxious weeds when the control authorities and the department fail to carry out their duties in a timely or appropriate manner. And also states that county and state employees and their agents should be able to exercise their responsibilities with limited liability when acting in a reasonable manner in relative to this act. Basic...basically says, an individual that feels that the county or the state are not carrying out their obligations can, on his own motion, get a court order requiring them to do so and that the county and state officials, when they're working with this act, have a right to limited liability when they're doing their job in a

reasonable manner. I would ask your adoption of this amendment.

SPEAKER BARRETT: Any discussion? Senator Rod Johnson.

SENATOR R. JOHNSON: Mr. Speaker and members, I'm not sure that I should stand to oppose or support the amendment because at least in subsection (6) that is somewhat repetitive in what is being done in Section 13 of the bill on page 25 where it calls for any person or public agency may institute legal action for failure to comply with the noxious weed act and it goes on to explain that. Subsection (7) though, I'm not aware of yet, but, as I said, some of this is either in law or in this bill. Now we can reiterate it in different sections of the bill, I guess, and make it clear, our intent, however, it might be repetitive. I'm not saying it's wasted language but I think we have covered those points in other places either in the bill or I might be misreading the amendment but it appears in Section 13 that we have covered some of the questions that Senator Elmer is raising.

SPEAKER BARRETT: Senator Dierks, please.

SENATOR DIERKS: Mr. Speaker, I'm going to oppose the amendment again because I think that it's redundant. I think we've already addressed all these issues in the bill as amended out of committee. So I can't...to me, I think it just would confuse the legislation and make the bill a little bit more difficult to read and, personally, I would just as soon leave the amendment out. Thank you.

SPEAKER BARRETT: Thank you. Senator Elmer, would you care to close?

SENATOR ELMER: Well, in retrospect, in looking at Section 13, it says any person or public agency may institute legal action for failure to comply with the Noxious Weed Control Act. The action shall first be filed against a landowner. Who is going to file against their neighbor? And any subsequent action shall be filed against the county and then against the director. I think this discourages what we're trying to do. You know, from your own experiences out there on the farm you are very reluctant to do something that drives a wedge between yourself and your neighbor. If you can work out something that you talk to the county, you talk to the state, but you don't have to go directly against your own neighbor, but, on the other hand, I

see that we possibly should be amending Section 13. And, with that, "Cap", would you be amenable to addressing that problem on Select File if I withdraw this one?

SPEAKER BARRETT: Senator Dierks.

SENATOR ELMER: Senator Dierks has responded in the affirmative and so, with that understanding that we'll talk about this particular problem, and I think that you understand what I'm talking about, don't you, Senator Dierks?

SENATOR DIERKS: Fine.

SENATOR ELMER: Okay, thank you. And, with that, I would withdraw this and all subsequent amendments I have and ask you for the passage of this bill.

SPEAKER BARRETT: You have heard the closing. The question is the adoption of the amendment. Those in favor vote...excuse me. I'm sorry, the amendment has been withdrawn, Senator Elmer? My apologies. Anything further, Mr. Clerk, on the bill?

ASSISTANT CLERK: Yes, Mr. President, Senator Elmer would move to amend. It's amendment number 8, Senator.

SENATOR ELMER: Withdraw 8 and 9.

SPEAKER BARRETT: Amendments 8 and 9 are withdrawn, Senator Elmer.

SENATOR ELMER: That's affirmative.

SPEAKER BARRETT: Thank you. Anything further?

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

SPEAKER BARRETT: Back to the committee amendments, Senator Rod Johnson.

SENATOR R. JOHNSON: Mr. Speaker and members, I would just offer the committee amendments to the body for adoption. I think that Senator Elmer has raised some points that Senator Dierks and Senator Elmer and myself need to sit down and address between now and Select File. I don't think that we're that far apart on

many of these points and that it would be appropriate that we take time off the floor to address those problems rather than consume a lot of time here on the floor with various policy choices on the noxious weed program. Senator Schmit did comment that we're talking about an expensive program that is expensive both to the state and to the local governments but is a program, I think, that if you ask people in your counties, they do support it, they want to continue to have it and what we need is both funding and statewide enforcement and that is exactly what Senator Dierks and Elmer are attempting to address in their two bills. This one, LB 49, is by Senator Dierks. I think we'll see further amendments to clarify certain aspects of the bill. But, at this time, I think I would just ask the body to approve the committee amendments and advance the bill to Select File.

SPEAKER BARRETT: Discussion on the committee amendments. Senator Nelson.

SENATOR NELSON: Mr. Speaker and members of the body, I refrained from commenting on working out the details and so on of this particular bill. But I did want to bring out another point and I believe that this is maybe the best place and the best time to do this. In regards to the noxious weeds, I certainly understand the importance. I know what leafy spurge is and I sure know a lot about musk thistle and so on and so forth. And when the program was cut, it's not the fact that I don't appreciate the need for the bill, appreciate the need to address the noxious weeds, but I also have a concern and that is of the amount, the fee for charged, and so on, and I'm not saying that maybe six agencies may not be needed or six new directors, and so on. But, again, I want to call attention to the body, we have herbicides and pesticides, we have water quality, we have underground storage funds, we have LB 121, a super fund. In other words, the noxious weeds is not the only problem or the only concern that we do have facing us. Each and everyone of us knows how important each one of these areas are, the herbicides, the pesticides. Iowa passed a very comprehensive bill last year addressing some of these very same concerns. Illinois has one. Theirs is \$50.00 per product, where I think we're talking 30 in here. Kansas a fund and, as I mentioned, Iowa. Colorado has a fund. And I also have great concern of the people that have purchased land very reasonable, put it all in CRP and then forget the noxious weeds and let the rest of us worry about it. And I know and we all know that that is...but I'm not against the bill, I'm not in support, but I

have some real concerns or problems in diverting this much money or slapping a fee on chemicals, and so on, for this just to address this one area. We have many, many areas that need to be addressed and particularly our water quality and our herbicides and pesticides. So what my concern is, is our we allowing too much of a fee on to address one area without taking the whole...all concerns in consideration? So I probably will be supporting the bill but, again, I have some real problems with the funding and allowing that much of a fee for weed control when we have the other concerns to address us. And maybe we can work that out and I'm not quite ready at this point to amend Senator Dierks' bill, but, again, it is a concern of mine so I will just kind of maybe do that on Select File or visit with Senator Dierks about it.

SPEAKER BARRETT: Senator Schmit, discussion on the committee amendments, followed by Senator Dierks.

SENATOR SCHMIT: Mr. President and members, I think that Senator Rod Johnson touched upon an important point and that is that he and Senator Dierks and Senator Owen Elmer need to get together and review the impact of these amendments upon the committee amendments and then the committee amendments upon the bill and I would hope some kind of idea as to just where the fiscal responsibility will lie for each of the various entities and jurisdictions involved. Senator Arlene Nelson raised a point, one I think it's important that we talk about just a little bit. You know, we are embarking in a small way and perhaps not even a small way, maybe in a major way upon conflicting courses. There is a going amount of pressure upon the public or by the public upon agriculture to lessen our dependence upon chemicals, upon herbicides, pesticides, yet at this very same time we enact into law this bill which will require the use of certain chemicals and herbicides which certainly are going to compound some of the other problems we are talking about. It's going to require very judicious use of those chemicals. It's going to require a very thorough knowledge of their use by the individuals who use them and certainly we want to be certain that in eradicating these weeds we do not endanger our water supply or any other area of our environment. I think that it can be done. It has been done in the past, can be done in the future, but I want to point out that we are making a major commitment here of funding, whether it be from the state, and I don't think that we're going to see that. I am a little bit like Senator Nelson when you increase from 10 to \$40 a fee for the registration of chemicals, that's a

pretty substantial increase to be borne by not too many people, but the really major cost is going to come about when we are forced, as landowners, to carry out certain eradication measures and I would hope that there will not be inequity in the enforcement of the law. I would hope that as the senators that I mentioned review this bill they will determine if the bill can be enforced and if it can be enforced equitably. Will it be enforced against the owner of the lot in Omaha, the railroad that goes through my farm, and the other jurisdictions as well as it will be against the individual landowner? And perhaps, again, this might be a good time to call upon the resources of the University of Nebraska for some excellent help in trying to determine just how and when is the best method of bringing about some kind of control and, hopefully, eradication. There may be some other method better than chemicals that we don't know of yet today which needs to be experimented with. We've heard rumors of that but it so far has not worked out. But, in the meantime, we're going to rely upon chemicals and I want to point out to you that I have, for some time, been trying to provide for some funding, as has Senator Rod Johnson, for a super fund for the clean-up of the spills or the clean-up of the chemicals. We've been trying to provide for some kind of protection from hazardous waste, trying to provide for some kind of protection from the endanger...the danger to the water table from landfills and all of those are going to require an expensive kind of program. And how they relate to each other, what we can do to make them work well together is going to be a major issue. I hope that the members of this body who come from urban areas recognize...

SPEAKER BARRETT: One minute.

SENATOR SCHMIT: ...that we are embarking upon a program here which, if it doesn't have teeth in it, it ought not to be passed. If it does have teeth in it, it's going to be very, very demanding upon your jurisdictions and I hope that the good senators who will work on this between now and Select File will have a thorough understanding of the bill, be able to come back to us on Select File and tell us more about the costs, more about their directions which they intend to go. I had hoped that Senator Warner would be on the floor today, but just in the event that he is listening, I would assume that there will be some time when we will be going to the Appropriations Committee requesting some additional funds for the state in order to enforce this bill as it is drafted. I support the committee

amendments and I hope I can continue to support the bill.

SPEAKER BARRETT: Thank you. Senator Dierks.

SENATOR DIERKS: Mr. Speaker and members of the body, I just wanted to visit a little bit with you about what Senator Nelson's concerns are. Should understand that the people who provide the herbicides for the state must pay a registration fee, as do all agricultural toxins or poisons or chemicals. We have done a little survey around the states that surround us and the average of all the states around us comes to the neighborhood of \$70.00 per registration. Currently, we're charging 10, and we, with this bill, would charge 40, which still doesn't bring us up to the average of the states around us. The high state is Iowa at \$125.00 per registration. So I don't believe we're stepping out of bounds when we do this...when we do this with this bill. The thing we have to remember when Senator Schmit talks about conflicting courses, and I think that he is right, I think we have lots of problems nationally with use of herbicides and even many just straight fertilizer products that we use on our fields with water contamination and even plant contamination, the thing we have to realize is I think we have to put the grease where the squeak is and right now there is a terrible squeak out there on this spurge problem and I think that there are others almost right behind, leafy spurge, spotted...or Russian knapweed and probably even field bindweed. But there is a great necessity right at this time to get this legislation in place and that's why I selected it for my priority bill. I think that if you realize that even though we do get this money from the herbicide companies, ultimately, it will be the user who will pay for it because those costs will be reflected in the sale price of the product. So I don't think we really place that much of a burden on the herbicide companies. I think that the burden actually falls back on the landowner in the long run. So, with that, I would just like to urge your passing of the committee amendments and eventually the bill. Thank you.

SPEAKER BARRETT: Thank you. Senator Elmer.

SENATOR ELMER: Thank you, Mr. President. I appreciate all of your patience this morning with my discussion of the bill. I think that it's necessary that we talk about these things. This is a very important piece of legislation and it's going to be very costly. We have counties out there who are going to resist

this legislation because they don't think that they want to use these chemicals. We have...if it can be shown that biological controls or things of that type are going to be usable, or cultivation, those are open as control measures that can be used. The goal here is to make the state a better, more viable, stronger agricultural state. We do not want to have the things going on like there are in Montana and North Dakota where millions and millions of acres are unproductive and off the tax rolls at no benefit to anyone. We must prevent that. The state needs to make this kind of an investment to keep that problem up there and not in Nebraska, though we have already got it in every county in the state and every county needs to participate. During the last two years, I have worked very hard on this project and it's obvious that 15 or 20 counties out there are doing nothing, nothing at all. It's going to be hard for those counties to get in the program at this date but they're going to have to do it. It's going to be tough for them. I join with Senator Schmit in saying we need to find ways to provide for the necessary resources to do the job right with this bill. And I will be talking to Senator Johnson and Senator Dierks about some ways that we can provide additional revenues to put into this program that are not politically vulnerable from the General Fund. I think this is necessary if we're going to have an ongoing program. We know that noxious weeds are there and there to stay. We talked about eradication a little while ago. That's a goal that we want but we all know, realistically, we're not going to make it. So we need to go as far as we can. This bill is a start. I hope that we have everyone's support. Let's pass the committee amendments and pass the bill. I think we have talked and explained a good deal about it and I hope that everyone in here knows how important this is. Thank you.

SPEAKER BARRETT: Senator Johnson, would you care to close?

SENATOR R. JOHNSON: Well, Mr. President, since the committee amendments largely become the bill, I guess I would be trying both to close and to make some closing comments on the bill itself. Let me just take you back to where we're at at this particular point if we adopt these amendments with some changes that Senator Elmer has offered. Forty-nine establishes responsibilities for the Department of Agriculture and its director. It basically reinstates the department back in the program which they have not been a participant in for the last two or three years. It allows the designation of the weeds to be taken out of statute and put into rules and regs, that reason

being that it would be easier to change whatever rule...or noxious weeds might become problems in the state. Rather than having to come in and change the statute, the department director could make those changes. It also allows the department to supervise and direct weed control authorities. It helps them conduct investigations into complaints on noxious weeds and failure to comply with the law and it helps the county weed control authority with their weed control authority guidelines. It also, and has been mentioned by both Senator Nelson, Senator Schmit and Senator Dierks, imposes a fee...an increase in a fee from \$10.00 to \$40.00 on the registration of certain chemicals in the state. That is the funding source of this program. The bill also asks for matching funds out of the General Fund. Whether that is possible remains to be seen, but at this time I don't think that that should hold us back from at least advancing the bill. We can discuss alternative financing mechanisms, I think, on Select File if it becomes apparent that General Fund support is not forthcoming. Finally, a comment...away from LB 49, but a comment that has been brought up by two or three speakers today on the effects of chemicals and the use of chemicals in our environment and in agricultural operations. It is interesting to note that I think we see two locomotives heading straight toward each other. There is a growing and increasing concern by the public about the environment, about the use of chemicals or the growth of the use of chemicals in this country and I think you're seeing more and more positions being taken by groups against use of chemicals in our society. It is interesting to note, however, as well, that on the federal level to be in compliance with our federal farm program we have to basically meet, in many cases, soil requirements, the loss of soil, which means one of two things, either go in and start putting in major restructurings of our property, putting in embankments and dikes and so forth, or going to minimum till. Minimum tillage means probably use of more chemicals. More farmers I have talked to are suggesting they will probably be going to minimum till rather than doing major soil reconstruction projects on their property. It's less costly in the long run but it, again, hits up against that question about chemicals. I think you're going to see more chemicals used because with minimum till you're not actually breaking the soil as much as you used to and the control of the weeds will have to be done in another manner other than tillage of the ground. So you are headed in that direction. That has nothing to do with this bill but it was a prime opportunity to bring that up. I think the bill is, in its basic structure, in

pretty good shape but there are some remaining problems that need to be addressed. I think the body can address those on Select File when the various parties involved in this can negotiate out the remaining problems they might have. With that, I would close my comments, ask the body to adopt the committee amendments and then move the bill.

SPEAKER BARRETT: Thank you. You have heard the closing and the question before the body is the adoption of the committee amendments to LB 49. Those in favor vote aye, opposed nay. Record, please.

CLERK: 28 ayes, 0 nays, Mr. President, on adoption of the committee amendments as offered by the Agriculture Committee.

SPEAKER BARRETT: The committee amendments are adopted. To the bill, Senator Dierks, please.

SENATOR DIERKS: Mr. Speaker and members of the body, it shouldn't take very long, I believe, to move this bill. I did want to talk about one of the things that we neglected to speak about when Senator Johnson was talking here a little bit ago about the effect of the biologic...or the chemical controls. There are two other possibilities that might help us a little bit with this weed control situation and that is biological control and then genetic control. And I believe that the state of science of our world today that we will come up with something that will provide us with these controls without having to rely on the poisons and the toxins. So I...but I think that right at this point we need the...we need to control with the herbicides because we're in such a desperate problem out there with the spurge situation especially that we just can't wait any longer, we have to do this. Two reasons I think that this bill will work where the legislation we had prior to this bill did not work. One is the funding mechanism. We're providing funding from some of the herbicide people with a match from General Fund. The second reason is due to the enforcement we built into this legislation, under LB 49 the department no longer takes over the spraying and digging and other methods of weed control but rather instructs the county as to needs for this compliance and then it also instructs them that if failure to comply goes on, then they can take legal action through the Attorney General. We feel like this is a much better enforcement procedure and should make the bill enforceable and a good working bill, where the last legislation we had was not.

March 13, 1989

LB 49, 85, 137, 146, 178, 179, 215
293, 345, 377, 387, 424, 434, 463
515, 555, 617, 669, 685, 710, 799
LR 27, 28

Without any further discussion, I believe we should just go ahead and try to advance this bill. Thank you.

SPEAKER BARRETT: Thank you. Any discussion on the advancement of the bill? If not, the question is the advancement of LB 49 to E & R Initial. All in favor vote aye, opposed nay. Shall LB 49 be advanced? That is the question. Record, please.

CLERK: 27 ayes, 0 nays, Mr. President, on the motion to advance LB 49.

SPEAKER BARRETT: LB 49 is advanced. The Chair is pleased to announce that Senator Moore has some eighth graders from Emmanuel Lutheran in York. I believe there are 12 of them in the north balcony, with their teacher. Would you folks please stand and be recognized. Thank you for being with us. Also, Senator Sharon Beck has a special visitor from District 8 this morning, Dr. Paul Paulman, who is here today as doctor of the day. Please welcome Dr. Paulman. Anything for the record, Mr. Clerk?

CLERK: Mr. President, I do, thank you. Retirement Systems reports LB 137 to General File with amendments. That is signed by Senator Haberman. (See pages 1076-77 of the Legislative Journal.)

Transportation Committee reports LB 424 to General File with amendments; LB 799, General File with amendments; LB 146, indefinitely postponed; LB 434, indefinitely postponed; LB 515, indefinitely postponed; LR 27, advanced to the floor, and LR 28, advanced to the floor, all of those reports signed by Senator Lamb as Chair of Transportation. (See pages 1077-80 of the Legislative Journal.)

Natural Resources Committee reports LB 617 to General File; LB 710 to General File; LB 293 to General File with amendments. Those are signed by Senator Schmit as Chair. (Journal page 1080 shows LB 293 as indefinitely postponed and LB 387 as indefinitely postponed.)

Judiciary Committee reports LB 215 to General File; LB 377, General File; LB 669, General File; LB 555, General File with amendments; LB 685, General File with amendments; LB 85, indefinitely postponed; LB 178, indefinitely postponed; LB 179, indefinitely postponed; LB 345, indefinitely postponed; LB 463,

March 16, 1989

LB 41, 49, 72, 89, 152, 157, 265
285, 287, 357, 357A, 373, 421, 431
431A, 480, 501, 513, 613, 619, 637
649, 758, 767, 776, 803

Retirement Systems report LB 41 to General File with amendments. That is signed by Senator Haberman. And LB 287 to General File with amendments, signed by Senator Haberman. Banking Committee reports LB 758 to General File with amendments; LB 776, General File with amendments; LB 480, indefinitely postponed; LB 613, indefinitely postponed, and LB 803 indefinitely postponed, those signed by Senator Landis as Chair. Transportation reports LB 72 to General File with amendments; LB 373, General File with amendments; LB 501, General File with amendments; LB 152, indefinitely postponed; LB 513, indefinitely postponed; LB 649, indefinitely postponed, those signed by Senator Lamb as Chair. Select File, E & R reports LB 49 and LB 431 to Select File and LB 431A to Select File. Enrollment and Review reports LB 157 correctly engrossed, LB 265, LB 357, LB 357A and LB 619 all correctly engrossed. General Affairs Committee reports LB 767 to General File with amendments. That is signed by Senator Smith. A series of amendments to be printed, Senator Lamb to LB 285, Senator Withem to LB 637, and Senator Smith to LB 421. (See pages 1182-93 of the Legislative Journal.) That is all that I have, Mr. President.

PRESIDENT: May I please introduce some guests of Senator Schmit, please, in the...I don't know which balcony they are in. There are 41 seventh graders and their teacher from Aquinas School in David City. Are you folks in either balcony? Would you please rise and be recognized? Thank you for visiting us today. Senator Smith, did you wish to speak on Section 10 of the amendment? Senator Lynch, did you wish to speak on that?

SENATOR LYNCH: Only to save time, mention again, as Senator Warner and I discussed earlier, our agreement on this portion of the Scott Moore amendment, so we would ask for your support for this amendment.

PRESIDENT: Senator Moore, did you wish to close on the Section 10 portion of your amendment?

SENATOR MOORE: No, just ask that it be adopted.

PRESIDENT: All right, the question is the adoption of the second half of the Moore amendment. All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 28 ayes, 0 nays, Mr. President, on adoption of Senator Moore's second amendment to the bill.

March 21, 1989

LB 49, 371, 396, 512, 526, 547, 594
627, 712

SPEAKER BARRETT: A record vote has been requested.

CLERK: (Record vote read. See pages 1262-63 of the Legislative Journal.) 12 ayes, 21 nays, Mr. President.

SPEAKER BARRETT: Motion fails. Next item.

CLERK: Mr. President, if I may read some items for the record.

SPEAKER BARRETT: Proceed.

CLERK: Judiciary Committee reports LB 627 to General File, LB 594 to General File with amendments, LB 396 indefinitely postponed, LB 512, LB 526, LB 547, LB 712 all indefinitely postponed, those signed by Senator Chizek as Chair. (See page 1263 of the Legislative Journal.)

Senator Dierks has amendments to be printed to LB 49, Mr. President. (See pages 1263-64 of the Legislative Journal.)

Mr. President, Senator Hall would move to amend LB 371. (Hall amendment appears on page 1264 of the Legislative Journal.)

PRESIDENT NICHOL PRESIDING

PRESIDENT: Senator Hall, please.

SENATOR HALL: Thank you, Mr. President and members. The third amendment here I would like to ask the body to refer to page 3 of the bill, Section 4, line 7 through 11. I'll just read it to you. It's very short. Agreement shall mean any agreement between a wholesaler and a supplier, whether oral or written, by which a wholesaler is granted the right to purchase and sell a brand or brand of beers sold by a supplier. What my amendment would do is rewrite that five lines so that an agreement shall mean any written agreement between a wholesaler and a supplier by which a wholesaler is granted the right to purchase and sell a brand or brand of beers. All it does is strike the language that refers to an oral agreement. I don't understand why it is there. I don't think it should be there. I think at least the agreement should be required to be in writing not only for the manufacturer's benefit, but for the retailer's benefit and I think that an explanation as to why we allow for an oral agreement, we just allowed for a separate group of arbitration

SENATOR WEIHING: That's the report. On their way home. (Laugh.) I think the body has been very patient, and I think we should go ahead.

SPEAKER BARRETT: Thank you. Members, return to your seats. We have a request for a machine vote. The vote has been taken, I'm sorry. You want to take some call in votes? Are you asking for a roll call vote, what are your wishes?

SENATOR WEIHING: Let's make it a roll call vote.

SPEAKER BARRETT: Roll call vote has been requested. On the advancement of the bill, Mr. Clerk.

CLERK: (Roll call vote taken. See pages 1300-01 of the Legislative Journal.) 25 ayes, 15 nays, Mr. President, on the motion to advance the bill.

SPEAKER BARRETT: LB 54 is advanced to E & R. The call is raised. I believe it's possible to handle LB 49 with a simple amendment, and then voice vote just a few bills across that are unamended and we conclude our business for the day. LB 49, Mr. Clerk.

CLERK: Mr. President, on LB 49 I have E & R amendments, first of all.

SPEAKER BARRETT: Senator Lindsay, E & R amendments.

SENATOR LINDSAY: Mr. President, I move the E & R amendments to LB 49.

SPEAKER BARRETT: Shall the E & R amendments be adopted? Those in favor vote aye. Opposed no. Carried, they're adopted.

CLERK: Mr. President, the next amendment I have to the bill is by Senator Dierks. Senator, this is your amendment on page 1263 of the Journal.

SPEAKER BARRETT: Senator Dierks.

SENATOR DIERKS: Yes, Mr. Speaker and members of the body, perhaps you remember on General File that Senator Elmer and I were having some difficulty getting our act together and we kind of promised that we'd do that on Select. I think this amendment

is the result of our getting that act together. The amendments are fairly straightforward and fairly simple. The first amendment, the first thing that it does, it amends the term "eradication", it just changes the order and terminology so that "eradication" is just one definition of control rather than the primary definition. Secondly, it includes political subdivision and the list of government bodies responsible for control of noxious weeds. Thirdly, the amendment allows the Department of Agriculture to receive reimbursement from the federal government for control work done on federal land, otherwise such reimbursement would go to the General Fund. Finally, the amendment strikes a portion of the bill which stipulates that the initial legal action be taken against the landowner, subsequent action against the county and final action against the state. This sequence really is not necessary because the bill already establishes an order of responsibility. By striking this we allow legal action to be taken where it is most appropriate. These are the amendments...the provisions of the amendment, and without any further discussion, I guess, I just urge your adoption of these amendments.

SPEAKER BARRETT: Motion on the desk.

CLERK: Mr. President, Senator Elmer would move to amend the Dierks amendment.

SPEAKER BARRETT: Senator Elmer, please.

SENATOR ELMER: Thank you, Mr. President and members. This is really basically very simple. The second part that Senator Dierks explained, where we added political subdivisions, as in the responsible parties to pay for noxious weeds that happen to be present upon the land that they would control required an additional word in there, talking about a budget. My amendment is basically technical in that it would clearly state that the state agencies, boards, departments that have weeds on their lands would pay for it out of money appropriated to their particular departments or agencies, while the local subdivisions, since they acquire their money through a budget, would be required to pay that fund out of their budget. And the primary reason for that was that I felt that, if we left it worded as it was, that the state agencies might possibly put together a budget and not allocate anything in the budget for noxious weed control and then choose not to pay the bill because merely they hadn't budgeted for it. This just is to clear up

that they are responsible to pay for it out of the appropriation for their departments or agencies. And I'd ask your permission to amend the amendment.

SPEAKER BARRETT: Thank you. Discussion on the amendment to the amendment. I have two lights. Senator Withem. Thank you. Senator Dierks.

SENATOR DIERKS: Thank you, Senator Withem. Mr. Speaker and members of the body, I have no problems with the amendment to the amendment that Senator Elmer has. We've talked it over and there is no problem with that. So I'm willing to go ahead and vote the amendment to the amendments.

SPEAKER BARRETT: Thank you. Thank you, Senator Elmer. Those in favor of the adoption of the Elmer amendment to the Dierks amendment please vote aye, opposed nay. Record, please.

CLERK: 29 ayes, 0 nays, Mr. President, on adoption of Senator Elmer's amendment to Senator Dierks' amendment.

SPEAKER BARRETT: The amendment to the amendment is adopted. Senator Dierks, back to your amendment as amended.

SENATOR DIERKS: Mr. Speaker, members of the body, I just urge the advancement of this amendment to the bill and the advancement of the bill to Final Reading. Thank you.

SPEAKER BARRETT: Thank you. Any discussion? Senator Withem.

SENATOR WITHEM: Yes, Senator Dierks, on General File Senator Elmer brought you a number of amendments and you've worked with him to include those. I wonder, within these is the one that Senator Smith and Senator Wesely and I brought to you? Did you include that one also?

SENATOR DIERKS: What's the question, Senator Withem? (Laughter.)

SENATOR WITHEM: Never mind, I think I have the answer. Thank you.

SPEAKER BARRETT: Senator Nelson, any discussion?

SENATOR NELSON: Yes. Senator Dierks, could you please explain

for me a little bit. As you know I've had a little bit of concern about taking all of our money that we might get for some other chemical controls and water quality and so on and so forth. And I should have known, and maybe you can answer this to me right away, we are talking about on page 23, Section 2, "There is hereby created the Noxious Weed Cash Fund. The fund shall consist of proceeds raised from fees imposed for the registration of economic poisons." Since we have over 6,000 different chemicals registered, really 6,700, you know as I said the other day it's all the way from, well to control fleas in dogs to toilet bowl cleaner. What is the definition, and I should know that. I'm just asking for a little clarification. I know we can't include that many because your fiscal note would not be correct. Can you tell me what economic poisons are, the difference?

SENATOR DIEPKS: I'm not sure I have the correct definition for that, Senator Nelson. I think that we just group them in a group called economic poisons that are registered by the Department of Agriculture. You know we know there are 6,700 of them and they do vary from herbicides and insecticides to flea collars and spray bombs and this sort of thing. There are 6,700 registrations and they do bring in currently \$10 per registration. Under this bill the registration fee would increase from \$10 to \$40 for registration, feeling...we feel that with that increase in registration fees that we can produce \$187,000 worth of money for the weed fund, and then match that with General Funds.

SENATOR NELSON: My next...really my next concern is, as I've said before, I certainly have nothing wrong with fighting the weeds and it is necessary. But I'm wondering if we're going down the path, you know a fee on all of these chemicals, like back to the fleas on the cats to support the weed fund when again we're going to have to have pretty soon maybe a fee on Ramrod, or something like that to address the chemicals in the water and the herbicide and pesticide controls. I'm in a very precarious position here of not supporting the weed fund, but I'm having...I'm having reservations about opening up the door. I guess maybe it's...I liken it to LB 89 a while ago, the first big bunch that comes in gets all the money, the rest of us are going to be holding our hands from then on out. I kind of wonder if this isn't going to happen on the chemicals.

SENATOR DIERKS: Well my answer is I hope that being the first

March 22, 1989

LB 49

one in my hand out that we're the...that we are the first ones to get it.

SENATOR NELSON: I think that's the answer, the first one with a hand out you grabbed it all and the rest of us are going to be holding our hands, I think.

SENATOR DIERKS: Let me tell you a few of the figures from other states. North Dakota has requested \$540,000 this year strictly for leafy spurge control. Montana, raises \$350,000 from a 1 percent surcharge on herbicides, they also raised \$350,000 from a 50 cent charge on motor vehicles for weed control. So I guess we look for a source of funding wherever it's available. In Montana they're getting it from motor vehicles. Wyoming, annual budget currently includes 250,000 for leafy spurge control alone, and \$200,000 weed control on right of ways on public lands...

SPEAKER BARRETT: One minute.

SENATOR DIERKS: ...and 100,000 in administrative funding, all from General Funds.

SENATOR NELSON: I certainly...I guess you're on my time. I agree with you and I'm also familiar that Kansas has registration fees and Colorado has fees and Iowa has fees. But I'm sure cautious about opening the door. I know the weeds need it, but I wish you'd find another source of funding, I guess.

SENATOR DIERKS: I understand your concerns. I don't really have any problem with that, except that I think we've explored most of the possibilities or all we can come up with. During last year's conversation with the legislation we finally agreed that this is the way to try to do the funding in Nebraska.

SENATOR NELSON: Shall I tell you how it is? You was the first steer out of the chute and so you won.

SENATOR DIERKS: Okay, thank you, I'll accept that. You're becoming rather adept at finding new names for me today, Senator Nelson. I thank you for that.

SPEAKER BARRETT: Senator Bernard-Stevens.

SENATOR BERNARD-STEVENS: Senator Dierks, I just had a quick

March 22, 1989

LB 49A, 49

question. I'm a little confused because I know I missed the day that this was on General File. I know that Senator Elmer had a tremendous number of amendments and I know Senators Wesely, Smith and Withem had an amendment. I'd just like for you to clarify something for me, was it in those amendments as agreed upon, was smokeless tobacco declared a noxious weed? I'm a little bit confused as to whether that's in the bill or not.

SENATOR DIERKS: Is this live? (Laughter.) I don't believe that's included in the bill, Senator Bernard-Stevens.

SENATOR BERNARD-STEVENS: Thank you, Senator, that clarifies that for me. Thank you, Mr. President.

SPEAKER BARRETT: Senator Schimek. Your light was on. Any other discussion? Senator Dierks, anything further?

SENATOR DIERKS: No, Mr. Speaker.

SPEAKER BARRETT: Thank you. The question then is the adoption of the Dierks amendment to LB 49. All in favor vote aye, opposed nay. Record, please.

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

SPEAKER BARRETT: The amendment is adopted.

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

SPEAKER BARRETT: Senator Dierks, would you care to try to advance the bill?

SENATOR DIERKS: Yes, I move we advance the bill to Final Reading.

SPEAKER BARRETT: Thank you. There are no lights on. The question then is the advancement of the bill. All in favor vote aye, opposed nay. The bill is advanced, sorry. As indicated earlier, I'm sorry, there is an A bill. Senator Dierks, would you like to handle an A bill?

SENATOR DIERKS: Yes, I move the advancement of LB 49A to...is it on Select?

March 28, 1989

LB 46, 49, 49A, 132, 145, 231A, 237
250, 250A, 281, 378A 379, 388, 408A
412A, 418, 449, 449A, 506

SPEAKER BARRETT PRESIDING

SPEAKER BARRETT: Welcome to the 54th day in the life of the First Session of the Ninety-first Legislature. Our opening prayer this morning by our chaplain, Pastor Allen Vomhaf of St. Johns Lutheran Church in Omaha, Senator Lynch's district. Pastor Vomhaf, please.

PASTOR VOMHAF: (Prayer offered.)

SPEAKER BARRETT: Thank you, Pastor Vomhaf. Hope you can come back again. Roll call.

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

SPEAKER BARRETT: Thank you. Any corrections to the Journal?

CLERK: No corrections, Mr. President.

SPEAKER BARRETT: Reports, announcements or messages.

CLERK: Mr. President, your Committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 46 and find the same correctly engrossed, LB 49, LB 49A, LB 132, LB 145, LB 231A, LB 237, LB 250, LB 250A, LB 281, LB 378A, LB 379, LB 388, LB 408A, LB 412A, LB 418, LB 449, LB 449A and LB 506, all reported correctly engrossed. (See page 1364 of the Legislative Journal.)

Mr. President, the last item I have is a report from the Job Training Director for the City of Omaha. That will be on file in my office. That's all that I have, Mr. President.

SPEAKER BARRETT: Thank you, sir. Before proceeding into General File, senator priority bills, an announcement of general interest to the body (gavel) for your advanced planning. On Thursday of this week, day after tomorrow, we will be on consent calendar, consent calendar beginning Thursday morning, running through the noon hour, working through the noon hour and hopefully adjourning again at the midafternoon point. It's my hope that we can dispose in one way or another of all of the bills that will be listed on consent calendar on Thursday. Those bills that will be a part of consent calendar will be available to you this afternoon at the same time the agendas for tomorrow are available. So you will be able to have a little

May 17, 1989

LB 49, 49A, 134, 158

for visiting us today. Mr. Clerk, LB 49.

ASSISTANT CLERK: (Read LB 49 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 49 pass? All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

ASSISTANT CLERK: (Record vote read. See pages 2460-61 of the Legislative Journal.) The vote is 42 ayes, 2 nays, 1 present and not voting, 4 excused and not voting, Mr. President.

PRESIDENT: LB 49 passes. LB 49A, please.

ASSISTANT CLERK: (Read LB 49A on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 49A pass? All those in favor vote aye, opposed nay, please. Have you all voted? Record, Mr. Clerk, please.

ASSISTANT CLERK: (Record vote read. See pages 2461-62 of the Legislative Journal.) The vote is 40 ayes, 5 nays, 1 present and not voting, 3 excused and not voting, Mr. President.

PRESIDENT: LB 49A passes. LB 134, please.

ASSISTANT CLERK: (Read LB 134 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 134 pass? All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

ASSISTANT CLERK: (Record vote read. See page 2462 of the Legislative Journal.) The vote is 41 ayes, 2 nays, 3 present and not voting, 3 excused and not voting, Mr. President.

PRESIDENT: LB 134 passes with the emergency clause attached. LB 158.

ASSISTANT CLERK: (Read LB 158 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having

May 17, 1989

LB 44, 44A, 49, 49A, 134, 137A, 158
158A, 162, 162A, 175, 175A, 182, 182A
198, 228, 228A, 305, 815, 816, 816A

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 228 pass? All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

ASSISTANT CLERK: (Read record vote as found on pages 2473-74 of the Legislative Journal.) The vote is 47 ayes, 0 nays, 1 present and not voting, 1 excused and not voting, Mr. President.

PRESIDENT: LB 228 passes. LB 228A.

ASSISTANT CLERK: (Read LB 228A on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 228A pass? All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

ASSISTANT CLERK: (Read record vote as found on page 2474 of the Legislative Journal.) The vote is 45 ayes, 1 nay, 2 present and not voting, 1 excused and not voting, Mr. President.

PRESIDENT: LB 228A passes. While the Legislature is in session and capable of transacting business, I propose to sign and do sign LB 44, LB 44A, LB 49, LB 49A, LB 134 with the emergency clause attached, LB 158, LB 158A, LB 162, LB 162A, LB 175, LB 175A, LB 182, LB 182A, LB 198, LB 228, and LB 228A. Anything for the record, Mr. Clerk?

CLERK: Mr. President, yes, thank you. Your Committee on Enrollment and Review reports LB 305, LB 815, LB 816, and LB 816A as correctly engrossed, all signed by Senator Lindsay as Chair of Enrollment and Review. (See pages 2475-76 of the Journal.)

I have a confirmation hearing report from Health and Human Services Committee signed by Senator Wesely as Chair. That's all that I have, Mr. President.

PRESIDENT: We'll move on to LB 137A.

CLERK: Mr. President, 137A is a bill introduced by Senator Warner. (Read title.)

May 17, 1989

LB 44, 44A, 49, 49A, 134, 158, 158A
162, 162A, 175, 175A, 182, 182A, 198
211, 228, 228A, 308, 309, 309A, 362
377, 429
LR 88

Mr. President, bills read on Final Reading today have been presented to the Governor. (Re: LB 44, LB 44A, LB 49, LB 49A, LB 134, LB 158, LB 158A, LB 162, LB 162A, LB 175, LB 175A, LB 182, LB 182A, LB 198, LB 228 and LB 228A. See page 2482 of the Legislative Journal.)

Mr. President, amendments to be printed, Senator Hall to LB 211, Senator Ashford to LB 362, Senator Weihing to LB 377, Senator Lynch to LB 377. (See pages 2482-88 of the Legislative Journal.)

Enrollment and Review reports LB 308 as correctly engrossed, LB 309 and LB 309A as correctly engrossed.

And, Mr. President, I have a communication from the Chair of the Reference Committee rereferring study resolution LR 88 from the Banking Committee to the General Affairs Committee. That is signed by Senator Labedz as Chair. And that is all that I have, Mr. President.

PRESIDENT: We'll go to Final Reading on number 9. We'll start with LB 429, but we need to get into our seats and get ready for Final Reading, please. Mr. Clerk, LB 429.

CLERK: The first motion...I have motions on 429, the first is by Senator Wesely. Senator Wesely would move to return the bill, the purpose being to strike the enacting clause.

PRESIDENT: Senator Wesely, please.

SENATOR WESELY: I will withdraw that amendment at this time.

PRESIDENT: All right, it is withdrawn.

CLERK: Mr. President, Senator Moore and Lindsay would move to return the bill for a specific amendment. (Moore-Lindsay amendment appears on page 2489 of the Journal.)

PRESIDENT: Senator Moore, please.

SENATOR MOORE: Well, it's another one of those cows to the ring and see who bought her this time. This time it's one of my old rangy old cow. This one I believe in. This is the Bergan Mercy amendment. Now 429 is a bill dealing with certificate of need, 429 introduced by Senator Baack and the intention of this bill I

May 19, 1989

LB 49, 89, 162, 270, 525

people in this body are hoping we pass it to force the Governor to veto it because it would make the Governor have to veto state aid to education. They would love to have to put the Governor in that kind of position. But look at it from our viewpoint, if you pass 18 or 9, there are some A bills, if it were passed into law, that we're going to pass something for education that will not do that much for education, but look at what may be lost. LB 49, noxious weed control for \$187,000, may have to go on the chopping block...

SPEAKER BARRETT: One minute.

SENATOR BERNARD-STEVENS: ...because we spent 9 million. LB 162, animal damage control, 312,000 may have to go because we spent \$9 million. Court review of DSS placement may have to go at 251,000 because we spent \$9 million. Additional district court judges will have to go, may have to go. State takeover of indigent care will be at great risk. Increasing LB 270 benefits will be at great risks, \$287,000. Senator Nelson's incentives for nursing students would be at tremendous risk of being vetoed if we went with \$9 million. Leadership academy will be at great risk. Extending ADC payments of \$729,000; Foster Care Board legal standing \$288,000; MIRF, 4.5 million; state gaming laws, 807,000.

SPEAKER BARRETT: Time.

SENATOR BERNARD-STEVENS: You need to start looking of what you're going to cut because, if this thing passes, it will either be vetoed which is unfortunate, which means it is meaningless, or we cut it elsewhere that's desperately needed. Thank you.

SPEAKER BARRETT: Senator Warner, followed by Senators Moore and Nelson.

SENATOR WARNER: Mr. President, members of the Legislature, I rise to support the \$9 million, and not for the reason that you think, which is obvious that nine is less than 18. Now that doesn't have anything to do with it, not a thing. The first thought that occurs to me with the way we have legislation lined up, we've got 133 million that is going to evaporate in 1991 and 20 million after LB 89 will evaporate, and we add this nine here and that will evaporate, but it gives us a better base of available funds for redistribution. But the reason I'm

May 24, 1989

LB 44, 44A, 49, 49A, 162, 162A, 247
247A, 250, 250A, 277, 277A, 301, 308
813, 814
LR 115, 213, 214, 215, 217, 218, 220
221, 223

Mr. President, a series of veto messages. (Read. Re: LB 44, LB 44A, LB 162, LB 162A, LB 49, LB 49A, LB 277, LB 277A, LB 250, LB 250A, LB 247, LB 247A.) The last message, Mr. President. (Read. Re: LB 301, LB 308, LB 813, LB 814. See pages 2723-29 of the Legislative Journal.)

Mr. President, that completes the items that I have.

PRESIDENT: While the Legislature is in session and capable of transacting business, I propose to sign and do sign LR 115, LR 213, LR 214, LR 215, LR 217, LR 218, LR 220, LR 221. We will move on to number five, resolutions, Mr. Clerk, LR 223, please.

CLERK: LR 223 was introduced by the Appropriations Committee. It is found on page 2680 of the Journal. It asks the Legislature that pursuant to the provisions of Section 85-404 and LR 69 adopted by the Ninetieth Legislature to call for the issuance of bond anticipation notes and/or revenue bonds in the amount not to exceed \$4,925,000.

PRESIDENT: Senator Moore, please.

SENATOR MOORE: Yes, Mr. President, and members, I know we are all busy, a beehive of activity this morning, but this first thing out of the shoot is of some significance. You may or may not want to listen. What this is is the approval for the bond financing of Phase III of the rec center construction. Those of you that were around in 1987 will remember at that point in time when we approved the indoor practice facility, that was the first of three phases of activity in the total hyperfitness area, whatever it was called, I forget. And Phase I and Phase II have already been...Phase I and Phase II have already been either built or in the process of being built and paid for, and the university is coming down...coming back with LR 223, and if you remember back, LR 69 two years ago, it basically said...we basically said we approve Phase I and Phase II and Phase III; if on the chance that when you go to Phase III, and Phase III is rebuilding of the coliseum, which I would like to explain a little bit, if we get to Phase III, it is the university's choice to use bond financing, and they must come back to the Legislature for our approval. That is, indeed, what has occurred. That is what LR 223 is talking about. It grants the authority for the university to bond up to \$4.9 million for the UN-L recreation/athletic facility. Now as you remember, the indoor practice facility, you all remember, Phase II of that

CLERK: Senator Moore would move.

SPEAKER BARRETT: Senator Moore. It's withdrawn.

CLERK: I have nothing further on LB 814, Mr. President.

SPEAKER BARRETT: Thank you. Proceeding then to individual motions. The call is raised.

CLERK: Mr. President, the first motion I have is by Senator Dierks. Senator Dierks would move that LB 49 become law notwithstanding the objections of the Governor.

SPEAKER BARRETT: Senator Dierks.

SENATOR CHAMBERS: Mr. Chairman, when LB 814 was before us, I believe that every motion that had been made on that bill had to be taken before an intervening motion could be considered, but now that we're on an additional bill, I have a motion that I placed on the desk which I think should be taken and I don't see anything in the rule book that deals specifically with it, but this is a separate matter and I think it's similar to an adjournment motion so I think it ought to be appropriate now to take it before we get into the individual bills that are to be overridden.

SPEAKER BARRETT: Senator Chambers, there's nothing the matter with the motion. The problem I believe the Chair has at this point is considering it at this time. I would have no problem in considering it perhaps under other business, other motions. I don't consider it a priority motion and I don't believe that it would be the same as an adjournment motion. Thank you. But we can recognize it at the proper time, yes.

SENATOR CHAMBERS: No, if this is not the proper time there will be no other time when it's proper. Thank you.

SPEAKER BARRETT: Thank you. Mr. Clerk, please.

CLERK: Mr. President, I have a priority motion, once again. Senator Korshoj.

SENATOR KORSHOJ: Mr. Speaker and members, I'd like to try one more time a sine die motion, so I move we adjourn sine die. Thank you.

May 24, 1989

LB 49

SPEAKER BARRETT: You've heard the motion. Not debatable. Those in favor of adjourning sine die vote yes, opposed no. Record.

CLERK: 12 ayes, 23 nays, Mr. President, on the motion to adjourn sine die.

SPEAKER BARRETT: Motion fails. Back to the overrides.

CLERK: Mr. President, LB 49, Senator Dierks would move that LB 49 become law notwithstanding the objections of the Governor.

SPEAKER BARRETT: Senator Dierks.

SENATOR DIERKS: Mr. Speaker and members of the body, I thought maybe this motion might come up a little earlier than this. I was the first one filed, even before the bill came...the veto bills came back from the Governor yesterday, but I guess the way the thing works out we didn't get to it till now. LB 49 was my priority bill. It will...it's a bill that takes care of noxious weeds in the state, has an A bill associated with it calling for \$187,000. In the scheme of things it's not that all that big a bill. The need for this legislation I think is known by all of us. I don't look on it as strictly a rural type piece of legislation. This is a bill that I believe has quite dramatic effects concerning economics of agriculture and which I think has the same effect throughout the state, whether you're urban or rural, and I...we know the necessity for this legislation. We've been without a weed bill for several years and with the absence of that weed bill the counties have been unable to proceed and do the weed control programs that we've asked them to do. So now, with the advent of LB 49, we put the state back in the weed business and we provide the funding for the State Department of Agriculture to do all the necessary things to give us a good weed program. I don't know how many of you are aware of it. I'm not sure how many of you understand the significance of this leafy spurge problem in this state, but there have been entire ranches taken off the tax rolls in other states in this nation due simply to a leafy spurge infestation. This has happened in Montana. I know of a 2,500 acre ranch in Montana that has been removed from the tax rolls because it can produce absolutely nothing, and that's what we're looking at in Nebraska if we don't take some real stringent action to stop it. It's of

vital importance to our entire state. That's not just rural Nebraska. That's also urban Nebraska. There...I believe the Education or the Agricultural Committee this year spent a considerable amount of time on this. I know that the counsel for that committee spent a lot of time getting the amendments right, bringing the bill in the proper form to this committee. Senator Owen Elmer has spent a lot of time on this type legislation. It's been our priority for a number of years. I think that it's just so vital that we get this put back into law. I hope that there will be some people who have questions they might like to ask. If they do, I'd sure like to try to answer them. I am so...I just feel so strongly about this. I think that it's really a must for all Nebraskans and I hope you will support the override on LB 49. Thank you.

SPEAKER BARRETT: Senator Lamb, followed by Senator Chambers and Senator Korshoj.

SENATOR LAMB: Yes, Mr. President and members, I rise to support this override motion and I would just like to emphasize some of the things that Senator Dierks said, and one of them is that leafy spurge is a terrific problem in the states north of here and, as he mentioned, there are acres and acres up there that have been taken off the tax roll because of the spread of leafy spurge. The land is virtually useless. So that will have wide ramifications in this state if that happens. Now the other part of it that he did not mention is that, while this does call for \$187,000 of General Fund, the other half of that, there's another \$187,000 of Cash Funds which will be raised by increasing the charges on chemicals that are used to fight weeds. And that certainly is an appropriate way to fund that part of the program and it's half the producers will be paying it through the fees, additional fees, that will be charged for those chemicals. So this is an important program and I would recommend that this veto be overridden.

SPEAKER BARRETT: Senator Korshoj. I'll leave it up to the body. Discussion has been limited. Do I see five hands? I do. Shall debate cease? All in favor vote aye, opposed nay. Record.

CLERK: 29 ayes, 0 nays, Mr. President, to cease debate.

SPEAKER BARRETT: Debate ceases. Senator Dierks, please.

May 24, 1989

LB 49A, 49

SENATOR DIERKS: Members of the body, I think that there isn't much need to go into too much more depth on this. I only urge your support of this motion and I'd like to give the rest of the closing time to Senator Elmer. Thank you.

SPEAKER BARRETT: Senator Elmer.

SENATOR ELMER: Thank you very much, Senator Dierks. Mr. Speaker, members of the body, as you all well know, I've 2317t three years on this bill. It's an excellent bill. It's one of the most important bills we have for agriculture for this state. It's the only time I've spoken today and it will be the last time, so I would strongly urge that we override the Governor in this instance and I'd strongly ask you to do the same on the next motion.

SPEAKER BARRETT: Thank you. The question is, shall the Governor's veto be overridden on LB 49? Those in favor vote aye, opposed nay. Have you all voted? Please record.

CLERK: (Record vote read as found on pages 2765-66 of the Legislative Journal.) 31 ayes, 7 nays, Mr. President, on the passage of LB 49 notwithstanding the objections of the Governor.

SPEAKER BARRETT: Motion is adopted. The veto is overridden on LB 49.

CLERK: Mr. President, Senator Dierks would now move that LB 49A become law notwithstanding the objections of the Governor.

SPEAKER BARRETT: Senator Dierks.

SENATOR DIERKS: Mr. President, members of the body, I think it's just the next order of business. I urge your support of LB 49A override. Thank you.

SPEAKER BARRETT: Any discussion? If not, the question is the override of the Governor's veto on LB 49A. All in favor vote aye, opposed nay. Have you all voted? Senator Dierks.

SENATOR DIERKS: Thank you, Mr. Speaker.

SPEAKER BARRETT: Record.

May 24, 1989

LB 44, 49, 49A, 247, 250

deemed mentally competent to stand trial and then the costs would shift back to the counties. It is important. It is a small county issue, there's no doubt about it. We need your help. Thank you.

SPEAKER BARRETT: Thank you. The question is the override of the Governor's veto on LB 44. All in favor vote aye, opposed nay. Voting on the motion to override. Have you all voted? Record, please.

CLERK: (Record vote read as found on page 2769 of the Legislative Journal.) 12 ayes, 23 nays, Mr. President.

SPEAKER BARRETT: Motion fails. Any other overrides filed with the Clerk? The Chair advises that certificate is being signed indicating that there has been an override on LB 250 and the same is true for LB 49 and LB 49A. (See Certificates as found on page 2772 of the Legislative Journal.) Matters for the record, Mr. Clerk?

CLERK: Mr. President, a series of communications addressed to the Secretary of State's Office regarding the Legislature's actions today on certain line item veto overrides, as well as certain other veto overrides. (See Communications as found on pages 2769-2772 of the Legislative Journal.)

Mr. President, I have a communication from Senator Labeledz appointing the membership to the LR 247 (sic)...LB 247 Committee that was passed into law this year. (See Executive Board Report as found on page 2773 of the Legislative Journal.)

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

SPEAKER BARRETT: No other unfinished business on the desk. Motions in preparation, Mr. Clerk, for sine die?

CLERK: Mr. President, Senator Wehrbein I believe has the first motion.

SPEAKER BARRETT: Senator Wehrbein, please.

SENATOR WEHRBEIN: Mr. Speaker and members, I move that a committee of five be appointed to advise the Governor that the 91st Legislature First Session of the Nebraska State Legislature is about to complete its work and to return with any message the