

January 18, 1989

LB 53, 57, 123, 537-597
LR 8-12

Mr. President, new bill. (LBs 537-538. Read for the first time by title. See page 268 of the Legislative Journal.)

SPEAKER BARRETT PRESIDING

SPEAKER BARRETT: The Chair is pleased to announce that Senator Jacklyn Smith of Hastings has visiting the Legislature today Dr. Robert Schlock and 20 students from Hastings College, specifically, psychology and law class, in the east balcony, the rear balcony. Dr. Schlock, would you and your students please stand and be recognized by your Legislature. Thank you. We are pleased to have you visiting with us today. Also under the north balcony from David City High School, Senator Schmit announces the following guests, 8 students from David City High School with their teacher. Would you folks please stand and be recognized. Thank you for visiting. We are glad to have you. Mr. Clerk, more bill introductions, please.

CLERK: Mr. President, first of all, your Committee on Urban Affairs, whose Chair is Senator Hartnett, to whom was referred LB 53, instructs me to report the same back to the Legislature with the recommendation that it be advanced to General File; LB 57 General File; LB 123 General File, all signed by Senator Hartnett as Chair of the committee.

Mr. President, new bills. (LBs 539-557 read for the first time by title. See pages 269-72 the Legislative Journal.)

SENATOR HEFNER PRESIDING

SENATOR HEFNER: Mr. Clerk, do you have some more bills to introduce?

ASSISTANT CLERK: Yes, I do, Mr. President. (LBs 558-593 read for the first time by title. See pages 273-81 of the Legislative Journal.)

SENATOR HEFNER: Do you want to read the bills into the record?

CLERK: Yes, Mr. President, thank you. (LBs 594-597 read for the first time by title. See page 281 of the Legislative Journal.)

Mr. President, in addition to those items, I have new resolutions. (Read a brief explanation of LRs 8-12. See

March 6, 1989

LB 87, 318, 340, 362, 362A, 390, 440
489, 541, 545A, 563, 587, 605, 661
687, 728, 793, 809
LR 16, 44, 45

SPEAKER BARRETT: With your permission, perhaps the Clerk could read some items in before we take a vote, Senator Goodrich? Thank you.

ASSISTANT CLERK: Mr. President, your Committee on Business and Labor, whose Chairperson is Senator Coordsen, reports LB 541 to General File with amendments; LB 605, indefinitely postponed. Committee on Enrollment and Review reports LB 318 as correctly Engrossed; LB 362, LB 362A, LB 440, LB 489. (See pages 993-97 of the Legislative Journal.)

New resolutions. (Read brief descriptions of LR 44 and LR 45 for first time. See pages 997-98 of the Legislative Journal.)

I have a notice of committee hearing from the Business and Labor Committee on gubernatorial appointments. Your Committee on Revenue, whose Chairperson is Senator Hall, reports LB 793 to General File; LB 390, indefinitely postponed; LB 563, indefinitely postponed; LB 661, indefinitely postponed; LB 687, indefinitely postponed; LB 728 and LR 16CA, indefinitely postponed. (See page 998 of the Legislative Journal.)

I have amendments to LB 587 from Senator Schmit to be printed; and from Senator Pirsch to LB 87. New A bill, LB 545A, from Senator Baack. (Read by title for the first time. See page 999 of the Legislative Journal.)

Amendments to be printed to LB 340 from Senator Chambers. Unanimous consent request from Senator Pirsch to add her name as a co-sponsor of LB 809, and an announcement from Senator Rod Johnson that the Agriculture Committee will meet in a brief Executive Session under the north balcony, immediately following adjournment today. That's all that I have, Mr. President. (See page 1000 of the Legislative Journal.)

SPEAKER BARRETT: Thank you. You've heard the motion to adjourn offered by Senator Goodrich. Those in favor say aye. Opposed no. Ayes have it, motion carried. We are adjourned until tomorrow morning.

Proofed by:

Marilyn Zank
Marilyn Zank

April 5, 1989

LB 541

PRESIDENT: Okay, shall we go on to LB 541, please.

CLERK: Mr. President, LB 541 is a bill that was introduced by Senator Lindsay. (Read title.) The bill was introduced on January 18. It was referred to the Business and Labor Committee. The bill was advanced to General File. I have committee amendments pending by the Business and Labor Committee, Mr. President. (See page 993 of the Legislative Journal.)

PRESIDENT: Senator Coordsen, are you going to handle those?

SENATOR COORDSEN: Yes.

PRESIDENT: All right.

SENATOR COORDSEN: Thank you, Mr. President and members of the body, LB 541 is a bill that addresses the question of indemnification of employees of the State of Nebraska. As I understand the situation that currently exists, the State of Nebraska cannot be sued for tortious acts of its employees, but the employees can be sued, and because of our indemnification statutes, the state is liable for the results of those suits without really being a party to that. LB 541 as originally introduced created a system for addressing tort claims, suits against employees of the State of Nebraska. It was pointed out to us by the State Claims Board that a much better system existed in simply amending the State Claims Act, which is AM0456, the committee amendments to the bill, which replace the bill. It adds in the State Claims Act on line 9 and throughout the act, I am talking about the amendment now, "or any employee of the state." No suit shall be maintained against the state or any state agency or any employee of the state. And the amendment goes on, on page 3, to include that a claim against the state for money only on account of damage to or loss of property or on account of personal injury or death caused by a negligent or wrongful act or omission by the employee while acting within the scope of his or her employment occurring on or after the effective date of the act, which relates to the payment of such claims. With that, I would like to ask the Chair to allow Senator Lindsay the remainder of my time.

PRESIDENT: That will be fine. You have almost three minutes, Senator Lindsay.

SENATOR LINDSAY: Thank you, Mr. President and colleagues. The committee amendments to LB 541 simply take, what the bill does is set forth basically the State Tort Claims Act, it sets forth the whole act with respect to state employees. What the amendments do is simply take the State Tort Claims Act and add to it the term "or any employee of the state." As Senator Coordsen stated, the reason for this is that right now, this is going I guess a little bit to the heart of the bill, but that is what the committee amendments actually do, the reason for it is to close a loophole, and that is that what currently happens now is that the lawsuits are filed directly against the employee, rather than against the state, thus circumventing the State Tort Claims Act, or removes that claim from the protections which this state intended to give when it gave up its sovereign immunity. It should be made clear that these are claims for which we are going to hear in a couple of bills sometime in the next couple of weeks for indemnification. It is that type of a case. When we have cases that the state ultimately ends up paying the bill for, it has been the policy of this state that certain safeguards be implemented for those cases. Those safeguards would be extended to the employees for those cases which arise out of their employment for which the state would be required to do the indemnification. For the record, and so that everybody is clear on that, this would not apply to the federal cases, the 1983 actions, civil rights actions, those type of things. Those are federal cases not governed by this law. We are talking about just claims that arise basically out of the negligence of an employee while performing a state function, and I would join with Senator Coordsen that in...urging you to adopt the committee amendments.

PRESIDENT: Mr. Clerk, you have an announcement to make.

CLERK: Mr. President, there will be an Executive Session of the Revenue Committee right now in the Senate Lounge, Revenue Committee in the Senate Lounge right now.

PRESIDENT: Okay, Revenue Committee, pay attention to that, please. Thank you. Senator Wesely, please.

SENATOR WESELY: Mr. President and members, one brief question of either Senator Lindsay or Senator Coordsen. I followed with interest the changes in the liability and tort claims legislation we have had this session, and I have only got one

April 5, 1989

LB 541

question, and that is, does this amendment as being proposed take the Legislature out of any decision-making authority that we now have? I know other legislation has done that and I just...looking at it, I can't see it, so...

SENATOR LINDSAY: Okay, I will respond to your question if that is okay, Senator Wesely.

SENATOR WESELY: Sure.

SENATOR LINDSAY: No, actually, what this does is bring the Legislature back into the decision-making process. Right now in a case with the state...I shouldn't say brings it back in, though, because the state does, obviously, have the authority on indemnification. It would bring the Legislature back into it in the sense that the entire case would be under the purview of the State Tort Claims Act. As usual, the State Legislature would have to approve those appropriations which are required by law, so to that extent, no, the Legislature does not lose authority in that, and I haven't read anything in there either, and if there is something in there to that effect, that is not the intent.

SENATOR WESELY: I appreciate that response and that is my interpretation, as well. It is only I have seen in some other legislation where the Legislature once had some final authority and then removed, and I don't want to see that happen. I don't think that is the case with this bill and I will support the amendment, but if that isn't the case, I sure would like to know from the sponsors of the bill.

PRESIDENT: Thank you. Senator Coord.en, would you like to close on the committee amendments, please?

SENATOR COORDSEN: Just to move for the adoption of the committee amendments. Thank you.

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

CLERK: 25 ayes, 0 nays, Mr. President, on adoption of committee amendments.

PRESIDENT: The committee amendments are adopted.

April 5, 1989

LB 541

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

PRESIDENT: Senator Lindsay, would you like to talk to us about the bill, please?

SENATOR LINDSAY: Thank you, Mr. President, colleagues. At this point I think I will go through some of the specific provisions of what the State Tort Claims Act. I don't want to get too repetitive because I am sure you are all familiar with that act but, basically, what the thrust of 541 is to bring the state employees under the purview of that act for those acts or omissions which occur while they are acting in the scope of their employment, or arising out of their employment with the state. These are the types of claims that what will happen now is the state will be required to indemnify the employee anyway. The net effect is that the state is going to have to pay under 541 or under the current law. That will not change who ultimately ends up shouldering the burden. What 541 would do is that it would provide those same safeguards which the State Tort Claims Act currently provides for the state, itself, extend those onto the employees, and those safeguards we are talking about would be, for example, having the case tried to a judge instead of a jury to avoid the potential of the extremely high awards. It would have a claim first be subjected to...submitted to the State Claims Board to avoid the litigation, if that is possible, would give the state that opportunity to do so. It would also, as Senator Wesely pointed out, it would provide for legislative review of those cases. If there is a judgment, I believe it is in excess of \$50,000, that the Legislature does have the right to review that judgment and to appropriate or not appropriate, as the Legislature deems appropriate. With that, unless there are questions, and I would be happy to field questions if anybody has any, I would urge the advancement of the bill.

PRESIDENT: Thank you. Senator Nelson, please.

SENATOR NELSON: I am sorry. I didn't know my light was on. I am sorry.

PRESIDENT: Did you wish to close, Senator Lindsay? There are no other lights. Okay, the question is the advancement of the bill. All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

April 5, 1989

LB 541, 653

CLERK: 26 ayes, 0 nays, Mr. President, on the advancement of LB 541.

PRESIDENT: LB 541 is advanced. LB 653, please.

CLERK: LB 653, Mr. President, by Senator Hall. (Read title.) The bill was introduced on January 19, referred to Revenue, advanced to General File. I have committee amendments pending by the Revenue Committee. (See page 1016 of the Legislative Journal.)

PRESIDENT: Senator Hall, please.

SENATOR HALL: Thank you, Mr. President and members. LB 653 was a bill that dealt with central assessment. The committee amendments strike any language in the bill that deal with that issue. It, basically, if you will look at the summary of the bill, there was two parts to the bill, one that dealt with central assessment. That has been stricken. The second part dealt with the setting up the Property Assessment and Taxation Commission to look at the issue and analyze and review the system of valuing and taxing property across the State of Nebraska, and to, basically, make recommendations to the Legislature with regard to the issue of assessment, and any changes that should be made or any problems that we thought or think that are out there that we might have those alleviated. So it is a commission that would be set up. It would have three members of the Unicameral, Chairman of the Revenue Committee, the Tax Commissioner, Chairman of the Revenue Committee being one of those, Tax Commissioner, three professional assessors or appraisers, an ag owner, commercial landowner, and a residential landowner, one from each of the Congressional Districts. And that was what the original provisions in the bill do with the makeup of the commission, and the change would be that we would reduce that number, I think there was originally 15, what I just read off, to I guess 11, and that would be the Tax Commissioner, Chairman of the Revenue Committee, three licensed appraisers, three county assessors, and three property owners. The three appraisers, three assessors, three property owners would come from each of the three Congressional Districts, the idea being there, and this is a recommendation made by the county assessors, themselves, that have testified on the bill and who felt that in order to determine what the problems are out there that what you had to do is you had to have people who were

April 10, 1989

LB 84, 319, 541, 611, 630, 640, 646
651, 653, 653A, 705, 710, 762, 811
812

now and Select File. I will try and answer your questions, but now I just ask that we advance the bill.

SPEAKER BARRETT: The question is the advancement of LB 611 to E & R Initial. All in favor vote aye, opposed nay. Have you all voted? Please record.

CLERK: 36 ayes, 1 nay, Mr. President, on the advancement of LB 611.

SPEAKER BARRETT: LB 611 is advanced. Anything to read in, Mr. Clerk?

CLERK: Mr. President, Enrollment and Review reports LB 319 to Select File with E & Rs, LB 640, LB 651, LB 541, LB 653, LB 653A, LB 630, LB 811, LB 812, LB 710, and, LB 646, all to Select File, some have E & R amendments attached. (See pages 1615-22 of the Legislative Journal.)


Senator Conway has amendments to LB 84 to be printed; Senator Hall to LB 762. Senator Abboud would like to add his name to LB 705 as co-introducer. (See pages 1622-28 of the Legislative Journal.) Mr. President, that is all that I have.

SPEAKER BARRETT: Thank you, and the Chair would like to remind members of the briefing on the pharmacy school to be held at this hour in Room 1019. Senator Chizek, please.

SENATOR CHIZEK: Mr. Speaker, I would make a motion we adjourn until April 11th at 9:00 a.m.

SPEAKER BARRETT: You have heard the motion to adjourn until tomorrow morning at nine o'clock. Those in favor say aye. Opposed nay. The ayes have it. Motion carried. We are adjourned. (Gavel.)

Proofed by:


LaVera Benischek

May 9, 1989

LB 162, 162A, 319, 541

SPEAKER BARRETT: Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move that LB 162 be advanced to E & R.

SPEAKER BARRETT: You have heard the motion to advance LB 162. All in favor say aye. Opposed no. Carried. The bill is advanced.

CLERK: LB 162A, Senator, I have no amendments to that bill.

SPEAKER BARRETT: Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move that LB 162A be advanced to E & R.

SPEAKER BARRETT: Shall LB 162A be advanced? All in favor say aye. Opposed no. Carried. The bill is advanced. LB 319, Mr. Clerk.

CLERK: LB 319, Senator, I have Enrollment and Review amendments pending.

SPEAKER BARRETT: Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move the adoption of the E & R amendments to LB 319.

SPEAKER BARRETT: Shall the E & R amendments be adopted to the bill? Those in favor say aye. Opposed no. Carried. They are adopted.

CLERK: I have nothing further, Senator.

SPEAKER BARRETT: Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move that LB 319 as amended be advanced to E & R.

SPEAKER BARRETT: Shall LB 319 be advanced? All in favor say aye. Opposed no. The ayes have it. The bill is advanced. LB 541.

CLERK: LB 541, Senator, I have E & R pending.

May 9, 1989

LB 301, 541, 630

SPEAKER BARRETT: Senator Lindsay.

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

SPEAKER BARRETT: Shall the E & R amendments to LB 541 be adopted? All in favor say aye. Opposed no. It is carried. They are adopted.

CLERK: I have nothing further, Senator.

SPEAKER BARRETT: Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move that LB 541 as amended be advanced to E & R Final.

SPEAKER BARRETT: Shall LB 541 be advanced? Those in favor say aye. Opposed no. Carried. The bill is advanced. LB 630.

CLERK: LB 630, Senator, I have no amendments to the bill.

SPEAKER BARRETT: Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move that LB 630 be advanced to E & R Final.

SPEAKER BARRETT: The question is the advancement of LB 630. Those in favor say aye. Opposed no. The ayes have it. Carried. The bill is advanced. LB 289.

CLERK: Senator, on LB 289, I have E & R pending.

SPEAKER BARRETT: Chairman Lindsay.

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

SPEAKER BARRETT: Excuse me, Senator Lindsay, we will pass over 289. The next bill is LB 301, Mr. Clerk.

CLERK: LB 301, Senator, I have no amendments to the bill.

SPEAKER BARRETT: Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move the advancement of

May 11, 1989

LB 137, 182A, 301, 302, 444, 541, 630
640

goes below a quorum, because right now there is no provision in our statutes for the...for the Secretary of State to hold special elections for those two entities. There are provisions for providing for all other entities but those two don't have any. The specific example happened in Ord recently where they...their hospital board fell below a quorum. They...there was a real process in trying to determine how they were going to get back to a quorum. Because they were under a quorum, they couldn't appoint other members. This provides a procedure for doing that. That's what the amendment does. Thank you.

PRESIDENT: Thank you. Any further discussion? If not, the question is the adoption of the Baack amendment. All those in favor vote aye, opposed nay. Record, Mr. Clerk.

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

PRESIDENT: The Baack amendment is adopted. Anything further on the bill?

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

PRESIDENT: Senator Moore.

SENATOR MOORE: I move we advance LB 640 to E & R for Engrossing.

PRESIDENT: You have heard the motion. All in favor say aye. Opposed nay. It is advanced. LB 653.

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

PRESIDENT: Yes, you may.

CLERK: Mr. President, your Committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 182A and find the same correctly engrossed; LB 301, correctly engrossed; LB 302, correctly engrossed; LB 541 and LB 630, correctly engrossed. (See page 2317 of the Legislative Journal.)

Mr. President, Senator Hartnett would like to add his name to LB 444 as co-introducer, and Senator Haberman to LB 137.

May 22, 1989

LB 449, 449A, 541, 569

having been complied with, the question is, shall LB 449 pass? All in favor vote aye, opposed nay. Have you all voted? Record.

CLERK: (Record vote read. See pages 2632-33 of the Legislative Journal.) 31 ayes, 16 nays, 1 present and not voting, 1 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 449 passes. LB 449A.

CLERK: (Read LB 449A on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 449A pass? All in favor vote aye, opposed nay. Have you all voted? Please record.

CLERK: (Record vote read. See pages 2633-34 of the Legislative Journal.) 27 ayes, 17 nays, 4 present and not voting, 1 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 449A passes. LB 541.

CLERK: (Read LB 541 on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 541 pass? All in favor vote aye, opposed nay. Have you all voted? Please record.

CLERK: (Record vote read. See pages 2634-35 of the Legislative Journal.) 39 ayes, 3 nays, 6 present and not voting, 1 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 541 passes. LB 569E.

CLERK: (Read LB 569E on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 569, with the emergency clause attached become law? All in favor vote aye, opposed nay. Have you all voted? Record, please.

ASSISTANT CLERK: (Record vote read. See pages 2635-36 of the Legislative Journal.) The vote is 46 ayes, 0 nays, 2 present

May 22, 1989

LB 336, 438, 438A, 444, 449, 449A, 541
569, 569A, 574, 574A, 575, 575A, 603
603A, 611

those in favor vote aye, opposed nay. Have you all voted?
Record, please.

CLERK: (Record vote read. See page 2643 of the Legislative Journal.) 45 ayes, 1 nay, 1 present and not voting, 2 excused and not voting, Mr. President.

PRESIDENT: LB 603 passes. While the Legislature is in session and capable of transacting business, I propose to sign and do sign LB 336, LB 438, LB 438A, LB 444, LB 449, LB 449A, LB 541, LB 569, LB 569A, LB 574, LB 574A, LB 575 and LB 575A. LB 603A, please.

CLERK: (Read LB 603A on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 603A pass with the emergency clause attached? All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

CLERK: (Record vote read. See pages 2644-45 of the Legislative Journal.) 42 ayes, 1 nay, 3 present and not voting, 3 excused and not voting, Mr. President.

PRESIDENT: LB 603A passes. LB 611, please.

CLERK: Mr. President, Senator Abboud would move to bracket LB 611 until January 3, 1990.

PRESIDENT: Senator Abboud, please.

SENATOR ABOUD: Yes, Mr. President, colleagues, LB 611 is a bill that's been moving along through the process with little fanfare or some fanfare but not a lot of debate. The bill itself has been whittled down to...or at least certain portions have been whittled out and other portions have been left in. But there has been left with some confusion as to what this bill will provide for. It's my understanding that there is no immediate local option for income tax for the local school districts. What it provides for is a state identification to be able to implement a program like that in the future. And, most importantly, it takes away all local state aid options dealing with state aid to education which is a considerable amount of money for local school districts to put our feet to the fire. Now when this session started out I thought that Senator Moore

May 22, 1989

LB 209, 319, 323, 336, 354, 354A, 360
360A, 378, 378A, 388, 408, 408A, 412
412A, 423, 438, 438A, 444, 449, 449A
541, 569, 569A, 574, 575A, 575, 630
640
LR 219

While the Legislature is in session and capable of transacting business, I propose to sign and do sign LR 219. Mr. Clerk, where did we leave off?

CLERK: Mr. President, before we commence Final once again, I have an explanation of vote from Senator Conway. (Re. LB 209. See page 2648 of the Legislative Journal.)

Acknowledgement from your Enrolling Clerk, that bills read on Final Reading have been presented to the Governor. (Re. LB 209, LB 319, LB 323, LB 354, LB 354A, LB 360, LB 360A, LB 378, LB 378A, LB 388, LB 408, LB 408A, LB 412, LB 412A, LB 423, LB 336, LB 438, LB 438A, LB 444, LB 449, LB 449A, LB 541, LB 569, LB 569A, LB 574, LB 575A, and LB 575.)

Mr. President, the first bill on Final is LB 630, this afternoon.

PRESIDENT: If you'll take your seats, please, we'll begin Final Reading. (Gavel.) If you'll take your seats, please, we'll start Final Reading on LB 630, please. LB 630, Mr. Clerk.

CLERK: (Read LB 630 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 630 pass? All those in favor vote aye, opposed vote nay. Have you all voted? Record, Mr. Clerk, please.

CLERK: (Read record vote as it appears on pages 2648-49 in the Legislative Journal.) 41 ayes, 1 nay, 3 present and not voting, 4 excused and not voting, Mr. President.

PRESIDENT: LB 630 passes. LB 640 with the emergency clause attached.

CLERK: (Read LB 640 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 640 pass with the emergency clause attached? All those in favor vote aye, opposed nay, and I am reminded again for the second time today that some of you are not remaining in your seats while Final Reading is being read. Have you all voted? Record, Mr. Clerk, please.