

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

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LB 54, 162, 319, 380, 381, 423, 467
476, 562, 574, 589, 651, 759
LR 14

new bills. That will be laid over.

Education Committee reports LB 562 to General File with amendments attached. That is signed by Senator Withem. (See page 927 of the Legislative Journal.)

Agriculture Committee reports LB 162 to General File, LB 381 General File, LB 574 General File, LB 54 General File with amendments, LB 589 indefinitely postponed, LR 14CA indefinitely postponed, those all signed by Senator Johnson as Chair. (See pages 930-33 of the Legislative Journal.)

Banking Committee reports LB 423 to General File, LB 380 to General File with amendments, LB 467 indefinitely postponed, LB 476 indefinitely postponed, LB 759 indefinitely postponed, those signed by Senator Landis. (See pages 933-34 of the Legislative Journal.)

Education reports LB 651 to General File with amendments, signed by Senator Withem and Banking reports LB 319 to General File with amendments. That is signed by Senator Landis. (See page 935 of the Legislative Journal.) I believe that is all that I have, Mr. President.

PRESIDENT: Senator Chambers, you have an amendment coming up. Do you wish to take that up now, or... Okay, Senator Bernard-Stevens, you have one. Do you want to try that now? We're getting close to the end of time. What do you think?

SENATOR BERNARD-STEVENS: We're going to pick it up just for a couple of minutes here.

PRESIDENT: All right, go ahead. Mr. Clerk.

CLERK: Mr. President, Senator Bernard-Stevens would move to amend the bill.

SENATOR BERNARD-STEVENS: Mr. Speaker, or, Mr. President, what I'm going to do is I wanted to briefly explain what the bill (sic) is, and then I'm going to withdraw it because I do believe we can get a vote on the bill at this particular time and I'd hate for us to have this good discussion and not have the bill advance, and I'm hoping the bill will advance. What I'll be offering on Select File is an amendment, is this particular amendment that will put in a mechanism and a procedure in place

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LB 107, 174, 192, 259, 274, 281, 370
486, 487, 488, 575, 738, 741
LR 27

PRESIDENT NICHOL PRESIDING

PRESIDENT: ...Legislative Chamber. We have with us today, as our chaplain of the day, Reverend Gordon Patterson of the Calvary United Methodist Church in Lincoln. Would you please stand for the invocation.

REVEREND PATTERSON: (Prayer offered.)

PRESIDENT: Thank you, Reverend Patterson. We appreciate your message this morning. Please come back and visit us again. Roll call, please.

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

PRESIDENT: Thank you. Do we have any corrections to the Journal today?

CLERK: I have no corrections, Mr. President.

PRESIDENT: Very good. Do you have any messages, reports or announcements?

CLERK: Mr. President, your Committee on Education, whose Chair is Senator Withem, reports LB 107 to General File; LB 486, General File; LB 487, General File; LB 488, General File; LB 741, General File; LB 259, General File with amendments; LB 575, General File with amendments; LB 174, indefinitely postponed; LB 192, indefinitely postponed; LB 274, indefinitely postponed; LB 370, indefinitely postponed; and LB 738, indefinitely postponed. All of those signed by Senator Withem as Chair. (See pages 1111-16 of the Legislative Journal.)

Mr. President, I have an Attorney General's Opinion addressed to Senator Lamb regarding LB 281. That's all that I have, Mr. President. (See pages 1116-19 of the Legislative Journal.)

PRESIDENT: Thank you. We'll move on to the legislative resolutions, LR 27, by Senator Warner.

CLERK: Mr. President, LR 27 was originally introduced by Senators Warner, Scofield and Hartnett. It asks the Legislature to strongly support the removal of Federal Transportation Trust Funds from the federal budget and urges the Nebraska congressional delegation to work towards such removal. The

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LB 575, 642

SENATOR LAMB: One minute, Senator.

SENATOR CHAMBERS: ...of initiative is reserved to the people and since that amendment said all persons have this right to bear arms and that right cannot be infringed, felons are persons, anything walking on two feet born of a male and a female is a person and has a right under that constitutional provision to keep and bear arms and the state cannot infringe that right. And I want that provision to stay in ' , Constitution and it also may abolish the death penalty which, as you all know, is an effort I have undertaken for 19 years in an attempt to keep the state itself from being violent and thereby maybe reduce the violence in society at large. And I will give the rest of whatever time I have left to Senator "Ash Bradford"...Brad Ashford.

SENATOR LAMB: Senator Ashford.

SENATOR ASHFORD: I appreciate the dialogue. I think it's now beginning and I hope it will continue into the rest of this session, possibly not, but in the next session...

SENATOR LAMB: Time is up, Senator.

SENATOR ASHFORD: ...and, with that, I will withdraw the amendment. Thank you. Or withdraw the motion.

SENATOR LAMB: The motion has been withdrawn. Mr. Clerk.

CLERK: Mr. President, the first bill scheduled for discussion by the Legislature this morning is LB 575. It was a bill introduced by Senators Barrett, Dierks and Baack. (Read title.) The bill was introduced on January 18 of this year, Mr. President, referred to the Education Committee for public hearing. The bill was advanced to General File. I have Education Committee amendments pending.

SENATOR LAMB: Senator Withem.

SENATOR WITHEM: Yes, Mr. President and members of the body, the committee amendments to LB 575 are those that we like to be able to present at the hearing. There were those speaking strongly in support of this bill despite the fact that it's Senator Barrett's bill and there were a number of people...a couple of

people speaking in very strong vehement opposition to the bill, representing the Nebraska State Education Association. We had a meeting in my office with Senator Barrett and representatives of the Professional Practices Commission, the Department of Education and the NSEA. All parties indicated that they...all parties who attended that meeting indicated that with the adoption of the committee amendment that the outside opposition to the bill would be removed. That is not to indicate that there may not be individuals inside the body who have some individual expertise on the bill who still have problems with the bill. I am not trying to represent that fact at all but feel it fair to say I visited with the NSEA as early as this morning and they are feeling comfortable with the bill advancing if the committee amendments are adopted. The bill deals with the ability of citizens to pursue complaints against teachers, based on violations of the Professional Practices Code. In this case we're talking about types of offenses that by which a teacher should lose their teaching certificate, their ticket to practice their profession. Obviously, that's a very emotional sort of area. The bill is designed to allow the Department of Education to be in a prosecutor role in these types of offenses. Currently, current statute that the individual is usually a parent or perhaps a student or a private citizen who is filing a complaint not only has to file that complaint they also have to prosecute that complaint. The NSEA, obviously, was very concerned about...about whether this would lead to an increase in trivial sorts of complaints filed. Their...when we...in the discussion we got down to their basic concern was this laundry list on the bottom of page 2 of the grounds by which complaints could be filed and prosecuted. That laundry list would then have led to, they felt, a listing...a creation of rules and regulations that may have allowed for very trivial sorts of complaints being filed and, in fact, prosecuted. The language "incompetence, immorality, intemperance, cruelty, crime against laws of the state, neglect of duty, general neglect of the business of the school, unprofessional conduct, physical or medical incapacity or breach of contract for teaching or administrative services, they felt invited a very...a set of rules and regulations that would result in very trivial sorts of offenses, I mean, literally even that they weren't keeping lesson plans, as Senator Bernard-Stevens never ever did, I will tell you that. He was the worst as far as filing lesson plans were concerned, next only to his department chairman who didn't do a very good job of filing lesson plans either; things along that line that might make it...might lead to a violation. So

what we did is we struck that list. That list, by the way, is from an old, old statute, 1930s type of language. We struck that language and inserted in its place, "commission of an immoral act, conviction of a felony under the laws of the state shall constitute just cause for the revocation or suspension of a teacher's or administrator's certificate by the board", feeling that this will lead to more serious sorts of offenses being the results of...being the cause of complaints being filed. With that, I would urge you to adopt the committee amendments.

SENATOR LAMB: The Chair recognizes Senator Barrett to address the committee amendments.

SPEAKER BARRETT: Thank you, Mr. President, and members, I rise in support of the committee amendments, as explained by Senator Withem, deleting the list of standards for which the certificates can be revoked or suspended, the reason some felt because they were repetitious. Actually, the statutes still contain lines 11 through 13 in the bill so we still have the same basic basis for revocation or suspension. It's basically what we're using now and what we're doing now. And, furthermore, I would like to take this opportunity to thank the Nebraska State Education Association for the position they did take. This was an area of concern to them and, as Chairman Withem just explained after a meeting in his office, there was a consensus and they are now in support and I, as well, am in support and I would urge the body to adopt the committee amendments. Thank you.

SENATOR LAMB: The Chair recognizes Senator Nelson.

SENATOR NELSON: Mr. Speaker, I will speak on the bill.

SENATOR LAMB: Senator Nelson passes. Senator Withem, do you have a close?

SENATOR WITHEM: There were no questions on the committee amendments, I waive closing.

SENATOR LAMB: The motion is to adopt the committee amendments to LB 575. Those in support vote aye, those opposed vote no. Have you all voted? Record, Mr. Clerk.

CLERK: 29 ayes, 0 nays, Mr. President, on adoption of the

committee amendments.

SENATOR LAMB: The committee amendments have been adopted. Senator Barrett, on the bill.

SPEAKER BARRETT: Thank you, Mr. President, and members, LB 575 is a bill which I have been working with since last summer with the State Department of Education, as well as the Professional Practices Commission. The issue was brought to my attention, oh, last year, by a constituent and investigating further with the department and the PPC I found out that they were also interested in trying to correct some procedural problems in our current teacher disciplinary program. So we continued to work with those two different agencies and I have introduced the bill at their request. Briefly, LB 575 does two or three things. First of all, it gives the Department of Education the authority to investigate and prosecute complaints against professionals to whom certificates have been issued, and this is probably the most important part of the bill. Secondly, it provides a prestate board hearing for nonpublic school certificate holders and then, finally, it simply explains the difference between the terms "revoke" and "suspend". That is essentially the primary sections of the bill. Currently, when there is a complaint made against a public school teacher or an administrator in this state, that complaint goes to the Commissioner of Education and then the Professional Practices Commission investigates that complaint and then the PPC either dismisses or has a hearing and then the complainant, at that point, prosecutes, that is the parent or the complaining party has to prosecute. They will go out and hire the attorney and go through the expense and the time of that hearing and then the recommendation is made to the State Board of Education or whatever, suspension, dismissal or whatever. Now, under 575, it starts the same way. The complaint is made. The complaint goes to the Commissioner of Education, then to the Department of Education and that department then investigates the complaint and the Department of Education can either dismiss the complaint at that point or they can hold a hearing. The PPC will hold the hearing but the Department of Education prosecutes, that's the only change, and then recommends...the State Board of Education can then revoke or suspend or make a public reprimand or whatever. That's essentially the bill. Right now, the private citizen has to present the state's evidence. The private citizen has to hire the attorney, as I said, and that's often too time consuming and often too expensive and sometimes those complaints go unattended

as a result. That, essentially, is the bill, Mr. President. I would move for its advancement. Thank you.

SENATOR LAMB: The Chair recognizes Senator Nelson.

SENATOR NELSON: Mr. Speaker, members of the body, I want to commend Senator Barrett for explaining the technical details of his bill and without maybe having to go into the background or why the bill was brought to him and I will try to pass over that very lightly, myself, too. I don't think that we ever need to drag dirty laundry necessarily over the...anymore than is necessary. I had an incidence in my own area of which professional misconduct of a school teacher and the local school district seemed to be unwilling or unable to remove the teacher from teaching and it drug long through the courts and the bottom line was the teacher was allowed to retain the teaching certificate. It was for sexual abuse of a little boy in the school system. And I did check a couple years later, the teacher did resign and they did pay him still his wages for a while and he still retained the teaching certificate, and just had to be renewed in '86 and was not renewed. I will not drag the dirty laundry across the Speaker here today but I am very much in support of the bill. Senator Barrett explained it very well and my concern was that we would do harm to or we would go too far in the bill. But, as the bill has been amended...and I'm glad that the Teachers' Association has come in agreement, we don't want to harm the good teachers or we don't want to go too far. And there is a medium road in both of them but the Professional Practices Commission and so on, there does need to be a change and I hope that you support the bill. It's very much needed.

SENATOR LAMB: The Chair recognizes Senator Withem.

SENATOR WITHEM: Yes, Mr. President, I just wanted to say a couple of things in terms of legislative intent and all of those things, to at least give my impression of the difference between what the job of the Professional Practice Commission is versus the job of local boards of education. Any profession in this state, you know, unfortunately, because of human nature probably has its people practicing that should not be because of...of a number of unprofessional sorts of actions that they are engaged in. We have had, unfortunately, in my home community in recent years situations with dentists, with doctors, with other professions where the individual was going across the lines of

what is proper professional conduct. You know, we're not talking about a dentist who fills a tooth and the filling comes out or improperly fits a set of dentures or things along those lines that may be noncompetent, that the dentist isn't as good at practicing his profession as we would like, we're talking about dentists that are, you know, illegally billing the Medicare system or dentists that are taking improper liberties with their female patients and those types of things. Wanted to clarify that that's what we talk about here with Professional Practices Commission in the area of teaching. We're talking about unprofessional types of activities. We're not talking about general incompetence. If you have a teacher who is teaching students and is not getting the job done of helping the young people learn the subject matter, that is the responsibility of the local Board of Education to deal with that, going through the teacher evaluation process, the just cause process if they have had the number of years to come under the Continuing Contract Act, and to discharge those teachers, that ought to be a local responsibility and they ought to be doing that. If they are paying people a salary to teach young people and those young people are not learning and it's the fault of the teacher, those local boards of education ought to be discharging those teachers. That ought to be a local decision. General incompetence then ought to be at the local level. What we're talking about with the PPC is unprofessional actions, actions that are violating the trust that boards of education and parents put in teachers by performing actions that are of an unprofessional nature. And I think with the committee amendments in this bill we're separating those two types of distinctions. Keep in mind, we're not talking about a person...if a person ought to be fired from a job, that ought to be the local Board of Education's responsibility. If a person is in the teaching field and they should not be teaching young people anywhere in our state because of gross improprieties, that's the type of action the Professional Practices Commission ought to be involved in. That's the type of thing that we're talking about doing here. What Senator Barrett is attempting to do is make it easier...easier to prosecute those types of offenses when they do come to light. I think what...with the committee amendments, particularly what Senator Barrett has here is a good bill and I would urge the Legislature to support it.

SENATOR LAMB: The Chair recognizes Senator Bernard-Stevens.

SENATOR BERNARD-STEVENS: Thank you, Mr. President. Senator

Barrett, would you answer a couple...at least a question or two for me?

SENATOR LAMB: Senator Barrett.

SPEAKER BARRETT: Certainly.

SENATOR BERNARD-STEVENS: Actually, I ask these questions more to get it on the record than anything. Some members of the body have come up and asked does this set...does this bill set the stage for a frivolous charge or, you know, I don't like what the counselor did or the counselor made a decision on a course of study that I didn't want to do and I'm upset and I'm mad or I didn't get this teacher or the teacher said this, and so on, and so I'm going to make a harass...harass the person and go through this procedure. Do you see this as setting any stage at all for opening the door to harassments on frivolous charges? And I know the answer to that but I would like to have you get that so it's on the record if we could.

SPEAKER BARRETT: Thank you, Senator Bernard-Stevens, and I'm glad to respond. This isn't going to increase the number of frivolous complaints at all. A frivolous complaint can be made now, for that matter. What the bill does is change the authority to investigate from the PPC to the Department of Education. The frivolous complaints will be thrown out on the basis of the section in the bill, I believe, which refers to legally sufficient evidence constituting grounds for action of some kind. The PPC continues as the independent body of peers to hear the evidence presented by both sides and then they decide on the recommendations to the Board of Education. So, absolutely not. No, I have no fear at all. In fact, this, as far as I'm concerned, strengthens it. The PPC, as you know, Senator Bernard-Stevens, is made up of administrators and members of the teaching profession.

SENATOR BERNARD-STEVENS: Thank you, Senator Barrett. I think that does help clarify for those members of the body who may have had some questions on that. It is a good bill, 575, in it's current amended form with the committee amendments. It is something that strengthens the procedure that we have, particularly in areas that we do have a criminal problem. It does separate an investigator for the serious problems so there is no conflict of interest and I think the body would be well...would well serve the people of Nebraska by passing at

this point LB 575. Thank you.

SENATOR LAMB: Thank you. The Chair recognizes Senator Hartnett.

SENATOR HARTNETT: Senator Lamb and members of the body, I wasn't going to speak on this but I think it's...Senator Barrett has brought us a good bill here dealing with Professional Practice Commission and strengthening it. I guess my thing is that...and Senator Withem mentioned about dentists and we had a problem, I think a local, kind of a local problem with dentists and talking to some of my local dentists, they really thought that they should be...rather than the Department of Health, should be in charge of fellow dentists and so maybe we need to move in that particular way, maybe talk to people in the Health Committee or something. But I think what Senator Barrett is...but I think maybe we should look at also the other professions that we...in this state and maybe treat them the same way, let dentists look at the conduct of a dentist and so forth. So, with that, I just will vote to support the bill. Thank you.

SENATOR LAMB: The Chair recognizes Senator McFarland.

SENATOR MCFARLAND: Thank you, Mr. President, and fellow senators, Senator Barrett has brought a concern to the Legislature that is certainly a legitimate one. The present process under the Professional Practices Commission is fraught with potential abuse and has been...and that process has been abused at certain times. It has been abused to a degree in that some complaints, legitimate complaints have not been filed because of the expense required to bring a complaint before the PPC and there are situations where a parent or a complaining party just cannot afford to bring that complaint even if that complaint may be legitimate and he is exactly right on that. There has been abuse, on the other hand, of complaints that have been brought to the PPC by very vindictive and very irrational people who bring frivolous charges or, if not frivolous charges, very select and emotional charges against particular teachers that may, in fact, be completely without merit. The problem that has occurred is when some of these people bring these wild allegations against teachers they are able to circulate their complaint and they have circulated their complaint since they have access to the complaint and they have sent it to various school boards and to various places of employment to try and

damage a teacher's reputation, unjustifiably so. The complaint, of course, is just allegations but when a potential employer gets a complaint like that with those type of wild allegations it does affect that teacher's ability to procure future employment or to maintain their present employment at a particular place if those charges are particularly offensive and particularly emotional. It has also been a problem that when the Professional Practices Commission has investigated complaints they, of course, have to turn over some of the results of their investigation to the parent or the party bringing the charge and on occasion that parent who may be upset or the charging party who may be a very emotional person can then circulate selective parts of those investigations and try to damage the reputation of the teacher, unjustifiably. So it does create certain problems. I'm not so sure that...I have some reservations about the bill and I...and I need to look at it further and I think it needs to be discussed more thoroughly between now and if it reaches Select File. I was struck by Senator Withem's comment that we only deal with the unprofessional conduct of teachers and that the committee amendments takes care of that. What we're really trying to address is unprofessional or immoral or conduct that would be considered a felony before you could revoke any teacher's certification. However, if you look at the bill itself, it says that the...in the first section on page 2, it says that the State Board of Education shall develop and adopt and promulgate rules and regulations establishing standards of professional practices for teachers and administrators holding certificates and the areas should include but not be limited to ethical and professional performance and then, two, competency, and then, three, continuance of professional service, and, four, contractual obligations. It seemed to me Senator Withem was...

SENATOR LAMB: One minute, Senator.

SENATOR MCFARLAND: Thank you. It seemed to me Senator Withem was saying if it's a matter of competency or contract obligations, that that's something that the school board should handle and if a teacher is incompetent, then the school board has the mechanism to relieve that teacher of the duties. However, I see some potential problems here. If the board is going to adopt standards concerning competency and then those standards, as indicated in the second paragraph on page 2, those standards can be used as a basis for bringing a complaint under the Professional Practices Commission jurisdiction and through

the State Board of Education, I'm not sure it's all that clear cut about what type of complaints will be limited through this process and I raise that reservation and I think it needs to be further addressed and further studied and I may raise it again.

SENATOR LAMB: The Chair recognizes Senator Crosby.

SENATOR CROSBY: Thank you, Mr. President. I'm pleased to rise in support of LB 575. When it first came to the Education Committee because of it's initial origins I had some doubts because, as most of you know, I am an advocate for teachers and I think teachers need protection and other safeguards in our statutes so that we don't harass them and don't have a lot of frivolous lawsuits just because a student is upset about a grade and so on. So I'm very pleased that NSEA representatives and Senator Barrett and Senator Withem that they got together and got the amendments straightened out. But what I would like to say, quickly, is this to start with. Dentists, lawyers and doctors, within their own organizational professional membership have mechanisms for unprofessional conduct complaints and that kind of thing and, in a way, teachers do not. They have lawyers to represent them but within their own organization, except for professional...for the Professional Practices Commission, they don't have that kind of mechanism. So I do think this simplifies the mechanism with the Department of Education coming into the picture. What we're talking about this morning is child abuse and teachers are no different than other human beings. If there is someone who is taking advantage of a child in a sexual way or any other way, then that person needs to be weeded out and we need to see to it that they are not in contact with children. We all know that teachers spend a lot of time with children and I want the best teachers with those children and so do you. But, along with that, we need protection for the majority of our teachers who are ethical, have high moral standards and teach with integrity every day and want to do the best for those children. So I am pleased that the amendments straighten some of those things out and I will support LB 575. Thank you.

SENATOR LAMB: The Chair recognizes Senator Lynch, followed by Senator Withem.

SENATOR LYNCH: Question.

SENATOR LAMB: The question has been called. Do I see five

seconds? I do. All those in support of ceasing debate vote aye, those opposed no. Record, Mr. Clerk.

CLERK: 27 ayes, 0 nays, Mr. President, to cease debate.

SENATOR LAMB: Debate has ceased. Senator Barrett, to close.

SPEAKER BARRETT: Thank you, Mr. President, and members, the bill itself makes a procedural change in our existing statutes. I like the bill for several reasons, most of which I have already enumerated. I want good teachers in this state, good administrators in our Nebraska schools, like the rest of us, and this bill will help do just that. I want all school districts to have competent teachers, professional people. That's something we all want. But if somebody has a complaint against a teacher or school administrator, then fairness and due process demands that both parties' rights are protected and that, again, is what this bill does. It doesn't change the standards of ethical behavior or competence, necessarily, it merely means that something...it makes the standards mean something because we're improving the procedure for effective enforcement. Actually, I think at this point, Mr. President, I would again urge the body to advance the bill and I would like to provide Senator Withem, I guess, with the remaining time I might have. Senator Withem.

SENATOR LAMB: Senator Withem.

SENATOR WITHEM: Thank you, Senator Barrett, for a moment of your closing time. I, too, support the bill and urge the body to amend...to advance it to Select File. I did want just a second or two to respond to some of the things Senator McFarland was saying. I think he raises some good points and I think it will be valuable to have the discussion that he is speaking of...speaking with. In many ways, he is right that you're not going to write a bill that guarantees that only valid complaints will be pursued and the trivial ones will be set aside. We're attempting to do that to state legislative intent on what we want to see happen and by adopting the committee amendments I think we have done that. The committee amendments though do not guarantee that there will be no trivial complaints filed. There will be. Hopefully, by direction of the Legislature, we will be directing the writing of the rules and regulations so that they will more specifically spell out what will be pursued and what won't and in real practice what will happen will be whether

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LB 575, 575A

those prosecutors in the Department of Education follow up a complaint or whether they don't will be where the rubber hits the road, as it is in most prosecutor or prosecuting sort of relationships that the prosecutor determines whether to file a trespass charge on my five-year-old kid running across the neighbor's lawn or whether they reserve those trespass charges for when there is real criminal intent. I think it's a good bill and I think Senator Barrett has done a good job of explaining the bill and I would urge you to advance the bill to Select File.

SENATOR LAMB: The motion is the advancement of LB 575. Those in support vote aye, those opposed vote no. The Chair would welcome 13 seniors from Silver Creek. They are members of the American Government class and their sponsor. Please welcome these seniors and would you stand to be recognized, please. They are guests of Senator Rod Johnson. Have you all voted? Record, Mr. Clerk.

CLERK: 29 ayes, 0 nays, Mr. President, on the advancement of LB 575.

SENATOR LAMB: LB 575 has been advanced to E & R Initial. Mr. Clerk.

CLERK: Mr. President, LB 575A offered by Senator Barrett. (Read title.)

SENATOR LAMB: Senator Barrett.

SPEAKER BARRETT: Thank you, Mr. President, and members, as you can see, the A bill calls for an appropriation of \$102,000 plus for July 1, '89 to June 30, '90, and \$104,442...or 422 for the following year. I would move the advancement of 575A.

SENATOR LAMB: Any discussion? Seeing none, all those in support of advancing LB 575A vote aye, those opposed no. Have you all voted? Record, Mr. Clerk.

CLERK: 27 ayes, 0 nays, Mr. President, on the advancement of 575A.

SENATOR LAMB: LB 575A has advanced to E & R Initial. Mr. Clerk.

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LB 330, 575, 575A, 586
LR 75

PRESIDENT NICHOL PRESIDING

PRESIDENT: Ladies and gentlemen, welcome to the George W. Norris Legislative Chamber. We have with us this morning as our Chaplain of the day, Reverend Frederick Felger of the Central Park Congregational - United Church of Christ. Would you please rise for the invocation this morning.

REVEREND FELGER: (Prayer offered.)

PRESIDENT: Thank you, Reverend Felger, please return to give us our invocation again. Reverend Felger is in Senator Lynch's district in Omaha. Roll call, please. Mr. Clerk, please.

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

PRESIDENT: Thank you. Any corrections to the Journal today?

CLERK: No corrections, Mr. President.

PRESIDENT: Any messages, reports or announcements?

CLERK: Mr. President, your Committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 575 and recommend that same be placed on Select File, LB 575A, LB 330 and LB 586 all on Select File. (See pages 1709-11 of the Legislative Journal.)

The last item, Mr. President, I have a report from the Department of Roads Operation Cash Fund for the period of March, 1989. That is all that I have, Mr. President.

PRESIDENT: Fine, thank you. Before we start Final Reading, a few days ago you had introduced LR 75 which has to do with heart disease and cholesterol situation coming up, and since today is the day that we start the blood pressure and cholesterol testing, it was felt appropriate that we take up this LR 75 today rather than wait. Is there any objection? If not, Mr. Clerk.

CLERK: Mr. President, LR 75 is found on page 1692 of the Journal. It was introduced by Senator Wesely. (Read brief description.) Again, Mr. President, on page 1692 of the Journal.

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LB 330, 575, 575A, 739A

LB 739A.

PRESIDENT: You've heard the motion. All in favor say aye. Machine vote has been requested. All those in favor vote aye, opposed nay. Have you all voted that care to? Record, Mr. Clerk, please.

CLERK: 28 ayes, 5 nays, Mr. President, on the advancement of 739A.

PRESIDENT: LB 739A advances. LB 575.

CLERK: 575, Senator, I have E & R amendments pending.

PRESIDENT: Senator Lindsay, please.

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

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

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

PRESIDENT: Senator Lindsay, please.

SENATOR LINDSAY: Mr. President, I'd move that LB 575, as amended, be advanced to E & R for Engrossment.

PRESIDENT: You've heard the motion. All in favor say aye. Opposed nay. The bill is advanced. LB 575A.

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

PRESIDENT: Senator Lindsay, please.

SENATOR LINDSAY: Mr. President, I would move that LB 575A be advanced to E & R for Engrossment.

PRESIDENT: You've heard the motion. All in favor say aye. Opposed nay. It is advanced. LB 330.

CLERK: Senator, first item on LB 330 are Enrollment and Review amendments.

April 25, 1989

LB 84, 247, 247A, 575, 575A, 611, 739
739A, 812
LR 87

of LB 812 to E & R Engrossing. Those in favor vote aye, opposed nay. Have you all voted? Record vote has been requested. Record, Mr. Clerk.

CLERK: Voting aye Senators Beck, Beyer, Byars, Coordsen, Crosby, Dierks, Elmer, Goodrich, Haberman, Hannibal, Hefner, Lowell Johnson, Kristensen, Labedz, Landis, Langford, Lindsay, Moore, Peterson, Rogers, Schimek, Scofield, Warner, Wehrbein and Weihing. Voting no Senators Abboud, Bernard-Stevens, Chambers, Chizek, Conway, Hall, Korshoj, Lamb, Morrissey, Robak, Schmit and Withem. Senator Smith voting yes. Senator Barrett voting yes. 27 ayes, 12 nays, Mr. President, on the advancement of LB 812. (Record vote not printed in the Legislative Journal.)

SPEAKER BARRETT: LB 812 advances. Anything for the record, Mr. Clerk?

CLERK: Mr. President, study resolution signed by the Business and Labor Committee. (Read brief description of LR 87. See pages 1907-08 of the Legislative Journal.) Referred to Reference Committee.

LB 247, LB 247A, LB 575, LB 575A, LB 611, LB 739 and LB 739A are all reported correctly engrossed, Mr. President. (See pages 1908-09 of the Legislative Journal.) That's all that I have.

SPEAKER BARRETT: Thank you. Proceeding then to Select File, senator priority bills. LB 84.

CLERK: Mr. President, LB 84 is on Select File. The bill was last considered on Select File on April 20, Mr. President. At that time there was an amendment to the bill by Senator Lamb that was adopted. Senator Chizek then made a motion, Mr. President, to indefinitely postpone. Senator Lamb agreed to lay the bill over. That motion is now pending.

SPEAKER BARRETT: Senator Chizek.

SENATOR CHIZEK: I want to withdraw my motion.

SPEAKER BARRETT: The IPP motion is withdrawn.

CLERK: Mr. President, I then have amendments by Senator Conway to the bill. Senator, these are your amendments on page 1622 of

May 22, 1989

LB 574A, 575, 575A, 586

PRESIDENT: LB 574A passes with the emergency clause attached. LB 575, please.

ASSISTANT CLERK: (Read LB 575 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 575 pass? All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

ASSISTANT CLERK: (Record vote read. See page 2639 of the Legislative Journal.) The vote is 40 ayes, 1 nay, 7 present and not voting, 1 excused and not voting, Mr. President.

PRESIDENT: LB 575 passes. LB 575A.

ASSISTANT CLERK: (Read LB 575A on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 575A pass? All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

CLERK: (Record vote read. See page 2640 of the Legislative Journal.) 41 ayes, 0 nays, 7 present and not voting, 1 excused and not voting, Mr. President.

PRESIDENT: LB 575A passes. May I introduce a very special guest of Senator Pirsch. Under the north balcony, we have the Honorable P.J. Morgan, Mayor-elect of Omaha. Mayor, would you step out so we can see you? Thank you, Mayor, we are honored to have you in our presence this morning. And congratulations to you from all of us. LB 586.

CLERK: Mr. President, I have a motion on the desk. Senator Haberman will move to return the bill for purposes of striking the enacting clause.

PRESIDENT: Senator Haberman, please.

SENATOR HABERMAN: Mr. President and members of the body, I would like to bring to your attention some of the facts and features in 586.

PRESIDENT: Senator Haberman.

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.