

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

February 21, 1989      LB 48, 73, 87, 220, 234, 336, 351  
372, 399-401, 558, 592, 684, 704, 714  
762

to LB 336 by Senator Withem. Senator Hall has amendments to LB 704 to be printed, Mr. President. (See pages 798-99 of the Legislative Journal.)

Education Committee gives notice of change of location for a hearing on February 28. That is offered by Senator Withem.

Judiciary Committee whose Chair is Senator Chizek reports LB 87 to General File, LB 220 to General File, LB 234 General File, LB 372 General File, LB 399 General File, LB 401 General File, LB 558 General File, LB 592 General File, LB 73 indefinitely postponed, LB 351 indefinitely postponed, LB 400 indefinitely postponed, LB 684 indefinitely postponed, those all signed by Senator Chizek as Chair. (See pages 799-800 of the Legislative Journal.)

Revenue Committee whose Chair is Senator Hall reports LB 714 to General File with amendments and LB 762 to General File with amendments, both those signed by Senator Hall as Chair of the committee. (See pages 800-03 of the Legislative Journal.) That's all that I have, Mr. President.

PRESIDENT: Thank you. Now we'll move on to LB 48, please.

CLERK: Mr. President, the Legislature last considered LB 48 on February 13. At that time Senator Landis made a motion to indefinitely postpone the bill. That motion is pending.

PRESIDENT: Senator Landis, please.

SENATOR LANDIS: Mr. President, members of the body, over the weekend I've had a chance to think about it and I've come to the conclusion that it must have been a moment of delusion on my part. I don't know why I offered that motion. I certainly want to withdraw it now.

PRESIDENT: It is withdrawn.

CLERK: Mr. President, the next amendment I have to the bill is offered by Senator Bernard-Stevens. The amendment is on page 740 of the Journal.

PRESIDENT: Senator Bernard-Stevens, please.

SENATOR BERNARD-STEVENS: Thank you, Mr. President and members

March 20, 1989

LB 68, 262, 300, 437, 439, 573, 592  
595, 614, 745, 754, 798

SENATOR HALL: Mr. President, I would lay the bill over at this time.

SPEAKER BARRETT: The bill is laid over. Thank you. Anything to read in, Mr. Clerk?

CLERK: Yes, sir, I do. Mr. President, your Committee on Health, whose Chair is Senator Wesely, to whom was referred LB 68 instructs me to report the same back to the Legislature with the recommendation that it be indefinitely postponed, LB 300, indefinitely postponed; LB 439, indefinitely postponed; LB 573, indefinitely postponed; LB 595, indefinitely postponed; LB 614, indefinitely postponed; LB 745, indefinitely postponed; LB 754, indefinitely postponed; LB 798, indefinitely postponed, those signed by Senator Wesely as Chair of the Health and Human Services Committee. Mr. President, I have amendments to be printed to LB 437, and that is all that I have, Mr. President. (See pages 1219-23 of the Legislative Journal.)

SPEAKER BARRETT: Thank you, sir. To the next senator priority bill, LB 592.

CLERK: Mr. President, LB 592 was a bill introduced by Senators Abboud, Beck, and Moore. (Read title.) The bill was introduced on January 18, referred to Judiciary, advanced to General File. I have no amendments at this time, Mr. President.

SPEAKER BARRETT: Thank you. Senator Abboud, please. (Gavel.)

SENATOR ABOUD: Mr. President and colleagues, this is a relatively simple bill that was brought in on behalf of the Omaha police force and Douglas County Attorney's Office. The bill provides for a mandatory minimum sentence for individuals convicted of trafficking in cocaine and crack. The bill changes two provisions dealing with the law, LB 592 does, providing for a three-year and also a seven-year mandatory minimum sentence, or excuse me, three and five-year mandatory minimum sentence depending on the amount of cocaine and crack the person is arrested with. I think we are all aware of the serious problems that we have been having in this state dealing with these two particular drugs. It is the hope that, by providing for a mandatory minimum sentence for individuals involved in the selling of these types of drugs, it will send a clear signal to these individuals that these types of...the sale of these types

of drugs should not be tolerated in Nebraska. We have had a substantial increase in the amount of arrests and confiscation of cocaine and crack in the Omaha area since only last year. In 1987, we had the amount of cocaine seized in Omaha jump from 8.3 pounds to 31 pounds in 1988, and cocaine seizures from January to March 19th of this year, 11.3 pounds of cocaine and crack was seized in the Omaha area. In addition, this has been a problem and increasing as well in the Douglas County area, and from '87 there were 2 ounces seized to the present time of 13.5 ounces seized. Now, by way of comparison, I think you have to take a look at what has been happening across the country with cocaine and crack. In Los Angeles, back in 1969, the amount of seizures of cocaine was about 1.4 pounds. In '75, this increased to 49 pounds. In 1980, it increased to 183 pounds; '82, 358 pounds; '83, 881 pounds. In 1985, it increased to 2,565 pounds. In 1986, it increased to 4,357 pounds, and it has been escalating since that time. The drugs have a...cocaine used to be more of a problem dealing with drug problems around the country, but it has changed to crack. There is different reasons as to why this has changed, but the major reason, I think, is it is the type of drug that can easily be...I guess it is called a dealer's dream because it is easily sellable. It is enormously profitable, and it is relatively simple to sell, and it can be sold in small doses, as small as \$5 to \$10 per dose, and this makes it very appealing to young people because they can buy it in small quantities. The problem with the drug, and I guess the danger with it, is that the high that an individual receives from the drug is relatively fast. They receive the high, it is a very intense high, and then they have to purchase some more. It is a highly addictive drug, and the difference, I guess, between the two in the rate of the high, as it was explained to me, was that cocaine when it is sniffed through the nose, it doesn't hit as many blood vessels, whereas, crack, when it is inhaled and smoked through a pipe, it hits all of the blood vessels in the lungs, and as a result, the high is a much faster high, a more intense high, whereas, when they sniff cocaine, it is a much slower high. As I said, the law enforcement officials have been behind what they felt was a very strong need to deal with the cocaine and crack problem, and I was able to procure or borrow a sample of a one ounce procaine. It is similar or it is the same in substance as cocaine. It provides...but this will give you an idea of how much one ounce would be. It is a rather flaky substance, kind of crystallized, whereas, a crack substance is in a form where it is yellowy in color. The committee was able to...the Omaha



Police Department brought down a sample of actual crack, and it is kind of a yellowy substance...a yellowy substance that can...the way they sell it is that they chop it up, slice it up, and then it is sold in small quantities. The name of crack came...the reason why this drug is called "crack" is that when an individual smokes the substance, it makes kind of a cracking, snapping noise, and that is the reason why they called it "crack". A few other facts here just to give you kind of a perspective of what we are talking about with only one ounce. The one ounce or 28.3 grams, sells for an amount of approximately \$2,830, that is the street value, of this one ounce of cocaine. Now what that translates into is 1,120 lines of cocaine which is the approximate high that is used, one line of cocaine. A gram of cocaine will break down into approximately 40 lines and, from a gram of cocaine, 40 individuals can snort one line of cocaine, so you are talking about 1,120 highs. Now what this bill is aimed at, this bill does not provide a mandatory minimum sentence for all individuals that are using cocaine or crack. The bill is aimed exclusively at those selling the drugs, and the quantity that is used...the quantity that is used in the sale of these drugs is an amount that is high enough where it will not hit the average everyday user. You are not going to have the average everyday user buying cocaine and crack in the amounts of \$2,800. This is an individual that is clearly selling the drugs, an individual that is involved in the marketing of the drugs, and it is my belief that if we deal...and my belief, as well as law enforcement officials...that if we deal with the problem in a manner that provides for harsh penalties, then these individuals will stop selling the drugs in the State of Nebraska, or at least, hopefully, start to slow down some of the use in the state, and I think that we have all been aware of the problems that we have seen with individuals coming into our state and marketing these particular drugs in our states. The problems that we faced in the City of Omaha with the Bloods and the Crips is an example of a group coming in, seeing that there is a market in this particular area of the country, and when they have this particular market, they are merchandising their product. Now what is the long-run or what is the long-haul result of the sale of cocaine and crack? Well, I tried to show you some statistics that show that it is on a substantial increase, and I think we all can agree that there is no...the problem in this state is not as severe as it is in Los Angeles or Washington, D.C. For example, in Washington, D.C., there has been an incredible amount of murders and drug-related killings

as a result of the sale of cocaine and crack. It is an incredibly lucrative business. People make millions of dollars off the sale of these drugs, and as a result of the huge amount of money that is made, I think that you are going to have fights over the territories in the individuals being able to sell these particular drugs. Now, in the City of New York, it is literally a killing a night dealing with drug-related killings dealing with cocaine and crack, and it has become, instead of the cherry capital, it has become the murder capital of the United States. The problem has gotten so bad that they finally decided to put curfews on children under the age of 13, from 11:00 p.m. to 6:00 a.m., to try to reduce the amount of drug-related killings that have taken place because most of them deal with youths. Washington, D.C., last year, had 372 drug-related killings, and they have already had 107 this year alone. It is interesting because I have a couple of brothers who live in Washington, D.C., and they said it is basically a nightly occurrence. Last week, when I talked to them, they had five drug-related killings and then they show them on the television set with the blood splattered on the street. It is an everyday occurrence, and actually it has kind of desensitized some of the people. I would urge the advancement and passage of LB 592. Thank you.

SPEAKER BARRETT: Thank you. Do you have an amendment, Mr. Clerk?

CLERK: Mr. President, I do. Senator Ashford would move to amend the bill. Senator Would you like me to read it or is that necessary?

SENATOR ASHFORD: Yeah, would you please, Mr. Clerk.

CLERK: (Read Ashford amendment found on page 1223 of the Legislative Journal.)

SPEAKER BARRETT: Senator Ashford.

SENATOR ASHFORD: Thank you, Mr. President. This amendment is introduced very seriously as a part of this legislation. If we were watching...you were watching television yesterday morning, there were several programs, national news programs, dealing with the issue of the sale of drugs and the relationship of the sale of drugs in the United States and the use of semiautomatic weapons as the weapon of choice by drug dealers in this country. It was interesting that when we had our hearing a couple of

weeks ago on the amendment, constitutional amendment, dealing with the right to bear arms, that my aide was able to purchase in a Lincoln gun store in nine minutes a 22 caliber handgun. He could have purchased an AK-47 in the same nine minutes if he had had \$350 to make the purchase. He was able to make that purchase without any identification other than a driver's license and a statement that he was a resident of the State of Nebraska. There is no question that the underlying problem, it is being addressed by...which is being addressed by Senator Abbot, is the problem of drugs in our society. If we were to effectively deal with the drug problem, the problem of the AK-47 and the problem of UZI would be less important, but we have not been able to deal with the underlying problem. The AK-47 and the UZI and guns such as that are manufactured in foreign countries. In fact, the UZI, manufactured in Israel, is banned in Israel. The AK-47, manufactured in China, is banned as a weapon in that country. However, the number of AK-47s and UZIs and semiautomatic weapons imported into this country have increased by geometric proportions in the last three years. It has become an epidemic in our urban areas especially. There is absolutely no reason or sense to have these kinds of weapons in our society. I support the ban that President Bush has put forward which would ban the importation of these semiautomatic weapons in the United States. I support President Reagan's efforts...I supported President Reagan's efforts for a 7-day waiting period on the purchase of these dangerous weapons that can be used only for one purpose, and that is to injure people. We don't need combat weapons that can in a matter of seconds fire off 20 rounds of ammunition for legitimate hunting purposes. The only reason that these weapons are in use today is to injure people, to injure police officers, to injure law enforcement officials, and to injure the general public. A hundred rounds of ammunition was fired...rounds were fired in the Stockton, California tragedy in a matter of two minutes. A semiautomatic rifle that can fire 20 rounds or more of ammunition is much more dangerous, in fact, than a machine gun because a semiautomatic rifle can be aimed much more accurately than can a machine gun. I think that we have to be hit over the head, as a society, time and time again,...

SPEAKER BARRETT: One minute.

SENATOR ASHFORD: ...before we act to take effective action to move against these kinds of weapons. A recent poll in the Omaha World-Herald indicated that 79 percent of Nebraskans favored a

7-day waiting period. I strongly...I am very serious about this amendment. I hope that we can have a little debate about it. I think it goes hand in hand with our efforts to eradicate drugs throughout the State of Nebraska, not just in the urban areas. This is a very, very serious critical problem in our society, and we continue not to deal with it. I appreciate the efforts of the Bush administration. I appreciated the efforts of the Reagan administration in the area of the 7-day waiting period. I think, finally, on the federal level, we have woken up, and I think we need to address this as well on a state level because it is an emergency, and it is an emergency in my area of the state where these killings go on, and where the drug problem increases.

SPEAKER BARRETT: Time has expired. Thank you. Senator Haberman, for what purpose do you rise?

SENATOR HABERMAN: A point of order, Mr. President.

SPEAKER BARRETT: State your point.

SENATOR HABERMAN: I would like to question the germaneness of this amendment to the bill, please. As I understand it,...

SPEAKER BARRETT: Thank you.

SENATOR HABERMAN: ...it addresses firearms, AK-47s, UZIs, and I doubt very much whether it is germane to the intent of the bill. Thank you, Mr. President.

SPEAKER BARRETT: Senator Ashford, would you care to respond.

SENATOR ASHFORD: Yeah, thank you. Just a second, Mr. President. In a mail order catalog, Shotgun News, you can purchase a Yugoslavian AK-47 through the mail for a purchase price of \$475.65. I have in my file...

SPEAKER BARRETT: Are we addressing the issue of germaneness?

SENATOR ASHFORD: Yeah, absolutely, I am warming up. I am warming up.

SPEAKER BARRETT: Proceed.

SENATOR ASHFORD: I am warming up. There is also here, I am

searching my file, can we search our file, there is also a great picture here that was presented to me by Senator Chambers. It is a letter written by the National Rifle...well, actually, it is an envelope with the return address, National Rifle Association of America, and on the bottom of the...I should have this passed out to everyone...on the bottom of the envelope is a wonderfully accurate, I think, depiction or picture of Senator Chambers with the words "Ernie wants your guns and hopes you throw this envelope away", and I, also, was...I am so proud that last week the National Rifle Association sent out an alert with big letters about the size of this magazine here saying, "Brad Ashford is out to get your guns." I have been here 2 1/2 years and, finally, I have gotten larger publicity or more publicity than Senator Chambers has gotten on a controversial issue, and I feel I can now...I can retire and with great pride now that I have...I'm just kidding, of course. Just a second, we are trying to find...no, I am very serious, and a little bit of levity, but I am very serious about this amendment and I think that it is germane for the reason that these two issues go absolutely together. They absolutely interface. There is no question that these weapons, the AK-47 and the UZI, are the weapons of choice for the drug dealers. They don't particularly care what the cost of these weapons are, and they would be...at any time will use them in the furtherance of the illegal acts that they are performing in our cities and in our states and in our country, and we really need to address both issues because, even though I agree with Senator Abboud that we need to deal effectively with the drug problem, these weapons are still out there. They are out on the streets of Omaha. They are in the streets of every major city in the United States and, as a nation, it may not be germane specifically under the most technical reading of our rules, but, as a society, I think we need to stand up and make a public policy statement, and effective to show the people of this state that we are effectively dealing with a major problem.

SPEAKER BARRETT: One minute.

SENATOR ASHFORD: And if I just, if I would reiterate, there was an advertisement in the Lincoln paper advertising an AK-47, which you can buy in nine minutes for \$265, an AK-47 can shoot off 200 rounds of ammunition in less than two minutes. In Miami, Florida, recently, eight FBI agents were held off by one drug dealer with an AK-47, and five FBI agents were killed in the process, and we all know about the tragedy in Stockton. And

what is really critical is this could happen, the Stockton tragedy could happen in Omaha, Nebraska today, tomorrow. It could happen anywhere in the State of Nebraska. It could happen in Lincoln, Nebraska. It could happen in North Platte, Nebraska, and we, as a state, need to address this problem, and we need to address this problem as it relates to the serious, very serious problem raised by Senator Abboud in LB 562 (sic).

SPEAKER BARRETT: Time has expired.

SENATOR ASHFORD: Thank you.

SPEAKER BARRETT: Thank you. In ruling on germaneness, the body is reminded that the purpose of LB 592 is to provide some penalties for drug dealers selling cocaine and crack, and the primary thrust of the Ashford amendment is dealing with the manufacture or selling of any semiautomatic firearms which can hold more than five rounds of ammunition. The Chair will rule that germane amendments relate only to the specific subject of the bill and, as a result, the amendment is not germane and is out of order. Any question, any appeal?

SENATOR ASHFORD: Not at this time.

SPEAKER BARRETT: Thank you, Senator Ashford. Next item, Mr. Clerk.

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

SPEAKER BARRETT: We are back to discussing the bill, itself. Senator Chambers, your light is on, followed by Senators Moore and Abboud.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I live in a community that is ravaged by drugs, drug dealing, but I am very disappointed and dissatisfied with the approaches of the law enforcement officials. They make a hundred, so to speak, little nickel and dime arrests. You don't see them going after big pushers and big suppliers who don't live in that community. So they can create the appearance that they are doing a great amount of service and a great amount of work on this drug problem but the difficulty inheres in the fact that people in communities will call time after time about a crack house, a cocaine house, or other drug dispensing areas. The police cannot come. Then when you pressure them, then they say

it takes months and months to investigate before you can make an arrest, and all the dumbbells have to do is go up to the door and say I want to buy some dope. They will sell it to anybody, and how much investigating does it take to do that? They don't ask you for identification. They don't ask you for a driver's license or anything else, and they could break it if they wanted to, but my belief is that the intent is to keep our community, meaning the black community, and the poor white community that fringes it in a narcotized state. If you keep drugs in that community, you keep it on its knees. You keep it incapacitated, and you can talk all you want to about education and everything else, but when children can see drug deals going down on the street and the police say they can't find it. People complain in their communities about the drug houses and the police cannot make an arrest. This is a lot of hogwash, and if I used a certain kind of language, and there were not people present here for whom I have a great amount of respect, I would tell you in street talk exactly what it is. This is no reference to Senator Abboud who has brought the bill. He has been led to believe that if you say we are going to put a harsh punishment, that is going to stop the drug traffic, you are not going to touch it. I would like to ask Senator Abboud a question or two. Senator Abboud, based on the information that you were given by the law enforcement people in Omaha and Douglas County, how many arrests during the last year were made of people with seven or more ounces of cocaine?

SENATOR ABOUD: Senator Chambers, I don't have that information with me at this time of...seven or more ounces.

SENATOR CHAMBERS: How many arrests altogether of those who had cocaine, because I think you were giving some statistics?

SENATOR ABOUD: Right, I had the...well, the total amount of drug arrests last year were 1,542.

SENATOR CHAMBERS: And that would include ritalin, quaaludes?

SENATOR ABOUD: Yes.

SENATOR CHAMBERS: Marijuana, every kind of drug that would be in violation of the law, correct in that figure?

SENATOR ABOUD: In this figure, yes. I can probably get you a breakdown on the amount of arrests based on cocaine and crack.

SENATOR CHAMBERS: Over seven ounces. Thank you, Senator Abboud.

SENATOR ABBOUD: Yes.

SENATOR CHAMBERS: Members of the Legislature, remember, keep what I am saying separate from the fact that Senator Abboud brought the bill. He is not an expert on this issue. Nobody on the floor is, but the law enforcement people who gave him the bill are, and if they are trying to get a punishment set for a specific level of drug possession, they should have given statistics on how many arrests they have made to show that that, indeed, is a problem. We know that the larger amounts constitute a problem, but they feel that by coming down here and getting a bill passed by the Legislature, they can say, by god, we are fighting the drug problem. We got the Legislature to impose harsh mandatory minimum sentences. Will they make the arrests? There were some police officers accused of having been involved in drugs, and the chief, and some people in the police division where disciplined,...

SPEAKER BARRETT: One minute.

SENATOR CHAMBERS: ...he didn't even want to let the public know who those people were. Big drug deals produce large amounts of money and there are people who are behind this nefarious activity whose hands will never be soiled with the crack or the cocaine, itself. They will hire minions who will hire youngsters to carry out the dirty work and you will find the Omaha Police cracking down and arresting youngsters, teenagers, and others who are the symptoms and victims, themselves, rather than the ones who fund the drug traffic and make the big end of the money. I am going to have to put my light on again because I don't want to run over. I don't want to be stopped in mid-sentence, but I do want to say this. This bill, if it is passed, with a 50-year mandatory minimum sentence is not going to touch the drug problem in Omaha or anywhere else.

SPEAKER BARRETT: Thank you. Motion on the desk.

ASSISTANT CLERK: Mr. President, Senator Ashford would move to amend the bill. (See Ashford amendment on page 1233 of the Legislative Journal.)



SPEAKER BARRETT: Senator Ashford, please.

SENATOR ASHFORD: Thank you, Mr. Speaker, and members, I am going to run this amendment this one last time, and then I won't speak any more about this issue today. But this amendment simply makes a Class II felony the sale and manufacture in the State of Nebraska of semiautomatic weapons which can hold five rounds of ammunition or more. I think it is very interesting that the NRA has and continues to oppose legislation of this type. It is interesting, there was in the January 24th Mike Royko column about the NRA. It is a very interesting article and it talks about, the issue that has surprised me in my dealing with this issue and that is the rather knee jerk reaction or the knee jerk reaction of the NRA against efforts that are rational and reasonable efforts to eradicate from our society weapons which have only one purpose, and that is to exterminate people. The editorial or the column says, and it is talking about the events in California, it talks about the reaction of the NRA, says, "Within hours the predictable, silly knee jerk reactions were being heard and read across the nation. Editorialists and other commentators demanded to know why a crazy man with a criminal record could walk into an Oregon gun store, plunk down cash, and walk out with an AK-47. And they asked why semiautomatic military weapons are sold in the first place, especially since they can be easily converted to small automatics." And then it goes on to say, "As the wise men of the National Rifle Association could tell them, if you take away the opportunity for a crazy man to buy a military assault rifle, the next person to lose their rights will be the rational man. Let us say this rational man is taking a solitary stroll along the seashore. Suddenly he sees Red submarines surface and unload an invading force of Cuban and Russian soldiers. But is he helpless? No. Thanks to our present sensible gun laws, he happens to have his trusty AK-47 in his beach bag, and he bravely holds off the horde until help arrives. But take away his right to have an AK-47 in his beach bag, and what is he going to do--throw sand in their eyes?", is the question. "Don't believe such things can't happen? It did, and the Red invaders slaughtered helpless American women and children. Fortunately, it was a movie, and Chuck Norris eventually killed the Red rats. But what's to keep the commies from seeing this movie and getting ideas? The NRA will also tell you about the dread domino effect of disarmament. If you can't buy an AK-47, soon the reformers won't let you buy a common hunting rifle. (Of course, hunting rifles were sold long before the AK-47 was

invented, and still are, but let's not quibble with impeccable logic.) After the rifle is banned, then they'll get the shotgun and the pistol and even the slingshot. After that, it will be the hunting knife, the pocket knife, and the hatpin. Then they'll go after our kitchen knives and finally our butter knives, spoons and forks. We'll be helpless, unable to defend ourselves and forced to eat with our fingers. Did you ever try to wrap pasta around your pinkie? It frazzles the nerves. Those who would like to ban the AK-47 are discriminating against the needs of the physically handicapped, especially those with trembly hands and weak eyes. Someone with shaky hands and weak eyes has little chance of winging a fiend or a Communist with a pistol. It takes too much accuracy. Ah, but give him an AK-47 and he can squeeze the trigger, whirl around, and spray the fiend or anyone else in the neighborhood who doesn't have the sense to duck. No, instead of condemning the legalized sale of the AK-47 and other military assault rifles, we should be giving credit where it is due. We should praise those members of Congress who vote for the laws that make the sales of these guns possible. We should salute the NRA for its generosity...", and continuing...

SPEAKER BARRETT: One minute.

SENATOR ASHFORD: ...to campaign for these weapons. I think you get the point. Here is the article in the Lincoln paper, and it says on the top, "Sold Out AK-47s." It says, "Get Yours Before They Are Banned. Very limited supplies, \$369.95. Place your order for next shipment arriving soon." These guns can be purchased in nine minutes in the State of Nebraska. And what are they good for? They are good for one purpose, and that is to kill innocent people and law enforcement people. We need to address this problem and we need to address this problem as soon as reasonably possible. Thank you.

SPEAKER BARRETT: Thank you. Senator Haberman, for what purpose do you rise?

SENATOR HABERMAN: Mr. President, I rise to ask for a ruling on the germaneness of this amendment, please.

SPEAKER BARRETT: Thank you. Would you care to make any statement, Senator Haberman?

SENATOR HABERMAN: Well, it is, basically, Mr. President, the

same as before, that we are talking about firearms, the banning of firearms, and if Senator Ashford wishes to introduce legislation or find legislation that is germane, I might possibly support him, but I do not think at this time that the banning of firearms, whether they fire 15 or 500 a minute, has anything to do with LB 592, Mr. President.

SPEAKER BARRETT: Thank you. Senator Ashford, any comment?

SENATOR ASHFORD: Yeah, I would ask to appeal the ruling, or there hasn't been a ruling, I guess, at this point, but I am assuming there be will one, and when there is, I will move to.

SPEAKER BARRETT: Would you like the Chair to make a ruling, Senator Ashford, is that what you are asking? Thank you, sir, and the Chair will make a ruling, and that ruling is based on the same reason as previously stated, subject matter. The Chair rules that the amendment is not germane and is out of order. Senator Ashford.

SENATOR ASHFORD: I'd appeal the ruling, Mr. President, if I could.

SPEAKER BARRETT: Thank you. To appeal, it is debatable. Senator Moore. All right. Senator Abboud, any conversation on the appeal? Senator Wesely. Senator Abboud.

SENATOR ABOUD: Just, Mr. President and colleagues, I support the ruling of the Chair. It is a problem, Senator Ashford, but it is not germane.

SPEAKER BARRETT: Senator Wesely.

SENATOR WESELY: Thank you. Mr. Speaker, members, I know many of you have enjoyed the discourse from Senator Ashford, and it has been somewhat amusing. I also think he raised a legitimate point and I want to try and back that up, and that is this body in recent rulings on what is germane and what isn't has been far too restrictive. Now this goes, maybe, far beyond what we think is actually germane and so there is a legitimate question on this, but this body has to be willing and able to address issues. Sometimes those issues aren't able to be brought through the process in the way that we'd like. There are certain restrictions and barriers and hoops that have to be jumped through that make it next to impossible to deal with all

of these things. We are too restrictive in how we have decided now on the germaneness question, and we are denying the chance to debate fully some of these issues. Senator Ashford's point, I think, is well taken. We are talking here about dealing with a cocaine problem. It is a serious problem. We have talked about it nationally. We have talked about it on the state level. We know it is there. I think we are all concerned about it. We all agree on that point. Now what do we do about it? We deal with the penalty questions that Senator Abboud is talking about, but if we really want to get at some of the cocaine issue, we want to get at some of the drug problems, Mr. Bennett, the drug czar of this country, said that we have got to deal with the AK-47s. We have got to deal with the semiautomatic weapons out there, and our drug czar is the person that went to the President of this country and said you must stop the import of those, and that action was taken. So they are related, they are germane, they are tied in together. They are one and the same type of an issue. If we are going to attack the drug problem, if we are going to attack the people involved in the drug trafficking, you have got to deal with the guns. You have got to deal with the fundamental issue of how they are able to do what they are able to do. With all the work and all the effort we are putting into stopping this, they are still able to do this. Let me give you another example of the seriousness of this problem. We had, recently, the Rulo case, and many of us have forgotten some of the horror stories that were involved there, but I talked with the patrol leader of the task force that came in and took over that farm down there, and I talked to that individual about the experience, and he told me this. He told me if they had not done it the way they did and surprised those people down there on that Rulo farm, if you remember, there was a group of them with a crazy religious cult and they killed a child and did other things that were just unbelievable down there. They came in, and if they hadn't surprised them, if they had caught them when they were ready for them, they said they were armed better than the patrol coming in on those people. They had more weaponry there than the patrol had, that they would have been outgunned by this crazy group down in Rulo, Nebraska. We have got a serious problem, and we have got a problem we have to address. It ties into the drugs, it ties into many other things. I grant you that you can legitimately vote to sustain the Chair that this may be beyond the reach, the germaneness of this issue, but I also beseech you to think a little about how restrictive we have become in determining what is germane and what isn't. This is an

important issue. I don't know even if there is any other bill out here that Senator Ashford can move to. And let me commend Senator Ashford, I think he has really taken on a tough issue. Politically, this is a dead-end bill, I mean, dead-end concept in a lot of ways. The NRA is a very powerful entity, very emotional one, and one with a lot of influence in this state in particular. And for Senator Ashford to stand up or myself or any of the rest of us, this is a difficult thing to do. But at the same time, I am sick and tired of the situation in terms of how we have been ignoring that issue, been afraid of that issue, and I, for one, plan to sustain Senator Ashford in trying to overrule the Chair, so, at least, we can bring this matter to the floor. There are many related issues and it does tie in. I think you can logically argue that if you are going to deal with drugs and deal with that problem, as the drug czar of this country said, you have got to deal with these automatic weapons and how we can try and stop the flow of those weapons to our drug dealers.

SPEAKER BARRETT: Senator Moore, have you decided you would like to speak?

SENATOR MOORE: Yes, I originally was going to pass up the opportunity to speak on germaneness, but after some of Senator Wesely's comments, I feel compelled to stand in defense of the Chair. On this particular issue, as we all have known with some previous rulings last week, we started the annual fight over germaneness in this body. I guess Senator Wesely and I will disagree. I think we are wise to have a narrow scope on this rule. Now rules are rules are rules. You can read 7, 3(d), it says, germaneness deals with subject. Now if you need flexibility to deal with an issue, you can either suspend the rules, you can introduce a bill, or some other things, but the fact of the matter is, I think Speaker Barrett has been very consistent and very correct in having a narrow germaneness rule. If the time comes when this body has to deal with an issue, and the only opportunity we have is to amend it to a bill that is not germane, we, obviously, have the opportunity then to do it up right, up front in the correct way, and suspend the rules. But I think Senator Wesely and I will agree that this amendment, no matter how you look at it, is probably not germane, but I just think that since you were taking the opportunity to attack the Chair for its narrow ruling, I rise to defend it and think that the Speaker has done a very fine job and, in the end, it will make it much easier for us to conduct the business in here,

because if the time comes, something gets bad enough and we need the flexibility, let's do it up front and change the rules, and not try and do it in the color of a germane amendment.

SPEAKER BARRETT: Senator Ashford, would you care to speak on the challenge?

SENATOR ASHFORD: Yeah, thank you, Mr. President. Yeah, I think it is very tragic in our state that, because of the confusion resulting from the passage of Initiative 403, we are unable to really address this issue which is so important and so critical to the safety of our citizens in the State of Nebraska. I can't bring a bill to the floor on a simple 7-day waiting period because of the confusion and the language in Initiative 403, and I think that is a disservice to the people of this state. I think it is a tragedy. I think it is a tragedy that we can't deal with the crimes of passion problem with a 7-day waiting period. In the State of Nebraska today, you can walk in, as I said before, purchase these weapons simply by answering five or six questions on a federal firearms form in the affirmative. You answer the questions in the affirmative and you walk out of there with a semiautomatic rifle similar to the one that was used in the Stockton tragedy. In the City of Omaha, violent crimes have increased from 2,410 in 1984 to 2,774 in 1988, and the violent crimes, the drug-related crimes, as we all know, have continued to escalate. And in conclusion, I would just suggest that how many law enforcement officials, how many police officers, how many innocent citizens are we going to sacrifice until we, as a state, come to grips with this problem. I strongly support the efforts of President Bush in his efforts, and the efforts of Secretary Bennett and others in trying to come to grips with this problem on a federal level, and I support the efforts of the many law enforcement agencies in the State of Nebraska who have supported my legislation. Again, I just think it is a tragedy. It is a tragedy that we, in this Legislature, are unable to deal with this issue because of language in a constitutional provision which has absolutely no place in our Constitution. We are not after the legitimate gun owners. That is not the problem. The problem is something that is so obvious it is staring us in our faces and we can't deal with it, and I think that is a tragedy. Thank you.

SPEAKER BARRETT: Thank you. Anyone else care to speak to the subject of overruling? Senator Chambers, followed by Senator Haberman.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, without even going into the issue of how serious the problem is that is created by the easy acquisition of these dangerous weapons, I am looking at what we are dealing with today when we talk about germaneness issues. Ever since I have been down here, my view has been that the definition of germaneness handed down by the State Supreme Court should govern us in determining what is germane. By having an extremely narrow ruling or view of the question puts us in the position of having the ruling based on what the issue is. If there is an issue that the members feel must be brought before the body, then they will overrule the Chair. They will suspend the rule which indicates that they don't believe that the Speaker's interpretation of germaneness is valid, that it is valid and will be supported on the issues that the body does not want but, on the matter of germaneness as such, the body will depart from what the Speaker rules. It should not be a question, when we are legislating, I know it is a tactic, but it should not be a question of what the issue is or who is trying to offer an amendment. If the amendment is not liked, vote it down, but if you see how this bill starts, it says, "An act relating to crimes and punishments;" crimes and punishments; and you can write any crime, any punishment that pertains to anything in the Criminal Code in this bill as an amendment, and the State Supreme Court will not strike it down as being not germane or containing more than one subject. What we are doing here is restricting our ability as a Legislature, and some people like that. There are fewer things to deal with. It creates what they call efficiency, which means you get a whole lot of votes on a whole lot of things one way or the other, regardless of the validity of the vote or the quality of the legislation that is produced. I believe that Senator Ashford's amendment is germane. Crack is not cocaine. You are amending Chapter 28 and Chapter 29 in this bill already but, since you are dealing with crimes and punishments, you can do that and there is no problem with germaneness. I believe that this amendment is as germane to the bill as the utilization of automatic and semiautomatic weapons is germane to the problem of drug dealing. People may not want to have to talk about what the Legislature's position on ownership, possession, or whatever of guns is to be. To avoid that, I don't think it ought to be done behind the shield of saying that the offered amendment is germane. The Speaker, I can understand, because he is something like a facilitator, wanting a narrow ruling because there are fewer things that can



be brought to a bill as an amendment, but that should not bind this body. It is not an insult to the Speaker. It is not a questioning of his competency or his integrity for us to overrule him. We, as a body, must consider each one of these matters when it is brought to us in this fashion and determine whether or not, in fact, there is a matter of germaneness or an issue of germaneness that would make it out of order to offer the type of amendment that is before us, and I don't think that it is. It is an amendment which would attach a punishment to a certain act. Senator Ashford's first amendment...

SPEAKER BARRETT: One minute.

SENATOR CHAMBERS: ...was designed to ban these weapons and various activities associated with them. This amendment does not ban anything. This amendment deals with a punishment, and that bill as drafted says on the cover sheet, and that is what a court looks at when it begins to determine whether or not the bill's title adequately gives notice of what is contained therein, crimes and punishments. It opens it up, and I believe that the issue is germane and I will vote with all due respect to the Speaker, but even more respect to my own judgment, to overrule the Speaker in this instance.

SPEAKER BARRETT: Senator Haberman, on the question of overruling the Chair.

SENATOR HABERMAN: Well, Mr. President, members of the body, it seems as though this debate of overruling the Chair has turned into some sort of a speaking platform for different entities, different reasons, different everything else, so I would like to put a plug in for the State Patrol. The State Patrol's name was brought up and I would like to put a plug in that we introduce legislation or that we amend legislation to drastically increase the salaries of the State Patrol. I also would like to see us amend a statute or a bill to increase their retirement, as they do not draw Social Security. They can't draw it. So due to the State Patrol being mentioned, I think I am within my rights to put a plug in for the State Patrol. Now as far as the germaneness in the rules, the only thing that would have to be done is to change the rules. It is just that simple. You just round up your votes and you say I want to change the rules, Section so-and-so, Section (b) on page 99, and if you get the votes, change the rule. It is just that simple. Then we don't have to go through this 45 minutes or an hour to challenge the



Chair. Now one senator said that this covers crime and punishment and it should be open to everything that covers crime and punishment. Well, then we don't need all the other legislation that pertains to drivers' licenses, and DWIs, posting posters in liquor stores, we don't need all of that other legislation because we can put it all in this bill. In fact, we don't need to introduce all these bills. We only have to introduce one bill and have it broad enough that we can put everything into that puppy that we want to. However, this amendment addresses more than crime and punishment. It addresses the manufacturing and selling of firearms. Now how anybody can say that those two are married, the manufacture of something and the selling of something comes underneath crime and punishment, I don't understand. Now I must say that I, too, uphold President Bush on his ban of firearms. I must say that beings everybody is getting a plug in as to how good Republicans they are. However, Mr. President, I am going ask that we do not overrule the Chair, and to be quite frank about it, I am getting a little ticked off of all these amendments we knew that they would be overruled that we are taking up all of this time, and I am guilty of it, when we don't have any time left. Thank you, Mr. President.

SPEAKER BARRETT: Thank you. Any member may speak once on the question of overruling the Chair, who else would like to speak? Is there anyone else in the body that would like to speak? Senator Schmit.

SENATOR SCHMIT: Mr. President and members, I just now read the amendment, and it is well known that on this floor I usually like to take the broader view insofar as to whether or not an amendment is germane, and I would in this instance, I suppose, be inclined to accept it as germane. I do think, however, when you read the entire context of the amendment, it represents something which is extremely dangerous, and that which we do too frequently around here, and which I have been involved in somewhat myself recently, that is to jot down an amendment and toss it to the Clerk without knowing really the full impact. And as you look at the amendment and read it, first of all, it shall be a Class II felony to manufacture or sell any semiautomatic firearm. In other words, you can't manufacture it or you can't sell it without penalty of at least a minimum of one year in prison or maximum of 50, quite a little spread there. I don't know if you can give it away. I don't know if you...apparently, you can possess it, but you cannot manufacture

it nor sell. It leaves quite a little latitude. More than that, any semiautomatic firearm which can hold more than five rounds of ammunition, now I have several weapons at my home, and I will say this, it would appear to me that the amendment borders on the ability of this Legislature to freeze into place at the present time about 75 percent of all the firearms that are in the State of Nebraska, and I would suggest that that might not be what Senator Ashford has in mind. I would suggest also that based upon, based upon that definition, that when we get to the amendment, we are going to have to have some clarifying language, and, hopefully, the amendment will not survive, but, certainly, I think that when you look at it in the broad sense, it deals with the felonies and the punishments, you can perhaps consider it to be germane. The last thing I would ever want us to do would be to adopt the thing because I think it is the most dangerous kind of amendment that we have had here for sometime, and I really don't criticize Senator Ashford, but I want to just say again that this is a smoking gun kind of amendment. We had better take a good look at it. Thank you.

SPEAKER BARRETT: Anyone else on the question of overruling? Senator Crosby, please.

SENATOR CROSBY: Thank you. I support the Chair in its ruling and I have great concerns, just to start with, look what they have done to Senator Abboud's bill. I have a difficult time absorbing a bill about drugs and the punishments and so on without adding the gun question. I am against guns. I won't allow any of them in my home, just to start with, so that is not the point. But, surely, there must be some mechanism in this Legislature for a bill to be brought to talk about guns themselves. I do not think it should be included in this bill. I feel that we are getting clear away from the original idea and I...Senator Wesely talked about the fact that he thinks it is germane, but when we start talking about who has weapons and who does not and that kind of thing, in yesterday's World-Herald or the day before, there was a story about a day care center in West Omaha who was being investigated because the neighbors thought there was something peculiar going on over there, child abuse and so on, and in that investigation, they found a lot of weapons of all kinds. So I don't think Senator Wesely would want that amended into a child care bill to talk about the gun issue. So at this time I would hope that those people who want to talk about guns, and I surely am one of them because I am against guns. I think that it is too easy to buy them, too easy

to take them home or out and use them. So I would hope that you would figure out, I can't believe that there isn't a mechanism to bring a bill like that, if you want to, but I do not believe it should be included in this one and I support the Chair. Thank you.

SPEAKER BARRETT: Thank you. Anyone else? If not, the Chair assumes we are ready for a vote, and...any member can speak one time, Senator Ashford. We have in the past apparently allowed a closing. Please proceed.

SENATOR ASHFORD: A brief closing, thank you, Mr. Speaker, and I am, I do, I will for the sake of the process, apologize for taking up the time on this bill, but I have been very frustrated on this issue because of the interpretation given by the Attorney General and others on the constitutional amendment that was passed. Senator Wesely, early on, before the session started, sent out a very good memorandum about...on state laws and their effect on this issue, and the West Virginia Supreme Court recently ruled that, in 1988, the last part of 1988, a constitutional amendment more restrictive than ours prevented very reasonable gun regulations, so it is a very frustrating thing for me. Also someone mentioned that this looks like the start of my run for Congress. I think my reply was it probably was going to be the start of a lot of people trying to run me over rather than that. But, seriously, many states have now dealt with this issue. There is really no other vehicle, Senator Crosby, and I appreciate your point, but there really isn't any other vehicle to deal with this. This is a crime and punishment section. This is a very real problem. California just recently, on March 13th, voted to ban assault rifles, and, of course, we have already talked about the issue of the federal government, and I think President Bush and others are correct that a lot of this action must be taken on the federal level and not the state level. In answer to Senator Schmit's concern, I, also, am concerned about definition of weapons. My amendment says more than five rounds of ammunition, and my point in doing that was to not include the deer rifle and the semiautomatic hunting rifle, but I am not an expert on guns and certainly I think that that is one of the issues that needs to be discussed is what kind of weapons are dangerous, violent, combat rifles, and what kind of weapons are legitimate hunting and sports rifles. I have said in the past and will continue to say over and over again that I am not after those weapons at all, but I think that the only way that we are going to be able to deal

with this issue is, as other states are doing, Virginia just passed a law, Florida is looking at legislation in this area, and we are unable to do so because of the actions of Initiative...or the result of Initiative 403. I agree with Senator Chambers that this is germane. I welcome the debate on this issue. We, as are other states, need to deal with this issue and certainly in the philosophical sense it very much relates to the issue of drugs and it certainly is as drafted a crime and punishment, and would urge this body to overrule the Chair. Thank you for your indulgence, Mr. President.

SPEAKER BARRETT: Thank you for that closing, Senator Ashford. Pursuant to Rule 1, Section 12, the question before the body is this, shall the Chair be overruled? Those in favor vote aye, opposed nay. Majority of those present required to overrule the Chair. The magic number this morning is 21 votes. We have a request for a record vote. The question again, the overruling of the Chair. Have you all voted? A call of the house has been requested. Those in favor of the house going under call, please vote aye, opposed nay. Record.

CLERK: 9 ayes, 7 nays to go under call, Mr. President.

SPEAKER BARRETT: The house is under call. Members, please return to your desks and record your presence. Members, please check in. Those outside the Legislative Chamber, please return. Senator Ashford, you said we could recognize call in votes? Thank you. The house is under call. Members outside the Chamber, please return. Senator Lynch, Senator McFarland, Senator Peterson, Senator Korshoj, the house is under call. Please return to the Chamber. Senator McFarland, the house is under call. We have a request for a roll call vote in regular order. Senator Ashford, Senator McFarland is on his way. May we proceed? The question before the body is, shall the Chair be overruled? Mr. Clerk, proceed with the roll call vote.

CLERK: (Roll call vote taken. See page 1224 of the Legislative Journal.) 14 ayes, 26 nays, Mr. President, on the motion to overrule the Chair.

SPEAKER BARRETT: Motion fails. The call is raised. Mr. Clerk, anything for the record?

CLERK: Yes, Mr. President, I do. Your Committee on Enrollment and Review respectfully reports they have carefully examined and

Nebraska, Outstanding Young Farmer in 1987, is that right? Oh, you're the program manager, okay. This is Larry Abrahams. Also, Dick Hovorka who is the Nebraska President of the Jaycees. And Steve Bayne from Waverly as President of the Waverly Jaycees and the sponsoring organization of Marlan Johnson. Thank you for your time, Mr. Speaker, and they are going to be moving out just shortly.

PRESIDENT: Thank you, Senator Wehrbein, and thanks to you, ladies and gentlemen, for visiting us today. Before we move on, I want to introduce a very special guest of most of us, certainly all of those of us who know her. Mattie Rumery, would you please stand and step out so we may have a look at you. Mattie's husband was here for several years as a member of this Legislature and certainly fine two people they were from North Platte. We're happy to have them amongst our midst, and, Mattie, it's certainly great to have you back. Thank you for visiting us. We'll pick up where we left off with LB 592, and as I recall, Mr. Clerk, we were ready to go into the discussion of the bill, right? On the advancement of the bill.

CLERK: Mr. President, I have no further amendments to the bill at this time.

PRESIDENT: Senator Abboud, would you like to open on the advancement of the bill?

SENATOR ABOUD: Is there any discussion? Any lights on?

PRESIDENT: There is one light on, Senator Moore. Would you like to have the other discussion first and then you close?

SENATOR ABOUD: Well, I'd like to...okay, well, I think we'll have a little bit of discussion about the bill. I just wanted to make a couple of comments. The first one dealt with how many people would this bill have affected? Senator Chambers asked me for specifics as to how often this type of bill, how often a person would be charged with this type of a crime using the mandatory minimum sentence? Over the noon hour, I was able to contact the Omaha Police Department and they did have records. I didn't want them to go way back but I said how...let's say the last few months here, how often would this bill be used? So they went back through January. They had to hand count them and they went through their records from January through March 19 of 1989. There would have been two individual cases that would

March 20, 1989

LB 592  
LR 57

have been charged under Section 5(b) dealing with crack for the mandatory three year. There was one arrest for 28 grams of crack and one arrest for 14 grams, and then there were four other arrests, one for...that would have been effected by Section 5(a) of the bill, and there was one arrest for 36 grams of crack, one arrest for 30 grams of crack, one arrest for 84 grams of crack and one arrest for 30 grams of crack, an additional one. And at this time there were no arrests under the cocaine section between January 1 and March 19 of 1989 that would have fit under the category of 4(a) or 4(b). So that's...and in a total at this time, there has been over 11.3 pounds of cocaine crack seized through March 19 of this year in comparison to a total of last year's cocaine crack for the entire year of 31 pounds, so I think that shows there has been a substantial increase in the amount of cocaine and crack that has come into the state in comparison even to 1987 where there was only confiscation and arrests of 8.3 pounds. Thank you, Mr. President.

PRESIDENT: Thank you. Mr. Clerk, do you have something?

CLERK: Mr. President, Senator Chambers would move to indefinitely postpone LB 592. Senator Abboud would have the option to lay the bill over, Mr. President.

PRESIDENT: Senator Chambers, just a second, please. While the Legislature is in session and capable of transacting business, I propose to sign and do sign LR 57. (See page 1227 of the Legislative Journal.) Senator Chambers. Senator Abboud, did you want to take it up or not?

SENATOR ABOUD: Yes, I did. Yes.

PRESIDENT: Pardon me? Yes? All right. Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, this bill is one of those kind that seems to do something that it really does not and to oppose it would seem to place one in a position of being soft on drug dealers, but the reality is we have too many laws that appear to do something which, in fact, they do not do and with some law enforcement agencies that support these laws, when they have succeeded in getting a law on the books, they sit back and they boast about that when they talk to various community groups. If one decides to run for a public office, he or she will say, I got tough legislation

requiring a mandatory sentence. I'd like to ask Senator Abboud a question before I continue. Senator Abboud, who actually drafted the language of this bill?

SENATOR ABOUD: I did.

SENATOR CHAMBERS: All right. Did you have the assist...any assistance from anybody, I mean from the Douglas County Attorney's Office or any of those who actually participated in supplying the wording?

SENATOR ABOUD: Bill drafting.

SENATOR CHAMBERS: Thank you. Members of the Legislature, before I go into an analysis of the language, I wish you'd look at page 2 of the bill and look at the current law with reference to punishments. In line 20, a Class II felony carries a maximum 50-year sentence, minimum one-year sentence. These two new felony categories are higher grade felonies and the only thing they do is require a higher minimum sentence. Currently, under the law as it is now, without continuing to divide and subdivide and make it appear we're doing something, the means to inflict a sentence harsher than that that the one is being offered now in the bill exists. The statutes already permit that and putting the word "mandatory" in front of the sentences on line 18 and line 15 don't do anything. When a mandatory sentence and a minimum sentence are provided by statute the minimum cannot be less than what the statute says, but it can be any amount over that so long as it doesn't come too close to the maximum, and I'm not going to go into all that because it would lose the point of what I'm trying to say. The point I want to make here is that the sentencing power exists right now under a Class II felony which is a lower grade felony than these two to impose a sentence of up to 50 years. And if you look at the existing language in the bill, the existing law, for example, on page 4, you will see in line 14 that violation of certain of the drug schedules is a Class II felony. The present law would put a judge in a position to give up to a 50-year sentence. If the judge gave just a flat 50 then it would be one-third of that up to the maximum, if no minimum is given. What I would like you to consider is that the word "mandatory" does not achieve anything. It is surplusage that means nothing. The way you require a minimum sentence is to just write what the minimum is. The good time laws will come into play and the minimum sentence, if that is imposed, will be this number of years less the months



taken off for good time. That's what, in fact, will be done. But my main objection to the bill is that it's not going to touch the drug problem. Senator Abboud mentioned, I think, six arrests that would have been made under this bill. Let me ask him a question on that so I can be sure. Senator Abboud, would you answer a question?

PRESIDENT: Senator Abboud.

SENATOR ABOUD: Yes.

SENATOR CHAMBERS: Was the total number of arrests, forgetting the category, that would have occurred under this bill with the new punishments have been six, or did I misunderstand?

SENATOR ABOUD: There would have been six under this from January 1 of '89 through March 19 of '89 of this year.

SENATOR CHAMBERS: Thank you. With the amount of drugs being moved in the City of Omaha, that is nothing. Six arrests constitute no impact on the drug traffic at all. What we would need to look at is whether there were convictions and if there were convictions, what the sentencing judge gave as a punishment. None of that is before us. This is a politician's bill, pure and simple, not speaking of Senator Abboud who brought it but those in Omaha and Douglas County who want it. When Chief Wadman testified the other day before the Judiciary Committee, I had asked him, because the bill that he testified on would have placed a harsher punishment on a youngster for being in violation of the drug laws than it would an adult, I asked him, why don't they go after the big fish in Omaha, and he is the one who talked about all this time that is needed to make a case and I mentioned to him what I mentioned to you all this morning, just go up to the house and make a buy, not Wadman himself. Although people may not recognize him, he might be able to pull it off, but at any rate it is not as difficult as what they want to indicate. These persons, these entrepreneurs, business persons, thugs, dopers or whatever you want to call them have to have an open and known operation because they operate from the standpoint of volume. People have to know where they are and if the public knows, meaning young children, the police have to know. And if they would deputize me, I could make more arrests than they have made to date and I could go into a crack house and make the purchases that they, for some reason, pretend not to be able to make and break these houses



open. When you have businessmen in a city, and I won't mention a city and I won't mention a businessman, if you had a businessman who was going to get a supersonic jet and load it up with his friends and fly them to Europe, then that is a businessman who is not using profits from a legitimate business because you don't know that your business is going to produce money like that all the time and you're not that much of a spendthrift. But if you feel you have an inexhaustible supply of money and money is like Monopoly money to you, you get rid of it and there is plenty more to replace it, yeah, you can load people on a supersonic jet. You could build a heliport at your house if you want to. You can call in entertainers from all over the country to participate in big parties that you throw for your friends. You could even get the chief of police to let you hire the head of the drug unit to do private security guard work for you at your house. That's what you can do if you've got money like this and legitimate businessmen don't throw money away. You saw Mike Harper down here trying to get tax breaks on his jet planes, his mainframe computer and all other kind of little knickknacks. Now, that's not to say that he is right in everything he does, but at least he is handling his money like a businessman would. Look at your friend Larry King, spending hundreds of thousands of dollars for flowers, wining and dining everybody from the homosexual in Omaha to the heads of the "Repelican" party in Washington, D.C., and there is old Harold Andersen, publisher of the World-Herald, saying he saw nothing suspicious about this. But if there is a young person who comes up with 20 or 30 extra dollars, they'll zero in and say, aha, you're spending more money than you should have and we wonder if you're involved in drugs. People in the community that is affected can see this. They can see the police stopping people on their way home from church on Sunday, on the way home from work in the evening and then the drug deals going down in plain sight and nothing being done. They can see cops talking to the dope dealers and driving past the crack houses with all of the traffic and nothing being done and then you want to tell these young people respect law enforcement.

PRESIDENT: One minute.

SENATOR CHAMBERS: Don't sell drugs. Well, what should they do, work at McDonald's for \$3.35 an hour when, if they take a package from one street to another, they can get \$100; if they steal the package they might be able to sell what is in it for \$500, buy a car, buy clothes, buy jewelry, have money and the awe of

other young people and be untouched by the police, if you also agree to serve as a snitch and make cases for them so they can make arrests? This dope dealer will be given immunity if he works as a snitch or an informant for the police and the way they get him, they get the goods on him and they tell him, as long as you make the arrests for us, make the cases for us, we won't bring the charges. If you decide to back out not only will we bust you on these charges, but we'll put the word out at the institution that you're a snitch and you work for us, and that's how they do it and that's why they're not touching the drug traffic. This bill is a farce, it is a sham, and what ought to be done, if the police are serious, is to meet with people in the community and get input from them as to what ought to be done and make representations of what rationally and practically can be done by law enforcement. Mr. Chairman, I'm not going to make you sit me down, I'll sit down because I see my time is up, but I have to speak again.

PRESIDENT: Thank you. Senator Moore, followed by Senator Nelson and Senator Abboud.

SENATOR MOORE: Abboud has it.

PRESIDENT: Senator Abboud, would you like to respond first? You have the privilege. Senator Moore, you'd be next then.

SENATOR ABOUD: Yes. Well, I think that I rise in opposition to the kill motion, obviously. But I think what Senator Chambers is focusing in on is a real frustration that we have in the City of Omaha to dealing with the cocaine and crack problem that we're facing here in the city and what is the best approach to deal with it. How do you deal with individuals that are making millions of dollars off the sale of crack and cocaine? You can increase the amount of law enforcement which the City of Omaha is doing. You can encourage public education on the harms and dangers of using crack and cocaine which I believe the city and the state is doing, as well as the national government. And one other area that you can use, and which has been used effectively, is to tell individuals that if they sell, if they market, if they manufacture or if they distribute or dispense cocaine or crack, that they are going to have to go to prison. There won't be a question of probation. It will be simply a matter of them being convicted and, once they are convicted, then they will go to prison. That's the idea of the mandatory minimum sentencing. Now currently 26 states have taken this

approach of providing for mandatory minimum sentencing. The legislation followed their approach on dealing with this problem. I think that...I think that we've all seen the harms not only to the individuals that are using the drugs, but the harms to society. It is unfortunate that there is a killing, at least a killing a day in Washington, D.C. It's unfortunate that there is a killing a day, drug related killings in Los Angeles. It's unfortunate the amount of bloodshed that has taken place over the sale of cocaine and crack throughout this nation. And I think that the only way that society can really deal with this problem is as we are dealing with the problem. There are no simple solutions to this, but it has to be a multifaceted approach to deal with this problem. Now the City of Omaha, I believe the police force is doing a good job in dealing with the problem. The four arrests that would have provided for the maximum or to this, a five-year mandatory minimum on the arrests of 36 grams, 30, two for 30 grams and one for 84 grams, all involved arrests at crack houses. So crack houses are, in fact, being shut down. Unfortunately, what we're having, and this is one of the basic reasons for the bill, is we're having individuals coming in from other states, most notably from the California area. They come in and they sell their drugs here in this state to individuals and they encourage other people to sell their drugs. They are well aware of which states have the mandatory minimum sentencing. They are well aware that if they are a first time, first time offense for these drugs, a lot of times they won't have to do any time or the time will be minimal, if at all. And so they look at the states where they don't have to deal with a prison sentence. By my bill focusing exclusively on the individuals that are selling the bill, it doesn't deal with the individual user. If a person is using this drug and I have no reason why someone would have \$2,800 worth of the stuff minimum, but if they are using it and they're not selling it, it won't impact on them. It deals exclusively with the individuals selling and trafficking these types of drugs. It's a problem that we are going to have, but we can only...I think other cities and states show how severe the problem can become. Statistics that we have show that there has been an increase over the last couple of years. It has been a steady increase in the last three months, but it is nowhere near the astronomical numbers that we're seeing in other states, in other cities. I think we should do our part...

PRESIDENT: Half a minute.

SENATOR ABOUD: ...to put these people in prison and discourage other individuals from getting involved in this type of business enterprise. Thank you.

PRESIDENT: Thank you. Senator Moore, please, then followed by Senator Nelson.

SENATOR MOORE: Mr. President and members, as a co-sponsor of LB 592, I, obviously, rise to oppose Senator Chambers' kill motion. But as is so often the case, there is a certain grain of truth in what Senator Chambers is saying. He is sitting here saying that we, as legislators and policymakers and politicians, all too often pass these bills like this, beat our chests and say, we've solved the problem, and he's right. This bill doesn't solve the problem. It helps attack the problem and, as I'm sitting here, I remembered a speech that Dr. Manley gave us in the New Horizons project last year. He talked about 100 years ago in the 1888 session of the Nebraska Legislature, told the story, first off, about how the mayor of Nebraska City said if he had to lock up everybody in town that was using drugs, it would be half the population, he'd have to run them through the jail like cattle because it would affect everybody. And many people said there was a survey done in the New York Times that said how over half the people in this country said that our nation was not going to make it to the turn of the century because of our drug problem. Well, as so often is the case, the Nebraska Legislature reacted that year and they passed a bill, quite innovatively, that said that one of the bills was that every classroom in the state, the teacher would have to teach a class on drugs. That was the Legislature's solution to that problem. When Governor Dawes, at the time, signed that bill, he said, this is our first step toward eradicating drug use in this country by the turn of the century. Well, that was 1900. We know we didn't eradicate drug use in any way, shape or form. Now because that didn't work then, are we to buy into what Senator Chambers is saying, saying we shouldn't do anything? Well, he's correct. We shouldn't say a bill like this is solving all the problems and is going to wipe out drug use because it's not. But the fact of the matter is, it also is similar to a situation we had in the early 1980s when Senator Haberman and others brought us legislation dealing with DWI and that year we passed a new Class W misdemeanor, Class W misdemeanor that specifically laid out the penalties for those found guilty of drunken driving. Now the same argument held true then, that we didn't need a special classification and

Senator Chambers is probably right, we don't necessarily need a special classification for drug penalties like this. But I think, just like we did in the early 1980s, we, the Legislature, are reacting now today to a problem of drug use, particularly a problem with cocaine and crack. Now we are wrong, we are wrong to sit here and claim that we're solving the problem, but this bill is one more piece of the puzzle that I think is wise just as it was in battling the drunken driving problems early in the 1980s, it helped. This bill doesn't hurt the cause at all. I firmly believe it helps the cause somewhat, and Senator Chambers and I may debate on how much it actually helps it; I think there's no doubt that it will help our battle against drugs somewhat and, for that reason, we shouldn't just give up because for 100 years we've been battling this problem. We also shouldn't beat our chests and say we're going to eradicate the problem by the turn of the century again, but we should not indefinitely postpone this bill, as Senator Chambers urges us to do, and instead we should pass this bill and continue to help address the war on drugs. I urge you to oppose Senator Chambers' kill motion.

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

SENATOR NELSON: Mr. Speaker, members of the body, Senator Abboud did answer some of my questions and how many are affected and in committee hearings I had a question in my own mind and expose some of my knowledge or my no knowledge, I guess it was, of the quantity and so on. I do feel that a lot of these, and my question was, is this related to the college kid or the person that is distributing drugs maybe to support his own habit or so on, and I see rehabilitation as a great tool in those cases. And I'm also aware of the crowding problem at our prisons and so on, and I was wondering, in my own mind, are we accomplishing anything? I, too, have the same concerns as Senator Chambers. I think that we have Larry King out walking the streets yet today. And we don't want to go soft on drugs, we need one more tool, and it's not only Omaha's problem, it's outstate problem too. And we definitely would not want to change that, but my concern is by creating another class and where the word says mandatory, is the penalty too strong that judges would not sentence and actually would go the other direction? And I won't support the kill motion at this time, but I do, I have some sincere questions in the bill. Are we going too far and too strong and when we say mandatory? There

are cases when rehabilitation would be far better than a mandatory three-year sentence, but the question is, you know, the amount, and I don't know how that amount...and I tried to get that in Judiciary Committee. If I was assured that this was definitely the ones that come in from, you know, out...well, of course, they are always out of state. They're never Nebraskans that would do that, but the big dealer, that's the ones that I want to reach and I want to be sure though that we're not applying it to those that can be rehabilitated and can be helped and that's the question in my mind. I think Senator Abboud has answered that but he's not fully answered it, in my mind, and you can make the penalty so strong that the judges will not apply it and it will be of no value whatsoever.

PRESIDENT: Thank you. Senator Chambers, please, and then Senator Hefner.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I do know what I'm talking about and I do know what the problems are. To give you an example of how much foresight I have, when they were using Ritalin in the public schools in Omaha in the sixties on school children who were called hyperactive, I launched a high profile public campaign against its use and said you're going to start these children out early with this drug and it will become a street drug, and now Ritalin is one of the worst street drugs in Omaha and there are people going to doctors saying they need it for their child and they are getting it. The AMA during those years wrote long editorials against the position that I took because doctors were making a lot of money setting up practices prescribing Ritalin to children who were supposed to be hyperactive, didn't even know how it worked, didn't even know for sure whether the child needed a drug. So there are people who will not look at an issue from the standpoint of achieving something beneficial to those who need the help. It is popular now to say we have a big stick to use against drugs and this is not it. When I mentioned using the snitches and allowing them to commit violations of the law as long as they remain snitches, the state patrol was doing this some years ago and they might...probably are still doing it now, and we had to investigate as the Judiciary Committee or a specially constituted committee the activities of the state patrol encouraging people to commit crimes, encouraging them to do wrong, to pad their statistics and Senator Schmit can talk about that more if it becomes necessary. I'd like to ask Senator Abboud one question. Senator Abboud, you mentioned that

other states have done this. Can you give statistics from any one of those states that indicates that there has been a lessening in the sale of drugs since that language such as 'what we're asking for now was put on the books'?

SENATOR ABBOD: Senator Chambers, my study of the information was focusing in on the type of statutes that they had and which states had those particular statutes.

SENATOR CHAMBERS: Okay, thank you.

SENATOR ABBOD: My study didn't focus in on that.

SENATOR CHAMBERS: And I'd venture to say that if you do, you're going to find out it hasn't done anything because it starts with law enforcement. When you have certain drug houses, certain drug dealers, large suppliers, not being approached by law enforcement, it's because there have payoffs and in some cases involvement by the police themselves in the drug traffic. That may shock you all because you're novices in this. Omaha and Nebraska has had a drug problem for a lot of years, but it's just now encroaching on the white community and it is new to them. When crack was a new thing to them, it was old in the black community but it doesn't become a drug problem until white people begin to do it. That's the way all of the drug problems have been. When it's in the poor areas, it's never a problem. When they talk about, as Senator Abboud mentioned, increased law enforcement, they're putting more cops to work and the cops like it because there's more money paid into their overall pension fund, but they're not in a position to do anything to really attack the drug traffic because they are all concentrated in one community. You have to have a market sufficiently lucrative to justify the kind of drug traffic that we're talking about and although you find a lot o. victims, a lot of couriers, a lot of nickel and dime hustlers and sellers, the poor people in a community don't provide a big enough market to justify saying you have a serious drug problem. There are large scale drug users and drug dealers outside of the poor community who make a much bigger market and it is not being touched.

PRESIDENT: One minute.

SENATOR CHAMBERS: And it will not be touched. If we pass this bill, we give those people in law enforcement an excuse to sit back and say we've done what we could do and the Legislature



helped but they will not change their tactics and go after the big fish. Go after the big ones. There are great white sharks, barracudas and piranhas out there and we're talking about minnows and you're going to catch them in a tea strainer a minnow at the time. You might can build a family one child at the time, but you're not going to stop the drug traffic or the drug problem one arrest at a time, especially when you're dealing with the little fish. So a lot of people might be recruited in the poor communities to be sellers and take the fall when somebody has to be caught, but getting them is not going to solve the problem because you have so many desperately poor people that they will do almost anything to get that money, including play lotteries. This is just one of the many forms of addiction that are put on poor people who are trying to get some money to make a living, not necessarily be a part of a criminal underworld structure that threatens to destroy the fabric of society.

PRESIDENT: Time. Senator Hefner, please, followed by Senator Ashford and Senator Abboud.

SENATOR HEFNER: Mr. President and members of the body, I wasn't going to talk on this issue but I decided maybe I should. And, Senator Chambers, I was hoping that you would help us out on this problem, but it seems like every time we introduce a bill to address this problem, well, you vote to kill it in committee or if it comes to the floor, well, you'll badger it and so we really don't get much accomplished. I realize there is no simple solution to this problem. It's an in-depth problem and I've talked to the state patrol and to other law enforcement people many times about it. In northeast Nebraska we have a problem so it just isn't an Omaha problem or a big city problem. It's in our rural areas too and so we need to address it and I think Senator Abboud and some of the other co-sponsors of this bill are trying to do that. In visiting with some of the other states, we find that they are trying to address the problem by passing bills that would levy tougher penalties on them and that is what this bill is doing. This would allow tougher minimum penalties for dealers selling these drugs and we need to attack it from all ways. Another thing that we need to do, we need to see that our law enforcement people enforce these laws when we put them on the book and, Senator Chambers, if you have any ideas on that, I would certainly like to hear that from you. We also need to educate our younger people and maybe some of our older people too, as far as that goes, tell them how these drugs



will hurt their health. We...some of us have introduced a bill that would suspend the driver's license of our young people, but, as I understand it, that is still being held in committee and so I feel that we need to start some place. We need to tell the people that we mean business when we enact these tougher penalties for using drugs and for dealing in drugs, and so I would urge you, at this time, to vote against the kill motion on this bill.

PRESIDENT: Thank you. Senator Ashford, followed by Senator Abboud. Senator Abboud.

SENATOR ABOUD: Mr. President, colleagues, I just have a couple comments and then I'll be seated and we can probably move on to a vote on this. The bill was aimed, when we...when the bill was formulated there were a number of different approaches that we could have gone with and I felt very strongly that the bill should be aimed at the individuals that are profiting from drugs. I felt that the users of them, it's rather unfortunate, it's very unfortunate, and it was my hope though that the individuals that are using these drugs will stop. And one way to get them to stop is by shutting off the supply of these drugs coming into their community. It was my intent with the bill when it was focusing just on the individuals that were selling it, the individuals that were profiting from it and you have individuals that are selling these drugs, trafficking in cocaine and crack that don't actually use them and to them it's strictly a business proposition. There is millions of dollars to be made in the sale of these two illicit...of cocaine and crack and as a business proposition I think this should be one of the hazards of doing business. Hazard is that if you're convicted the first time, if you're white, if you're black, no matter who you are, no matter what type of an attorney you get, if you're convicted, you're going to do some time in prison. And I think that that approach, though it may seem a bit harsh, is the only real approach that will help to slow this down. Now we can increase the penalties to these people, put them in life sentence. I know the State of Texas has some incredibly harsh penalties, up to 99 years in prison for these types of offenses, but that really wasn't my aim. I think people can change, but I think that, unfortunately, sometimes the state has to help out these people to change and, hopefully, by having these types of mandatory minimum where they know that if they're convicted they will go to prison, it will help to discourage some of these people from coming into our state and selling drugs here or

March 20, 1989

LB 592

discourage people that are in our state from seeking to profit from it. Thank you.

PRESIDENT: Thank you. Senator Owen Elmer, please, followed by Senator Lamb.

SENATOR ELMER: Thank you, Mr. President. I wasn't even going to talk too much about this either, but after we get into this we're talking about the whole drug problem. Members, we have the sources whether they're from the inside or the outside of the United States. We have the routes that these materials take to get to the United States. We have the distribution systems within the United States. We have the local feeders, we have the local users. All of these things are exactly what Senator Chambers said, lucrative, money-producing types of things. The sources, I've heard everything from bombing and blockading those countries where they are produced to paying them...paying the farmers there to grow other things. Talking about the military, interdicting the supply routes with all kinds of different schemes, trying to bring into the law enforcement to sellers like we're trying to do with this bill. The buyers are out there, are the victims whether they are poor or rich. I've heard all kinds of solutions there from legalizing the use of these materials to distributing the goods with a little cyanide in them and get rid of them, two great extremes. Education has to be somewhere in the middle but doing nothing doesn't help either. Senator Abboud said there were six arrests between the first of January and the current time. Well, that's six more that would have been eligible for this type of penalty. That would be that much more deterrent for those six to be replaced with some other seller and I would oppose this indefinitely postpone motion.

PRESIDENT: Thank you. Senator Lamb, please.

SENATOR LAMB: Question.

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

CLERK: 25 ayes, 2 nays, Mr. President, to cease debate.

PRESIDENT: Debate has ceased. Senator Chambers, would you like to close on your kill motion, please?

SENATOR CHAMBERS: Yes. Mr. Chairman and members of the Legislature, the amount of the punishment being proposed by Senator Abboud, I think, as he pointed out, is moderate so I'm not attacking that. I'm attacking the need for the bill because under present law and the sentencing structure, the range of years that can be given, that can be achieved now. The problem that I see is using this to give the appearance that something has been done by the Legislature that is going to impact on drug trafficking and it will not serve that purpose. People will tend to sit back and say we've done something. The Legislature does have an obligation and if I thought the Legislature were serious, I'd make proposals. In our community, which is victimized more than any other one right now, we had talked to black officers to set up a task force that would deal with drugs and youth gangs and the youth violence. Chief Wadman nixed the idea and said there is no problem, infuriating the community and put many of us who are considered spokespersons or leaders in a position of saying, we won't work with such a man anymore. You had a community, that usually is at odds with the police, wanting to set up a task force and work with them. These men know the families, they know the youngsters and they know the difference between a grouping of young people who are there as a group and those who are a gang. There have always been groupings. The big difference now is the amount of money and the heavy weaponry that is available and these weapons are being put in the hands of young people who don't have the money to afford them. They don't get them from other youngsters who have the money to afford them. If it comes from one youngster to another, you trace it back to an adult and usually somebody outside the community and I don't mean as far away as California in all instances. We have wrestled with this problem, we have tried to work with the mayor, we have tried to work with the chief of police and nothing is done. A man who runs an apartment complex called me just yesterday or the day before because he had called the chief and the safety director about drug deals at his place and when he calls the police take from 45 minutes to an hour to get there, then nothing is done. They'll drive a few blocks away and park in a beauty shop and that's where they spend their time and this is what is ravaging the community and the Legislature thinks it's a rational response to say, put a three-year minimum sentence in one instance and a five-year minimum in the other. If you're not making the arrests, there will be no trial; with no trial there is no conviction. When people are arrested and charged there

are still plea bargains. This is not dealing with the drug problem. I don't believe there is anybody on this floor who has more contempt for a drug dealer than I have, whoever the drug dealer is, who is more concerned about the damage done to a community than I am. I live in a community where I see it. In Washington, D.C., a group of Muslims, called the Black Muslims, began to operate in one of the worst housing projects, worse in terms of the amount of drugs there, and cleaned it out and when the police saw it happening, the police moved to try to stop them from patrolling in this housing project and the Muslims were not armed. Why would a police force be opposed to a group of citizens in a community ridding that community of drug infestation? Because they want the drugs to stay there. I want the drugs out. This is not going to do it. It will be another dodge to hide behind and say the officials have done all they can and they haven't done anything. If we organized a band and began to really make a dent in the drug traffic, they would then begin to call us the vigilantes.

PRESIDENT: One minute.

SENATOR CHAMBERS: But if we had a band and went around knocking old people in the head and snatching women's purses and breaking into homes, you don't hear any talk of vigilantes because it is crime by us against our own and that is acceptable and desirable. But if we band together to fight the crime and the element that the police know are there but won't touch, then we're the bad fellows. They wouldn't put together a nine to 10-man drug task force of the kind we wanted, but they put together a nine-man special force to deal with prostitutes in downtown Omaha. And Wadman is there saying that there is not a problem until it stared him so much in the face that he couldn't deny it anymore and Wadman, for your information, is the chief of police. I can see that you feel you've got to vote for this bill so you're going to vote down the kill motion, but you're not going to be able to put this thing on the books and get away later with saying, we did something against the drug traffic in Omaha and we believe that's what we're doing. You're going to pass this bill knowing it won't do a thing.

PRESIDENT: Thank you. The question is, shall the bill be indefinitely postponed? All those in favor vote aye, opposed nay. A record vote has been requested. Record, Mr. Clerk, please.

CLERK: (Record vote read. See pages 1227-28 of the Legislative Journal.) 2 ayes, 26 nays, Mr. President, on the motion to indefinitely postpone.

PRESIDENT: The motion fails. Now we're back on the advancement of the bill. Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman, I'm rising to oppose the advancement of the bill. What you all don't understand is the nature of poverty, first of all. If you read the newspaper, if you watch television, you will see people who are not considered liberals, pointing out that when there is excessive crowding of people, lack of economic opportunity, schools that don't give education that inculcates self-esteem, everything that the child or his or her family will confront in this society being something designed to put you down and cast you as inferior can do nothing but demoralize you as an individual and when it is done to a community, it demoralizes a community. You tell these young black people to work. They go to seek a job and they are turned away and there are no black people working at these establishments and then they're told, it's not racism. A child might be clean but not have a suit to wear but is looking for the job and pretty soon the child begins to recognize that look in the eye, that tone in the voice and the fact that there will never be a call when they say, we'll take the application and we'll call you. And they see other kids with money, not from working. There are predatory adults who know what the problems are that these youngsters face in trying to get a job and trying to stay in school. So they play on it and they tell them, the police in Omaha are dumb, do this, they don't even understand the drug traffic because you read in the paper where they got an ounce of cocaine and they call this a major bust and a major drug operation. A half ounce of cocaine, \$600, and a .38 caliber pistol and this is a major drug operation and everybody on the street laughs at them. You all know enough to know that's not true and if you read these articles, you'll see that what I'm telling you is not a lie. If we are not in a position to look to those who are authorized under the law to enforce the law, then we're going to have to do it ourselves. And if and when that day comes, don't one of you on this floor, don't one of you say anything to me, don't you give me any advice, don't you give me any commiseration, none of that. This is a problem that is killing my community and the police are not the ones we can look to to do anything. As far as trying to do anything, I had a talk with Calinger some months ago about what

could be done with reference to education, the calling together of a businessmen's task force which I would help him do, to set aside some jobs, some training programs, some internships, the things that could be made available to allow young people a choice. There is no choice now. McDonald's, even if the kids wanted to work there, cannot hire all of them. Burger King cannot hire all of them. There is no group in the City of Omaha who are as restricted as we are in terms of economic opportunity and a chance to improve your condition. So you'll pass this bill, and you'll say we've done something that has fought the drug traffic and the drug problem in Omaha, so what do these black people want now? Why are they crying now? We said we were going to give these people three years. We said we're going to give them five years. What do they want? What the Legislature needs to do is say that in cities of the metropolitan class the people of a drug-ridden community are authorized to establish their own police force.

PRESIDENT: One minute.

SENATOR CHAMBERS: Would you do that? You wouldn't have to risk anything. The Omaha police wouldn't risk anything. I would be the one undertaking the physical and every other kind of risk. Will you help me in that respect because you won't help us in any other one? If the police were doing their job, I would be praising them and lauding them. This issue has been milked by the present mayor for political purposes to throw a lot more police on the street and hire a lot more and say this is going to solve the problem and it's not. I know you all have trouble believing that what I'm saying is true but if Omaha this summer gets lit up like a Christmas tree, then it's not going to be a case where police are dealing as they have in the past with unarmed people. You have young people who don't understand the concept of death, who don't fear death because the idea hasn't taken root that it is permanent or that they can die and they will not just let their lives be taken, as has happened in black communities in the past, they will feel they are supposed to fight back, that their weapons kill just like the weapons of the police will kill them.

PRESIDENT: Time.

SENATOR CHAMBERS: This is the reality and it must be confronted and it must be dealt with and this bill does not even begin to touch it.

PRESIDENT: Thank you. Senator Hefner, followed by Senator Landis.

SENATOR HEFNER: Question.

PRESIDENT: The question has been called.

SENATOR CHAMBERS: I object.

PRESIDENT: Object? Okay, there has been an objection. We might let it go on a couple, three more speakers, if you don't mind, Senator Hefner. Senator Landis, then Senator Abboud, then Senator Elmer.

SENATOR LANDIS: Having been placed on the record on this issue, I thought I'd explain why I would oppose 592 because, in part, it really does share some basic assumptions with Senator Chambers' argument. You have to understand that the idea of deterrent, which I hear being passed around here, is really a perspective of a nice, pleasant middle to upper-income perspective from people like ourselves who have a great deal to lose by going to jail, a job to lose, credibility, friends, family. To us, the notion of a jail sentence is anathema, it's the worst, and the idea of spending a long time there is scary and very powerful. But if you're a person who has no job and little prospect of one, is in a community with high unemployment, low job skills and the best of the rest of your life looks to be nothing than more than minimum wage and you've got a chance to make thousands and thousands and thousands of dollars, there is no way the logic of deterrent breaks the attractiveness of selling drugs; which means you catch them, you put them away for life, put them away for 50 years, there will be somebody else. That employment line is the most attractive employment line those people have. And what we do on days like today is pat ourselves on the back and answer with middle class responses which appeal to us but don't understand the mentality that we're trying to change. Now on most days I frankly sit here and do the same thing as you do, we raise the penalties, we bump it a class from a misdemeanor to a felony and think that we've walked away from something. We haven't. What we've done is created a relatively good editorial for ourselves, perhaps a good headline, some good ink and a darn nice line on our reelection campaign brochures. We have not done zip for the drug problem. This, if it's our first line of defense, means



it's all over. This can't be the first line of defense. This does nothing and to the extent that we allow ourselves to continue with the illusion that there is a deterrent in going to jail for these people that will deter them from a life of selling drugs when they don't have another option that provides anything of the kind as far as money, prestige or the like, is really embracing an illusion and that's not why we're here. That's why I'm going to vote against this one. Frankly, I have to tell you on most of the other days in the Legislature I sit here and do the same thing. I pass these bills along that bump up the penalties, that move things up that category. Ultimately, by the way, by the time I leave here we'll probably have everything be a felony. At the rate we're going, don't you worry, and then we'll invent some new classifications of felonies like double X felonies, or something like that, that we really are serious about. Unfortunately, the latest round of sociological evidence tells us that criminals think differently than other people, that they find the life relatively attractive, that it winds up being a better option than the other options they oftentimes have because of their job skills and their background and the way the world sees them. And if that's the case, this kind of stuff isn't going to do it. The answer lies elsewhere and then it's time to come back to look at this notion.

PRESIDENT: Thank you. Senator Abboud, followed by Senator Elmer, Korshoj, Schmit, Hartnett, Moore and Chambers. Senator Abboud.

SENATOR ABBOUD: Mr. President and colleagues, I've enjoyed the debate today. I think the question of how to go about solving drug problems is not as easy as passing one piece of legislation, two pieces of legislation, even dealing with actual penalty provisions. The first line of defense, the first line of stopping drug abuse is education and I think that the governor and legislature back in the turn of the century were right in one regard and that is that education is crucial, understanding what drugs do to a person's body and the hazards that go with the use of cocaine and crack. I think the next line of defense is law enforcement and I think that there may be some disagreement as to whether or not the law enforcement in the City of Omaha is doing a good job or City of Lincoln or state patrol or any other city or county, sheriff's office around the state, if they're doing their job or if they could do a better job. I think that's... I guess that's a matter of



opinion. I think they work pretty hard in trying to solve the problems and trying to seek out these crack houses and seek out individuals that are profiting through the use of drugs. But I do feel that there is one area, one area that we can help law enforcement officials in regards to their fight against crack and cocaine use, and that is with these individuals that are selling the drugs, that are bringing them into the State of Nebraska and, once they're here, individuals that are selling large amounts of these drugs. This bill is not aimed at the individual using or possessing it. It is aimed at the people that are encouraging and that are profiting by these particular methods. And maybe some guy, he'll be sitting there and he'll look at the...he'll be deciding on how much drugs he should sell this week or how much he should push this week and he may look at our particular statute and realize that, well, if I go over this amount then I'm going to be...could have a possibility of three years in prison. If I go over this amount, it may be five years and if I stay under it, I won't be involved in that particular statute. And it might discourage him and it might discourage some of the other people that are bringing it into the state. I think crack houses are a problem. I think there probably could be more severe enforcement but, as you see, there is no agreement even among this body, all the membership, as to what is, in fact, proper enforcement of the laws and what should be proper enforcement. I don't have all the answers in this particular area and I don't think anyone else does, but this is one area that we can help those individuals that are convicted the first time that think, well, I'll just do some probation and I'll make my money and there really isn't much risk involved. Those individuals should not go unpunished. If they go out and get themselves a high-priced attorney lawyer that's done a lot of criminal work and he knows how to weasel his way out so that that individual isn't convicted, well, this law is not going to affect him. But if that individual is convicted, he's not going to be able to argue that, for whatever reason, he shouldn't serve any time in prison. The bill puts him in prison, I don't think it's harsh, I think all the tragedy and heartache that drugs have caused in society that this should just be one additional deterrence to those individuals selling the drugs. Thank you.

PRESIDENT: Mr. Clerk, we have a priority motion.

CLERK: Mr. President, I do, and if I may, just a few items for the record prior to reading that. Enrollment and Review reports

March 20, 1989

LB 154, 183, 254, 421, 592  
LR 61

LB 154 correctly engrossed, LB 183, LB 254, LB 421, all correctly engrossed. (See pages 1228-29 of the Legislative Journal.)

Mr. President, new resolution, LR 61 by Senator Schmit asking the Legislature to congratulate the Wahoo boys basketball team for winning the Class B State Basketball Championship. (See page 1229 of the Legislative Journal.)

Mr. President, Senator Chambers would move to bracket LB 592 until April 25 of this year.

PRESIDENT: Senator Chambers, please.

SENATOR CHAMBERS: Mr. Chairman, I have two reasons for doing this, one is that I am serious about the motion; the other is to maybe make it possible that some will have the opportunity to speak who otherwise might be knocked down by a call of the question. Very few issues on this floor relate directly to me and mine in the way that this does that will cause me to speak as I am doing today on the floor of this Legislature. Never have I seen any concern for doing a program that would uplift those in my community, never have I seen the fervor for that as I see for these kinds of things of increasing the punishments, putting people in jail and so forth. When the North Freeway was running through my community and I stood up here and tried to explain the damage that would be done and, in fact, it has been done, the increased number of vacant lots, the inability of people to afford housing who used to have housing have all come to fruition, got nowhere. There are people from all over the state, none of whom are in my district and my district won't even run the risk of being affected by it, who are concerned about a low-level nuclear waste facility and they write me letters and call me on the phone and cry to me in person about how it might damage their community and be harmful to them. And I tell them there were probably over 40 other senators over there who care not a pop of the finger for my community. The pollution from the cars driving right through what they call a low-rent housing project, right through the middle of an OHA housing development where many, many small children live, this Legislature did not care, did not care, and does not care now. I told you that I had talked to Mayor Calinger about putting together a program where we don't just talk about jobs, but there are some realistic opportunities made available to these young people. He never got back to me. Some of the things he

is talking about now in his campaign are things that I had made notes on and talked to him about in terms of dealing with this drug problem and he never wanted to do anything with it, but I guess it came in handy for use in his political discussions now. To my knowledge, I'm the only person in or out of this Legislature who put together a task force of businessmen in Omaha that had the highest officials of the largest companies in Omaha to study the finances of the City of Omaha and put together a program and some of the recommendations have been put in place and can be shown in Omaha now. That's what I had succeeded in doing and nobody else on the floor can make that claim. And I have offered to work with these people and got nowhere. It's a lot easier to characterize these young people as criminals by nature and you give them heavy sentences and forget about them, but they are our children, and when I say our in this one, I mean black people's children. They represent our future and they have the opportunity to see how little care and concern there is for them in this society. Every time they see something in the paper that relates to them it's more police officers, more foot patrolmen, mandatory sentences and be in a position to blow them away if you're suspicious. So they learn and you can preach all the sermons that you want to, you can talk all that you please in school about study to show yourself approved so you can get these jobs and then you're turned away but you see your white classmates able to get these jobs. And people on this floor and in this state want to pretend there is no such thing as racism, that everybody has equal opportunity and our people are poor because we want to be poor and we have no jobs because we don't want to work. I probably work harder in this Legislature than any five people in here, and I'm an example of what black people are about. We have less with which to work and must do more with it. We have to, in some instances, take a penny whistle and make music like that you would expect to come from a symphony, always expected to do more with less. I know, as I said, you're going to pass this bill, but what I intend to try to do when the Legislature is out of session and I have more time is put together another task force of businessmen and see if they are willing to help do what is within their power to do to solve the problem. That should not be my job. There are local officials in Omaha and there are county officials and they have a responsibility. Do you all think that I could go to young people this summer and if they are embittered, they have no work, they have run into things in school that should never be done to children in school, and I'm going to tell them just continue to have hope, things are going

to be better, get an education and they ask me, why? And what am I going to tell them? They ask me, Ernie, can you get me the job? Can you pay my mother's rent? Can you keep her utilities turned on? And some of them have the opportunity to accompany their mothers to these doctors' offices and because they get Medicaid they are told, well, we take our paying customers first so you just wait until we get through with anybody here who is going to pay now, as though the money they get through Medicaid is not money. The incessant insults, the degradation, the constant stamping of a people with a badge of inferiority may be accepted by the older people and the weaker people, but there is a spirit in some people no matter how old they get and especially in the young who feel a need to strike back. And when that day comes I understand why they strike back, better than anybody else, so how can I, in conscience, tell them, don't do it? And then we'll see resolutions popping up in here when we come back in session, maybe the Governor will call us into special session to give the state patrol more power, to give the National Guard more power, always the oppressiveness and the suppression can get support on this floor, but a positive program to solve a problem, to prevent a problem will be laughed at here. I know the contempt that people in this Legislature have for me and mine. I know it and I've known it for the 19 years that I've been here. I'd have to be a fool not to know it, I'd have to be blind not to see it and I'd have to be deaf not to hear it. We give Senator Elmer money to keep alive a school in his area that the economists and even the educators tell us cannot be justified, but we give it, and so on down the line, much money for Lincoln, much money for the farmers. So, at this point, I tell you to do whatever you want to do because the bill, if you pass it, is not going to make that much difference. This is not a back-breaking bill for the people in my community. It's just a dodge and an excuse for those who have a responsibility to address the problem to not do so. This symbol becomes the substantive program that will never be put in place, and I'm not going to ask the Legislature to do anything. If a scholarship bill that I'm trying to get out of here comes up, I'll ask for the Legislature to fund that but on anything else, nothing. I'll go to Omaha and I'll see what I can do but don't let this Legislature talk in the future about being concerned with the solution of problems that a people are not themselves in a position to solve alone. We'll take our little and do much with it. You will never see me crawl in here, you will never hear me cry in here, you will never see me beg because it is not my nature to beg and I want every young black

man and woman and child to see the way a black person is to stand on his or her feet and not go on the ground on his or her belly which is the posture of a serpent.

PRESIDENT: One minute.

SENATOR CHAMBERS: We are people, we are human beings, we have our pride and our dignity and we will not have it stripped away and if it means fighting in the streets to keep it, that is exactly what we will do and I will not be one of these cowering and cringing and hiding behind being a senator. Whatever befalls my people, befalls me. I have an obligation and a responsibility to be an example. So if it makes you feel good, pass your bill. I'll give that much to you.

PRESIDENT: Senator Elmer, please, followed by Senator Korshoj.

SENATOR ELMER: Thank you, Mr. President. Senator Chambers has been very eloquent. He says that this is a bill that points out poor people, that points out races and classes. I say this is a classless problem. It doesn't matter whether you're rich or you're poor. It doesn't matter if you're black or you're white. It doesn't matter whether you're from the city or from the country. This problem is pervasive all over our state in every class. It doesn't matter whether you're an artist in California making \$10 million a year, you still die from the use of drugs. We have to do something. Perhaps a little additional law enforcement would help. Thanks.

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

SENATOR KORSHOJ: Mr. President and members, I have very little to say. As I got up this morning, I said I don't know if I'm for or against and I'm probably the same on this bill. I'm not a lawyer, thank God, and it's very apparent. But this bill is just what it says, it's a bill. I don't think it does anything. I don't know how it is going to stop the problem we're trying to solve and I think drugs is probably the biggest single problem we have in the nation today, and I do think it affects the poor areas much more than it does the rich areas. I'd probably like to see us pass a bill in here to give the people who would sell to children and recruit children to distribute and sell drugs, a law of due process. Take one of them weapons that Brad wants to only fire five rounds and shoot them people, legally, because

they are doing more damage to this country than anything I can think of. But I just don't see where this bill is going to do anything, so that's really where I stand and I'll give the rest of my time to Senator Schmit, if he would like it. Thank you.

PRESIDENT: Senator Schmit, you have almost nine minutes counting your five minutes time.

SENATOR SCHMIT: Well, thank you, Mr. President, I was afraid I wouldn't get to speak. It's been 16 years ago since we passed in this Legislature a series of bills that Senator Chambers and Senator Warner and Senator Goodrich and myself all supported, all of us thought would do something to stop the abuse of drugs. I believe we're the only ones who are here today who were here then. I would have to confess at this time that the drug situation is worse today in Nebraska than it was then. I listened for eight years while President Reagan and Mrs. Reagan proposed to lead a war on drugs. I've listened now to the fact that President Bush intends to hire Mr. Bennett as his drug czar, and any time that any individual in this Legislature or out of it decides they want to make a kind of a splash, as Senator Landis has said, you can talk about getting tough on the drugs, on the drug users and the abusers. Ladies and gentlemen, I do not believe that the abuse of drugs can exist in any area where there is the dedication and the commitment and the resources to stamp them out. I do not believe it can happen. I do believe this. Senator Chambers is correct. You can up the penalty, you can make it a felony to smoke a cigar if you want to. You're not going to stop that sort of thing. You've got to stop it at the source. And they can talk about running around with an ounce of coke or seven ounces or whatever it is, so many grams, I doubt that the individuals who are on the streets are cognizant of how much they are carrying at the time. I well recall on this floor 16 years ago, 14 years ago, 12 years ago we said we do not seek to punish the occasional user, the teenager who trades a joint back and forth, as much opposed to that as we are. What we're trying to do is to stamp out the wholesale widespread distribution by which billions of dollars are made by individuals who are never on the street, who will never be seen in a police station, who will never do one day, one hour in custody because they have the money to buy the support they need to stay out of jail. And it goes on, ladies and gentlemen, in this state, in this city. Senator Chambers knows whereof he speaks. We have a principal handicap in this body. We seem to dig in and reenforce our convictions against those who have a

particular experience or expertise in an area. And we say, well, they're biased, they really don't know what they're talking about, we will take care of the problem. It's embarrassing, it's embarrassing from time to time to be told how it is when we know they are speaking factually. Senator Chambers' district may be ravaged by drugs today, ladies and gentlemen, but we have seen it, and Senator Elmer is correct in this respect, we have seen it all the way across the state. But we will not become desperately concerned in Bellwood or any other community until it is as ravaging as it is in certain parts of the state today. You all recall the times that I've stood on this floor and voted with a very small minority of rural legislators in support of improved working conditions for individuals, improved wages for individuals, better unemployment insurance. Well, it's kind of interesting, five or six years ago when the agricultural sector of this state got into deep financial trouble, for a brief period of time the rural people of this state understood that there might sometime upon occasion be individuals who were impoverished through no particular fault of their own and for a brief period of time we had a better understanding of the situation that some of the less fortunate, less educated individuals of this state were going through. All of a sudden, it's very popular, it is very popular to be in support of this bill and to vote against this bill can be tantamount to having a major political problem in your reelection because the public is not going to understand it, because the press doesn't understand it. The press does not want to address the issue as it exists today. I have before the Appropriations Committee a couple of bills, not much better in some ways than this, but it did provide a million dollars of time, overtime for the investigators as the highway patrol. A highway patrol investigator cannot tell the crack pusher, will you please wait here, it's five o'clock now, I'm going off duty; I'll be back at eight in the morning when I can get back on duty again; don't go running around and selling any crack while I'm gone; I'll be back tomorrow morning at eight o'clock and pick you up again. No, he's got to stay there. But when he does or she does stay there then they get into all kinds of difficulties because of our own statutory rules and regulations and laws on time and overtime. Provided also, believe it or not, \$400,000 for a used helicopter because the state patrol went to the aerial applicators convention in Kearney and said, would you aerial applicators help us to spot illegal groves of marijuana and illegal trafficking in drugs, because you are out here in the time and the place where much of it takes place. My



colleagues in the aerial application business are glad to help, but that's not the business they're in. They are not trained in that business, they are not skilled and they are not going to wreck or risk a \$100,000 piece of equipment or a \$500,000 piece of equipment to do the job which is a law enforcement job. We can't find a million or a million and a half dollars, we can't find a half a million dollars to replace a 10-year-old helicopter for the highway patrol. Yeah, we've got two or three in Omaha to haul the dead, the dying and the wounded from the accidents but we can't find one more for the patrol to help them prevent some of that. We have a tremendous ability in this body, as has been said, to tighten the penalties, to appropriate money for certain areas. We are being faced now with the necessity of spending maybe 5 million, \$10 million to enhance our penal complex because we're locking them up oftener and for longer periods of time. If we pass this bill, very likely we will bring in two or three hundred more people. Oh, yeah, they'll be between 16 and 22 or three years of age. And you know what, as Senator Landis has said, it won't slow the traffic down one nickel's worth. But if you follow the chain of command and find the renegade who brings it in by the airplane load and the pickup load and the ship load, then you might do some good. One of the senators says the problem is education. Who cares about education if you're poorly clothed, poorly housed, underfed and don't have a job? Education is not high on the list. You're not going to be too concerned about the evils of drugs when your belly is empty and you don't know where your next meal is coming from...

PRESIDENT: One minute.

SENATOR SCHMIT: ...and you don't know where you're going to be living. We pass this bill, we've done enough of that sort of facade work this year already. No one is more committed to fighting drugs than I am and my record goes back farther than any of yours. But, ladies and gentlemen, unless you're willing to put the money on the line to support the law enforcement people to an extent and the categories where it's necessary, then you can pile those penalties up till they reach the Rotunda ceiling and it won't make a nickel's worth of good. It will be interesting to see what happens if and when there comes a time to enhance the capability of the legitimate and capable law enforcement agencies of this state and we do have some. Unfortunately, unfortunately, in all areas we do not have that kind of dedication and that kind of capability, but if we had



it, you could get rid of the drug problem and it would be known...Nebraska would be known as a place where it's not safe to do business. Until you're willing to do that, ladies and gentlemen, tightening the penalties is a slap in the face and is always something to go back and speak to the Farm Bureau or the PTA about back home.

PRESIDENT: Time. Thank you. Senator Hartnett, please, followed by Senator Moore.

SENATOR HARTNETT: Mr. President, members of the body, in this bill I think Senator Abboud is attacking the people that sell the drugs, but that's only one part of it. If we're going to sell anything, we have to have somebody to buy it and why, I guess, ask the rhetorical question and don't want Senator Abboud, but maybe in his close, why doesn't he attack that particular part of the problem, because if we're talking about cocaine and crack, we're talking about drugs that cost money, big money. And so the people that buy these particular drugs must have money and I guess I'm...read an article a few days ago and it wasn't talking about Omaha, Nebraska, it wasn't talking about the State of Nebraska, but simply talking about the drug situation in the nation and simply talked about a housewife from one of the suburbs of Washington, D.C., that goes into the area of Washington, into the areas and simply buys like she was buying a hamburger from McDonald's. Kind of a...she didn't get out of the cab that she drove, she didn't drive her Mercedes in there, she drove a cab in there...rode a cab in there. She stopped, the person from the street came over, gave the person the drugs, sold her the drugs and, "ptshoo", away she goes because the problem doesn't affect her. But this person that's doing this is part of the whole drug problem. We do have the sellers but we also have the buyers. We have the people that buy the drugs and we're really at the sellers of it, we're not attacking the buyers of it, the drugs. It also talked in the same article, in this same article, talked about the auto dealer in Florida that sells a Mercedes and takes cash, and I don't know what a Mercedes costs but I suppose 30, 40, \$50,000 and they pay it in cash. Does that person have a part of the whole drug scene? And I think it's true, it's true in Florida...it's true, I think it's part of the problem that we have in Nebraska and I think maybe with this bill we're only getting at part of the problems, the sellers of it, not the buyers or the banker, the very...the bankers with their...that take money and help launder the money, are they part of the drug problems that we

have in this country? And I think it is the biggest cancer that is eating at our country is the drug problems and so I think the problem is not in the cities like Omaha and Washington and so forth, but it's all over, the people who lead, who add to the drug problems by buying them and so I think we're not getting at the whole problem with this bill by making the penalty stronger on the sellers, we should look at the buyers. Thank you.

PRESIDENT: Thank you. Senator Moore, please.

SENATOR MOORE: Question.

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

ASSISTANT CLERK: 15 ayes, 1 nay to go under call, Mr. President.

PRESIDENT: The house is under call. Will you please return to your seats and record your presence. Those not in the Chamber, please return so we may move on, please. Call in votes have been authorized and the question is, shall debate cease? Please return to your seats, folks, so we can begin. Please record your presence. Call in votes are authorized and the question is, shall debate cease?

CLERK: Senator Schmit voting yes. Senator Byars voting yes. Senator Labeledz voting yes. Senator Ashford voting yes. Senator Hall voting yes.

PRESIDENT: Record, Mr. Clerk, please.

CLERK: 25 ayes, 1 nay, Mr. President, to cease debate.

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

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I want to make it clear that I do not fault those who sponsored and co-sponsored this bill. There is a great deal of frustration, uncertainty about what to do to address a problem that is very serious and probably the most serious single

problem confronting the country because it reaches everywhere, all levels of society. However, there are some groups, as with every other problem, who are hurt by it more than others. I put the motion to bracket, as I said, to make sure that the question wouldn't be called before some had the chance to speak, but also that I'm serious about the motion to bracket. I would like the bill not to pass at all. The motion is bracket it until April 25th. The date is not that important to me. I would like, since there has been some discussion, for there to be the passage of some days to see if the Legislature still feels that this is a bill that ought to be passed. If it is bracketed, I would not attempt to amend it anyway, as I haven't attempted to amend it today, I have just tried to stop it. I have gotten into the record all of the things at this point that I think I need to have there. I think it's important that a record be made. This is the first serious relatively extended discussion we have had of the drug problem this year as a Legislature and I think we do have a responsibility to show some leadership. If the only leadership we can show is to create two new categories of felony and set some mandatory minimums which, by the way, are very modest, then we really haven't done anything. Not only in Nebraska but in the country as a whole there is no war against drugs. If there ever was a war, it has been completely irretrievably lost. There is a defect in the public character of this country that is going to allow drugs to continue to flourish no matter what is done. But for those who are victimized by this problem because they're in a location where they cannot get away from it, opportunity in the form of choices ought to be made available. If there is such a thing as giving a rope ladder to somebody who is in a pit and wants to get out of it, the Legislature should be in the business of fashioning that ladder. This bill does not do that. I have no love for drug pushers or dealers, suppliers that I see right now in Nebraska as other places. The big fish have not been touched. They are not going to be touched. If they have arrested only six people between January and March, with a sufficient amount of drugs in their possession to have been affected by this bill, that, in itself, shows you that enforcement is not occurring. If, on the other hand, they're going to tell you there are only six people in Omaha who are dealing at this level, then Omaha, I will tell you, has no drug problem. If the biggest pushers and dealers are those who have the amounts of drugs that Senator Abboud mentioned and not all six of them had the top amount that he mentioned, Omaha is one of the lucky cities that does not have a drug problem. If there have not been more arrests of

substance, law enforcement is not doing its job.

SPEAKER BARRETT: One minute.

SENATOR CHAMBERS: If there is an epidemic, then you can try to vaccinate people but it would be better to find out the source, whether it's a virus or a bacteria and stop it there if you can. This problem is never going to be solved. This problem is as ingrained and entrenched in this society as is the propensity to do evil, based on what some people's theological beliefs are, is entrenched in human nature. So I ask that we pause and not take this meaningless step that will mislead people and put us on a legislative path that is counterproductive. This motion is merely a bracket motion. I hope that you will vote in the affirmative.

SPEAKER BARRETT: Thank you. You have heard the closing and the question is the bracketing of LB 592. Those in favor of that motion please vote aye, opposed nay. Have you all voted? Record, Mr. Clerk.

CLERK: 7 ayes, 24 nays, Mr. President, on the motion to bracket.

SPEAKER BARRETT: The motion to bracket fails. Mr. Clerk.

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

SPEAKER BARRETT: Back then to a discussion on the advancement of the bill. I have a number of lights on. Senator Abboud, would you care to...thank you. The call is raised. Senator Ashford, would you care to discuss the advancement of the bill. Senator Moore.

SENATOR MOORE: Briefly, Mr. Speaker. This afternoon we have had a good and lively debate and Senator Chambers and others have sat here and said that we can't solve the drug problem so why even take this minute little step. Senator Schmit said that it was an insult to even put this on the books, it wouldn't do anything. And we have sat here and as often the case Senator Chambers has done a very fine job of getting his point across as he does on a variety of things when he is opposed to increasing penalties like this. I just hope...I just hope that this body hasn't sat here too long this afternoon to the point that we refuse to advance this bill. As I said, we are indeed wrong if

we advance this bill and claim, look at us, look at us, we solved the drug problem. If we do that, then we are wrong. But if we sit here today and don't pass a bill like this which, one, sends maybe a small message that we're going to get tougher on drugs; two, indeed makes it very clear what this body plans to do with drug pushers, I think if we fail to advance this bill that we send an even worse message. If we send the message that we can't solve the problem so we're not going to deal with it, I think you're making...you know, you have a choice, you have a choice. I think we're making a grave mistake if we sit here today and fail to advance this bill and send the message that that problem is so big we're not even going to touch it. I urge you to advance the bill.

SPEAKER BARRETT: Senator Haberman, followed by Senator Schmit.

SENATOR HABERMAN: Mr. President and members of the body, I have sat here and listened to the debate. You know, it's kind of amusing, really, this morning we spent time on guns. We spent a lot of time on guns. We have to ban those guns that shoot so many bullets per hour or per minute because they kill people. We just have to do something about those guns. It was heated debate, it was emotional debate and people were serious to do something about those guns. We have to take care of the gun problem because they kill people. So here we have before us now a bill that talks about pushers of cocaine and crack. Well, now what does cocaine and crack do? It kills people. It cripples people. It breaks up homes. It does countless of things to people. And what we're attempting to do is to get the pusher or to get the seller. Now I wouldn't doubt that you could go down on the streets of Omaha, like it was said this morning, and buy a gun in seven minutes. You can go down the streets in Omaha and buy crack and cocaine in seven minutes, but you have to buy it from somebody, somebody has to sell it. Now you really can't say we should crucify or go after the people that use it because they need medical help. They're sick. But you sure as hell can go after the person who sells it. He's making a profit. He's supplying it. He's a dealer. So what does this bill do? It makes a heavier sentence. Now if you will look at the bill right now, they serve 18 months with parole and good time. That's what somebody serves that is convicted for dealing in cocaine and crack, 18 months. Now is that going to deter anybody from standing on the streets of Omaha and selling this and making a profit? And they say, well, for the money I'm making I only have to spend 18 months in jail, I'm making a lot

of money for that 18 months. So it's not a deterrent the way it is now. Now I'm not going to say that this bill is going to stop it, but I am going to say that possibly it would have something to do with slowing it down and those people who do get caught and we do put them in the pen, quite frankly, I would like to hang them up by their thumbs and do a lot worse than just put them in prison, but we can't do that. We just can't do that anymore. That's a terrible thing to do. So we have heard it said here if the police would do their job, if the police would do their job. Well, now just maybe, just maybe the police are going to feel at least it's worthwhile now for me to try and go out and get these pushers because they're going to serve more than 18 months. It's going to be more worthwhile for me to go do my job because I'm getting tired of hauling these guys down there and in 18 months having them walk by me and thumb their nose at me. I'm getting tired of that. If I can put them away for longer, just quite possibly I'm going to go after more of them. So, on that basis alone, I would ask you to support LB 592. Thank you, Mr. President.

SPEAKER BARRETT: Senator Schmit, please, followed by Senator Lamb.

SENATOR SCHMIT: To tell a story in Seventeenth Century England, they used to hang pickpockets and, of course, it was a great public event. And the public would gather around the scaffold and watch with great interest while the condemned was being hanged. And in the crowd where they were gathered around the scaffold, of course, the pickpockets were working very diligently. The penalty didn't deter them but eventually they found out they couldn't get away with it and so they finally gave up or, at least, they slowed down the crime a little. Senator Haberman makes his pitch for keeping them locked up longer. I would assume, of course, that when the Appropriations Committee comes before this body and wants five or ten million bucks for a new penitentiary system that, of course, Senator Haberman will be one of the foremost supporters. I would assume that Scotty Moore and Chris Abboud will also be strongly in support of that. I would like to ask...and I see Scotty is gone...get over here. Thank you.

SPEAKER BARRETT: Senator Moore, please.

SENATOR SCHMIT: I would like to ask, Scotty, if the highway patrol came to you and said, we do not have the equipment we

need today to effectively combat drug pushers, what would be your response?

SENATOR MOORE: Within limits or on one of your requests?

SENATOR SCHMIT: Within limits. Okay, so he was going to take half of the drug pushers off the street, well, then I would suggest, given the law of supply and demand, that means the price of drugs will probably go up some because you will have half of them off the streets but that will still leave a lucrative market for those who remain. Now, Senator Abboud is insistent upon toughening the penalties and he is an attorney and he understands what happens when you get a penalty tougher than what the courts would like to enforce, there is such a thing as a plea bargaining going on. And so the plea bargaining process takes place and nothing really happens anyway. Unless, ladies and gentlemen, you are willing to put your money on the line, you just as well whistle Dixie and go on back to the farm. You're not going to do it. We're talking about whether they're going to buy the patrol a used helicopter. You know, I've had a little experience with that equipment. It boggles my mind that in 20 years now we have bought two helicopters for the highway patrol, two helicopters. Ten years ago we bought the second one. We're thinking now about overhauling that one because it's got probably 3,000 hours on it. But in the entire State of Nebraska we think that we can justify one helicopter for the highway patrol. We probably can justify overtime for them. We will just put all the drug pushers on hold overnight, come back in the morning. We'll work an eight to five shift. You know, sometimes you have to understand the public out there is more sophisticated than we are and sometimes they understand that we pass a bill just for public consumption and that is what you're doing here. This comes as close to fitting my criteria of a popular bill as any we are going to have this session. Helps no one, hurts no one, does nothing, most important it costs nothing. It costs nothing. So you can go back and say, we doubled or tripled the penalty for drug pushers. Ladies and gentlemen, if it would deter it, I would stand for it, but it won't. You have got to get the big pusher and get rid of that individual. When I drive to work in the morning I listen to the arrest record on drug pushers. Arrested four people for pushing drugs last night; one had an ounce of cocaine; some had a couple of ounces of marijuana; some were in a house of...a crack house.

SPEAKER BARRETT: One minute.



SENATOR SCHMIT: You know, Senator Abboud said there would have been six individuals that would have been prosecuted under this law between now and the 1st of January. I would guarantee that Senator Chambers can go down in his area and probably in many other areas of Omaha and point out that many in a single night, point out that many. I know a 45-year-old mother who told me, I find it impossible to believe that I can walk down the street and spot a drug pusher by the...one after another after another, as a 45-year-old housewife, and the official law enforcement people of this city cannot spot them and if and when they do, they refuse to do anything about it. Ladies and gentlemen, that's where your problem is. We have some people in law enforcement who are trying to do a good job. Let's give them the tools to do the job and then let's come back and find out if the penalties need to be more strict. The penalty cannot be too strict...

SPEAKER BARRETT: Time has expired.

SENATOR SCHMIT: ...for those major pushers, ladies and gentlemen, but you're not going to stop it by penalizing the 16-year-old kids on the street who have no other recourse other than to look at it as a sort of a pastime.

SPEAKER BARRETT: Senator Lamb. Senator Lamb, please. Senator Haberman.

SENATOR HABERMAN: Mr. President and members of the body, Senator Schmit tried to draw some sort of allusion to pickpockets and, to me, there is no comparison between a pickpocket and somebody that's going to sell crack and cocaine and this is too serious of an issue to make lightly of it. And then it was referred would I vote to build a new penitentiary? And, under the circumstances that they be built not to the convenience of the people who are going to be in there, yes. But, no, we want to build a new pen in Omaha so that the people that are put in the pen will be able to have visitors, so they're close to home, so they can have visitors. That's why we ought to build this new penitentiary that we did in Omaha. Sure, I will vote to build a new penitentiary, Senator Schmit, but let's put it out in the middle of the "toolies", clear out in the middle of the sandhills or out in the middle of nowhere where they normally have a penitentiary so when they hear the door clang they know they're going to be there for a while. You



bet I will support something like that but I will not support something that, well, the next one maybe we have to build half-way between Omaha and Lincoln so that everybody can have their visitors. I think Senator Schmit made a remark that a penalty can't be too harsh. That's true, a penalty can't be too harsh and the only thing this bill does and maybe it will help is to have a harsher penalty. I can see nothing wrong with that. Now, I'm not going to walk away from here and say we've done our job. I've heard that before and we have done that before. We have passed legislation and walked away and forgot it. So it's up to Senator Schmit and it's up to Senator Chambers and it's up to the people who are fighting this bill to see that we don't forget what we did and come in with something different to make it work. It's up to you folks to say, you can start here and say it won't work, well, then you give us a tool, you give us legislation that will work, in your opinion. Tell us what you think we need. You will get support. You will have my support. So you tell us what you think we should have instead of knocking something like this that's trying to do something. So I ask everyone to support even those people who are opposing this issue to vote to advance LB 592. Thank you, Mr. President.

SPEAKER BARRETT: Thank you. Senator Schellpeper, followed by Senator Ashford.

SENATOR SCHELLPEPER: Call the question.

SPEAKER BARRETT: The question has been called. Do I see five hands? I do. Shall debate now cease? Those in favor vote aye, opposed nay. Record, please.

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

SPEAKER BARRETT: Debate has ceased. Senator Abboud, would you care to close?

SENATOR ABOUD: Mr. President, colleagues, we have had a good debate on the bill. It's pretty clear what the bill does do and what it doesn't do. It doesn't solve all the drug problems facing the State of Nebraska but it does deal with the problem, I think, in a reasonable manner. It targets certain individuals that should have a mandatory minimum sentence if they are, in fact, convicted, those individuals being individuals that are

March 20, 1989

LB 37, 49A, 343, 592  
LR 62

selling and profiting from the sale of cocaine and crack. I urge the advancement of LB 592. Thank you.

SPEAKER BARRETT: Thank you. And the question before the body is the advancement of LB 592 to E & R Initial. Those in favor of that motion vote aye, opposed nay. Have you all voted? Record, please.

CLERK: 31 ayes, 5 nays, Mr. President, on the advancement of LB 592.

SPEAKER BARRETT: LB 592 is advanced. Mr. Clerk, anything for the record?

CLERK: Mr. President, yes, sir, I do, thank you. Health and Human Services reports LB 343 to General File with amendments. That's signed by Senator Wesely as Chair. (See pages 1230-31 of the Legislative Journal.)

Senator Rod Johnson has amendments to LB 37 to be printed. (See page 1231 of the Legislative Journal.)

New resolution by Senator Rod Johnson. (Read brief description of LR 62 as found on pages 1231-32 of the Legislative Journal.)

Mr. President, there will be a meeting of the Business and Labor Committee Tuesday, March 21 in the senate lounge at ten o'clock. Business and Labor, ten o'clock tomorrow morning in the senate lounge. That's all that I have, Mr. President.

SPEAKER BARRETT: Thank you. It is my hope we can get into a few of the A bills, ladies and gentlemen, so let's proceed to item 8 on General File. Mr. Clerk.

CLERK: Mr. President, LB 49A is the first bill. It's offered by Senator Dierks. (Read title.)

SPEAKER BARRETT: Senator Dierks, please.

SENATOR DIERKS: Mr. Speaker and members of the Legislature, I'm caught a little bit short, I guess, if that's possible. I don't even seem to have my folder here. LB 49 is the weeds bill and it does have an A bill I think in the amount of \$187,000. Maybe someone can correct me on that. I believe that's the amount. I don't have a bit of problem bringing that legislation to you

March 21, 1989

LB 49A, 77, 231A, 262, 285A, 575A, 592  
714

individually liable and that is not placing the responsibility where it ought to be placed. I would urge that the body advance the bill, and if some of these other concerns that actually go beyond the provisions of 77 are to be addressed, that perhaps can be done or at least considered but, by all means, let's at least give some basic fairness to those employees who are perhaps subject to cost that is beyond any reasonable basis to assess against them.

SPEAKER BARRETT: Thank you. The question is the advancement of LB 77 to Enrollment and Review. All in favor vote aye, opposed nay. Have you all voted? Record, please.

CLERK: 29 ayes, 1 nay, Mr. President, on the advancement of LB 77.

SPEAKER BARRETT: LB 77 advances. For the record, Mr. Clerk.

CLERK: Mr. President, Enrollment and Review reports LB 592 to Select File; LB 49A, LB 231A; and LB 285A, all to Select File. (See page 1257 of the Legislative Journal.)

I have a motion to reconsider an amendment offered to LB 262 yesterday. That's offered by Senator Bernard-Stevens.

New A bill, LB 575A, by Senator Barrett. (Read by title for the first time as found on page 1258 of the Legislative Journal.)

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

SPEAKER BARRETT: Thank you. To the next priority bill, LB 714. Mr. Clerk.

CLERK: Mr. President, LB 714 was a bill that was introduced by Senator Lamb, Senator Bernard-Stevens, Hefner, Robak, Smith and Conway. (Read title.) The bill was introduced on January 19, referred to the Revenue Committee. The bill was advanced to General File. I have committee amendments pending by the Revenue Committee, Mr. President.

SPEAKER BARRETT: Chairman Hall, on the committee amendments.

SENATOR HALL: Thank you, Mr. President, members, Mr. Clerk, the amendment that I have is an amendment to the committee amendments?

applied to counties, it is my understanding, as I read the bill, that it applies to any entity that happens to set a budget which, of course, includes schools and the other entities within the area of government. So it is not just the counties that have to address the problem. I believe the schools, I believe the cities, I believe the NRDs, anyone, could anticipate this sort of activity and, thereby, take whatever remedial action they deem necessary. I think it is a somewhat dangerous precedent. I would like to limit it as much as possible. I would prefer to stop it altogether, but absent that, I would hope we could limit it. So I guess at this time I am asking you to vote your conscience and take a look at the thing. I would suggest that you adopt the amendment at least.

SPEAKER BARRETT: Thank you. The question is the adoption of the Schmit amendment to LB 643. Those in favor vote aye, opposed nay. Have you all voted? Please record.

CLERK: 26 ayes, 1 nay, Mr. President, on adoption of Senator Schmit's amendment.

SPEAKER BARRETT: The amendment is adopted.

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

SPEAKER BARRETT: Senator Lindsay, please.

SENATOR LINDSAY: Mr. President, I would move that LB 643 as amended be advanced to E & R Final.

SPEAKER BARRETT: The question is the advancement of LB 643 as amended. Those in favor please say aye. Opposed no. The ayes have it, motion carried. The bill is advanced. Anything for the record, Mr. Clerk?

CLERK: Not at this time, Mr. President.

SPEAKER BARRETT: That being the case, let's move to LB 592.

CLERK: LB 592, Mr. President, the first order of business are Enrollment and Review amendments.

SPEAKER BARRETT: Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move that the E & R

amendments to LB 592 be adopted.

SPEAKER BARRETT: Shall the E & R amendments to LB 592 be adopted? All in favor say aye. Opposed no. Carried. They are adopted.

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

SPEAKER BARRETT: Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move that LB 592 as amended be advanced to E & R Final.

SPEAKER BARRETT: Shall LB 592 be advanced? Senator Chambers, discussion.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I had opposed this bill strenuously on General File and I oppose it again today, and I am going to try to state very briefly why. The problem of drugs is not new. The problem of drugs and gangs in Omaha is not new. White politicians have just decided to grab it as an issue while they are campaigning, but in the early days when we, in the black community, were trying to get the chief of police and the mayor to agree to establish a unit in the Police Division made up of nine black officers who would be a unit that would deal with youth violence and drugs, the chief, the mayor, white politicians, and the Omaha World-Herald saw no need for it. When it became a highly political issue, they suddenly come in with various bills and recommendations that are not getting to the heart of the problem. We wanted a black unit because we could see the roots of the problem beginning to develop in our community. Black officers know the difference between a gathering of young people and a gang. White officers make no distinction, in many cases, between innocent conduct and criminal conduct.

SPEAKER BARRETT: Excuse me, Senator Chambers. (Gavel.)

SENATOR CHAMBERS: Any gathering of young black people can be viewed as a threatening situation by a white officer, and the day will be reached when they will give the order, they won't put it in writing, if you see three or more black youngsters together, break them up or take them to jail. And it will be very reminiscent of the slave codes in the early days of this country where white police officers become occupying forces with

practically unlimited power to do anything they want to in the black community. We, in my community, do not want a blanket statement made by the police and white politicians that all black youth are gang members, are drug pushers, are dangerous and, therefore, legitimate targets for police harassment. All of our children do not fit into that category. The vast majority of them do not fit into that category, and what is happening is that some youngsters who would not consider gangs are being driven into them by the police, because when they are harassed for doing nothing, there are gang members who will witness this, and they will tell them, you are out there by yourself; the police can do anything they want to to you. If you are with us, you have got some security. If they try to come against us, there will come a day when you will have some protection that you don't have now. You weren't doing anything and they are treating you like they treat a dope pusher. So if they are going to treat you the same, you may as well come ahead and join, and for lack of security being available, security against police harassment, some of the youngsters are driven into these gangs. When you have white people discussing this issue, the things that I am talking about are never brought up. If you have a group of white youngsters doing the same thing that is called gang activity in the black community, you know what they call it? They call it cruising. If you have large assemblages of white youngsters in West Omaha, damaging white people's property, business property, so much so that certain business people have given the police authority to make arrests there even when the business is closed and the operator is not there to make a complaint, that is not called gang activity. Dope is being sold there. That is not called gang activity, but anything that is comprised of a number of black youth is viewed as gang activity and it cannot be allowed to go unchallenged. Now to tie it to the bill, 592. It is a poorly aimed provision that pretends to deal with youth gangs and the peddling of drugs. Never do you see any statement by the chief of police,...

SPEAKER BARRETT: One minute.

SENATOR CHAMBERS: ...by any of these white politicians who are trying to exploit this issue about the white people in West Omaha who bankroll the drug traffic, the businessmen who bankroll drug traffic. Never! When you see the judge, whose example I have put in that handout, who will get hard on drugs by sending a pregnant woman to the women's reformatory or the

women's prison talking about he wants to get hard on drugs, he does not talk about the big shot white businessmen who bankroll it and pay to have it brought into this state, who may have immunity from the police. The judge can get tough with a pregnant woman but he is a coward when it comes to dealing with the issue. The same can be said for the chief and all of the others who are tailgating and making a political issue of this. I am opposed to the bill and I am offering a motion on it.

SPEAKER BARRETT: Thank you. Motion on the desk.

ASSISTANT CLERK: Yes, Mr. President, Senator Chambers would move to indefinitely postpone the bill.

SPEAKER BARRETT: Senator Abboud, would you care to lay it over or take it up today.

SENATOR ABOUD: Take it up.

SPEAKER BARRETT: Thank you. Senator Chambers, your opening comment.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, Senator Abboud has had me tell him several times that what I am saying is not addressed to him for bringing the bill, and I want that in the record, because my remarks are somewhat abrasive. I gave you a handout this morning, and it was a cartoon in a strip called "The Far Side", and I did the labeling. The Far Side cartoonist did not label this bear LB 592, but in the first panel you see the bear drinking water from a pond and a hunter hiding behind a tree. In the second panel, the hunter shoots the bear from hiding. In the third panel, the bear lies dead by the pond and the hunter raises his hand and is making a triumphant shout. In the fourth panel, the hunter is sitting in his living room or his den in front of a fireplace with no fire, resting in his easy chair, reading a book. Standing on his hind legs with his forepaws outstretched, a very awesome expression on his face, his mouth wide open, is the bear to give the impression that this was the posture of the bear when the hunter shot it, not pointing out that the bear was shot from hiding. What I have done with this is to indicate that the first three panels will tell the true nature of LB 592, an innocuous bill that really does nothing, that does not address the true problem that we face when we deal with drugs and the pushing of drugs. I had indicated that the fourth panel, where the bear is reared

up on his hind legs and forepaws stretched out is what the Legislature in enacting this nothing bill would like the public and the drug pushers to perceive being done with 592. The second page is an article about this judge and the headline says "Judge Says Many in City are 'Fed Up' with Drugs," and that was in the March 29th edition of the World-Herald. Next to it I placed a copy of a drawing, also taken from the World-Herald, but not associated with this article, of a pregnant woman. And next to the pregnant woman are the words, "Is she the problem or a victim?" And this cowardly, vicious judge made the remark, in talking to this pregnant woman, that many in the city are fed up with drugs. I don't address my words of indignation to pregnant women who may be persuaded by some of these rats to use her apartment to sell some drugs and she can get more money than she'd be able to get from public assistance, or from some nickel and dime minimum wage job. She's not the one that I address my ire at, but it's the one the judge used to announce to the city that he's getting tough on drugs. He makes no statement in this article about the big shots who bankroll the drugs. On the third page are two articles, one deals with these transients who stumbled on some bricks of cocaine, four of them. The second article deals with the instance of six more bricks being found. They were all part of the same shipment. In the first article there was no police involvement in discovering the drugs or apprehending who owned them or possessed them, so the amount...the street value of those four kilos was estimated to be \$120,000, or \$30,000 per kilo. The following day, and one of my colleagues, very sharp, one of my young colleagues pointed out how much the value had increased by the following day, from \$30,000 per kilo to \$136,000 per kilo. And in the second instance where the amount had increased dramatically there was some police involvement, but it resulted from tips that had been given to them, and that's how they discovered it. On the fourth page we see again where Omaha's very alert police officers, with the assistance of a dog, and a federal tip from Kansas City, from a federal drug enforcement agent, apprehended a lady and her companion getting off an airplane in Omaha and the dog sniffed and said there were drugs in the luggage and drugs on the person of the female. When they searched the woman, I hope it was a matron, they found some drugs in her brassiere. When they checked the luggage where the dog said there was also some drugs, no drugs were found. So maybe the dog did not sniff out any drugs at all, either on the person of the woman or in the luggage, but it was based strictly on the federal tip. The Omaha police officer acknowledged that had there not been the



tip, they would not have been at the airport, so that's a case that would not have been solved. The other article talks about arrests made in one of these open air areas about which the community had complained time, after time, after time, the drug selling out in the open where any and everybody can see it. In the article the police acknowledged that there had been numerous complaints from the community, but you'll notice that there was no action taken until our very critical, analytical discussion on General File of LB 592. When the heat was brought to bear the police began to do some of the things that were available for them to do and that they had knowledge about long before our discussion. I'm opposed to this bill because, again, it's not going to touch the problem. It will create the impression that the Legislature has made a bold and meaningful move in the direction of dealing with drugs in Omaha. Drugs are not used and sold only in my community. But that's where I live. Larger amounts are sold in other parts of Omaha where they will not be touched. We shall see if, when the woman who had the day care center where they found guns and dogs and dope, will face a white judge who will say to this white woman, the people in Omaha are fed up with drugs and you go to jail. There are crazy things that these judges in Omaha will do. There were arrests made of some young black men for quoting words from a rap record. One of the intelligent judges, Judge Troya (phonetic), dismissed the charge. You cannot convict somebody for the use of words. An ignorant judge, called Deacon Jones, convicted the young man, even though there is an Eighth Circuit decision, from 1979, where words of a profane nature were directed at the police officer, and the Eighth Circuit, of which Omaha is a part, said that you cannot convict somebody for these kind of words. This kind of speech is protected by the First Amendment to the Constitution. And, despite the existence of that case, an Omaha judge convicted somebody of speech which was lifted from a record. And in addition to that, the equally ignorant, and I would say bigoted, editorial writer of the Sunday World-Herald praised the judge who convicted and criticized the judge who acquitted. Yet this same editorial writer, the same World-Herald would scream bloody murder if anybody tried to regulate what the World-Herald or any other newspaper printed, hiding, as they often do, behind the First Amendment. We, in my community, are seeing a pattern developing whereby words uttered by a black person become the basis of an arrest, a charge, a conviction and jail time, where being in concert with others, or gathered with others, engaging in conduct that is not criminal will justify you in being harassed. Run off the corner while

you're waiting for a bus, because a white officer says I own this corner and I'll run you off every time I see you, and if you come back I'll arrest you. And you say, well, I'm on the way to work. Walk to work. Provocation, provocation, and I hope you all listen carefully, will invite a response. In the old days white officers could come into our community and go upside people's heads with sticks, handcuff them, brutalize them, subject them to verbal abuse and the chief, the mayor and the safety director never did anything to correct it. Now there is a different type of person in that community. There are people who are...

SPEAKER BARRETT: One minute.

SENATOR CHAMBERS: ...armed. There are people who, while growing up, witnessed what was done to their parents, witnessed the insults, the lack of respect, the treatment of every woman as though she's a prostitute and every black man as though he was a criminal, and they are not going to take it. And, if that which is being provoked by the police and these white politicians will come to fruition, then don't talk about running in the National Guard or giving these cops more guns or sending more cops into the area. Pouring gasoline on a fire can only add to the conflagration. There must be a serious, detailed, reasoned analysis of this problem, and then the forming and formulating of responses that a Legislature is in a position to put together. This bill...

SPEAKER BARRETT: Time.

SENATOR CHAMBERS: ...muddies the water without helping to solve the problem at all.

SPEAKER BARRETT: Thank you. Discussion on the motion to indefinitely postpone the bill. Senator Abboud, followed by Senator Lindsay.

SENATOR ABOUD: Mr. President, colleagues, what I'm going to attempt to do here is refocus the debate back on to what the bill actually does do, and that is to provide a mandatory minimum sentence for individuals that are involved in the sale or distribution of coke or "crack-caine"...cocaine. That's all the bill provides for. It provides for individuals that are involved in the making of money. When they make money from the sale, the distribution, the production, the manufacturing of

cocaine or crack then those individuals should be punished, if they are convicted. It should not make any difference, if the individual that is selling cocaine or crack, is white or black or Chicano or whatever nationality they might be or color of skin or religion. That's what this bill provides, it provides a uniform system of punishment. It's not an easy punishment, I'm going to be the first to admit it's tough. But at the same time, as Senator Chambers has said, we live in a very violent society, people have weapons, they have guns and in order to make more money they are willing to kill other individuals. Now we've seen this problem in other cities across the nation, Washington, D.C., murder capital of the United States, Los Angeles. Large urban areas of this United States have seen an increased amount of violence as a result of the cocaine and crack sales in their particular city. It occurs because there is a lot of money involved. I handed out some information that provides a breakdown on the amount of money that can be made from the sale of coke and crack. Now, as you notice, there is an incredible markup for this...for these particular products. The products are made down in South America, but each time an individual handles that particular drug they take their share of profit out. Now, by the time that individual buys coke or crack on the streets of Omaha, it's a rather small price. The street value of cocaine can go for \$25 for a quarter of a gram. It's a small amount of money. And those individuals sometimes when they get started they'll get free samples of crack, because they sell it in such small quantities, \$5, \$10 for a hit of crack. But then the cycle of addiction begins, and those individuals have to support their habits. Now, the information...one of the other sheets that I handed out dealing with cocaine abuse shows that it is a problem in our facilities across the state, just the actual abuse. Now this isn't a problem that occurs just in Nebraska, it's across the nation, and it's a problem that we see with other types of drugs. But we're faced with the problem, in this state, that is steadily increasing. Figures show that there is an increased amount of coke and crack seizures in this state, and especially in Omaha. The graphs that I've handed out show that at least for the first quarter of this year we are above the amount of cocaine and crack seized in the City of Omaha. The State Patrol, the Lancaster County Sheriff were...did not compile this information quarterly. So we were able to at least show that there is a substantial increase in the amount of coke and crack use in the city, as well as the seizures. Now, as I pointed out prior to that big...the big seizure that occurred prior to, I believe,...it occurred some

time last week, the kilos of cocaine that were found in the...

SPEAKER BARRETT: One minute.

SENATOR ABBOD: ...the bus terminal in Omaha, we were still well ahead of the schedule of increases that we would have had compared to last year. We've seen a phenomenal increase, and the fact that they were able to seize this amount shows that there is a tremendous amount of cocaine and crack being funneled through Nebraska. I'd like to go back quickly to one of Senator Chambers' handouts, dealing with the pregnant woman, because that's a shocking, shocking problem. But, if you'll note, even in the story, that individual received 15 months in prison for possessing the cocaine. The sentence was not handed out for an individual that sold, distributed or manufactured cocaine or crack, so this bill would not have applied to this particular individual. I think what this provides is it says to drug dealers across the state that Nebraska is not open for business when it comes to the sale of cocaine and crack. You don't have the right to come in here and profit on the misery of individuals in this state. There is a lot of money in it but, if you're going to make your money, it's not going to be in this state. We have severe penalties for the individuals that are willing to risk it, and if they are willing to risk and make money off the misery of other individuals, I think those individuals should go to prison and get them off the streets. Thank you.

SPEAKER BARRETT: Thank you. Senator Lindsay, discussion on the motion, followed by Senators Chambers and Hannibal.

SENATOR LINDSAY: Thank you, Mr. President and colleagues. I do rise in opposition to the IPP motion. I think the bill is a bill that does attempt to go after the drug dealers. I think more importantly it sends a message to law enforcement officers that the policy of this state is to not go after the street user, it's rather to go after the...after the dealer. However, I would also concur with Senator Chambers that this is not a huge step towards eliminating the problem, especially in the Omaha area. I harbor no illusions that it is such a step, and I would hope that the rest of the Chamber also knows that. I don't think that, at least in the Omaha area, that we've even identified the scope of the problem, much less the effective manner of attacking the problem, and it is a problem, and it's a problem that's going to extend to the rest of the state at some

point, if it hasn't already. Myself, along with the...or I, along with the other members of the Judiciary Committee, have offered a resolution which would look into...gather input from the public, as an interim study, in an attempt to seek a long-term solution. I think that, hopefully, we'll be able to do that over the summer, take a look and get input from the people who are being most affected by it and arrive at a solution. In the meantime, though, I believe that this bill would be at least a step in the right direction. I would, for that reason, urge that you vote against the IPP motion.

SPEAKER BARRETT: Thank you. Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I'd like to ask Senator Abboud a question.

SPEAKER BARRETT: Senator Abboud.

SENATOR CHAMBERS: Senator Abboud, the felony provisions that exist in the law, right now, and the types of offenses that you're talking about hitting with a mandatory minimum would be felonies under the existing law, the maximum that can be sentenced would be 50 years. Can a judge, right now, sentence to a term with a minimum of three years?

SENATOR ABOUD: Yes.

SENATOR CHAMBERS: Five years?

SENATOR ABOUD: Yes.

SENATOR CHAMBERS: Ten years?

SENATOR ABOUD: It won't happen.

SENATOR CHAMBERS: But can they, under the present system?

SENATOR ABOUD: Yes, they can.

SENATOR CHAMBERS: Fifteen years?

SENATOR ABOUD: I think you know the answer, Senator Chambers.

SENATOR CHAMBERS: Right, the answer is, yes. Thank you. Senator Lindsay, I'd like to ask you a question.

SPEAKER BARRETT: Senator Lindsay.

SENATOR CHAMBERS: Senator Lindsay, do you agree with the answers that Senator Abboud gave to the questions that I asked him about what is available to a judge in terms of sentencing him right now?

SENATOR LINDSAY: Yes, I do.

SENATOR CHAMBERS: What new is added then by this bill, other than to give the appearance that the Legislature is giving something that is...doing something that is necessary?

SENATOR LINDSAY: It has a mandatory minimum.

SENATOR CHAMBERS: What is that adding, though, in terms of what the judge can do right now?

SENATOR LINDSAY: It reduces a bit of discretion as far as what the judge can do with the sentence in that the judge is required to impose the mandatory minimum.

SENATOR CHAMBERS: Now, the amounts, as Senator Abboud pointed out, the amounts of drugs are substantial. Are you saying that a seller of death should get only two years, or only three years as a minimum?

SENATOR LINDSAY: No, I don't think that that should be a minimum. But I think, if we're going to...we've got to put a floor somewhere. Hopefully, the judges would come down on the large dealers that you've been referring to, would come down extremely hard on them.

SENATOR CHAMBERS: Thank you. Members of the Legislature, we are dealing in futility. Whether you pass the bill or not makes no difference at all. It's not going to touch anything, it's not going to do anything, but it will make you feel good. And it will show once again how inept the Legislature is in dealing with a problem. And, if there were proper reporting of what we're doing, it would be made clear that under the existing law a sentence, stiffer than what is being proposed in these two pieces...in this piece of legislation, can be imposed right now. It should also give pause to all of us when we see how harshly the judge dealt, under the present law, with a pregnant woman.

Now, did he solve a problem by giving her 15 months in the women's prison? She has a small child and she's pregnant. We passed a resolution talking about the week of the child. This case I wanted to bring to you so you could see the complexities of what it is we're dealing with and how heavy-handed these cowardly judges can be when they're dealing with somebody who truly is helpless. You put a woman at risk in the prison because there is no assurance of the kind of treatment she will get while being pregnant. Nothing in the article dealt with what will become of the young child that she has to leave. So this is what the society has done, with one bold stroke a judge has become tough on drugs by sentencing a pregnant woman to 15 months in prison, and he has also created a child who has no parent to look after the child. So, if the child goes into a foster home, isn't that what foster homes are for? You've got have children to put in them. What will they say in response to what I'm suggesting that the woman should not have allowed her place to be used for the sale of drugs?

PEAKER BARRETT: One minute.

SENATOR CHAMBERS: And I agree, I couldn't agree more. But when we look at all of the circumstances then the appropriate response is not to give her 15 months in prison and to take her from that young child. I don't even know the woman, by the way, but I just see it as a cruel, vicious type of thing which is being done here, and it also demonstrates how women, generally, become the brunt of heavy-handed male ire, when the male is afraid to deal with the true problem. Pass the bill, wash your hands and feel good, and you haven't done anything. Senator Abboud even pointed out to you that some of these people will be sophisticated enough to sell drugs in an amount just below this, so that they won't be affected by the bill anyway. They'll be laughing at you. I tricked that dumb Legislature, and to show how dumb they are, Senator Abboud even told them what I was going to do, and now I've done it.

SPEAKER BARRETT: Time. Senator Wesely announces that he has some guests in our north balcony. We have seven students from Southeast Community College in Lincoln with their instructor. Would you people please stand and be recognized. Thank you for visiting, we're glad to have you with us. Additional discussion on the motion to indefinitely postpone the bill. Senator Hannibal, followed by Senators Abboud, Beck and Bernard-Stevens. Senator Hannibal.

SENATOR HANNIBAL: Thank you, Mr. President, members. I'm rising not to take a specific position on the bill or the indefinite postpone motion, but rather to talk a little bit about money and what this bill might do. I hope that you've had a chance to look at the fiscal note on this bill. It doesn't really say too much as far as numbers, but it does say an awful lot as far as the impact that a bill like this could have. If the bill does not do anything, if it will not affect us, if it will not put more people in prison, then, of course, the question is why do it? And the only answer I could come up with would be, as Senator Chambers says, because we say we've done something, we've done something good and we can wash our hands of the problem. I don't think that that is the case. I think the bill could do something. And what it could do is impose the mandatories, raise the mandatory, the minimum sentence from what is now 15 months, a year probation, up to a minimum, a mandatory sentence of 3 or 5 years. What does that mean to us? Forget the emotional issue, and I have some real concerns about what Senator Chambers is saying. I believe that this will not do anything other than just send a little message out there. It's attacking a symptom and not the problem at all. I wholeheartedly agree with Senator Chambers there. Obviously, the answers lie in a long-term solution to remove the environment, remove the causes that make this so attractive; that's no easy task. But let's look at the impact of the mandatories. Right now you are likely to have before you, in the next two or three weeks, a \$10 million bill presented to you by our committee for increases of prison construction, because we are over capacity right now and we're going to be, probably, we have tentatively talked about increasing our prison structures to the tune of about \$10 million over the next two years. Even then, with the current rate of incarcerations that we have at the end of the next biennium, we will still be over capacity. It's very likely we'll be building even more, or required to bring to you that proposition. If this bill is going to increase mandatory sentences, you must be prepared to say, yes, we want to send this message out there, we want to be hard on the drug dealers, if this does it, if it doesn't, I really don't know, I think it does not. But if we are going to do this then you better be prepared to stand on this floor and vote the dollars involved to prosecute, to house, and take care of these prisoners and build these facilities. And we're not talking \$10 million now. You start talking about adding, doubling these sentences, here you're going to add another



10 million, another 10 million. If you want to do it, be prepared to do it. Remember when that comes to the floor that we're going to be talking about this in terms of what do you want to do for university research, what do you want to do for teacher's salaries, what do you want to do for the care for the poor, care for the medically indigent, what do you want to do for other social service programs? We've got a lot of issues up here, we're going to be talking 10 million, this kind of a bill is going to be talking about even more money. If it would solve a problem, I'd say let's do it and let's do it in conjunction with all the other things we have to do. I don't think it's going to solve the problem, I also am not totally infatuated with the idea of taking away judicial discretion. We talk about that issue a lot. We've got 20 and 30-year sentences available to them.

SPEAKER BARRETT: One minute.

SENATOR HANNIBAL: If they really want to get hard on drugs, on drug dealers, they can do that, they don't need this bill. By invoking a mandatory sentence, a mandatory minimum sentence, all you're doing is you're taking that person who may, may have been in a circumstance that would have allowed for more lenient behavior, a diversion program of some kind, and there are other kinds of programs we can do, and you're locking them up and you're not doing anything for society during that period, you're not doing anything for that individual during that period, but you are doing a lot to your budget.

SPEAKER BARRETT: Thank you. Senator Abboud.

SENATOR ABBOUD: Mr. President, colleagues, I hope this bill is never used. I hope that not one individual, after this bill is passed, is ever prosecuted under this particular statute. That would make me the happiest person in this state, if this bill was never ever used. If, after this bill was enacted, drug dealers from Los Angeles, that are coming in here and making millions of dollars off our poor, our indigent people in the State of Nebraska, if they would say, I'm not going to come into the State of Nebraska because of these tough criminal penalties, I would be happy. I'm realistic enough to know that that is not going to happen, but I'm also realistic enough to know that this bill will make a big difference. It's going to have to be a part of a program that is currently being started in this state of increased law enforcement, of more drug education for the

young people in this state to realize that the use of cocaine and crack can cause incredible and dangerous consequences. It has to be a part of a package. But it comes to a point where you see individuals coming into this state, gangs from Los Angeles, and they say Omaha is a good market, it's an easy market, we can make some money here. If they couldn't make money in Omaha, they wouldn't be coming in here. And, if they weren't currently making money in Omaha, they wouldn't be staying here. This is business, pure and simple. There are articles that talk about the different gangs from Los Angeles and how they urge, through violence, to their membership not to use this stuff. They're in it for the money. The country of Columbia is in it for the money. The individuals that are selling this drug, that are making the drug are in it for the money, pure and simple. We're not talking about some...we're talking about maybe some people that are using the drugs as being these poor, indigent people that are having a tough time as it is and they turn to coke and crack as a way to escape reality, that exists. But I'd say to the people that are making money, that are making millions of dollars from other people's misery, that they should have to pay the price. It's unfortunate, in our judicial system, that we don't have judges that say as a result of this conviction we're going to put you away for five years. But what happens instead is they say, we're going to sentence you to 10 years with no minimum, and that results, as it did two weeks ago, in a person that's convicted, sentenced to 10 years in prison, being eligible for parole in seven months. Now, is that a good message to send to dealers coming into this state, that you go ahead and you get yourself a good attorney, and you work out an agreement, or you fight the charge? And then even after you spend all that money, which is just the cost of doing business, you're going to have to spend a little bit of time, but it's not going to be much. Mandatory minimums have worked with drunk driving. They send a clear message. And I think maybe that's part of the problem with some of our laws today is that people don't view it as a severe and sure punishment. This is a severe and sure punishment. If you're selling coke and crack in this state, and it's over this amount in your possession, then you're going to spend some time in prison, if you're convicted.

SPEAKER BARRETT: One minute.

SENATOR ABBODD: And I guess that's what prisons are all about. But, you know, I look to Washington, D.C. and see people not

being to walk the streets at night because you have people going around shooting AK-47s at them as they walk down the street. And I look at Los Angeles and see all the misery that has been caused there because of these drive-by shootings, and I'm reminded of what the purpose of government is. The purpose of government is civility, is to allow people to live in harmony with one another, and sometimes that involves taking people that want to break the rules and cause misery and problems for other people, it's to take them to task and say you've been bad, you've been bad and you're losing the privileges of living in a free society. I don't think this is too much to ask, and it's just not going to affect that many people.

SPEAKER BARRETT: Time.

SENATOR ABOUD: As I said, I hope no one ever uses this statute. Thank you.

SPEAKER BARRETT: Thank you. Senator Beck.

SENATOR BECK: Mr. President and members of the body, I would just like to rise in support of Senator Abboud's bill, 592, and, therefore, speak against the IPP motion. I think that this is part of the package solution, and I liked Senator Lindsay's idea and I want to commend him on that that Judiciary Committee might study this problem. I think study is necessary. And some of us are not using this bill to wash our hands and look the other way, we're going to drug conferences, we're asking people in our neighborhood, we're going out there and talking to folks and finding out how they feel and what's going on. And I think I speak for everyone here that we would not only want to get just those on the street, but those people who are behind this, and ultimately perhaps we can. But, at this point, perhaps this bill will just cut that connection. And I notice that Senator Hannibal speaks of fiscal prudence, and I certainly appreciate that. But I just wonder how much the accelerated drug use, that Senator Abboud's handouts point out to us, cost our society. And, again, gangs and drugs are not limited to one color, and they are not limited to one area and we need to do what we can and continue doing, and so I would just like to speak to the effect that we do want a solution, we don't want to use this just on political literature. It's something that is important to us. I know young people who may be involved in these kinds of things. I'd like that connection cut. I'd like to go after these big guys, whoever they are and wherever they are, and I

feel that this bill sends that message, that we can cut that connection, we can signal something and then that most of us, and I think I speak for everyone here, is not going to sit down and look the other way, I certainly am not. There is a conference in Omaha on Wednesday and I intend to attend part of that, and others perhaps will too in order to see that this problem might be solved, the root of the problem not just as we might say the end result of the problem. So I just stand against the IPP motion.

SPEAKER BARRETT: Thank you. Senator Bernard-Stevens, followed by Senators Moore and Landis.

SENATOR BERNARD-STEVENS: Thank you, Mr. President. I, too, along with Senator Chambers have some concerns about the bill, although I certainly don't have any concerns about the good intentions of Senator Abboud and others that are supporting the bill. I understand what they're trying to do and philosophically what they're trying to do is very laudable. I just recently spoke with a group, in fact, it was last night, of law enforcement, fire fighters and EMT personnel. One of the things that struck me in conversations with them is their utter frustration. And a lot of their frustration, I think, comes from bills such as this where the Legislature looks at the end result. We window dress a little bit at the end result. After everything has actually gone on through the system now the Legislature looks at it. And the frustration they have is when will the Legislature give us the tools we need to fight the problem down in the trenches. Right now we are so thin, we are so overstretched at the State Patrol, in the county sheriffs, and the city police forces, we are so undermanned and overstressed we can't find enough people to be the undercover, we can't find enough people to get into the areas that we really to find and convict the people under the current laws we now have. This particular bill, if passed, wouldn't be necessarily a bad bill. It certainly...it just won't do anything to solve the problem. In theory, it's almost as if you're getting to a death penalty argument, do you believe that stiffer penalties would have stopped the person from, in fact, selling in the first place, or if you believe in stiffer penalties on a death sentence was actually going to keep the person from committing the crime in the first place. To some degree, you have to begin asking yourselves these philosophical questions. But the law enforcement people I've talked to are so frustrated because the Legislature finds the easy way to attack the problem, that is

we're going to put these people behind bars, we're going to make a mandatory minimum, and, by golly, we'll show them a lesson, when the only thing that happens is when we take one off the street somebody else fills right in, if not one, two more fill in, and we can't stop them. Some of our counties are so wide open to drugs and abuse that it's a sieve, it's a sieve and the law enforcement people can...are powerless to do anything about it because they don't have the staff, the tools, the personnel to handle it. That's where we need to go. That's where we need to be to stop the drug problem. And Senator Chambers, in one area particularly, struck a chord with me when he said, this is not going to solve a problem. In fact, it will create another problem, because you know, members in the body, how we are beginning to feel about that \$10 million that Senator Hannibal so ably spoke of, and people are saying, gee, why do we need that? We don't want to face that problem. So, if one of the reasons is kind of discouraging, is that 592 might not make it, it may be because of the budgetary reasons that we had because of the jails and what have you, what we don't want to do, not because we're not doing anything to solve the problem. Kind of discouraging. One section of the bill that also concerns me is on page 7 when we get to, this section shall not be eligible for parole prior to serving mandatory minimum sentence, no discretion whatsoever. I know of particular circumstances of people who are victims, not all, some people who are victims and are into selling for someone else for various reasons. They get caught. The circumstances become known, or the family and pressures, the certain environment, this disease or sickness that has struck their family, why the person was getting involved for the money, those circumstances become known. And legislation like this, there is no discretion,...

SPEAKER BARRETT: One minute.

SENATOR BERNARD-STEVENS: ...no discretion of being able to show leniency or some other alternative to help the person. And the person who is really behind the selling is not going to be here, is not going to be the one that we're talking about in this piece of legislation, in my view. I hope the Legislature is serious when we talk about doing something to the problem. This bill will not help the problem, this bill may create some problems. But do not get a false sense of security that we're going to solve and help the drug problem out there. Talk to any law enforcement official out there and they'll tell you they need help, they need funds, they need the tools. And we have

not given them that help and those tools. Thank you, Mr. Speaker.

SPEAKER BARRETT: Before acknowledging Senator Moore, the Chair is pleased to announce that we have some additional visitors in the north balcony, they are guests of Senator Peterson, 42 seventh and eighth graders from St. John's Lutheran in Battle Creek, Nebraska, with their teacher. Would you folks please stand and take a bow. Thank you, we're glad to have you with us. Senator Moore, followed by Senator Landis and Senator Chambers.

SENATOR MOORE: Mr. Speaker, members of the body, Senator Bernard-Stevens, and Senator Chambers, and probably Senator Landis, after I get done, I don't know what he's going to say, but giving us comments on General File they're going to get up and say this bill doesn't solve the drug problem, it doesn't really do that much, so we shouldn't pass it. Now, Senator Chambers is trying to get us to believe that not only it does not solve anything, it makes matters worse. I simply cannot agree with that. And I'm not saying I agree with Senator Chambers, he's 100 percent correct when he said we, as politicians, and we, as policy-makers, do little things like this, make a mountain out of a mole hill and go back to our districts, or go to the press and say we're fighting drugs and we're doing something about it. He's probably right when he says we oversell a bill like this. But I don't know how he can argue that this bill is going to make the problem worse, that is where Senator Chambers and I disagree, because it's one of those things that it doesn't do that much but, as I've said on General File, we've been fighting a drug problem in this country probably for different sorts of drugs for years. This sort of mandatory minimum sentence, LB 592, does not make the problem worse, does not solve the problem, but does not make the problem worse. It does, indeed, as Senator Abboud mentioned, it...I hate to use the word but it sends the message that we're working on doing something and we'll continue to do something. Senator Bernard-Stevens is right, yes, we need to spend some more money on the enforcement side, too. But I don't know how on earth you can believe that, if you pass this bill, you're making the problem worse out there, because I do not believe you are not. I said before, if you fail to pass this bill, you're basically saying we're throwing up our arms and saying this problem is so big there is nothing we can do about it and LB 592 is so insignificant we shouldn't pass it. Well, I don't buy into

that. I think LB 592 sends that little message out there saying not only are we going to get tougher on those that sell cocaine and crack, that's a big problem, we're going to get a little tougher on them. I'm not saying we've solving the problem, we're sending the message out there that we're going to get tougher on it, there is nothing wrong with that, there is nothing wrong with that. LB 592 does not solve the drug problem in the State of Nebraska. LB 592 does not make matters worse. LB 592 helps address the problem, and for that reason I urge the body to defeat Senator Chambers' motion and in the end pass the bill. So we definitely say that we're going to continue working on the problem, and this is only one portion of the problem we have to work with, but we can't back off this and say this is too little to do anything at all. I feel we must pass the bill, we must defeat Senator Chambers' motion.

SPEAKER BARRETT: Thank you. Senator Landis.

SENATOR LANDIS: Mr. Speaker, members of the Legislature, I have two points to make. First, I don't disagree with Senator Moore that something along the lines of 592 can and should be done. It is, however, the fact that this is always the first and usually only step that we take that troubles me. I wouldn't mind doing 592, if it was part of a package, and that package would include better educational opportunities, and remedial education, and preschool assistance for kids in disadvantaged areas. It would include job training and it would include good jobs for people at the conclusion of that education. It would include rehabilitation as part of our incarceration theory in this state. It would include better police sensitivity and better police resources. And then 592 makes sense. But what's going to happen is exactly what's happened this session, we have one and only one bill on drugs this year, and this is the bill. And that's what I think happens when we perpetuate the myth of our own ability to do something, when we choose this kind of weapon to attack the problem of drug addiction in this country. Second point, Senator Hannibal gave a very, very good speech that I hope the body listened to. My guess is judging by the atrophied sense on people's faces today, I don't think they did. But Senator Hannibal said, you know, there is a cost to doing this kind of thing. As a matter of fact, this Legislature is attempting to find out that cost. I think it was a year ago that Senator Chizek and myself asked for a computer program to be developed in which we take our prison facilities and create a computer model, allowing decision-makers, like ourselves, to



understand what will happen to the prison population over time, if we change the sentencing schedules and the penalties for crimes, so that we can see how much we're going to overload the system by different kinds of changes like this, given the historical pattern of crimes and sentencing, and to see how much cost it will, or, if there's going to be an overcrowding situation, what kind of criminals would be available for early release. You see, when you put in a maximum/minimum, like this, a minimum that can't be assuaged, these people will have to stay in prison, and if you're hit with an overcrowding circumstance other people, potentially perhaps more violent people, will have to come out to meet constitutional standards, if you've written this kind of a bill. Well, we've got that computer program in the works, not available now, hopefully, by next year. That computer program will tell us, if you change the sentences and judges change their practices, this is what is going to happen to your beds, this is going to happen to your occupancy ratios, this is what is going to happen to the public costs. We don't have that, we're about a year away. Don't worry, we're not going to stop this bill, we're not going to wait a year to find out, I know that. I know that we're sitting here as...and serving as a political function. I don't mean that to sound too negative. A political function really does kind of test the winds, listen to constituents and respond to their frustrations. And there is no doubt that our constituencies are frustrated about drugs. It's right that their frustration be translated into action. It's unfortunate that that frustration is not translated into much more meaningful action or much more thoughtful action than what we're going to do today. Thank you.

SPEAKER BARRETT: Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, Senator Landis was right on target again. And I would add to that just a tiny bit. When you sew the wind sometimes you reap the whirlwind. We will have bills in here that will cut down the amount of prenatal care available. We think that by cutting ADC we're punishing people who we think have lived immoral lives and don't meet our standards, so we don't give them anything. We don't give any amount in food stamps, we don't give adequate assistance to obtain decent shelter, none of the things that would help a person in America maintain a minimum level of decent, proper living in a country that supposedly has the highest standard of living in the world. Then when those seeds that we plant begin to produce the bitter fruit, such as what



we're talking about here today, we again jump to the symptom or the manifestation and will not go to the cause, part of which rests with us. When we cripple people and take away the means to make it in a society such as this we help foment those reactions that are anticipated from those people. This bill, I haven't talked about the technical aspects of it because I was trying to get you to see something else. But to show that not very much study has gone into what the bill itself says, if you set a minimum of five years, saying mandatory, putting that word there doesn't mean anything. A judge can set a sentence of five years, that then becomes the maximum and there is no language in this bill to suspend the operation of the good time laws. So it simply means that when the judge announces a sentence he cannot announce a sentence that is less than five years, so the judge says five years. Let's say one of these big shots comes before the judge and there is a lot of pressure, and he's driving down the street and the bottom falls out of his car and kilo after kilo of cocaine falls and breaks open on the street, so they got him in the middle of this big parade where the mayor, the chief of police, 15 legislators are there, the prosecutor, the attorney general, so they can't cover for him. Maybe they rode on a jumbo jet across into Europe, maybe they landed on his heliport and felt like they were something, but now he has committed an offense in such a way that he can't get out from under it, so he stands before the old judge and the old judge has gotten favors from this guy, may have even gone to parties at his house. So he says, I sentence you to five years. Senator Kristensen, I'd like to ask you a question or two, if I may, to maybe sharpen what it is I'm trying to talk about. Under this bill, could a judge impose a sentence of five years on a person who had committed an offense that would make him or her eligible to this bill?

SPEAKER BARRETT: Senator Kristensen.

SENATOR KRISTENSEN: Yes. Yes, he can.

SENATOR CHAMBERS: And, if the sentence were five years, what, in effect, would occur?

SENATOR KRISTENSEN: A straight sentence of five years becomes both the minimum and the maximum. So in other words, if he's sentenced to five years, he will...as he goes into the Penitentiary, will receive good time upon his entrance, which, basically put, is half the sentence plus a month.

SENATOR CHAMBERS: So then, if the sentence is five years, what then becomes the minimum roughly, or the period of time that a person would serve before they are eligible to be released?

SENATOR KRISTENSEN: It would be 31 months.

SENATOR CHAMBERS: Thank you. Thank you, Senator Kristensen. Members of the Legislature, I know I waste a lot of time trying to make...

SPEAKER BARRETT: One minute.

SENATOR CHAMBERS: ...members of the Legislature understand things, but even with all of the time that is wasted, if 10 percent of the time something gets through, then it might make all the other 90 percent of futility worth it. Five years, even with the word mandatory, does not mean five years. You're not even doing what you're going to leave here and tell the public that you've done where a sentence is concerned. Three years does not mean three years. You have to take the time to do what I did when I wanted to create a mandatory minimum by specifically suspending the operation of the good-time laws for a period of calendar months or years. And that was not done in this bill. So, again, I'm wasting time. I'm talking to the wind.

SPEAKER BARRETT: Time.

SENATOR CHAMBERS: You think I like drugs? Then why am I opposed to this bill, if I'm the one who am clamoring to have something done about it? I'm the banker, and you're saying I've got a way to stop bank robbers and I, the banker, am telling you that is no good.

SPEAKER BARRETT: Senator Abboud.

SENATOR ABBOUD: Question.

SPEAKER BARRETT: Question has been called. Do I see five hands? I do. Those in favor of ceasing debate please vote aye, opposed nay. Shall debate cease? Have you all voted? Have you all voted, if you'd care to vote, on ceasing debate? Senator Abboud.

SENATOR ABOUD: Mr. President, I'd request a call of the house and I'd accept call in votes for ceasing debate.

SPEAKER BARRETT: Shall the house go under call? Those in favor vote aye, opposed nay. Record.

CLERK: 11 ayes, 0 nay, Mr. President, to go under call.

SPEAKER BARRETT: The house is under call. Members, return to your seats and record your presence. Unauthorized personnel, please leave the floor. Members outside the Legislative Chamber, please return. The house is under call. Senator Hartnett, please. Senator Hefner, Senator Lamb, Senator Lynch, Senator Dennis Byars. Senator Haberman, the house is under call. While waiting, because some of you apparently missed the earlier announcements this morning, we will not proceed to Item 8 this afternoon. We will not handle 588 this afternoon. We will proceed on Select File and, if that is completed, we'll then proceed to Item 10 on the agenda. Haberman, Hefner, Lamb, Rogers. Senator Abboud, did you indicate you would authorize call ins?

SENATOR ABOUD: Yes.

SPEAKER BARRETT: The question is, of course, closing debate. Call ins are authorized.

CLERK: Senator Dierks voting yes. Senator Peterson voting yes. Senator Elmer voting yes. Senator Korshoj voting yes.

SPEAKER BARRETT: Record.

CLERK: 25 ayes, 1 nay to cease debate, Mr. President.

SPEAKER BARRETT: Debate ceases. Senator Chambers, would you like to close?

SENATOR CHAMBERS: Yes, I would, Mr. Chairman, on this motion, which is one to kill this bill. I know it would take more political stomach than the body has to kill this bill. I know that, but I have an obligation to use these opportunities, rare though they may be, to discuss serious problems that are often politicized and dealt with on a very superficial basis, dealt with by people who have political advantage to gain. And that is what is happening in Omaha on this issue. Senator Abboud was

right when he said there is big money to be made in drugs. And he mentioned the impoverished people in Omaha. A lot of impoverished people spend their money on drugs. But, if the only money to be made on drugs were that coming from impoverished people, there would not be the magnitude of drug traffic in Omaha. If the gang members and others who underwrite these gangs from other states felt that the only place that money could be made on drugs was in an impoverished neighborhood, they would not undertake the expense nor the risk. There are parts of Omaha where some of you all live, and you have a more serious problem in terms of the amount of drugs you use than what I have in my community. But they're not kicking doors in out there. And they're sending children away for treatment, and there are children who don't have to buy drugs, if they attend Westside, because when I go out there and talk, almost annually, they tell me about the drugs available in their medicine chests that are prescription drugs, amphetamines, methamphetamines, uppers, downers that are available to them. So, since they are "legally" obtained through a doctor or a pharmacist, or the two together, there is no technical crime committed, but they get addicted and they sell drugs, and they sell much greater volumes than the two or three grams you might find when they kick a door in, in the ghetto. You'll often hear comments from politicians in Omaha saying we've got the problem contained or restricted to north Omaha and, as long as we can hold it there, we have prevailed, meaning don't let it come out in the white neighborhood. Well, it's out there already. And white kids have guns, too. They don't have to get them illegally, they can use their parent's guns. Out there there is a momma gun, a daddy gun and a baby gun. They've got rifles, shotguns, pistols, magnums of various calibers. And what you have to hope is that they don't begin to view the police as some people in other areas view them. Senator Abboud has mentioned, on a number of occasions, and others have during the course of our discussion, the DWI laws. In every state there has been the same pattern. If there is a lot of publicity about these laws and a lot of political heat brought to bear on politicians, these laws will be enacted, and for a period of time the number of arrests will go up, then they begin to taper off. Then the plea bargains occur, then deals are made and you're right back where you started from. The thing to remember is that this bill does not even do what you're representing to the public that it does. All you're saying, when you indicate that the minimum is three years, or the minimum is five years, is the same thing that you're indicating with any of these felonies above that

level that might have a five to 50-year range. It becomes a three to 50, or a five to 50, but the judge need not give anything more than three or more than five, give a flat sentence of five years,...

SPEAKER BARRETT: One minute.

SENATOR CHAMBERS: ...and the bill has been defeated. A flat sentence of three years, and the bill has been defeated. What you're acknowledging is that the problem is with the judges. Get tough with a pregnant woman, do you know that pregnant woman got a stiffer sentence, under the present law, than she would get if she was under that three-year minimum, and the three years became the maximum. So? That's what makes you all feel good, that's what you all feel is just and wise legislation. I disagree.

SPEAKER BARRETT: Thank you. You've heard the closing and the question is the indefinite postponement of LB 592. Machine vote. We are technically still under call, Senator Chambers. Members, please check in and record your presence. Senator Wesely, would you record your presence. Senator Smith, please. Senators Lamb and Hefner, the house is under call. Thank you. Senator Chambers advises we can proceed with the roll call. Mr. Clerk.

CLERK: (Roll call vote taken. See pages 1427-28 of the Legislative Journal. 13 ayes, 15 nays, Mr. President, on the motion to indefinitely postpone.

SPEAKER BARRETT: The motion fails. The call is raised. Anything further on the bill?

CLERK: Mr. President, Senator Schmit would move to bracket the bill until April 17.

SPEAKER BARRETT: Senator Schmit.

SENATOR SCHMIT: Mr. President and members, a significant issue of this most recent vote is not the outcome but the fact that such a small number of individuals voted at all. I believe that is indicative of the fact that many of us are torn, none of us are in favor of drugs, all of us want to do something. We have a variety of solutions and we have a number of ideas and some of us don't have any ideas but we just don't know what to do. It's

been, as I said before, a long time since we began a major antidrug abuse effort on this floor, more than 14 or 15 years. And if you read or did read the Omaha World-Herald, a day or so ago, you will find it says the police harbor no illusions of halting the drug plague. That's the headline. If you read that article, and if you haven't read it, I have one copy here, I invite you to come down and we'll make copies for all of you. But if you'll read that article, you can understand that the present situation in Omaha is almost an exercise in futility. It's like trying to pick potato bugs into a can of kerosene. And I had some experience with that many years ago. You pick up a few today, tomorrow they're back in full force again because they breed faster than you can pick. And in this instance that's about all you do. You pick up the least experienced pushers, you pick up the least experienced users, you pick up those who have the less amount...least amount of money to hire help, hire good attorneys and so forth. Frankly, as Senator Chambers pointed out, by accident, by accident the police have uncovered more drugs perhaps in recent weeks in Omaha than through their own really serious activity. The statement was made on the floor here that there were no other bills to deal with drugs, and maybe in a sense that is true. But I believe there are some bills on this floor that can help in that manner. Senator Landis indicated that more needs to be done, more needs to be done in education, I agree. More needs to be done insofar as opportunities. What is the alternative for an individual? Some of the individuals that I know really do not have much of an alternative. They do not have a good education, do not have the highest IQ in the community and do not have the best opportunity for any kind of productive job, and so they naturally lean toward the fast buck and the excitement, to a certain extent, and the camaraderie, such as it is, that goes with the drug pushers. A number of years ago, when we made some major efforts to try to stop the drug trade, we did do certain things which were designed to improve the ability of the law enforcement agencies to stamp out the traffic of drugs. I still think that has to happen. I still believe there has to be a major effort addressed toward the importation of large quantities of drugs prior to the time that it hits the street. There is no way in the world that the present law enforcement officers can pick it up off the street and keep it under control. You've got to discourage the major pushers. Now there are those who will not agree with me, but I do believe, as I indicated earlier in one of these discussions, that you've got to give the law enforcement agencies the money they need to

follow up on investigations and to keep drug pushers under constant pressure. Part of that I tried to address by the introduction of a bill that would allow a million dollars worth of overtime for highway patrol individuals, officers. I believe you have to do that. If you'll read the article in the World-Herald, you will note the tremendous amount of hours that were expended by officers on one single case. You can hire additional officers, and maybe that has to be done also, the Omaha Police Department has tried to do that, but that...but unless you provide some flexibility to existing state troopers and give them some ability to function as they see fit, you're not going to really be making a major effort. I used to, from time to time, speed as I drove between here and Bellwood. I finally gave it up, for the most part, because I found out I couldn't get away with it. There's going to be an officer out there and he's going to stop me. And after being stopped a number of times I decided it's best to drive at 55 and try to get by. You have to have the same persistent presence in this area. They have to know they can't get away with it. This body has got to let the Appropriations Committee and the Governor know that we are serious enough about this problem that we are willing to give to the only agency we have direct control over, that is the Highway Patrol, additional resources to assist local law enforcement agencies in the battle on drugs. I suggested that they trade off the old helicopter and buy a new one. The old bird has about 10 years and 3,000 hours on it. I see the Appropriations Committee authorized \$78,000 to update the helicopter. Not a bad idea, it ought to be done. We ought to also buy another one, we ought to provide the Highway Patrol with another piece of that kind of equipment. There are those who say we can't afford the \$900,000. At \$40,000 a year to keep an individual in the Penitentiary, that's 25 people, 25 people per year. Even at my advanced age I can take that piece of equipment and I can discourage that many people from getting into that business to the point where they're going to be imprisoned. We are committed, apparently, to build a \$10 million...to make it a \$10 million new investment in penal complexes, we are committed to longer and tougher sentencing. What we ought to be committed to is to try to stop the individual from getting into the kind of trouble that puts them in the Penitentiary. Ladies and gentlemen, we read about the "Crips" and the "Bloods". The youngsters that I know, many of them, who have gotten into the drug habit are not members of the "Crips" and the "Bloods", they are the neighbor's kids, they are sometimes our own children, they are kids who we'd like to think

of don't normally have trouble, as Senator Chambers pointed out, the kids at Westside. They have nothing, no reason, no physical reason to want to use drugs. They have everything they need, plenty of money, nice homes, probably drive nice automobiles, but they use drugs, not with all the publicity that some others do, but they use them. But the point is that unless you can find some way to discourage that traffic it's going to continue. I think you've got to look at it on a broader basis, you've got to better the education program. William Buckley, one of the most conservative men I know, wrote an article here a while back, and I want to be careful when I paraphrase it because otherwise somebody is going to say, Schmit suggested legalizing the use of...the sale of drugs. But Buckley made the comment, very loosely paraphrased, that no politician can get elected who supports the legalization of drugs. But he said, we tried everything else and we haven't been able to make it work. Maybe that's time to try something like that. I don't agree, but I want to make it clear that when William Buckley goes that far that he is really concerned about anything else we ever tried being made to work. We pass LB 592, in the present form, and by itself it will not reduce the number of youngsters using drugs. It will not reduce, by itself, the availability of drugs. But, if you give law enforcement the tools, I believe they can help reduce the use of drugs. I'll be very frank, I called Colonel LeGrande and told him what I was going to do.

SPEAKER BARRETT: One minute.

SENATOR SCHMIT: The Highway Patrol had to testify neutral, I believe, on the bills. The Governor is committed to, and very much opposed, she is, to drugs. But it was my understanding that the Governor would not support my bills, and I don't blame her for that, she has her own methods, and she has every right to her own methods of fighting the drug abuse problem. But I suggest that I have had more experience in this area than has the Governor. I suggest that I have seen more attempts at stopping drug abuse than most of you in this body, and I suggest that I know some things have worked and some things have not worked. And one of the things you learn in education, and there are those of you in here who are in education, is if you do not learn from those with experience then you're going to flounder around for a while. I'm suggesting that you can make a difference. I'm suggesting that given the proper tools, and I suggest you go back and think seriously and talk seriously to the Highway Patrol,...



April 3, 1989

LB 84, 259A, 505A, 592  
LR 68

SPEAKER BARRETT: Time.

SENATOR SCHMIT: ...to the police officers, to the sheriffs and ask them what their recommendations are, and then by that time we can take a look at this bill again and see if we cannot possibly back it up with some other enforcement material and some other enforcement equipment.

SPEAKER BARRETT: Senator Landis.

SENATOR LANDIS: I move we recess until one-thirty this afternoon, Mr. Speaker.

SPEAKER BARRETT: Anything to read in, Mr. Clerk, before we take a vote?

CLERK: Yes, Mr. President, I do. New A bills. (Read by title for the first time LB 505A, and LB 259A. See pages 1428-29 of the Legislative Journal.)

New resolution, study resolution by Senators Lindsay and other members, asking that the Judiciary Committee authorize a study of gangs and drug trafficking in Omaha, Nebraska. That will be referred to Reference Committee. (Re: LR 68. See page 1429 of the Legislative Journal.)

Senators Hall, Chizek and Moore would like to add their name to LB 84 as co-introducers. That's all that I have, Mr. President.

SPEAKER BARRETT: Thank you. Those in favor of the motion by Senator Landis to recess until one-thirty vote aye. Opposed no. Carried, we are recessed until one-thirty.

RECESS

SPEAKER BARRETT PRESIDING

CLERK: There is a quorum present, Mr. President.

SPEAKER BARRETT: Thank you. Any announcements, reports, messages?

April 3, 1989

LB 592

CLERK: Not at this time, Mr. President.

SPEAKER BARRETT: Thank you. Mr. Clerk, back to the bill under consideration, LB 592. Can you bring us up to date?

CLERK: Mr. President, 592 was discussed this morning. There is pending a motion to bracket the bill until April 17. That motion has been offered by Senator Schmit. The body was in discussion of that motion.

SPEAKER BARRETT: On the motion then to bracket the bill until April 17, for discussion purposes, Senator Wesely, followed by Senator Abboud.

SENATOR WESELY: Thank you. Mr. Speaker and members, I haven't followed all the debate on this issue but I would rise to make a couple of points. First off, as we're talking on this bill, it seems to me that we're discussing the following scenario as a solution to our problems with drugs. First off, that we need to have more police or patrolmen to catch people illegally using drugs and, secondly, once caught, we need to have higher penalties. That's what the particular bill calls for so that we can properly punish these individual for illegally using drugs. And then, third, we need to have larger prisons to hold these people that we have caught and convicted and now need to punish for illegally using drugs. And it seems to me all of this discussion and all this focus is on what happens after they have decided to use drugs illegally. It seems to me that a lot of the focus has got to turn back to why are they making this choice. Why are they deciding it's in their own best interests or throwing away whatever future they have to be involved in drug use? And I think we need to go back to the root cause of the problem and try and address how we stop it from ever getting to the point that we need the police and patrolmen and the higher penalties and the prisons. And that is the philosophy, I think, we need to spend some time on. That's why there is some merit, I believe, in Senator Schmit's effort to bracket the bill. There is no particular bill before us perhaps on the floor but Senator Schimek does have a bill before the Education Committee, Senator Schimek and Senator Baack, and that bill is LB 514. A study that we did last year in the Health and Human Services Committee looked at the issue of drugs and the problem that we were having with teen pregnancy, teen suicide and teen drug use in particular. And what we found from that study was that at this very vulnerable age of our teenagers in our state

we were having a real serious interconnected problem of those items, suicide, pregnancy and drug use among our teenagers and we were trying to figure out why is that happening. And from the research we did and what we could come back with is that there is...the interconnecting problem is lack of self-image, lack of confidence, lack of understanding of one's role in the larger world and that we needed to work with these kids, not just as teenagers but all through school as they were going to grade schools and junior high schools and trying to develop their social interaction skills and their understanding of themselves and their world around them. And we don't have all the solutions and there is no one solution for this problem but, certainly, the idea of trying to intercede with these children and set up a system throughout our schools that would start at an early age and through a comprehensive health program try to find some way to help their self-imaging, try and help them understand the world around them, trying to help them have self-confidence is the way we might build the citizens that can resist the temptations of drug use as a teenager and as an adult later in life. And it seems to me...it seems to me what we need to do is sit down and talk about LB 592 in this broader context. LB 592 is the end of the road solution to the problem but it's too late at that point. What we need to talk about is how we get to that point and how we can stop from reaching that point. And I think Senator Schimek has a bill in the concept that may help and there are other ideas out there. Now Senator Schmit talked about the punishment role to stopping this sort of activity that...as with speeding, that if we get out there and punish and catch these people that are speeding and give them a ticket that they will stop speeding. I look at it a different way. It's sort of a situation when you have children and all of you probably have had experience with children, one route to dealing with children that are misbehaving is you punish them, you spank them, you put them in a room, time out. Different approaches have been used in that regard. Another approach is to sit down and talk to them and ask them, why are you doing this? What is the problem? Why is this happening? Sometimes that works and sometimes it doesn't but it certainly seems to me, as we have sat down and talked to people on this problem that we have identified at least one sore point, one problem point and if we can begin to address it, hopefully, we can save these young people from ever reaching the point that we need to invoke the sort of penalties under this bill.

SPEAKER BARRETT: One minute.

SENATOR WESELY: So what I am asking for is consideration for taking some time on this issue and for considering a more comprehensive approach. Everybody has said that this is not the solution, it won't solve the problem, and I think they're right. No one answer is there. But if this has provoked, as I think it has, the idea that we need to deal with the drug problem in Nebraska, and we do, perhaps the solution is at hand with this health education concept as one solution, yet there are many others out there that if we would only sit down together and talk about it, perhaps we can reach some consensus on. So I would rise in support of the Schmit amendment, giving us a couple of weeks to talk about this. I do not oppose the bill at this point. I think there is some merit in dealing with the penalty issue but certainly isolated it is inadequate and we do need to take the time to fully address the issue and I would be willing to work with different parties on finding a solution.

SPEAKER BARRETT: Thank you. Senator Abboud, followed by Senators Chambers, Langford and Pirsch.

SENATOR ABBOUD: Mr. President and colleagues, I rise in opposition to the bracket motion. I don't think holding onto this bill for a couple of extra weeks would serve any purpose. You know, it's interesting listening to the different theories on how to deal with the drug problem. Senator Chambers has raised some very valid concerns in regards to law enforcement in the Omaha area. He talks about problems that he has had with law enforcement there. And I'm not here to say that law enforcement is perfect, I know at the beginning of the year the City of Omaha increased the department's current strength by 5 percent, which resulted in an increase of about \$775,000 that it would use towards increasing law enforcement numbers. About 630 officers are currently...or will currently be a part of the Omaha police force. So we are getting financial commitment from different cities in regards to increasing the amount of law enforcement that is available. Now I would like to really turn to the argument that's been raised by everyone, really, that's been in opposition to the bill and I would like to characterize them as one particular theory and that theory is called the "ostrich theory", that if we put our head in the sand, that the problem will go away. If we put our head in the sand then we won't have to worry about adding more new prisons. If we put our head in the sand, we won't have to worry about hiring any law enforcement individuals. If we put our head in the sand,

everyone will just stop using the drugs and we won't have a drug problem any longer. Well, the handout that I have distributed this afternoon, this is a brand new handout that I had the information but I didn't see it as relevant up to this time, shows that in the City of Los Angeles, which has one of the more severe cocaine problems in the state, they have seen an increase in the amount of gang-related murders and deaths from 150 in 1985 to 257 in 1988. But more significant, I think, more significant is the next statistic which shows the number of arrests for cocaine and crack increased from 7,353 to over 21,903. Let me make it clear, you will have more arrests for cocaine and crack in the future. You will have more arrests. The question is, and this is the basic premise of this bill, that if you arrest the individuals that are the king pins in the drug market, you will have a reduction in the amount of individuals using cocaine and crack. If you take away the distribution of the drug into this area, then you will have a reduction in the amount of use, proportionately. Now, you have seen in Los Angeles that it started out in '85 at about 2,500, the amount of cocaine and crack seized, and it rose to 42,000 pounds and then the law enforcement officials in Los Angeles realized that one of the more significant ways was to go after the drug currency and that's what they changed their mode of operation to, from seizing the drugs to seizing their assets because they realized that they're in it only for the money. Now the only reason this bill is here is because I want to avoid as much as possible those...the woman that Senator Chambers referred to earlier, the pregnant woman, who is a victim.

SPEAKER BARRETT: One minute.

SENATOR ABBOD: She is a victim of the drug problem in our society and that individual is the type of people that we should try to help through this bill. The bill is only aimed at the people that are selling the drugs. It's not aimed at the user, it's aimed at the person that is making money from the sale of drugs. Now there may be some problems with our current system. As I said from day one, this is only one step but the gangs that are coming in, the individuals that are selling the drugs are finding a ready market and if we can, hopefully, nip this problem, at least discourage large drug dealers from coming in and setting up their operations in Nebraska, then I think we'll go and make a positive step towards dealing with this problem. You will have arrests in cocaine and they're going to increase. It's going to be a matter of how much of an increase.

SPEAKER BARRETT: Time.

SENATOR ABOUD: Let's go after the people that are making the money. Thank you.

SPEAKER BARRETT: Thank you. Senator Chambers, discussion on the motion to bracket.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I would like to ask Senator Abboud a few very gentle questions, just to get some things in the record.

SPEAKER BARRETT: Senator Abboud.

SENATOR CHAMBERS: Senator Abboud, how many...how many big pushers would you say this bill will cause to be sought out by the Omaha police?

SENATOR ABOUD: I believe, Senator Chambers, that the figures that I used at the last round of debate that it would impact, at that time the amount of arrests would have been between January 1, '89 through March 19 of '89 was approximately six.

SENATOR CHAMBERS: Okay, now, in your opinion, are there more than six big pushers in Omaha?

SENATOR ABOUD: I would say that this problem is exploding, Senator Chambers, and the way it has worked in other parts of the nation is that maybe you will only have a couple, two, three, four large drug dealers which will control the market and that's...that's why you see the violence, the fighting among the different gangs to try to reduce the amount of large drug dealers in a particular city.

SENATOR CHAMBERS: Okay, why do you think the Omaha police have not really gone after the big ones? Or do you say that they have gone after them but they can't catch them or don't know who they are?

SENATOR ABOUD: I haven't said anything, Senator Chambers.

SENATOR CHAMBERS: No, I'm asking, because the way I phrased the question might have caused you to answer it in a way that you wouldn't choose to answer it the way I phrased it. What I had

asked at first was...then I will ask it. Why do you think the Omaha police are not going after the big pushers?

SENATOR ABOUD: I wasn't aware that they weren't.

SENATOR CHAMBERS: Then do you think they don't catch any more because they don't know who they are or they don't know how to get the goods on them?

SENATOR ABOUD: Senator Chambers, you're asking me a question that really isn't relevant to this bill.

SENATOR CHAMBERS: But we're discussing this issue and I said these are gentle questions. These are not designed to trap you or trick you, the fact is...oh, never mind. Okay, thanks, Senator Abboud, I don't want it to seem like we're arguing. The fact is that if you go by the statistics Senator Abboud gave us, the Omaha police are not getting any of the big pushers, to speak of. My question was, how many more will the police go after with this bill? I think it is a perfectly appropriate question. I asked Senator Abboud why the police are not getting the big pushers. Is it that they don't know who they are or they know who they are but they can't get the goods on them? And then a third question I will ask, are they afraid of them or are they being paid off? I think that it's the two latter. I think they're afraid of them and I think there are payoffs. I think there are big drug dealers purchasing immunity in the State of Nebraska and especially in the City of Omaha. And the only way I can be shown to be wrong is for the police to go on out there and make the arrests. They know that the nickel and dime pushers that they're getting off the streets are not the ones behind the drug activity in Omaha. They know that there are others who are bankrolling it and controlling the operation and the movement of drug activity but they're not bothering them. They're not going after them. They're paid off, that's all. A cop will grab a kid and say, drop the dope and run and the cop takes the dope. That shocks some of you all because you don't know anything. You don't care about anything and you don't believe cops are bought out for money. They want money and dope is where money is. If Wadman hears what I'm saying, he will say, let him prove it, let him bring the cop here. They had six employees at the police division who were involved in drugs and he wouldn't release the names of any of them. So if he knows something and he's not telling, it's the same as getting people off the hook for the wrong that they are doing.

And when those whose job it is to enforce the law are not able to resist the temptations that the law they're enforcing is supposed to deal with, then you have a situation where the law violator is in cahoots with the law enforcer.

SPEAKER BARRETT: One minute.

SENATOR CHAMBERS: No big pusher has to fear anything from the Omaha police or the state patrol or any county sheriff. They will just keep picking up the little nickel and dime pushers, have a large number of arrests, the drug traffic will not be deterred. Senator Wesely did make a very good point and if we could start out showing children some consideration, as a Legislature, as was done with the resolution in the fact that many, many of them were out on the steps this afternoon, I was told about, releasing their balloons, maybe they will begin to see those who have authority in society having some concern for them. And then we put in place programs designed to back up what we say with concrete action that can help them build a sense of self-respect, give them the belief that they have a future and that they can do something to affect their future, then bills like this won't even be before us.

SPEAKER BARRETT: Time has expired. The Chair is pleased to announce that Senator Landis has some guests in the north balcony, 16 third and fourth graders from Parkview Christian School here in Lincoln, with their teacher. Would you folks please stand and be recognized. Thank you. We're pleased that you could be with us. Further discussion on the motion to bracket the bill, Senator Langford, followed by Senators Pirsch, Nelson and Hefner.

SENATOR LANGFORD: Mr. President and colleagues, testing, testing, can you hear me? I always have trouble with this thing. Can you hear me, Mr. Speaker?

SPEAKER BARRETT: Yes.

SENATOR LANGFORD: I think that there have been so many issues come forth in this debate today that we're getting dust thrown in our eyes. There are already several programs available in this state for schools to teach drug problems to children. It was interesting to me this last weekend. A mother and father came up to me and were talking about this issue. They said the only thing their kids are learning today in school, as far as



they can see, is about AIDS and drugs. So I really feel probably we have started on a preliminary program of teaching children what drugs do to them. Also, I find it very insulting to have the police force of any city...

SPEAKER BARRETT: Senator Langford, excuse me. (Gavel.) Proceed.

SENATOR LANGFORD: ...insulted on the floor of the Legislature. True or not true, if it's true, we do something; if it isn't, we do not insult very hard working citizens in our state who try desperately hard to defend us. I am opposed to the bracket bill. I think the time has come for us to understand that we now are on a different thinking in drug punishment. Many, many years in this country we punished only the pusher that we could find, whoever we could find that was in the business of making money from drugs. The law is now that we can punish users, after all they are the customer, they are the one that is making it possible for somebody to become rich on drug pushing. If we punish the user, we help the problem. I think everyone that deals in drugs, whether they use, whether they push, what they do, are committing a crime, therefore, they should be punished. The fact that they must be punished under this bill is the only, the only thing the bill says, really, with an increase in punishment. Please don't bracket the bill, and vote for it with an opportunity. Thank you.

SPEAKER BARRETT: Thank you. Senator Pirsch, please.

SENATOR PIRSCH: Thank you, Mr. Speaker. Members of the body, this is not the complete solution and we know that. We all agree that red herrings have been drawn across this trail of debate, costs of prison, the highway patrol, unequal application, education needed for our children. All of those do represent ideas that need to be addressed. The forfeiture of drug profits passed several years ago. That certainly wasn't the end all but it was a beginning. We need education. We need better and more law enforcement. We need prosecution and we need courts that respond. In the Judiciary Committee, we had testimony from Jim Joneson who is Chairman of the Drug Policy Board and I would like to share it with you. He would point out that the Drug Policy Board, through its contacts with various criminal justice agencies and citizens and the examination of statistics available to it, found that one of the problems was disparity of sentencing, coupled with a time lapse that occurs

from arrest to conviction. Statistics further showed that sentencing for the possession of controlled substances across the state, as well as for distribution, ranged from probation to prison time. The statistics came from eight subgrantee programs that were funded by the Drug Policy Board and do not include the state in general or the City of Omaha. Let's just leave the City of Omaha out for a minute. For eight subgrant programs, the total arrests for felony possession and distribution of narcotics totaled 926. Of those that were convicted for cocaine, which there were only nine, eight received prison time with a median sentence of 24 months, one received jail time with a median sentence of three months, and there were three others who received probation with median time of 12 months. The end result was that these subgrantees removed 8.3...or 8.342...8,342.3 grams of cocaine from the street. They seized 14 vehicles, six weapons, and currency with a total value of \$30,256 and made three separate asset forfeitures totaling \$4,500. This is a very small amount in comparison to the entire state's activities. Omaha, alone, as you will hear later, Mr. Joneson says, had approximately 1,600 arrests and removed 33 pounds of cocaine from the streets. The importance of these statistics is that these eight subgrantees are in rural Nebraska. Mr. Joneson goes on to say, the Drug Policy Board supports this bill and sees it as one that heightens the penalty and makes it more costly for those offenders who are possessing and dealing in cocaine and crack. Instead of resorting to generalized penalties, it gets back to the basic, a specific penalty for a specific crime. Again, this is not the complete solution but it is one way to get those who deal in drugs. And, Senator Chambers, I have a question for you.

SENATOR CHAMBERS: Yes.

SENATOR PIRSCH: You made a great deal of how when someone is sentenced...

SPEAKER BARRETT: One minute.

SENATOR PIRSCH: ...even though we say five years it isn't really five years because of good time that's automatically given.

SENATOR CHAMBERS: Right.

SENATOR PIRSCH: And is decreased only if you mess up.

April 3, 1989

LB 592

SENATOR CHAMBERS: Right.

SENATOR PIRSCH: Would you support any legislation that would do away with good time?

SENATOR CHAMBERS: No.

SENATOR PIRSCH: Okay, thank you. In other words though, if we say five years and this is the minimum, at least there is some time that we know that person is going to be punished in jail. If Senator Abboud had introduced an all encompassing bill, education, speaking to all of these various points we heard on the floor today, do you think any one of you would support that bill? In the first place, it would be too costly, and, in the second place, we would all be picking out bits and pieces that we saw were either inefficient or too costly or wouldn't do the job.

SPEAKER BARRETT: Time has expired.

SENATOR PIRSCH: We have to do it one step at a time. Thank you.

SPEAKER BARRETT: Thank you. Senator Nelson, followed by Senator Hefner.

SENATOR NELSON: Mr. Speaker, members of the body, I had some concerns with this bill in Judiciary Committee of which I am still not sure exactly where I'm going to go. My concern was very much spelled out by Senator Hannibal this morning. He said it right. By making these mandates, what are we going to do? We only have so much room for prisons and so on, are we going to then let out the person, the rapist, and so on and so forth, to start to fill our prisons up? My question has always been and I'm still not sure in my mind when we talk about the quantities, if there is that college student or if there is that person that I am sure is a user, but distributes crack or cocaine, are we taking in consideration that they can be rehabilitated, they can be helped? Prison is not necessarily always the answer. And it would seem to me like that the judges have that discretion. What I tried to find out and what I tried to figure out in my own mind is the quantities. Are we reaching the one that is really definitely coming in here and pedaling cocaine or are we reaching and trying to fill up our prisons with those that can

be educated and can be helped with the amount or the quantity? I agree with Senator Wesely, education in our schools, but I do want to tell you and I think we referred to LB 514 this morning, I think a lot of those provisions calling for drug and alcohol and education, most of our schools are doing that now and we have some very fine drug and alcohol programs. The only thing of it is I think maybe we have to take the story home and work a little bit harder on it. So I, too, will probably be supporting Senator Schmit's amendment at this time and I am also, I guess, very much in agreement with Senator Hannibal and Senator Landis. I honestly don't think this is...this is just camouflaging our real problem and I don't think this is going to be the answer but I'm not saying that I won't eventually in the end support it but there are other alternatives maybe. Thank you.

SPEAKER BARRETT: Senator Hefner.

SENATOR HEFNER: Mr. President and members of the body, Senator Schmit, I don't know whether I will support your motion to bracket or not because I feel that we need to try to do something. I realize that if we move this bill, it will be on Final Reading and...but I do think we need to take some action. Drug problems in Nebraska are great. It seems like every year it gets a little greater. There are serious problems. There are major problems for us to address and just by bracketing this bill I don't think will help it. What we need to do is arrest the carriers and the distributors. We need to tell these people that we're serious and that the penalties are going to be great for those that are selling the drugs and those that are making the big money. I believe that if we pass a bill like this, it will discourage drug dealers from coming to Nebraska and I realize right now we have quite a few of them in our state. But we need to go after those people that are making the money. I know it's going to cost us money to enforce this bill and maybe we're going to have to enlarge our prisons but I don't think that this is...I don't think that should be a reason for not going ahead with this bill. There has been much talk about education. I feel that we have come a long ways in educating our...especially our younger generation to the bad effects of using drugs but, of course, we could always do a lot more in that. Senator Chambers, you said, well, the cops in Omaha are paid off. I would like to see some evidence of that. I would like to hear and see some hard core evidence of that and I think if you have that, you should come forward with that. I think you need to prove that. And Omaha isn't the only problem that

we...isn't the only place that we have problems. We have a lot of problems up in northeast Nebraska. We have the state patrol working on it. We have our local police force working on it. We have the county sheriff's office working on it. And I understand now that we're even using the National Guard in the surveillance of these things. So I think we are trying to address it and I think this would just be one more step that we could use. Therefore, I would urge you to oppose the bracket motion at this time.

SPEAKER BARRETT: Thank you. Senator Abboud. Senator Abboud.

SENATOR ABOUD: Pass.

SPEAKER BARRETT: Thank you. Senator Schmit, on your motion to bracket.

SENATOR SCHMIT: Mr. President and members, it would be awful easy for me to become angry when I listen to some of the speeches that are made here today but I'm not going to be that way, although it might be deserved. I have to concur with what Senator Chambers has said in many respects. First of all, let me say this, the City of Omaha is a large city. The State of Nebraska is a large state. It is sparsely populated. A drug pusher or drug runner can land an airplane in much of Nebraska, unload his wares and be gone before anyone even knows that you're around. The law enforcement in most of Nebraska cannot possibly be in all places at all times. Besides that, we've got...we just passed a bill getting tough on the prostitutes so you've got to be sure you set those sting operations up and take care of the prostitutes, get them off the street. We've got a...we passed a bill that makes it illegal for me to give doc...Dr. Dierks a sample of snuff, so we've got to be watching those fellows to be sure that nobody is exchanging samples of snuff. We have a number of other bills of similar magnitude that are designed to protect the individual from themselves. How can we possibly get around to protecting the individuals from the drug pushers? Talk about the people making the big money, Senator Hefner, let me tell you something. If you haven't done so, you ought to read a couple of books. One is called The Secret Underground by a man named Mills. Another is a book called Buddy Boys by a man named Mike McAlary. One has to do with drugs and the production and distribution of it. The other has to do with corruption among a police force, a true story. It does exist, hopefully, not to any great extent in

Nebraska, if at all. And I do not know any such law enforcement people. The people that I know, without exception, I think are...I know are honest, hard working law enforcement people. I want to say this, that the fact that it does exist ought to give us concern, number one. Number two, in some instances we have been told what the law enforcement people think they need to help stamp out the drug traffic. We say, well, we can't give you that. We're going to give you 78,000 bucks to fix up your old helicopter, instead of a new one or even a used one. And we're going to build some new prisons to hold the people we catch and we're going to toughen the bills or the laws so that we're going to catch more and keep them for a longer period of time but we're not going to give you any money for overtime so we can send the message back that, if you push drugs, you're going to be caught. Given those guidelines, it does not make it easy for the law enforcement people to do their job and, to that extent, we have to be the ones then responsible for the fact that they can't do their job. You can't haul a two-ton load on a half-ton truck and, in many instances, we are asking them to do that. Most of all, you talk about big money, we talk about how the police confiscated \$4,500, 45,000, 200,000, let me tell you something, the major drug traffickers don't count their money, they count it by the suitcase full. They weigh it by the pickup load, by the truckload, by the roomful. The people you are dealing with, as Senator Chambers has pointed out, are the small fry, the small potatoes, the lowest possible user of the drug, the smallest customer, the smallest pusher. Fifteen years ago I stood on this floor and said...

SPEAKER BARRETT: One minute.

SENATOR SCHMIT: ...I'm not interested in trying to stop one kid from trading drugs with another, I want to stop the guy who brings it in by the truckload. I still want to do that. I suggest that if you're going to be serious, then you ought to stop this bill at this point in time and say to the Appropriations Committee, let's bring in the law enforcement of Nebraska and sit them down and you tell us what you say you need from your own perspective, not from the perspective of the Legislature, nor the Governor, nor somebody else. As law enforcement people who know your job, you tell us what you need. If we give it to you, then we expect you to do your job. If we don't give it to you, then the burden is upon us. And when you go back to your district, ladies and gentlemen, don't say to me and don't say to your people, we got tough on drugs, we passed

LB 592, we done something. Hell, we did nothing, folks. Let me tell you, you make a serious mistake, a serious mistake if you toughen the penalties and you do not provide the rest of the tools that you need to enforce the...

SPEAKER BARRETT: Time has expired.

SENATOR SCHMIT: ...laws that we have on the books today.

SPEAKER BARRETT: Before recognizing Senator Chambers, there are a number of sophomores and juniors from the Farm Bureau Citizenship Safety Seminar in our north balcony. These people come from all over the state. I believe we have a total of 106 of them and they will be wandering and drifting in and out for the next hour or so. Would those of you who are here please stand and be recognized by the Legislature. Thank you. We're pleased that you could take the time to spend with us. Come back again. Additional discussion, Senator Chambers, followed by Senators Bernard-Stevens and Schellpeper.

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

SPEAKER BARRETT: Senator Langford, would you respond to a question, please.

SENATOR CHAMBERS: While she is approaching her mike, I will phrase the question. Senator Langford, you had said that what the law is now doing is going after the user and not just the pusher. Have you read the terms of this bill?

SENATOR LANGFORD: Yes, I have and it goes after the pusher but I said that the law now will arrest the user and heretofore they sort of didn't do anything to the user. They didn't have any strict penalties against the user, where now they have started, at least, to penalize the user also.

SENATOR CHAMBERS: Actually, in Nebraska that is probably not the case but that's not the point I want to get to. I just want to be clear on your perception of this bill. You know this bill is designed to reach only those with substantial amounts of crack or cocaine. You're aware of that as far as this bill is concerned?

SENATOR LANGFORD: That's all right, that's a user or a dealer.

SENATOR CHAMBERS: No, I'm asking, are you aware that that's what this bill does?

SENATOR LANGFORD: I read the bill. It's laying right there.

SENATOR CHAMBERS: Are you aware that that's what it does?

SENATOR LANGFORD: What?

SENATOR CHAMBERS: Thank you. That's all right, Senator Langford.

SENATOR LANGFORD: Wait a minute, wait a minute, wait a minute.

SENATOR CHAMBERS: No, that's all right. I don't want to become argumentative. Thank you very much. My questions are very difficult to understand so I probably don't speak English very well so I won't keep asking the question because of my inability to make it clear what I'm asking. But the point that I want to get across is that some people stand up who support this bill and don't really have a clear grasp of what the bill does or what impact it might have. So I guess what we can conclude is that Senator Abboud now has not promised that this bill is going to do anything. I think Senator Moore has not made that promise. But there are others who seem to indicate that if this bill is passed and if I have misstated what Senator Abboud and Senator Moore have said, they can correct me, then we're going to have an upswing in the number of arrests of people with substantial amounts of cocaine and crack. We're going to dent the drug traffic and we're going to make people in California afraid to come to Nebraska to sell drugs. That is so ridiculous. That is so unreal that I hope none of the people who are dealing drugs will pay attention to what the Legislature is saying here today. This Legislature...if the things I have said represent the consensus of this body, this Legislature is so out of touch with reality that it's not in a position to do anything to help solve the problem; no concept of the reality out there whatsoever and probably not too much concern about it. When Senator Langford is upset because she thinks some police officers are being sullied in their reputation by things that I say, she doesn't know anything about Omaha. She doesn't know anything about the police in Omaha. She doesn't know anything about the police probably anywhere. Doesn't know too much, really, about this bill. So when we're in a serious discussion



of a matter like this it's very easy for somebody to stand up and say, don't talk about the police like that, now we can get the user. First of all, it is not a crime in this country to use drugs. It is a crime to possess drugs and that is how they get at the person who may or may not be going to sell them, they get you for possessing them. And if a person is under the influence of drugs, they cannot charge that person with possession of drugs because the drugs are incorporated into their system. So even on something as fundamental and elemental as that, some members of the Legislature don't understand what the law is or what is being done.

SPEAKER BARRETT: One minute.

SENATOR CHAMBERS: When we have those who don't know trying to enact laws about a subject of which they are profoundly ignorant, we wind up with those mockeries of the law that those who are supposed to be deterred by the law will only laugh at. This is ridiculous. This is nonsensical. And I say again what I said in the beginning, whether you pass the law or not is not going to make that much difference because it's not going to do anything. But it would be a bad thing to do if you're talking about messages because it shows how little the Legislature understands about the nature of the drug problem or what has to be done to confront it. Senator Schmit's bracket motion will allow some time for things to settle down and some recommendations to be made. We could even strip this bill completely by suspending the rules and put into it a program that will really accomplish something but even those who strongly support this bill have to admit that under the sentencing structure that exists right now...

SPEAKER BARRETT: Time.

SENATOR CHAMBERS: ...a harsher punishment can be offered by a judge than what is called for under this bill. So I don't think we ought to waste time and mislead the public by doing that which really does nothing.

SPEAKER BARRETT: Senator Bernard-Stevens.

SENATOR BERNARD-STEVENS: Question.

SPEAKER BARRETT: The question has been called. Do I see five hands? I do. Those in favor of ceasing debate will please vote

aye, opposed nay. Please record, Mr. Clerk.

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

SPEAKER BARRETT: Debate ceases. Senator Schmit, would you care to close on your motion to bracket?

SENATOR SCHMIT: Mr. President and members, I would hope that the body will bracket the bill. There has been a number of individuals who have spoken and it is easy to let your feelings run high on this issue. I understand all of us share equally the deep concern about the proliferation of drugs in Nebraska. Let me say that my concern is deeper than most of yours because, for a longer period of time, I have fooled myself by thinking that I have done something substantive by the passage of a large number of bills designed to stop the traffic of drugs in Nebraska and that traffic of drugs has not declined, it has, in fact, increased. Let me tell you that the least innocuous, the least worthy of the bills that we passed in the past 15 years on this floor, and, excuse me, Senator Abboud, had more to say for themselves than LB 592, had more reason for me to believe that they would, in fact, curb the spread of drugs. I believe...and I know you are sincere, I believe that if we are going to address the issue in any way at this session, then we ought to do it by talking to those individuals whose responsibility it is to curb the flow of drugs and that is the law enforcement agencies, and to ask them very specifically, what do you think of this bill? What else would you have us do? What will it cost you to do it? When do you want us to do it and how? Is there anything else we should do? If, in fact, we get solid answers to those questions, then we come back to this body and we lay it on the line and say, this is what it will cost and this is what was recommended. And either we are going to buy the package or we are not going to buy the package. If we buy the package, then the responsibility for stamping out the traffic in drugs shifts once again to where it belongs, the legitimate law enforcement agencies of this state. If, on the other hand, we say, we're going to give you half a load, a fourth of a load, a tenth of a load, then the responsibility remains with us. There are going to be those who will go back to your districts and say, Schmit voted against the bill that would have got tough on drug pushers. Fine. I will invite you to say so. I will challenge you to do so. I will welcome the opportunity to come to your district and debate LB 592 before your people, on your ground and you lay down the rules and I

will guarantee you that you're not going to do it. You haven't got the courage. I will tell you one more thing, you can challenge me on my ground, before my own people, and say, Schmit was soft on drug pushers, and I will debate you there. And I am not any eloquent debater, as you all know, but I know the facts, I know the situation, I know what I'm talking about. I don't know all the answers but I know enough by now, after 15 or 20 years, to try to get something definitive, something substantive, something solid, not just the figment of someone's imagination where if you cut off an arm, they're going to stop pushing drugs. It's not going to work, Senator Abboud. Nothing wrong with the idea in principle but there are going to be so many people out there still willing to do it that unless you make a major battleground of Nebraska they are going to continue to do it. I'm going to lay down one more challenge. I'm not an expert but I know enough about reality and I know enough about the existence of drugs today and the facts of life that we can expect the State of Nebraska, the City of Omaha, to go through turmoil this next summer...

SPEAKER BARRETT: Time.

SENATOR SCHMIT: ...unless something is done...

SPEAKER BARRETT: Excuse me.

SENATOR SCHMIT: ...substantively and done soon.

SPEAKER BARRETT: One minute, I'm sorry.

SENATOR SCHMIT: I ask you...

SPEAKER BARRETT: One minute.

SENATOR SCHMIT: Thank you, Mr. Speaker. I ask you to seriously consider the bracketing of the bill. What have you got to lose? If you wait a month...a week, two weeks, and we haven't come up with anything better, you've got the votes now, you will have the votes then. If, in the meantime, by some quirk of fate, by some act of God, by some other situation, you learn something, it can only improve and enhance the bill. If you pass the bill that is less than what you can pass, you're not doing the job which you want to do. I ask you to support the bracket motion.

SPEAKER BARRETT: And the question is the bracketing of LB 592

until April 17. Those in favor of that motion please vote aye, opposed nay. Have you all voted? Have you all voted? Record. Record vote has been requested.

CLERK: (Record vote read. See pages 1430-31 of the Legislative Journal.) 16 ayes, 23 nays, Mr. President, on the motion to bracket.

SPEAKER BARRETT: The motion fails. Anything else, Mr. Clerk, on the bill?

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

SPEAKER BARRETT: We're back to the motion offered this morning by Senator Lindsay to advance the bill. Discussion? Senator Abboud, followed by Senator Korshoj.

SENATOR ABOUD: Mr. President and colleagues, just a couple of short comments, then we can move on to some other bills. This bill, as I said before, talks and deals exclusively with drug dealers. This bill does not solve all of our problems that we're going to be facing in regards to cocaine and crack use in the State of Nebraska, but it is a step in the right direction. When we look around the country and we see the violence and the upheaval that cocaine and crack have caused I think it's worth the chance in taking a good chance on this particular bill. The statistics show, as in Los Angeles, it doesn't look like it's going to slow down. It's going up and with it goes the increase in the amount of murders, gang-related murders as they fight over the turf and bystanders get shot, not to mention the tragedy that befalls the individuals using the drugs. Senator Chambers has raised some very legitimate issues in regards to our drug fight here in Nebraska but, on the other hand, it doesn't mean that we can say...and say we have problems in this state, let's all work together to try to...try to solve the problem and I think that's what this bill does. I think you're going to end up with a lot of people in prison anyway. We have laws on the books for individuals using crack and cocaine. The use is going up. You're going to have an increased use and the only way you're really going to deal with stopping this is by preventing it either at the borders, stopping the stuff coming in from...cocaine coming in from Columbia or once it's in the country to try to prevent it from coming into our state. That's what the bill is aimed at. I think it will accomplish that goal. I urge the advancement of the bill. Thank you.

April 3, 1989

LB 592

SPEAKER BARRETT: Thank you. Senator...we're still debating. Yes, there are other lights on. Senator Korshoj.

SENATOR KORSHOJ: Question.

SPEAKER BARRETT: The question has been called. Are there five hands from the body? There certainly are. Those in favor of ceasing debate please vote aye, opposed nay. Record.

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

SPEAKER BARRETT: Debate does cease. Senator Abboud, would you care to make a closing comment?

SENATOR ABOUD: Mr. President and colleagues, did you want some of the time, Scott? Senator Moore. I would like to have the time go to Senator Moore.

SPEAKER BARRETT: Senator Moore. One minute.

SENATOR MOORE: One minute? Now that we've had this mode of laughter and fun, the fact of the matter is we have a serious bill before us. And we...Senator Schmit and Senator Chambers and others have done all that they can to convince us this bill isn't worth our time. They have said that this doesn't solve the problem so we shouldn't do it. And I simply cannot buy into that. I mean, maybe we don't...I don't have the facts and figures, I believe, I firmly believe the passing of this bill helps. In some way we may disagree on the amount and the degree that it helps attack and bring awareness to the fact of the matter that the State of Nebraska is going to try and do something. I think if you sit here and vote against this bill, Senator Schmit, you may have to defend yourself. You sit there and say, this bill doesn't do enough, so I'm not going to do nothing. The fact of the matter is we must do something. I have said it before, we have been dealing with this...battling this thing for a 100 years. We know this bill does not solve the problem but it's definitely a continued step in the right direction and this body would definitely be remiss if we vote against passage of this bill. Senator Abboud has brought for us a bill that definitely sends a very strong and clear signal that we're going to keep working, this is one piece of the puzzle, and I urge the body to support Senator Abboud and the other co-sponsors of the bill and passage of this bill. The rest of

April 3, 1989

LB 44, 44A, 47, 66, 75, 78, 87  
220, 240, 262, 348, 372, 399, 401  
431, 438, 438A, 546, 548, 569, 569A  
582, 582A, 592, 606, 608, 628, 637  
681, 706, 777, 790

the time Senator Abboud can have to finish his closing.

SPEAKER BARRETT: Thank you. The question is the advancement of the bill to E & R Engrossing. All in favor vote aye...thank you. Roll call vote has been requested in reverse order. So be it. Mr. Clerk.

CLERK: (Roll call vote read. See pages 1431-32 of the Legislative Journal.) 27 ayes, 10 nays, Mr. President, on the advancement 592.

SPEAKER BARRETT: LB 592 advances. Anything for the record, Mr. Clerk?

CLERK: I do, Mr. President, thank you. Your Committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 262 and recommend that same be placed on Select File; LB 569, LB 569A, LB 606, LB 628, LB 681, LB 78, LB 438, LB 438A, LB 706, LB 47, LB 75, LB 548, LB 582, LB 582A, LB 240, LB 790, LB 777, LB 44, LB 44A, LB 637, LB 66, LB 546, LB 87, LB 220, LB 372, LB 399, LB 401 and LB 608, some of which have E & R amendments attached, Mr. President. (See pages 1432-44 of the Legislative Journal.)

Mr. President, your Committee on Health whose Chair is Senator Wesely reports LB 348 to General file with committee amendments attached. That's signed by Senator Wesely as Chair. (See page 1444 of the Legislative Journal.)

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

SPEAKER BARRETT: Thank you. As announced before recess, we will move back to LB 431 and LB 431A. LB 431, Mr. Clerk.

CLERK: Mr. President, the first item I have on 431 are Enrollment and Review amendments.

SPEAKER BARRETT: Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move that the E & R amendments to LB 431 be adopted.

SPEAKER BARRETT: The question is the adoption of the E & R amendments to LB 431. Those in favor say aye. Opposed no. Carried. They are adopted.

April 6, 1989

LB 77, 99, 135, 143, 206, 213, 228  
228A, 247, 323, 324, 371, 381, 423  
486, 487, 487A, 488, 488A, 508, 509  
566, 592, 605, 627, 643, 669, 714  
722, 756, 781, 793  
LR 70

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 Dr. Paul Lundell of the Dundee Presbyterian Church in Omaha. Would you please rise.

DR. LUNDELL: (Prayer offered.)

PRESIDENT: Thank you, Dr. Lundell. We appreciate your message this morning. Roll call, please. Record, please.

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

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

CLERK: No corrections, Mr. President.

PRESIDENT: Good. Any messages, reports or announcements?

CLERK: Mr. President, Enrollment and Review reports LB 77, LB 371, LB 592, LB 643, LB 714, and LB 781 as correctly Engrossed. Enrollment and Review also reports LB 99, LB 323, LB 143, LB 213, LB 381, LB 423, LB 509, LB 793, LB 605, LB 135, LB 324, LB 756, LB 206, LB 669, LB 486, LB 487, LB 487A, LB 488, LB 488A, LB 228, LB 228A, LB 627, LB 508, LB 722, and LB 566 to Select File, some of those having Enrollment and Review amendments attached. (See pages 1533-40 of the Legislative Journal.)

Mr. President, Senator Warner would like to print amendments to LB 247 in the Legislative Journal. That's all that I have, Mr. President. (See page 1540 of the Journal.)

PRESIDENT: Okay. We'll move on to LR 70.

CLERK: Mr. President, LR 70 has been offered by Senators Ashford and Moore. It's found on page 1476. (Read brief summary of resolution.)

PRESIDENT: Senator Ashford, please.

SENATOR ASHFORD: Thank you, Mr. President and members. Last year we passed legislation which authorized the profession of

April 11, 1989

LB 77, 371, 592  
LR 74

SPEAKER BARRETT: The resolution is adopted. Members, please return to your seats for Final Reading. To our friends in the balconies, we are about to proceed into Final Reading which is the final time the bill is considered by this Legislature and constitutionally we are required to read every bill in its entirety. The Clerk will, very shortly, start reading the bill and the vote will be taken for the final time in order to either pass it into law or not pass it into law. Members, return to your seats for Final Reading. (Gavel.) Members, please take your seats for Final Reading. Please read LB 77, Mr. Clerk.

CLERK: (Read LB 77 on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 77 pass? Those in favor vote aye, opposed nay. Record, please.

CLERK: (Record vote read. See page 1630 of the Legislative Journal.) 40 ayes, 0 nays, 9 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 77 passes. LB 371 with the emergency clause attached.

CLERK: (Read LB 371 on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 371 with the emergency clause attached become law? All in favor vote aye, opposed nay. Have you all voted? Please record.

CLERK: (Record vote read. See page 1631 of the Legislative Journal.) 40 ayes, 1 nay, 2 present and not voting, 6 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 371E passes. LB 592.

CLERK: (Read LB 592 on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 592 become law? Those in favor vote aye, opposed nay. Have you all voted? Please record.

CLERK: (Record vote read. See page 1632 of the Legislative



April 11, 1989

LB 77, 84, 325, 371, 592, 643, 714

Journal.) 32 ayes, 7 nays, 3 present and not voting, 7 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 592 passes. LB 643E.

ASSISTANT CLERK: (Read LB 643E on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 643 with the emergency clause attached pass? All in favor vote aye, opposed nay. Have you all voted? Please record.

ASSISTANT CLERK: (Record vote read. See page 1633 of the Legislative Journal.) The vote is 42 ayes, 1 nay, 6 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 643E passes. LB 714E.

ASSISTANT CLERK: (Read LB 714E on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 714 with the emergency clause attached become law? All in favor vote aye, opposed nay. Have you all voted? Record.

ASSISTANT CLERK: (Record vote read. See page 1634 of the Legislative Journal.) The vote is 41 ayes, 0 nays, 2 present and not voting, 6 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 714E passes. Anything for the record, Mr. Clerk?

CLERK: Mr. President, one item. Senators Haberman and Hall have amendments to be printed to LB 325. (See page 1634 of the Legislative Journal.) That's all that I have, Mr. President.

SPEAKER BARRETT: Thank you. And while the Legislature is in session and capable of transacting business I propose to sign and I do sign LB 643, LB 592, LB 371, LB 77, LB 714. To General File, Mr. Clerk, LB 84.

CLERK: Mr. President, LB 84 was introduced by Senator Lamb with Senators Conway, Haberman, Beck, Korshoj, Rod Johnson and Carson Rogers added as co-introducers. (Read.) The bill was introduced on January 5, Mr. President. It was referred to the

April 11, 1989

LB 77, 84A, 84, 371, 592, 643, 714  
739, 747

the revenues are at that point. There will be plenty of time to introduce legislation to remedy the situation. With that, Mr. President, I would ask that the amendment be adopted.

SPEAKER BARRETT: Thank you. Question is the adoption of the Lamb amendment to 84A. Those in favor vote aye, opposed nay. Record.

CLERK: 27 ayes, 2 nays, Mr. President, on adoption of Senator Lamb's amendment.

SPEAKER BARRETT: The amendment is adopted. On the bill, Senator Lamb, would you care to move the A bill?

SENATOR LAMB: I just move that the A bill be advanced, Mr. President.

SPEAKER BARRETT: Any discussion? Seeing none, those in favor of that motion vote aye, opposed nay. Record.

CLERK: 26 ayes, 3 nays, Mr. President, on the advancement of LB 84A.

SPEAKER BARRETT: LB 84A is advanced. I'd like to ask your cooperation in addressing the next two bills. Mr. Clerk.

CLERK: Mr. President, LB 747 was introduced by Senator Chizek. I do have a motion to indefinitely postpone, as offered by Senator Hall. Senator Chizek would have the option to lay the bill over, Mr. President.

SPEAKER BARRETT: Senator Chizek, your pleasure.

SENATOR CHIZEK: Lay it over.

SPEAKER BARRETT: It shall be laid over. Thank you. Anything for the record?

CLERK: Mr. President, bills have been presented to the Governor that were read on Final Reading this morning. (LB 77, LB 371, LB 592, LB 643, and LB 714.) Senator Withem has amendments to LB 84 to be printed; Senator Hannibal would like to add his name to LB 739 as co-introducer. That's all that I have, Mr. President. (See pages 1637-38 of the Legislative Journal.)

April 17, 1989

LB 77, 371, 423, 592, 643, 714, 761  
LR 78

Morrissey's amendment.

PRESIDENT: The Morrissey amendment is adopted. Do you have anything for the record, Mr. Clerk?

CLERK: Not at this time, Mr. President.

PRESIDENT: Okay.

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

PRESIDENT: Senator Dierks, please.

SENATOR DIERKS: Mr. President and members of the body, I would move that we adjourn until tomorrow morning at nine o'clock.

CLERK: Mr. President, some items for the record, yes, thank you. A communication from the Governor to the Clerk. (Read. Re: LB 77, LB 371, LB 592, LB 643, and LB 714. See page 1736 of the Legislative Journal.)

A study resolution proposed by Senator Goodrich, LR 78. (Read brief explanation.) Senator Landis has amendments to LB 423 to be printed, Mr. President. (See pages 1736-37 of the Legislative Journal.) That is all that I have.

PRESIDENT: The motion is we adjourn until tomorrow morning at nine o'clock. All those in favor say aye. Opposed nay. You are adjourned until nine o'clock tomorrow morning.

Proofed by:

  
LaVera Benischek