

your presence, please. Thank you. Senator Labedz, would you record your presence, please. Senator Robak, record your presence, please. Senator Bernard-Stevens. Senator Chambers, would you record your presence, please. Thanks. We're looking for Senator Lynch, Senator Owen Elmer, Senator Peterson, Senator Pirsch. Senator Kristensen, record your presence, please. Thank you. Okay, we're looking for Senator Bernard-Stevens is all. Senator McFarland, shall we go ahead with your roll call vote?

SENATOR MCFARLAND: That would be fine.

PRESIDENT: All right. The question is the advancement of the bill. Mr. Clerk, please.

CLERK: (Roll call vote taken. See page 297 of the Legislative Journal.) 21 ayes, 25 nays, Mr. President, on the advancement.

PRESIDENT: LB 180 fails to advance. Mr. Clerk, do you have anything for the record, please?

CLERK: Yes, Mr. President, I do.

PRESIDENT: The call is raised.

CLERK: Mr. President, new bills. (Read by title for the first time LBs 600-647. See pages 298-308 of the Legislative Journal.)

Mr. President, in addition to those items, I have hearing notice from the Natural Resources Committee, signed by Senator Schmit. Notice of hearing from the Revenue Committee. That is signed by Senator Hall. Notice of hearing from the Government Committee. That's signed by Senator Baack.

Mr. President, that's all that I have at this time.

PRESIDENT: We will progress on to LB 190.

CLERK: Mr. President, LB 190 was a bill that was introduced Senator Withem. (Read title.) The bill was introduced on January 9, referred to Education, advanced to General File. I have no amendments to the bill, Mr. President.

PRESIDENT: (Gavel.) Senator Withem, just a moment, maybe we

February 10, 1989

LB 48, 56, 127, 167, 184, 185, 208
231, 361, 366, 426, 643, 714, 760
LR 2

SENATOR LANDIS: We can regulate promotion. I think David raises the fair question, you're getting more than the evil that you have claimed for in the bill and I say, you're right, we are but that's the only way, realistically, in my mind, to stop free samples for kids. And, unfortunately, we're cutting out for the doves as well as the crows here but it's got to be done to have a workable system to ban free sampling.

SPEAKER BARRETT: Time has expired.

SENATOR LANDIS: I don't think this involved structure in the amendment is a workable system to stop free samples for kids. So I'm going to vote against the amendment and for the bill.

SPEAKER BARRETT: Thank you. Senator Moore, followed by Senators Dierks, Withem and Conway.

SENATOR MOORE: I move we adjourn until Monday morning, February 13th.

SPEAKER BARRETT: Anything for the record? Mr. Clerk.

CLERK: Mr. President, your Committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 56 and find the same correctly engrossed; LB 127; LB 167; LB 184; LB 185; LB 231; LB 366, all correctly engrossed.

Revenue Committee reports LB 426 to General File with amendments; LB 643, General File with amendments and LB 361, General File with amendments. (See pages 700-03 of the Legislative Journal.)

Senator Wesely has amendments to LB 208 to be printed. (See page 704 of the Legislative Journal.)

Series of adds, Senator Haberman to LB 760; Senator Hefner to LB 714; and Senator Hefner to LR 2.

Mr. President, unanimous consent that Banking Committee will change their hearing room for next Monday's hearing to the East Chamber. That's all that I have.

SPEAKER BARRETT: Thank you. Before calling a vote on the motion to adjourn, ladies and gentlemen, the Chair wants to exercise the privilege of announcing the fact that Ed Howard of

March 13, 1989

LB 95, 140, 257, 280, 289, 311, 330
336, 387, 395, 438, 444, 478, 561
588, 603, 606, 643, 683, 705, 710
721, 736, 739, 744, 761, 762, 767
769, 780, 807

indefinitely postponed; LB 478, indefinitely postponed; LB 561, indefinitely postponed; LB 387, indefinitely postponed, all those signed by Senator Chizek as Chair of the Judiciary Committee. (See pages 1081-82 of the Legislative Journal. Journal page 1082 shows LB 721 as indefinitely postponed.)

Mr. President, a series of priority bill designations. Senator Hall would like to designate LB 762 as a committee priority. Senator Hartnett designates LB 95 and LB 444 as Urban Affairs priority bills. Senator Hartnett chooses LB 603 as his personal priority bill. LB 739 has been selected by Senator Hannibal; LB 606 by Senator Schimek; LB 761 and LB 289 by the Natural Resources Committee, and LB 807 by Senator Schmit, personally. LB 769 by Senator Labedz; LB 705 by Senator Ashford; LB 438 by Senator Wehrbein; LB 710 by Senator Scofield; LB 643 by Senator Bernard-Stevens; LB 588 by Senator Chambers; LB 739 by Senator Hannibal; LB 330 by Senator Pirsch; LB 767 by Senator Smith; LB 736 and LB 780 by General Affairs Committee; LB 395 by Senator Peterson. Senator Lamb selected Transportation Committee's LB 280 as a priority bill. LB 311 has been selected by Senator Landis as his personal priority bill; LB 683 by Senator Schellpeper.

Mr. President, I have a series of amendments to be printed. LB 744 by Senator Withem; LB 336 and LB 257, those by Senator Withem. (See pages 1083-88 of the Legislative Journal.)

I have an Attorney General's Opinion addressed to Senator Haberman regarding an issue raised by Senator Haberman. (See pages 1088-90 of the Legislative Journal.)

Mr. President, Natural Resources Committee will have an Executive Session at eleven-fifteen in the senate lounge, and the Banking Committee will have an Executive Session at eleven o'clock in the senate lounge. Banking at eleven o'clock, Natural Resources at eleven-fifteen. That's all that I have, Mr. President.

SPEAKER BARRETT: Thank you, Mr. Clerk. Proceeding then to Select File, LB 140.

CLERK: Mr. President, 140 is on Select File. Mr. President, the bill has been considered on Select File. On March 2nd the Enrollment and Review amendments were adopted. There was an amendment to the bill by Senator Chizek that was adopted.

March 15, 1989

LB 643

SENATOR DIERKS: Mr. President, I rise for the purpose of a point of personal privilege.

PRESIDENT: State your privilege, please.

SENATOR DIERKS: I would just like to take this opportunity to invite the body to O'Neill for St. Patrick's Day on Saturday, which actually is the 18th of March, but the big celebration is on Saturday. Many, many fun things going on, including a parade, and anybody who would like to ride in that parade, I would be very honored to try to find some transportation for you. You can even ride with me, if you would like. Just that particular point, Mr. President. Thank you.

PRESIDENT: What date was that?

SENATOR DIERKS: March 18, this coming Saturday.

PRESIDENT: Okay, thank you.

SENATOR DIERKS: The parade starts at two o'clock, I believe, and the festivities start sometime Friday night and go through sometime Sunday night.

PRESIDENT: Thank you. Senator Conway.

SENATOR CONWAY: Could I ask Senator Dierks a question, please.

PRESIDENT: For what purpose do you rise?

SENATOR CONWAY: Is the O'Neill celebration on Saturday because the big celebration is in Wisner on Friday? Is that why it's on Saturday?

SENATOR DIERKS: Well, the big celebration in O'Neill starts on Friday. It's just...they do such a good job of it that they have to have two or three days to get it all in.

PRESIDENT: With this conversation, one would think that St. Patrick's Day is coming. Shall we move on to Select File, please, LB 183. Excuse me, we better take LB 643 first, hadn't we?

CLERK: Mr. President, 643 was a bill introduced by Senator

Bernard-Stevens. (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.

PRESIDENT: Before we start this, may I introduce some guests, please. Senator Lowell Johnson has some guests in the south balcony. We have 33 fourth graders from Grant Elementary School in Fremont, Nebraska and their teacher. Would you please welcome them. And would you please stand and be recognized. Thank you. Senator Hefner has some guests in the north balcony of 18 seniors from Coleridge High School and teacher. Would you folks please stand and be recognized. Thanks to you all of you for being here today. Senator Hall, are you going to handle the committee amendments, please.

SENATOR HALL: Thank you, Mr. President, and members, LB 643 is introduced by Senator Bernard-Stevens. It's a bill that deals with the railroad tax loss issue and it, basically, strikes LB 1165 that was introduced and passed last year and changes the manner in which that is dealt with. The committee amendments are strictly and only the emergency clause that would have...it would take effect in a timely manner so that the budgeting process for those subdivisions of government could be completed in time. All we add is the E clause. I would urge the adoption of the committee amendments.

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

CLERK: 27 ayes, 0 nays, Mr. President, on adoption of the Revenue Committee amendments.

PRESIDENT: The committee amendments are adopted. Senator Bernard-Stevens, please, on the bill.

SENATOR BERNARD-STEVENS: Thank you, Mr. President, and members of the body, I will take just a brief moment to review what happened last year and then, hopefully, we will get to a vote on the bill and we'll move it on its way. It is a relatively noncontroversial bill even though it is a priority that I have chosen and the reason it is a priority is because of the railroad lawsuit and the continuing lawsuits we have and the continuing problems that municipalities and subdivisions have in

trying to cope with their budgets with these lawsuits. Last year, if you remember last session, Senator Scofield and I and others had LB 1091 which we were able to get through the Legislature and the Governor's signature which provided for a \$7.7 million aid package to the subdivisions. The reasons we did that was because at the time of the railroad lawsuit the municipalities and school districts were not able to budget for that so, consequently, the money that would have been paid to those areas that would have gone into the budgeting process was not going...it went into escrow and they were faced with a serious shortfall. So we went ahead and agreed to bail out, if you wish, \$7.7 million worth which was not a 100 percent but certainly close to 100 percent in most of the areas. We also followed with a companion bill and that companion bill was 1165. And, at the time, there was no opposition from anyone. It seemed to be a reasonable bill and what LB 1165 did was took the uncontested part of the railroad lawsuit land and took it off of the assessed value. So, examples then, the county assessors would take the lower assessed value with that land taken off, they would then increase the mill levy in order to get the budgets that they needed for the school districts, the counties and municipalities. And that bill was working fine and the bill would have worked fine except we came up with a hitch within the summer, and for reasons I do not need to get into but they were basically political, the railroads decided to delay the filing of this year's lawsuit. If the railroads would have filed their lawsuit in due course of the time that they knew they were going to have the lawsuit, they knew they were going to file again as they need to for each year, if they would have filed by a particular date, we would have been fine. As it turned out, the railroads decided, for political reasons, not to file until a later time period. What then happened, when the railroads did not file at a particular time period, the counties then had already accepted the lower value, the counties have already been budgeting for the loss and we had been taking land out from the assessed value for a lawsuit that did not exist at that time period. So, consequently we had railroad land being taken off discriminatory because it was removed but nothing else was. So Lancaster County went to court and filed a suit against 1165, and Judge Blue ruled that, in fact, it was or appeared to be unconstitutional. I'd like to point out that, if the railroads would have filed at the reasonable time, then there would have been an injunction and 1165 would have been just fine. But because of the delay, there was a constitutionality question on 1165. Consequently, we come to LB 643. The counties and

March 15, 1989

LB 643

municipalities and school boards are kind of in a flux right now. LB 1165 would have been fine, except for the delay. Now we have a delay. It's in the courts, it's being appealed, what are they supposed to do budgetary wise? Instead of waiting for this process to happen and getting everything skewed, if you will, LB 643 will hopefully, and I believe not hopefully but will solve that problem. LB 643, in essence, says we're not going to worry about the uncontested land anymore, we'll just leave that the way it is, the way it was before 1165 and we'll handle the lawsuits and the budgetary item. Counties, school districts or every...or any tax levying board will be able to add to their budget, guesstimated or guesstimated, if you will, budgetary loss due to litigation. And this would specifically be, for example, railroad lawsuit. It would also be for other lawsuits that the counties, the school districts may be into that they would be able to budget for those losses as well. That would then be taken care of by the mill levy that would be set on the assessed value on all land, including railroad land. So all land would be assessed at its regular level. The mill levy would apply to all people, and thus there would be no conflict with the uniformity clause, it would be a budgetary item. It will be a cleaner way to do it. I wish we would have come up with the idea last year, but it was not forthcoming until we needed to find another way to do 1165. And we have the bill for us now. That's as best I can do on a summary. If there are any other lights, fine. If not, I'll answer any questions and we'll go from there. Thank you, Mr. President.

PRESIDENT: Senator Schmit, please, followed by Senator Wehrbein.

SENATOR SCHMIT: Mr. President and members, as Senator Bernard-Stevens has told you, there is some history behind this bill and he mentioned several things. He mentioned LB 1165, which seemed like a good idea at the time, which would probably have worked pretty well, except that the courts found it unconstitutional. And I guess my concern right here is this, and I hope I get a short answer, does this apply to any kind of litigation that a subdivision can become involved in, or is it limited to a certain and specific kind of litigation?

SENATOR BERNARD-STEVENS: (Mike not turned on immediately.) ...litigation at this time.

PRESIDENT: Senator Bernard-Stevens, would you state that again,

we didn't have your microphone on. Sorry.

SENATOR BERNARD-STEVENS: The way the bill is worded now, Senator Schmit, is it would deal with any litigation, that they would be able to plan for that loss.

SENATOR SCHMIT: Well, then I guess I was watching Lieutenant Governor Nichol up there sort of smile and I asked him the question, being an old county commissioner, if this would provide a county board, for example, with an opportunity to anticipate that they might have an automobile accident, or they might have a tree limb fall on some unwary individual and therefore would have to set aside a percentage of money to handle that sort of an eventuality. And, if in fact they did so, and that anticipated event did not take place, then can they spend the money for something else.

SENATOR BERNARD-STEVENS: Thank you, Senator Schmit, for bringing that point up. I was concerned with that as well. The way the state laws are written it is my understanding, and I feel pretty comfortable with this statement, that if I budget for an item that is not used, then that money would then simply carry over into the next year. It could not be spent for something else, or could not be spent unless the actual litigation took place.

SENATOR SCHMIT: Okay. Well, then suppose that we had anticipated a car accident and instead we had a bridge collapse, that happened out in Saunders County, and the county board decided, well, I guess maybe if we can get someone to sue on that bridge, we can use the money to take care of the bridge. Is there anything to stop them from that?

SENATOR BERNARD-STEVENS: My understanding there would be no way, at that particular point, the way the bill is written right now, you go ahead and guesstimate whatever litigation you feel you need to guesstimate for, and that money would be used in that fund for that particular purpose. If the county board wanted to specify for which particular litigation they are doing so, I would suspect it would be good board policy to do so. If they wanted just to put in a fund for extended litigation, I'll be very brief, they would be able to do that as well.

SENATOR SCHMIT: All right. Again, on page 2, line 18, does the language "tax loss" mean tax receipts that will be used to pay a

judgment?

SENATOR BERNARD-STEVENS: That is the way that I would, if I understand your question correctly, the answer would be yes. In other words the money that they were going to lose in regard to the, or the money that they were going to lose that they normally would have gained through their normal taxing purposes, but they are going to lose in regards to the railroad lawsuit is how that would work.

SENATOR SCHMIT: I'm not an experienced county commissioner, but it seems to me, Senator, that I have noticed that the county boards are able to transfer money from one area...one department to another. And I guess I'm a little concerned about that. I'm not sure that that kind of language that is necessary to prohibit that is in this bill. I guess...Was there any consideration to including all other centrally assessed taxpayers in this situation, or is this, in fact, class legislation? Are we in danger there again?

SENATOR BERNARD-STEVENS: Senator Schmit, I'm sorry. I was in conversation and I missed the question.

SENATOR SCHMIT: Well, I guess I've got it on the record and maybe I can come back to it later. But another question, how many political subdivisions at the present time are using the 5 percent overlay out of the prior year's delinquent taxes, or does anyone know how they use that, or do they use it?

SENATOR BERNARD-STEVENS: Senator, I'm not aware of how many. All I do know is that there is the 5 percent cap for deficient or delinquent taxes.

SENATOR SCHMIT: Okay, okay, thank you, Senator Bernard-Stevens. I know you have a problem which you are trying to address, Senator Bernard-Stevens. And again I'm sympathetic. I think that you ought to read very carefully that language, estimated tax loss due to anticipated or pending litigation. I think that might again be an invitation to difficulty. It may very well cause more problems than it resolves, and I would certainly ask you to take a very long, hard look at it, and you might want to get some expert opinion from I don't know who. But I would certainly take a good look at it because I think when we start to budget for an anticipated, anticipated, pending is one thing, but an anticipated litigation, we are giving the subdivision a

tremendous amount of latitude when it comes to setting their budget. And I just want to say also that we have enough difficulties now, we have a tremendous number of difficulties insofar as property taxes are concerned, and we're going to have some more. If in the event 361 becomes law and we raise the valuation on farmland, we are also then going to find that those rural areas are going to take a major cut in their equalization aid for schools. So you're going to get zapped first on one side of the head, then zapped a second time on the other side of the head. And if Senator Dierks' thinks he was in trouble when I proposed repealing the in lieu of tax on school lands yesterday, I'd suggest that we dig in our heels on this because I think we're getting into more trouble again.

PRESIDENT: Time. Thank you. Senator Wehrbein, please.

SENATOR WEHRBEIN: Mr. Speaker, members, I would like to....I, too, have had an interest in this relative to what Senator Schmit is talking about. I'm trying to anticipate where will this...if this money does come in, let's say that, Senator Bernard-Stevens, I'd like to ask you...

PRESIDENT: Excuse me. Senator Bernard-Stevens, you are being asked a question.

SENATOR WEHRBEIN: I didn't mean to interrupt, but I....When this...if the lawsuit is won, let's say this money will flow back into local governing body's coffers, I assume.

SENATOR BERNARD-STEVENS: That is correct.

SENATOR WEHRBEIN: And then it can be spent without any over...is that extra money then in actuality? I'm thinking of...and I'm wondering if bankruptcy fits into pending litigation. Our county lost quite a few bucks in the railroad bankruptcy a few years ago. At first it was anticipated, then it was pending, and then it became fact, and I don't know whether that was ever paid. But I would wonder what the status of that money was, if it was eventually paid by a bankruptcy court. In this case it was for taxes. It would be a similar situation is all.

SENATOR BERNARD-STEVENS: I guess, Senator, I'm approaching it from the same way, but maybe from a different angle. On the...forgetting the railroad lawsuit for a minute and taking

other lawsuits...

SENATOR WEHRBEIN: Yes, that's what...

SENATOR BERNARD-STEVENS: I think what you have is the other problem of counties not being able to budget for those losses and then suffering an unanticipated loss due to a lawsuit without any way of budgeting for that, and they've had to transfer money from one account to another, or had special meetings. This would be a way. And that seems to me not a really reasonable way to run a budget. It seems to me more reasonable to be able to say we do anticipate this, particularly in regards to railroads and others. We do have this pending, we need to prepare for that and its eventuality. If in fact that budgetary item that is budgeted specifically for those areas, if, in fact, the case is won by the county, then that money obviously cannot be spent in that fund because there is nothing to spend it for, it would have to revert back to the next year's budgeting cycle. I would also hope that there would be somewhat of a check on that in regards to the mill levy being set and the budgets being set on personal and public input for that. They're going to have to justify that to the public as well.

SENATOR WEHRBEIN: Okay, I think that answers my question. But, if my memory is good, there can be quite a bit of leeway in the General Fund at the county level on their mill levy. If this was a significant amount of money, there could be quite an amount of money come in being paid by the lawsuit if...assuming they won. And I still am thinking there would be quite a bit of leeway there to spend, even though it may have been earmarked for some specific things. I think I see some potential problems down the road the way this is written, but I guess I'm not sure, so I'm just raising the issue.

PRESIDENT: Thank you. Senator Bernard-Stevens, would you like to close, please.

SENATOR BERNARD-STEVENS: Thank you, Mr. President. I will try...I will close and answer a couple of the questions. Senator Wehrbein, I agree with you. In fact one of the first thoughts I had when the bill was presented as a possibility from the Revenue Department as a way out of the 1165 dilemma, my first question was, what about the chance for abuse, and is there some? I would say on any bill, such as this nature, there...yes, there is a chance for a county board abusing and

finding a way to use the system to its best advantage. The only argument that I had that satisfied my concerns in that area is that we elect officials to do the best job they can, and there is public input, there is a public process and that that system has to be a valid system to stop unjustified and unusual spending, those habits. I think we, as the Legislature, have the same problem. It's anticipated that we have a lot of extra revenue coming in. Are we going to be wise to use that? Are we going to have a lot of discretion where we use it? How are we going to do that? And the people have a little mistrust possibly in the Legislature handling this money, the same mistrust we may have on the counties for having the same flexibility that maybe we have. I think the system has to be...the parliamentary...the system we have of representative government is such that it's the responsibility of the people to have that final oversight to call counties and/or school districts from abusing the thing that they have. I think what we need to focus on is another question that Senator Schmit had about counties using the 5 percent cap on delinquent taxes, if they don't use that. And I think what he was actually implying is could they, in fact, then use that 5 percent budget for delinquent taxes for this type of situation that we have on the railroad lawsuit. And the answer is, no, because this is not a delinquent tax, this is a tax that the courts are saying need not be paid. So the 5 percent delinquent tax cap that you may put in your budget cannot be spent in this particular area. The other thing I'd like to point out is the legislation, the wording of it is pending or estimated. The problem that we want to try to avoid is the problem we had last year where the counties and school districts, specifically school districts, make a budget that is in stone. The mill levy is set and the assessed value is certified. Then after that is in stone, then the railroad lawsuit hits, and now we don't have the money that we were planning on, and now we are in a shortfall, in deep trouble unless the Legislature comes through. If we don't have the section that says estimated tax loss, if we leave that out, just say any tax losses, what happens if the railroads again delay in filing the next year's lawsuit until after that time period where the values have already been certified and levies set? Then we're in the same problem that we had before. I think we're trying to avoid that problem so we have some type of stability in the budgeting process at the school, county and municipal level. That's why, I think, it is important that the wording "estimated and pending lawsuits" be there. I think that what we're trying to do in the Legislature is trying to find a

way out of a very sticky situation. And the way out of that situation is clear, but it also poses some possibilities of abuse on the other side, and it does. And I don't see any other way that we can get around some sort of difficulty where we finally have to say in the long run we're going to have to rely on the judgment and best analysis and decision-making process of county boards, school boards and what have you and the people are going to have to use their watchful eye. If, in fact, the counties do something that is irresponsible and school boards do something irresponsible with the budgeting process that would be set up with 643, if the oversight does not work, I guess that's a breakdown in the representative government system, but certainly not one that we can actually legislate for any potential possibility of that. I find that difficult to do with the bill. LB 643 will handle...

PRESIDENT: One minute.

SENATOR BERNARD-STEVENS: ...the situation so the counties, municipalities and particularly the school districts will be able to have a budget set without fear, again without fear of midbudget time period having a lawsuit hit, particularly in regards to the railroad lawsuit which we know will be coming year after year after this thing, unless this thing is settled on the side of the state, and it's not going to happen in this particular point. And it will give them a way to have a stable budget so they can have something to do that they don't have to come to the State of Nebraska and ask for a bailout every year, and every year, and every year, and then it becomes a political ball game, which is very difficult to handle. With that, I guess that concludes my remarks for LB 643, and I urge its advancement to Select File, upon which, if there are other questions that we need to look at, we'll have that time to do so.

PRESIDENT: Thank you. The question is the advancement of LB 643 to E & R Initial. All those in favor vote aye, opposed nay.

SENATOR BERNARD-STEVENS: Mr. President, I hate to call for a call of the house, and I don't want to do so, and I haven't done so yet, but...and I guess I don't need to, and that's good because I really didn't want to. (Laughter.)

PRESIDENT: Record, Mr. Clerk, please.

March 15, 1989

LB 183, 643

CLERK: 29 ayes, 0 nays, Mr. President, on the advancement of 643.

PRESIDENT: LB 643 is advanced. Mr. Clerk, we'll move on to Select File, LB 183.

CLERK: Mr. President, 183 was last considered yesterday. At that time Enrollment and Review amendments were adopted. There were two amendments to the bill by Senator Baack that were adopted. I now have pending a third amendment from Senator Baack. Senator, I have AM862 in front of me, page 1109 of the Journal.

PRESIDENT: Senator Baack, please.

SENATOR BAACK: Yes, Mr. President, members. This amendment is dealing with the special education. We dealt with that a little bit on General File and we talked about the special ed, how we were going to deal with special education when it comes to option students. Since that time, since, let's see, last Friday I think it was, my legislative aide and the legal counsel for the Education Committee, several people from the Department of Education and several of the people in the Omaha metro area that deal with special education met with an attorney from Washington, from the Department of Education. And the purpose of that meeting was to make sure that whatever we did as far as choice legislation for special education would fit in with the federal guidelines of special education, so we were not precluding any of their laws. So what they came up with is the amendment that is in front of you, it's not that big of a change from what we adopted last week, because all it says is that the special ed kids will be treated as residents of the district that they opt to, and the option district will receive the initial funds from the district as an option student that we agreed to yesterday in the funding formula, plus they will receive all of the funds that are available for special education students from the state. The state will directly reimburse the option district. And that seemed to comply very well with the federal statutes and that seemed to meet their needs very well. I think with that, that's all that it does. It just adjusts it so that we don't get out of compliance with the feds on dealing with special education. If there are any questions on this, I'll be glad to try and answer them. Thank you.

March 20, 1989

LB 188, 262, 311, 643
LR 2

reviewed LB 311 and recommend the same be placed on Select File; LR 2CA, on Select File; and LB 643 on Select File, those signed by Senator Lindsay as Chair. Education Committee reports LB 188 as indefinitely postponed. That is signed by Senator Withem as Chair of the Education Committee. Amendments to be printed to LB 262 by Senators Lindsay and Ashford. That is all that I have, Mr. President. (See pages 1225-26 of the Legislative Journal.)

SPEAKER BARRETT: Thank you, and let the record reflect that Senator McFarland had 15 first and second graders visiting with us this morning from Hawthorne School. They were in the north balcony and have since had to leave. Senator Moore, please.

SENATOR MOORE: I move we recess until 1:30 p.m.

SPEAKER BARRETT: You have heard the motion to recess until 1:30 p.m. Those in favor say aye. Opposed no. The ayes have it. Motion carried. We are recessed.

RECESS

PRESIDENT NICHOL PRESIDING

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

PRESIDENT: Thank you. Senator Wehrbein, do you have some special guests back there you would like to introduce, and if you would go to your microphone and have them step out even with the columns there so we can see who they are, we'd like to know who your special guests are today.

SENATOR WEHRBEIN: Mr. President, members, yes, thank you. I'd like to introduce some special guests that are here on behalf of Ag Day. They will be going down to see the Governor in just a few minutes for some of their awards. First of all, it concerns a resolution I had this morning honoring Marlan and Mary Johnson from Eagle, Nebraska, which were one of the four national winners in the Outstanding Young Farmer Awards sponsored by the National Jaycees, Marlan and Mary Johnson. In addition to that, Don and Linda Anthony from Lexington, Nebraska, was the first Nebraska winner in the National Outstanding Young Farmer Award, I believe in 1986. Also, Larry Abrahams from West Point,

CLERK: 21 ayes, 0 nays, Mr. President, to go under call.

SPEAKER BARRETT: The house is under call. Members, please return to your seats and record your presence. The house is under call and call in votes have been authorized on the advancement of the bill. Members outside of the Legislative Chamber, please return and record your presence. The house is under call. Senator Pirsch, please record your presence. Call in votes are authorized. Voting on the advancement of the bill.

CLERK: Senator Pirsch voting yes. Senator Moore voting no. Senator Byars voting no. Senator Abboud voting yes.

SPEAKER BARRETT: Senator Beck.

SENATOR BECK: I would like to have a roll call vote.

SPEAKER BARRETT: Roll call vote has been requested. Members, please return to your seats for a roll call. Proceed, Mr. Clerk.

CLERK: (Roll call vote taken. See page 1425 of the Legislative Journal.) 21 ayes, 14 nays, Mr. President, on the advancement.

SPEAKER BARRETT: Motion fails. I would like to momentarily move over LB 431. We will come back to it in a few minutes, go to LB 643. The call is now raised. LB 643, Mr. Clerk.

CLERK: Mr. President, 643, I have an amendment to the bill from Senator Schmit. (The Schmit amendment appears on page 1426 of the Legislative Journal.)

SPEAKER BARRETT: Senator Schmit. Senator Schmit, on the amendment.

CLERK: Senator, I have your amendment number, AM1132.

SPEAKER BARRETT: Senator Schmit, please.

SENATOR SCHMIT: Mr. President and members, I apologize to Senator Withem. I did not have a chance to visit with him about this. I raised this issue on the floor when the bill was being debated earlier, and I raised it because of a question that is included in lines 18 and 19 where it says that...the language in

there, I'll read it, "for estimated tax loss due to anticipated or pending litigation." The amendment, as I have drafted it, provides that the anticipated litigation has to be litigation that is limited to anticipation of an action being filed by a taxpayer who filed a similar action for the preceding year which is still pending. I would like to ask Senator Withem, if he would please, to comment upon this language.

SPEAKER BARRETT: Senator Withem.

SENATOR SCHMIT: Pardon me, I am sorry, Senator Bernard-Stevens.

SPEAKER BARRETT: Senator Bernard-Stevens, please, would you respond?

SENATOR BERNARD-STEVENS: Yes, Senator, and it would be my pleasure to do so. Senator Schmit, the amendment, though I had not seen your particular amendment, actually I had seen the amendment as the railroad industry had passed out the amendment last week in their discussions with me. I was somewhat...I think I may have not been very clear onto your question you had last week on the bill. I handed out a little statement to the bill. From all I have been able to ascertain, the question that you had, Senator Schmit, and the concern you had was on county boards, whether they could take...whether they would have too much latitude on the funding, and in response of that, the way the bill is written, and I have been convinced in speaking with certain members of the railroad industry and other areas of concerns, that the only thing that would be allowed under the bill as it is currently written without this amendment would be any litigation that would deal with a tax loss, an expected tax loss. For example, one of the things that people said, what about if we budget for a tractor or something, that we have an accident, and we have to pay up or settle on an insurance suit, or an insurance policy. That would be an expenditure. That is not a tax loss. The concern I have with the amendment you have to the bill at this point, Senator Schmit, is that there is a small chance, and I don't think a great chance, but a small chance that pipelines and other industries may be able to cabbage on the 4-R Act. Again, I do not believe that they will be able to but that is yet to be decided by the Supreme Court and they have surprised me quite often, their decisions on certain things. I think the amendment as drafted would not necessarily take those into consideration and I would be a little nervous about that at this point. I don't want to take

too much of your time, but that is kind of my response at this time.

SENATOR SCHMIT: Well, thank you, Mr. President. I would just like to say this, I really believe that there needs to be some limiting language of some kind in LB 643, if, in fact, it does become law. As I read the language, and I do not understand how we can limit the possibilities of an entity of government with this language because this language is very broad, and as I have indicated, it doesn't say...it does not read, for estimated tax loss due to anticipated and pending litigation. It says, due to anticipated or pending litigation. You can anticipate any kind of litigation, and I would suggest that if the county board anticipated that they might have a loss involving any number of things, any number of accidents, that they could, in effect, use this bill and I do not believe that is what Senator Bernard-Stevens wants. It has been my experience that when you are in doubt, you ought to take precautions. I think that we ought to take some precaution with this publication, with this bill, and I am not sure either, Senator Bernard-Stevens, if this amendment of mine even does all that I want it to do, but I certainly think the amendment needs to be added to the bill to give us some indication that it is not an open-end invitation to proceed and, therefore, I would ask for the support of the amendment.

SPEAKER BARRETT: An amendment on the desk, Mr. Clerk.

CLERK: Mr. President, Senator Hall would move to amend Senator Schmit's amendment. (Read Hall amendment found on page 1426 of the Legislative Journal.)

SPEAKER BARRETT: Senator Hall.

SENATOR HALL: Thank you, Mr. President and members. I rise in support of Senator Schmit's amendment as long as the, I guess, the Hall amendment is adopted to it. I understand the issue that Senator Schmit raises with regard to I guess the purpose of which is to clarify where the issue would be appropriate with regard to the local subdivision and the budgetary provisions provided in LB 643. All my amendment does is strike lines 6 and 7 that deal with the issue of litigation exceeds 5 percent of the amount to be levied. It does not impact at all the clarifying provision that Senator Schmit explained in his opening with regard to his amendment. I just strike the

provision that deals with the requirement that the estimated tax loss has to be in excess of 5 percent of the amount to be levied. With that, Mr. President, the issue is one that was in front of the Revenue Committee, and with the amendment that I offer to Senator Schmit's amendment, I can support the amendment to LB 643. Thank you, Mr. President.

SPEAKER BARRETT: Thank you. Discussion on the Hall amendment to the Schmit amendment to LB 643. Senator Bernard-Stevens.

SENATOR BERNARD-STEVENS: Actually, I think I will just briefly rise in favor of the Hall amendment, though I am not particularly sure that I will be supporting the amendment beyond that. I really don't see if we agree to the Hall amendment that there would be a tremendous amount of difference between the Schmit amendment and the bill, so to that degree, I think that will be fine. I agree with the Hall amendment, that if we go with the Schmit amendment, that those lines 6 and 7 should be deleted. Thank you.

SPEAKER BARRETT: Thank you. Any other discussion on the amendment to the amendment? Senator Hall, any closing comment? Those in favor of the adoption of the Hall amendment to the Schmit amendment please vote aye, opposed nay. Have you all voted, please? Twenty-five votes necessary, have you all voted? On the amendment to the amendment. Have you all voted if you'd care to vote? Have you all voted? Record.

SENATOR HALL: Mr. President, I...

SPEAKER BARRETT: Senator Hall.

SENATOR HALL: ...would ask for a call of the house and a roll call vote on the issue.

SPEAKER BARRETT: Thank you. Clear the board, Mr. Clerk. The question is, shall the house go under call? Those in favor vote aye, opposed nay. Record.

CLERK: 12 ayes, 0 nays to go under call, Mr. President.

SPEAKER BARRETT: The house is under call. Members, return to your seats and record your presence. Those outside the Chamber, please return and check in. The house is under call. Senator Morrissey, please record your presence. Senator Nelson.

Senator Schmit, please record your presence. Senator Pirsch, please. Senator Peterson. Senator Smith, please record your presence. Senator Haberman, Senator Chambers, Senator Landis, Senator Pirsch. Senator Chambers, please. Senator Hall, we have everyone present except Senator Landis. Should we proceed or...

SENATOR HALL: Isn't Senator Landis on his way?

SPEAKER BARRETT: We don't have that information. His phone line is busy.

SENATOR HALL: Well, let's go ahead because...call the roll.

SPEAKER BARRETT: Roll call vote has been requested. Members, please return to your seats. The question is the adoption of the Hall amendment to the Schmit amendment to LB 643. Mr. Clerk.

CLERK: (Roll call vote taken. See pages 1426-27 of the Legislative Journal.) 26 ayes, 4 nays, Mr. President, on adoption of the amendment.

SPEAKER BARRETT: The amendment is adopted. The call is raised. Senator Schmit, back to the amendment. Senator Schmit.

SENATOR SCHMIT: I don't have much to say about the amendment as amended. I'd just ask you to vote for the amendment, I guess.

SPEAKER BARRETT: Discussion on the Schmit amendment? Senator Hall, do you care to discuss the amendment? Thank you. Senator Bernard-Stevens, on the Schmit amendment.

SENATOR BERNARD-STEVENS: Thank you, Mr. President. Sometimes in the morning it is difficult for the body to get into the grind of things, but I hope that the body will take a little bit of time to look at what we have before us because there are some subtle differences. There are not glaring differences but subtle differences. I want to give a brief history, if I can, of 1165 and what we tried to do and why we have 643, what 643 is intended to do, and I believe would do, and the differences between that and the Schmit amendment, if I can do so briefly. Last year if you will remember, the Legislature passed a \$7.7 million package to give to, basically, all areas that were affected that had a levy from cemeteries, to counties, school

districts, municipalities, historical society boards and so on, or county boards and so on, and we gave them \$7.7 million because of the railroad lawsuit and, in essence, what happened was in the middle of the budgetary cycle the people that were counting on the money, that had already budgeted for the money, and had already levied for the money, the money then was put in escrow and they did not have the money, and that was causing a tremendous problem. And the Legislature said, yes, for one time we will come through for you and we will "bail you out" but don't expect it next year because you will have a way of budgeting for that next year. You will know what is going to happen. Well, we got into some meetings last year. We decided, how can the counties best and the school districts, and so on, best budget for this, and we came up with 1165 and it passed last year relatively easily. LB 1165, in essence, said, we will take the uncontested part of the railroad lawsuit, remove that portion from the valuation, and then the mill levy would be set on the actual value that would be there minus the uncontested part of the railroad lawsuit, and everything would have been fine, but the railroads, in their infinite wisdom, decided for political reasons to delay filing of the lawsuit. When they delayed filing the lawsuit until after the values had been certified, until after the county boards have already decided what their levies are going to be, until after school districts had set the mill levy that were now in stone, then the railroads filed their lawsuit. The difficulty was is the question of the uniformity clause in the Constitution became under challenge. How can you take something off the books, uncontested railroad value, for example, if, in fact, the lawsuit hasn't even been filed yet for that year. And so it was challenged by Lancaster County and Lancaster County got a decision from Judge Blue, which was accurate, in my opinion, stating that you are right, that was a problem with the uniformity clause. I might point out that if the railroads would have filed, when they knew they were going to file, everyone knew they were going to file, if they would have filed it before the tax-setting sessions began, we would have been fine and not here today. We advised them of that. We told them of that, and we pleaded with them on that, but they felt an obligation not to do so. Consequently, we came up this year with 643, and 643 allows the counties, school districts, what have you, in regards to railroad lawsuits and other pending lawsuits of this nature, to estimate within their budget process, within their budgets, all land would be valued at whatever value certified by the county commissioner as full value, hopefully, and the mill levy would then be set, and

people would then go along with their business as normal. The question arose on 643, on lines 17 through 19, particularly on line 18 where it says, "and for the estimated tax loss due to anticipated or pending litigation." Senator Schmit asked a very valid question and Senator Wehrbein asked some questions as well. Does this mean that any litigation that is expected or pending could be budgeted for? And if that would be the case, there could be some tremendous abuse at the county level.

SPEAKER BARRETT: One minute.

SENATOR BERNARD-STEVENS: My response to that was not as adequate as it should have been last week. My response to the body is on line 18, it says for the estimated tax loss, tax loss. If you anticipate or there is a lawsuit pending that is dealing with tax loss only, that can be put into a budgetary process. If I have to...if I am under some type, I have a road grader and I had an accident and I have another type of expenditure because of that accident, that is not a tax loss, that is an expenditure and would not apply with 643. What we are trying to do in 643 is anticipate some problems with the railroad lawsuit, but also pipelines and other corporations, and entities that may get in on the 4-R Act, which I do not again, with this body, anticipate that happening, but it can. The case is now in front of the Supreme Court. Senator Schmit's amendment on lines 9 through 11...

SPEAKER BARRETT: Time has expired.

SENATOR BERNARD-STEVENS: ...makes it just for the railroads only, and to that degree, I think it narrows it too much. It would be something that would not be in the best interest, though certainly not that bad either. Thank you, Mr. President.

SPEAKER BARRETT: Senator Warner, discussion, followed by Senator Schmit.

SENATOR WARNER: Well, Mr. President, members of the Legislature, I have some concern as we provide another authorization for the collection of taxes at the local level in anticipation of what a governing board might think will happen, and it seems me it puts a very difficult burden on them at least to make that kind of speculation. I was concerned about and opposed the striking of the language that only allowed it above 5 percent for the reason that existing statute, as you read it

further up on this sheet, already allowed 5 percent for delinquent taxes, obviously, but it also...in addition to 5 percent for delinquent taxes, they could use the full amount of delinquent taxes the year before coupled with the reserves that are at least statutorily authorized by various governmental subdivisions, it would seem to me that a more restrictive approach, initially, at least, and all, at least, I am aware of is the limited cases that have come so far, but I think this language could, as the bill was originally drafted, could include a great many areas. I am not sure where it could stop, and it seems to me it puts a local governing board in a very difficult position to try and anticipate all of the possible litigation and a tighter restriction for their own protection and their own guidelines. As Senator Schmit's amendment proposes, it seems to me to be a better route to go at this point, rather than broad enabling language which you could argue, at least, that a local county board for failure to anticipate could be criticized. It seems to me there ought to be some more narrow guidelines as proposed by Senator Schmit's amendment as we move into this area of allowing a county board to set a property tax levy over and above the budget requirements and delinquencies, and not put them in the position of a lot of speculation as to what may or may not occur.

SPEAKER BARRETT: Thank you. Senator Schmit.

SENATOR SCHMIT: Mr. President and members, I believe that Senator Bernard-Stevens has answered one of the most important questions, the one relative to expenditures, and I think that is an important one. I do believe, however, that Senator Warner explained very eloquently some of the concerns that have been expressed relative to the broad application. As you know, I have not supported LB 361, and I could anticipate that if the bill does not pass, or if it does pass, that there might be a number of actions filed, or at least the county board might anticipate that there might be a number of actions filed, in fact, that would either wipe out all of the taxes or a majority of the taxes on land in the various counties. And certainly I believe that without the language in my amendment that we are inviting that sort of an activity, and given the present uncertainty, the present state of chaos that exists and there is many instances, I believe, relative to land values, property values and other forms of raising revenue, I think that to add an additional degree of uncertainty by not limiting this bill is to add fuel to the fire rather than the reverse. And so

although I would have preferred the amendment without the Hall amendment, I believe we still need the amendment. I am not at all crazy about the bill, to be frank with you, but I think you do need the amendment and I think that Senator Warner gave us the reasons why we need to narrow the scope of the bill as much as possible. I understand Senator Withem's deep personal concern because it does have a major impact upon his area, but I think that the amended version with the Schmit amendment should answer his needs and should not open up the entire issue to broad debate.

SPEAKER BARRETT: Thank you. Before, again, recognizing Senator Bernard-Stevens, the Chair is pleased to announce that Senator Morrissey has some guests in the north balcony. We have 13 sixth graders from Sterling Elementary in Sterling, Nebraska with their teacher. Would you please stand and be recognized. Thank you. We are pleased that you could visit us this morning. Senator David.

SENATOR BERNARD-STEVENS: Thank you, Mr. Speaker. Again, Senator Schmit, I view this amendment, as all of your amendments, as a friendly amendment, and this one certainly is trying to narrow the scope a little bit, and in theory, I really have no problems with the amendment. I do want the body, though I may not support it, I haven't really decided yet, I do want the body I think to be up on the two different versions so that when the body does make a decision, it is a wise decision and a decision of the body, and whichever way the body wants to go, that is certainly fine with me because both would accomplish what I have been trying to do with 643. The one concern I have with the Schmit amendment and, also, and I understand what Senator Warner says and I really don't have a good argument against what Senator Warner is saying. He is making some very valid points. There are some areas there that counties might be able to estimate a tax loss and really be...open themselves to a lot of mischief I think if we are not too careful on it, and that is true. I would say, like any other body, particularly the Nebraska Legislature, when you have a lot of possibilities, there is a lot of mischief that can go on within the body and we are eventually accountable to the people that elected us, and they would have to keep that under consideration. The real difference between 643, at least for the legislative intent and the record, and the Schmit amendment, is again if the body wishes to look at the Schmit amendment, lines 8 through 11, there is where the tightening of the amendment comes, and, in

essence, what the Schmit amendment does is narrow it down to the railroad lawsuit that we now have on the 4-R Act, and that is a very limited thing, and that is fine, because, in essence, that is what I am trying to help counties be able to budget for so they do not have to have another bailout, they don't get hit again. My concern will be in the future, if for some reason another entity, such as the pipelines or what have you, are successful, the way the Schmit amendment in lines 8 and 11 are ruled is that the counties would not be able to budget for that, would not be able to do anything about that until the next following year because you have to...it is only a taxpayer who has filed a similar action in the preceding year. So the counties would not be able to, and/or school districts would not be able to budget for that and, once again, the Legislature would be in a situation of having to come up with millions of dollars in order to bail out those entities during that time period, and it was my feeling in reading the body last year that we did not want to come out with bailout money again, we did not want to fight this issue again. LB 643 as it is written would basically say to the body, we are not going to have to deal with this issue as far as the bailout ever again. We are giving some latitude to county boards who are responsible and accountable to the people that elect them, and that is to be sure, but we are giving accountability or we are giving them flexibility only in the area of tax losses, tax losses. With the pressure that is on property taxes, I can't imagine too many county boards that are going to, all of a sudden say, good Lord, look what we might be able to do on valuations and estimations, and we are really going to get that money coming in and estimating because there are two problems with that logic. Number one, the counties are going to have to increase the mill levy, which right now they are getting under tremendous pressure to keep at a minimum, not to go up, many at their maximum levies at this point. And, point two, they are assuming I think that if they do estimate and if they do have large expenditures, that they will be able to transfer those funds from that at the end of year when they say, oh, our mistake, there is no challenge. There wasn't anything pending, we are just going to use that money and slip it over there to roads and bridges. That is not going to happen, in my understanding of the counties, and, of course, please correct me if I am wrong, that is not possible to do. They may be able to carry it over. Counties are not necessarily going to be one that like to have a nice slush funds that they really can't use. So I really don't...I understand the concerns they have, I am not particularly convinced that that is reason

enough to support the Schmit amendment.

SPEAKER BARRETT: One minute.

SENATOR BERNARD-STEVENS: The LB 643, in essence, says any tax loss, tax loss, by any pending, which would be railroad lawsuit, or anticipated, which would be pipeline, and I don't know many counties that are anticipating anything at this point, but if you have a Supreme Court decision in the next couple of months, counties can anticipate that because there would be one, and that certainly is going to keep them from coming to the Legislature and asking for a bailout because we can say we gave you the latitude to budget for that; there is no need to come crying to us at this point. So at this point, I guess I would oppose...I guess I would oppose the Schmit amendment, though I understand the nature of the amendment, and certainly if it is agreed to, would still be supportive of the bill, but I would urge at this point support of the bill as it now is without the Schmit amendment. Thank you, Mr. President.

SPEAKER BARRETT: Thank you. The Chair is especially pleased to announce that we have some very special guests under our north balcony. We have two visitors from Austria, who are visiting the United States under the auspices of the International Visitor Program of the United States Information Agency. They are guests today of Nebraska State Treasurer, Frank Marsh. First, I am very pleased to introduce the Deputy Governor of the Province of Lower Austria, Mr. Erwin Proell, Doctor. Also with us this morning, the Managing Director, Banking Institution for Agricultural Cooperatives for Lower Austria and Vienna, Dr. Christian Konrad. Dr. Konrad. Along with these two visitors from Austria, we have Mr. David Edminster, the United States escort interpreter, David Edminster. Thank you, gentlemen. We are especially pleased that you could take some time to visit our Legislative Chamber. We are delighted to have you with us.

SPEAKER BARRETT: Any other discussion on the Schmit amendment? Seeing none, Senator Schmit, any closing comment?

SENATOR SCHMIT: Well, Mr. President and members, I rise here with mixed emotions because I do not know if I want to improve the bill enough so it becomes law or if I want to allow the bill not to become improved and, hopefully, it does not become law. But I want to just caution you that if you think the bill only

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

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, 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