

January 19, 1989

LB 53, 57, 662-682

SPEAKER BARRETT: Thank you. Discussion on the advancement of the bill? Anything further, Senator Weihsing, there are no lights on?

SENATOR WEIHSING: Nothing further, thank you.

SPEAKER BARRETT: Thank you. The question is then the advancement of LB 53 to E & R. Those in favor vote aye, opposed nay. Record, Mr. Clerk.

CLERK: 27 ayes, 0 nays, Mr. President, on the advancement of LB 53.

SPEAKER BARRETT: LB 53 is advanced. Anything for the record, Mr. Clerk?

CLERK: Mr. President, new bills. (Read LBs 662-682 by title for the first time. See pages 313-17 of the Legislative Journal.)

SPEAKER BARRETT: The Chair also reminds members of the body of the Lied Center tour today. Transportation is available at the south door of the Capitol, south door, Lied Center tour. Returning to General File, Mr. Clerk, LB 57.

CLERK: Mr. President, LB 57 was a bill introduced by Senator Coordsen. (Title read.) The bill was introduced on January 5, referred to Urban Affairs, advanced to General File. I have no amendments to the bill, Mr. President.

SPEAKER BARRETT: Senator Coordsen, please.

SENATOR COORDSEN: Thank you, Mr. President, members of the body, this bill last year existed in the form of a friendly amendment to a bill that later came up on consent calendar, and I subsequently withdrew the bill and introduced it this year as a...or withdrew the amendment and introduced it as a separate bill. What this bill does in the use of wheel tax funds in a city, if we remove from statute the words "or for related equipment purchases as a use of the wheel tax funds", words that were put into by the...put in statute by the bill last year. To the best of my knowledge there are four cities in the State of Nebraska that currently levy a wheel tax, none of which use those funds for purchasing of equipment up to this time. It was

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LB 77, 139, 164, 253, 291, 325, 409
448, 493, 500, 508, 663, 691, 714
722

with amendments. That's signed by Senator Coordsen. Government Committee reports LB 409 to General File; LB 508, General File; LB 722, General File; LB 139, General File with amendments; LB 164, General File with amendments; LB 663, General File with amendments; LB 253, indefinitely postponed, as is LB 291, LB 448, LB 493, LB 500, and LB 691. (See pages 1286-91 of the Legislative Journal.)

SPEAKER BARRETT: The call is raised.

CLERK: Mr. President, Senator Pirsch would like to add her name to LB 325 as co-introducer. That's all that I have, Mr. President.

SPEAKER BARRETT: Thank you. Senator Kristensen, please. Would you care to recess us.

SENATOR KRISTENSEN: Thank you, Mr. Speaker. I would move to adjourn (sic) us until this afternoon at one-thirty...recess.

SPEAKER BARRETT: I believe the motion is to recess. Thank you, Senator Kristensen.

SENATOR KRISTENSEN: No, I think I said adjourn.

SPEAKER BARRETT: Those in favor say aye. Opposed nay. Ayes have it, we are recessed until one-thirty.

RECESS

PRESIDENT NICHOL PRESIDING

PRESIDENT: Roll call, please. Record, Mr. Clerk, please.

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

PRESIDENT: Thank you. What should we do first, Mr. Clerk? Any reports or announcements?

CLERK: Yes, Mr. President, I do. Your Committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 77 and recommend that same be placed on Select File; LB 714 on Select File, both of those having been signed by

it's going to cost us a lot of money to house our population that has been judged to be criminal population. And if we don't come up with a better system than we now have to prevent some of that, we're going to probably stand here five years or 10 years from now and build more and I sure don't want to have to do that. Maybe I won't be here that long but I don't want to have my predecessor (sic) have to do that either. And so I guess I would stand more or less to say this seems to me to be an unpleasant necessity at this point. I have not seen a better alternative that can be implemented quickly enough that would...that would prevent either the possibility of a prisoner lawsuit or prevent the possibility of some kind of federal court order but I sure don't like my lack of options. And we also, I think as individual legislators, have to take some responsibility for where we are right now because we define what criminal behavior is and we have passed plenty of laws that, in fact, make sentences mandatory at certain levels and so we are part of the problem. It is not a simple problem to address. There's probably nothing any more complex than the whole system that relates to criminal behavior and the prevention of that and I guess I'm standing here to say I know we have to do this but let's also keep in mind that perhaps some of the other kinds of things that we look at that will be brought before us, if not this year, perhaps next year, might have something to do with preventing criminal behavior. We all know that there's a lot of relationships between child abuse. We all know there a lot of relationships between drug and alcohol abuse and generally bad family situations and so on. And so I would hope that we would gamble a little money on maybe some of those preventive programs so that perhaps some of us five years, 10 years from now won't be standing here worrying about this and perhaps also explore the possibilities of more community based corrections and some of the alternatives that are out there. It alarmed me, frankly, a couple of weeks ago, I think it was, in the Omaha World-Herald and one of the big stories was the need to expand not only adult facilities but we have a growing juvenile population out there as well and we're going to have to take that on. We have a bill out there, LB 663, that I think is a positive step in that direction. But I guess I just want to take this opportunity to lobby just a little bit for saying, yeah, I know we've got to do this because I don't see an alternative and I don't like doing it very much but, for Pete's sake, let's, as a body, start taking a look at a subject that none of us really want to look at very bad and see if there are some preventive kinds of measures and some preventive kinds of investments we can make so

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LB 143, 663, 678
LR 248

PRESIDENT: Thank you. Senator Lamb, please.

SENATOR LAMB: Yes, Mr. President, and members, I am pleased to endorse this resolution for Marge Hardy. She lives about a mile and a half east of Seneca. Seneca is between Thedford and Mullen, up in the sandhills, and, as Senator Rogers said, it is a long way from a hospital. Since the hospital in Mullen has closed, those people are in dire straits as far as medical care is concerned, and EMT are their only source of medical assistance in emergencies. It is 70 miles to the nearest hospital and Marge should certainly be commended for her part in trying her best to keep medical services in that area.

PRESIDENT: Thank you. The question is the adoption of resolution, LR 248. All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 25 ayes, 0 nays, Mr. President, on adoption of LR 248.

PRESIDENT: LR 248 is adopted. We are going to skip LB 663 and LB 143, pending the arrival of Senator Baack and go to LB 678.

CLERK: Mr. President, 678, the first item I have are Enrollment and Review amendments.

PRESIDENT: Senator Wesely, do you want to handle these E & R?

CLERK: E & R amendments, Senator.

PRESIDENT: Please.

SENATOR WESELY: I move the E & R amendments, please.

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

CLERK: Mr. President, Senator Smith would move to amend. Senator, I have your AM2188.

PRESIDENT: Senator Smith, please.

CLERK: It is on page 480 of the Journal. This is the one you gave me the other day, Senator, not this morning.

SENATOR SMITH: Yes, thank you. Mr. President, and members of

PRESIDENT: You've heard the motion. All in favor say aye. Opposed nay. They are adopted. Any...nothing further on the bill?

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

PRESIDENT: Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move that LB 678A be advanced to E & R for Engrossment.

PRESIDENT: You've heard the motion. All in favor say aye. Opposed nay. It is advanced. We'll move on back to LB 663.

CLERK: Mr. President, 663 is on General File. It was a bill introduced by Senator Scofield and a number of members. (Read title.) The bill was introduced on January 19 last year, Mr. President. At that time referred to the Government, Military and Veterans Affairs Committee. The bill was advanced to General File. I do have committee amendments pending by the Government, Military and Veterans Affairs Committee.

PRESIDENT: Senator Baack, are you handling those?

SENATOR BAACK: (Mike not on.) ...and colleagues, I will handle the committee amendments. It will be rather easy to do because, after reviewing the amendment that is going to be offered by Senator Scofield in a few minutes, I find that all of the concerns that the committee had with the bill will be cleaned up in Senator Scofield's amendment. It gives a...it really rewrites the whole bill, is what it does, and I think it would be much easier if we would simply reject the committee amendments right now and then we would deal with Senator Scofield's amendment coming up because she does deal with the concerns that the committee had and so I think that's the method that we ought to take. Thank you.

PRESIDENT: So the question is, shall the committee amendments be adopted? And Senator Baack has recommended that you vote against that, so all in favor of adopting the committee amendments vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 0 ayes, 16 nays, Mr. President, on adoption of the committee amendments.

PRESIDENT: The committee amendments are rejected.

CLERK: Senator, do you want to...?

PRESIDENT: Senator Scofield.

CLERK: Do you want to offer your amendment, Senator, or do you want to...?

SENATOR SCOFIELD: Yes.

CLERK: Mr. President, Senator Scofield would move to amend the bill. Senator, I have AM2210 in front of me. (Scofield amendment appears on pages 551-52 of the Legislative Journal.)

PRESIDENT: Senator Scofield. Are you going to take the amendments first? Is that the idea?

SENATOR SCOFIELD: Yes.

PRESIDENT: All right, thank you.

SENATOR SCOFIELD: Thank you, Mr. President. You have before you a copy of AM2210 that was distributed within the last hour for you and there is also, on top of that, a two-page memo titled "LB 663: Juvenile Services Act", white copy amendment. We thought it would be easier for you to follow it through if we just did the whole thing as a white copy so you had one piece that you could follow through. Let me walk through with you, first, the intent of the bill, and then what the amendments do to the bill. The history of this bill is actually quite lengthy and grows out of the passage of the 1974 Juvenile Justice Delinquency and Prevention Act which all of us are familiar with in terms of the kinds of pressures it has placed on our local entities of government to try to comply with this law and to not illegally jail juveniles. But beyond that, the intent of the act was to create an array of services not only to deal with serious juvenile offenders who perhaps need a secure detention, but also to recognize that on the front end of that is a major problem in terms of juvenile crime that if you put into place effective prevention and early intervention programs, that perhaps we can cut the crime rate, that perhaps we can make a difference. The basis of the bill is a belief that only communities know what their priorities can be. We see across this state a whole array of problems with juveniles. Some

communities have more of a problem with runaways. On the other hand, a city like Omaha has had a major amount of problems with drug and gang-related activity. So the philosophy of the bill is we need a state and local partnership to address this problem and we're going to put into place a system to provide grants to community-based organizations or agencies to help them develop and implement a system of juvenile services which could start at the low end of the continuum and offer preventive services on up to the high end of the continuum to where you get into the nonsecure and secure detention. That is the community's choice. Community here is designed to be flexible enough to be, if you're an urban community like Omaha, the definition of community here could actually be one neighborhood in Omaha could come in and apply for this or the whole city could. That is left up to that area. We are trying, on the other hand, to recognize in rural areas, such as where I'm from, that it's probably unrealistic for any one community alone to take on a problem of this magnitude and so, within the guidelines of this program that are laid out, we put in encouragement, in fact, direction to the granting entity that priority would be given to regional cooperative kinds of proposals. So basically that community, however they define themselves, brings the grant in and says, here's what we think our priority is to deal with juvenile crime problems, we propose this, and it goes through the granting process. They could do anything ranging from a shelter care for runaways; they could do group home programs for status offenders. They might decide they need to do more intensive probation to keep juveniles out of jail. They might do delinquency prevention work in schools. They might do drug abuse prevention. They might decide our biggest problem is secure detention. Again, that has to be determined by the community. So we try here in this bill to encourage and help finance the creation of these kinds of services and our goal is to have a minimum system of services in every community or region to address sometimes the very different needs of juveniles who get in trouble because, obviously, you treat a status offender a lot differently than you do some of the other kinds of youth that get in trouble with the law. The major changes from the green copy, if you happen to flip open the fiscal note that's in your book, I would encourage you to disregard that at this point. For one thing, I think the numbers are still incorrect and the other thing, originally the bill, well, the committee amendments struck some responsibilities in there to charge the counties for placing children in Geneva or Kearney and we are not pursuing that. In

fact, we are striking that provision and I think that was the major objection to the bill. So the amendments in the white copy do not contain that controversial section. The other major changes from the original green copy of the bill places the administration of this program under Probation rather than the Crime Commission. Why Probation? It seemed to us, after visiting with judges who have the primary responsibility, of course, of determining where these young people go, that this more closely ties this continuum of services to the courts and the services provided could be more adequately provided by Probation without building another whole direct service entity out there in the field, particularly when you get in the areas of intensive probation and diversion. It seemed to us the judges were comfortable with Probation because of the tie to the court and the court is the one using these services and it just seemed to be a logical move to make. We did eliminate a requirement for a Local Juvenile Services Commission. We had originally set up this commission and said you need to have a whole range of community representatives on the commission, again, recognizing that most of the people you're going to want on this are very busy people. If you're in a rural area, they sometimes are some distance apart, very, very difficult to bring those folks together. And so, to substitute for that language, we simply said you have to demonstrate you have interdisciplinary community-wide support and that can be done by providing letters or resolutions or whatever. Our main objection here is we don't want anybody going off and doing his or her own thing. It has to be a community driven effort with people in the community behind it. There's also a change in applicant. The original version of the bill required the county to apply for the grant with the local juvenile services commission preparing the plan and when we eliminated those local juvenile services commissions, we had to make it possible for some entity other than the county to make an application. So now other eligible applicants could be any community-based organization or agency, a community team, a political subdivision, a school district or a federally-recognized or state-recognized Indian team. I think that probably, again, makes the bill more flexible and more adaptable to what is, in fact, a very diverse state. And, finally, we created an Advisory Committee to Probation, referred to as the Juvenile Services Grant Committee for the purposes of reviewing grant applications and making recommendations to the Probation Administrator. The committee would also set standards for programs and would serve as a mechanism for coordinating the

Juvenile Services Act with other programs and services for children and families administered by the various state agencies. This is a rather large group of people, it's 19 designated in the bill, but after we talked to the people involved, many of them are state agency people and I guess it illustrates the complexity of these kinds of issues that you need to bring in, state agency people involved, and also county officials were interested in being included. Obviously, the judges are interested in being included in this so, even though it seems like a rather large group, I think to really make this work and to make this the kind of cooperative effort among agencies and to be fair to the state level as well as the local level you need that number of people entering into this kind of program to really make it work. With that explanation, I would be happy to try to respond to questions, and if there are no questions, I would simply move the adoption of the amendments. The amendments that you have before you become the bill. Thank you.

PRESIDENT: Thank you. Senator Baack, please, followed by Senator Chizek.

SENATOR BAACK: Yes, Mr. President and colleagues, I do have one question for Senator Scofield.

PRESIDENT: Senator Scofield, please.

SENATOR BAACK: In one of the areas you talk about providing grants to community-based organizations. I know that one of the discussions that we had in committee was, would this include nonprofit kind of organizations within a community?

SENATOR SCOFIELD: It does now, Senator Baack, it didn't originally.

SENATOR BAACK: Right, right. That was one of the concerns that the committee had and I just wanted to make that sure that that was on the record, that it does include nonprofit organizations. I think that Senator Scofield has done a tremendous job in writing this bill. I think it is something that we need to be looking at very, very carefully and something that we need to pass because anything that you read on dealing with juveniles and the successful programs that you find across the country, these programs are the community-based kind of programs around this country. Those are the successful ones and I think she has

done an excellent job in writing up this proposal. I think we could see some really good programs develop across this state and give us some options for dealing with juvenile justice, so I would encourage the adoption of this amendment and then the advancement of the bill. Thank you.

PRESIDENT: Mr. Clerk, we have an amendment to the amendment.

ASSISTANT CLERK: Yes, Mr. President, Senator Lindsay would move to amend the Scofield amendment. (Lindsay amendment appears on page 552 of the Legislative Journal.)

PRESIDENT: Thank you. Senator Lindsay, please.

SENATOR LINDSAY: Thank you, Mr. President, members of the body, the amendment I've offered to the amendments is found at line 3, excuse me, page 3, in lines 11, 21 and 18, and the purpose of it is in each of those Sections A, C, and D to add the terminology "whenever the best interests of the juvenile require it", rather than making it or having it "whenever possible". Section A, or subsection (a) right now reads that preservation of the family unit, whenever possible, is desirable. I don't know that that is good policy. I think preservation of the family unit, whenever the best interests of the juvenile requires it, that might be good policy. Same thing in Section C, that act of family participation in whatever treatment is afforded a juvenile, rather than mandating that by having a finding, let's keep that at the best interests of the juvenile. I think that's what the purpose or I would hope the purpose of the bill is, in the first place. And the same thing in subsection (d), that treatment in the community rather than commitment to the youth development centers, again it's whenever possible. I think it should be whenever the best interests of the juvenile require it. I think we can't get away from the age-old theory that the best interests of the children in a situation like this just has to be paramount and to bring in, just make it whatever is possible, I think opens up the door and may change the standard inadvertently and I would hate to see that happen. I would urge the adoption of the amendment to the amendment.

PRESIDENT: Thank you. Senator Nelson, did you wish to talk about the amendment to the amendment or the amendment?

SENATOR NELSON: I guess I'll take to chance both, and I hope that we...first of all, I want to really commend Senator

Scotfield for all the work that she's done. I'm not going to take a lot of time. All of you could hear and all of you can read. Last year when most of you know I presented my bill that would have allowed for the construction or the utilization of two juvenile detention centers. We still have that very severe problem in some regions in central Nebraska excepting the Kearney Youth Development Center and that's not...they won't take juveniles that come under the juvenile detention prevention program and it could be that there is a possibility that with LB 663 that some of that could be worked out now. I also agree with Senator Lindsay very much in adding the words, "the best interests of the juvenile". Sometimes it's not the best interests of the juvenile to put them back in the family unit. In fact, lots of times it isn't and that has always been one even reservation that I had about the bill, so I think Senator Lindsay has made a good point there and, first of all, it's the kids that we must think of. I am, as some of you also know, working with the alcohol, the drug abuse of the juveniles for treatment for them for a bill that is coming up that I've introduced this session and it's just unbelievable what I am finding on the problems of the juveniles that cannot get help and are really crying for help but there is no affordable help out there, so I do support Senator Lindsay and I also want to support Senator Scotfield.

PRESIDENT: Thank you. Senator Scotfield, on the amendment to the amendment.

SENATOR SCOTFIELD: Thank you, Mr. President. I simply rise to support this amendment and, thank you, Senator Lindsay, for reading this amendment carefully and catching that. It is a definite improvement in the language and I think we've been so obsessed lately with trying to get the nuts and bolts working right with this that we, frankly, probably would have thought of changing that in view of the changes we offered last time on a bill relating to the Family Policy Act, so that we send a clear message to agencies involved in this that, first and foremost, it is the interest of the child or the juvenile, so your language definitely improves this and I thank you for bringing it.

PRESIDENT: Thank you. Senator Lindsay, would you like to close on your amendment? The question is the adoption of the Lindsay amendment to the Scotfield amendment. All those in favor vote aye, opposed nay. Record, Mr. Clerk.

CLERK: 24 ayes, 0 nays, Mr. President, on adoption of Senator Lindsay's amendment to the Scofield amendment.

PRESIDENT: The Lindsay amendment is adopted. Do you have any other amendments to the amendment, Mr. Clerk? We're back to the committee amendments. Senator Chizek, on the committee amendments.

SENATOR CHIZEK: Would Senator Scofield yield to a question?

PRESIDENT: Senator Scofield, please.

SENATOR SCOFIELD: Yes.

SENATOR CHIZEK: On page 5, line 16, an identification of the geographic area to be served by the proposed program and the target population to be served. In the event you have, two, three, four or more counties that go together, as has been discussed, would that be one geographic area or would, if five counties are together, would each one of those be able to apply for grants or would the target area have to apply for those?

SENATOR SCOFIELD: The intent here would be to encourage rural counties, in particular, to come in and apply as a region and, in fact, the intent would be for the granting entity to take a look at that and recognize, for instance, if one of my small communities, say 1,500 people, comes in with this ambitious proposal, it's clear that they can't carry it off and so the intent here is to encourage those kinds of communities to come in together and it would be a self-defined geographic area, but if they are...if they limit their geographic area to say, 1,500 people, you and I both know that simply is unrealistic and so the encouragement is in here to ask them to come in and say we're four or five counties together, we are applying for one grant and, obviously, they would have a much better chance of being funded than say one very small area coming in with a very specific interest. On the other hand, an urban area like Omaha, where you might have one neighborhood, that's probably a large enough population base that you could justify a neighborhood perhaps coming in if you had a particular set of problems.

SENATOR CHIZEK: And on the make-up, Senator, of the committee, I noticed three, four, it's identified in the amendment that four county officials will be on the committee. Is that

correct?

SENATOR SCOFIELD: That is that...

SENATOR CHIZEK: The executive director...

SENATOR SCOFIELD: Right.

SENATOR CHIZEK: ...and three elected county officials, so there are four county officials?

SENATOR SCOFIELD: That's the 19-member juvenile services grant committee and you have three county officials...yes, I guess you're right, Senator, that would be four. I can count them. There are four.

SENATOR CHIZEK: Yeah, we maybe ought to look at that a little down the line or everybody is going to be subjected to some criticism.

SENATOR SCOFIELD: I don't have a problem with taking a look at that, the make-up of that committee and would be happy to discuss that on Select as I did have some concerns about the number and if you've got some ideas on that, I'd be happy to pursue that with you.

SENATOR CHIZEK: Just one other question, Senator. Do you believe that, and you and I have discussed this and I think we should have it on the record, do you believe Nebraska right now is bound by the act?

SENATOR SCOFIELD: I have talked to a good many people on that, Senator Chizek, and I guess I'd have to say, in all honesty, it depends on who you talk to.

SENATOR CHIZEK: I'm not...I don't think we are because the only thing I can find is a resolution that Senator Wesely had. It came in in the eleventh hour when Governor Thone was here and that's all I've been able to find, and I'm not sure at this present time we're covered.

SENATOR SCOFIELD: May I respond? May I use your time?

SENATOR CHIZEK: Yes.

SENATOR SCOFIELD: I think one of the gray areas that happens here is, as I understand the act, it took the Governor to get us into this and once we started accepting funds, it would appear that should we get out of this act that we have an obligation perhaps to return those funds and so the resolution that the Legislature passed was kind of a secondary motion in terms of that.

SENATOR CHIZEK: For the benefit of...it was LR 11 in 1981. I'd yield what remaining time I have to Senator Nelson.

PRESIDENT: Senator Nelson, one minute.

SENATOR NELSON: (Mike not on.) ...Senator Scofield, and I got very heavily involved in this also in the Juvenile Detention Act and so on, and I am also no attorney but from what I could determine that we're not obligated and so what if we are? What are they going to do about it? So, I have to agree with Senator Chizek on that, that we are not necessarily bound under the terms of that act.

PRESIDENT: Thank you. Senator Langford, you're next, but may I introduce a guest, please, of Senator Kristensen. Under the north balcony, he has Jim Glen of Minden, Nebraska. Jim, would you please stand and be recognized. Thank you, Jim, for visiting us today. Senator Langford, please. Senator Nelson, please, followed by Senator Scofield.

SENATOR NELSON: I...what do you want me to do? All right, probably so, I guess, so this time I won't accuse him of turning my button on. Pass me.

PRESIDENT: Senator Scofield, please.

SENATOR SCOFIELD: If I could, Mr. President, I'd like to respond just a little bit more about the concern Senator Chizek has raised about this act, and are we bound by it. I have talked to at least one judge in this state who maintains that we are not and he has been in contact with the State of Wisconsin, believing that, in fact, they managed to get out of it once they got in it, but I think that's a very gray area and I guess, at this point, I'm not so sure but what given the direction the federal government seems to be taking, that we're in, and we would have a very difficult time of getting out and should we get out would be very, very expensive to do so. So I question

whether we, in fact, I guess...I've told people if you can bring me some evidence maybe that we can get out, we ought to look at it because any time I can avoid unnecessary federal control I do. But, at this point, I'm not at all convinced of that argument. I would further add, given this bill and the way we've approached it, that this is still good policy regardless of whether it is driven by a federal act or not. If you look at the problem we have right now with overcrowding at Kearney, overcrowding, potentially overcrowding at Geneva in terms of cost and even if we fulfill the request this year to expand Kearney, it doesn't seem to solve anything with the revolving door problems that we have out there. Add to that the number of people that are being sentenced to our penal institutions and the budgetary impact of continuing to build those, it seems to me that anything we can do to reduce the likelihood of people ending up in correctional institutions is worth a try and I think that if you look at experiences with other states who have done something similar to this that is has not only been in the best interests of young people, which I think is the first priority of all of us in here, but it has also been more cost effective. I would cite, for instance, the State of Massachusetts where they enacted reforms similar to this bill and the cost per year of a juvenile in alternative programs like this in Massachusetts has ranged somewhere in the neighborhood of 9,000 to \$15,000 per juvenile. If you look at the cost per juvenile per year in Nebraska right now, at Kearney it's \$21,375, at Geneva it's 29,921 so if this plan works, as it has in Massachusetts, I think we can legitimately argue that maybe even if this was motivated originally by a federal piece of legislation, that this is good policy and has very good potential to provide judges with alternatives where they all say they need them and greatly cut the cost of dealing with this juvenile problem we have in the state. It's my opinion that if Nebraska sets up these kinds of programs, our costs should be lower per juvenile and we should have a lot better programs for juveniles. So I'm not sure it's in our best interests to get out anyway, but I don't think that's a clear cut black and white answer that we even can. As I understand it, it was the Governor's initiative that got us in and we passed a resolution as a Legislature, but I don't think that was really the determining factor.

PRESIDENT: Thank you. Senator Langford, please.

SENATOR LANGFORD: Mr. President, I'd like to ask Senator

Scotfield a couple of questions, please.

PRESIDENT: Senator Scotfield, please.

SENATOR LANGFORD: Sandy, what money are you planning to use for this program?

SENATOR SCOTFIELD: Right now, Senator Langford, I'm proposing, for today anyway, that we should think about can we find \$600,000 to do this program, and you're on Appropriations with me, you know what we're facing. It might be necessary to consider lowering that amount, but for today that's what I'm going to recommend the A bill consist of. The way we arrived at that figure is we have 20 probation districts in the state. We picked a \$25,000 figure for those probation districts which gives you the \$500,000 figure and the additional money is a bit of administrative money so that probation administrators' office can hire another person. They are already heavily overburdened and I think they really need the help, and some operating expenses of the commission, so that's how we get the figure. It's within the hands of this Legislature to decide that if we find ourselves in a budgetary bind, maybe we can't do that much this year.

SENATOR LANGFORD: Well, the \$600,000 then is General Funds.

SENATOR SCOTFIELD: Yes, it is.

SENATOR LANGFORD: But what funds are you going to use for the projects within the state?

SENATOR SCOTFIELD: Of that 600,000, 500,000 actually goes out to the communities. In addition to that, we have the ongoing federal funds that come into the state which is about a \$300,000 figure.

SENATOR LANGFORD: Well, aren't those already committed?

SENATOR SCOTFIELD: They are reappropriated in the granting cycle, so, no, not in the future.

SENATOR LANGFORD: You're planning to use then 300,000 of the Crime Commission Funds?

SENATOR SCOTFIELD: Those...yes. In fact, we require, this bill

requires that the Crime Commission Coordinate whatever they do in their current system with this new injection of funding so that we don't end up with a lot of duplicative programs.

SENATOR LANGFORD: The bill requires the Crime Commission then to take into account the things that this bill requires before they fund the other things they've been funding.

PRESIDENT: Excuse me, ladies, may I interrupt just a minute? Senator Langford, would you please speak into your microphone, we're having difficulty hearing so...

SENATOR LANGFORD: Oh, I'm sorry. I just asked if the funding for this bill that comes from the Crime Commission must go first before the other things that they fund?

SENATOR SCOFIELD: Would you like me to respond, Senator Langford?

SENATOR LANGFORD: Yeah.

SENATOR SCOFIELD: What we require in the bill is for a Crime Commission to coordinate with this new General Fund money so that there isn't duplication and so there isn't essentially two agendas being run out there and we also put a Crime Commission representative on that body that governs all of this. And our real goal here is to make sure that all entities involved in juvenile crime, juvenile justice issues that are involved in these decisions and that we have a fully coordinated system.

SENATOR LANGFORD: Well, who coordinates these 19 people? I couldn't find it in the bill but, of course, we just got it so I don't know.

SENATOR SCOFIELD: Let me cite the pages here of who all is on this, in fact, I'll be glad to run down the list.

SENATOR LANGFORD: That I can find. All I can't find is who is supposed to coordinate these 19 people?

SENATOR SCOFIELD: There is a...that's that new position in the Probation Administrator's Office that will be responsible for the coordination of this project.

SENATOR LANGFORD: Under the Probation Department?

SENATOR SCOFIELD: Right.

SENATOR LANGFORD: Well, that's pretty good sense.

SENATOR SCOFIELD: Thank you.

SENATOR LANGFORD: You're welcome.

PRESIDENT: Thank you. Senator...we have a motion, I understand. Mr. Clerk.

CLERK: Mr. President, Senator Lindsay would move to amend Senator Scofield's amendment. (Lindsay amendment appears on page 552 of the Legislative Journal.)

PRESIDENT: Senator Lindsay, please.

SENATOR LINDSAY: Thank you, Mr. President, members of the body. This amendment will, on page 4, beginning with line 8, strike the language "and the requirements of the Federal Juvenile Justice Delinquency Prevention Act of 1974 as amended." The reason for that, there has been some banter between Senator Chizek and Senator Scofield about whether Nebraska is already in under the terms of that federal act or not. What this amendment is designed to do is to force that issue just, at least take that out, or it's designed to take that out so that the bill can stand on its own without inadvertently again binding us into a federal legislation which may require quite a bit of financial outlay on the part of the state. Senator Scofield has mentioned the state may be in it right now. There are those who say that the state is not bound by it right now. What this portion of the bill would do is to eliminate that question and I think, by putting it into statute, I think it would bind the state and would bring the state within the terms of that federal provision. So the intent here is to take us out, or at least not take us out, but to take out of the bill any possible...possibly bringing the state underneath that federal program. I think to bring us under that is an issue of its own and I think should be debated on its own. By taking this out, I think we can remove the bill from that type of an uncertainty. I'd urge the adoption of the amendment.

PRESIDENT: Thank you. Senator Chizek, please.

SENATOR CHIZEK: Well, I would just support the amendment. There's been a...this is...I've talked to Senator Scofield numerous times about this and I've questioned at hearings in Grand Island and that whether we were bound by it. Now we've got the amendment doing a lot of the things that are required, but I'm not so sure that we need to specifically talk about the federal act because once that's there we're bound forever in terms of what they require and what they don't require and I think Senator Lindsay is right. I think, as we go on, the potential is there for substantially increased cost and I think we should support Senator Lindsay's amendment.

PRESIDENT: Thank you. Senator Scofield.

SENATOR SCOFIELD: Thank you, Mr. President. I'm going to support Senator Lindsay's amendment in the off chance that it makes a difference. I'm not convinced that it does, but it is not significant one way or the other to implementing the bill and if it, in fact, would happen to serve the purposes down the road that Senator Lindsay is pointing to, I certainly have no objection to that. Maybe debating is the wrong word, but I think, frankly, when the resolution was passed in '81 and we started accepting the money that we're pretty well in it. The good news about this piece of legislation is, is I think, in addition to being good policy, implementing these programs makes it less likely that Nebraska would find it in the...find itself in the uncomfortable position of an Iowa, say, or some other states that have been sued under the Federal Juvenile Justice and Delinquency Prevention Act. So I think if we get this in place, that puts in a better system for our juveniles in the state, eliminates the possibility of some public service entity coming in and suing us and I don't think that the presence of that language is important one way or the other and I would support your amendment.

PRESIDENT: Thank you. Senator Nelson, please.

SENATOR NELSON: You know, Senator Scofield touched on a point that Senator Chizek and I, particularly stuck in my mind from our hearings and meetings in Grand Island and I think it was from the Crime Commission that if we didn't go along with the provisions of the Juvenile Justice Act, of which, incidentally, in general I do support and I think that in the long run the state would be a mistake if we didn't. But if we're absolutely, legally have to, I don't think we do, but on the other hand,

Senator Scofield and Senator Chizek will remember this comment that if we didn't accept the provisions of the Juvenile Justice Prevention Act, that that agency would then give that money to other agencies to work against us and that one really raised my eyebrow and I really haven't forgotten it. In fact, I went back over the testimony to hear that...if I heard right and I think, Senator Chizek, if you'd want to...do you want to expand on that same thing? If you want any of my time, we had some concerns about that. Thank you.

PRESIDENT: Thank you. Senator Lindsay, would you like to close on your amendment to the Scofield amendment?

SENATOR LINDSAY: Thank you, Mr. President. The intent of the amendment is to remove the question that, something that lawyers can hang their hats on when they try to argue that the state is or is not under this and it is intended to allow the bill to stand on its own so we can debate the policy of the bill rather than the question of whether this does or does not bring us under a federal act. The intent of the amendment is also to create the legislative history that by whatever the Legislature may do as this bill progresses, if the Legislature passes this bill, it is not evidencing an intent to be bound by the JJDP. Senator Scofield may be right, we may already be bound by it through the resolution passed 10 years ago. It is my thought that we should brought under those acts rather by statute and at least by removing this language it may or may not make a difference to a court if the question is brought before a court, but at least it shows that the Legislature did not intend to bind itself into bringing itself under this federal program by passing this legislation. It removes that question, does create that legislative history. What effect it will have, it obviously can't, I don't think, have any retroactive effect, but it can certainly have prospective effect. So, with that, I would urge the adoption since Senator Bernard-Stevens has motioned me along, and since he is, of course, the master of concise statements, I'll close and urge the adoption of the amendment.

PRESIDENT: The question is the adoption of the Lindsay amendment to the Scofield amendment. All in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 13 ayes, 0 nays, Mr. President, on adoption of the amendment to the amendment.

PRESIDENT: The Lindsay amendment is adopted. Back to the Scofield amendment. Senator Scofield, would you like to close?

SENATOR SCOFIELD: I don't think I need to. I think that if people understand simply that we're putting into place this grant program that communities, however they define themselves, can come in and apply for this and that our intention is to create a comprehensive array of juvenile services here and that we put the mechanics into place here under the Probation Department to do so, that's generally what the bill does. And once you've adopted this amendment, that is the bill, so I would urge the adoption of the amendment and then urge you to move the bill. Thank you.

PRESIDENT: Thank you. The question is the adoption of the Scofield amendment. All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

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

PRESIDENT: The Scofield amendments have been adopted. Senator Scofield, on the advancement of the bill.

SENATOR SCOFIELD: Thank you, Mr. President, as I mentioned earlier, these amendments become the bill. I would move the advancement of the bill to E & R.

PRESIDENT: Any discussion? If not, the question is the advancement of the bill. All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 27 ayes, 0 nays, Mr. President, on the advancement of LB 663.

PRESIDENT: LB 663 is advanced. Anything for the good of the cause, Mr. Clerk? If not, we'll do that in a little bit. Ladies and gentlemen, we're going to be going to Select File with six bills that have nothing on them and advance those perhaps. First, Mr. Clerk, LB 37.

CLERK: Senator, I have Enrollment and Review amendments pending to LB 37.

January 31, 1990

LB 81, 83, 117, 663, 718, 862, 936
972, 1033, 1037, 1135
LR 8

SPEAKER BARRETT PRESIDING

SPEAKER BARRETT: Ladies and gentlemen, welcome to the George W. Norris Legislative Chamber for the opening prayer today by Pastor Jerry Leever, our chaplain of the day. Pastor Leever is from Belmont Baptist Church here in Lincoln. Pastor Leever.

PASTOR LEEVER: (Prayer offered.)

SPEAKER BARRETT: Thank you very much, Pastor Leever. Please come back again. Roll call.

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

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

CLERK: Mr. President, no corrections this morning.

SPEAKER BARRETT: Any reports, any announcements, any messages?

CLERK: Mr. President, your Committee on Education, whose Chair is Senator Withem, reports LB 1037 to General File, that's signed by Senator Withem. Business and Labor Committee, whose Chair is Senator Coordsen, reports LB 1135 as indefinitely postponed, that's signed by Senator Coordsen as Chair. Agriculture Committee, whose Chair is Senator Rod Johnson, reports LB 972 to General File; LB 83 as indefinitely postponed; LB 117, indefinitely postponed; and LB 718 as indefinitely postponed, those signed by Senator Johnson as Chair of the Agriculture Committee. Education Committee reports LB 1033 to General File with amendments, that is signed by Senator Withem as Chair. And General Affairs Committee, whose Chair is Senator Smith, reports LB 862 and LB 936 to General File with committee amendments attached, those signed by Senator Smith. Enrollment and Review reports LB 663 to Select File with E & R amendments, Mr. President. An announcement that Senator Korshoj has selected LB 81 as his priority bill. Notice of hearing by the Agriculture Committee for Tuesday, February 6. And finally, Mr. President, a report from the Employees Retirement System that's filed pursuant to statute. That's all that I have, Mr. President. (See pages 583-90 of the Legislative Journal.)

SPEAKER BARRETT: Thank you. Moving to Select File, Mr. Clerk, LR 8CA. Will you bring us up to date.

February 6, 1990

LB 164, 663, 742, 1059, 1064, 1140, 1238
LR 251

personnel please leave the floor. Senator Lamb, Senator Abboud, Senator Morrissey, please. Senator Moore, the house is under call. Senator Goodrich, please report your presence. Senator Schmit, please check in. Senator Goodrich, please. Senators Chambers and Moore, the house is under call. Senator Moore, would you check in, please. May we proceed, Senator Wesely? A request for a roll call vote in reverse order and the question is the Wesely amendment to LB 742. Mr. Clerk, proceed.

CLERK: (Read roll call vote. See pages 681-82 of the Legislative Journal.) 15 ayes, 17 nays, Mr. President.

SPEAKER BARRETT: Motion fails. Anything for the record? The call is raised.

CLERK: Mr. President, priority bill designation by Senator Wesely for the Health Committee, LB 1064.

Mr. President, new resolution offered by the LR 232 Special Committee. It is signed by Senators Schmit, Baack and Lynch. (Read brief description of LR 251CA. See pages 682-84 of the Legislative Journal.) That will be referred to Reference Committee.

Mr. President, Senator Withem would like to add his name to LB 1140; Senator Dierks to LB 1238, Senator Dierks to LB 1059 and Senator Beck to LB 164. (See page 684 of the Legislative Journal.)

Mr. President, Senator Scofield has amendments to be printed to LB 663. (See pages 684-85 of the Legislative Journal.) That's all that I have, Mr. President.

SPEAKER BARRETT: Thank you. Senator Landis, your light is on.

SENATOR LANDIS: Let ask what's on the...the board reveals that there is an amendment. Is there an amendment for the body...

SPEAKER BARRETT: No.

SENATOR LANDIS: It's just the bill, right? Let me take just...

CLERK: I have an amendment to the bill.

SPEAKER BARRETT: I'm sorry, we're between amendments.

SPEAKER BARRETT: Any discussion? If not, shall the A bill be advanced? Those in favor say aye. Opposed no. Carried, the bill is advanced. LB 663, Mr. Clerk.

CLERK: Mr. President, the first item on 663 are Enrollment and Review amendments.

SPEAKER BARRETT: The Chair recognizes Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move the adoption of the E & R amendments to LB 663.

SPEAKER BARRETT: Any discussion? The question is the adoption of the E & R amendments. Those in favor say aye. Opposed no. Ayes have it, motion carried, they are adopted.

CLERK: Mr. President, Senator Scofield would move to amend the bill, and that amendment is on page 684 of the Journal.

SPEAKER BARRETT: Senator Baack, will you be handling the amendments?

SENATOR BAACK: Yes, Mr. Speaker and colleagues, I will handle the amendment for Senator Scofield since she is excused. The amendment that Senator Scofield offers is one that is purely technical in nature. It only tries to clear up the language that's in the bill. I think that if you will look at the amendment you will find that on page 3, line 24, the language says, "are not eligible for". This is not real clear so better language is inserted and it says, "do not require" and that clears it up. The second part of the amendment is there is a place in the bill, on page 8, line 13, where it talks about programs. This also adds the word "or services" and further clarifies that if people are confused as to whether there is a difference between program and services, this further clarifies that. The other...another one is that status offenders said that they will be replaced in nonrestrictive kind of services instead of just providing...for providing of services for status offenders. And the final one, there was some confusion as in the...on page 1, line 7, there was some confusion about eligible applicants. That word is changed to "communities" to better define who is eligible to apply for these and who is an eligible applicant. And with that, I would just urge the adoption of Senator Scofield's amendment.

February 7, 1990

LB 350, 663

SPEAKER BARRETT: Thank you. Any discussion? Anything further, Senator Baack? Thank you. The question is the adoption of the amendment to 663 as explained by Senator Baack. All in favor vote aye, opposed nay. Voting on the amendment to 663. Have you all voted? Have you all voted? Please record.

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

SPEAKER BARRETT: The amendment is adopted.

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

SPEAKER BARRETT: The Chairman of the E & R Committee, Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move that LB 663 as amended be advanced to E & R for engrossing.

SPEAKER BARRETT: The question is the advancement of 663 to E & R engrossing. All in favor say aye. Opposed no. Carried, the bill is advanced. LB 369. We'll momentarily pass over LB 369 and proceed to LB 350, Mr. Clerk.

CLERK: Mr. President, 350, I have Enrollment and Review amendments, Senator.

SPEAKER BARRETT: Chairman Lindsay.

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

SPEAKER BARRETT: The question is the adoption of the E & R amendments. All in favor say aye. Opposed no. Carried, they are adopted.

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

SPEAKER BARRETT: Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move that LB 350 as amended be advanced to E & R for engrossment.

SPEAKER BARRETT: Any discussion? Seeing none, those in favor of the advancement of the bill say aye. Opposed no. Carried,

February 12, 1990 LB 350, 350A, 542, 551, 567, 567A, 602
663, 692, 742, 851, 856, 857, 858
874, 875, 891, 893, 896, 902, 906
907, 918, 924, 930, 940, 957, 964-966
969, 970, 974, 983, 984, 997, 1013
1016, 1017, 1043, 1044, 1118

SPEAKER BARRETT PRESIDING

SPEAKER BARRETT: Ladies and gentlemen, welcome to the George W. Norris Legislative Chamber and a new day in the Second Session of the Ninety-first Legislature. Our Chaplain of the day is Father Mitch Lindeman of St. Matthews Episcopal here in Lincoln. Father Lindeman.

FATHER LINDEMAN: (Prayer offered.)

SPEAKER BARRETT: Thank you, Father Lindeman, pleased to have you with us. Roll call.

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

SPEAKER BARRETT: Thank you. With a quorum present, are there corrections to the Journal?

CLERK: Mr. President, I have no corrections to the Journal.

SPEAKER BARRETT: Are there any reports, messages, or announcements?

CLERK: Mr. President, your Committee on Enrollment and Review respectfully reports they have carefully examined engrossed LB 350 and find the same correctly engrossed, LB 350A, LB 567, LB 567A, LB 663, LB 692, and LB 742, all reported correctly engrossed, those signed by Senator Lindsay as Chairperson of the Enrollment and Review Committee. (See pages 726-27 of the Legislative Journal.)

Mr. President, Enrollment and Review reports LB 551 to Select File with E & R attached, LB 542, LB 602, LB 858, LB 875, LB 891, LB 1013, LB 983, LB 906, LB 907, LB 984, LB 856, LB 851, LB 957, LB 964, LB 966, LB 997, LB 857, LB 874, LB 893, LB 918, LB 930, LB 970, LB 940, LB 902, LB 974, LB 1016, LB 1017, LB 969, LB 896, LB 965, LB 924, LB 1118, LB 1043, LB 1044,

us, 662, and the one that's following it, LB 663, to the floor and having a vote on the bill. I wouldn't want to do anything to jeopardize that bill because of an amendment that was attached to the bill. And I have...I mean, as far as I'm concerned, I don't have any feelings one way or the other as far as the amendment is concerned but the bottom line for me is I don't want to lose the bill if, in fact, we find that any part of that bill, including that amendment, makes it unconstitutional. And so I'm not going to talk about all the things we've already talked about. I will let Senator Scofield talk about the bill itself. I would just hope that you would agree with me that we ought to do this. I have had my staff working and looking, and from what they have come up with, they feel that the courts apply two kinds of tests in determining whether portions of an act which are declared unconstitutional can be severed from the valid portion of the act. And the first test they found is whether the portion to be severed is independent of the rest of the law and that is that the remaining law would make sense without the severed portion. And we feel that clearly in this case the section under discussion is independent of the act. The program could function fine without the section on abortion counseling. The second test is more difficult but we believe to be severable the section being severed cannot be a deciding inducement in the passage of the act and that is that would the act pass without the section? It's a harder issue to argue. We have to be honest about that. But I would argue that the inducement to pass this act is actually what it will do for communities and who will receive the grants under the act. And that's why this act will be or won't be passed as far as I'm concerned. It has nothing to do with the amendment that was attached to it originally. Courts have then allowed severability clauses to serve as statements of legislative intent. That is a court could see the severability clause on LB 662 and then they could decide that that means the abortion counseling section of the bill, by legislative intent, did not serve as a deciding inducement and, in fact, it could be severed then. In fact, that is one reason to adopt the severability clause as a statement of legislative intent. The courts can sever an act without the severability clause but by adopting the severability clause we will be indicating the Legislature's intent to the courts which might be even a better reason for us to attach the severability clause. So that's what we have come up with. We have a number of opinions that we went back in the files and in the statutes and the Journals, looked for, and we feel that those two issues that they were able to

March 30, 1990

LB 662A, 663A, 663

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

CLERK: (Read record vote. See page 1746 of the Legislative Journal.) 39 ayes, 1 nay, 1 present and not voting, 8 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 662A passes. The Chair is pleased to note that Senator Abboud has 10 junior and senior high school students from Ralston High School in our south balcony with their sponsor. Would you folks please stand and be recognized. Thank you, we're glad you could be with us. LB 663, Mr. Clerk.

ASSISTANT CLERK: (Read LB 663 on Final Reading.)

SENATOR HANNIBAL PRESIDING

SENATOR HANNIBAL: All provisions of law relative to procedure having been complied with, the question is, shall LB 663 pass? All in favor vote aye, opposed nay. Have you all voted? Have you all voted? Please record, Mr. Clerk.

ASSISTANT CLERK: (Read record vote. See page 1747 of the Legislative Journal.) The vote is 40 ayes, 0 nays, 4 present and not voting, 5 excused and not voting, Mr. President.

SENATOR HANNIBAL: LB 663 passes. Before we move on to LB 663A, I'd like to take this opportunity to introduce some special guests of Senator Smith. In the south balcony there are 33 sixth graders from St. Cecelia in Hastings with their teacher. Would you all please rise and be welcomed to the Legislature. Thank you for joining us today. LB 663A, Mr. Clerk.

ASSISTANT CLERK: (Read LB 663A on Final Reading.)

SPEAKER BARRETT PRESIDING

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 663A pass? All in favor vote aye, opposed nay. Have you all voted? Please record.

ASSISTANT CLERK: (Read record vote. See pages 1747-48 of the Legislative Journal.) The vote is 41 ayes, 0 nays, 4 present

March 30, 1990

LB 662, 662A, 663, 663A, 678, 678A, 688

SENATOR CHAMBERS: ...bitter exchanges, we're going to have some discussion of issues in a very serious, solemn and even gloomy fashion but there will be other times when because human nature is not static, it is not uniform in its manifestations over a long period of time, there will be some lightheartedness, there will be some frivolity but we know that underlying all of that is a deadly, serious and bitterly fought issue which has been before us the past session of the Legislature, earlier this session and obviously is going to be with us until the end which also will be bitter. I propose in the same way that those who are offering their amendment, to use the rules to get their amendment onto a bill and jump from General File to Final Reading and I applaud them for their cleverness. They have learned.

SPEAKER BARRETT: Time.

SENATOR CHAMBERS: I'm going to use the rules to defeat them if that is possible.

SPEAKER BARRETT: While the Legislature is in session and capable of transacting business, I propose to sign and I do sign LB 662, LB 662A, LB 663 and LB 663A, LB 678 and LB 678A. (See page 1751 of the Legislative Journal.) Additional discussion on the motion to return the bill, Senator Wesely.

SENATOR WESELY: Thank you, Mr. Speaker, members, I know we're discussing an amendment but I think what we're really talking about is a process and a procedure. We're trying to amend LB 688 and LB 688 is Senator Lindsay's bill, but I've spent an awful lot of time and my staff have spent an awful lot of time trying to work out this piece of legislation. Senator Byars is talking to Senator Lindsay right now because Senator Byars has a certain interest in this measure as well. We have got a problem that we're trying to address with LB 688. It's a problem that is acute. We've got lawsuits filed, we've got to deal with this. It's statewide. It's a concern that have many people up in arms. What is symbolizes though beyond that specific problem is how our time spent on this whole abortion debate and the filibustering that has been going on directly or indirectly have lost opportunities to address real issues affecting real people, and every time we lose a minute or an hour or a day or days, we lose opportunities to help solve problems that people have in this state and we've got literally hundreds of bills pending on

March 30, 1990

LB 54, 662, 662A, 663, 663A, 678, 678A
688, 1247
LR 406, 414, 415

remains constant. Oh, my time is up?

SPEAKER BARRETT: Time, yes. The question is the reconsideration motion. All in favor of that motion please vote aye, opposed nay. A record vote has been requested. Have you all voted? Record, please.

CLERK: (Record vote read. See page 1754 of the Legislative Journal.) 5 ayes, 25 nays, Mr. President, on the motion to reconsider the vote on overruling the Chair.

SPEAKER BARRETT: Motion fails. Next item.

CLERK: Mr. President, I believe that puts us back to the vote on the motion to cease debate on Senator Chambers motion to reconsider the motion to return. So the question I believe before the body is the motion to cease debate.

SPEAKER BARRETT: The question is, shall debate cease? We are technically under call. May we check in. Senator Byars, Senator Lynch, Senator Chizek. Senators Abboud, Schellpeper, Haberman. Senator Scofield. Senator Haberman. Senator Schellpeper. Senator Abboud. Mr. Clerk, any items to read in?

CLERK: Mr. President, I do, a Reference Report referring LR 406 and LB 1247. Senator Abboud has amendments to LB 54 to be printed. Bills read on Final Reading have been presented to the Governor. (Re: LB 662, LB 662A, LB 663, LB 663A, LB 678, LB 678A. See page 1755 of the Legislative Journal.)

New resolutions, LR 414 by Senator Withem, and LR 415 by Senator Langford. Both will be laid over and considered at another time, Mr. President. That is all that I have. (See pages 1756-57 of the Legislative Journal.)

SPEAKER BARRETT: Only one remaining, do you want to...thank you. Senator Chambers, members, return to your seats. The question is, shall debate cease and a roll call vote has been requested? Mr. Clerk.

CLERK: (Roll call vote taken. See pages 1757-58 of the Legislative Journal.) 32 ayes, 8 nays to cease debate, Mr. President.

SPEAKER BARRETT: Debate ceases. On the motion to reconsider,

April 4, 1990

LB 260, 260A, 313, 313A, 488, 488A, 520
567, 567A, 663, 663A, 854, 899, 1124
1125, 1141
LR 239

SENATOR BERNARD-STEVENS: It'd be a fascinating turn of events to have that happen. But the bottom line is all of this debate is about a bill that's unconstitutional. Bottom line is in some cases in western Nebraska, by the way the bill is, it may not be possible to get the kind of counseling that they need in order to get the permit signed on the informed consent. Bottom line is some people in western Nebraska who don't have a counselor or someone that fits the definition that's in LB 84 (sic), which I'll again bet that 90 percent of the people in this body still have no clue of what that definition is, nor care, that a lot of people in the rural part of our state have to go elsewhere to find somebody who fits the qualifications that are in the bill. I took the time to call counselors throughout western Nebraska and ask if they felt they qualified under the bill. They stated, the way the bill is written, probably not.

SPEAKER BARRETT: Time has expired.

SENATOR BERNARD-STEVENS: But if we'd a been allowed to make some (inaudible).. improve that situation. Thank you.

SPEAKER BARRETT: Thank you. Senator... excuse me, Mr. Clerk, you have a motion on the desk?

CLERK: Mr. President, Senator Chambers, I understand you want to offer a motion to adjourn until nine o'clock tomorrow morning, Thursday, April 5.

SPEAKER BARRETT: Have you anything to read in, Mr. Clerk?

CLERK: Mr. President, I do. I have your Committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LR 239CA and find the same correctly engrossed, LB 1141 and LB 1124. (See pages 1902-04 of the Legislative Journal.)

Mr. President, I also have three communications from the Governor regarding signed bills addressed to the Clerk: Engrossed LB 663, LB 663A, received in my office March 30 and signed by me on April 4. (See pages 1905-06 of the Legislative Journal.) A second communication: Engrossed LB 1125, LB 899, LB 260, LB 260A, LB 313, LB 313A, LB 488, LB 488A, LB 520, LB 567, LB 567A, received in my office on March 29 and signed by me on April 4 and delivered to the Secretary of State, Sincerely, Kay Orr, Governor. (See Page 1905 of the Legislative

SENATOR WESELY: Thank you, Mr. President, members. LB 678 is the omnibus child care bill, which I want to extend my appreciation to this body for passing last week. It was a major initiative to try and do a number of things to improve child care in the State of Nebraska and this Legislature took the action of passing it and sending it to the Governor. Unfortunately the Governor decided to veto the bill. As you know, we worked long and hard on that issue. And in general the issue of children in this state and different matters that concern children have been of high priority to this Legislature this session. We did pass LB 567, dealing with an early childhood training support center, and that was passed, and I thank the Governor for signing that bill. LB 662 was a bill that would have provided for different family support services across the state and the Legislature passed but had that bill vetoed by the Governor. That will be coming up later perhaps. LB 663 was passed in the Juvenile Services Act, that did get signed by the Governor. Again, appreciate it. And LB 720, a bill that increased caseloads for those caseworkers working with children in foster care and also for child abuse, was passed by this Legislature and signed by the Governor. Again, I extend my appreciation to this Legislature and the Governor for taking that action. So we did do some things and the Governor did sign some bills. So I feel good about that. Unfortunately one of the biggest pieces of the issue is the child care issue. There we have not seen the support of the Governor in signing the bill that we had hoped for. The Governor talked about, in her veto message, that the Lamb amendment, which I didn't particularly care for but did get adopted and provided an exclusion for those counties with 15,000 or fewer residents, was one of the concerns she had and raised constitutional questions with the bill. I agree, it raised constitutional questions. We have a severability clause. We could have dealt with that matter, and I had accepted that despite my reservations about it. So I think that's unfortunate. The other concern she expressed in her veto message, talked about coordination in the Department of Education. Clearly, that could have been done and done quite easily, and we expected it to be done. The Title XX day care rate increase, which is the big portion of the cost of the bill, the 1.2 million dollars, is a big ticket item, but we are talking about low income trying to move off of welfare, trying to get into the job...into jobs and trying to get training. These are the kind of folks we want to help. We want to provide them adequate child care to help them do that. But that costs money, and we need to do that. Unfortunately, this bill being

reduced twice in its scope of the direction in which we took it at first and it is today a very modest proposal and I believe we need it, and we ought to do it this time. Thank you very much.

SPEAKER BARRETT: Any other discussion? Senator Scofield, anything further? Would you like to close? Thank you. The question is, shall the gubernatorial veto of LB 898 be overridden? All in favor vote aye, opposed nay. Have you all voted? Senator Scofield.

SENATOR SCOFIELD: Roll call. That will move us on and out of here as quickly as possible.

SPEAKER BARRETT: Roll call vote has been requested. Members, return to your seats. The question is, shall LB 898 become law notwithstanding the Governor's veto? Proceed. Senator Scofield.

SENATOR SCOFIELD: Check in, please.

SPEAKER BARRETT: Members, record your presence. Senator Lamb, Senator Moore. Mr. Clerk, proceed with the roll call.

CLERK: (Roll call vote taken. See pages 2051-52 of the Legislative Journal.) 18 ayes, 21 nays, Mr. President.

SPEAKER BARRETT: Motion fails. Next item.

CLERK: Mr. President, Senator Scofield, on LB 1170, Senator.

SENATOR SCOFIELD: I wanted to make a couple of comments about LB 662 before I withdrew it, if that is possible.

SPEAKER BARRETT: Proceed.

SENATOR SCOFIELD: As I indicated, I intend to withdraw LB 662. The fiscal not is simply too high to absorb it at this state of the game, and I think we have done some good things, particularly with the Foster Care Review Board money. So we have done some good things for children this year, and I want to emphasize that, and I want to commend this body on your leadership on children's issues. I would also like to say that we passed another bill, LB 663, which is good for juvenile justice, and so I believe this Legislature deserves some credit for trying to champion children and family issues this year.