

January 19, 1989

LB 94, 247, 570, 576, 683-808

as yet, please contact Joanne immediately. If you don't have the bill that you are expecting, please contact the Bill Drafters Office immediately. Mr. Clerk.

CLERK: Mr. President, for the record, I have received a reference report referring LBs 496-599 including resolutions 8-12, all of which are constitutional amendments.

Mr. President, your Committee on Banking, Commerce and Insurance to whom we referred LB 94 instructs me to report the same back to the Legislature with the recommendation that it be advanced to General File with amendments attached. (See pages 320-21 of the Legislative Journal.)

Mr. President, I have hearing notices from the Judiciary Committee signed by Senator Chizek as Chair, and a second hearing notice from Judiciary as well as a third hearing notice from Judiciary, all signed by Senator Chizek.

Mr. President, new bills. (Read LBs 683-726 by title for the first time. See pages 321-30 of the Legislative Journal.)

Mr. President, a request to add names, Senator Korshoj to LB 570, Senator Smith to LB 576, Senator Baack to 570 and Senator Barrett to LB 247.

SPEAKER BARRETT: Stand at ease.

EASE

SPEAKER BARRETT: More bills, Mr. Clerk.

ASSISTANT CLERK: Thank you, Mr. President. (Read LBs 727-776 by title for the first time. See pages 331-42 of the Legislative Journal.)

EASE

SPEAKER BARRETT: More bill introductions.

ASSISTANT CLERK: Thank you, Mr. President. (Read LBs 777-808 by title for the first time. See pages 343-50 of the Legislative Journal.)

CLERK: Mr. President, I have reports. Your Committee on

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LB 1-6, 8-12, 14-17, 251, 714

SPEAKER BARRETT PRESIDING

SPEAKER BARRETT: Welcome to the 12th day, the beginning of a new week, in this the First Session of the Ninety-first Legislature. Our chaplain of the day this morning for the opening prayer, Captain Joseph Wheeler of the Salvation Army. Captain Wheeler, please.

CAPTAIN WHEELER: (Prayer offered.)

SPEAKER BARRETT: Thank you, Captain Wheeler. Please come back and be with us again. Roll call.

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

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

CLERK: No corrections, Mr. President.

SPEAKER BARRETT: Messages, reports, announcements.

CLERK: Mr. President, your committee on Natural Resources whose Chair is Senator Schmit to whom was referred LB 251 instructs me to report the same back to the Legislature with the recommendation it be advanced to General File with committee amendments attached, and that is signed by Senator Schmit. (See page 389 of the Legislative Journal.)

Mr. President, I have a notice of hearing from Senator Chizek, who is Chair of Judiciary. Your Enrolling Clerk did present to the Governor as of 12:15 p.m., Friday, bills read on Final Reading Friday. (Re: LB 1, LB 2, LB 3, LB 4, LB 5, LB 6, LB 8, LB 9, LB 10, LB 11, LB 12, LB 14, LB 15, LB 16, LB 17.

One last item, Mr. President, Senator Smith would like to add her name to LB 714 as co-introducer. That is all that I have, Mr. President.

SPEAKER BARRETT: Thank you, sir. To item 5 on the agenda, confirmation report.

CLERK: Mr. President, Senator Schmit, as Chair of Natural Resources, would report on the appointment of Mr. Lawrence Myers to the Nebraska Power Review Board.

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

February 14, 1989 LB 421, 443, 714

SPEAKER BARRETT: Thank you. There are no other lights on. Senator Kristensen, the Chair assumes that that was your closing. Thank you. The question before the body is the advancement of LB 443 to E & R Initial. All in favor vote aye, opposed nay. Please record.

CLERK: 33 ayes, 0 nays, Mr. President, on the advancement of LB 443.

SPEAKER BARRETT: LB 443 is advanced. Messages on the President's desk, Mr. Clerk.

CLERK: Mr. President, Retirement Systems Committee offers notice of hearing, signed by Senator Haberman as Chair.

Senator Hartnett would like to print amendments to LB 421 and Senator Robak would like to add her name to LB 714. And, Mr. President, Senator Chambers would like to add his name to LB 443 as co-introducer. (See page 744 of the Legislative Journal.) That is all that I have, Mr. President.

SPEAKER BARRETT: Thank you. Senator Abboud, would you care to dismiss us?

SENATOR ABOUD: Yes, Mr. President. I move we adjourn until February 15 at 9:00 a.m.

SPEAKER BARRETT: Thank you. You've heard the motion to adjourn until tomorrow morning at nine o'clock. Those in favor say aye. Opposed no. The ayes have it, motion carried, we are adjourned.

Proofed by: Arleen McCrory
Arleen McCrory

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

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

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

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

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

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

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

PRESIDENT: Senator Landis, please.

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

PRESIDENT: It is withdrawn.

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

PRESIDENT: Senator Bernard-Stevens, please.

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

March 14, 1989

LB 182, 340, 432, 483, 586, 628, 683
714, 733, 779, 783, 785, 786

Judiciary Committee reports LB 182 to General File with amendments, LB 483 General File with amendments. Those are signed by Senator Chizek. Revenue Committee reports LB 779 indefinitely postponed, LB 783 indefinitely postponed, LB 785, LB 786, all indefinitely postponed. Those are signed by Senator Hall as Chair. (See pages 1144-45 of the Legislative Journal.)

I have a Rules Committee report, Mr. President, regarding proposed rules change offered earlier this session.

Judiciary gives notice of confirmation hearing.

Senator Wesely has amendments to LB 733, Senator Conway to LB 340 to be printed and Senator Robak to LB 628. (See pages 1146-47 of the Legislative Journal.)

Mr. President, Senators Landis, Schellpeper, Goodrich and Barrett would move to raise LB 683 and Senator Wesely would move to raise LB 432, both those will be laid over.

Senator Kristensen would like to add his name to LB 586 as co-introducer and Senator Conway to LB 714. (See page 1148 of the Legislative Journal.) That is all that I have, Mr. President.

SPEAKER BARRETT: Thank you. Senator Wehrbein, would you care to adjourn us?

SENATOR WEHRBEIN: Sure, I can handle this. Mr. Chairman, I move we adjourn until tomorrow morning at nine o'clock on March 15.

SPEAKER BARRETT: Thank you. You've heard the motion. Those in favor say aye. Opposed nay. Ayes have it, motion carried, we are adjourned.

Proofed by:

Sandy Ryan
Sandy Ryan

March 20, 1989

LB 183, 714

President's desk?

CLERK: Mr. President, I have amendments to be printed from Senator Hall to LB 714. (See page 1234 of the Legislative Journal.)

Mr. President, I have an Attorney General's Opinion addressed to Senator Lamb regarding LB 183. A second opinion to Senator Schmit and a third opinion addressed to Senator Warner. (See pages 1234-50 of the Legislative Journal.) That's all that I have, Mr. President.

SPEAKER BARRETT: Thank you. Senator Hannibal, would you care to adjourn us until tomorrow.

SENATOR HANNIBAL: Mr. Speaker, I move we adjourn until tomorrow morning at 9:00 a.m.

SPEAKER BARRETT: You have heard Senator Hannibal's motion. Those in favor of adjourning say aye. Opposed no. Ayes have it. Carried. We are adjourned. (Gavel.)

Procfd by: Arleen McCrory
Arleen McCrory

March 21, 1989

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

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

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

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

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

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

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

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

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

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

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

SPEAKER BARRETT: Chairman Hall, on the committee amendments.

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

CLERK: Yes, sir, it is. I didn't know if you wanted to take that up now.

SENATOR HALL: I would like to take that up because, in essence, that becomes the committee amendments and becomes LB 714.

CLERK: Mr. President, Senator Hall would move to amend the committee amendments. Senator, you will find AM748 printed separately in your bill book right before the bill.

SENATOR HALL: Thank you, Mr. Clerk. Mr. President and members of the body, LB 714, as Mr. O'Donnell has stated, was brought by a number of members to the Revenue Committee and it deals with the issue of the collection of sales tax by folks who function both as contractors and as retail salespersons. It stems out of a directive that came from the Department of Revenue in December of last year that said, basically, the individuals were required to pay sales tax themselves up front for whatever the purchase was and then to not collect that tax from the ultimate consumer. In other words, the department said that they were to basically act as a contractor at all times, even though many of these people fell outside the 80/20 rule and had, for a number of years since the implementation of the sales tax, done it in a totally different manner, kept two sets of books or used the option of charging sales tax when they sold something over the counter and when they, for example, installed a piece of glass, as a hardware store might, did not charge any sales tax for that but paid that up front themselves when they purchased that product. The amendment that I offer to the committee amendments is just a rewrite and clarification of what the committee amendments originally intended to do. There is no substantive change at all. It has been approved by the department. They have reviewed it. And I have given you two handouts. One is a couple eight and a half by fourteen sheets that are examples that the department has asked us to hand out. If you have the time, you should probably take a look at those. They are fairly in depth explanations and examples of how this would apply. The other is a handout that just has my initials on it and it says the status of contractors. It gives you a breakdown of what the current law is, what the problem is. And the problem is specifically with mixed businesses, those businesses that I stated earlier function in both capacities. And many times...well, if you just would take the time to look at the committee statement and see the individuals who testified in

support of the measure, it shows that the example that I gave of the glass business was a good one because they were many of the folks who testified in support of the measure. And another area that is oftentimes hid is the carpet business, those people who both do...much of their sale is over the counter, much of the sale is on installation basis. And what the bill does is LB 714, if you look at the bottom of the handout that has my initials on it, it would allow a business to choose from the three options that I have listed there for you. It would allow them to do that as of January 1, 1990, and the committee amendments would allow them to make that choice and allow them to be held harmless until that time. Now, when I say held harmless, I mean we would allow them for this year, 1989, to continue to function or continue to collect that tax in the manner that they have collected it in the past. The issue here I guess is, you know, as long as we get the cabbage we don't care and what...there has never been a problem with that. It was a directive or interpretation from the department that it should be done in this manner and this manner only. What we do here is allow for these contractors or retailers to choose which form they would like to pay that tax in. Whichever manner that they want to do that will be fine as long as it's within the guidelines of 714 as we amend it and I don't think that there will be any problem whatsoever with regard to understanding from this point forward as to what the rules of the game are. With that, Mr. President, there was a number of members of the body who were very interested in this issue. I would let them speak to it if they would like to. If there is any questions with regard to the committee amendments...the amendment to the committee amendments which become the bill, I would be happy to attempt to answer them.

SPEAKER BARRETT: Thank you. Discussion on the Hall amendment to the committee amendment to LB 714. Senator Lamb, Senator Korshoj on deck.

SENATOR LAMB: Yes, Mr. President and members, Senator Hall has explained the bill very well, the amendment very well but I would like to express my appreciation to Senator Conway who took this bill as his priority bill. This is a sacrifice on his part but this is an important bill and I appreciate that. Also, Senator Robak has been very much interested, as has Senator Hefner and this really is a combination of Senator Robak's bill and LB 714. It's had a lot of discussion, as you can see by the size of the amendment, although the basic premise has never

wavered. And what we're trying to do is answer the criticism that you are hearing from some of your business people who primarily are retailers who have been doing business as retailers for many, many years and then suddenly because of the ruling of the Department of Revenue they found that they were going to have to have a tax paid inventory, have additional bookkeeping because some of these peoples operate partially as a contractor. And I think the best way to explain it is a person that...a business man that has a rug business and he buys a roll of carpeting and part of that roll of carpeting will go out that he will install and so for that part of that roll of carpeting he is a contractor. Now part of this roll of carpeting will go out retail. The person that buys it will install it so it is not a contract. He has a retail sale there, and so under the recent ruling by the Department of Revenue, it causes a great bookkeeping problem with that business man because he had to have a tax paid inventory on part of the inventory that was used in his contracting business and a tax free inventory or a retail sales tax on the rest of it. This bill allows a choice so that the retailer can decide to be taxed as he always has been and I am convinced at this point that this solves the problem. And I should stress that it does not cost the state money. They're going to still be paying the tax and nobody is getting by with paying less tax. It's just a simplified form of deciding how that tax will be paid and, in fact, there may be some people elect to have all their sales considered retail sales which will mean they will be paying more tax because they will be paying the sales tax on the mark up, whereas, if they were doing it as a contractor, they would be paying it on the wholesale price. So it does not cost the state money. I support the Hall amendment to the committee amendment and the bill.

SPEAKER BARRETT: Senator Korshoj, followed by Senators Abboud and Hefner.

SENATOR KORSHOJ: Mr. Speaker and members, I support the amendment and the bill also. The interpretation the Department of Revenue made on the contractor part of this just raised havoc with the lumber industry. Every little lumberyard does some contracting such as install roofs, windows, etcetera, and when they hit the 20 percent bracket of contractor business, that made them contractors and that made them in violation of the law because they were not having a paid up inventory. It would really cause them a lot of problems, a lot of bookkeeping problems. This will not cost the state tax money, it will make

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LB 714

them tax money as far as our industry is concerned, because if they elect to be retailers, they will pay on the retail price which is slightly higher than the wholesale price, not a heck of a lot higher. It's way too much, Roger, I heard you. And so I'm all for this bill. It will really clean it up the way a contractor, retailer can pay his taxes, his sales tax. And, with that, I want to give Senator Coordsen the rest of my time.

SPEAKER BARRETT: Senator Coordsen.

SENATOR COORDSEN: Thank you, Mr. Speaker. I would have a question of Senator Lamb if he would respond.

SPEAKER BARRETT: Senator Lamb, please.

SENATOR LAMB: Yes.

SENATOR COORDSEN: Thank you, Senator Lamb. It's been my experience in the lumberyards and hardware, plumbing operations that I have done business with in the past that for the material cost they charged the sales tax on the retail value when they billed me and then added the labor on after that and then I was billed for the total. Will this allow those businesses to operate in the same way that they have been?

SENATOR LAMB: Yes.

SENATOR COORDSEN: Okay, thank you.

SPEAKER BARRETT: Senator Abboud.

SENATOR ABOUD: Pass.

SPEAKER BARRETT: Thank you. Senator Hefner. Senator Conway.

SENATOR CONWAY: Mr. Speaker and members, LB 714 was not originally my bill and I know that Senator Lamb and Senator Robak, both, by virtue of the concern that was brought to them initiated it but I did think that LB 714, as I was perusing looking for something to do that was important relative to a priority bill, was brought to my attention that short of this being designated as a priority bill probably would not be addressed this year as many other pieces of important legislation happened to fall by the wayside as time goes on. But as this was brought to my attention, I did recognize it as

being something that has many of these contractor-retailer combination people in a very difficult situation. It really needed to be addressed this year. I think that Senator Lamb and Senator Robak and Senator Hall, by virtue of the amendments and the committee activity, have done an excellent job of taking a group of people, and it is a relatively large group of people, who find themselves in this category and making their life a little more tolerable relative to their dealings with the Department of Revenue on this particular issue. Because it would not have been heard and because there would have been another year go by prior to being able to address it in this particular fashion, I did see it as important enough to be chosen as a priority bill. It's been ironed out. I think everyone is quite satisfied with it and I think that we should proceed and move this along and then solve this very difficult problem that comes in the area of taxation and accounting for it. So, with that, I offer this particular...I guess we're still on the committee amendments, but would like to have these adopted and then move the bill forward onto Select File.

SPEAKER BARRETT: Senator Lynch, please.

SENATOR LYNCH: Question.

SPEAKER BARRETT: That won't be necessary again. Thank you. We have no other lights on. Senator Hall, would you like to close?

SENATOR HALL: Thank you, Mr. President, and members, again, the issue is one of basically clarifying what the interpretation is for the Department of Revenue and who pays the sales tax ultimately and what form that takes. This amendment to the committee amendments which becomes LB 714 does just that. It allows again for the designation by those individuals who are currently operating as retailer-contractor types. It allows for 1989 to basically continue as they currently have. They must designate before the end of the year what their status will be from this point forward. It becomes effective January 1, 1990. And there is also a provision in the bill that allows them, if they should change their status at some point, to appeal to the department and have the designation changed, but it is not something that they can do willy-nilly, jump back and forth. It is a process that has to go before the department, have a hearing and other things. So I think 714, as Senator Conway, Senator Lamb and others have stated, is a good piece of legislation that basically allows these folks out there to

continue operating as they have and gives the Department of Revenue some direction that they are supportive of. And, with that, I would urge the adoption of the amendment to the committee amendments.

SPEAKER BARRETT: Thank you. And the question is the adoption of the amendment to the committee amendments to LB 714. All in favor of that motion vote aye, opposed nay. Record, please.

CLERK: 33 ayes, 0 nays, Mr. President, on adoption of Senator Hall's amendment to the committee amendments.

SPEAKER BARRETT: The amendment is adopted. Before moving to the committee amendment now, I am pleased to announce that we have from Senator McFarland's district 12 seniors from Lincoln High School in our north balcony with their teacher. Would you people please stand and be recognized. Thank you. We're pleased to have you with us this morning. Senator Hall. Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman, point of personal privilege with reference to the introduction. Those children might go to Lincoln High but they're my children and I want you to know that. Am I right? I just thought I should tell you that.

SPEAKER BARRETT: My apologies, Senator Chambers. I stand corrected. Senator Hall, please.

SENATOR HALL: Mr. President, I would just move adoption of the committee amendments as they have been amended.

SPEAKER BARRETT: Thank you. Discussion on the committee amendments. Senator Chambers, your light is on. Thank you. If there is no further discussion, the question is the adoption of the committee amendments as amended. Those in favor vote aye, opposed nay. Please record.

CLERK: 36 ayes, 0 nays, Mr. President, on adoption of the committee amendments.

SPEAKER BARRETT: The committee amendments are adopted. To the bill as amended. Senator Lamb.

SENATOR LAMB: Mr. Chairman, I believe it's been explained very well. I would just move that the bill be advanced.

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LB 326, 334, 340A, 340, 378A, 408A, 410
412A, 414, 440, 441, 489, 516, 556
574A, 714

SPEAKER BARRETT: Is there any discussion? Seeing none, those in favor of the advancement of LB 714 to Enrollment and Review please vote aye, opposed nay. Record, please.

CLERK: 34 ayes, 0 nays, Mr. President, on the advancement of LB 714.

SPEAKER BARRETT: LB 714 is advanced. Anything for the record?

CLERK: Mr. President, Enrollment and Review reports LB 340A to Select File; LB 378A to Select File; LB 408A, Select File; LB 412A, Select File; LB 574A, Select File; LB 410; LB 414, Select File. That's all that I have, Mr. President.

SPEAKER BARRETT: Thank you. Senator Schellpeper, would you care to recess us until one-thirty.

SENATOR SCHELLPEPER: Yes, I will. Mr. Speaker and members, I would move that we recess until one-thirty.

SPEAKER BARRETT: You have heard the motion to recess until one-thirty. Those in favor say aye. Opposed no. Motion carried. We are recessed. (Gavel.)

RECESS

SPEAKER BARRETT PRESIDING

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

SPEAKER BARRETT: Thank you, sir. For the record, Mr. Clerk.

CLERK: Mr. President, a communication from the Governor to the Clerk. (Read communication re signing of LB 326, LB 334, LB 440, LB 489, LB 516, LB 556, and LB 441. See pages 1259-60 of the Legislative Journal.)

Senator Bernard-Stevens has amendments to LB 340 to be printed, Mr. President. (See pages 1260-61 of the Legislative Journal.) That is all that I have, Mr. President.

SPEAKER BARRETT: Thank you, sir. Before proceeding into the

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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

April 3, 1989

LB 77, 714

SPEAKER BARRETT: The amendment is adopted.

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

SPEAKER BARRETT: Thank you. Senator Warner.

SENATOR WARNER: I move the bill be advanced, Mr. President.

SPEAKER BARRETT: Thank you. Discussion on the motion to advance the bill. Seeing none, those in favor of the advancement of LB 77, please vote aye, opposed nay. Those in favor of the advancement please say aye. Opposed no. Thank you. Motion carries. The bill is advanced. LB 714, Mr. Clerk.

CLERK: Mr. President, 714, I have Enrollment and Review amendments.

SPEAKER BARRETT: Senator Lindsay.

SENATOR LINDSAY: Mr. President, I would move that LB 714 be advanced.

CLERK: E & R amendments, Senator.

SENATOR LINDSAY: There are E & R?

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

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

SPEAKER BARRETT: Senator Lindsay.

SENATOR LINDSAY: Now, Mr. President, I move that LB 714 as amended be advanced.

SPEAKER BARRETT: Thank you, sir. Discussion? Senator Withem.

SENATOR WITHEM: Yes, Mr. Speaker, members of the body, I have absolutely no problems with the bill, Senator Lamb, but I do have a question or two about the way in which it will operate. I was not here on General File to hear the full discussion on this bill concerning its operation. I have, however, been

involved with this issue. I work with a group of contractors that have been impacted by this legislation. By and large, they tend to be people that had been doing it the way the statute previously, prior to the beginning of 714, had indicated that it should be done. I am aware that there are a number of...quite a large number of people out there who were doing it different than the current interpretation by the Department of Revenue as far as what the statutes indicate. The procedure in 714 is far preferable, in my mind, to what I had seen as another proposal brought in that simply would have made everybody become a retailer. I guess, Senator Lamb, I have about three questions. Number one, I understand that everybody that's involved in this type of business will be given an opportunity to take a selection as to whether they are a retailer, in which case they will charge sales tax to their customer, they will buy their materials tax free, or whether they're a contractor which they will pay the supply house, the wholesaler, the sales tax and they will then not charge sales tax to their consumer. How are they going to find out about making this selection? Is that spelled out in the bill or will this be part of the rules and regs that the department comes up with?

SENATOR LAMB: The department...I think all of us got a memo recently from the department that said they were going to curtail their activity...

SENATOR WITHEM: Right, I saw that.

SENATOR LAMB: ...as far as the December memo and then they were going to have a number of educational meetings around the state and I believe there will be other publicity that will let the people know that they do have a choice.

SENATOR WITHEM: Okay. I guess the only concern, and it's a fairly minor one, is that if a particular contractor that was doing it right under, you know, I'll put the word "right" in quotation marks, correct under the...why the department interpreted the old statute. Somehow they don't get this opportunity to attend these meetings. They don't know about this election. The law said...the bill now says that they automatically become a retailer and they're going to then be liable for charging sales tax when they may not have been aware of it. And I guess that's a concern I have and probably...I guess I would like to know, why do they automati...why is the bill drafted so that this person who has been functioning as a

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contractor all of these years, if they don't fill out this form and mail it in that they become retailers automatically? And that's the way I read the bill is if they don't fill it out, they don't take the election, that they will be treated automatically as a retailer. Is there a particular reason that you're aware of why we went that option instead of leaving them as a...

SENATOR LAMB: No.

SENATOR WITHEM: ...contractor unless they take the option to change?

SENATOR LAMB: No, it was...it was the purpose, it was my intent and the other people on the bill, I'm sure, to allow them to continue the way they were. If there is a problem there and I...

SENATOR WITHEM: Okay.

SENATOR LAMB: ...I'm not sure that there is, but that... may have been drafted incorrectly if that is the way you think it reads at this point.

SENATOR WITHEM: Okay. That's the way I think it reads and, again, I'm delighted the bill is here. I think it's an excellent piece of legislation. Maybe you and I need to talk. I didn't even think of this problem until a little earlier today when I was looking at the bill and didn't get a chance to talk with you about it. Let's talk about it. Let's put it on...not...definitely don't hold up the bill at this point. Let's talk about that particular concern. Otherwise, I do think it's a good piece of legislation...

SPEAKER BARRETT: One minute.

SENATOR WITHEM: ...and commend Senator Lamb. I know it's a big problem with a lot of people in the industry.

SPEAKER BARRETT: Thank you. Senator Haberman.

SENATOR HABERMAN: Mr. President, members of the body, may I have a question of Senator Withem, please?

SPEAKER BARRETT: Senator Withem.

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SENATOR WITHEM: Certainly.

SENATOR HABERMAN: Senator Withem, did you receive a copy of a notice that the Revenue Department had sent to all of the entities?

SENATOR WITHEM: I received it. I saw that on Friday, yes.

SENATOR HABERMAN: I believe that notice explains exactly the intent of the legislation, but you have no problem with it, is that correct?

SENATOR WITHEM: Yeah, I have no problem with the intent of the legislation. I understand the intent of the legislation.

SENATOR HABERMAN: Okay, so as I understand it then, you and Senator Lamb or somebody is going to get together and change the language if it needs to be changed.

SENATOR WITHEM: Only if it absolutely needs to be. I don't want to bring the bill back unless we have to.

SENATOR HABERMAN: That will be fine. Thank you, Senator Withem.

SPEAKER BARRETT: Any other discussion? Anything further? On the motion then to advance the bill, those in favor say aye. Opposed no. Ayes have it, carried, the bill is advanced. LB 371, Mr. Clerk.

CLERK: Mr. President, on 371 I have E & R amendments first of all, Senator.

SPEAKER BARRETT: Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move that the E & R amendments to LB 371 be adopted.

SPEAKER BARRETT: Shall the E & R amendments to LB 371 be adopted? Those in favor say aye. Opposed no. Carried, they are adopted.

CLERK: Mr. President, I now have an amendment to the bill from Senator Withem. Senator, your amendment is on page 1303 of the

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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

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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

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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.)

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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

SENATOR HANNIBAL: The bill is advanced. Moving on to LB 965.

ASSISTANT CLERK: LB 965 was introduced by Senators Conway, Robak and Lamb. (Read title.) The bill was read January 4th, referred to Revenue which reports the bill to General File.

SENATOR HANNIBAL: Senator Conway, please.

SENATOR CONWAY: Thank you, Mr. President. LB 965 is simply a minor correction to LB 714 that we passed last year. LB 714 was my priority bill last year dealing with the options that various contractors and retailer-wholesaler combination types of people may elect for taxing the various transactions. All that LB 965 is really going to do is correct a situation that in the language last year that was inadvertent we didn't anticipate, and that being particularly a contractor who withdraws inventory that ordinarily would be taxable, and then incorporates that into a component, and then ships that component out of the state. In the past it was not taxed, under the new language they would be. So this simply corrects that, allows that old option for that technique to still exist.

SENATOR HANNIBAL: There are no other lights on. Senator Conway, do you care to close? He waives closing. The issue before you is the advancement of LB 965. All those in favor vote aye, opposed nay. Please record.

ASSISTANT CLERK: 25 ayes, 0 nays on the advancement of the bill, Mr. President.

SENATOR HANNIBAL: The bill is advanced. LB 924.

ASSISTANT CLERK: LB 924 was introduced by Senator Lamb. (Read title.) The bill was read for the first time on January 3rd, referred to the Government Committee which reports the bill to General File.

SENATOR HANNIBAL: Senator Lamb, please.

SENATOR LAMB: Mr. President and members, this is a bill that was brought to me by county officials. It would eliminate the requirement that bonds issued by precincts, townships, school district, counties, cities, villages, irrigation districts, drainage districts and other similar districts be registered in the office of the county clerk. It would not eliminate the