

March 2, 1989

LB 391, 398, 810, 811

new bills.

PRESIDENT: The bill is introduced.

CLERK: Mr. President, new bills. LB 810, offered by the Business and Labor Committee. New bill, LB 811, offered by Business and Labor and signed by its members. (Read bills by title for the first time. See pages 939 of the Legislative Journal.)

PRESIDENT: Thank you. Before we go to Final Reading, may I introduce some guests in the east balcony, the rear of the Chamber, guests of Senator Baack. We have 10 students from the Western Nebraska Community College at Sidney, Nebraska and their instructor. Would you ladies and gentlemen please stand and be recognized. Thank you. We appreciate your coming the long distance of about, what, 400 miles to visit us. You hit us at a good time, which is called Final Reading. For the next 45 minutes or so you'll be listening to the Clerk read bills on Final Reading which is necessary. The members of the Legislature will be in their seats at the time of Final Reading, which is unusual, for the most part. But perhaps, if you stick around a little after this, it will be more exciting. Thank you for visiting us. Mr. Clerk, to Final Reading. Will you please go to your seats, please, so that we can begin Final Reading. Unauthorized personnel, please leave the floor. LB 391, Mr. Clerk.

CLERK: (Read LB 391 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 391 pass? All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

CLERK: (Read record vote as found on pages 939-40 of the Legislative Journal.) 43 ayes, 0 nays, 1 present and not voting, 5 excused and not voting, Mr. President.

PRESIDENT: LB 391 passes. LB 398.

CLERK: (Read LB 398 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 398 pass? All

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LB 89A, 810, 811

amendment simply reflects the actions taken by the amendment in the Education Committee, taking out phase three, which was performance base pay, and also phase four, that had to do with the taxes. It changes then from the A bill requiring \$76,000 to, in fact, \$10,900. I'd offer that amendment.

SPEAKER BARRETT: Thank you, sir. Discussion? Any discussion on LB 89A? Any further statement, Senator Lynch? Thank you. The question before the body is the adoption of LB 89A. All in favor vote aye, opposed nay. Have you all voted? Record.

CLERK: 28 ayes, 0 nays, Mr. President, on adoption of Senator Lynch's amendment.

SPEAKER BARRETT: LB 89A is advanced. For the record, Mr. Clerk? I'm sorry, the amendment was adopted, correction. Amendment on the desk.

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

SPEAKER BARRETT: Senator Moore.

SENATOR MOORE: This amendment, quite simply, would decrease the appropriation to 100...instead of \$115 million, over the next two years, to \$40 million, over the next two years. But given the vote on the bill, I assume that the body was voting, that they're willing to sustain a 40 and 75 million dollar appropriation, and for the time being at least I don't think this amendment is proper today. So I'll withdraw it.

SPEAKER BARRETT: Thank you, it's withdrawn. On the advancement of 89A, any discussion? Any closing, Senator Lynch? Thank you. Shall 89A be advanced? All in favor vote aye, opposed nay. Have you all voted? Record, please.

CLERK: 26 ayes, 0 nays, Mr. President, on the advancement of LB 89A.

SPEAKER BARRETT: LB 89A is advanced. For the record.

CLERK: Mr. President, your Committee on Business and Labor, whose Chair is Senator Coordsen, reports LB 810 to General File with amendments, and LB 811 to General File with amendments. Those signed by Senator Coordsen. That's all that I have,

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LB 810, 811

SPEAKER BARRETT PRESIDING

SPEAKER BARRETT: Welcome to this, the final workday of the week prior to the Easter weekend. We have with us this morning for the opening prayer, from Senator Pirsch's 10th Legislative District, the Reverend Charles Tyler from the Allen Chapel, African Methodist Church in Omaha. Pastor Tyler, please.

REVEREND CHARLES TYLER: (Prayer offered.)

SPEAKER BARRETT: Thank you, Reverend Tyler. We hope you can come back again. Roll call.

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

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

CLERK: Mr. President, only amendments to be printed to LB 810 and LB 811 by Senator Lindsay and Senator Morrissey. (See page 1305 of the Legislative Journal.) That is all that I have.

SPEAKER BARRETT: Any corrections to the Journal?

CLERK: No, sir, no corrections this morning.

SPEAKER BARRETT: Thank you. Members will please return to their seats for Final Reading. While we are waiting, the Chair is pleased to announce that Senator Beyer has his granddaughter with him today, Tami Schnell. She is over near Senator Beyer under the south balcony. Tami, take a bow, please. Welcome to the Legislature. We are glad to have you with us today. Members, please return to your seats. Mr. Clerk, while we are waiting for the members to return to the Chamber and to reach their desks, we have a confirmation report.

CLERK: Mr. President, the Business and Labor Committee, chaired by Senator Coordsen, reports on the appointments of Mr. Robert Allen, Raymond O. Farris, Robert Lundeen, and Timothy Wentz, Boiler Safety Code Advisory Board. The report is on page 1269 of the Journal.

SPEAKER BARRETT: Senator Coordsen.

SENATOR COORDSEN: Mr. Speaker, members of the body, on

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LB 733, 810

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 733 pass with the emergency clause attached? All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

ASSISTANT CLERK: (Read record vote as found on pages 1545-46 of the Legislative Journal.) The vote is 39 ayes, 0 nays, 2 present and not voting, 8 excused and not voting, Mr. President.

PRESIDENT: LB 733 passes with the emergency clause attached. Anything for the record, Mr. Clerk?

ASSISTANT CLERK: Not at this time, Mr. President.

PRESIDENT: All right, we'll move on to General File then, LB 810.

CLERK: Mr. President, LB 810 was a bill that was introduced by the Business and Labor Committee and signed by its members. (Read.) The bill was introduced on March 2 of this year, at that time was referred to Business and Labor for public hearing. The bill was advanced to General File. I have committee amendments pending by the Business and Labor Committee, Mr. President.

PRESIDENT: Senator Coordsen, on the amendments.

SENATOR COORDSEN: Mr. President, members of the body, is this the IPP motion, Mr. Clerk?

CLERK: No, sir, this is the committee amendments.

SENATOR COORDSEN: Okay. The committee amendments...thank you, Mr. Clerk. The committee amendments are taking out claim number 118 and it will be added to the following bill, 811, allowed claims as a miscellaneous claim. Claim number 118 was a claim for \$30 by a gentleman who was caught up in a licensing procedure by an error of a clerk and was forced to take a drivers training course and pay for that out of his own pocket, and then ultimately the error was found and his license was issued as it would have been had the error not been made. So the Business and Labor Committee felt that this claim should be allowed rather than be disallowed and quite probably, had it

been filed as a tort claim rather than a miscellaneous claim, it would have been paid at the time that the claim was made because of the error. So, with that, I would urge the adoption of the committee amendment.

PRESIDENT: Any further discussion? Okay, Mr. Clerk, you have an amendment to the committee amendment?

CLERK: Mr. President, Senators Morrissey and Lindsay would move to amend the committee amendments.

PRESIDENT: Senator Lindsay, please.

SENATOR LINDSAY: Thank you, Mr. President. The amendment I've got would strike one of the claims and would amend...it's going to be amended onto the 811 which approves the claims. The reason for that is to put before the body a policy question. This particular claim is Cynthia Glidden is the name of the claim, and it's for a claim arising out of a...she had been a foster parent for a ward of the state. While she had custody of the ward the ward stole certain items from her. What it was was a coin collection that he took and he took down to the video arcade and used these coins in the video machines. She put in a claim with her insurance company for the theft. The insurance company paid the bulk of it, and there is a \$250 deductible remaining. That deductible is what she has asked for to be reimbursed by the state. The Claims Board denied her claim based on the policy that they have which is to deny this sort of a claim. This was based on the fact that she had knowledge, a previous knowledge of the young boy's propensity for theft. I brought this amendment along with Senator Morrissey for the reason of putting that policy before the body, whether somebody who is a ward of the state in a situation like this, where the guardian, I guess, or the foster parent has taken those steps necessary to make it reasonable. That is she is not claiming the entire amount but rather just for that part which is not covered by the insurance. I think it would be a good policy and I would...if Senator Morrissey would like to talk to it at all, I'd give the remainder of my time to him.

PRESIDENT: Senator Morrissey, did you say you wanted to give him your time? Would you like additional time, Senator Morrissey?

SENATOR MORRISSEY: Yes.

PRESIDENT: All right, two and a half minutes.

SENATOR MORRISSEY: Thank you, that will be enough. Mr. Speaker, members, I agree with Senator Lindsay on this issue. When we heard this case in Business and Labor it all boiled down to what John mentioned, she wasn't reimbursed because she knew that the child had a history of stealing. To me that brings a question of, are we discouraging future foster parents from taking responsibility for these children? What if we have a child that is a known arson? Well, who in their right mind would take this child, because then if this child would burn down their house, they knew he or she was an arson (sic) and they would not be reimbursed by the state. I think this is a question that we really have to look at pretty hard because we should be in the business of encouraging good foster parents. And to me this is a ruling that can discourage people from taking in these children. Thank you.

PRESIDENT: Thank you. Senator Morrissey, you're up next, your light is up next. Okay. Senator Coordsen, please.

SENATOR COORDSEN: Thank you, Mr. President, members of the body. I think the issue has been explained fairly well by Senators Lindsay and Morrissey. What we're looking at here is more of a policy decision, a sense of direction for the Claims Board. Now I wish that Senator Wesely was on the floor, because I would have had a question for him, as to whether there are funds available in the Department of Social Services to in the event of substantiated claims...Senator Warner, okay, because this is my question as whether there would be funds available if the claim was substantiated. Senator Warner.

SENATOR WARNER: The answer is currently there was not or is not, but there...a part of Social Services budget request, which has not been finalized by the Appropriations Committee for next year does have in a request in this area. Whether the committee will recommend that to the body or not, we have not made that decision yet. But as of now there is no funds, and had there been funds it could have been handled that way, if it qualified.

SENATOR COORDSEN: Thank you, Senator Warner. The problem that is addressed is not so much the validity of this claim or whether or not we should be paying it, but rather one of a policy decision. The body of the Legislature and as a matter of

fact the Business and Labor Committee that hears these bills is not a hearing body, per se, in that we don't have the ability to quickly develop all of the information that might bear upon the approval or denial of a claim. So we have a policy in place and may, as Senator Warner indicated, be funded that would allow first a claim to be placed with the Department of Social Services, and in the absence of the satisfaction of that the issue is brought to the State Claims Board. And certainly the issue is looked at in depth as it relates to statutes and policy and rules and regulations. So, if we do adopt the amendment to the amendment, I would caution you that we are putting an overlay of legislative intent on these issues and could well expose the State of Nebraska, put the State of Nebraska in a fairly defenseless position in having to pay because we have established that procedure, having to pay any and all claims that might arise out of circumstances such as this that people have been providing a foster care home. So I think we should move with caution in this area. It might well be advisable to not adopt the amendment to the amendment at this time. Thank you.

PRESIDENT: Thank you. The question is....Senator Lindsay, did you wish to close on your amendment to the committee amendment?

SENATOR LINDSAY: Yes, thank you, Mr. President. As we've mentioned in this discussion, the question here, the policy question of whether the state should reimburse somebody who absorbs a loss because of the actions of a foster child when that child is in their care, I think it's a policy that would encourage foster parents to take these children. This is not a case, and I don't think it should be the intent of the Legislature to allow, for example, a subrogation claim from an insurance company. That is what I don't think the intent is. The intent rather is just to allow some who has taken those reasonable steps, has filed with an insurance company, has absorbed a deductible, that type of action where they've done just about everything they can do. I don't think it's the foster parents that should bear the burden of that expense. For those reasons I would urge that this policy be adopted by the Legislature. I'd urge the adoption of the amendment.

PRESIDENT: Thank you. The question is the adoption of the Lindsay amendment to the committee amendments. All those in favor vote aye, opposed nay. Simple majority on this, General File, amendment to the amendment. I'm reminded I might be in

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error on this simple majority, because it involves money, so go ahead and vote, if you like. But I'll check to see if I made a mistake or not. Have you all voted? Record, Mr. Clerk, please.

CLERK: 8 ayes, 12 nays, Mr. President, on adoption of Senator Lindsay's and Senator Morrissey's amendment.

PRESIDENT: The Morrissey amendment to the committee amendment fails. Now we're back on the committee amendment. Senator Coordsen, did you wish to discuss further?

SENATOR COORDSEN: No, only to move the committee amendment.

PRESIDENT: Okay. The question is the adoption of the committee amendments. All those in favor vote aye, opposed nay. We're voting on the adoption of the committee amendments. Record, Mr. Clerk, please.

CLERK: 25 ayes, 0 nays, Mr. President, on adoption of committee amendments.

PRESIDENT: The committee amendments are adopted. May I direct your attention, please, to the northeast corner of the Chamber where we have a previous member of this Legislature, Senator Dick Fellman of Omaha. Please welcome Senator Fellman back to the body. Senator, you left this body, what, about 14 years ago, something like that. Long time ago. Thank you for being with us. While the Legislature is in session and capable of transacting business, I propose to sign and do sign LB 410, LB 414, LB 587, and LB 733. We're back on the...Mr. Clerk.

CLERK: Mr. President, Senator Coordsen would move to indefinitely postpone the bill.

PRESIDENT: Senator Coordsen, please.

SENATOR COORDSEN: Thank you, Mr. President, members of the body. This is one of the IPP motions that is rare in this body, and that is a good motion. Since we've had the discussion on the bill, these claims that are contained within the bill now have been disallowed. There is no need for the bill beyond the need we've already accomplished of bringing the...several of the issues to the floor and giving the body the opportunity to look at the denied claims. So at this time it is appropriate to indefinitely postpone LB 810 and move on to the allowed claims.

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LB 810, 811

I move the postponement.

PRESIDENT: Thank you. Any further discussion? If not, the question is, shall LB 810 be indefinitely postponed? All those in favor of indefinitely postponing the bill vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 25 ayes, 0 nays, Mr. President, on the motion to indefinitely postpone LB 810.

PRESIDENT: LB 810 is indefinitely postponed. We'll move on to LB 811, but...(gavel). Could we please hold our conversation down, we're getting a little noisy here and it's difficult to hear. Thank you. Mr. Clerk, on LB 811.

CLERK: Mr. President, LB 811 is a bill introduced by the Business and Labor Committee and signed by its members. (Read.) The bill was introduced on March 2, referred to Business and Labor, advanced to General File. I have committee amendments pending by the Business and Labor Committee, Mr. President.

PRESIDENT: Senator Coordsen, please.

SENATOR COORDSEN: Thank you, Mr. President, members of the body. The committee amendment is the deletion that we just talked about on LB 811, which is adding a denied claim from...or moving a denied claim from 810 into an allowed claim on 811. This is the \$30 claim against the Department of Motor Vehicles for the clerk's error that caused the gentleman to expend this amount of money that he would not have been required to do in the absence of that error. So, with that, I would move the advancement...or the adoption of the committee amendments.

PRESIDENT: Mr. Clerk, you have an amendment to the amendment, to the motion?

CLERK: Mr. President, I do. Given Senator Coordsen, as introducer, has priority status, Senator, I have an amendment to the committee amendments from yourself. This is AM1159, Senator.

PRESIDENT: Senator Coordsen, please.

SENATOR COORDSEN: Okay, that's a technical amendment that says that these payments shall be made out of the General Fund. Is