

Commission for Postsecondary Education, again, filed pursuant to statute; a report from the Nebraska Games and Parks Commission filed pursuant to statute; the annual report of the Division of Telecommunications; a communication from a series of Natural Resources Districts, Mr. President, with respect to payment of attorneys fees incurred during this past year. (See pages 88-89 of the Legislative Journal.)

Mr. President, I have a series of appointment letters from the Governor, appointments to the Board of Health, to the Rural Health Manpower Commission, the Foster Care Review Board, the Job Training Council, the Oil and Gas Conservation Commission. Those will all be referred to Reference for referral to the appropriate Standing Committee, Mr. President. (See pages 89-97 of the Legislative Journal.)

Finally, I have received a communication with respect to the siting for the low-level radio active waste disposal facility. That communication was received from US Ecology, Mr. President. (See page 88 of the Legislative Journal.) All of those reports will be on file in my office subject to review by members upon their request. That is all that I have, Mr. President.

PRESIDENT: Thank you. (Gavel.) Ladies and gentlemen, we're ready to begin the introduction of bills and some of you I understand would like to hear what the bills are about, so while I don't wish to spoil your fun and visitation with each other, kindly hold it down so that those that wish to listen to the introduction of the bills may do so. We anticipate that this will probably go on until about noon and, of course, free to do whatever you would like to do. Thank you. Mr. Clerk, the introduction of bills.

CLERK: Mr. President, new bills: (Read by title for the first time, LBs 818-878. See pages 97-109 of the Legislative Journal.)

I have amendments to be printed from Senator Rod Johnson to LB 163, LB 39, LB 37. (See pages 110-14 of the Legislative Journal.)

Mr. President, new bills. (Read by title for the first time, LBs 879-922. See pages 114-23 of the Legislative Journal.)

Mr. President, I have new resolutions: (Read brief description

January 4, 1990

LB 818-880
LR 230

PRESIDENT NICHOL PRESIDING

PRESIDENT: Good morning, ladies and gentlemen, welcome to the George W. Norris Legislative Chambers. We have with us this morning as our Chaplain of the day, Pastor Robert Nowak of the Faith Evangelical Lutheran Church in Lincoln, Nebraska. Would you please rise for the invocation.

PASTOR NOWAK: (Prayer offered.)

PRESIDENT: Thank you, Pastor Nowak, we appreciate your being here this morning and announcing the invocation. Please come back and visit us again. Roll call, please.

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

PRESIDENT: Thank you. Do you have any messages, reports or announcements? Mr. Clerk, do you have any messages, reports or announcements?

CLERK: Mr. President, I do. I have a reference report referring LBs 818-880, signed by Senator Labeledz as Chair of the Reference Committee. I have also a reference report regarding certain gubernatorial appointments made since the last special session. That's all that I have, Mr. President. (See pages 135-37 of the Legislative Journal.)

PRESIDENT: We'll move on to number four, the temporary rules.

CLERK: Mr. President, I have a motion. Senator Lynch as Chair of the Rules Committee would move that the rules be adopted for today only, January 4.

PRESIDENT: Thank you. Senator Lynch.

SENATOR LYNCH: Mr. President, members, I couldn't have said it any better. I move the adoption of the (inaudible)...

PRESIDENT: Thank you. Is there any discussion? You've heard the motion. All in favor say aye. Opposed nay. They are adopted. We'll move on to the legislative resolutions, LR 230. Mr. Clerk.

CLERK: Mr. President, LR 230 was introduced by Senator Withem. It is found on page 124 of the Legislative Journal. (Read brief

January 9, 1990

LB 259, 880, 942, 1051-1056

that Senator Withem and Scotty Moore and others have been working long and hard on that. I'm a little apprehensive in some way, but nonetheless, I know they are working at it and that is good. So without any further comments, I would ask you to support the amendment.

SPEAKER BARRETT: Thank you. The question is the adoption of the Schmit amendment to the committee amendments. All in favor vote aye, opposed nay. Record, please.

CLERK: 35 ayes, 0 nays, Mr. President, on the adoption of Senator Schmit's amendment to the committee amendments.

SPEAKER BARRETT: The amendment to the amendment is adopted. For the record, Mr. Clerk, new bills.

CLERK: Mr. President, a few things, yes, sir, thank you. New bills: (Read LBs 1051-1056 by title for the first time. See pages 224-26 of the Legislative Journal.)

Mr. President, finally, I have a hearing notice from the Judiciary Committee for Wednesday, January 17. That is signed by Senator Chizek. (Re: LB 880 and LB 942.)

And the last item, Mr. President, lobby report for November 18 through January 8, 1990. Mr. President, at this time I have nothing further pending to the Education Committee amendments.

SPEAKER BARRETT: Thank you, Mr. Clerk. Senator Withem, would you care to discuss the committee amendments, please?

SENATOR WITHEM: Is this to open the discussion to debate or to close? Are there other lights on?

SPEAKER BARRETT: This is a discussion on the committee amendments. Would you care to...(interruption)

SENATOR WITHEM: I believe I was introduced earlier for my ten minutes to discuss them, so I will just wait and see if other people wish to discuss them and then...

SPEAKER BARRETT: There are no other lights on at the present time. If you'd like to refresh our memories with your earlier discussion, perhaps this will generate some debate.

February 16, 1990 LB 163, 164A, 226, 260, 457, 571, 838
846, 866, 880, 958, 1003, 1019, 1028
1039, 1062, 1103, 1106, 1113, 1184, 1205
1215, 1229

Senator Hartnett. (See pages 846-48 of the Legislative Journal.)

Judiciary reports LB 838 to General File; LB 880, General File; LB 846, indefinitely postponed; LB 1103 and LB 1205, indefinitely postponed.

I have amendments to be printed to LB 866 by Senators Lamb, Haberman, Rogers and Crosby. (See pages 848-50 of the Legislative Journal.)

Mr. President, priority bill designations. Senator Labeledz has selected LB 457. Senator Hartnett for Urban Affairs has selected LB 1106, LB 1229; Senator Conway, LB 260; Senator Bernard-Stevens, LB 1062; Senator Beck, LB 958; Senator Rod Johnson, LB 1019; Senator Haberman, LB 1039, as one of the Retirement Systems priority bills. Senator Hall's Revenue bills are LB 1028 and LB 1215; Senator McFarland, LB 226; Senator Hefner, LB 571; and Senator Chizek's personal priority, LB 880, and Judiciary Committee's, LB 1003 and LB 1113.

Mr. President, Revenue Committee gives notice of hearing. And one new A bill, LB 164A by Senator Ashford. (Read by title for the first time as found on page 850 of the Legislative Journal.)

And, finally, Senator Scofield has amendments to LB 1184 to be printed. (See page 851 of the Legislative Journal.) That's all that I have, Madam President.

Madam President, when we left LB 163, the Enrollment and Review amendments had been adopted. Senator Johnson had an amendment to the bill that had been adopted. Senator Morrissey had amendments. Senator Hefner had his first amendment adopted. The bill was bracketed, Madam President. I now have pending Senator Hefner's amendment. Senator, this amendment is on page 599 of the Journal. I believe...it's AM2141, Senator, the biodegradable. Right. Okay.

SENATOR LABEDZ: Senator Hefner, on the amendment.

SENATOR HEFNER: Mr. President and members of the body, you will find this amendment on page 599. And what this would do, this would add a tax or a fee on disposable diapers...on nondegradable disposable diapers at the rate of 10 cents per dozen. The tax would be collected by the Department of Revenue

that our doctor of the day comes to us from Lincoln. Under the north balcony, Dr. James Blomgren. Dr. Blomgren, would you please stand and be recognized. Also under the north balcony, guests of Senator Dierks from Ewing, Nebraska, Marge Green, and from Chambers, Nebraska, Pat Watson. Would you folks please stand and be recognized. Thank you. We're pleased to have you with us today. Also a very brief announcement, LB 1055 which follows 880 will not be discussed today, LB 1055 is removed from the agenda temporarily. Mr. Clerk, to LB 880.

CLERK: Mr. President, LB 880 was a bill introduced by Senators Chizek, Hall, Ashford, Lindsay, Kristensen. (Read title.) The bill was introduced on January 3 of this year, referred to the Judiciary Committee. The bill was advanced to General File. I have no amendments to the bill at this time, Mr. President.

SPEAKER BARRETT: The Chair recognizes Senator Chizek, please.

SENATOR CHIZEK: Mr. Speaker, colleagues, LB 880, as you just heard, increases the numbers by two to the...from 48 to 50, allocated by the Judicial Resources Commission and it's very similar to the bill that we had last year. There is not much doubt that additional personnel would let the courts probably cope much better with things that have come to pass. For example, in Douglas County we've seen a case increase annually from approximately 6,000 in 1972 to 10,281 in '89. This is a 71 percent increase and that probably just tells just a part of the story. The nature and the complexity has changed. We're dealing with medical and legal malpractice, product liability, hazardous material, personal injuries are now very commonplace. On the criminal side there has been a tremendous increase in the drug offenses. Now it could probably, this situation could exist in any county, but I would expect that the commission would target the allocation to the area of greatest need. I think at least one would be in Douglas County, but that determination is up to the commission. Looking at the statewide situation, the district court sent to each of you materials outlining, in their opinion, the need for help so I won't get into that. I think this is the first step in trying to acquire some of the help that areas of the court need to maintain its level of case management. Some of you may have seen the story, I'm trying to find it, about two weeks ago in the weekend paper about the caseload and the problems, suggests very strongly, colleagues, that they are close to dismissing certain criminal cases because of time frame. So I would urge your adoption in

advancement of LB 880.

SPEAKER BARRETT: Thank you. Discussion on the advancement of 880, Senator Haberman, followed by Senator Chizek.

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

SPEAKER BARRETT: Senator Chizek, please.

SENATOR HABERMAN: Senator Chizek, where would these two district judges be stationed?

SENATOR CHIZEK: You must not have heard me, Senator, I said one of them would probably go to Douglas County, but that is not even a guarantee. I would say that because of the work load. The allocation is done by the Judicial Resources Committee and they would make that determination, but the work load, I feel certain one of them would go to Douglas County, Senator, maybe both.

SENATOR HABERMAN: Under 24-810, wouldn't that determine that they both go to Douglas County?

SENATOR CHIZEK: No.

SENATOR HABERMAN: So what you're saying then, that we can possibly say one will go to Douglas County and we do not know at this time where the other one is going to go.

SENATOR CHIZEK: That is what I'm saying, Senator, and the possibility exists they both may, but I can't tell you.

SENATOR HABERMAN: Thank you.

SPEAKER BARRETT: Senator Chizek.

SENATOR CHIZEK: Any other lights?

SPEAKER BARRETT: None. I'm sorry, one. Do you defer to Senator Chambers?

SENATOR CHIZEK: Not really, I don't defer to him, but I'll pass for now.

SPEAKER BARRETT: Thank you. Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I'd like to ask Senator Chizek a question. Senator Chizek, the A bill is...it covers a two-year period as far as appropriation, 219,000 the first and 220 the next or vice versa?

SENATOR CHIZEK: 219,618 and 220,093 in '91-92, Senator, 70,000 in each fiscal year is for like support staff, bailiff, et cetera.

SENATOR CHAMBERS: So it's close to a half a million dollars.

SENATOR CHIZEK: Close only counts in horseshoes, Senator.

SENATOR CHAMBERS: But...okay. Mr. Chairman and members of the Legislature, the two judges are planned for Douglas County, and on this bill, as I have done with other bills that relate to judges, I've got to make some comments about the quality of justice or the lack of quality. There is racist, disparate sentencing in Douglas County. There are judges whose decisions reflect racism. The sentences they hand down reflect racism. This was established by a study conducted by a group that studies courts, judges and the way they sentence people and it relates to a set of circumstances where you might have codefendants and the black one gets a longer sentence than the white one, and the white one may serve no time at all. So when you read statistics in the newspapers about the number of black men who are locked up or on probation or on parole, much of it is accounted for because of the disparate sentencing of judges. There are other factors that enter into it such as not making arrests for the offenses, but that is not directly to be laid to the judges. But I do have to mention that in the part of Omaha known as West Omaha, there is considerable drug dealing. Channel 7 finally did a story on it, and although there are more drugs dealt, a greater dollar volume and more drug users, the percentage of drug arrests in Omaha for the period covered was 2 percent, 2 percent drug arrests where the greatest amount of drug abuse is occurring. They talk particularly about Millard North and how this lady has a child who wants to attend that school but she does not want her child to attend the school because of the amount of drug abuse. She mentioned that there are houses on her street where drugs are sold and known to be sold but they are white people's houses and the doors are not kicked down and the white people are not arrested. The white

students who were talked to about their drug abuse mentioned that they used crack, they used cocaine, marijuana and pills and they said they probably are not arrested because people don't accept the idea that they, being white and clean-cut, use drugs, but that they have serious drug problems. One white man, talking to the Channel 7 reporter, pointed out that the amounts of money are so large that the money is not counted, it is weighed and one such amount of money weighed as a result of a drug transaction turned out to be \$135,000. That amount has never been seized during what they call a drug sweep in North Omaha where I and people of my complexion live, so there is a misplacement by the police of their activities and they are not dealing with the drug problem.

SPEAKER BARRETT: One minute.

SENATOR CHAMBERS: When they arrest all of these young black men and take them before these racist judges, then they are convicted. In some instances, they are told by the public defender that they have no chance to win because the judge is a racist so they should plead guilty even if they have not committed the crime and they are advised to handle their cases in this fashion. The prosecutors know about the racism and Senator Chizek wants me to vote to put two more people there to carry out that kind of activity and there is nothing going on in the Douglas County judicial system or the judicial system throughout the state presided over by Chief Justice Hastings to even acknowledge the existence of this problem, let alone address it. I'm opposed to this bill, I'm opposed to the half million dollars, and if these judges would get up off their lazy rumps and start being honest and fair in the way that they handle their cases, they wouldn't have the backlog and things would be a lot different and my attitude would be such that I could support some salary increases and other things.

SPEAKER BARRETT: Thank you. Senator Chambers.

SENATOR CHAMBERS: And that brings me to another subject. Peter Citron is a young gentleman who has two sex abuse charges against him. There has been an indication that some of the district judges in Douglas County may be involved in what is being investigated and called the Franklin matter, and every district judge in Douglas County has recused himself and will not handle that case, and Senator Chizek wants us to send two more there so that they can also recuse themselves when a case

of this kind comes up. And Judge Buckley, the presiding judge, the judge who wanted to restrict the scope of the grand jury, the one who led the charge to appoint a man as special prosecutor who is not up to the job, will not explain why the recusal occurs. To recuse means to disqualify. We've got all these judges commanding these salaries and they cannot handle a case like this. Although it is a terrible accusation and it's a terrible offense if it turns out that it was committed, it is not an unusual thing. There have been sexual assault cases far more serious than the one involving Peter Citron, so why do they recuse themselves? Because of who it is and his connections. That's why, and if it's not why, let Judge Buckley stop running and hiding and covering these things that these judges may be involved in. Those robes, the skirts that the judges wear are not designed to hide iniquity. They've got to come clean or stay away dirty and so far they are staying away dirty and have the nerve to support a bill like this to give two more to their number. Ali Baba had 40 thieves and he dealt with them, but I'm sure he would not have said that he dealt with them so well that they should add two more to the number. The judges in Douglas County have not acquitted themselves so well that we can believe that if they applied themselves to the job that they are paid to do, that they cannot handle it. But there is a premium in the judicial system to being lazy, to being slack, to sloughing off because your very laziness that creates a problem can be used as a justification to increase the number of people doing this work and increase your salary. There is no other category of employee who, by laziness, can improve his or her situation. Judges sit back and do nothing. They have seen the scheme used by the Chief Justice, just give a lot of numbers and the senators will be overwhelmed by them and never look at the kinds of cases that make up those numbers. Every kind of thing is included in there. Let me ask Senator Chizek a question before I make a statement that may not be valid.

SPEAKER BARRETT: Senator Chizek.

SENATOR CHAMBERS: Senator Chizek, do those statistics exclude traffic cases?

SENATOR CHIZEK: They are in county court.

SPEAKER BARRETT: Senator Chizek, please, into the microphone.

SENATOR CHAMBERS: Right, that's why I want to get things into

the record so it is clear and that I'm not misleading anybody because...

SENATOR CHIZEK: Yeah, they're in county court.

SENATOR CHAMBERS: Okay, would you say it in the mike.

SENATOR CHIZEK: They are in county court.

SENATOR CHAMBERS: Okay, all traffic cases in Douglas County are handled by county court so we're not talking about traffic cases. Okay. Are there any misdemeanor cases handled in district court in Douglas County?

SENATOR CHIZEK: Senator, in the process of handing this, you should be getting it shortly...

SPEAKER BARRETT: Senator Chizek, please, the transcribers will not be able to hear this.

SENATOR CHIZEK: I'm passing out a handout now that has all of the cases by judge, cases carried over, filed, done, pending, felonies, civil, domestic relations, and you should have it on your desk shortly, and it has all by judge, who has handled the number.

SENATOR CHAMBERS: Okay, so the kinds of cases that we are not going to deal with are traffic cases and misdemeanors. Is that correct?

SENATOR CHIZEK: Yes, we are talking about felonies, civil cases, domestic relations and the numbers and the judges are all listed on that handout...

SPEAKER BARRETT: One minute.

SENATOR CHIZEK: ...that is being handed out now, Senator.

SENATOR CHAMBERS: Do you have any idea, and if you don't then I can understand that, how many of those civil cases are made up of cases taken from small claims court?

SENATOR CHIZEK: No, I have no way of knowing.

SENATOR CHAMBERS: Okay, but there could be some there because a

lot of these people who don't like to deal in small claims court can have it removed to district court.

SENATOR CHIZEK: They can pay \$8.00 and appeal it to district court, yes.

SENATOR CHAMBERS: Okay, so we might have some of those. And the domestic relations cases...

SENATOR CHIZEK: And we might not.

SENATOR CHAMBERS: Well, we probably do though because the merchants want...they don't like small claims court, some of them, and they can outlast somebody, but here is what I want to try to get to. There are cases in there which, if they wind up in the district court, don't require a lot of time to handle. Would you agree with that?

SENATOR CHIZEK: Yes.

SENATOR CHAMBERS: And a lot of those cases do not have jury trials. Would you agree to that?

SENATOR CHIZEK: Yes.

SENATOR CHAMBERS: So they are uncomplicated cases, they don't take a lot of time and all we have there are raw numbers without being aware of what is entailed in any one of those cases. Is that right?

SPEAKER BARRETT: Time. Senator Chizek, finish, you can answer the question if you wish.

SENATOR CHIZEK: Yes, but one thing I neglected to mention to Senator Chambers was small claims, on the appeal, goes to county court also.

SPEAKER BARRETT: Thank you. The Chair recognizes Senator Korshoj.

SENATOR KORSHOJ: Mr. Speaker, members, I just have a question and it doesn't even need to be answered. Do we ever consider redistricting and getting some judges back down there to help? We have judges with just part-time loads. Let's keep what we have and let them go down there and a little driving time

doesn't hurt them, and let them help out and get the log cut down to size and I will give Senator Chambers the rest of my time. You were in the middle of a sentence.

SPEAKER BARRETT: Senator Chambers.

SENATOR CHAMBERS: Thank you, Senator Korshoj, and because we're talking about judges and criminal activity and going to jail, I'd rather he say that I'm in the middle of a statement rather than the middle of a sentence, but I understand. That's the way we do things here. Senator Chizek, what I want to ask you is this. When that temporary appellate court was set up pursuant to the law last session, there were district judges from Douglas County who sat as those appeals judges. Are you aware of that?

SENATOR CHIZEK: Yes, sir.

SENATOR CHAMBERS: If their load was so heavy why would the Supreme Court take them from what was their primary job and put them in that situation?

SENATOR CHIZEK: Senator, primarily because they had the power to do it and their load was heavy also. You remember the testimony at the hearing as well as I do. Judge Murphy and some of the others were adamantly opposed because their attitude was they are down here working on this, getting back writing opinions and still have their work load to deal with. They were adamantly opposed to that.

SENATOR CHAMBERS: Is it within the power of the Supreme Court right now to assign a judge who sits in one county to another county to help with their backlog?

SENATOR CHIZEK: Yes.

SENATOR CHAMBERS: Do you think that there are counties in the State of Nebraska that do not have the load that these Douglas County judges have?

SENATOR CHIZEK: Yes.

SENATOR CHAMBERS: Why, then, won't Chief Justice Hastings allocate correctly and make the proper use of this judicial person power?

SENATOR CHIZEK: That's a good question.

SENATOR CHAMBERS: Thank you, and I don't...I'm asking kind of rhetorically so that it's in the record but I'm not expecting answers.

SENATOR CHIZEK: Senator Kristensen has one.

SENATOR CHAMBERS: Oh, he has an answer?

SENATOR CHIZEK: He said he can answer you.

SENATOR CHAMBERS: Senator Kristensen, would you respond to that question? Or did you choose to or am I being hustled here?

SENATOR KRISTENSEN: No, that's fine. I was just setting here listening but I'll gladly take a crack. What was the question?

SENATOR CHAMBERS: Never mind. What I am saying, members of the Legislature, is that when you have several districts in a state and you have one person who is the administrator of all of the people who will serve throughout those districts, we know that the work load in those districts is going to be uneven. Some counties will have more work than others. Some judges will have more work within a district than others. It is the responsibility of an efficient and competent administrator to utilize the person power in a manner that will get the work done, and since there are judges sitting around because they spend only a few hours in court a day, Chief Justice Hastings can find out who those judges are, and if he doesn't know, I know people who will help me to help him get that information. He should assign them to do some of this work. But it is to their advantage to create what appears to be a crisis so that they can either get more people or more money or, as the Supreme Court has succeeded in doing, an entire new system of judges...

SPEAKER BARRETT: One minute.

SENATOR CHAMBERS: ...to make their work load lighter. I hope the Governor will not be stampeded into signing a bill such as this. There has been no compelling reason shown for increasing the number of judges in Douglas County, but I could give some compelling reasons for getting rid of some of them, but if you bring a complaint, who do you file it with? You file it with a Judicial Qualifications Committee, Commission, who because of

the besmirching of the reputation of the judges would have to rule that the charges or the complaints are unsubstantiated, but there are people who have seen judges engaging in improper activity. And I say, again, that the presiding judge of Douglas County, James Buckley, recused all the judges because of the possibility of implication.

SPEAKER BARRETT: Time. Senator Chizek, please.

SENATOR CHIZEK: Well, I originally wasn't going to comment on what Senator Chambers said, but I'm going to now. I think Judge Buckley and the judges did the right thing. I think if there is a cloud or rumors or innuendos, they did the right thing. And like Barry Goldwater said years ago, Senator Chambers, in your heart you know they are right because there would have been those who jumped quickly and said, the rumors, the rumor, and again, Senators, it is rumors. I think, Senator Chambers, myself and this entire body would stand up with a hue and cry if we thought there was anything covered up from A to Z and we will. But I also think people, judges, whomever you are, are innocent until proven guilty, and thank God, Joe McCarthy is not around anymore. This is a different issue than the need in the caseload that exists here. I would agree with Senator Chambers that some judges, their load is much less than others. He knows that I would agree with that. He knows that his old seatmate, Senator Beutler, tried to redistrict a number of years ago. I told people it was interesting and I felt that's probably one of the reasons that our old colleague, Senator Beutler, didn't do better. There were a lot of people upset when they tried to redistrict. I told my colleague, Senator Weihing, earlier today that we should redistrict, that we should, but it is not something we can do overnight and it will require a very comprehensive study, but what do we do in the meantime? What do we do in the meantime? Do we look at caseloads, whether there are cases, as Senator Chambers points out or not, that border on coming close to dismissing criminal cases? I don't want to be a part of that and I don't think you do and, again, I will tell you that the two issues about the judges removing themselves have nothing to do with this. I think it is interesting, as the media would say to a judge, are you this or are you that? Do you think the judges can respond? I don't. No comment. The Judiciary Committee is having hearings today on the whole Franklin issue. Unfortunately, it was brought into this issue. Again, I say, I thought we had an end to Senator Joe McCarthy. This bill is necessary.

SPEAKER BARRETT: Senator Haberman, followed by Senator Chambers.

SENATOR HABERMAN: Mr. President, members of the body, we have debated on this floor an increase in salary for the judges and one of the reasons, or one of the biggest reasons that they are overworked, by giving them more pay, they will be able to do a better job. Now we are faced with also adding two more district judges, and to me, the two don't really fit. So possibly we should give whoever it is we should give it to a choice. Do you want the salary increase, the retirement benefit increase or do you want two more colleagues? I don't think they should have both. That's having the whole pie. I mean, that's great if you can get it. I don't think it's right. They can wait a couple years or next year. You know, it takes an awful lot of gall to come into this body and say, we want an increase in salary and also we want more people to help us out when one of the reasons that they were overworked. I oppose LB 880 and give the rest of my time to Senator Chambers, Mr. President.

SPEAKER BARRETT: Senator Chambers.

SENATOR CHAMBERS: Thank you, Senator Haberman, had you been Senator Chizek relinquishing time, you'd be saying you're giving your time to Senator Joe McCarthy. But I'm accustomed to that. That's all a part of the vigorous debate that we ought to engage in here, and if I can dish it out, I've got to be able to take it, and if the worst punch I have to take here is the powder puff punches that my good friend Senator Chizek landed on me, then I'm in very good shape while here. But he talked about rumors. Yes, there are rumors. Senator Chizek, may I ask you a question? When you were stating the reasons as to why the judges recused themselves, have you discussed this with any of the judges?

SENATOR CHIZEK: Yes.

SENATOR CHAMBERS: Which ones did you discuss it with?

SENATOR CHIZEK: That is immaterial.

SENATOR CHAMBERS: No, it's not, it's very...because you brought it up.

SENATOR CHIZEK: Well, I don't intend to tell you.

SENATOR CHAMBERS: Did they tell you why they recused themselves? Come on now.

SENATOR CHIZEK: They didn't have to tell me, Senator, I was able to figure that out for myself.

SENATOR CHAMBERS: Well, I don't want your figuring because that would be in the nature of a rumor...did they tell you?

SENATOR CHIZEK: You know, I'm not interested in what you want. I'm telling you I don't intend to tell you.

SENATOR CHAMBERS: Did they tell you why they recused themselves?

SENATOR CHIZEK: I did not ask, nor did they volunteer.

SENATOR CHAMBERS: But you discussed the issue of their recusal?

SENATOR CHIZEK: Yes.

SENATOR CHAMBERS: Okay. Now, here's what we have, thank you, Senator Chizek, we have a politician who can get more information from the judges than the media whose job it is to try to keep the public informed. Now, we know Jerry, Senator Chizek is a part of law enforcement. Sometimes he wears his handcuffs on his tie. His tie clasp handcuffs. Today he has got his airborne tie clip. I don't know if that means he's going to bail out if it gets too hot or what, but at any rate he said, in my heart I know they are right and I said, yeah, right wing. Well, what I really mean through all this that I'm saying is that Senator Chizek feels a necessity to be the mouthpiece for judges who have taken an action that raises questions and justifiably raises questions. We find out that Peter Citron's name was one of the five mentioned on Senator DeCamp's memo. Now, it was published in one of the Lincoln papers that they had access to a subpoena with additional names, but they were afraid to print the names from the subpoena. We have a district judge who had to be chastised publicly to keep him from unduly restricting the scope of the grand jury. That district judge then announces that all of the district judges in Douglas County are recused in the Peter Citron case. And Senator Chizek wants to say that anybody who draws speculative reasons for it is

engaging in rumor. Fine. But if there are rumors, they can be dispelled by those who have the information and can tell the reason for their actions. Senator Chizek was not hired by...I meant, voted in by his constituents to be a mouthpiece for the judges.

SPEAKER BARRETT: One minute.

SENATOR CHAMBERS: They can certainly speak for themselves if they are going to throw the book at some defendant, but here comes this same Judge Buckley, this same Judge Buckley coming up again, leading the other judges into an action that raises questions, and Senator Chizek can say all he wants to, he wishes this was not discussed. But there is no way an issue related to Douglas County judges can come before this body at a time when Judge Buckley, the presiding judge, has done the things he did and just did yesterday, the recusal, and not have it discussed as a part of a bill designed to give these people additional associates, at a cost of a half a million dollars, and we can't even get an answer from Judge Buckley. And Senator Chizek, who has more access to these judges than the media, who represent the people, has had discussions but he is not going to share the content of that discussion with us. Why does he have to hide things?

SPEAKER BARRETT: Time.

SENATOR CHAMBERS: What did the judges tell him that he must hide? And what did they threaten that they would do to him if he didn't keep a smile on his face and keep his lips zipped? Senator Chizek, what do these judges hold over your head? That's what I want to know.

SENATOR CHIZEK: They just told me you were a nice guy, Senator.

SENATOR CHAMBERS: Who told you that? (laughter)

SPEAKER BARRETT: The Chair is pleased to note that Senators Wesely and Landis have seven students from Northeast High School along with their teacher in our south balcony, and Senator McFarland has 45 sixth graders from Eastridge Elementary here in Lincoln with their teacher. Will you students please stand and be recognized. Thank you. We're very glad to have you with us. Also, Senator Kristensen has six students from Minden under the north balcony. Would you students please stand and be

recognized from the Minden area. Thank you. We hope you can come back again. Proceeding with the discussion on 880, Senator Chambers, followed by Senators McFarland, Lindsay and Abboud.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I knew if we talked long enough we'd smoke these other lawyers out, and I'll bet you \$10.00 to a penny that every one of them will support this bill, and that won't come as a surprise. It is their profession and we expect them to do it and they more or less have to do it. To speak on an issue such as this, at all, compels them to speak for it, but there are serious questions about the inappropriate allocation by the chief judge of the available judges. There are judges who can help with this work load. If they can reach out on a moments notice and get a judge to handle the Peter Citron case, that shows there are judges sitting out there with nothing to do and they could be coming to Douglas County. When Senator Chizek mentions that some of these cases of a criminal nature that are perilously close to dismissal because of the amount of time that is passing and the defendant will not get the speedy trial required under the laws in the Constitution, that's not because they don't have enough judges. They have judges who are not doing their work. That's where the problem comes from and there is something else people need to know. If a defendant does anything that results in a postponement of any kind, then that stops the running of that statutory period required for a speedy trial and a lot of times there are pretrial motions by defendants, their attorneys representing them. So I would like to ask Senator Chizek this question. Senator Chizek, on that list of figures that you gave us, is there a listing, and I don't mean my name, but of the number of cases that are about to be dismissed due to the speedy trial requirement? That newspaper column.

SENATOR CHIZEK: No.

SENATOR CHAMBERS: So then you're just saying that, but you don't have any statistics to give us like the other kind you gave us as to the kinds of cases that the judges are handling?

SENATOR CHIZEK: I'm saying that as a result of conversation with the judges when this story was done two or three weeks ago by Terry Hyland from the World-Herald.

SENATOR CHAMBERS: Oh, now it's a story, not facts, mmm-hmm. And was this the same time you had that private conversation

with them about the recusal?

SENATOR CHIZEK: No, it was right after I met with you last week that I...

SENATOR CHAMBERS: Okay, now how many cases, did they give you any idea of a percentage of cases that are close to being dismissed, or did they just say there are cases close to being dismissed?

SENATOR CHIZEK: I think the exact phrase, I'm not sure, it was that we were rapidly approaching a point where criminal cases could be dismissed, would be dismissed because of the speedy trial.

SENATOR CHAMBERS: So in fairness to them, they didn't give a percentage of the total cases that...

SENATOR CHIZEK: No.

SENATOR CHAMBERS: ...were about...

SENATOR CHIZEK: And that's not in the article.

SENATOR CHAMBERS: Okay. They always like to use those kind of tactics, and if there were a substantial number, they would have written that number out and made sure that we all had it. I don't think the judges always deal in a straightforward manner. Whenever people are trying to get more money, they tend to hedge facts, they exaggerate those things that will benefit them and they minimize those things that will go against their case. So I don't think that a compelling reason has been given to add two judges in Douglas County. This bill passed last year, a version of it. It will probably pass again this time and I hope that the Governor, as she did last time, will veto it. The judges are not working assiduously. Senator Chizek, I have to ask you these questions as they occur to me. On the average, how many hours a day does a judge in Douglas County spend in the courtroom?

SENATOR CHIZEK: I'm not sure of the exact...

SENATOR LABEDZ PRESIDING

SENATOR LABEDZ: One minute, Senator Chambers.

SENATOR CHAMBERS: One minute? That's all the time they spend? (laughter) Oh, that was the Chair. I'm sorry, Madam Chair.

SENATOR LABEDZ: Thank you.

SENATOR CHAMBERS: I thought Senator Chizek was answering.

SENATOR LABEDZ: Thank you for the apology.

SENATOR CHAMBERS: Okay.

SENATOR CHIZEK: It's...

SENATOR CHAMBERS: I'm here.

SENATOR CHIZEK: I'm trying to find it.

SENATOR CHAMBERS: Will it take all of my minute?

SENATOR CHIZEK: Probably. It is estimated, they are talking 40 to 55 hours at or in the courthouse.

SENATOR CHAMBERS: A day?

SENATOR CHIZEK: Pardon me?

SENATOR CHAMBERS: A day? Per day? If they spend 40 or 50 hours, see, it could either be a day, a week, a month, a year. Per day, that is what I am trying to find out.

SENATOR CHIZEK: I'm not sure, Senator, when you're talking about a day...(interruption)

SENATOR LABEDZ: Your time is up, Senator Chambers.

SENATOR CHAMBERS: That's the tactic these judges are known to use, too. He learned well.

SENATOR LABEDZ: Senator McFarland.

SENATOR MCFARLAND: I'd just call the question, Mrs. President. Thank you. Mrs. President, that's right.

SENATOR LABEDZ: The question has been called. Do I see five

hands? I see five hands. All those in favor vote aye, opposed nay. We're voting on ceasing debate. Have you all voted? Senator Chizek.

SENATOR CHIZEK: Well, I was considering asking a call of the house. I think I am.

SENATOR LABEDZ: You are making the motion to call the house?

SENATOR CHIZEK: Yes, I am.

SENATOR LABEDZ: Senator Chizek has requested a call of the house. Please record your presence. Oh, I'm sorry. Shall the house go under call? All those in favor vote aye, opposed nay. Record.

CLERK: 14 ayes, 0 nays to go under call, Madam President.

SENATOR LABEDZ: The house is under call. All unauthorized personnel please leave the floor. Senators in their offices, please return to the Chamber and record your presence.

SENATOR CHIZEK: Take call ins, yes.

SENATOR LABEDZ: Thank you, Senator Chizek. Senator Chizek has requested call ins. The house is under call. Please return to the Chamber.

CLERK: Senator Schellpeper voting yes. Senator Dierks voting yes. Senator Coordsen voting yes. Senator Kristensen, you did vote yes, Senator. Yeah, I got you, Senator Kristensen. Senator Scofield voting yes.

SENATOR LABEDZ: Record, Mr. Clerk.

CLERK: 26 ayes, 1 nay to cease debate. Madam President.

SENATOR LABEDZ: Debate has ceased. Senator Chizek, would you like to close on the advancement of LB 880.

SENATOR CHIZEK: Very briefly, Madam President. You all know what the issue is. There are solutions that we can deal with. You've heard talks and comments about redistricting. We've heard other comments injected that I don't think have any bearing on this. The work load is there. I've been there

March 2, 1990

LB 880, 1018

early, I've been there late and seen judges working in their chambers. I can't stand and defend and tell you that this is all a perfect structure that we have, but it is the structure we have and the need is there and so I would ask for your support to advance LB 880.

SENATOR LABEDZ: Senator Chizek was closing on the advancement of LB 880. All those in favor vote aye, opposed nay.

SPEAKER BARRETT PRESIDING

SPEAKER BARRETT: Have you all voted? Record, please.

CLERK: 31 ayes, 3 nays, Mr. President, on the advancement of LB 880.

SPEAKER BARRETT: LB 880 is advanced. The Chair is pleased to note, in addition to raising the call, that a distinguished guest is under the north balcony, a former member of this Legislature, now United States Congressman Douglas Bereuter. Congressman Bereuter. Thank you for coming back, Congressman, it's nice to see you. As previously announced, we will move over 1055, Mr. Clerk, and proceed to LB 1018.

CLERK: Mr. President, 1018 was a bill introduced by Senators Abboud and Beck. (Read title.) The bill was introduced on January 8 of this year, referred to Judiciary for public hearing. The bill was advanced to General File. I do have committee amendments pending by the Judiciary Committee, Mr. President.

SPEAKER BARRETT: The Chair recognizes Senator Chizek for the introduction of the committee amendments.

SENATOR CHIZEK: Mr. Speaker, colleagues, as said, 1018, LB 1018 is Senator Abboud's priority bill. I'll let him explain the details of the bill. Essentially it provides a penalty for what has more recently been called "drive-by shootings". The bill as written may have been interpreted to also prohibit firing blanks from a gun or simply discharging a gun in the air near a building or vehicle. In order to be sure that the bill was used for the purpose it was introduced, the committee amendment adds clarifying language that requires that any firearm used in violation of LB 1018 has fired bullets or other projectiles which hits those objects defined in the bill. I have talked

March 5, 1990

LB 163, 163A, 542, 571, 880, 953, 953A
1019, 1019A, 1124, 1184, 1184A, 1210
LR 258

SENATOR LINDSAY: Mr. President, I move that LB 953A be advanced to E & R for engrossment.

SPEAKER BARRETT: Thank you. Any discussion on the advancement of the A bill? Senator Haberman.

SENATOR HABERMAN: Mr. President, and members of the body, I would like to advance the A bill as we may need it towards the tail end of the session. I will repeat to you again, there is no cost to this legislation. It will not come back on LB 953 but we may need an A bill on Final Reading later on in the session, and for those reasons, I ask you to advance the A bill.

SPEAKER BARRETT: Thank you. Any other discussion? If not, those in favor of the advancement of LB 953A please say aye. Opposed no. Carried. The bill is advanced. Any matters for the record, Mr. Clerk?

CLERK: Yes, sir, I do. Thank you. Mr. President, I have amendments to be printed to LB 571 by Senator Hefner. Mr. President, a Reference Report referring LR 258, signed by Senator Labedz as Chair of the Reference Committee. (See pages 1149-52 of the Legislative Journal.)

The Revenue Committee reports LB 1124 to General File with committee amendments attached. That is signed by Senator Hall as Chair of the committee. Appropriations Committee reports LB 1210 to General File. That is signed by Senator Warner as Chair of that committee. Mr. President, your Committee on Enrollment and Review respectfully reports they have carefully examined engrossed LB 163 and find the same correctly engrossed, LB 163A correctly engrossed, those signed by Senator Lindsay. Enrollment and Review reports LB 1019 to Select File, LB 1019A, LB 1184, LB 1184A, and LB 880, all to Select File, some of which have E & R amendments attached. That is all that I have, Mr. President. (See pages 1052-55 of the Legislative Journal.)

SPEAKER BARRETT: Thank you. Moving on to LB 542, Mr. Clerk.

CLERK: Mr. President, excuse me, LB 542, I have Enrollment and Review amendments, first of all.

SPEAKER BARRETT: The Chair recognizes Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move the adoption of the

March 7, 1990

LB 866, 880, 976, 1031, 1059, 1184A, 1243
1246
LR 251

SPEAKER BARRETT: Discussion? Shall LB 1184A be advanced? Those in favor say aye. Opposed no. Carried, the bill is advanced. To LB 880.

CLERK: LB 880, Senator, I have no amendments to the bill.

SENATOR HALL: Mr. President, I'd move that LB 880 be advanced to E & R for engrossing.

SPEAKER BARRETT: Is there discussion? Seeing none, the question is the advancement of LB 880. Those in favor say aye. Opposed no. Carried, the bill is advanced. Mr. Clerk, have you anything for the record?

CLERK: Mr. President, I do. Amendments to be printed to LB 976 by Senator Pirsch; and Senator Bernard-Stevens to LB 1031; Senator Warner to LB 1059. (See pages 1248-49 of the Legislative Journal.)

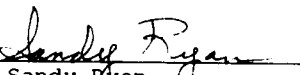
Mr. President, your Committee on Revenue, whose Chair is Senator Hall, reports LB 866 to General File with committee amendments attached. That is signed by Senator Hall as Chair. Judiciary Committee reports LB 1246 to General File with amendments; LR 251C, indefinitely postponed; LB 1243, indefinitely postponed. Those signed by Senator Chizek as Chair. That's all that I have, Mr. President. (See page 1249 of the Legislative Journal.)

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

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

SPEAKER BARRETT: You've heard the motion to adjourn until tomorrow morning at nine o'clock. All in favor say aye. Opposed no. Carried, we are adjourned.

Proofed by:


Sandy Ryan

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

SPEAKER BARRETT: Thank you. With a quorum present, we'll proceed to item 7 on the agenda, General File, appropriations bills, LB 1031.

CLERK: Mr. President, if I may right before that, just one item for the record.

SPEAKER BARRETT: Proceed.

CLERK: Senator Warner has amendments, Senators Warner and Kristensen have amendments to LB 880 to be printed.

Mr. President, LB 1031 was a bill originally introduced by the Speaker at the request of the Governor. (Read title.) The bill was introduced on January 8 of this year, Mr. President. At that time it was referred to the Appropriations Committee for public hearing. The bill was advanced to General File. I do have committee amendments pending by the Appropriations Committee, Mr. President.

SPEAKER BARRETT: Senator Warner, would you care to proceed to the committee amendments or...at this time, or what is your pleasure?

SENATOR WARNER: Mr. President, members of the Legislature, if we might, it has been handed out to the members, it's sort of an index of both the bill and the committee amendments with an order of members of the Appropriations Committee who would each, if we may, briefly discuss both the contents of the bill and the committee amendments as it relates to a particular agency, and then when all the agencies have been described by the committee members, we would be open to questions as well as the amendments that are currently filed on the desk and I assume those amendments should be taken up in the order that they were filed as is customary. But unless there is objection, I could go ahead and explain briefly the agencies that I was going, and then we'll just follow down in the order of the handout that was placed on the members' desk a few minutes ago. In addition there is a more detailed report that was handed out a week ago last Friday I guess it was at the time that the committee amendments were filed and that gives a much more in detail explanation of the bill and/or the amendments, as the case may

March 12, 1990

LB 571, 656, 688, 880, 923, 960, 960A
1031, 1080, 1080A, 1094, 1184, 1184A

Warner and the Appropriations Committee, because of a variety of circumstances, the right people were not there at any given time, doesn't really mean that it might not have passed out of the appropriations process. You can do what you want. I have not went around and counted noses on this issue. I have an abiding faith in the members of this body to do what's right. It's up to you. I would move the advancement of the amendment.

SPEAKER BARRETT: Thank you. And the question before the body is the adoption of the Coordsen amendment to the committee amendments to LB 1031. Those in favor of that motion vote aye, opposed nay. Senator Coordsen.

SENATOR COORDSEN: Yes, since most of us are here, a quick call of the house and roll call vote.

SPEAKER BARRETT: Thank you. Shall the house go under call? All in favor vote aye, opposed nay. Record, please.

CLERK: 24 ayes, 1 nay, Mr. President, to go under call.

SPEAKER BARRETT: The house is under call. Members, please return to your seats and record your presence. Senator Warner, please check in. Senator Chambers, the house is under call. Senator Schmit, please. Senators Hall, Rod Johnson, Schmit and Chambers, the house is under call. Senator Coordsen, you are ready to proceed with a roll call? The question is the Coordsen amendment, the adoption of the Coordsen amendment. Members, please take your seats for roll call vote. Mr. Clerk, proceed with the roll call.

CLERK: (Roll call vote read. See pages 1308-09 of the Legislative Journal.) 22 ayes, 16 nays, Mr. President, on the adoption of the amendment.

SPEAKER BARRETT: The motion fails and the call is raised. Anything for the record, Mr. Clerk?

CLERK: Yes, Mr. President, I do. Mr. President, your Committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 571 and find the same correctly engrossed; LB 656, LB 688, LB 880, LB 923, LB 960 and LB 960A, LB 1080, LB 1080A, LB 1094, LB 1184, LB 1184A. (See pages 1309-1312 of the Legislative Journal.)

amended. It cannot be. He is correct. At that point, I asked Senator Abboud, the introducer and the man...the member whose priority bill it is if he had any objection, I was going to pull it off. He said, fine, no objection. We agreed here that it would not be a part of this motion. I failed to get that information to the Chair.

PRESIDENT: Are you saying you wish it removed from the list?

SPEAKER BARRETT: I wish it removed, yes.

PRESIDENT: Well, that's fine with me, if you say so, then it will be removed. LB 1018 will be removed from the list. Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman, I want to thank Speaker Barrett for keeping us from making, once again, a shambles of the rules through all these verbal gymnastics because it's reaching the point where things have deteriorated beyond what they should.

PRESIDENT: Then Senator Moore has requested a call of the house. All those in favor vote aye, opposed nay. Record, Mr. Clerk.

CLERK: 20 ayes, 1 nay, Mr. President, to go under call.

PRESIDENT: The house is under call. Will you please record your presence. Those not in the Chamber, please return and record your presence. Please return to your seat so that we can see who is here and who is not here. Please return to your seats, members of the Legislature, so we can...Senator Byars, would you check in, please. Senator Chambers, check in, please. Senator Labedz, would you check in, please. Senator McFarland, check in, please. Senator Ashford. Thank you. We're looking for Senator Schmit and Senator McFarland to check in, please. Senator Schmit is here. Roll call vote was requested. Mr. Clerk.

CLERK: (Roll call vote read. See page 1826 of the Legislative Journal.) 39 ayes, 8 nays, Mr. President, on the motion.

PRESIDENT: The motion passes. Mr. Clerk, we'll go to the Final Reading of LB 880. May I introduce some guests, please, first, Mr. Clerk. We have 23 students and their chaperones in the south balcony. They are German-American Society from West

April 3, 1990

LB 880, 880A, 1004

Germany and their sponsor. Will you folks please stand and let us welcome you. Thank you. We appreciate your visiting us and we're honored by your presence here. Thank you again. Mr. Clerk, LB 880.

CLERK: (Read LB 880 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 880 pass? All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

CLERK: (Record vote read. See page 1827 of the Legislative Journal.) 37 ayes, 7 nays, 2 present and not voting, 3 excused and not voting, Mr. President.

PRESIDENT: LB 880 passes. LB 880A.

CLERK: (Read LB 880A on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 880A pass? All in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

CLERK: (Record vote read. See page 1828 of the Legislative Journal.) 37 ayes, 3 nays, 6 present and not voting, 3 excused and not voting, Mr. President.

PRESIDENT: LB 880A passes. May I introduce some guests, please, of Senator Schimek. Under the south balcony, we have Andrew Zimmer and Mike West of Lincoln, and Jim Hergert of Omaha. Would you folks please stand and be recognized. Thank you. Mr. Clerk, LB 1004.

CLERK: (Read LB 1004 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 1004 pass? All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

CLERK: (Record vote read. See page 1829 of the Legislative Journal.) 30 ayes, 11 nays, 5 present and not voting, 3 excused and not voting, Mr. President.

April 3, 1990

LB 42, 42A, 642, 656, 799, 866, 880
880A, 953A, 1004, 1004A, 1019, 1019A, 1059
1059A, 1064, 1064A, 1080, 1080A, 1113, 1113A
1136, 1146, 1184, 1184A, 1222A
LR 418

CLERK: (Read LB 1222A on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is shall LB 1222A pass? All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

CLERK: (Read record vote as found on page 1847 of Legislative Journal.) 44 ayes, 0 nays, 2 present and not voting, 3 excused and not voting, Mr. President.

PRESIDENT: LB 1222A passes. Do you have something for the record, Mr. Clerk?

CLERK: Mr. President, I do, a new resolution by the Judiciary Committee, (LR 418.) a study resolution. Enrollment and Review reports LB 1064 and LB 1064A as correctly engrossed, both signed by Senator Lindsay as Chair; and LB 1059 and LB 1059A is correctly enrolled. Enrollment and Review reports LB 1113 and LB 1113A to Select File, signed by Senator Lindsay. Amendments to be printed by Senator Hartnett to LB 953A, Senator Hall to LB 866. And, Mr. President, a confirmation report from Transportation Committee signed by Senator Lamb as Chair. That's all that I have, Mr. President. (See pages 1847-52 of the Legislative Journal.)

PRESIDENT: While the Legislature is in session, capable of transacting business, I propose to sign and do sign LB 880, LB 880A, LB 1004, LB 1004A, LB 1080, LB 1080A, LB 1184, LB 1184A, LB 656, LB 1146, LB 42, LB 42A, LB 799, LB 1019, LB 1019A, LB 1059A, LB 1059, LB 1136, LB 1122, correction, LB 1222, and LB 1222A. We're ready to go. Mr. Clerk, do you have something on the desk?

CLERK: Mr. President, motion pending from this morning was one offered by Senator Chambers and that motion was to overrule or change the Speaker's agenda to permit consideration of a suspension motion relating to LB 642.

PRESIDENT: (Gavel). Could we have your attention so we can hear the speaker? Senator Chambers, please.

SENATOR CHAMBERS: Thank you. Mr. Chairman and members of the Legislature, this is a continuation from what I was attempting

April 9, 1990

LB 42, 42A, 571A, 834, 843, 843A, 855
855A, 880, 880A, 896A, 920, 1004, 1004A
1019, 1019A, 1043, 1059, 1059A, 1030A, 1090
1109, 1222, 1222A, 1241

Mr. President, I have received veto messages on the following bills: LB 1059, LB 1059A, LB 42, LB 42A, LB 880, LB 880A, LB 1004 and LB 1004A, LB 1019 and LB 1019A, LB 1080A, LB 1222 and LB 1222A, LB 571A, LB 834, LB 843 and LB 843A, LB 855 and LB 855A, LB 896A, LB 1043, LB 1090 has a line-item reduction, LB 920 has a line-item reduction, LB 1241 has a line-item reduction. (See Messages from the Governor as found on pages 1985-98 of the Legislative Journal.) All those, Mr. President, as I indicated, are available to the members on their desks. Have an Attorney General's Opinion addressed to Senator Schmit regarding LB 1059 and I believe that's all that I have, Mr. President.

PRESIDENT: Thank you. We have a motion from Speaker Barrett. Speaker Barrett.

SENATOR BARRETT: Thank you, Mr. President and members. I offer the motion to suspend Rule 6, Section 7, subsection (b), and Rule 5, Section 6, to permit these bills to be read on Final Reading this morning. The first part, of course is to waive the two-day limitation, and the second is to allow the A bills to be read. I would urge the body to adopt the motion. Thank you.

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

CLERK: 32 ayes, no nays, Mr. President, on the suspension of the rules to permit reading of the bills this morning.

PRESIDENT: The rules are suspended and we'll begin Final Reading. If you will find your ways to your own desk, why, we would start Final Reading. (Gavel.) Please return to your desks so we can begin Final Reading. Senator Haberman, would you come home, please? Mr. Clerk, LB 1109, please.

CLERK: Mr. President, I had amendments from Senator McFarland.

PRESIDENT: Is anyone prepared to handle Senator McFarland's motion on this bill? Senator McFarland, you had a motion on this first bill.

SENATOR MCFARLAND: Mr. President, could you read the motion for me?

April 9, 1990

LB 520A, 678, 880

vetoed makes it difficult, of course, to accomplish that goal. Although last session we did pass and did make some improvement in that area. So the Title XX issue remains to be addressed. The training issue of our day care provides remains, and I think that is an issue we need to readdress. Coordination of child care in this state is nonexistent, we need to work together and try and bring about changes in that area. And the ABC bill before the Congress is pending and likely to pass, and we will see, on the federal level, some major initiatives, perhaps, by the end of the year. So what I'm saying is there are many other issues I could bring up in child care that we need to look at, LB 678 would have helped us address those issues. With the Governor's veto and with concerns expressed by some of my colleagues, I'm not going to actually go ahead with a vote on this override, and I'm very disappointed about that. I wish children were a higher priority. I wish children would be able to receive the kind of assistance and help that they deserve, but we've done some, and I appreciate that. We haven't done enough. I guess we'll just have to see if we can't come back next year and do more. With that, I'd withdraw my motion to override LB 678's veto.

PRESIDENT: The motion is withdrawn. Move on to LB 520A, please.

CLERK: Mr. President, the next motion I have is on LB 520A by Senator Schellpeper.

PRESIDENT: Senator Schellpeper, please.

SENATOR SCHELLPEPER: I'll pull that one.

PRESIDENT: It is pulled. LB 880.

CLERK: Mr. President, Senators Lindsay and Chizek would move to override the Governor's veto of LB 880.

PRESIDENT: Senator Lindsay, please.

SENATOR LINDSAY: Thank you, Mr. President and members. This body...this motion has been filed to override LB 880A. What 880 is is the bill to add two additional district judges to the district court system. And I apologize for the grin as Senator Chambers walks in waiving. The Douglas County system has been getting overloaded since the last time a district judge was

added, and that was in 1972. It's been 18 years since there has been any more, any more judges added. Since that time the caseload has increased dramatically, and we've passed out those figures to you as the bill progressed. And I think the figures on that are very convincing. More importantly, and that is what the figures that are going to be coming around to you now, we have figures on case aging. And the aging of these cases is important for a couple of reasons. Number one, there is a...in Nebraska we have the Speedy Trial Act, which provides that if an individual is not brought to trial within six months and does not waive his or her rights, then he or she must be discharged from custody and the charges are dropped. That is important in Douglas County, because, as you'll see from looking at the figures that we've handed out, the case load of cases going into the three month to six month period has increased over the last year from 58 cases during that time period to 176 cases. If that trend continues, it's just simply assured that we're going to have people walking out of jail without a trial, without having been convicted, without the opportunity for the state to prove its case. The converse of that is that as those cases increase in the length of time that they are pending is that these people, if they have not been convicted, are sitting in jail for usual...or it's going to get to be the norm, up to six months without ever having been convicted. There are certainly those that will be released on bail, but there are those who are held without bond. And it's not unusual, in a drug case, to hold an individual without bond where there is a chance of flight from prosecution. So we've got people who are either sitting in jail without having been convicted, and sitting there only for the purpose of, at least some time in the future, of walking out of jail without ever going to trial simply because of having their rights denied under the Speedy Trial Act. If we look at that sheet showing those figures, the figures right at the top refer to the civil aging. That's important because we see that on the civil side of it, those are the ordinary citizens, their case times are moving back. They can't even get their cases to trial, and the reason for that, and that number will continue to increase and it will probably start increasing by geometrical proportions because we have to try the criminal cases first. And, if we're not even getting to the criminal cases, that I think indicates to us that we're not going to get to the civil cases. So, in effect, what will happen is that at some point we will be denying to the people there the right to trial whatsoever. I think it's important that we increase the number of judges so that they can handle this workload, and so

that the system of justice, that we remember the old saying that justice delayed is justice denied. And I think the effect of this is to deny justice. There is also a fact sheet that's been passed out to you that indicates some of the other factors that are increasing, it's not just the number of arrests for drug cases in Omaha, though that certainly is a very substantial factor. But we have to remember that cases are getting more and more complex and more lengthy. There is a case right now going on in Douglas County, I think it's in either the first or second week of a six-week long trial dealing out of products liability. Those types of cases, and especially when you start getting to asbestosis types claims, are going to tie up court time and result in much lengthier trials. If a judge is sitting in trial on one case that is taking six weeks, that judge is certainly not handling the cases that...the other cases that are continually being placed on that judge's docket. The impact of this on the total budget, I believe, is around 200,000 dollars. It's not in the scheme of things one of the things that society has to provide, that we as a government have to provide, is a system to administer justice, a system to allow people access to the courts. In the scheme of things, that is not a huge impact on the budget. With that, I would urge that we consider...that we do override this veto, because I think we'll be amazed at what can happen, if we neglect a very serious situation. Thank you.

PRESIDENT: Thank you. Senator Labedz, please, followed by Senator Chambers and Senator Korshoj.

SENATOR LABEDZ: Thank you, Mr. President. I rise also and ask the members of the Legislature to override the veto on LB 880 and 880A. The information that I received in the last few weeks is very distressing. In the 17 years, since the last new district court judgeship was created, new case filings in Douglas County have increased by 70 percent, from 6,000 in 1972, to 10,281 in 1989. I don't want to take too much time, but I think this is a very important override. The docket in Douglas County continues to grow with a 50 percent increase in caseload since 1987, and particularly in the area of drug offenses and homicides. The Nebraska State Bar Association, the Omaha Bar Association and the Nebraska District Court Judges Association have endorsed the efforts of the 4th Judicial District Court to obtain the two additional judges. And I respectfully urge you to support the override to LB 880 and LB 880A.

PRESIDENT: Thank you. Senator Chambers, please.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, on some of her vetoes the Governor has been as wrong as Jesse James, as wrong as she could be. For example, when she vetoed the money for the aging, but I know why she did that, she knew that when we got to the ADC bill old Chambers would stand up and say, she's taking food out of the mouths of babies, once again. She said that in her mind that by vetoing the old folks bill now she could say she's taken the food out of the mouths of old folks, too, so there is equality in the way she handles people. But when it comes to this bill, she's absolutely right. The structure of the judicial system is the cause of this problem. The Chief Justice is the administrator of the court system, and he can reallocate these judges. All of us know who followed this situation that there are areas of the state where the judges put in relatively small amounts of time every day. Chief Justice Hastings, next time I'm going to think about Senator Jackie Smith cause she lives in Hastings, then I'll remember by association. Chief Justice Hastings, if you ask him frankly, and I'm sure the Governor did, isn't part of this problem in fact the bulk of it based on the organization of the judicial districts and the fact that there is a lot of work in some parts and very little in others? And he would say, yes, as I'm sure he would have told the Governor, had she asked him. Now, if you look at these figures that were handed out to us, they show an overabundance of cases in Douglas County. For example, a direct quote from number one, Douglas County has over 30 percent of the state's population, 35 percent of the state's total caseload, while only 25 percent of the state's total district court judges. That's a problem for the Chief Justice to resolve. And the Governor's veto message is right when she says the structure of the system is what we need to look at. Douglas County will always be out of balance and they'll always be coming down saying put in more judges. And until you get at a restructuring of the judicial district system, you're going to have the same problem that you have when you talk about consolidating schools, to reduce those little districts, the total number of them. Every time we have something brought to us it's aimed at giving more judges and not looking at the entire system. So I hope that you will support the Governor's veto in this instance. You will notice how quickly, in the case of a person who is arrested and charged with sexual assault case, all 12 of the Douglas County District judges recuse themselves, and they quickly found a judge from outside Douglas County. For these other cases that

Senator Kristensen describes as aging cases, if indeed what he outlined to us is true and correct, and I have no reason to doubt him, if indeed some of these people involved in these cases may have their cases dismissed because they can't have a speedy trial, it ought to be of enough concern to the Chief Justice to reallocate the manpower in the district judge system. But, if he can sit back and see that we'll continue throw judges into Douglas County, never look at the unbalance or imbalance that exists, continue to provide more money with these fabricated and manipulated statistical charts that we're given, if we will continue to be patsies and create an entirely new judicial system, that appellate court structure that you've already given the judges, why in the world should anything be changed. The more judges there are, the less work, the more money that is paid into their judicial retirement, the more justification that can be given for additional staffing and everything else that is a corollary to a large number of judges. So I hope you will support the Governor's veto, because the only way we're going to get restructuring, the only way we're going to get the Chief Judge to do that which he has the power to do right now, which is to reallocate the person power,...

PRESIDENT: One minute.

SENATOR CHAMBERS: ...is to not give them more judges when no real need and justification has been shown. I support the Governor's veto in this instance. And it troubles me that I have to do this. But, if I, and somebody with whom I customarily disagree, happen to be on the same sidewalk going into the same direction to achieve the same goal, I'm not going to jump off the sidewalk or go the opposite direction, simply to say that in order to be consistent and opposed to what she's doing, that's the course I'll take. She is as right as she can be in this instance.

PRESIDENT: Thank you. Senator Korshoj, please.

SENATOR KORSHOJ: Question.

PRESIDENT: Question has been called. Do I see five hands? I do, and the question is, shall debate cease?

SENATOR HABERMAN: You haven't had enough discussion on this. You've had one person speak against it, and one person speak for it.

PRESIDENT: Two.

SENATOR HABERMAN: I want to speak against it.

PRESIDENT: You what?

SENATOR HABERMAN: I want to speak against it.

PRESIDENT: You want to be against it. Let's put it to a question and see if we want to quit. The question is, shall debate cease? All those in favor vote aye, opposed nay. Record, Mr. Clerk.

CLERK: 10 ayes, 10 nays to cease debate, Mr. President.

PRESIDENT: Senator Haberman, you may speak.

SENATOR HABERMAN: Mr. President, members of the body, Senator Lindsay, would you reply to some questions, please.

PRESIDENT: Senator Lindsay, respond please.

SENATOR LINDSAY: Yes.

SENATOR HABERMAN: One of the reasons you list as to why we should vote to override the veto is the length of trials have increased significantly.

SENATOR LINDSAY: Um-huh.

SENATOR HABERMAN: Why? Filings of more motions by attorneys, or why are the trials increasing?

SENATOR LINDSAY: That's...filing of motions is probably, as far as the length of the trial itself, probably not significant. That might be, in a civil matter, might be a way for...to extend the time for bringing it to trial. And that would be over on your second...I think you've got a second page there, it shows cases, for example, that are over 18 months, that would be in that type situation. Primarily, the reason for the length of the trial is the increasing complexity of the trials.

SENATOR HABERMAN: Your second reason here that I noticed, number six, length of time between case filings and trial is

increasing daily. Are there more briefs being filed? Are the attorneys playing more games? Are they trying to stretch things out? Can you explain why?

SENATOR LINDSAY: That, again if you go back to the figures, the cases are tried in the order that they are placed on the...on the...in the order that they're certified as ready for trial. Now, if you've got more cases certified as ready for trial, you're going to fall further and further behind, which means you're going to take further and further time before you get to trial.

SENATOR HABERMAN: Well, those are very good answers and what I expected. Now, explain to me number seven, the impact on the budget is minor.

SENATOR LINDSAY: Well, Senator Haberman, in my opening, as I mentioned to you, in the scheme of this budget that we're talking about, the impact, and I think I was straight, I think I said 200,000, roughly, it's maybe a little more than that.

SENATOR HABERMAN: Have you taken into consideration, Senator Lindsay, that when one judge gets an increase they all get increases?

SENATOR LINDSAY: Senator Haberman, this is not the...

SENATOR HABERMAN: And the retirement goes up and it just keeps growing and growing and growing.

SENATOR LINDSAY: I'm aware of all of that, Senator Haberman, but that's not this bill. I think it's the next motion up.

SENATOR HABERMAN: But this will have an impact on that bill, will it not?

SENATOR LINDSAY: Well, if...that's if you look at it, two out of, what do we have, 49 or 50 judges right now, so it would be...4 percent would be the effect, net effect as far as pay or whatever. But I think those concerns that you have are maybe more properly addressed to the next motion dealing with judges' compensation. Thank you for your answers, Senator Lindsay, I thought they would be smooth and down the groove but I can't support your issue. Thank you very much.

PRESIDENT: Thank you. Senator Abboud, please, followed by Senator Lynch and Senator Langford. Senator Abboud.

SENATOR ABOUD: Question.

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

CLERK: 25 ayes, 0 nays to cease debate, Mr. President.

PRESIDENT: Debate has ceased. Senator Lindsay or Senator Chizek, which one is going to close? Senator Lindsay.

SENATOR LINDSAY: Thank you, Mr. President, and members, I would like to address, I guess, a couple of issues. Senator Chambers has...it's a fairly valid point, but we have to look at what the answer is and I think that's what...maybe what we ought to be concerned with. He talks about redistricting. I think there's been attempts to do that in the past that have not been successful. If that's the answer you want, be prepared to vote for it, and if that's what you want as far as if that's what the members want, to risk the redistricting which may end up in some of your...in some of the smaller population districts and losing your judge, then, you know, I guess that's the answer. Our thought was that there has not been an increase, although cases have continued to increase, there's not been an increase in a judge assigned to Douglas County in 18 years. The figures, I think, tell you how far the cases have increased that if...if we have the same number of judges with a 100 percent increase in felony cases, with 108 percent increase in civil cases, with a 30 percent increase in domestic relations cases, the same number of judges just simply aren't going to be able to handle that. I think we have to have an increase in judges if we expect to have the judicial system operating efficiently. The alternative is we're going to have some people released. We're going to have some people sitting in jail without bail. We're going to have some people who aren't going to get their civil cases heard for a couple years or longer and then probably sitting waiting for the backlog in the appellate system after that, or the alternative is that maybe redistricting is the answer and if that is the answer, then we're going to have some of you people here explaining to your constituents why you lost a district judge in your district. I think this is a reasonable answer to a very, very serious problem. The enormous caseload just has to

be addressed. This is not an extremely expensive answer. It's, I think, a very efficient answer and I would urge that you join in overriding this veto.

PRESIDENT: Thank you. Did you say something about giving Senator Chizek some of your time? Okay, Senator Chizek, please. One minute.

SENATOR CHIZEK: Veto message. The state, however, has made a substantial commitment to the criminal justice system. To name just a few examples, overtime funds have been appropriated to the State Patrol to help fight drugs. State anti-drug abuse grants have been made to state and local governments. In addition, pilot grants will be awarded to fight the metropolitan drug and gang problem. Colleagues, that's the veto message from last year. That's the message from last year. You have all read the veto message from this year. I think it's a little strange when last year we talked about increasing funds because of gangs, drugs and problems on the street, and we know that this activity is increasing. It's a little hard to justify not having the adequate judges to deal with the criminal justice system in an area where the caseload is increasing substantially. I would urge your override of this veto.

PRESIDENT: Thank you. The question is, shall the veto on LB 880 be overridden? All those in favor vote aye, opposed nay. Senator Lindsay.

SENATOR LINDSAY: Mr. President, I would ask that the members check in. Ask for a roll call vote.

PRESIDENT: Okay. And a roll call vote, did you say?

SENATOR LINDSAY: Yes, please.

PRESIDENT: All right. Ladies and gentlemen, please check in, record your presence. Please record your presence. Senator Hannibal. Senator Hefner. Senator Lowell Johnson. Senator Landis. Senator Moore. Okay, Mr. Clerk, roll call vote on shall the veto be overridden on LB 880? Mr. Clerk.

CLERK: (Roll call vote taken. See page 2039 of the Legislative Journal.) 25 ayes, 24 nays, Mr. President.

PRESIDENT: The motion fails. LB 42, please.