

January 5, 1989

LB 81-160
LR 1-2

being here and thank you for your services. We also have guests of Senator Rod Johnson under the north balcony. We have Omer Troester of Hampton, Nebraska. With him is an exchange student, Alberto Porras of Costa Rica. Would you gentlemen please stand up and be recognized. Thank you for being here. We also have, over under the south balcony, a former member of this Legislature, Senator Tom Fitzgerald, would you please stand up and wave your hand. Thank you. Please welcome Senator Fitzgerald back. Thank you, Tommy. Mr. Clerk, back to the reading.

CLERK: (Read LB 81-98 by title of the first time. See pages 61-67 of the Legislative Journal.)

PRESIDENT: We'll stand at ease for some 15 minutes or half an hour while we get some of the work caught up up here in front. So be at ease, please, for a while. Thank you.

EASE

CLERK: Meeting of the Health Committee, under the north balcony, right now. Health Committee, north balcony right now.

SPEAKER BARRETT PRESIDING

SPEAKER BAPRETT: Additional bill introductions, Mr. Clerk.

ASSISTANT CLERK: (Read LB 99-150 by title for the first time. See pages 67-76 of the Legislative Journal.) That's all I have at this time, Mr. President.

SPEAKER BARRETT: More bill introductions, Mr. Clerk.

CLERK: (Read LB 151-160 by title for the first time. See pages 76-79 of the Legislative Journal.) Mr. President, in addition to those new bills I have new resolutions. (Read LR 1-2 for the first time. See pages 79-81 of the Legislative Journal.)

Mr. President, in addition to those items I have a series of announcements. Mr. President, there will be a meeting of the Executive Board today at three-fifteen for purposes of referencing. Executive Board, three-fifteen for referencing.

Mr. President, Senator Rod Johnson would like to have a meeting

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LB 58, 80, 82, 92, 142, 200, 201
204, 225

CLERK: 30 ayes, 0 nays, Mr. President, on adoption of the motion to advance the bill.

SPEAKER BARRETT: The bill is advanced. Anything for the record, Mr. Clerk?

CLERK: Mr. President, yes. Mr. President, a motion from Senator McFarland to rerefer LB 225 from Urban Affairs to the Education Committee. That will be laid over. Judiciary reports LB 80 to General File, LB 82 General File, LB 200 General File, LB 201 General File, LB 204 General File, those are signed by Senator Chizek. Banking Committee reports LB 92 to General File with amendments attached, signed by Senator Landis as Chair. (See pages 451-52 of the Legislative Journal.)

Judiciary offers notice of hearing, Mr. President, for Friday, February 3, and February 22. Mr. President, in addition to that notice, a notice from Senator Warner, as Chair of the Credentials Committee regarding a meeting of that committee on Friday at twelve o'clock in Room 2102. That is all that I have, Mr. President.

SPEAKER BARRETT: Thank you. Proceeding then to LB 142.

CLERK: Mr. President, LB 142 was a bill introduced by Senators Baack and Conway. (Read title.) The bill was introduced on January 5, referred to Transportation, advanced to General File. I have Transportation Committee amendments pending, Mr. President. (See page 439 of the Legislative Journal.)

SPEAKER BARRETT: The Chair of the Transportation Committee, Senator Lamb. (Gavel.)

SENATOR LAMB: Thank you, Mr. President. This is another bill similar to the last one, disabled American veterans license plate, \$5 fee. The committee amendments establish the \$5 fee, also provides the logo D.A.V on the bottom of the license plate, and then this bill is also used as a vehicle to change the fees for Pearl Harbor survivors and ex-prisoner of war special plates to be consistent with the \$5 fee, and provides for an effective date of January 1, 1990, so that these new plates will not have to be issued before the new round of plates are issued in 1990. So that would save that expense. The arguments in regard to the \$5 fee have already been made on the previous bill, and this amendment merely brings the disabled American veterans and the

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LB 48, 92, 116, 140, 176, 325, 336

section analysis of everything that is in the bill. But I thought with a couple of days advance notice you might have a chance to prepare and at least feel comfortable when the bill comes up for special order on Friday and that is the purpose of the memorandum.

SENATOR LAMB: You are out of order, Senator Landis.

SENATOR LANDIS: Am I? Thanks.

SENATOR LAMB: Senator Ashford, Senator Beyer, Senator Chambers, these are some of the people that we're looking for at this point. Senator Lindsay, Senator McFarland. Please come to the Chamber and record your presence. The house is under call. I believe Senator Bernard-Stevens has indicated that we can begin the roll call, Mr. Clerk. In reverse order, there has been a request for reverse order.

CLERK: (Roll call vote taken. See page 548 of the Legislative Journal.) 20 ayes, 18 nays, Mr. President, on the adoption of the amendment.

SENATOR LAMB: The amendment is not adopted. Mr. Clerk, do you have some items?

CLERK: Yes, Mr. President, I do. Mr. President, Senator Abboud and Lowell Johnson, or, I'm sorry, Senator Abboud would like to add his name to LB 116; Senator Lowell Johnson and Beck to LB 325 as co-introducers. (See page 549 of the Legislative Journal.)

Senator Landis has amendments to LB 92 to be printed. (See pages 549-50 of the Legislative Journal.)

Business and Labor reports LB 176 to General File with amendments. That is signed by Senator Coordsen. Education reports LB 140 to General File with amendments, LB 336 General File with amendments. Those are signed by Senator Withem as Chair. (See pages 550-51 of the Legislative Journal.) That is all that I have, Mr. President.

SENATOR LAMB: Senator Chizek, would you care to offer the motion to recess for lunch?

SENATOR CHIZEK: You don't want to come back after lunch. I

as the Game and Parks people having a breathalyzer and that, Game and Parks people are almost constantly always in contact with a local sheriff or the State Patrol or people of that nature. We have no intention of them all having breathalyzers, going through all that procedure, but simply being able to identify that questionable situation, identifying and taking that person to a local courthouse, as most sheriffs or highway patrol people do now, take them into that more refined operation where you have got a breathalyzer or urinalysis equipment on board and test them out there. There is no intention for them to have their own breathalyzing systems and do their own testing, and so forth. I conducted a drunken driving, I don't want to say entrapment, a period where the State Patrol, I had a roadblock and we went through a procedure one night. Every one of the individuals who after a field test question was taken to the county courthouse where they went through more formalized testing. To my understanding, that is really the formal technique, the way that it is typically done. That is what we would assume would happen on this, if we had someone particularly that was identified after an accident or was certainly behaving in a recognizable manner as probably being intoxicated, that the Game and Park person could certainly stop that person, but at that point, take it into those people who are specially trained and have gone through this process and that like, rather than try to perform all this out in the back end of a boat somewhere. We don't expect that to be the case, but to take it through that formal process. So this bill really probably does more to the codification of the liquor standards and the enforcement standards in the name of operating a boat on our waterways than it does change the concept of what we had, that is already on board the way it is. So with that, I would offer this bill and ask you to advance it.

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

CLERK: 25 ayes, 0 nays, Mr. President, on the advancement of LB 195.

PRESIDENT: LB 195 advances. LB 92.

CLERK: Mr. President, LB 92 is a bill introduced by Senator Landis. (Read title.) The bill was introduced on January 5, Mr. President, of this year, referred to the Banking, Commerce,

and Insurance Committee for public hearing. The bill was advanced to General File. I do have committee amendments pending by the Banking, Commerce, and Insurance Committee. (See page 452 of the Legislative Journal.)

PRESIDENT: Senator Landis, please.

SENATOR LANDIS: Thank you, Mr. President, members of the Legislature. The committee amendments are summarized at the very end of the committee statement in your bill book. The committee amendments were provided to us by the Department of Insurance, and the most consequential of the committee amendments are listed in the bill book as number ten on the list. LB 92 represents the work product of the task force chaired by Insurance Director McCartney over this last summer, a process that I have described for you before and also summarized in a memorandum that I put on your desks two days ago. Representatives from the department, from the Banking, Commerce, and Insurance Committee under the direction of former Senator Wiley Remmers, and members of the insurance industry in this state, both foreign and domestic, met throughout the summer and, basically, reviewed our law for the purpose of making updates. At the time that the bills went to press, they decided to put two or three different issues in different bills. LB 92 has a large major rewrite. LB 297 was a bill that defined the lines of insurance. The lines of insurance are the separate definitions of the kinds of insurance that are offered for sale. They are defined separately because companies are authorized to do different lines of business, or they are admitted to this state to do different lines of business, and there is a wall between the property and casualty lines and the life and health lines, which is why the statute defines these individual kinds of insurance. In the past, we have not changed our definitions but have sort of massaged the kinds of insurance products into our old existing list of insurance lines. LB 297 revamped the lines of insurance and defined them for our purposes in a more up-to-date fashion and representing some of the newer kinds of product that are available. The committee amendments appear on the white pages of the committee amendments prior to the green copy in your bill. If you take a look at page 3, 4, and 5 of the committee amendments, you will see the beginnings of those definitions. Life insurance is described, variable life is described, variable annuities, sickness and accident, property, credit, burglary and theft insurance, boiler machinery insurance, liability insurance, workers' comp, which, by the

way, is very carefully distinguished from liability insurance, vehicle insurance, fidelity insurance, title insurance, et cetera. Previously, we had about 12 or 13 definitions and we took a whole line of products and sort of massaged them in the old definitions. We will now have about 20 definitions of lines of insurance and it is meant to more accurately describe the kinds of products that are being sold in the marketplace. Additional changes in the committee amendments include some more repealers of sections which are rendered null and void by the bill, and those are acknowledged, and several other technical amendments offered to us by the Department of Insurance. I would move the adoption of the committee amendments.

PRESIDENT: Senator Schmit, please.

SENATOR SCHMIT: Mr. President and members, I deliberately waited until Senator Landis had explained the committee amendments to put my light on because I was certain there would be a number of lights requesting information relative to a 300 page bill and a lengthy series of amendments. I am sure that Senator Landis understands the bill and I am sure the bill is, no doubt, a necessary document and one which is probably in order at this time, but I just want to point out that this is the type of bill which frequently does cause us difficulty because of a technical error or an oversight or some human error that we didn't catch at the time. I have a couple of questions for Senator Landis at this time because I have received a few complaints over the years, and I just wonder if these were addressed in the bill. Senator Landis, I have received a number of complaints relative to the sale of nursing home insurance in Nebraska, which then proves not to be insurance, in fact, but actually a poor investment for elderly people. Is there anything in this bill that would address that kind of a problem?

SENATOR LANDIS: The question that you ask about, nursing home insurance, is not covered in LB 92. The committee does have before it a bill from the task force, LB 318, that takes into account and begins to address the issues of long-term care insurance. There is a second bill in under my own name, as well, so that there will be opportunity to address before us the questions of nursing home insurance. I, too, share your concern. This bill is not designed to do that nor is it, although you could amend it to make those kinds of adjustments, we have more narrow bills, one from the task force, one from the body, they will be before us later this session.

SENATOR SCHMIT: Will either of those later bills, Senator Landis, also address the problem of insurance for funerals, and to some extent, the health and accident coverage, which is marketed by mail to many people across the State of Nebraska?

SENATOR LANDIS: Let me tell you I do not have an answer with respect to the funeral insurance. I can speak only for my own bill and it was designed at the nursing home long-term care situation. I did not include funeral issues. However, Senator Schmit, that has yet to be heard by our committee, and since you serve on that committee, as it comes up for our hearing, I would welcome your thoughts and additions at that time.

SENATOR SCHMIT: Thank you, Senator Landis. I just want to point out that when we rewrite a document such as this, when we address many issues that are, perhaps, not of earthshaking importance, but which, nonetheless, need to be addressed, sometimes we do not address those major issues which at the present time are costing Nebraskans hundreds of thousands if not millions of dollars, and which provide no tangible benefits. And some of my friends in the nursing home business have told me that it is a very sad duty they must perform from time to time when they take a resident into their home who feels that they have purchased nursing home insurance which will adequately cover their cost, only to find that it is sadly lacking in any major benefits, and many times this knowledge comes after many years of having dutifully paid the premiums. And so, Senator Landis, I look forward to working with you in trying to resolve some of those problems. I know there are many others. I know you have addressed many of them in LB 92, but I had those specific questions I wanted to ask at this time, and thank you.

PRESIDENT: Thank you. Senator Landis, would you like to close on the advancement of the bill, excuse me, committee amendments. I am sorry.

SENATOR LANDIS: I will go on to talk about the bill, itself. I do point out to you that there is an explanation of the amendments. You will find it on page 12 and 13 of the committee statement, and I would move the adoption of the committee amendments and permit us then to discuss another set of amendments plus the bill, itself.

PRESIDENT: Okay, thank you. The question is the adoption of

the committee amendments. All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 26 ayes, 0 nays, Mr. President, on adoption of Banking, Commerce, and Insurance Committee amendments.

PRESIDENT: The committee amendments are adopted. Now you have an amendment on your desk, Mr. Clerk.

CLERK: Mr. President, Senator Landis would move to amend the bill, and that amendment, Senator, is on page 549 of the Journal.

PRESIDENT: Senator Landis.

SENATOR LANDIS: Thank you. If you want to turn in the Journal to page 549, you can follow along with me looking at a few changes. Senator Schmit is right. If you take a bill of this length and you go back through it and you say, ah, we could have done this a little different or here is a little change, and the department, itself, has discovered a few of those. For example, one of the changes in the bill is to move agents licenses from one year to two years in duration and the fee goes up accordingly, but it also reduces the total workload, paper workload of the department, and probably eases the administration. They also have made the change in the bill between a single renewal date for everybody in the state, I think it is April 30th, to the birth date of the individual agent. Why? Because that way you have got 12 months of work that is even instead of one month of work that is overwhelming and then letting somebody go or having somebody sit around with not as much to do in the other months of the year. It is better to have that workload even throughout the year so they provided for birthday anniversary dates the renewal of licenses. The renewal on the birth date is in the bill, but they needed some language to make the transition from our current way of doing it on April 30th into this year-round form of renewal, and they needed a way to either extend or shorten existing licenses to do that. So in this amendment, for example, is the definition of the two-year period which allows for the continuation of education requirements and it meshes the two-year license system into our one-year license system. Basically, you will get a shortened, a less than two-year period license so that we can start up on your anniversary date. We also indicate in these amendments that surplus lines, and surplus lines is a term of

art for specialized insurance that you can't get in the normal course of business, specialized coverage for risks that don't fall in those 19 lines that I previously identified for you. Surplus lines are special risks such as, say, pollution control that very few people have and there are very few people who offer it, and they don't...the companies don't go into each and every state, but this allows for surplus lines and consultant license fees to be established by the director, not to exceed the dollar amount stated in the statute, rather than simply to be the amount so stated. What does that mean? That means that in the bill we put in a fee amount. For all the other agents we generally said, well, it is that amount or less, depending on what the director sets, so that we can get the cost recovery. We forgot to make that same statement for these people, the surplus lines and consultant license fees. So we are catching that little error. Those are all in these amendments. There is one other amendment here that I suppose I want to tell you about because it came out of the questioning in the committee hearing. Currently, an insurance company has a capitalization and surplus requirement and the bill generally raises those from a half a million and a million to a million and two million. Most of the companies that are doing business in the state meet that standard. There are a few companies in the state that don't meet that standard but they are solvent, and because their book of business is small enough and their capitalization needs really are sufficient even though they are under these minimum rates. Our general rule has been for these kinds of companies, once they get up to the statutory rate, they cannot use their old grandfather clause exemption to drop back down below the rates. That has been the practice. We have turned that practice into law in this amendment and it says, if you are operating under the grandfather clause and you build your company past the point of these new statutory guidelines for capitalization and surplus and you get a million and two million into one of these forms, you may not go back down below that amount and go back to your grandfathered status. If you grow out of your grandfathered status, you stay...you lose your grandfather status and must keep those capitalization and surplus rates, so you can't bob up and down for these rates. If you grow past it, that becomes your standard. That, too, is in this amendment. It is...I believe has been summarized and put on your desk and I would urge adoption of the amendments found on page 549 of the Journal.

SPEAKER BARRETT PRESIDING

SPEAKER BARRETT: Any discussion on the Landis amendment? Any closing comments, Senator Landis?

SENATOR LANDIS: I will proceed from here to go on to discuss the bill, itself. I would urge the adoption of the committee or, rather, this amendment so we can discuss the bill.

SPEAKER BARRETT: Thank you. The question is the adoption of the Landis amendment to LB 92. Those in favor vote aye, opposed nay. Please record.

CLERK: 27 ayes, 0 nays, Mr. President, on adoption of Senator Landis's amendment to the bill.

SPEAKER BARRETT: The amendment is adopted. Senator Landis, on the bill.

SENATOR LANDIS: Thank you, Mr. Speaker, members of the Legislature. Senator Schmit brought up a good point and, that is, you take a bill this big and undoubtedly there are things when you go through there with a fine-tooth-comb you would like to change, some adjustments, and early on, I had to decide how we were going to approach this bill. For example, do we let it lay there for a good long time so we can have that kind of refinement process and a lot of examination? Or do we take the work product of the task force and move it along? Because this bill opens so many subject matters, so many sections, and makes them available for amendment, it is the grandest potential Christmas tree of the entire session. There are so many branches to this tree and they offer so many opportunities for the placing of little ornaments on them that I thought the longer this bill hangs around the more creative my colleagues are going to become and the less that the work of the task force will be recognizable at the end of the deliberations. So it was my thought that we would take this bill on its face, look at the provisions, take as much time as we needed in floor discussion but to move the bill. We have a second bill that the committee has available to it that will follow as a trailer. If, for example, we find that there are, after we scratch our head and look, some additional adjustments, we will have the opportunity to make refinements but not necessarily in this bill, which I would rather see move along expeditiously, pursuant, of course, to your understanding of the issues, rather than to have it delayed and stand around just waiting for whatever adjustments

somebody wants to do or perhaps digging of the industry on a related issue that we would like to perhaps pull their leg on sometime later in the session. So for that reason, I have asked to have the bill considered relatively early on. I don't mean to foreshorten debate, by any means, but once we are satisfied with the debate, I hope we will move the bill expeditiously. Now, what is in the bill? I, personally, can't tell you everything that is in the bill. There are...there have been in the past Banking, Commerce, and Insurance chairmen who would say to you, trust me, I promise you that I have been through it with a comb. I know that everything in there is word perfect and you needn't bother to look. I don't trust myself nor do I ask you to trust me in that fashion. I have been through the bill with the help of the department but I can't tell you that I understand every one of the provisions. I can get answers for you. I have done whatever I can to get that information out. For example, last week I put out to you a section-by-section analysis that you could see the kinds of things that were in here. Now to pull out a few things that are important. I put on your desk today some of the things this bill does for the consumer, and you will find them, about 10 quick things that I think have a proconsumer quality in this bill. Higher capital and surplus requirements means a better chance of solvency in our companies. If we have a surplus lines policy and there is no guaranteed fund to back it up, if the company goes belly-up and you are going to be left there hanging, you ought to have that written on your policy. This bill provides that, notice that there is no guarantee fund. Refinements in the insurance agents education requirements, hoping to make sure that we have knowledgeable agents able to give good advice. The ability to require withdrawal of properly cashed insurance policies in forms that are no longer fair, proper or equitable. Once we discover them to be unfair, we can pull them from the marketplace. Contestability clauses in life insurance policies being reduced to two years by law. Contestability says if you have made a mistake in your policy, or even if you have lied in your policy, the company has two years to discover that. If they discover it in two years, they can revoke the policy, they can reject the policy, they can deny the claim. If, however, they don't catch it in two-years time, the law has this clause of incontestability so that you may not rely on your insurance for 12 years, or 15 years, and then subsequent to that time when you put in a claim, they go back to the very initial filing of the claim, filing of the policy, rather, and make some claim that creates a defense for the company. At 10-day free look

period for life and annuity policies. If you want to cancel in your 10 days, you can do it at no cost. This is a cooling off period that is common in other kinds of consumer protection. It shortens the time in which the companies can raise certain defenses from three to two years, and now it will be required a 30-day notice of nonrenewal for an accident and health insurance, to provide whether they are insured. It provides for consultants licenses to have minimum requirements. It also requires that accident and health policies have descriptive titles on the face of their policy and that we make sure that these policies are fairly described on their face, changes the free look period for long-term care policies from 10 to 30 days. It also changes the Long-Term Care Act, changing the preexisting exclusion period from one year to six months. This, in other words, shortens the amount of time that an insured can remove somebody for a preexisting exclusion from a year to six months. Those are a few of the consumer elements in the bill. Would I characterize this bill as a giant step forward for consumers? No, I wouldn't. It wasn't designed to be a consumer protection bill. It was designed to take a statute that has remained on the books since 1913 and all of the subsequent years' amendments and examine them as one fabric to see if there were redundancies, to see if there were obsolescences, to see if there were requirements that were no longer sensible because of the passage of time and we found them. We found that the insurance lines were not well defined and needed to be defined better. We found that capitalization and surplus rates were low and had...the needs of a company had grown since those times. We found that our agents fees and our agents licenses presented a workload problem that could more easily be analyzed over two years. We found that there were requirements to do things, to have the shareholders of an insurance company do something twice rather than to have them do something once, and we remove those requirements. Those changes are summarized in the amendments and in the summary that I passed out to you. The basic thrust of the bill is not to protect the consumer a great deal more than what they are now protected. It is to turn this ever changing set of statutes with all of the barnacles on the hull of this 1913 ship, if you will, into one fabric, into one more sensible readable contemporaneous insurance law with underlying policies and themes. So there is certainly something in it for the companies. They get the removal of some of the obsolete requirements. For example, we passed a Deceptive Trade Practices Act in 1973, but all of the old deceptive trade language that had sprung up one at a time based on practices

that people objected to were still on the books, so you had two sets of directions. Those have been removed. There is certainly some good things for the companies here and what that is is a good, clear set of directions that is up-to-date. That is worth having. I urge the advancement of LB 92.

SPEAKER BARRETT: Thank you, sir. Discussion on the bill, itself, Senator Schmit, followed by Senator Wehrbein.

SENATOR SCHMIT: Mr. President and members, Senator Landis has gone through some of the amendments and some of the sections of the bill, and I think he has done a commendable job. It is a very, very extensive bill. I do not want to belabor the bill but I want to point out we spent a considerable amount of time yesterday and several days previous to that time on LB 48, a bill which I think has less impact in many ways than this bill will have, and, you know, after a number of years, you find out around here if you really want to slide something through, you put together a major bill, a 300-page bill. It could include language to hang all 49 of us at high noon and we would probably vote for it, and so my concern is this. The bill was put together by the industry and Senator Landis says there might be some sections that we might want to look at from the standpoint of a Christmas tree, maybe even from the standpoint of pruning, Senator Landis. Do you have any suggestions that might be subject to disagreement certain sections of the bill, if we were to take the time to read it in detail, which none of us have?

SPEAKER BARRETT: Senator Landis.

SENATOR SCHMIT: You pointed out some and I appreciate that but are there any others that you think might be particularly controversial.

SENATOR LANDIS: Let me respond in this way, Senator Schmit. When 92 was drafted, the task force decided to place all of the agreed upon and noncontroversial changes, at least inside the industry and inside the relationship of the industry to the department in 92. If there were provisions that they thought there would be more disagreement about, they would be in one of the four other bills that the task force produced. So in one sense there was a goal to try to make this housecleaning and noncontroversial. Undoubtedly, there are...maybe there are some agents out there, for example, who don't want their fees raised and object to paying \$5 more a year for their fee, so there

isn't perfect harmony, I suppose. And at the committee hearing, there was no objection to the bill. Senator Haberman, in what I thought was an excellent line of questioning, and I think grilled would be the fair word, I mean it wasn't done with any malice, but he had listed each different one of these provisions that he wanted to know about, and Bill McCartney and Bob Lange were up there for I would say 45 minutes while Rex went through I would say at least 25 sections of this bill and asked questions, and with every one of them, the committee was satisfied. The department had an answer and there was nobody to take objection in the committee room. Can I promise you there is no controversy? I can't make that kind of a promise. I have not been able to identify any controversy. Why? Because the changes generally were the suggestions of the department to the industry, not the other way around.

SENATOR SCHMIT: Well, thank you, Senator Landis. I appreciate your attempts to limit the controversial areas in certain other bills and to produce a noncontroversial document which we have here today. I just want to call attention, again, to the fact that I have no objection to moving the bill but I do think that we should take a little time and review it as individuals because the 49 of us may discover something on this floor that the eight individuals in the committee did not understand and, frequently, in the legislative process what passes as acceptable to the industry and even to the regulatory agency is not always beneficial to the public. I want to point out we are struggling today with ag land valuations and we are going to continue to struggle, as we go way back a number of years ago...

SPEAKER BARRETT: One minute.

SENATOR SCHMIT: ...when an ag land valuation task force created 271 and began a whole series of problems which we all have worked very diligently, including Senator Landis, to try to remedy. And so I want to be sure, as sure as we can be, Senator Landis, as you have indicated we cannot be 100 percent certain, that there is not anything in here which will embarrass us in the months or years ahead and, of course, if it does happen, we will have to come back and correct it. But I would just alert you as legislators and individuals that there ought to be a record established that we did take a look at the bill, that we just didn't advance it based upon a task force recommendation, because if difficulties do surface, our constituency is not going to accept the fact that we accepted someone else's word on

a major document. Thank you again.

SPEAKER BARRETT: Thank you. Senator Wehrbein.

SENATOR WEHRBEIN: Mr. President and members, I would just like to ask Senator Landis another question,...

SPEAKER BARRETT: Senator Landis.

SENATOR WEHRBEIN: ...I previously discussed this a little bit with him, as to how this relates to the state, let's say surrounding states, or within the industry, the time frames. I am particularly looking at your sheet on consumer, as a matter of interest to the consumer, the filing dates, 30-day notice, for example, of nonrenewal on health and accident insurance, how this relates to any of our surrounding states? Is this a modest proposal, a reasonable proposal as compared to other areas of the law?

SENATOR LANDIS: Thank you. An excellent question, Senator Wehrbein, I will do my best to respond. States regulate insurance under their own power and under their own authority and actually it is kind of remarkable in that it is probably the largest of the industries that the states regulate without a whole lot of federal intervention. So there is a checkerboard out there between states. The way that they normally try to move towards uniformity is by following model suggestions from the Association of Insurance Commissioners. Bill McCartney in this state, his corresponding person in other states meet together quite regularly. They have task forces and study groups. They draw up model bills that they think will work well for insurance regulation and they circulate it among their own number. They get drafted down to the Legislatures and then passed into law and sometimes changed, but there is a rough sense of uniformity through this network of insurance commissioners. The provision that you pointed out is a model provision from the NAIC. Over and over again in our descriptions and what we ran into with the provisions that are in this bill was the attempt of incorporating model NAIC language. So there is an attempt to be uniform. Does it bring us into conformity with surrounding states? Well, each state is sufficiently different, Roger, that I couldn't promise you that there is that much uniformity in the industry. I would say that it certainly makes us much more contemporaneous than our 1913 law or the obsolescences that have worked themselves into it.

My final note in answer to that question is this, this idea of a task force, this idea of bringing people together and taking a look at what has happened to one's underlying insurance regulatory statute over the course of time has occurred in six or seven states, and they are not states necessarily contiguous with ours. They are around the country, but they have done this project in an attempt to update their laws and it seems to be the coming trend. Now we seem to be in advance of the trend in the task force, but we are drawing our materials from the existing model offerings of the NAIC in a large measure.

SENATOR WEHRBEIN: Thank you.

SPEAKER BARRETT: Any other discussion? Senator Landis, would you care to make a closing statement?

SENATOR LANDIS: Thank you. I would just like to make two comments. I thought Senator Schmit raised an excellent point and it is one that I think is very fair. His suggestion was that all of us be responsible for this bill, all of us be responsible so that we don't simply defer and say, well, I didn't know but I was hoping that Landis knew or I was hoping the lobby knew. In fact, I do not ask you to simply trust me in this area. I have done my own study. I am satisfied with it, but I can tell you now, I have got to continue to study this thing. I have to continue to buttonhole the people in the lobby and to ask them questions about it, and I encourage you to do the same. I want to start a different kind of a trend here than the past. I don't want to be...to encourage you simply to trust me. I hope that we all feel a sense of responsibility for this legislation. I will do my best to help with that education process, but I think Senator Schmit's admonition is well taken. The second point I wanted to make was that Senator Schmit characterized the ag land task force as having created problems, and I don't agree with that characterization at all. The problems stem from the writing of the amendment, not the LB 271 task force. Having chaired that, I want the record to reflect that, my side of that controversy. We will save it for another day, Loran. Thank you. I move the bill.

SPEAKER BARRETT: Thank you. You have heard the closing and the question is the advancement of LB 92 to E & R Initial. All in favor please vote aye, opposed nay. Voting on the advancement of LB 92. Please record.

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LB 92, 198, 318
LR 2-

CLERK: 25 ayes, 0 nays, Mr. President, on the advancement of LB 92.

SPEAKER BARRETT: The bill is advanced. Anything for the record, Mr. Clerk?

CLERK: Yes, Mr. President, I do, thank you. Your Committee on Banking, Commerce, and Insurance reports LB 318 to General File with amendments attached, signed by Senator Landis as Chair. (See pages 581-85 of the Legislative Journal.)

I have a report of registered lobbyists for this past week. Mr. President, a new resolution, LR 24 offered by Senators Coordsen and Hall. (Read brief explanation. See pages 586-87 of the Legislative Journal.) It will be referred to the Executive Board.

Mr. President, I have a confirmation report from the Retirement Systems Committee. That is signed by Senator Haberman as Chair. That is all that I have, Mr. President.

SPEAKER BARRETT: Thank you. Proceeding then to the next bill on General File, LB 198.

CLERK: Mr. President, LB 198 is a bill offered by Senators Schellpeper and McFarland. (Read title.) The bill was introduced on January 9 of this year, Mr. President, referred to the Revenue Committee. The bill was advanced to General File. I have no committee amendments.

SPEAKER BARRETT: Thank you. Senator Schellpeper, please.

SENATOR SCHELLPEPER: Thank you, Mr. Speaker and members. I think this would be a fairly easy to understand. What it does is it exempts the sales tax on State Fair purchases. The State Board of Agriculture is actually the State Fair. We are talking about approximately 15 to 20 thousand dollars. I really don't think it would even be quite that much. Currently our race operation out at the State Fair Park is exempt. We do not pay any sales tax on any purchases that are associated with the races. With simulcast being conducted out there for about 10 months, you can see that we do not have much that we can put over into the actual fair part, and it is real hard to decide which goes to the fair, which goes to the races. We are talking about state-owned buildings on state-owned property, so I just

February 8, 1989

LB 43, 80, 82, 92, 92A, 106, 113
116, 158A, 165, 166, 171, 172, 175A
177A, 177, 194, 200, 208, 238, 261A
267, 277A, 284A, 296, 312A, 312, 321
322, 353, 357, 369, 458, 459

PRESIDENT: Senator Nelson, would you object to the bracketing?

SENATOR NELSON: No. I just tried to get some attention on my mike. I didn't run up there at the front and no one asked me. I didn't say yes, I didn't say no, and it is all right with me to pass over the bill until February 22. As I've said many times, I'm willing to listen, I'm willing to learn, I'm willing to amend the bill as it is, but we're talking about a serious thing so I'm very willing.

PRESIDENT: May I ask, are there any objections to bracketing this bill until February 22? If so, now is the time to say so. If not, the bill is bracketed until February 22. Do you have anything for the record, Mr. Clerk?

CLERK: Mr. President, I do, thank you. Your Committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 92 and recommend that same be placed on Select File; LB 459 Select File; LB 458 Select File; LB 116 Select File; LB 267, LB 208, LB 92A, LB 158A, LB 175A, LB 177A, LB 261A, LB 277A, LB 284A, LB 312A, all on Select File. Those are signed by Senator Lindsay. (See pages 647-51 of the Legislative Journal.)

Mr. President, your committee on Transportation whose Chair is Senator Lamb reports LB 369 to General File with amendments. That is signed by Senator Lamb. Your Committee on Enrollment and Review reports LB 43, LB 80, LB 82, LB 106, LB 113, LB 165, LB 166, LB 171, LB 172, LB 177, LB 194, LB 200, LB 296, LB 312, LB 321, LB 322 and LB 353 all are reported correctly engrossed, Mr. President. That is all that I have at this time, Mr. President. (See page 651 of the Legislative Journal.)

PRESIDENT: Very good. We'll move on then LB 238.

CLERK: Mr. President, 238 was a bill that was introduced by Senator Hall. (Title read.) The bill was introduced on January 9, referred to Business and Labor, advanced to General File. I do have committee amendments pending by the Business and Labor Committee, Mr. President.

PRESIDENT: Senator Coordsen, are you going to handle those committee amendments?

February 13, 1989 LB 92, 92A, 344, 459

PRESIDENT: Senator Lindsay, would you like to move to advance the bill?

SENATOR LINDSAY: Mr. President, I move that LB 344 be advanced to E & R for Engrossment.

PRESIDENT: Thank you. You have heard the motion. All in favor say aye, opposed nay. It is advanced. LB 92, please.

CLERK: Mr. President, on LB 92, I do have E & R amendments pending.

PRESIDENT: Senator Lindsay, please.

SENATOR LINDSAY: Mr. President, I move that the E & R amendments to LB 92 be adopted.

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

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

PRESIDENT: Senator Lindsay.

SENATOR LINDSAY: Mr. President, I would move that LB 92 as amended be advanced.

PRESIDENT: You have heard the motion. All in favor say aye. Opposed nay. It is advanced. LB 92A.

CLERK: Mr. President, on LB 92A, I have no amendments pending, Senator.

PRESIDENT: Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move that LB 92A be advanced to E & R Final.

PRESIDENT: You have heard the motion. All in favor say aye. Opposed nay. It is advanced. LB 459.

CLERK: Mr. President, on LB 459, I have E & R amendments, first of all, Senator.

PRESIDENT: Senator Lindsay.

February 15, 1989 LB 92, 92A, 354, 354A

SPEAKER BARRETT: LB 354 is advanced. Ladies and gentlemen, we're still under call. We do have a A bill. I would like to process it if at all possible before we adjourn for the day. Mr. Clerk.

CLERK: Mr. President, LB 354A is a bill introduced by Senator Wesely. (Read title.) I do have an amendment to the bill by Senator Wesely, Mr. President.

SPEAKER BARRETT: Senator Wesely, amendment on the A bill, Senator.

CLERK: Amendment on the A bill, Senator. (The Wesely amendment appears on page 758 of the Legislative Journal.)

SENATOR WESELY: Okay, I guess the money is in the wrong program. This puts it in the right program. I move for the adoption of the amendment.

SPEAKER BARRETT: Discussion on the amendment. If not, those in favor of the adoption of the amendment vote aye, opposed nay. Record, please.

CLERK: 27 ayes, 0 nays, Mr. President, on adoption of Senator Wesely's amendment to 354A.

SPEAKER BARRETT: To the bill, Senator Wesely.

SENATOR WESELY: I move its advancement.

SPEAKER BARRETT: Any discussion? If not, all in favor of the advancement of the A bill as amended, please vote aye, opposed nay. Record, please.

CLERK: 27 ayes, 3 nays, Mr. President, on the advancement of the A bill.

SPEAKER BARRETT: The A bill is advanced. Messages on the President's desk.

CLERK: Mr. President, your Committee on Enrollment and Review reports LB 92 and LB 92A as correctly engrossed. Those are signed by Senator Lindsay as Chair. (See page 759 of the Legislative Journal.)

March 3, 1989

LB 92, 92A
LR 38, 39

session and capable of transacting business, I propose to sign and I do sign LR 38 and LR 39. Thank you very much, ladies and gentlemen, for your attention to duty as we proceed to item 5 on the agenda, Final Reading, LB 92. Mr. Brown and Mr. O'Donnell, the floor is yours.

CLERK: (Read LB 92 on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 92 become law? Those in favor vote aye, opposed nay. Please record, Mr. Clerk.

CLERK: (Read record vote. See page 966 of the Legislative Journal.) 38 ayes, 0 nays, 11 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 92 passes. LB 92A.

CLERK: (Read LB 92A on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 92 (sic) pass? Those in favor vote aye, opposed nay. Voting on the passage of the A bill, have you all voted? Have you all voted? Record, please.

CLERK: (Read record vote. See pages 966-67 of the Legislative Journal.) 36 ayes, 0 nays, 2 present and not voting, 11 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 92A passes. Before the call is raised, two announcements of general interest to the body. (Gavel.) The first announcement concerns the Governor's Conference, the Ag Conference, which is scheduled in Kearney tomorrow. I know a number of the members of this body are planning to attend. That Ag Conference has been cancelled. The Second Annual Governor's Ag Conference scheduled in Kearney tomorrow has been cancelled. The other announcement of interest to this body, our illustrious Clerk has just reached another milestone in his life. This is birth day for Patrick J. O'Donnell. The doughnuts being passed out now are, of course, Patrick's gift to the Legislature. Senator Smith, are you prepared to lead us in the song? Happy Birthday to Patrick J. O'Donnell. (Applause.) Mr. Clerk, if you have now recovered from that blow, let's proceed to Select

March 3, 1989

LB 92, 92A, 318, 362A, 489

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

SPEAKER BARRETT: The amendment is adopted.

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

SPEAKER BARRETT: Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move that LB 362A as amended be advanced to E & R for Engrossing.

SPEAKER BARRETT: Shall LB 362A be advanced? Those in favor say aye. Opposed no. Carried. The bill is advanced. While the Legislature is in session and capable of transacting business, I propose to sign and I do sign LB 92, and LB 92A. Mr. Clerk, LB 489.

CLERK: Mr. President, on LB 489, I have E & R amendments pending, Senator.

SPEAKER BARRETT: Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move that the E & R amendments to LB 489 be adopted.

SPEAKER BARRETT: Shall the E & R amendments to LB 489 be adopted? Those in favor say aye. Opposed no. Carried. They are adopted.

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

SPEAKER BARRETT: Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move that LB 489 as amended be advanced.

SPEAKER BARRETT: Shall LB 489 as amended be advanced? Those in favor say aye. Opposed no. Carried. The bill is advanced. Next bill.

CLERK: Mr. President, the next bill is LB 318. I have E & R amendments pending, Senator. E & R amendments, Mr. President.

March 3, 1989

LB 92, 92A, 441
LR 42

amendments, that is signed by Senator Smith. (See page 970 of the Legislative Journal.)

Senator Lynch has chosen LB 89 as his priority bill. Reference report referring LBs 810 and 811 and certain gubernatorial appointees. A new resolution by Senator Rod Johnson. (Read brief explanation of LR 42. See pages 971-72 of the Legislative Journal.) That will be laid over.

Your Enrolling Clerk has presented to the Governor bills read on Final Reading this morning, Mr. President as of 10:10 a.m. (Re: LB 92 and LB 92A.)

General Affairs Committee gives notice of hearing, that is signed by Senator Smith, and I have a report of registered lobbyists for this week, Mr. President. That is all that I have.

SPEAKER BARRETT PRESIDING

SPEAKER BARRETT: Thank you. Next bill, Mr. Clerk.

CLERK: Mr. President, LB 441 is on Select File. I have E & R amendments pending, first of all, Senator.

SPEAKER BARRETT: Senator Lindsay, on the amendments.

SENATOR LINDSAY: Mr. President, I move that the E & R amendments to LB 441 be adopted.

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

CLERK: Mr. President, Senator Hall has an amendment to the bill.

SPEAKER BARRETT: Senator Hall.

SENATOR HALL: Mr. Chairman, I would withdraw that amendment.

SPEAKER BARRETT: Withdraw.

SENATOR HALL: Withdraw that, please.

March 7, 1989

LB 48, 61, 92, 92A, 147, 147A, 154
176, 298, 327, 349, 360, 360A, 391
398, 416, 441, 458, 459, 502

PRESIDENT NICHOL PRESIDING

PRESIDENT: Welcome to the George W. Norris Legislative Chamber. We have with us this morning as our chaplain of the day Reverend Steve Janovec of the People's City Mission in Lincoln. Would you please rise for the convocation.

REVEREND JANOVEC: (Prayer offered.)

PRESIDENT: Thank you, Reverend Janovec. Roll call, please. Record, Mr. Clerk, please.

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

PRESIDENT: Thank you. Any corrections to the Journal this morning?

CLERK: No corrections, Mr. President.

PRESIDENT: Do you have any messages, reports or announcements?

CLERK: Mr. President, your Committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 147 and recommend that same be placed on Select File; LB 147A, Select File.

Mr. President, Enrollment and Review reports LB 154, LB 360, LB 360A and LB 441 as correctly engrossed, both those items signed by Senator Lindsay as Chair of the Enrollment and Review Committee. (See pages 1003-04 of the Legislative Journal.)

Mr. President, communications from the Governor. (Read communications regarding signing of LB 391, LB 398, LB 458, LB 459, LB 48, LB 61, LB 176, LB 298, LB 327, LB 349, LB 416, LB 502, LB 92 and LB 92A. See page 1004 of the Legislative Journal.)

Mr. President, an appointment letter from the Governor appointing Ms. Kathy Campbell to the Child Abuse Prevention Fund Board. That will be referred to Reference. (See page 1005 of the Legislative Journal.)

I have a report from the Job Training area for the Department of Labor, Mr. President. That will be on file in my office. (See page 1005 of the Legislative Journal.)