

January 3, 1990

LB 346, 520, 707, 923-935
LR 8, 229-233

of LRs 229-233, some of which will be referred to the Reference Committee for referral to the appropriate Standing Committee, others laid over. See pages 123-28 of the Legislative Journal.)

Mr. President, I have amendments to be printed from Senator Hall to LB 346 and to LB 707. (See pages 128-29 of the Legislative Journal.)

Mr. President, I have a proposed rules change offered by Senator Wesely. That will be referred to the Rules Committee. (See page 129 of the Legislative Journal.)

Mr. President, Senator Lynch would like to remind the body that there will be a Rules Committee meeting at one-thirty in Room 1517. And, Mr. President, there will be an Executive Board meeting at two o'clock in Room 1520.

Finally, Mr. President, I have requests to add name to LR 8 by Senator Kristensen and to LB 520 by Senator Smith. (See pages 129-30 of the Legislative Journal.)

PRESIDENT: Ladies and gentlemen, if I could have your attention just a moment, please. We're about out of bills to enter, and if you have some, please bring them up quickly and soon so that we can do this before we adjourn. We're about ready to adjourn, but we don't want to shut anybody off that has one cooking. Incidentally, if you're about ready to introduce one, but not quite, please let the Clerk know that one is coming presently so that we may wind this up. Thank you. We'll not meet this afternoon, of course.

CLERK: (Read by title for the first time, LBs 923-929. See pages 130-31 of the Legislative Journal.)

Mr. President, a reminder, the Rules Committee will be meeting at one-thirty this afternoon in Room 1517 and Exec Board will be meeting at two o'clock in Room 1520, signed by Senators Lynch and Labeledz, respectively.

PRESIDENT: Ladies and gentlemen, please get your bills in if you would like. We're about ready to wind this up. Thank you.

CLERK: (Read by title for the first time, LBs 930-935. See pages 131-33 of the Legislative Journal.)

January 4, 1990

LB 881-957, 997-1010
LR 229

If I may, Mr. President, I have a Reference Report referring LBs 881-957, and LR 229. (See pages 175-77 of the Legislative Journal.) And, Mr. President, new bills. (Read LBs 997-1010 by title for the first time. See pages 177-80 of the Legislative Journal.) Mr. President, that's all that I have at this time.

SPEAKER BARRETT PRESIDING

SPEAKER BARRETT: Thank you. Proceeding to the next item on...from the Rules Committee. Chairman Lynch.

SENATOR LYNCH: Mr. President, members, the next one is number nine identified on your list. It specifies that a motion to suspend the rules is not divisible. The reason for this, without reading it all but putting it hopefully in laymen's terms so we can understand it, is that when a motion to suspend the rules is attempted it's intended to accomplish only one thing. You don't suspend the rules to accomplish three, four, five or six different things. But, if the amendment that would accomplish one thing would, for example, suspend Rule 1, Section 2, Rule 2, Section 3, Rule 3, Section 4, because it's necessary to do that to identify those sections of the rules that serve that single purpose, you cannot divide the question and take any one of those three rule changes independently. I think, Mr. President and members, that explains the purpose and intent of this rule change and would suggest that we support it.

SPEAKER BARRETT: Thank you, Senator Lynch. Discussion on the proposal...proposed change number nine? Senator Chambers, please.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, let me tell you what the real purpose of this rule change is. There have been attempts at various times to suspend the rules so that there can be no debate or discussion or amendment on bills, and I have indicated that I would divide that question. So the purpose of the rule is to prevent that from happening. So however many things are put into a rule suspension will have to be taken as a package. In some instances you may have a situation where people will think and believe that you should be able to suspend the rules for the purpose of taking a vote without any additional debate, amendment and so forth. And maybe that is all right. Naturally, I'm opposed to it because

February 1, 1990

LB 87, 163, 257, 397, 486, 534, 601
610, 688, 692, 730, 756, 818-820, 923
956, 980, 1021, 1067, 1069, 1230

9:00 a.m.

SPEAKER BARRETT: Have you anything for the record?

CLERK: I do, Mr. President. Your Committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 956 and recommend that same be placed on Select File; Transportation Committee reports LB 980 to General File with committee amendments, and LB 1021 as indefinitely postponed, those signed by Senator Lamb; Health and Human Service Committee, I am sorry, Banking Committee reports LB 1069 to General File with amendments, and LB 1230 indefinitely postponed, those signed by Senator Landis; and Health and Human Services Committee reports LB 1067 to General File, LB 688 General File with amendments, and LB 923 General File with amendments, those signed by Senator Wesely. (See pages 619-25 of the Legislative Journal.)

A communication from the Governor to the Clerk. (Read. Re: LB 87, LB 257, LB 397, LB 486, LB 756, LB 534, LB 601, LB 730, LB 818, LB 819, LB 820. See pages 625-26 of the Legislative Journal.)

Mr. President, Senator Moore has amendments to LB 163 to be printed; Senator Wesely amendments to LB 610 to be printed. (See pages 626-28 of the Legislative Journal.)

And, Mr. President, a hearing notice from Retirement Systems Committee. That was given to me by Senator Haberman; and, finally, Mr. President, I have a request from Senator Abboud to add his name to LB 692 as co-introducer. That is all that I have, Mr. President.

SPEAKER BARRETT: Thank you. The motion before the body is to adjourn until tomorrow morning at nine o'clock. All in favor say aye. Opposed no. The ayes have it. Motion carried. We are adjourned. (Gavel.)

Proofed by:

Marilyn Zank
Marilyn Zank

February 13, 1990 LB 159, 163A, 624, 642, 862, 923, 943
976, 1010, 1086, 1090, 1091, 1141, 1171
1180, 1195, 1197, 1238
LR 239

PRESIDENT: Mr. Clerk, do you have anything for the record?

CLERK: Mr. President, I do. A reminder, the Speaker would like to have a meeting of Committee Chairs tomorrow morning at eight-thirty, Committee Chairs tomorrow morning at eight-thirty in Room 2102.

Mr. President, your Committee on Education whose Chair is Senator Withem reports LB 1086 to General File, LB 1090 General File with amendments, LB 1195 General File, those signed by Senator Withem, and LB 1180 indefinitely postponed, LB 1197 indefinitely postponed. Urban Affairs reports LB 943 indefinitely postponed, LB 1171 indefinitely postponed, signed by Senator Hartnett. Banking reports LB 624 to General File, that signed by Senator Landis. (See pages 779-80 of the Legislative Journal.)

Mr. President, a series of priority bills designations. Senator Wesely as Chair of Health and Human Services selects LB 923, Senator Withem selects LR 239CA, Senator Warner selected LB 1141. General Affairs Committee selected LB 862 as one of its priority bills, that's offered by Senator Smith. Senator Dierks has selected LB 1238.

I have amendments to be printed to LB 163A by Senator Schimek. (See page 781 of the Legislative Journal.)

A confirmation report from the Education Committee. That is offered by Senator Withem.

A series of adds, Mr. President. Senator Weihing would like to add his name to LB 642, Senator McFarland to LB 1010, Senator Lowell Johnson to LB 976 and Senator Pirsch to LB 1091 and Senator Warner to LB 159, AM2372. That is all that I have, Mr. President. (See page 782 of the Legislative Journal.)

PRESIDENT: Thank you. Senator Moore, please.

SENATOR MOORE: Yes, Mr. President, I move we adjourn until 9:00 a.m., February 14, Valentine's Day.

SENATOR WESELY: Thank you. I just appreciate Senator Crosby's comments, and again would encourage you to support this resolution. The program has been in place 25 years, done great things for children. Hopefully, we can follow up on the ground that has been plowed by this program and do additional things to help these children, recognizing their importance, and very much would urge your support for this resolution.

PRESIDENT: The question is the support of the resolution. All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 25 ayes, 0 nays, Mr. President, on adoption of the resolution.

PRESIDENT: The resolution is adopted. Move on to LB 42. Will you refresh our memory as to where we were. Oh, excuse me, LB 923.

CLERK: Mr. President, 923 was a bill introduced by the Health and Human Services Committee. It is signed by a number of other members. (Read title.) The bill was introduced on January 3 of this year, referred to the Health and Human Services Committee for public hearing, advanced to General File. I do have committee amendments pending by the Health and Human Services Committee. (See page 625 of the Legislative Journal.)

PRESIDENT: Senator Wesely, please.

SENATOR WESELY: Yeah, real briefly, Mr. President, maybe I should start back and give you a summary of the bill and where the amendments come in. The situation with asbestos is one that you probably have been quite familiar with, that we did pass an Asbestos Control Act a couple of years ago. About a year ago, the rules and regulations to implement that act, which was passed in '88, I believe, those rules and regs were then put forward in April of '89, caused quite a stir among contractors and business people and homeowners across the State of Nebraska. The intent of that Asbestos Control Act was certainly admirable, and it should have been. I was one of the co-sponsors and believed very much in the initiative to try and protect people from exposure to asbestos, which is a very carcinogenic substance, as we all know, but the problems with the rules and regs resulted in part from very restrictive statutory language defining friable asbestos and other various aspects of the law

were more restrictive than we had anticipated. So the rules and regs came forward in implementing that law and caused quite a stir, and we did spend an interim study in the Health and Human Services Committee looking at the issue. Senator Hannibal had anticipated the problems and introduced a bill prior to the rules and regs coming out and, of course, he was a little ahead of his time. We were able to follow up, though, on his initiative in examining the issue, and we did hold an interim study hearing in September where a number of different individuals came forward with criticisms and concerns but, essentially, it was the Health Department, themselves, that came forward with this bill proposing changes in the original statute, which would, on the one hand, protect still the public, and at the same time ease up the restrictions that had caused so much concern. The changes in the bill, let me go through that real quickly, and then I'd go to the amendment, the changes that are proposed in the bill first deal with the question of residential property owners. If you are a homeowner or own residential property of four or fewer units, you would be exempted from having to comply with this act. This would allow the homeowner to work on their own home, or the rental unit owner, for instance, a duplex owner from working on their duplex without having to comply with these acts, the concept being that it is their own residence and we rarely interfere in residential activities of that sort. But that would be exempted and, secondly, the definition of friable would be changed to more closely resemble the federal definition, and this definitional change, which I can get into more later, would essentially deal with the flooring and roofing problem that we have had in the state. In addition for those small projects, businesses could perform asbestos projects of less than 260 linear feet, or 160 square feet and linear feet in any combination would be exempted from getting a license. And Senator Korshoj came up earlier, that is the license that costs something like \$3,500 to get and you wouldn't have to get that license any longer under this original bill, but we found that in addition to that exemption, there was a concern, particularly among telecommunications companies, they do a lot of stringing of wire in areas, so they would almost always fall under the 260 linear feet or 160 square feet provision on the license, but they would still have the training and project approval hoops to jump through for their projects, and it was felt that with OSHA standards and other restrictions that they have that it was unnecessary to continue to include them in that provision. And so for those smaller projects that they have, they would no

longer be under the act under the committee amendment. And so with that, I would move for the committee amendment, Mr. President.

PRESIDENT: Thank you. Senator Nelson, on the committee amendments. All right. Senator Hannibal, on the committee amendments. Okay, if there is no further discussion, the question is the adoption of the committee amendments. All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 27 ayes, 0 nays, Mr. President, on adoption of committee amendments.

PRESIDENT: The committee amendments are adopted. Now we are back to the bill. Senator Wesely, would you like to comment further on the bill?

SENATOR WESELY: Yes, thank you. I explained to some degree the bill, but let me, again, I would be happy to try and answer some questions but we had a number of individuals come forward with suggestions on the bill and we plan to keep working with them. But we appreciate very much that Speaker Barrett has put the bill on the agenda so quickly. We need to pass this legislation as soon as possible, and we need to pass it with the emergency clause, and we need to pass it within the next few weeks, if at all possible, because the situation is, after the uproar that the legislation caused last year, and we did hold that public hearing, and the Health Department has been providing waivers to essentially meet the intent of this legislation since last fall, and the situation is that we must act this session and we must act as soon as we can this session to clarify the statutes so that they can go forward, then, and permanently change the rules and regulations to reflect this change of policy. In the meantime, there are many projects and contractors and individuals around the state that are anticipating the passage of the bill, and some are waiting for the bill to be passed, and others are trying to work through waiver systems to deal with this, and, clearly, the Legislature needs to resolve the issue. I think at this point we could get into some questions on the bill, but I would prefer that we understand that there will be another opportunity on Select File to address some concerns and we continue to negotiate with the Health Department and other interested individuals. But we are on a tight time frame and so I do encourage you to keep that in mind, that we do need to move forward with the bill. Now, again, the primary concerns that

have been identified on the asbestos issue have been roofing and flooring and this bill would primarily deal with those issues. For those roofers and flooring individuals that have in the past had to have a license to comply with the provisions of the bill, if they will follow the cautionary measures in removing roofing materials and take...removing them and not just dropping them on the ground, having them stacked, and then covered, and then transported in that fashion, they will not have to go through all of the different restrictions that the bill would have. If, however, roofing contractors should be not careful, if they should be careless, then there could be intervention by the Health Department to try and protect the public and the workers involved. But as long as they don't break and crack up the roofing material, they would not be burdened by this act any longer. For flooring material, similarly for those that remove flooring materials and do so in a careful fashion, they would be exempted from this act under the definition of friable asbestos, but if they are not careful and if they crack up the tile and if they pulverize the tile, they would then fall under the act and the Health Department could intervene. And so we are trying to balance off the need to not have overly restrictive legislation but at the same time recognize that not handling asbestos carefully can be very dangerous and we think that the bill in its current form does balance off those interests. The smaller project exemptions recognize again that there are many small businesses out there with small projects that simply are terribly burdened right now by the system that we have put in place. Those smaller projects would be exempted from the licensure fee, but there would still be for the most part training and other types of restrictions to protect individuals. In one form or another, I think most everybody involved with asbestos will have some sort of training requirements. And so with those sort of protections, we think that we ease up enough to deal with the overly burdensome regulatory aspects of the bill, yet still have enough protections for the public and the workers. And so with that, we think the bill in its current form is a balancing act that needs to move forward quickly, and we look forward to support from the Legislature to advance the bill.

PRESIDENT: Thank you. Senator Nelson, please, followed by Senator Hannibal, Schmit, and Hefner.

SENATOR NELSON: Mr. Speaker, members of the body, Senator Wesely has done a very good job in explaining the bill. I was

first made knowledgeable of the real problem the very last few days of last year's session. It was brought to my attention, the Community Block Grant of Grand Island, and the home, it is too long a story to tell on my short time, but they got caught into the problem of a licensee removing asbestos in an old house that was half demolished. Basically, what has happened now is the City of Grand Island has about \$30,000 in an old lot that is probably worth 3,000 or four, maximum, down by the railroad tracks. So then I did do a lot of work trying to find out what the rules and regulations were to educate myself and so on. As Senator Wesely said, then during the summer we had some hearings, and I can't commend the...say to much or anything that I would say probably wouldn't be enough in the cooperation that I have received from the Health Department and Jackie Fiedler and her crew. If you've noticed, they were standing out here. She was following me around in the last few days of the session last year and had a resolution in to the effect, but primarily Senator Wesely has explained it. It has taken out the fourplex and down, the homeowner. The roof, the friable material, the definition now has been changed to conform with federal, and if many of the schools didn't understand, Columbus, Nebraska is one that really had a lot of expenses. Some chose to have their own maintenance people certified, which they could have for \$100 and gone ahead and did their school work, such as Grand Island, Norfolk, and so on. Others decided to go the route of the licensee. The licensee, it is a technical thing. It is expensive, about \$3,000, and...but if you do go that route and for liability concerns, there is quite a bit to it. So I do hope that if you have any questions, or you pass this bill with the emergency clause because there are four covers, for example, it was previously if they took up the toilet stool and broke up more than three square foot, the homeowner would go to have new carpet installed in the bathroom; whoa, I can't take up the old floor, and the Health Department meant well, but sometimes we go a little bit too far in regulations. But in no way am I not saying that asbestos is not a concern or that it is a carcinogenic material, but, again, we have to approach it, I guess, with a common sense way and try to work out still protection but still...and some of the safeguards built in, but this will help tremendously the small homeowner and the telephone companies and so on. Now the three foot is changed to 160 foot which conforms with many of the federal regulations as well with many other states, or 240 lineal foot, and that does help the small homeowner, and as Senator Wesely said, that roof can be taken off carefully, and I think Senator Chizek had a

\$10,000 in his district to take a roof off of a house. How many people working for 12, 15 hundred dollars a month could even afford to get their house reroofed. That is how serious it was or is and I would hope that you would look very favorably upon this and pass it with the emergency clause.

PRESIDENT: Thank you. Senator Hannibal, please, followed by Senator Schmit.

SENATOR HANNIBAL: Thank you, Mr. President. I was going to ask Senator Wesely a question if he is around. There he comes back. While he is getting back to his mike, I would like to have him clarify a few things. I rise also to support the bill, and I am very concerned, as Senator Nelson and Senator Wesely have said, that this bill needs to be passed and it needs to be passed this year, and I am hoping that we can get that done. The questions I have to Senator Wesely, if he would respond.

SENATOR WESELY: Try.

SENATOR HANNIBAL: In the bill, there are two major changes to two areas. It is a fairly simple bill but two areas that deal with new language. One is that you explained the definition of friable asbestos. It is, and I would like to have these things be on the record, that the reason why one to four family homes will be exempt is because of the definition of friable asbestos being changed?

SENATOR WESELY: No, there is a specific exemption that provides for the homeowner and their residential property of four or fewer units.

SENATOR HANNIBAL: Okay, and that is on page 3...

SENATOR WESELY: Yeah..

SENATOR HANNIBAL: ...and that is dealing with the homeowner activities on one residential property for four units or less.

SENATOR WESELY: Right, that is under the definition of asbestos project.

SENATOR HANNIBAL: Right. You have...the language in there says that any activities physically performed by a homeowner.

SENATOR WESELY: Right.

SENATOR HANNIBAL: Now, how does that affect me as a homeowner if I wanted to have a floor covering person come in and remove my own floor in my kitchen?

SENATOR WESELY: Oh, I see what you are saying. Yeah, they'd still be exempt under the definition of friable. I see what you are saying. Yeah, if you do the floor or the roof because of the change in the definition of friable, flooring and roofing would no longer be considered friable asbestos under the new definition. So you could come in and do a floor, you could come in and do a roof at a home and be exempted out of that, even if it is not the homeowner doing it, if it is a contractor doing it, as long as they follow reasonable precautions, and that would be the stacking and not the pulverizing and the pounding and all that. So, yeah, they'd be...

SENATOR HANNIBAL: Again, so that it is clear in the record because I think some legislative intent is important here, and it is your intent as the committee chair is that this doesn't mean that only the homeowner can physically do this service itself, but rather the homeowner could have a contractor come in...

SENATOR WESELY: Right.

SENATOR HANNIBAL: ...and still be exempt under the asbestos regulations provided they don't do things that would make the product friable under the new regulation, under the new definition.

SENATOR WESELY: That is absolutely right for flooring and roofing.

SENATOR HANNIBAL: And that new definition is changed so that heretofore friable products would most likely not be friable unless they were treated carelessly?

SENATOR WESELY: Right, because friable was defined previously by the statutes as cut, crushed, or broken during removal. Of course, you know roofing and flooring you'd cut, crush, or break quite frequently, but now that would not be included under the definition. And so if you simply were taking precautions and stacking and capsulating in a bag or whatever, you would not

fall under that definition as I understand it.

SENATOR HANNIBAL: Thank you, Senator Wesely. I appreciate Senator Wesely taking the time to put this into the record because it is a little confusing when you read that paragraph that maybe only the homeowner can physically perform themselves, but that is not the intent of the legislation. The purpose is to say that one to four family homes will be exempt provided reasonable cautions are taken. I would like to say I certainly support the bill, and I would like to say one other thing, that we have experienced and we are all aware on the floor that we have a major asbestos problem nationally and in our state for public buildings, schools, and even the individual homes and businesses and there has been a tremendous fervor towards removal of asbestos.

PRESIDENT: One minute.

SENATOR HANNIBAL: I would caution that further studies have come along and certainly there are some forms of asbestos that are extremely carcinogenic. However, there have been more studies, more recently, by some fairly prestigious researchers that says, yes, but possibly the total asbestos problem isn't quite as big a problem from a carcinogenic standpoint as we might have been originally led to believe. So I would only take this opportunity to urge that we move cautiously when we start looking at the huge amounts supposedly of asbestos that need to be removed from schools or state buildings, public buildings, and private businesses because it appears that there might be some less costly, more efficient and just as safe ways to handle this problem in the future. With that, I would say I do support the bill.

PRESIDENT: Thank you. Senator Hefner, please, followed by Senator Beck.

SENATOR HEFNER: Mr. President, and members of the body, I want to commend the Health Committee for bringing this bill before us. There is a few questions that I would like to ask Senator Wesely, if he will yield.

PRESIDENT: Senator Wesely, please.

SENATOR HEFNER: Senator Wesely, as I interpret the bill, there is no limitation to the number of square feet that is affected

in residential home that you live in?

SENATOR WESELY: Right, if you do the work yourself, absolutely.

SENATOR HEFNER: Okay, if you do the work yourself or if you have, say, like a floor covering person...

SENATOR WESELY: Right, right, yeah.

SENATOR HEFNER: ...or a roofer.

SENATOR WESELY: Yes, as Senator Hannibal said, for flooring and roofing because they wouldn't be under the definition any longer unless you didn't handle it properly. Yeah, there wouldn't be any limitation.

SENATOR HEFNER: Okay, thank you for the information, and, then, if you will turn to Section 2 with me and line 8, "A business entity which (1) only performs asbestos projects which are less than two hundred sixty linear feet or which are less than one hundred sixty square feet and linear feet in any combination...", okay does that mean like if a building is tore down on main street and there is floor tile that has asbestos in, if it was over 160 square feet, then they would have to get a permit?

SENATOR WESELY: Right, they would have to be licensed to do that.

SENATOR HEFNER: Senator Wesely, would...

SENATOR WESELY: Oh, oh, wait, no, no, did you say floor tile?

SENATOR HEFNER: Floor tile that contained asbestos.

SENATOR WESELY: No, they would still...floor tile would still not be considered friable, but if they had...I thought you were saying for that building, if they wanted to tear it down or something, they would have to have a permit, a license first, and do it if it is more than 160 square feet, but flooring and roofing for any situation would, I think, be exempted unless it was not properly handled.

SENATOR HEFNER: Okay, as you understand the bill, then floor tile or roofing that contains asbestos would not be covered?

SENATOR WESELY: In any circumstance unless it was improperly handled.

SENATOR HEFNER: Okay, the question that I was going to ask you, would you care if I amended this to a larger square foot if these were covered, so you have answered my problem and thanks for the information.

SENATOR WESELY: Sure.

PRESIDENT: Senator Beck, please, followed by Senator Korshoj.

SENATOR BECK: Thank you, Mr. Chairman, and members of the body, I just want to add my support and my commendation and my thanks to Senator Wesely, to Senator Nelson, and Senator Hannibal, all those people who have been working with the asbestos bill. This is a bill that is of considerable importance to my district in the north central Omaha. And I did want to mention that I did testify at the hearing. I had testimony added into the hearing and I would like to just make a couple of statements today, and one is that I believe, if you are looking at the bill, on page 4, lines 21 through 23, I believe that the definition of friable asbestos might be more helpful in the particular problems that we found within the asbestos removal if we would include the phrase "friable asbestos shall mean asbestos which when dry", just those three words. And I would hope that you would consider those three words because I believe that that would improve the definition and actually solve our problem in the bill. There would be no problem then with rules and regs that might be developed if we would use those three words. So I would ask the members of the body who are interested in this, have this problem, to please look at that area and think about adding those words "which when dry". The other thing I might like to mention would be on page 3, lines 6 through 8, after the word "homeowner" if we could add a phrase like this, "his or her agent". Now why do I say that? Well, the reason would be this, that if that were put in there that will take care of the problem that I specifically had in my district of ladies whose husbands have passed away and they have family in the area or even outside the area that would come in and take care of this problem, and I believe that if we added those words, again, that would not detract from the positive part of the asbestos act but it would help those elderly, and, again, we wouldn't have a problem in any rules and regs if we had his or her agent,

thinking of family that would be able to come in and help with that project. I think that we need to exempt homeowners who not only physically can do their work but those who are not physically able and I had that problem. I wish I had brought my files down to read to you some of the problems that we have had with this. We don't want to exempt, you know, certain ones, but that property of those homeowners. Lastly, I am a little bit concerned about the square feet exemptions, and I know Senator Wesely knows this because I had this entered into the record at the hearing, but on page 6, those of you who are following the bill, on page 6, lines 9 through 12 of the 160 square feet, now that equates to about a kitchen about the size of 12 to 14, and the homes in my district and in this central portion of Omaha oftentimes have kitchens slightly larger than this, and so if we can increase that to 200 square feet, I believe we will be more realistic and yet not out of line for our concern about asbestos. Again, I just want to thank Senator Wesely, and Senator Nelson, all those that have worked on this bill. I did want these things added into the record in order that we might look it over and really make this bill the very best bill that we can. Thank you very much.

PRESIDENT: Thank you. Senator Korshoj, please, followed by Senator Schmit.

SENATOR KORSHOJ: Mr. President, and members, I'd like to ask Senator Wesely a couple of questions.

PRESIDENT: Senator Wesely, please.

SENATOR KORSHOJ: On page 6 of the bill where it talks about a business entity, go to line 9, a business entity which (1) only performs asbestos projects which are less than 260 linear feet. That in its own context doesn't tell us anything, does it? By what width? I don't understand it is what I am saying.

SENATOR WESELY: Yeah, I guess it doesn't matter how wide it is. It is just...

SENATOR KORSHOJ: I know, but what if the building is...it is not real clear. She says it is around 10 by 16.

SENATOR WESELY: Senator Korshoj, if I could answer it, these definitions come from or those figures come from federal standards and so the rules and regs, I guess, would specify more

clearly but I think it is fairly standard numbers. I think...

SENATOR KORSHOJ: Well, the 160 square feet, I understand. Are we talking perimeter measurement? I don't...get in here, Hannibal, we'd be glad to have your...I don't understand it.

PRESIDENT: Senator Hannibal, are you going to respond on it?

SENATOR HANNIBAL: I will try. I also see it being confusing but I think what you really should be doing is looking at 160 (sic) linear feet, and then before 160 square feet, which to me is interpreted that it has to be under 160 square feet and it can be 260 feet long, but still has to be under 160 square feet. However, it does say or as opposed to and, and so it is confusing to me also, but it is federal language and we know what the feds do with language.

SENATOR KORSHOJ: Well, see, that was confusing to me because it is really a very small area, then, if we are talking 160 square feet, 10 by 16 is a fraction of any size room, but I can get this definition, then, if I'd find what the federal definition of that linear is.

PRESIDENT: Senator Wesely.

SENATOR WESELY: Yeah, I think Senator Hannibal is right, the 260 is in combination with the 160 square feet, and so, yeah, I know it is kind of confusing but that is what the standard policy has been.

SENATOR KORSHOJ: But, see, if it would give us the "or", the building could be 100 feet wide and 260 feet long, it would be able to get thrc'm out with the square footage?

SENATOR WESELY: Right.

SENATOR KORSHOJ: But now Lowell is going to explain it to me, but I don't know how we will get it in the record.

PRESIDENT: Senators, would you please speak into your microphone and we will identify you for the record so that we will know what is going on.

SENATOR KORSHOJ: So it is in the record, they say it is like a coving. I do understand what they said, I hope you do, too.

Thank you.

PRESIDENT: Thank you. Senator Schmit, please. I don't see him. Senator Nelson, Senator Schmit isn't at his desk.

SENATOR NELSON: In regards to the 240 (sic) lineal feet, you see, a lot of the problem came in, a small bathroom or a small kitchen, and, okay, you can come in and a lot of this was covered up the wall, asbestos coving, and so a room 10 x 20 is hundred and...10, 10, 20, see, but it is 240 lineal, and it is that asbestos around the room or around the wall is where we come from on this, and the other is 160 square feet which is a kitchen or a bathroom is what we are referring to. I hope that explains it.

PRESIDENT: Thank you. Senator Hannibal.

SENATOR HANNIBAL: Well, Mr. President, and members, I rise in an effort only to try to clarify a practical situation but I do understand Senator Korshoj's concern about this definition. It has been explained to me that...I will paraphrase and say most reasonable people have ways of measuring things, and in your business, Senator Korshoj, you measure lumber sometimes in board feet, sometimes in linear feet, and sometimes in square feet. People have a tendency to measure things that are either in square feet or linear feet as a practical matter. There are other ways of measuring, obviously, so what we are looking at is, if you are measuring things such as pipe, which is what this is referring to, pipe, then you are talking about, you don't measure pipe in square feet. You measure it in linear feet. If you are talking about things, such as Senator Nelson said, coving, for example, or a vinyl base that goes around a wall that fits between the flooring and the wall for a coving, that is not measured in square feet. It is measured in linear feet. Carpet, vinyl floors, shingles, plywoods, all kinds of materials that more...they are long and wide, and in some cases thick, of course, in board feet, but long and wide, they are measured in square feet, square yards, square meter, square miles, so the idea is to say that if you have a product that you are dealing with, pipe is what is referred to but it isn't specified, but it is typically measured in linear feet, you go under the one definition. And if you would have a product, a material that is typically measured in square feet, then you go by the other definition. But I do understand what you are saying and I will relinquish the rest of my time to Senator Korshoj.

PRESIDENT: Senator Korshoj.

SENATOR KORSHOJ: Mr. President, and members, just for the record, Senator Wesely, where did we come up with the 160 square feet? What was the guideline on that?

SENATOR WESELY: Well, we were told at the hearing that that is what the federal guidelines indicate, the 260 and 160, and so they merely paralleled those figures.

SENATOR KORSHOJ: So, we pretty well have to stick with that figure?

SENATOR WESELY: It would be preferable but I don't know that we absolutely have to.

SENATOR KORSHOJ: Well, I am thinking of some very small commercial buildings, that they hate to spend \$3,500 and they are small businesses for the license fee.

SENATOR WESELY: Right, but that would be...this is for those that go out and do asbestos projects or come in, I mean, if they do just small projects, they are a small contractor, they would be left out, but if they start doing bigger projects, they ought to be licensed. They are getting into some bigger projects. We are trying to provide some help for a little guy out there with a little problem to take care of it.

SENATOR KORSHOJ: So the way you can get around this would be if he has got 400 square feet, throw a temporary partition, and do one section, and then come back later and do it, which I think would...

SENATOR WESELY: I don't think that is quite what we...

SENATOR KORSHOJ: ...Gary, it is your time, get in here.

SENATOR HANNIBAL: Senator Korshoj, actually, commercial buildings will be covered under this small projects, not because of that section there on the definition of homeowner of one to four residential units but the definition of friable. The definition of friable has been changed so that vinyl floor covering in your lunch room of your office, for example, will not be considered friable anymore under this bill. So what

could have been an asbestos removal project will no longer be an asbestos removable project if it is handled properly. In other words, if it comes...if they take it out and haul it away carefully, they don't sand it, for example, and if they don't take a mechanical chipper to it. Now, for example, if they just go ahead and tear it up in a more conventional way, take it up off the floor and handle it carefully, it is going to be exempt, not because of that residential thing, but because of the definition of friable. It will no longer be friable.

SENATOR KORSHOJ: Thank you. I understand it better and thanks for your time. This was your time.

PRESIDENT: Thank you. Senator Korshoj, you are on now, on your own time. Okay, Senator Nelson, please.

SENATOR NELSON: I stand to be corrected on the lineal, I think Senator Hannibal explained that on the pipe. We had talked about the asbestos so I just wanted it into the record, then going by the square foot, the 160 square feet. Incidentally, too, I might mention that we have a Mead Ordinance Plant, we have in Central Community College area down in Hastings Ordinance Plant, the Grand Island Ordinance Plant, the Army feels, they don't pay a lot of attention to this, that it is probably more harmful to remove the asbestos and disturb it than it is to leave it there. So there are a lot of pros and cons but I simply wanted to correct what I had said because we run into so many problems. And also, Senator Korshoj, your small business can have his workers certified for \$100 or one person, and there are trainers, and then the workers can be instructed and can also go ahead and remove their asbestos.

PRESIDENT: Senator Wesely, would you like to close, please

SENATOR WESELY: I certainly would. Thank you very much and I appreciate the discussion. Senator Hannibal did a nice job of trying to explain the situation. Let me reiterate once again what we have done here. For the homeowner who does their own work, they would be exempted. For the homeowner or for the business that has floor tile or roofing work that needs to be done, if it is handled properly, they would no longer be under the provisions of the act. Under the definition of friable, that change will help tremendously with the flooring, roofing problems that we have had. For those businesses that perform asbestos projects, smaller projects, again the definition of

February 16, 1990 LB 42, 708, 923, 931, 1153, 1172, 1210
1211, 1244, 1245
LR 233

linear would be based on pipes, and we are talking about pipes, 260 feet of those or less would be exempted from the license, businesses working in those. For 160 square feet or fewer, you would be exempted from the license for those businesses doing those asbestos projects. And, in addition, we dealt with the committee amendment and the E clause has been added, and I'd ask very much for the advancement of the bill.

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

CLERK: 26 ayes, 0 nays, Mr. President, on the advancement of LB 923.

PRESIDENT: LB 923 is advanced. Do you have anything for the record, Mr. Clerk?

CLERK: Yes, Mr. President, I do. Thank you. I have a Reference Report referring LB 1244 and LB 1245. That is offered by Senator Labedz as Chair of the Reference Committee.

Mr. President, priority bill designations, Appropriations Committee chaired by Senator Warner selected LB 1210, LB 1211; Senator Chambers has selected LB 708; Government Committee has designated LB 931 and LB 1172; Speaker Barrett has selected LB 1153; Senator Coordsen, LR 233CA.

Mr. President, committee hearing notices from Appropriations Committee and from the Business and Labor Committee, signed by their respective Chairs. That is all that I have, Mr. President.

SENATOR HANNIBAL PRESIDING

SENATOR HANNIBAL: Thank you, Mr. Clerk. Before we move on to General File, LB 82 (sic), I would like to take this opportunity to inform the body that Senator LaVon Crosby has in the south balcony 13 Girl Scouts and their leader from Calvert School in District 29. Would you girls all please rise and let us welcome you to the Legislature. Thank you for joining us today. Mr. Clerk, LB 42.

CLERK: Mr. President, LB 42 involves judicial salaries. The bill has been discussed on two occasions. I have pending,

LB 1146.

SPEAKER BARRETT: LB 1146 advances. Items for the record, Mr. Clerk.

CLERK: Mr. President, Senator Hefner has amendments to LB 571 to be printed. Enrollment and Review reports LB 923 and LB 42 to Select File with E & R amendments attached. (See pages 860-62 of the Legislative Journal.)

Mr. President, Senator Hartnett would like to announce there will be a meeting of Urban Affairs at three o'clock this afternoon in Room 1019; Urban Affairs Exec Session, three o'clock in Room 1019 this afternoon. That's all that I have, Mr. President.

SPEAKER BARRETT: Thank you. Proceeding then to General File, LB 1080.

CLERK: Mr. President, LB 1080 was a bill introduced by Senator Schellpeper. (Read title.) The bill was introduced on January 10 of this year, at that time referred to Health and Human Services Committee for public hearing. The bill was advanced to General File. I do have committee amendments pending by the Health and Human Services Committee.

SPEAKER BARRETT: Chair recognizes Senator Wesely.

SENATOR WESELY: Thank you, Mr. Speaker, members of the Legislature. The bill before you, LB 1080, is a bill introduced by Senator Schellpeper, a very important piece of legislation that deals with the problems brought about by the passage, several years ago, of OBRA legislation by the Congress. This legislation makes a number of changes in standards and requirements for nursing homes across the country. And in our own state we are obviously preparing to implement that legislation as of October 1 of this year. We have a difficulty in a number of areas, and this legislation will allow us to maximize our flexibility in meeting those new standards. The amendments by the committee, number one, exempt ICFMR's from new training requirements that are provided under the bill. Those training requirements are the following--care staff members that now require 90 hours of training would have to have 115 hours; nursing assistants that now have 20 hours of training would have to have 75 hours. These training requirements would be exempted

February 22, 1990 LB 313, 579, 688, 830, 831, 834, 888
917, 923, 932, 938, 946, 954, 978
987, 987A, 994, 994A, 1037, 1067, 1077
1080, 1080A, 1094, 1102, 1109, 1165, 1178
1217
LR 259

PRESIDENT NICHOL PRESIDING

PRESIDENT: Welcome to the George W. Norris Legislative Chamber. We have with us this morning for our invocation, Reverend Dr. Norman E. Leach who is the Executive Director of the Lincoln Interfaith Forum. Would you please rise for the invocation?

REVEREND LEACH: (Prayer offered.)

PRESIDENT: Thank you, Dr. Leach, we appreciate your being here this morning. Please come back. Roll call, please. Record, Mr. Clerk, please.

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

PRESIDENT: Thank you. Any corrections to the Journal today?

CLERK: No corrections, Mr. President.

PRESIDENT: Any messages, reports or announcements?

CLERK: Mr. President, Enrollment and Review respectfully reports they have carefully examined and reviewed LB 1080 and recommend that same be placed on Select File, LB 1080A, LB 1094, LB 688, LB 579, LB 994, LB 994A, LB 830, LB 938, LB 834, LB 987, LB 987A, LB 978, LB 888, LB 917, LB 946, LB 954, LB 1077, LB 1037, LB 1067, LB 831, LB 932, LB 1178, LB 1102, LB 1109, LB 1165 and LB 1217, all reported to Select File, some have E & R amendments attached. (See pages 904-08 of the Legislative Journal.)

Mr. President, amendments to be printed, Senator Crosby to LB 923, Senator Coordsen to LB 313. (See page 908 of the Legislative Journal.)

New resolution by Speaker Barrett. (Read brief description of LR 259. See pages 908-09 of the Legislative Journal.) That will be laid over.

A series of appointment letters from the Governor. Those will be referred to the Reference Committee for confirmation hearing.

Finally, Mr. President, a report from the Board of Public Roads Classifications and Standards. That will be on file in my

February 23, 1990 LB 42, 348, 896A, 923A, 923

CLERK: Mr. President, the next bill I have is LB 896A. I have no amendments to that bill.

PRESIDENT: Senator Lindsay, please.

SENATOR LINDSAY: Mr. President, I move that LB 896A be advanced to E & R for Engrossment.

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

CLERK: Mr. President, the next bill I have is LB 42. I have Enrollment and Review amendments only.

PRESIDENT: Senator Lindsay, please.

SENATOR LINDSAY: Mr. President, I move the adoption of the E & R amendments to LB 42.

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

CLERK: I have nothing else pending on LB 42, Mr. President.

PRESIDENT: Senator Lindsay, please.

SENATOR LINDSAY: I move that LB 42, as amended, be advanced to E & R for Engrossment.

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

CLERK: I have...that's all the bill that I have, Mr. President.

PRESIDENT: Do you have something for the record, Mr. Clerk?

CLERK: Mr. President, some items. New A bill, LB 923A, offered by Senator Wesely. (Read by title for the first time as found on page 976 of the Legislative Journal.)

I have amendments to be printed from Senator Hannibal to LB 923. That's all that I have, Mr. President. I have amendments to LB 348 from Senator Wesely to be printed. That's all that I have, Mr. President. (See pages 976-77 of the Legislative Journal.)

February 27, 1990

LB 445, 662, 854, 923, 945, 976, 1023
1042, 1057, 1062, 1146, 1147, 1151, 1212
LR 233

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

CLERK: 18 ayes, 1 nay to go under call, Mr. President.

SPEAKER BARRETT: The house is under call. Members, record your presence, please. Those outside the Chamber, please return. Senator Lynch, please. Senator Nelson, please. Senator Haberman. All members return to your seats for a roll call vote. The question again is the indefinite postponement of the resolution. Mr. Clerk, please call the roll.

CLERK: (Roll call vote taken. See pages 998-99 of the Legislative Journal.) 17 ayes, 19 nays, Mr. President.

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

CLERK: Mr. President, I do. Your Committee on Urban Affairs reports LB 945 indefinitely postponed, and LB 1057 indefinitely postponed, those signed by Senator Hartnett. Judiciary Committee reports LB 445 to General File; LB 854 to General File; LB 976 to General File; LB 1023, General File; LB 1042, General File; LB 1147, General File; LB 1212, General File; LB 1062, indefinitely postponed; LB 1151, indefinitely postponed, those all signed by Senator Chizek as Chair of the Committee. (See pages 999-1003 of the Legislative Journal.)

Mr. President, I have a series of amendments to be printed. Senators Lynch and Wesely have amendments to LB 923, Senator Conway to LB 1146, and Senator Scofield to LB 662. (See pages 1003-07 of the Legislative Journal.)

Mr. President, Senator Hall would like to announce that the Revenue Committee will meet at one o'clock this afternoon for their hearings as opposed to one-thirty. Revenue Committee, one o'clock, as opposed to one-thirty. That's all that I have, Mr. President.

SPEAKER BARRETT: We are back to the motion to advance the bill or the resolution. I have only one light. Senator Landis, would you care to....

SENATOR LANDIS: If we wish to run over it, I will be happy to

March 5, 1990

LB 313A, 923

SPEAKER BARRETT: Is there discussion? Those in favor of the motion to advance 313A, please say aye. Opposed no. The ayes have it. Motion carried. The A bill is advanced. LB 923, Mr. Clerk.

CLERK: LB 923, Mr. President, the first item are E & R amendments.

SPEAKER BARRETT: Senator Lindsay.

SENATOR LINDSAY: Mr. President, I would move the adoption of the E & R amendments to LB 923.

SPEAKER BARRETT: Any discussion? Seeing none, those in favor of the adoption of the E & R amendments, please say aye. Opposed no. Carried. They are adopted.

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

SPEAKER BARRETT: The Chair recognizes Senator Crosby.

SENATOR CROSBY: Mr. Speaker, thank you, I am withdrawing that amendment. Thank you.

SPEAKER BARRETT: Thank you. It is withdrawn.

CLERK: Mr. President, the next amendment I have to the bill is by Senator Hannibal.

SPEAKER BARRETT: The Chair recognizes Senator Hannibal.

SENATOR HANNIBAL: Withdraw it.

SPEAKER BARRETT: It is withdrawn.

CLERK: Mr. President, the next amendment I have, Senator Wesely, I have your AM2532, Senator. I think this is the one you were going to withdraw and substitute, if I am not mistaken.

SENATOR WESELY: Right, that is what I need to do.

SPEAKER BARRETT: Senator Wesely. Senator Wesely, do you desire to withdraw and then substitute?

SENATOR WESELY: Yes.

SPEAKER BARRETT: If there is no objection, so ordered.

SENATOR WESELY: Okay, thank you. Mr. Speaker, members, the original amendment which was, I believe, in the Journal, if I am not mistaken.

CLERK: Yes.

SENATOR WESELY: Okay, what page is that on?

CLERK: The original was on 1003, Senator.

SENATOR WESELY: Dealt with a problem that was brought to my attention by the Department of Health in implementing the training requirements of this bill. There was a penalty against the workers that would work on training but not against the employers who would have those workers work on asbestos projects untrained, so that the real...there was a gap evidently in enforcement of the law. So the original amendment, if you look on 1003, would have dealt with a business entity engaged in an asbestos project that did not provide the training that they were supposed to, would have a civil penalty. Now the original amendment that was in the Journal would have had that penalty be between five and twenty-five thousand dollars, first offense, and between twenty-five and a hundred thousand dollars for second or subsequent offense. It was felt that that was a little steep and so this amendment would make the penalty \$500 to \$5,000, and then \$5000 and greater. So it recognizes the potential of errors to be made. I also want to indicate that elsewhere in the bill there was a waiver provision so that if somebody, under the provisions of the bill, did not provide the training or otherwise as they were supposed to that the department could waive the fines and provide a period of time in which the offending business or individual could comply, and then they wouldn't have any fine at all. So we think it is a pretty reasonable amendment. I would move for the adoption of it.

SPEAKER BARRETT: Discussion on the Wesely amendment, Senator Goodrich, followed by Senator Hannibal.

SENATOR GOODRICH: Senator Wesely, would you yield to a couple

of questions, please.

SPEAKER BARRETT: Senator Wesely, would you respond?

SENATOR WESELY: Sure.

SENATOR GOODRICH: Is this intended to re...undo, rather, what we did last session relative to the utility companies?

SENATOR WESELY: No, no, it doesn't.

SENATOR GOODRICH: It is not your intention to undo that?

SENATOR WESELY: No, Senator Goodrich.

SENATOR GOODRICH: In other words, they have reached an agreement between the Health Department and the utility companies and I just want to make sure that we are not undoing that agreement.

SENATOR WESELY: No. That is not my intent, whatsoever, Senator Goodrich. As I was told, it deals where there is...and I am fairly familiar with that exemption, but the focus was on somebody who is supposed to have their employees trained, doesn't train them, and then it ends up that...oh, I see what you are saying because of that utility exemption. They told me nothing about that, that it wasn't impacting them, it was...as I understand it.

SENATOR GOODRICH: Except that I happen to know that the Health Department is not too careful about legislative intent, and I am, frankly, going to vote against this, not because what is in it because I don't know yet, I haven't had a chance to read it yet, but just on the event that...quite frankly, I don't trust the Health Department.

SENATOR WESELY: Okay, I understand that. I want you to know that that is not it at all, I have no idea that it has any impact in that area. The intent was something different than that.

SPEAKER BARRETT: Senator Hannibal.

SENATOR HANNIBAL: Mr. Speaker, and members, I would also like to ask Senator Wesely a couple of questions if he would respond.

SPEAKER BARRETT: Senator Wesely.

SENATOR WESELY: Sure.

SENATOR HANNIBAL: Senator Wesely, I was not aware of this particular amendment coming up. You haven't printed this amendment any place that you have right now, the substitution amendment, have you?

SENATOR WESELY: Well, no, but it is the same as on page 1003, and all it is is a lower fine than what 1003 calls for.

SENATOR HANNIBAL: And how did the original fine get plugged in here. I guess I'll ask you two questions. Why did we change the language on the first page of the amendment, number one. Number two, after changing that language, as I understand, your substitute amendment keeps that language, is that correct, and just changes the level of fine?

SENATOR WESELY: Right.

SENATOR HANNIBAL: And how did we get the first level of fine in this amendment, where did those numbers come from, and where are your second numbers coming from? Are they (interruption) in law?

SENATOR WESELY: Very good questions. When they brought me the amendment from the department, I said, gee, you know, that is a heavy fine, 5,000 to 25,000, where did that come from? And, evidently, that was the fine that is found elsewhere in statute and so they were being consistent. And I simply said that I thought that was too high a fine, and so they have lowered it down to \$500 to \$5,000, and I felt that that was much more reasonable.

SENATOR HANNIBAL: So the first level had...was some statutory language already found and the second one is just kind of a compromise between you and the Health Department?

SENATOR WESELY: Yeah, that they had that level of fine elsewhere, I guess, in the statutes, and I just thought it was too...that is too much money for this sort of problem.

SENATOR HANNIBAL: And would you explain, I think you did a

little bit, would you explain again why we need this amendment at all?

SENATOR WESELY: Sure, and as just clarification, the fine of five to twenty-five thousand is what we have now if you operate without a license, and so they just carried it over to if you didn't train as you are supposed to, and that was the consistent statute I was referencing for you. What it is intended to do is where you have a problem where a company is to train their employees under the statute and they don't do it, right now the department can only intercede and fine employees for not being trained when really the responsibility should be placed on the business to train those employees. So they felt that it was not a fair sanction for this problem, and I agreed. I thought that and so I offered the amendment but that is the reasoning behind it.

SENATOR HANNIBAL: Thank you. And when you say an asbestos project in this amendment, then that is looking back to the definition...

SENATOR WESELY: Right.

SENATOR HANNIBAL: ...of asbestos project which is defined in the bill itself.

SENATOR WESELY: That is right.

SENATOR HANNIBAL: Thank you. I appreciate the questions being responded to. I honestly don't know how I feel about this amendment, and I suppose it is somewhat my fault for not looking at the original language in the amendment. I am concerned about some of the ramifications, and while Senator Goodrich said something that I don't agree with as far as trusting the department, I do...I don't necessarily think of them as doing something untrustworthy but I do recognize that sometimes reasonableness can be defined in differing degrees and I am a little concerned about this amendment as it stands right now, even with the lower numbers that Senator Wesely does recommend as to whether that is indeed reasonable or not, and I will be listening to the debate for further chances to be convinced.

SPEAKER BARRETT: Thank you. Any other discussion? Senator Wesely, would you care to close?

SENATOR WESELY: Well, I hope I can convince Senator Hannibal, and anybody else who has a question. This is...I know we have come up on this bill rather quickly. This amendment has been in the Journal for a few days. Again, what was originally proposed was a five to twenty-five thousand dollar fine and I simply felt that was too great a fine. I thought that the intent was correct, though, that if you are to have trained employees, it isn't right to fine the employees for not being trained, although they could still do that, frankly. That would not be taken out, but that it was the business's responsibility, clearly the statute indicates that, and that the business involved should have some penalty for not carrying out the law. That penalty would be \$500 the first...500 to 5,000 the first time and then 5,000 or more beyond that. But there are also, again I emphasize to you that if they find a problem, they have the opportunity to issue a citation and give the business time to comply with the statute, so I don't think there is a problem. Senator Goodrich, I understand your concern but, you know, if this, in fact, has any impact, as you indicate, that I would not support it either because that is not what I was told. So I just want you to know that that is not at all what is intended here. But I do think what is intended is fair and reasonable and I would hope that you would support this amendment.

SPEAKER BARRETT: Thank you. The question is the adoption of the Wesely amendment to LB 923. Those in favor vote aye, opposed nay. Voting on the adoption of the Wesely amendment. Have you all voted? Senator Wesely.

SENATOR WESELY: Could I ask for a call of the house, Mr. Speaker?

SPEAKER BARRETT: Thank you. Pursuant to Rule 7, Section 5, Mr. Clerk, clear the board. Members will vote on placing themselves under call. All in favor vote aye, opposed no. Record.

CLERK: 24 ayes, 0 nays to go under call, Mr. President.

SPEAKER BARRETT: The house is under call. Members, please return to your desks and record your presence. Those members outside the Chamber, please return and record your presence. Senator McFarland, please check in. Senator Labedz, Senator Korshoj, Senator Ashford. Senator Rod Johnson, please check in. Senator Warner, Senator Smith. Senator Moore, the house is

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LB 855, 855A, 923, 1032

under call. Senators Moore, Ashford and Hartnett, the house is under call. While we are waiting, there are about eight bills which could be voice-voted across before adjournment this evening. If you would like to follow along, it would include LB 885 and the A bill, LB 1032, LB 1236, LB 260 and 260A, LB 571, and LB 594. Correction, the first bill mentioned was 855, 855 and 855A. Senators Ashford and Hartnett, the house is under call. Senator Wesely, may we proceed?

SENATOR WESELY: Yeah.

SPEAKER BARRETT: Thank you. Members, return to your seats for a roll call vote. The question is the adoption of the Wesely amendment. Mr. Clerk, proceed.

CLERK: (Roll call vote taken. See page 1160 of the Legislative Journal.) 17 ayes, 1 nay, Mr. President, on adoption of the amendment.

SPEAKER BARRETT: Motion fails. The call is raised. Mr. Clerk, I would like to proceed to LB 855 at this point.

CLERK: Mr. President, on LB 855, I have no amendments to the bill.

SPEAKER BARRETT: Chairman Lindsay, please.

SENATOR LINDSAY: Mr. President, I move that LB 855 be advanced to E & R for engrossment.

SPEAKER BARRETT: Is there discussion? If not, those in favor of the advancement of 855, say aye. Opposed no. Carried. The bill is advanced. To the A bill.

CLERK: LB 855A, Mr. President, I have no amendments to the bill.

SPEAKER BARRETT: Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move that LB 855A be advanced to E & R for engrossment.

SPEAKER BARRETT: Discussion? Seeing none, those in favor of the advancement of the A bill, please say aye. Opposed no. The ayes have it. Carried. The bill is advanced. LB 1032.

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LB 260, 594, 923, 953A, 955, 1059, 1080
1094, 1222, 1238

CLERK: I have E & R, Senator, to 594.

SPEAKER BARRETT: Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move the adoption of the E & R amendments to LB 594.

SPEAKER BARRETT: Any discussion? Shall the E & R amendments to 594 be adopted? All in favor say aye. Opposed no. The ayes have it. They are adopted.

CLERK: I have nothing further, Senator.

SPEAKER BARRETT: Senator Lindsay.

SENATOR LINDSAY: Mr. President, I'd move that LB 594 as amended be advanced to E & R for engrossment.

SPEAKER BARRETT: Thank you. Is there discussion? Seeing none, those in favor of the advancement of LB 594 as amended, please say aye. Opposed no. The ayes have it, carried. The bill is advanced. Mr. Clerk, have you matters for the record?

CLERK: I do, Mr. President. I have amendments to LB 1238 by Senator Dierks; Senator Landis has amendments to LB 953A; Senator Withem, amendments to LB 1059; Senator Conway, LB 1094; Senator Coordsen to LB 1080; Senator Byars to LB 1222. (See pages 1161-67 of the Legislative Journal.)

Mr. President, Government Committee gives notice of hearing, signed by Senator Baack. The Appropriations Committee reports LB 955 to General File, that is signed by Senator Warner as Chair of the committee. And Senator Abboud would like to add his name to LB 260 as co-introducer, Mr. President. And, Mr. President, a motion to reconsider adoption of the Wesely amendment, AM2825, to LB 923. That is all that I have, Mr. President.

SPEAKER BARRETT: Thank you. Senator Wesely.

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

SPEAKER BARRETT: You have heard the motion to adjourn until

SPEAKER BARRETT: Thank you. The Chair is pleased to note that Senators Ashford and Beck have 25 students in our south balcony from MidWest Baptist Academy in Omaha, with their teacher. Would you people please stand and be recognized. Thank you. Welcome to the Legislature. We're glad you're here. Mr. Clerk, moving to Select File, LB 923.

CLERK: Mr. President, 923 was discussed on March 5 by the Legislature. At that time, Senator Wesely...E & R amendments were adopted. Senator Wesely offered an amendment to the bill, Mr. President, that failed. I now have a priority motion from Senator Wesely to reconsider that vote on the amendment that he offered. The reconsideration is on page 1168.

SPEAKER BARRETT: The Chair recognizes Senator Wesely.

SENATOR WESELY: Thank you. Mr. Speaker and members, I passed out a copy of the amendment. I think it's also in the Journal. Is it not?

CLERK: I'm looking, Senator, I believe it's on 1158, Senator.

SENATOR WESELY: Right. Yes, okay. So just so you know, because the last time we had this come up it came up late in the afternoon and the amendment wasn't actually in the Journal and so there was some confusion. Let me again reiterate where we're at on the issue. This amendment dealt with a problem that we have with a loophole in the law in enforcing the standards that we have adopted under the Asbestos Control Act. We have penalties dealing with employees but there is a gap in the law dealing with employers. The original draft of the amendment called for penalties in the range of \$5,000 or more for violating this act. And I had substituted an amendment to make that only \$500 to...or 500 to \$5,000 for that first offense and then the second offense would be \$5,000 or more. And it was, I think, important to recognize that we ought not to allow individuals who do not carry out the intent of the law, do not train their employees, do not follow the standards, ought to have some penalty but that penalty ought not to be too severe, that it ought to be reasonable, although severe enough to, hopefully, not have the law violated. I don't know what all the confusion was other than people were simply...it was a bad time of the day. I really think it's a clear issue and I would hope very much that you would move to reconsider. I know that

Senator Hannibal is drafting an amendment to this that should take care of some additional concerns and without reconsideration we aren't able to address the issue. So I would very much appreciate a vote to reconsider.

SPEAKER BARRETT: Senator Hannibal, would you care to discuss the issue?

SENATOR HANNIBAL: Thank you, Mr. Speaker, and members of the Legislature, I do rise to support the reconsideration motion. Senator Wesely did explain that the issue came upon us kind of late in the day. The amendment came upon me kind of late in the process and for that I apologize for not being better informed on exactly what the amendment was purporting to do. I do have some concerns with the amendment, the way it is drafted right now. I am going to be offering an amendment to the amendment, should we reconsider, that I think will at least alleviate some of my concerns and that is to suggest that the fine be in place because I do see a need for that ability by the Department of Health to levy a fine for people that are doing things or business owners that are doing things that they should not be doing, and it's kind of a closing of a loophole by having this in there. However, I also want to emphasize if this contractor is knowingly working on an asbestos project, as opposed to having an asbestos project become such when it wasn't intended to be. I will be offering that amendment. I was hoping that it would be down from bill drafters right now. It's just a one-word amendment. It isn't here but I think what Senator Wesely is willing to do, and I would ask him to respond in his closing that should we successfully reconsider or pass this motion and bring it back as though we have not taken a vote on the amendment, that Senator Wesely would allow it to drop down below some other amendments and give me more time to have the actual bill drafters' version before you so that we can handle it at that time. But, at this point, I would support the reconsideration motion so that we can continue on with this bill, which I think is a very good bill and needs to be passed this year.

SPEAKER BARRETT: Senator Hefner, please.

SENATOR HEFNER: Mr. President and members of the body, I rise to support the reconsideration motion. I did vote for the amendment the other day but I know that there was quite a little confusion as to just what the amendment did. But, as I read it

and study it now, I think it's more realistic to have a penalty that Senator Wesely's proposing than one that's in the orig...that's in the statutes at the present time. There is one part of the amendment that I have a little problem with and that's the last sentence on page 2 of the amendment. It's on line 9, each day a violation continues shall constitute a separate offense. So you can see that the penalty would still be...would be great. But in talking to the staff or the Health Committee, she tells me that the department would have an opportunity to waive this if a person, the employee or the employer, acted in good faith. So I guess, with that, I certainly want to support the reconsideration motion and support the amendment because we really need this all across our state because I know in my district we're having some problems with the asbestos removal and some of these people don't even know that there's such a law as this on the books. So I would urge your support for the reconsideration motion and then support the amendment.

SPEAKER BARRETT: Thank you. Further discussion of the reconsideration motion. Senator Nelson, followed by Senator Smith.

SENATOR NELSON: Yes. Senator Wesely, would you respond to a question, please.

SPEAKER BARRETT: Senator Wesely, would you respond?

SENATOR NELSON: I've not...I have to almost apologize a little bit about, the same as Senator Hannibal, and somewhat caught me. On your amendment, on page 1159, Section...part 3, subsection, any business entity which engages in an asbestos project but which uses employees who do not hold a certificate shall be assessed a penalty, and so on and so forth, my understanding and I am caught a little bit short on this so clarify this for me, please, that only one person needs to have that certificate and the others are what we call trained or supervised workers. And so the way I read your amendment is it says, which uses employees who are...do not...are not certified. In other words, a business, let's say they had 10 employees doing a project, you only need to have one person certified and the balance are trained workers. And I think that law is effective January 1, 1990. Correct me on that, would you, please, or for the record. I have a pro...

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SENATOR WESELY: Yeah, as I understand it, if you're trained, you get a certificate.

SENATOR NELSON: All right. In other words, we don't need all of them certified, we only need one, see, and the balance are...

SENATOR WESELY: No, no, no.

SENATOR NELSON: ...are workers. When did that change?

SENATOR WESELY: That didn't change. That's what I...I just said that, as I understand it, if you have training, you get a certificate. I mean...

SENATOR NELSON: Well, but there's a difference. There's license, there's certified and there's trained workers and then there's the asbestos licensee, see. And, for example, our schools and so on, our head maintenance man only needs to be certified and the balance of the workers trained in satisfactory method of doing...doing the work, see. And, by the way I read this amendment, I would say that all employees would have to be certified and I don't think that's the intention. I just kind of want a clarification.

SENATOR WESELY: Yeah, I don't...I don't think there's a problem but we can certainly...the Health Department is back there and if you want to sit and ask them. I...as I understand it, this is not going to cause a problem.

SENATOR NELSON: I'm not saying one way or the other but that wasn't the way I understood it and I caught this as all employees. I'll go back and check. Thank you.

SENATOR WESELY: Yeah, would you, please. Thank you.

SPEAKER BARRETT: Senator Smith, please.

SENATOR SMITH: Thank you, Mr. Chairman. I would like to ask Senator Wesely a question for clarification purposes, if I might.

SPEAKER BARRETT: Senator Wesely.

SENATOR SMITH: Senator Wesely, I have read your results, your sheet that you passed out, results of LB 923, and the third

point that you made down here regarding small businesses. This saves the business the licensing fee of \$3,000, if they are within the realm of what we allowed above. And then you said this also allows plumbers, electricians and other trades the ability to remove asbestos by training and certifying their employees, okay, and then I am reading in the bill, and I found, basically, is it correct that the training course is developed by the business? Is that the way this should be interpreted on page 6, lines 17 to 25, and they have to use...meeting the standards that are prescribed in Section 71-6310.01, and so on?

SENATOR WESELY: Right.

SENATOR SMITH: Okay, they do it themselves?

SENATOR WESELY: They could. They just have to have it approved by the department, as I understand it, so...

SENATOR SMITH: Do they...are these businesses, and I am talking about, again, you and I were sitting here discussing it a little bit earlier, the fact that rural, rural population, is very different in composition and in the size of the businesses, et cetera, than Lincoln and Omaha businesses, and the availability to them of the kind of things sometimes that maybe those people out in the rural communities aren't even aware of. How are these businesses going to be made aware of where this information is to be obtained about putting together that course?

SENATOR WESELY: Senator Smith, that is already in the law, so that is already (interruption)...

SENATOR SMITH: Well, if it is in the law, then that is what I am asking, how are they, how are they made aware of this fact that they have that responsibility? Have they been made aware of this responsibility?

SENATOR WESELY: I assume that they are familiar with the situation in asbestos, and I don't know if there is any specific notification process that is ongoing, but, you know, I don't know of any specific program to reach out but I don't think there has been any problem. This has been in effect now for over a year, the training requirements.

SENATOR SMITH: Yeah, but that isn't really what I am talking

about, and, Don, I know it is hard for you to visualize this but I come from a little town, Campbell, Nebraska. I know that for a fact there has been a man there who started out doing a business, and in a town like that you double up on the kinds of things you do. He is an electrician and a plumber for the community, and that population is like 400 and some people, and he serves that surrounding area. Now I am not sure that this man even knows that this law took effect. I can remember an incidence where we were dealing in my committee with something that was making some new requirements on electricians. They didn't find out about it until we were ready to vote on this on Final. Someone gave them the information finally, and I am not sure...I just want to know if there is a process in place so that these people are not inadvertently doing things that they aren't even aware they are doing which would be...creating a situation for themselves where they would be fined humongous amounts of money that I think I see here on a small business.

SENATOR WESELY: I think the answer to your question is that Senator Hannibal has an amendment to the amendment that would include "knowingly", so that would address your problem. They would have to knowingly violate the law, and not violate it because they didn't understand or didn't know about it. I think that will dea' with it.

SENATOR SMITH: Okay, I guess that is something that I would...who would have that responsibility, the Department of Health, to inform them?

SENATOR WESELY: Yes, that is really part of their function here.

SENATOR SMITH: Something else that maybe we should check out with them, I would like to have that checked out. Okay, now, then continuing on with this discussion, it will be interesting for me also to find out what Senator Nelson learned or if she already has learned...okay, I will. I will let you respond to that if you will because...in fact, would you do that right now, Senator Nelson, what did you find out?

SPEAKER BARRETT: Senator Nelson.

SENATOR NELSON: Yes, they all have to be certified, and the reason of that being is that so they have a record, that they know that worker has been trained. There is a considerable

amount of training which doesn't hurt anyone. Asbestos is dangerous and so they have to be certified as a means of a license to know that...if they go out and check, they can see whether they have been trained.

SPEAKER BARRETT: One minute.

SENATOR SMITH: Okay, thank you. All right, so, basically, what happens, Senator Wesely, is that a small business some way someone is informing them, that this is a requirement that they have placed upon them within the last year because of the changes that were made there as a bill. Okay, so they have the responsibility, then, because they have been informed, and under these provisions, do they also send them, and this is what I want to have clarified, they send them information about the requirements they have to meet in the training that they, themselves, develop, and then they have to submit a training plan back to the Department of Health to be approved on their employees?

SENATOR WESELY: That is what I understand. Um-huh, like for instance, any business that would be engaged in this would decide they want to continue, and then they set up a training program, have it approved and certified by the department, and then go forward with it.

SENATOR SMITH: Is this a requirement that they have to...I know that you have, you know, if they are within the less than 160 square feet, and 260 linear feet,...

SENATOR WESELY: Um-huh.

SENATOR SMITH: ...they, did they not...they probably don't know in advance if they would ever be in, in other words, are they all required to meet this provision?

SPEAKER BARRETT: Time has expired.

SENATOR SMITH: Irregardless of how small the business is?

SENATOR WESELY: Right, if they fall under the project definitions, they would have to meet the obligations.

SPEAKER BARRETT: Thank you. Senator Nelson, please.

SENATOR NELSON: I will waive off at this time.

SPEAKER BARRETT: Thank you. Any other discussion on the motion to reconsider? Senator Wesely, anything further? Yeah, excuse me, Senator Smith

SENATOR SMITH: Thank you. I am sorry, I wasn't quite finished yet. I would like to continue this just a little bit further. Again, going back to those small businesses that we are talking about here, the truly small businesses in the small communities, do we have any information that any of us on the floor can provide which talks about how much training is required, what kind of training is required, are these people capable of doing it, how many hours does it take? I guess I wish I knew a little bit more about the training requirements in order to meet certification. Can you...do you have that information?

SENATOR WESELY: A three day course is what I understand they have to take.

SENATOR SMITH: Who provides that course, the owner, himself, or do they go somewhere for this training?

SENATOR WESELY: Well, they can go somewhere or they can have their own. It depends on the situation. They have got some flexibility on that.

SENATOR SMITH: Do they know where this training is to be obtained and how often it is offered?

SENATOR WESELY: Well, they could find that out from the Department of Health. That information is all available and accessible.

SENATOR SMITH: I guess the thing that I am going to do is get in touch with the Department of Health and...there it is, right there, okay. Thank you.

SPEAKER BARRETT: Any other discussion? Senator Wesely.

SENATOR WESELY: Thank you, Mr. Speaker. I would like to get back to the issue and that is to reconsider the amendment that dealt with the question of employers responsibility to provide training. The current statute requires the training. The current statute calls for all of the things that have been

discussed here. The only problem we have is the employers role in providing for that, and right now that needs to be dealt with, and this amendment does that. There is an amendment by Senator Hannibal that I am willing to support. It clarifies it be knowingly, and so I would like to see the amendment reconsidered, and then we can amend it, deal with it. I would ask for support for the reconsideration.

SPEAKER BARRETT: Thank you. The question is the motion to reconsider. Those in favor of that motion please vote aye, opposed nay. Please record.

CLERK: 26 ayes, 0 nays, Mr. President, on the motion to reconsider.

SPEAKER BARRETT: Motion prevails. We are back to the Wesely amendment. Senator Wesely, would you like to just brief us as to the amendment, itself?

SENATOR WESELY: Okay, again, it is on page 1158 of the Journal. It deals with the problem in the current statute that the business responsible for training isn't now held responsible under the statute, and that currently what we would provide for is a 500 to 5,000 dollar fine, first offense, and then 5,000 or more, second or subsequent offense, but there is a waiver provision the department allows for to come into compliance so they wouldn't have to assess the fine, and in addition, Senator Hannibal has an amendment that I think would take care of further concerns. That is what we are talking about.

SPEAKER BARRETT: Thank you, sir. Mr. Clerk, you have an amendment.

CLERK: Mr. President, Senator Hannibal would move to amend Senator Wesely's amendment.

SPEAKER BARRETT: The Chair recognizes Senator Hannibal.

SENATOR HANNIBAL: Thank you, Mr. Speaker, and members of the Legislature. Yes, the amendment is an amendment that I just filed with the Clerk, but it is a very simple amendment. It adds one word, and if you are interested in the amendment at all, it is on the page 2 of the Wesely amendment that says "Any business entity which engages...", right now I am inserting the word "which knowingly engages in an asbestos project..." Now

why are we doing this? I guess...I am sorry Senator Smith is not in the room because it is important maybe we get back to where we are on the issue. We do now have an Asbestos Control Act in place in the State of Nebraska. The purpose of LB 923 is to, in effect, loosen up that act, to make it more easy, less costly to perform asbestos encapsulation or removal projects. So it is, if you are in favor of less control by government on construction projects, asbestos related projects, if you are in favor of less control, then you would like to see this bill pass, because if this bill does not pass, then we are left with existing law which is much more stringent than I believe is necessary, and most of us that have been working on the issue believe it is necessary, and, as a matter of fact, the Department of Health thinks is necessary. So it is important that we look at this bill in relation to how we are easing up on the restrictions as opposed to making anything tougher. So this amendment that Senator Wesely offers to us is kind of a side issue that creates a loophole by easing up on the bill, and says right now the Department of Health has the ability to go in and fine these workers for not being certified but they can't fine the businesshead. They can't fine the business owner that is performing these things, and so we ought to have, really, the penalty be on the business owner who is performing asbestos projects that is not doing it right, as opposed to the worker that they are hiring. That is what this amendment is doing. However, it is also important because we are talking about an asbestos project. Now what is an asbestos project? An asbestos project has something to do with the removal or encapsulation of asbestos and an asbestos project is being defined so that some projects will not be asbestos projects, and some will be asbestos projects. Most projects could have certain amounts of asbestos in materials that are on that job or on that construction site or on that home, but some projects will be called asbestos projects and some will not be, depending upon its definition, and the definition revolves around the word "friable". Now I don't mean to confuse you but what I am only saying with this amendment, adding "knowingly", is that you could have a situation where somebody is in the process of remodeling a home, in the process of remodeling a business office, or whatever, and they could be in the process of doing something, and all of a sudden, it could become an asbestos project, and it wasn't intended to be an asbestos project, but because of definitions, it could become an asbestos project. With that kind of thing, with this amendment, it is saying you are in violation of the law at the moment that actuality occurs.

What I am trying to suggest to you with this amendment is we ought to be able to have a word, well, I didn't know, and now I have "knowingly" in there. Now so if you are involved all of a sudden in an asbestos project and you are removing asbestos that is very dangerous or whatever, and you are doing this not knowing, you ought to have a chance to be informed that you are...at least you are doing something knowingly wrong. So we are adding this word in and I think Senator Wesely indicated that he would support that so that we can have this amendment in the bill, which I think is probably a good idea, but I don't want to go too far and give too much discretion to the Department of Health to have a pretty good hammer, actually, with the provisions of this amendment, without at least having that word "knowingly" in there, and that is why I offer the amendment.

SPEAKER BARRETT: Thank you. Senator Abboud. Thank you, that won't be necessary. We have no other lights. Senator Hannibal, would you care to close on your amendment?

SENATOR HANNIBAL: Evidently, either there is no interest or no questions, so I will just move the adoption of my amendment.

SPEAKER BARRETT: Thank you. The question is the adoption of the Hannibal amendment to the Wesely amendment to LB 923. All in favor vote aye, opposed nay. Please record.

CLERK: 26 ayes, 0 nays, Mr. President, on adoption of Senator Hannibal's amendment to Senator Wesely's amendment.

SPEAKER BARRETT: The amendment is adopted. Back to a discussion of the Wesely amendment as amended, any question? Any discussion? Apparently not, Senator Wesely, would you like to close?

SENATOR WESELY: Yes, thank you. I appreciate Senator Hannibal's cooperation on this, so I would move for the adoption of the amendment.

SPEAKER BARRETT: The question is the adoption of the Wesely amendment to LB 923. Those in favor vote aye, opposed nay. Record, please.

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

SPEAKER BARRETT: The Wesely amendment is adopted.

CLERK: Mr. President, Senator Lynch would move to amend the bill. The amendment may be found on 1005 of the Journal.

SPEAKER BARRETT: The Chair recognizes Senator Lynch.

SENATOR LYNCH: Yeah, Mr. Speaker, and members, my amendment reestablishes language or deletes language that was established in the bill by committee amendment as described in the Journal. It has to do with telecommunications companies and simply provides for training by telecommunications companies not different from or less than training required now for power companies and any other contractor. It does not affect any of the language that was described by Senator Hannibal and Senator Wesely regarding home projects or private projects. And if you want me to, I will read it. It is very short. It says, "Any activities engaged in by telecommunications companies as defined in subsections (12) which affect less than 260 linear feet or less than 160 square feet and linear feet in any combination of asbestos-containing material..." I want to make sure you understand that as a person working for the telephone company may be working in a building or a house and, for example, there are asbestos pushout ceilings, there is no problem with this amendment with that worker being able to push this asbestos tiles out, run their cable and put those tiles back. It would not, in fact, prevent where in a commercial building where there were any kind of wet heat or steam heat where there were pipes covered with asbestos removing a small section of anything less than three feet for the purpose of running that cable. It seems appropriate that this be accomplished. Actually, the way the language contained in the committee amendments are, it is a little confusing to me. I am not sure when they mention all that linear feet and all that square feet if they are talking about any single project in a single building which would be about the size of the Capitol here, or if they were talking about that many square feet a year, or a month, or a day, or when. And so for that reason, it seems appropriate that the bill, in fact, be simplified and the language more clear with this amendment. I would simply ask for your support.

SPEAKER BARRETT: Thank you. Discussion of the Lynch amendment, Senator Morrissey, followed by Senator Wesely.

SENATOR MORRISSEY: Thank you, Mr. Speaker, and members. I rise in support of Senator Lynch's amendment. Looking at the proponents and opponents of the bill, I notice AT&T testified in favor of the bill. I don't know if that was with a suggested amendment of this exemption but I really feel that the exemption is not necessary. If there is a problem there, if there are workers that will be exposed, they definitely should have the training, and I feel that it is something that is needed. We are lessening the restrictions on asbestos and I don't think we need to start exempting certain employees and employers other than what was contained in the original bill. I haven't been...no one has come to me and made a good case why this exemption would be needed and I would support Senator Lynch's amendment. Thank you.

SPEAKER BARRETT: Thank you. Senator Wesely.

SENATOR WESELY: Thank you. Mr. Speaker, members, I, too, would rise in support of the Lynch amendment. Just to give you a little background, the reason the committee did amend this was because there was some confusion at the hearing. It was requested that the phone companies be exempted out because there was some confusion when the bill passed a few years ago whether phone companies were in or not. It was based on the idea that the work that they do is so small on asbestos projects of three or more square feet and so confusion really was the situation for most of last year. But as the discussion has gone on in the last month, it is still clear that three feet or less, as defined by the original bill, is exempt, but above three feet and below these limits, it would be appropriate in that type of a project to have the training and what have you for phone companies as with all other employees, and so I think phone companies have come to not oppose this amendment and to realize the necessity to be along with other businesses, and so I think that we have kind of worked that situation out, and I am pleased that we were able to do that. So I would support the Lynch amendment.

SPEAKER BARRETT: Thank you. Any other discussion? Senator Lynch, would you like to make a closing statement? Thank you. The question is the adoption of the Lynch amendment to LB 923. All in favor vote aye, opposed nay. Record, please.

CLERK: 26 ayes, 0 nays, Mr. President, on adoption of Senator Lynch's amendment.

SPEAKER BARRETT: The amendment is adopted.

CLERK: Mr. President, Senator Beck would move to amend the bill. Senator, I have your amendment, AM2316, in front of me. (See page 1224 of the Legislative Journal.)

SPEAKER BARRETT: The Chair recognizes Senator Beck.

SENATOR BECK: Thank you, Mr. President. I would like to have you, if you have copies of your bill there, 923, I would like to have the members of the body turn there, if they would. The amendments have been passed out by the Pages. In fact, today is the second time that this AM2316 has been passed to you. If you take that and then look on the bill on page 3, line 6, what I would like to have done is to strike the word "physically", to strike the words "by a homeowner", and then in line 7, strike "his or her." Now the reason that I would like to have this done is because we are talking now about residential units, and if you look at this, if the homeowner is able to do it himself, as many of the people here in the body would be, that works fine. Then they don't have to go under all the rules and regulations, but I have a unique situation and I don't think it is all that unique, but I have several widows in my district, I have a lot of elderly in my district. My district, as you well know, is in north central Omaha. We have a lot of older homes, and they are not able physically to do the necessary work themselves. They have contractors to do it and the cost is just...is exorbitant. There is just, you know, there is just no way. They have started with the regular abatement contractors and the cost is just incredible, and so I would like to have this...I guess this is my go for broke amendment, but I would like to have this in there and then, therefore, it would read in this way: Any activities performed on or in residential property of four units or less. That we know for certain this is the EPA standard, the federal standard at the moment, and I don't know that there is going to be any significant change. And if there is, we can return, but this is the EPA standard and I think that we should be in line with that, and I think we should just consider these older people. We have talked a lot about saving them property tax. We have talked a lot about keeping property tax down, and so on and so forth, and this is something that has really been a real burden to a lot of the people in my district. I've had numerous calls and I have those calls recorded, and I don't know if any of the rest of you have

had this or not, but I would like the body to do this because then it will put us in standard with the federal regulations, and it will certainly then exempt the homeowner who has the problem but does not have the physical capability to do it. And I think that certainly the older people in our neighborhoods need that consideration, and we are not doing anything off the wall. We are simply lining up, again, with the EPA regulations. I appreciated Senator Hannibal's remarks in the fact that he said if we want to pass 923 we want a bill that will loosen some of the overstrict regulations. Now we are talking about residential homes here, and we are talking about widows and older gentlemen that no longer can do these type of projects, and I think we should give those elderly that considerations, and with that, I would like to have the body add...strike those words and add AM2316 to LB 923.

SPEAKER BARRETT: Thank you. For discussion of the amendment offered by Senator Beck, the Chair recognizes Senator Wesely, followed by Senators Nelson, Hannibal, and Smith.

SENATOR WESELY: Thank you. Mr. Speaker, I rise in strong opposition to this amendment and suggest all of you vote against it as well. Senator Beck is trying to totally take any home situation out of any restrictions whatsoever under the bill, and what you would have then as a result is an ability for anybody and everybody to come into a home and do whatever they wish in terms of dealing with asbestos, tearing it up, tearing it out without training, without standards, without the background or ability to protect the family involved in that home, or future families that may purchase the home. It is absolutely a mistake to go with this amendment, and we can live with the second amendment that she is going to have up. We already provide for in this bill that we are changing now from the current standard that says anything done in the home has to meet these standards, so an individual doing their own work would have to meet these standards. This bill would stop that requirement. It also changes the whole situation in terms of roofing and flooring. A lot of the concerns you have heard from different homeowners have been because of roofing and flooring costs. This changes the definition of friable asbestos, thus making it much easier for flooring and roofing people to do their job without having to be licensed or without having to be fearful of the different restrictions and, yet, still protect the public because the way in which the roofing and flooring work would be handled would have certain limitations on it. In addition, we exempt the

smaller contractor, below the certain levels of 160, 260 feet and don't require them to be licensed any more, and no \$3,000 fee. They would still have to have trained individuals but, nevertheless, they wouldn't have those restrictions. We are easing up in this bill a great deal of the restrictions under the original bill that has been passed. Going...the Beck amendment goes far too far and, frankly, jeopardizes the bill. We cannot have a situation where anybody and everybody can come into a home and do what they wish in terms of asbestos. Asbestos is something, of course, of concern and I know that there are those that argue that it isn't as big a concern as people have made it out to be. But, nevertheless, people are concerned and, in fact, a large number of complaints have come into the Health Department specifically dealing with home situations and complaints about contractors dealing with that. That is a sore point, a problem, and we get back to a situation with the Beck amendment where there would be no oversight, no involvement, no restrictions, and I think you jeopardize I think the health and welfare of families, not only those that do these projects, but other families that might purchase the home. It is a serious mistake. The second Beck amendment talks about...again, the bill allows for the homeowner, themselves, to do the work. That has got some potential problems, obviously, but, nevertheless, doing your own work in your own home is a little hard to regulate and so it was felt to ease up on that was reasonable. But there are situations where the homeowner can't do the work themselves, but may have a family member or may have somebody else, a neighbor, wanting to do the work, and so her second amendment which deals with the family or unpaid volunteer would be acceptable to me, would be acceptable to others concerned about this issue and would, I think, meet some of the concern. So I think what I would highly recommend is you reject this amendment. The next amendment that she is going to offer is an acceptable amendment, and I think what we have done in this bill, again I emphasize, is ease up tremendously on the restrictions now in place in the law and this amendment, I think, jeopardizes that initiative. So I would strongly oppose it.

SPEAKER BARRETT: Senator Nelson, please.

SENATOR NELSON: Mr. Speaker, I also feel the same as Senator Wesely. We have tried to work, we have worked the community, we have worked with the Health Department, the flooring contractors, many, many people. I would be...I have had to

educate myself. Asbestos is not...it is a known carcinogen and there are concerns. We ease up too much and then we have to be concerned of our liability. For example, someone, this four-plex, they can sell this house to someone. They could turn around and find that there was asbestos in the air or that asbestos had been removed, so on and so forth, and then who becomes liable for that. The value of some of those homes may...you can't tell. I do oppose this. I can live with it if they have a family member or so on, and I am not unsympathetic to the elderly or someone that poses a problem, but you can loosen up on a bill and, you know, we do have EPA looking down on us, we have federal orders and federal rules and regulations, and you can get so lenient that you have defeated the purpose or you can lose it altogether. And we are just trying to cooperate with the Health Department and with the people involved. I can live with it, if they have a son or a daughter or so on, but otherwise you would have no control over, and I will guarantee you the reason that we got into this mess was some of these abatement and asbestos people were taking advantage of the elderly and all of us, everyone of us, even cities. Grand Island is what got me involved in this, how the city got, well, I guess I don't know how I want to explain it but they, certainly, it was mishandled. And, again, by doing this, I don't even know as we could get the cooperation from the Health Department that we now have.

SPEAKER BARRETT: Senator Hannibal, please, followed by Senators Withem and Hefner.

SENATOR HANNIBAL: Mr. Speaker, members of the Legislature, I rise to discuss the amendment. This is a big issue for some people and, obviously, it is not a big issue for many of you on the floor, but I would assume most of you have gotten some complaints by homeowners or people in businesses that have had asbestos removal projects with estimates lumped upon them that it became prohibitive in cost because of the asbestos abatement requirements. And Senator Beck brings to us a fairly simply policy decision. Federal government says through the EPA that one to four family homes are exempt from anything to do with asbestos as far as we are concerned. That is what the federal guidelines say. Our law currently says, no, that is not true for our state through our rules and regs, every one to four family home is under the same kinds of criteria that commercial enterprises, power plants, every thing else under our current law. We said that is too restrictive. The Department of Health

agreed. They have come up with a bill and it actually came out in the form of 923 that says we are going to ease back, and what we are going to say is the majority of the problems in homes, one to four family homes, meaning four-plexes and apartment duplexes types of things, homes that have roofing removal projects, siding removal projects, floor covering removal projects are probably about 90 percent or more of the projects involved with renovation or remodeling of a home and we are going to exempt those provided they do one thing, and that one thing that they do is they take a little more care with removal of the product. They don't just terribly tear things apart. They have got to take a little care. If you take a little care, you are not going to have an asbestos project. If you don't take a little care, you will have an asbestos project by definition and then you are going to come under these things. So they are doing that. What Senator Wesely is against, what the Department of Health is against is saying we don't want you going in there and tearing out all the pipe insulation in the older homes in the basement that are just wrapped with that white stuff that you have seen, rip that stuff out, and just let it flow through the air, we want that to be done properly. Now if you want to do it yourself as a homeowner or you have a friend that will do it for no compensation, which is what Senator Beck is going to bring next, ah, we will let you do that, but you can't just have some contractor come in and rip that stuff up. They have got to know what they are doing a little bit. Senator Beck is saying we ought to just leave the homes alone completely with this, and that is what it would do. Now I am a little torn. I am in the building business, or used to be, anyway, and I'd like to have the government completely out of my building business, and remodeling, and anything else, but I also understand that while there is some real good evidence that asbestos, as a problem in this country, is way overblown. As a matter of fact, I just got an article from my staff that came out that says, the biggest rip-off that has ever come down the pike. Asbestos, as a matter of fact, probably is much, much more safe just leaving it alone in schools and public buildings than it ever is trying to remove it because you are going to kill seven times more people by removing it, even with asbestos abatement projects, than you will ever kill by just leaving it alone. Okay, so it is a big rip-off, we don't want to do that, and we ought to move slow, and I do believe that. But they, also, and some great studies have come out saying the same kinds of things, but they, also, say that if asbestos is a problem, it is mostly a problem when it is disturbed. To just

leave it there, probably not causing any problems at all.

SPEAKER BARRETT: One minute.

SENATOR HANNIBAL: But if you'd want to disturb it, then you ought to disturb it properly. So when I look at this old home and have a homeowner in there and you have some rip-off person come in and tear out all this pipe insulation, disturb it and stir it up in the air and leave it there for a long time, and increase one hundredfold, at least, and maybe thousandfold without knowing what they are doing is probably a little further back than even I want to go. But I do understand why homes are different as far as the federal government than are state projects, and the truth of the matter is probably federal government just can't afford to enforce those kinds of things. The state has said, yes, we do want to enforce that a little bit. LB 923 is saying let's take out 90 percent of the projects, 95 percent of the projects, and make it be reasonable but let's not exempt everything and leave it open to the homeowner that'd be at risk with no control at all. To me, it sounds a little reasonable but it is a legitimate policy issue. I probably will be voting against the Beck amendment at this point.

SPEAKER BARRETT: Time.

SENATOR HANNIBAL: I probably would like to support and I will support the next amendment that comes up.

SPEAKER BARRETT: Senator Withem.

SENATOR WITHEM: Yes, Senator Barrett, I planned on saying a number of things but I think Senator Hannibal said them so well I am just going to indicate that I am going to vote against the Beck amendment. Particularly when I get a check here in my hand, things are on my other...other things are on my mind when that comes up anyway. So I will not be supporting Senator Beck's amendment. I think I understand in her explanation what it is she wants to do, and I have no problem with what she wants to do with dealing with those individuals that personally physically can't handle it. Unfortunately, this amendment, if you open the bill book, she made a big mistake by inviting us to open our bill books and read the amendment, which I did, and it really...Senator Wesely and I think Senator Hannibal are right, that it really does open things far, far wider than what maybe

her intent is, and I would much prefer, as others have indicated, to support the other amendment and not support this one.

SPEAKER BARRETT: Senator Hefner.

SENATOR HEFNER: Question.

SPEAKER BARRETT: The question has been called. Do I see five hands? I do. Shall debate now close? Those in favor vote aye, opposed nay. Record, please.

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

SPEAKER BARRETT: Debate ceases. Senator Beck, would you like to close on the adoption of your amendment.

SENATOR BECK: Thank you, Mr. Chairman. Yes, in closing, I would say that this has been a go for broke amendment, and knowing that you can't get one, then you try again. I do, again, want to state how strongly I feel about this. I have lots, lots of elderly in my district and they cannot perform these tasks and, yet, they want to keep their homes up. And I think it is a valid thing to bring before the body. I also want to answer Senator Withem in, no, I didn't intend to do that as a mistake. I wanted you to read it. I wanted you to know that this is my go for broke amendment, that it is aboveboard. It is out there so you can see what it will do or what it won't do. Certainly, it energized Senator Wesely this morning when he saw that one. I do appreciate his comments on the second amendment, which I take from those comments that he will definitely support it. I appreciate that in advance, Senator Wesely, and any of the others of you that will see that this problem does have to be taken care of. Perhaps it is better taken care of in the second amendment, therefore, I would withdraw this amendment.

SPEAKER BARRETT: Thank you. The question is the adoption of the Beck amendment to LB 923. Those in favor of its adoption...I am sorry. I am sorry, I misunderstood. Mr. Clerk.

CLERK: Mr. President, Senator Beck would move to amend. Senator, I have your AM2692 in front of me. (See page 1224 of the Legislative Journal.)

SPEAKER BARRETT: Senator Beck, please.

SENATOR BECK: Members of the body...thank you, Mr. Chairman. Members of the body, I know that you are getting hungry for lunch. If we can do this quickly, it will make it a lot more palatable for everyone. Look at the amendment, it is number two...it has been sent out to you, it is 2692. Again, we go back to the same place, on page 3 on line 6, after homeowner, insert, a member of the homeowner's family or an unpaid volunteer; and in line 7, strike his or her and insert the homeowner's. And so with no further ado, I would ask that we would vote for this amendment because it will help a lot of people, and any of you that have elderly in your little towns and in these older homes that Nebraska is full of, they are not going to be able to comply with it as it stands now, and still we would be well within the EPA regulations. I think we would have Senator Wesely's blessing and I think the Health Department, with whom we have spoken many times and who know about this amendment, would agree, too. And so I would just ask that the body would vote yes for this amendment because it will certainly help a lot of elderly, and as you know in Nebraska, the fastest growing population in this state are those 85 years old and above. So I would just urge you to vote for this amendment. Thank you.

SPEAKER BARRETT: Thank you. Discussion, Senator Wesely, followed by Senator Hefner.

SENATOR WESELY: Yes, Mr. Speaker, and members, I do rise in support of the amendment. I understand the Health Department is already essentially providing for this and has allowed some circumstances to proceed in this fashion, so I see no problem in bringing it into statute.

SPEAKER BARRETT: Senator Hefner.

SENATOR HEFNER: Mr. President, and members of the body, I rise to support this. Senator Beck talked about older homes and the older people in Omaha. Well, we have those in small towns, too, and I represent a predominately rural area, and in these small towns, there is a lot of elderly that still live in their own homes, and we want to keep them there. And so I think if we can cut down the expense that they would have in some of the removal of this asbestos or different repairs, this would be a great help. I think this amendment is fair. I think it is reasonable and I think we need to adopt it. So, thank you.

SPEAKER BARRETT: Thank you. Any other discussion? If not, Senator Beck, would you like to close?

SENATOR BECK: Thank you, Mr. Chairman. Again, I don't think there is any more to be said. I think this is something that will help our elderly population. It frees them up. We are still within the EPA regulation. I would just urge, beg, plead, cajole, any other word I can think of that would urge the body to please vote for this amendment and have it in statute so that these elderly people are not under such a burden, and I would just appreciate your vote. Thank you.

SPEAKER BARRETT: The question is the adoption of the Beck amendment to LB 923. All in favor vote aye, opposed nay. Please record.

CLERK: 27 ayes, 0 nays, Mr. President, on adoption of the amendment.

SPEAKER BARRETT: The Beck amendment is adopted.

CLERK: Mr. President, Senator Beck would move to amend. Senator, I have AM2315. (See page 1224 of the Legislative Journal.)

SPEAKER BARRETT: Senator Beck.

SENATOR BECK: Okay, this will go as quickly as we can with this. The last amendment I have is, again, I think one that would improve the entire understanding of the definition of asbestos, and it is on page 4, line 21, after the second asbestos, insert "which, when dry, is." Now why am I dinging away on this, and Senator Wesely is probably holding his head in his hands thinking I was just ready to go to lunch and now she has done it again, and I do apologize to Senator Wesely. He has been very patient with me today. One of the major reasons that I do this is this, in a sense, is a policy decision, and I think that the Legislature maybe should have more oversight over policy. So I will just ask you briefly to look at this. I would like to add the words "when dry", put them back into the statute for this reason. This is the federal EPA regulation, and it means then that all the misting operations, all of the other ways of taking the asbestos out then would keep it from becoming friable which is when the particles get into the air,

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and if you list it as "when dry", then you know that if it is wet, it is not dry, therefore, it is not friable. And I would just like for us to stay within EPA regulations. Now we have talked to the Health Department, we have talked to them a number of times, and they hold their heads and wring their hands when we call again, and I appreciate their patience, as well. But the concern with when dry is that the EPA may change their regulations. Right now, it is still when dry, and so I am thinking that if EPA, when and if, they do change the regulations, and we go through this in Natural Resources all the time of waiting for them to change or not to change, or whatever, and because we go through that, I got to thinking, well, why not add the when dry, keep this within the EPA regulations. Then if they change it, then the Legislature can look at it again. Why take it out now with the idea that maybe it will change and, therefore, we will be ready for the change. The fact is I have a letter that shows all of the many times that EPA defines friable. I have the NESHAP letter in 1984, again we go in 1987. We have another letter on October of '87, and we have one now in 19...January 10 of 1989, and they always use the word "when dry." Now we don't know when and if they may change it, so why don't we just put when dry back and then we know we will be within federal guidelines. If and when they change, then we can decide what to do at that time. So, again, it is just a matter, really a policy matter. I would like to see when dry in there because I know then that as a contractor or as a homeowner fixing something, that if it is wet, and if I have misted it, then all those things that I know by law it is not friable. And so I know we are in a hurry. I know we want to go to lunch. I am not going to belabor the point but I would urge the body to vote to put the words "when dry" back into the asbestos definition. Thank you.

SPEAKER BARRETT: Thank you. Discussion on the Beck amendment, Senator Wesely.

SENATOR WESELY: I move we recess.

SPEAKER BARRETT: Anything for the record, Mr. Clerk?

CLERK: Mr. President, a new resolution, LR 271 by Senator Ashford. That will be laid over. A series of amendments to LB 1141 by Senator McFarland to be printed; and Senator Warner to LR 239 to be printed. That is all that I have, Mr. President. (See pages 1224-32 of the Legislative Journal.)

CLERK: Mr. President, LB 923 was being discussed by the Legislature when we recessed at lunch. Pending was an amendment offered by Senator Beck to the bill. That's where we're at, Mr. President.

SPEAKER BARRETT: Senator Beck, I believe your amendment is pending. You had opened. We are to the point where we are discussing the Beck amendment, and I believe, Senator Nelson, yours was the first light, followed by Senators Hannibal and Wesely. Senator Nelson.

SENATOR NELSON: Mr. Speaker, again, I would have to oppose this amendment. I did get information from the Health Department and I had great reservations of myself and of which they confirmed that. I know that Senator Beck means good and is trying very hard for the people of her area and that we don't hurt anyone. But, again, by adding when it's dry, it isn't always a simple answer just by sprinkling and spraying, for example, a roof or so on, that just by providing moisture that it no longer becomes a concern. I would have to very much oppose this amendment on that basis. The NESHAP definition is any material containing...the definition of friable material, any material containing more than 1 percent asbestos by weight that hand pressure can, and that would mean to break it up, the area definition of friable means that the friable material, when dry, may be pulverized or reduced to powder by hand pressure include previously nonfriable material, after such previously nonfriable material becomes damaged and so on. Again, I think that we're playing with some change of rules, simply may or may not open it up too far. And, again, I know that the federal say...they tell me that they may remove also in their definition "when dry". And that does not apply in all cases. So I would have to ask you to oppose this amendment.

SPEAKER BARRETT: Thank you. Senator Wesely. Senator Wesely, on the Beck amendment. Senator Hannibal on deck.

SENATOR WESELY: Thank you, Mr. Speaker, members. I rise in opposition to the amendment. This issue did come up before the committee. The committee did not choose to adopt this change in language. The current definition is what we've had in place now for the two years that we passed the bill, the one year since it's been implemented. The federal government is looking at changing some of their definitions, and the Health Department

feels that this is a more clear and concise definition. There may be some argument, I can understand Senator Beck making an argument. But I would, at this time, encourage caution. One word change, one slight change in how we phrase something can make all the difference on this. And before we fool around with a definition, we better be absolutely sure what it ends up doing. We know what we have now. We've been working with it for a year. Let us not change the definition at this point. Let us go on with the bill, as it's been amended. It does a lot of good things for a lot of people who have had concerns. And rather than potentially cause a lot of problems with further amendment, I think we're ready to move on the bill. So I would oppose this amendment.

SPEAKER BARRETT: Thank you. Senator Hannibal.

SENATOR HANNIBAL: Mr. Speaker, members of the Legislature, I would like to ask Senator Wesely a question, if he would respond.

SPEAKER BARRETT: Senator Wesely.

SENATOR HANNIBAL: Senator Wesely, as you just said in your remarks, we are operating under this definition from NESHAP, and that's a revised definition, is it not?

SENATOR WESELY: Yes, it's been revised, um-huh.

SENATOR HANNIBAL: The original definition, put out by NESHAP, was using the word "when dry" in it, just as Senator Beck is offering as far as part of the definition of friable asbestos. And now they have....And, as a matter of fact, back in those days, in '84, the other definitions of friable asbestos was under worker protection rule, 1987, was using the words "when dry" in the definition, as was the AHERA rules, as recently as October of '87, using the words "when dry". Now, it's my understanding that NESHAP has changed this definition back, just about a year ago. Can you tell me why that definition was changed, and what the thoughts were?

SENATOR WESELY: I'm not sure, I don't know the answer to that question.

SENATOR HANNIBAL: Okay. Well, Senator Beck raises an issue that, quite frankly, I don't know what the effects are. And I

have a tendency to agree with Senator Beck that we ought not be having differing definitions in our state laws than we do in the federal laws or federal regs. And what the concern that Senator Beck has is, I believe, is that when you test a product to see whether it can become friable asbestos, it makes a difference whether that product is wet or whether it's dry. And so some of the definitions are used to say when it's dry it could be friable, when it's wet it may not be friable. And so you could have a situation, let's say taking off a roof, a residential roof, asphalt shingles have asbestos in them. And you're going to take them off. And they may say, well, the best way to do that is to wet it down first, just mist it down, spray the hose over it. If you've got any problems, then you have asbestos particles that may go off into the air, this kind of keeps that from happening, keeps the dust settled, if you will. Well, if you do that, then you obviously don't have an asbestos product. But, if you let it dry and you break the same shingle, and you put some particles in the air, maybe you do have an asbestos product, or an asbestos project. And I honestly don't know for sure what the ramifications are of this. But at this point, and I'm going to have some comments to make about this when we advance the bill, I hope that we do advance it. At this point I'm going to suggest that we don't really need the "when dry" in our definition right now, because we are operating under the new NESHA regulations, it does include the word "when dry" in our definition. So in an effort to try to be consistent with the federal government and the federal EPA regulations, the NESHA regulations, that probably we ought not change it and have confusion.

SPEAKER BARRETT: Senator Wesely, further discussion.

SENATOR WESELY: Yeah, again, and I would like to wrap up the issue, but I understand Senator Beck's concern. I simply feel that we have a definition we've been working with. There is confusion about the additional language, misdirecting people and perhaps confusing people. The federal government is looking at changing their definition. This is so vital, it's absolutely critical. And what I want to encourage you to understand is that we are already, in this bill, changing the definition tremendously to help the flooring, and the roofing people, a specific problem. Let's not make, on the floor on Select File, an amendment that takes us back instead of forward. I really think that this could be a major mistake. And rather than try something new that we're unsure about, let us just stay with the

bill, advance the bill. Let's deal with this problem and solve some problems that many people in the state have had.

SPEAKER BARRETT: Any other discussion? Seeing none, Senator Beck, would you care to close on your amendment? Senator Beck, would you care to close?

SENATOR BECK: I think that having listened to the arguments from Senator Wesely, which I have to admit I don't agree with, I think, I think you have to take into account here that this is the federal, and I want to speak to that. This is the federal regulation. I think that there is a possibility that when that...the asbestos material, if you know it's wet, then it can't be dry. And, if it's not dry, then it can't be friable. But I think the policy decision that I would really...the point I really want to make with this amendment is this, that this should be our choice, the Legislature's choice to decide not to leave it open for any state agency, no matter how...what information they have or anything of that nature to make that choice for us. I certainly have not wanted to waste anyone's time here. But in conference I have decided that perhaps at this time, at this level of the bill, it would be best to withdraw the amendment. And so, therefore, I would ask your patience in having listened, and would ask that we could withdraw this third amendment. Thank you.

SPEAKER BARRETT: Thank you. It is withdrawn.

CLERK: Mr. President, Senator Nelson would move to amend. The amendment would add the emergency clause to the bill.

SENATOR NELSON: Mr. Speaker, I ask to withdraw that. It was in one of the very first...I think the E & R amendment, or something. Sorry about that.

SPEAKER BARRETT: Thank you. It is withdrawn.

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

SPEAKER BARRETT: We are back to the matter of advancing the bill. Is there any discussion? Senator Hannibal.

SENATOR HANNIBAL: Mr. Speaker, members, I realize this could be a voice vote, and I hope that it is a voice vote. But I would like to take just a few moments of your time to discuss some of

the frustrations that I think a lot of us encounter on dealing with federal laws, federal regulations, state regulations, state agencies and such on this, because what Senator Beck, Senator Nelson, what Senator Wesely and I, among others here, have been trying to do over the interim is to try to work out some changes in our state law that, in my estimation, needed to be done and the Department of Health suggested they'd go along with, after last year I introduced a bill that was going to exempt one and two-family homes, and we had some interesting discussions over the interim, and some hearings, and some informational debates, or at least meetings where affected contractors, affected people, building owners and such, were there. And, quite frankly, when Senator Wesely says we made some major changes to the existing law, he is correct, and I think we need this bill. But I get a little frustrated when what we're trying to do is loosen up things that should have been loosened up in the very, very beginning. And, as a matter of fact, I think this asbestos thing is probably a very good indication of some of the problems that we have with bureaucracies, whether they be state or federal of local, and some of the frustrations that we fight here on this floor. Senator Wesely is a respected member of the Legislature and a friend of mine. I respect him. I respect his knowledge. Jackie Fiedler is a respected member of the Department of Health, very competent, dedicated person and I respect her a lot, and respect the kinds of things we have had done this year. But, quite frankly, their thinking process is a little different than mine. And their thinking process is, if we have a little hazard here, that the better and more regulation we can do the better off we're all going to be. And forget about feasibility, forget about reasonableness, just make sure we create this situation, and make sure we have a good control on it. And, Don, you and I disagree on these kinds of things. I just don't happen to think that government can solve everything for everybody. And I think it's a matter of fact this asbestos issue, which has cost us hundreds of millions of dollars across this nation, as a matter of fact I think it's about a \$5 billion a year industry right now for removing asbestos in our schools, with possible mandates coming down to remove asbestos in all of our public and private buildings, and have us go out and do all these things now, report, after report, after report has been coming through in the last year and a half, two years saying, no, no, we're crying wolf. We shouldn't be doing this. It's just a lot of money being spent for overreaction on the parts of people that thought, well, if a little regulation is good, a lot must be a lot better. And it's

a little frustrating, because I am just sure as I am standing here that we are not going to have a mandate to remove all the asbestos in our public buildings across this country, we are not going to have a mandate to further remove asbestos from schools, we are not going to have the same kinds of cries coming out of Congress and the EPA that we have had, because there is absolutely no evidence to suggest that our exposure or our level of risk inside of a building is any different than it is outside of a building, because of the contaminants in the air. And it's a little bothersome that we've been spending millions of dollars right here in this state, millions of dollars of our taxpayers dollars, schools dollars to remove this stuff, and actually what we have done is created more risk for the workers that have been removing it than we have for the people that have been in these buildings all this time. It's a little frustrating when you deal with people, no matter how good-hearted they are about what is right for us, that they don't have a sense of balance. So I hope we do advance this, because after all this is a loosening up. But I'd say to Senator Beck and to Senator Nelson and the other senators that have been talking, bring back that amendment next year, I'm going to be out of here, but bring back that amendment next year to exempt one to four-family homes, because I don't think you're going to have much question, next year, after the EPA gets their act together,...

SPEAKER BARRETT: One minute.

SENATOR HANNIBAL: ...after Congress starts reading these reports that have come out. Bring it back, don't jeopardize this bill, because we need this bill. But bring it back again, I think you'll have no problems with it next time. And I hope that we don't do this same kind of thing with radon, which is coming down the line right now. Sorry for my lecture.

SPEAKER BARRETT: Thank you. Senator Schmit. Senator Schmit, on the advancement of the bill. Anyone else care to discuss the advancement of LB 923? Senator Wesely, would you care to close?

SENATOR WESELY: Thank you, Mr. Speaker, members. I appreciate very much Senator Hannibal's comments, not all that much, but maybe a little bit. I understand what he's trying to say, that we ought not regulate beyond what makes sense. And I don't want to imply that we're trying to unreasonably regulate. In fact, I think this bill would indicate that the Health Department and myself and others are willing to recognize the need for

adjustment and flexibility. But I think it's also important not to take his comments and feel that this legislation, or previous state legislation is forcing anybody to do anything other than try and protect individuals and families and workers in a safe fashion as they handle asbestos. We don't mandate that it be removed, that's a federal mandate dealing only with the schools. And, outside of that, what the federal government is trying to do, and what the state is trying to do is recognize if you are going to remove asbestos, if you are going to be involved in material that includes asbestos, you should handle it carefully, you should do it safely, you should not have your workers exposed and harmed. You should not have other individuals and the public exposed and harmed. And I don't think that's unreasonable, I think it's reasonable. However, where you draw the line into what is in and what's out, what's covered, what isn't, and how you proceed is all subject to discussion and obviously is worthwhile and perhaps we will find that asbestos hasn't been quite as bad as people think. I don't think that, myself. In the 12 years that I've been here I've been here I've seen study after study that would indicate how serious a carcinogen it is, how dangerous it can be, and how carefully we must deal with it. Nevertheless, there are other studies that have come out that would tend to dispute that. But it is not all one-sided, it is a very complex issue with a very important substance, that being asbestos. People are concerned, they're worried. Perhaps we've gone overboard in some ways with some of those federal regulations. But, nevertheless, in the interest of safety sometimes that mistake is made. But rather than be too safe, you know, I don't want to go the other way and have us exposing people to dangerous substances. So, I see the issue that Senator Hannibal is talking about. I think we'll continue to evolve in this. But at this point, at this time, this session, this year, this legislation is the way to go. We can follow up next year, perhaps other changes may be in order, and perhaps we won't like the way we've eased up in some ways, maybe we'll want to step back to where we were. But I think, at this time, this is the way to go, and I'd certainly support a vote to advance the bill, and will further work with other senators who have questions. But I would hope we'd pass this legislation quickly, so we could resolve this issue.

SPEAKER BARRETT: Thank you. The question is the advancement of LB 923 to E & R engrossing. All in favor of that motion say aye. Opposed no. Ayes have it, motion carried, the bill is advanced. To LB 1146, Mr. Clerk.

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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.)

March 27, 1990

LB 42A, 923, 931, 1059, 1059A, 1063A, 1221
1222, 1222A, 1241, 1244A
LR 11

Mr. President, Enrollment and Review reports LR 11CA to Select File. That's signed by Senator Lindsay as Chair.

Mr. President, your Committee on Enrollment and Review reports LB 42A, LB 931, LB 1059, LB 1059A, LB 1063A, LB 1222, LB 1222A, LB 1241, LB 1244A, all reported correctly engrossed. (See pages 1648-53 of the Legislative Journal.)

Hearing notice from Business and Labor for confirmation hearing, signed by Senator Coordsen as Chair. (See page 1653 of the Legislative Journal.)

Mr. President, Senator Beck would like to add her name to LB 923 as co-introducer. That's all that I have, Mr. President.

SPEAKER BARRETT: Mr. Clerk, proceeding to LB 1221.

CLERK: Mr. President, LB 1221 was a bill introduced by Senator Hannibal. (Read title.) The bill was introduced on January 18, referred to the Urban Affairs Committee for public hearing, advanced to General File.

SPEAKER BARRETT: Senator Hannibal, would you care to open on your bill?

SENATOR HANNIBAL: Thank you, Mr. Speaker, and members of the Legislature, LB 1221 is a bill, as you heard, came through the Urban Affairs Committee and LB 1221 does two things basically. It deals with the Omaha Plumbing Board and most of you have been made familiar with the issue even though it doesn't affect anybody...anybody's district with the exception of the City of Omaha. I hope I have had a chance to talk with all of you and I have heard...and I imagine you have been talked to by those that are not necessarily in favor of the bill. But anyway LB 1221 does two things to the Omaha Plumbing Board and, for those of you who are not familiar, the Omaha Plumbing Board is a five-member board consisting of four members that are considered in the plumbing industry, a journeyman plumber, a master plumber, four members there, and one health officer. LB 1221 expands that to add two new members to it, to the plumbing board and those two members would be a mechanical engineer and an architect. The third...second thing it does with that plumbing board is it removes...the specific requirement that the health officer serve on the board and allows the mayor to appoint a person from the general public as the fifth...or the seventh

April 5, 1990

LB 896A, 923, 960

CLERK: (Read record vote. See page 1935 of the Legislative Journal.) 45 ayes, 0 nays, 2 present and not voting, 2 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 896A passes. LB 923E.

CLERK: (Read LB 923 on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 923 with the emergency clause attached pass? All in favor vote aye, opposed nay. Have you all voted? Record, please.

CLERK: (Read record vote. See page 1936 of the Legislative Journal.) 46 ayes, 0 nays, 1 present and not voting, 2 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 923E passes. LB 960E.

CLERK: Mr. President, I have a motion from Senator Lamb to return the bill for specific amendment.

SPEAKER BARRETT: The Chair recognizes Senator Lamb.

SENATOR LAMB: I had an amendment on this bill. We didn't get to it because of some unforeseen circumstances yesterday, but I would like to...I wanted to change the structure of the members of this committee that would study restructuring education because I thought there was too many educators on it and not enough regular people, and got into that situation...got into that situation with the School Finance Review Commission which as time developed I found that most of the members on there were education oriented and particularly those that took the most interest in it were education oriented. And so with that experience behind me, I have the problem with this committee because I saw it also being overloaded in that direction and I wanted to change that. You know I have no problems with the studying restructuring education, although I am quite sure that the final bill would be a bill I might not like. It probably would be some sort of a consolidation bill but at this point that was...that is my concern about this commission or this committee, that it is not properly structured as far as the backgrounds of the people that would be appointed to that. And so I guess my only alternative at this point is to vote red. I

April 5, 1990

LB 720, 720A, 834, 851, 855, 855A, 896
896A, 923, 960, 960A, 980A, 1183

business, I propose to sign and I do sign engrossed LB 720, LB 720A, LB 834, LB 851, LB 855, LB 855A, LB 896, LB 896A, LB 923, LB 960, and LB 960A. Mr. Clerk, LB 980A.

ASSISTANT CLERK: Mr. President, I have a motion on the desk. Senator Schmit would move to return the bill to Select File for specific amendment.

SPEAKER BARRETT: Senator Schmit, please.

SENATOR SCHMIT: Mr. President and members, I had hoped very earnestly that this bill would come up yesterday. I believe that this is one example of why perhaps we ought to seriously consider abolishing consent calendar. I was not on the floor at any time during the period of time that LB 1183 was discussed, either on General File or on Select File. I came on the floor during the reading of LB 1183 and was somewhat shocked to follow the reading and discover that this Legislature was in the process of making it a felony, a Class IV felony if any corporation or company failed to pay its taxes on time, and I discussed it just briefly with some of my fellow legislators, and they said, well, this is just personal taxes. But upon a very close reading of the bill, it did not appear to me to be that it only applied to personal taxes, and even then, I would have been opposed to it. My deep concern is that we have by the passage of this bill made it a felony, punishable by a \$10,000 fine and each day is a new offense, ladies and gentlemen, punishable by a similar type of fine, if you do not pay your taxes when due. Now there may be some of us in here who believe that it is easy to pay taxes, either personal or real, but that is not true. It is frequently true that we are not able to pay our taxes on time, and for that reason, we have required that a 14 percent interest charge be assessed against delinquent taxes. That, in itself, is a serious enough penalty in my estimation. What is even more concern to me is that we would indicate by this bill that there is a decision process left up to the local county attorney, I would...I suppose, if the situation is to be prosecuted or not because it says that if such officer willfully fails to pay the tax due to the county treasurer when so notified, he or she shall be guilty of a Class IV...felony, changed from a misdemeanor. It also says that he may be prosecuted. Now, ladies and gentlemen, we have seen enough of the preferential treatment that can happen to certain individuals in the commission of crimes without extending it to this kind of an act. I would suggest that if anyone of us in

April 9, 1990

LB 220, 220A, 315, 369, 369A, 551, 551A
571, 56, 720, 720A, 799, 851, 896
923, 953, 958, 960, 960A, 980, 980A
994, 994A, 1018, 1063, 1063A, 1064, 1064A
1080, 1090, 1136, 1146, 1184, 1184A, 1244

PRESIDENT NICHOL PRESIDING

PRESIDENT: Welcome to the George W. Norris Legislative Chamber for the last day of the Second Session of the 91st Legislature. We're especially happy to have with us this morning our own Harland Johnson for our prayer of the morning. Would you please rise?

HARLAND JOHNSON: (Prayer offered.)

PRESIDENT: (Gavel.) Thank you, Harland, and may I say, on behalf of all the members of the Legislature, we have truly appreciated your prayers during the session. They have been very meaningful because you understand us so well, so thank you again. Roll call, please.

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

PRESIDENT: Thank you. Any corrections to the Journal?

CLERK: No corrections this morning, Mr. President.

PRESIDENT: Any messages, reports, or announcements today?

CLERK: Mr. President, a series of messages. First, communications from the Governor. Engrossed...well, before that, Mr. President, bills read on Final Reading as of late last Thursday were presented to the Governor on Thursday evening as of 8:15 p.m. Communications from the Governor, Mr. President, and I might indicate to the members that copies of messages I have received have been distributed and you should have a copy on your desk. Communications to the Clerk: Engrossed LB 1080, LB 1184, LB 1184A, LB 656, LB 1146, LB 799, and LB 1136 were received in my office on April 3 and signed by me on April 6 and delivered to the Secretary of State. Sincerely, Kay Orr, Governor. (See Message from the Governor as found on page 1985 of the Legislative Journal.) A second communication: Engrossed LB 220, LB 220A, LB 315, LB 369, LB 369A, LB 551, LB 551A, LB 571, LB 720, LB 720A, LB 851, LB 896, LB 923, LB 953, LB 958, LB 960, LB 960A, LB 980, LB 980A, LB 994, LB 994A, LB 1018, LB 1063, LB 1063A, LB 1064, LB 1064A, LB 1090, and LB 1244 were received in my office on April 3 and signed by me on April 7, delivered to the Secretary of the State. Sincerely, Kay Orr, Governor. (See Message from the Governor as found on page 1985 of the Legislative Journal.) In addition to those items,