

January 5, 1989

LB 81-160
LR 1-2

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

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

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

EASE

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

SPEAKER BARRETT PRESIDING

SPEAKER BAPRETT: Additional bill introductions, Mr. Clerk.

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

SPEAKER BARRETT: More bill introductions, Mr. Clerk.

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

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

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

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

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

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

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

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

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

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

SPEAKER BARRETT: Stand at ease.

EASE

SPEAKER BARRETT: More bills, Mr. Clerk.

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

EASE

SPEAKER BARRETT: More bill introductions.

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

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

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LB 63, 94, 123, 180, 193, 341, 395
672

with various statutory duties, both state and federal, in carrying out those duties on occasion requiring to act contrary to what the city perceives as in the best interests and protection of its citizens. The city may find itself in an untenable position that it could not escape potential liability because of not carrying insurance. I ask for adoption of this E clause to help maybe not only Norfolk, but some other cities that may run into a problem. Thank you.

SPEAKER BARRETT: Any discussion? If not, those in favor of the adoption of the amendment offered by Senator Peterson vote aye, opposed nay. Record, please.

CLERK: 29 ayes, 0 nays, Mr. President, on adoption of Senator Peterson's amendment.

SPEAKER BARRETT: The amendment is adopted.

CLERK: Nothing further, Mr. President.

SPEAKER BARRETT: Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move that LB 123 be advanced.

SPEAKER BARRETT: You've heard the motion to advance the bill, as amended. Those in favor say aye. Opposed nay. Carried. The bill is advanced. Any messages, Mr. Clerk?

CLERK: Mr. President, I do. Senator McFarland would like to print amendments to LB 180; Senator Landis to LB 94. (See page 402 of the Legislative Journal.)

Mr. President, your Committee on Education whose Chair is Senator Withem offers notice of hearing. Signed by Senator Withem.

Mr. President, Senator Pirsch would move to rerefer LB 341. That will be laid over.

Mr. President, a series of adds; Senator Korshoj to LB 672; Senator Moore to LB 63; Senator Hartnett to LB 193; and Senator Lowell Johnson to LB 395.

One last announcement, Mr. President. A Reference Committee meeting at one o'clock today; Reference Committee at one o'clock

beneficiary. What LB 97 does is this. It recognizes a new definition for profit in the partnership situation and it says that where you have a limited partnership or an equivalent organization, let's say a joint venture, a legal association, less than a corporate format, but one in which there is the possibility of retained earnings or retained profits, profit will be determined by that amount of money which is distributed by the legal entity, that is distributed by the legal entity. Otherwise they would be trapped by the definition of profit equalling revenues minus costs and that is not what occurs here because in those situations you could have retained earnings and the trustee would never be given the money, yet the trustee would have the obligation to pass that money out to the beneficiary, the organization wouldn't have turned it over to the trustee, but the trustee, because of this law that we have on the books, would have the obligation to somehow make that good to the beneficiary. I've passed out to you the people who are benefitted by this bill. Who is benefitted? Trustees. Why? Because they get clear directions instead of getting two different directions, one from the Principal and Income Act, one from the distribution of profits and they can't make both of those things work. So here are some trustees who tell you the FirstTier Bank's Trust Department, NBC's Trust Department, an attorney who does work in this area, they tell you that it is necessary to give them clearer instructions, that's what 97 does, I would urge for its advancement. I'll be happy to answer any questions that I have left unanswered.

SPEAKER BARRETT: Thank you. Discussion on the advancement of LB 97. There are no lights on. Senator Landis, anything further?

SENATOR LANDIS: Frank Korshoj asked me to do the whole thing a second time, but I...I'll tell you what, I'll talk to him privately and I'll waive closing.

SPEAKER BARRETT: Thank you. The question is then the advancement of LB 97 to E & R Initial. Those in favor vote aye, opposed nay. Have you all voted? Record, please.

CLERK: 33 ayes, 0 nays, Mr. President, on the motion to advance LB 97.

SPEAKER BARRETT: LB 97 is advanced. LB 94.

CLERK: LB 94 offered by Senator Landis. (Title read.) The bill was introduced on January 5, referred to the Banking Committee. The bill was advanced to General File. I do have committee amendments, and in addition, Mr. President, I have an amendment to the committee amendments by Senator Landis.

SPEAKER BARRETT: Senator Landis, please.

SENATOR LANDIS: Thank you. I don't know if you're already tired of this more expository style or not, but let me go on to a second bill here. This is in the small loan industry, or as they like to be called now the consumer finance industry. It is a new name for the small loan companies. There are three changes in this bill and I'm going to go one by one through them. Normally you walk into a small loan company, you ask for a loan, they ask what kind of collateral you have; you get the money and they take a lien on the collateral. Now a lien in this case is a statement of responsibility between two parties in which one party has property that they pledge in return for getting a loan. And if they just execute the lien between the two of them, that is called attachment. And in that case it settles who has the priority between those two in that property. If you take that lien down to the courthouse and you do what is called perfection by filing it so everybody can see it, then that lien makes a priority between not only those two people, but everybody else. And the person who has the lien has the first priority against the property. Now small loans do that to ensure that they are going to get the money back for the loan that they make. At this point it costs about nine bucks to go down and file a lien and then once you pay off the loan and the lien then is exonerated, you go down and you get a release and the release costs two bucks. It costs eleven bucks to file and then release a loan, a lien, rather. There is a new phenomenon out there for small loan companies, it is called nonfiling insurance. Nonfiling insurance is an insurance policy and it says, if a small loan borrower promises to repay, we'll insure that they repay. You don't have to file a lien, you don't have to execute a lien, if they don't pay, we will. Now nonfiling insurance is pretty cheap. Small loan companies don't sell it themselves, they have to go someplace else to get it. But this bill says that you may charge for nonfiling insurance up to the amount you would have otherwise used in perfecting and releasing a lien. That's eleven bucks. If the costs go up, then this amount of money would go up. But that the lender, the small loan company, could have nonfiling insurance instead of the use

of the lien, make the appropriate charge for the filing insurance costs, make that part of the agreement, and they are authorized to do this. Now why does a small loan company have to come to us to get permission to do this? Small loan companies are very tightly regulated by law. They may not charge a dime for any service that we have not authorized them to do. If they want a late fee, if they want a service charge, if they want a bad check charge, unlike a grocery store, they can do it only with the permission of this Legislature. So we are giving them permission to use nonfiling insurance instead of securing a lien. That is change number one. Second change, we authorize late payment penalties for small loan companies, and our existing level is this. It says if you have a loan payment that you don't make in the ten-day grace period, the small loan company may charge 5 percent of the amount that was due or \$5, whichever is lower. Now for a small loan, when \$20 was due, that's fine. Five bucks is a pretty good deterrent, although 5 percent of that is a good deal less than \$5 and it is the lower of the two amounts. What happens when you have \$1,000 due a particular month and you don't pay? Now 5 percent of \$1,000 is fifty bucks. But you don't get to charge fifty bucks as a late payment, you charge \$5 for the late payment. Why? Because it is the less of either one of those two. What incentive is there to pay on time a \$1,000 payment if the sum total of the late payment is five bucks? Very little. So, we have, in the second portion of this, altered what the loan company can charge, because they can't change their charges unless we give them permission, to this formula, 5 percent of what is owed or \$25, whichever is lower. If it is a small amount that is due it will be the 5 percent that will be the lower trigger. If it is a large amount that is due, then perhaps the \$25 figure will be the trigger. It is for the purpose of creating a deterrent for late payments when there is a large amount of money due, when otherwise the only late payment that would be chargeable is \$5 under existing statute. So it is meant to put some teeth in late payment. I will tell you that in a moment I'll offer an amendment to the committee amendments that extends the grace period from 10 days to 15 days. So there is a little break for the consumer in this. Third change: In the event a bad check is given to a small loan company, they do not have the power now to charge a small...a bad check fee like just about everybody else on the planet at this moment. They can't make a charge unless the law permits them to give a charge. The states around us commonly give small loan companies the right to charge a bad check fee and we have, in the committee amendments, authorized

up to \$15 for a bad check charge. Can be less than that, can't be more than that. That is about the fee that most of the states around us have. Three changes in this bill, the use of nonfiling insurance rather than taking a lien, extending or expanding on the late payment penalty from the, instead of our current formula of 5 percent or \$5, whichever is lower, to 5 percent or up to \$25, whichever is lower and, third, a bad check charge of up to \$15. Who wins in this situation? Well the small loan companies win generally. They get a late check charge, they get a better late penalty charge. On the other hand, consumers get two wins in this situation. Number one, I think nonfiling insurance is less onerous than a lien because oftentimes people fail to go down and release liens and they stay on your record. So I think a consumer gets a win there. Secondly, the consumer will get an expansion from 10 to 15 days in their grace period for late payments. But generally speaking, this helps small loan companies. It arrives at the standard that many of the states around us have. It also probably brings them much closer in line in what other financial institutions are able to charge for bad checks and late payments. I move the adoption of the committee amendments.

SPEAKER BARRETT: Senator Landis...Senator Landis, excuse me, were you discussing the amendment to the committee amendment or the committee amendment?

SENATOR LANDIS: If it is appropriate to make a motion to the amendment to the amendment, let me do that by just simply saying the amendment to the amendment is the extension from 10 to 15 days for the grace period for consumers who are making late payments. This, by the way, has been agreed to by the small loan industry and I would offer that amendment at this time.

SPEAKER BARRETT: The amendment to the committee amendment.

SENATOR LANDIS: Thank you.

SPEAKER BARRETT: Before proceeding to a discussion, the Chair is very pleased to announce a special guest of Senator Elmer under the south balcony from McCook, Mr. Ray Kunkee who is recovering from a heart transplant on December 20 and feeling great and his friend, Dennis Schnider from Lincoln. Would you gentlemen please stand and be recognized. Thank you for being with us this morning. Discussion on the amendment to the committee amendments. There are no lights on. The Chair

assumes we're ready to vote on the amendment to the committee amendments. Those in favor vote aye, opposed nay. Record, please.

CLERK: 32 ayes, 0 nays on adoption of Senator Landis's amendment to the committee amendments, Mr. President.

SPEAKER BARRETT: The amendment to the amendment is adopted. Now to the committee amendments as amended, Senator Landis.

SENATOR LANDIS: Thank you. I'll move the amendments, and I believe Senator Hartnett has a question for me, so I'll let you recognize him and I'll answer whatever questions need to be answered.

SPEAKER BARRETT: Thank you. Senator Hartnett.

SENATOR HARTNETT: Mr. Speaker, members of the body, Senator Landis, the \$15 for a bad checks, is that a normal fee or is it high or low or...

SENATOR LANDIS: Okay. We had the recitation of bad check charges from other states in the surrounding area. Fifteen was as high as any of them got. Some are lower. The thinking of the committee was two part. Number one, we say in this up to fifteen bucks, so they could charge less, although I think it is quite common for them to charge fifteen. Secondly, I don't know what the experience is in Omaha, but that does seem to be in the area of what people are charging now for bad checks. I see as low as eight, but I do see fifteen in Lincoln and if we set some other rate, we're going to be back in here, what, next year or whenever to set some other kind of a fee as we move up to and around this area. Fifteen is a peg that some of the states have, not all states do. Some have ten and it can be lower than that. We said it here because we said up to fifteen bucks.

SENATOR HARTNETT: Okay, thank you.

SPEAKER BARRETT: Senator Pirsch, discussion on the committee amendments followed by Senator Coordsen.

SENATOR PIRSCH: Thank you. Senator Landis, I have a question for you if I may.

SPEAKER BARRETT: Senator Landis.

SENATOR PIRSCH: You're talking about the nonfiling insurance. Could you tell me a little bit more about that? Is this going to be mandatory or it's available now as I understand?

SENATOR LANDIS: Yes, nonfiling insurance is not mandated by law. It is a matter of choice. It is another way of guaranteeing the payment of the loan. If I am doing business with you and I am the small loan company, I'm capable of saying, listen, I could say, we can do a lien and you can give me a promise in your collateral or we can use nonfiling insurance. I'm also capable of saying, you want to do business with me, I guarantee my loans by using nonfiling insurance. Are you prepared to play that, do that?

SENATOR PIRSCH: That's available now.

SENATOR LANDIS: Yes, it is.

SENATOR PIRSCH: So we are adding this because there has been some overcharging or abuse or...?

SENATOR LANDIS: While it is available now, that avail...if you make a charge as part of your package, if we go out and get filing insurance and I put it into our agreement, I, as a small loan company, do not have the right to make any charge in your exchange with me unless it is authorized by law. So if we put that into our agreement and this is part of the package, they have to have permission by law before that can be a charge that you and I exchange as a company and as a borrower in that agreement.

SENATOR PIRSCH: Is that a pretty negligible cost or...?

SENATOR LANDIS: We said in this bill, in the amendment we just adopted, that it could not be more than what the actual cost of going out and getting a lien, and the actual cost of going out and getting a lien today and a release is eleven bucks.

SENATOR PIRSCH: And this is at the agreement with the borrower then?

SENATOR LANDIS: Exactly.

SENATOR PIRSCH: Thank you.

SENATOR LANDIS: This is part of the contract signed by both parties.

SPEAKER BARRETT: Senator Coordsen, please.

SENATOR COORDSEN: Mr. President, I would like to ask Senator Landis a question if he would.

SPEAKER BARRETT: Would you respond, Senator Landis.

SENATOR LANDIS: Okay.

SENATOR COORDSEN: All right, here we go. My question is about the same as Senator Pirsch's in that the cost or the fee or the premium or whatever that is charged for the nonfiling insurance is a cost, the committee amendments say that that cost cannot exceed the actual cost of making the legal filings. Now is it possible under the language that we have for a small loan company, since this is what we're talking about, to have an insurance fee, if that is the proper word, of say \$5 for this particular insurance and then charge the borrower up to the \$11 that we have allowed under the terms of the amendment, up to the maximum or up to the recognizable fees that would be?

SENATOR LANDIS: I see your point. Let me see if I got the question right. Let's say it was possible to get filing insurance for six bucks, but the small loan company charges eleven bucks to use this mechanism. Is that permitted by the language? And I would frankly say that in fact that was not contemplated by the committee. The language says you can charge for filing insurance and that fee cannot go greater than the lien. You could arguably say that they are authorized only to charge for filing insurance, but do we have some specific language that says you may only charge the exact premium cost? No, we don't. We said that you may charge for filing insurance. It seems to me, by the way, that there is implicit in there, that idea, but it is not explicit I would agree.

SENATOR COORDSEN: And then the other part of that question is that there is a probability or a possibility for say a large loan because we don't differentiate on the filing fees between the size of the loan, that the insurance may be more than what the company could charge the customer on the legal fees. In that case, they would have the option of only offering the

filing fee for the lien and the release, the \$11.

SENATOR LANDIS: That is right, on this theory, that what we didn't want to do is get into a situation where the lender could say, listen, we're not going to do...we're not going to take a lien, we're only going to take insurance and, by the way, insurance has been going up and it's now very expensive, and you have to use that mechanism. The lien is perfectly acceptable as a form of security, as a guarantee of the repayment of the loan and we don't want to get into the situation where the insurance becomes not only the preferred, but the only way to do it and that starts taking off as an escalating cost.

SENATOR COORDSEN: But there does exist the possibility under our current wording that a loan company could make a few bucks, if that be the actual case, with the wording that we have on the difference between the insurance and the legal fees, if there is in fact a difference.

SENATOR LANDIS: There certainly would be an arguable point that that could be done without an explicit prohibition. Were I the borrower, I would say, this says you are authorized to charge for filing insurance. How much was your filing insurance? If you have more cost than that, you're not entitled to charge for it. You've got a ceiling here, but that ceiling is actually to cut off any costs above that. If your costs are lower than that, that is your cost, you are authorized to charge for filing insurance. Now, if you want to offer specific language on Select File, my guess is we can write some language up and make sure that that doesn't happen.

SENATOR COORDSEN: Maybe we ought to talk about it and see if there is something we can do. Thank you, Senator Landis.

SENATOR LANDIS: Reasonable minds meet and confer on this topic. Thank you.

SPEAKER BARRETT: Any other discussion? Any closing statement, Senator Landis? You've heard the motion to adopt the committee amendments to LB 94. Those in favor vote aye, opposed nay. Record, please.

CLERK: 32 ayes, 0 nays, Mr. President, on adoption of committee amendments.

SPEAKER BARRETT: The amendments are adopted. To the bill as amended, Senator Landis.

SENATOR LANDIS: I move the advancement of LB 94. I'm available for questions, otherwise I'll just make a motion to advance.

SPEAKER BARRETT: Thank you, sir. Senator Beyer.

SENATOR BEYER: Mr. Speaker and colleagues, I guess I have a little bit different approach. I'm not really in opposition to two parts of the bill. I question the other part that has to deal with the filing of lien and the insurance coverage. As a small business person, if I want to check out this person and if they had taken out the insurance or went that way rather than the filing of the lien, there would be nothing on their record as that they have this loan or anything else, if they don't want to report it to me. I guess I would just want to alert the body at this time, and I might look for a specific amendment when it comes on Select File, that this could create some problems. Also, the fact that...I know that it is a different insurance policy and it would not refer to the NDIGC that if they can only charge a certain fee and they start having lawsuits, either the insurance companies will not write this kind anymore. I guess under the rationale that it is covered under insurance would not say that it is a shortfall and that we would be underwriting something that we shouldn't be. But I really do question the fact that there is not a lien filed and a lot of people would maybe opt to that and also it would be very beneficial to the small finance company to go this route because they are basically guaranteed their money then. The insurance company would be the one that would be out. Of course that possibility exists then that the rates on other insurance would go up to cover that. I'm real concerned about the fact that there isn't a lien for a small businessman to go back and check because these people would be, that these use these type of loan companies, would be marginal borrowers and if they go and not have a lien recorded, it might give the small businessman a problem if he made them a loan on something else or sold on financing. So I just want to alert the body to that at this time and I will probably be looking at an amendment on Select File.

SPEAKER BARRETT: Thank you. Any other discussion? Seeing none, you've heard the motion offered by Senator Landis, excuse me, Senator Landis, close.

SENATOR LANDIS: I'm entitled to close, am I not?

SPEAKER BARRETT: You are.

SENATOR LANDIS: Okay. First, let me tell you that the Banking Committee starts today its first of three seminars for the committee members on today banking law, next week insurance law and the following week on securities law and lien theory. And, as a matter of fact, if anybody here would like to, we're meeting today at noon and we're going to go over to the Nebraska Bankers' Association and the Banking Department will brief us. I would extend that information, invitation to others who would like to join us for that lunch, be happy to have you come. Let me respond to the question that Emil raises because it is a fair question. What happens when you're doing business with somebody who might be having a small loan relationship? And what happens if they've got this nonfiling insurance option rather than a lien? Are you going to be able to tell how in debt they are? The lien law is there for a purpose and that purpose is this, actually it is for two purposes, let me put it that way. The first purpose is to give the borrower higher rights in certain property that is owned...it is to give the lender higher rights in the property owned by the borrower that is pledged to secure the loan. The second thing that the lien does is to tell everyone else of the world these goods have a claim against them. If you think they are available for you to get, should you be doing business with the borrower, huh-uh, you're wrong. Take that into account for your planning purposes. The nonfiling insurance option, unlike the lien option, does not use a pledge of assets. There is no greater pledge in certain identified collateral when you use the nonfiling option. So the lien theory that says you need to tell everybody else in the world that certain property is being pledged against, doesn't apply. Because if there is a default by the borrower in this case, the last resort is not his property with greater priority than anybody else, the last resort is the insurance. The property they have is as available to that lender, the small loan company, as it is to every other lender including the potential renter, the potential landlord, the potential small business that might be doing with them, doing business with them. That other person has no lower priority than the person who is a small loan company, if he used the nonfiling option. Therefore, if the argument is what we want to do is force everybody to have liens so we can see what their financial

statement is like, that is unnecessary. That is not what a lien is for. A lien is to tell the world that certain property is pledged, and since there is not a pledge of certain property that places that at priority, it is really unnecessary to use the lien method. It's a good option. It's certainly a good fallback, but it is certainly not required and take that into account should this issue come up on Select File. Thank you. I move the advancement of the bill.

SPEAKER BARRETT: Thank you. You've heard the closing and the question is the advancement of LB 94 to E & R Initial. Those in favor vote aye, opposed nay. Record, Mr. Clerk.

CLERK: 31 ayes, 0 nays, Mr. President, on the advancement of LB 94.

SPEAKER BARRETT: LB 94 is advanced. LB 251.

CLERK: LB 251, Mr. President, introduced by the Natural Resources Committee and signed by its members. (Title read.) The bill was introduced on January 9, referred to Natural Resources. I do have committee amendments pending, Mr. President.

SPEAKER BARRETT: On the committee amendments, Senator Schmit. (Gavel.)

SENATOR SCHMIT: Mr. President and members, LB 251 is a bill which allows for the registration of certain types of land with the Game and Parks Division and the committee amendment strikes language which requires consultation with the Game and Parks prior to the withdrawal of that land from registration and instead replaces it with language which states that the Game and Parks shall be notified prior to the withdrawal of such a piece of property from the registry. It is a question of whether or not there is much difference between the language consultation and notification, but it does relieve the minds of some individuals who are concerned that consultation might give more impact to the opinion of the Game and Parks than was originally concerned or considered to be necessary. So it strikes the words "consultation" and includes the language of notification. That is all that it does. I move for the adoption of the amendment.

SPEAKER BARRETT: Thank you. Discussion on the motion to adopt

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LB 51, 60, 94, 97, 175, 189, 207
251, 261
LR 20

SPEAKER BARRETT PRESIDING

SPEAKER BARRETT: Welcome to this the 14th legislative day in the First Session of the 91st Legislature. Our chaplain of the day, Pastor John Eilers, Southview Christian Church in Lincoln. Reverend Eilers.

REVEREND EILERS: (Prayer offered.)

SPEAKER BARRETT: Thank you, Reverend Eilers, we're glad to have you with us. Roll call.

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

SPEAKER BARRETT: Record, Mr. Clerk. Corrections to the Journal, please.

CLERK: No corrections, Mr. President.

SPEAKER BARRETT: Any reports, announcements or messages?

CLERK: Mr. President, your Committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 94 and recommend that same be placed on Select File; LB 97, LB 251 all on Select File, some of which have E & R amendments. (See pages 422-23 of the Legislative Journal.)

Your Committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 51 and find the same correctly engrossed; LB 60, LB 189, and LB 207 all correctly engrossed, all signed by Senator Lindsay as Chair.

Business and Labor, whose Chair is Senator Coordsen, reports LB 261 to General File, and LB 175 to General File with amendments. Those are signed by Senator Coordsen as Chair. (See page 423 of the Legislative Journal.)

Mr. President, new resolution. (Read LR 20 for first time. See page 424 of the Legislative Journal.) That will be laid over, Mr. President.

Mr. President, hearing notices from Judiciary, signed by Senator Chizek as Chair; Revenue, signed by Senator Hall as Chair. Mr. President, a series of reports, two from the Lewis and Clark and the Middle Niobrara NRD districts regarding payment of

CLERK: On LB 97, Senator, I do have E & R amendments pending.

SPEAKER BARRETT: Senator Lindsay, on the amendments.

SENATOR LINDSAY: Mr. President, I move that the E & R amendments to LB 97 be adopted.

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

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

SPEAKER BARRETT: To the bill as amended, Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move that LB 97 be advanced.

SPEAKER BARRETT: Shall LB 97 be advanced as amended? All in favor say aye. Opposed no. Carried, the bill is advanced.
LB 94.

CLERK: LB 94, Senator, I do have E & R amendments.

SPEAKER BARRETT: Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move that LB...or excuse me, that the amendments to LB 94 be adopted.

SPEAKER BARRETT: Shall the amendments to 94 be adopted? Those in favor say aye. Opposed no. Carried, they are adopted.

CLERK: Nothing further, Senator.

SPEAKER BARRETT: Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move that LB 94 be advanced.

SPEAKER BARRETT: Thank you. Shall LB 94 be advanced as amended? Those in favor say aye. Opposed no. The ayes have it. Motion carried. The bill is advanced.

CLERK: LB 251, Senator, I do have E & R amendments pending.

SPEAKER BARRETT: Senator Lindsay.

to put into the record, Mr. Clerk?

CLERK: Mr. President, I do. Your Committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 94 and find the same correctly engrossed; LB 133, LB 134, LB 251, LB 277 and LB 295, all correctly engrossed, Mr. President. That's all that I have. (See pages 486-87 of the Legislative Journal.)

PRESIDENT: Thank you. Move on to LB 165, please.

CLERK: LB 165 by Senator Chambers. (Read title.) The bill was introduced on January 5, referred to the Government Committee for public hearing. The bill was advanced to General File, Mr. President. I do have committee amendments pending by the Government Committee.

PRESIDENT: Senator Bernard-Stevens, are you going to take the committee amendments?

SENATOR BERNARD-STEVENS: Yes, I am.

PRESIDENT: Okay.

SENATOR BERNARD-STEVENS: Mr. President and members of the body, the committee amendments are relatively simple and somewhat technical. In the bill, it had it that the Douglas County Election Commissioner will be responsible for the redistricting of the City of Omaha and there was a section in there that says about sanctions, about if something would not be done well or not done at all. And there was a section in there calling for a removal of office as one of the possibilities that could be done in the sanctions. It did not specify, however, whether it would be mandatory or if there would be a process. So what the committee has done, through committee counsel, has gone back to an existing section of law which has its process set up on the removal of office of such an elected official and it is not mandatory but it is the process. That's the first part the committee amendment clarifies. The second, the committee amendment basically is for the purpose of the section that calls for a citizen in their ability to create or to have a lawsuit against a county commissioner or some other entity in this particular bill and it clarifies this section as to what the lawsuit could pertain to and the clarification by the committee is that it will pertain to the areas that show compelling

February 9, 1989 LB 57, 94, 97

(Laughter.) Thank you very much.

PRESIDENT: Thank you. Senator Morrissey, would you like equal time to defend yourself?

SENATOR MORRISSEY: I knew that Senator Barrett wouldn't bring anything, so I brought cake and doughnuts to cover for him, and I will collect later, sometime in the...during the session. (Laughter.)

PRESIDENT: Thank you, thank you. Okay. I assume you're all in your seats by now and we can continue with Final Reading. Maybe we should do this before Final Reading every day. LB 57.

CLERK: (Read LB 57 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 57 pass? All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

CLERK: (Read record vote as found on page 658 of the Legislative Journal.) 38 ayes, 0 nays, 3 present and not voting, 8 excused and not voting, Mr. President.

PRESIDENT: LB 57 passes. LB 94, please.

CLERK: (Read LB 94 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 94 pass? All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

CLERK: (Read record vote as found on pages 658-59 of the Legislative Journal.) 42 ayes, 0 nays, 1 present and not voting, 6 excused and not voting, Mr. President.

PRESIDENT: LB 94 passes. LB 97, please.

CLERK: (Read LB 97 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 97 pass? All those in favor vote aye, opposed nay. Record, Mr. Clerk,

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LB 57, 58, 70, 94, 97, 115, 116
126, 133, 142, 156, 191, 229, 230
233, 251, 255, 256, 295, 327

CLERK: (Read record vote as found on pages 671-72 of the Legislative Journal.) 33 ayes, 11 nays, 1 present and not voting, 4 excused and not voting, Mr. President.

PRESIDENT: LB 156 passes. LB 256.

CLERK: (Read LB 256 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 256 pass? All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: (Read record vote as found on pages 672-73 of the Legislative Journal.) 45 ayes, 0 nays, 4 excused and not voting, Mr. President.

PRESIDENT: LB 256 passes. While the Legislature is in session and capable of transacting business, I propose to sign and do sign LB 57, LB 94, LB 97, LB 126 with the emergency clause attached, LB 133, LB 229, LB 230, LB 233, LB 251, LB 255, LB 295, LB 58, LB 70, LB 115, LB 142, LB 156, and LB 256. Mr. Clerk, do you have anything for the record?

CLERK: Mr. President, two items. Government Committee reports LB 191 to General File with committee amendments attached. I have amendments to be printed, by Senator Chambers, to LB 116. That's all that I have, Mr. President. (See page 673 of the Legislative Journal.)

PRESIDENT: Thank you. For those that are interested in the General File list that is coming up, we'll be skipping the third one, LB 744, and over on the back page LB 336. So, with that, we'll go to General File and LB 327.

CLERK: Mr. President, LB 327 was a bill introduced by Senator Wehrbein. (Read title.) The bill was introduced on January 11 of this year, referred to the Government Committee, advanced to General File. I have committee amendments pending by the Government Military and Veterans Affairs Committee, Mr. President.

PRESIDENT: Senator Baack, are you going to handle the committee amendments?

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LB 37, 48, 57, 58, 70, 77, 94
97, 115, 120, 126, 133, 142, 156
209, 229, 230, 233, 251, 255, 256
295, 311, 350, 521, 597, 598, 692
703, 777, 780

PRESIDENT: Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move that LB 209 as amended be advanced.

PRESIDENT: You have heard the motion. All in favor say aye. Opposed nay. It is advanced. May I introduce a guest, please, of Senator Hefner. We have Mr. Art Anderson of Bloomfield, Nebraska. Would you please stand, Mr. Anderson. Thank you. Mr. Clerk, anything for the record?

CLERK: Yes, Mr. President, thank you. Your Committee on Appropriations gives notice of hearing for March 7...I'm sorry, for February 24. That's signed by Senator Warner. A location change for Appropriations hearings on March 1, also offered by Senator Warner.

Mr. President, General Affairs Committee offers LB 703 to General File; LB 777 to General File; LB 780 to General File. Those are signed by Senator Smith as Chair of the Committee.

Agriculture Committee reports LB 37 to General File with amendments; LB 120 to General File with amendments. Those are signed by Senator Johnson as Chair. (See pages 678-79 of the Legislative Journal.)

Mr. President, your Committee on Banking, Commerce and Insurance whose Chair is Senator Landis reports LB 77 to General File with amendments; LB 311, General File with amendments; LB 350, General File with amendments; LB 598, General File with amendments; LB 692, General File with amendments, and LB 597, General File with amendments. Those are signed by Senator Landis as Chair. (See pages 679-82 of the Legislative Journal.)

Your Enrolling Clerk has presented to the Governor bills read on Final Reading this morning as of 11:30 a.m. (Re: LB 57, LB 94, LB 97, LB 126, LB 133, LB 229, LB 230, LB 233, LB 251, LB 255, LB 295, LB 58, LB 70, LB 115, LB 142, LB 156, and LB 256.)

Mr. President, Senator Moore would like to print amendments to LB 48. (See page 682 of the Legislative Journal.)

And, Mr. President, Senator Weihing would like to add his name to LB 521 as co-introducer. That's all that I have, Mr. President.

February 15, 1989 LB 57, 58, 70, 74, 94, 97, 115
116, 126, 133, 142, 156, 175A, 177A
208, 229, 230, 233, 251, 255, 256
261A, 263, 267, 273, 281, 284A, 295
338, 378, 391, 398, 416, 443, 458
459, 499, 502

SPEAKER BARRETT PRESIDING

SPEAKER BARRETT: Welcome to the George W. Norris Legislative Chamber. Please rise for the opening prayer. Our Chaplain for the day is Father Daniel Sieker, of Blessed Sacrament in Lincoln. Father Sieker.

FATHER SIEKER: (Prayer offered.)

SPEAKER BARRETT: Thank you, Father Sieker. Please come back again. Roll call.

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

SPEAKER BARRETT: Thank you. Corrections to the Journal.

CLERK: I have no corrections, Mr. President.

SPEAKER BARRETT: Any reports, messages, or announcements?

CLERK: Mr. President, your Committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 502 and recommend that same be placed on Select File, LB 281 Select File, LB 416 Select File, LB 443 Select File, those signed by Senator Lindsay as Chair. Mr. President, your Committee on Enrollment and Review reports LB 74 as correctly engrossed; LB 116, LB 175A, LB 177A, LB 208, LB 261A, LB 263, LB 267, LB 273, LB 284A, LB 338, LB 378, LB 391, LB 398, LB 458, LB 459, and LB 499, all reported correctly engrossed, all signed by Senator Lindsay. (See pages 746-47 of the Legislative Journal.)

Mr. President, a communication from the Governor to the Clerk. (Read. Re: LB 57, LB 94, LB 97, LB 126, LB 133, LB 229, LB 230, LB 233, LB 251, LB 255, LB 295, LB 58, LB 70, LB 115, LB 142, LB 156, LB 256. See page 748 of the Legislative Journal.)