

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.)

that this be passed over temporarily until some information is printed I'd like to distribute to the senators. It is not ready yet. Could I ask that it fall down to the bottom of the list following Senator Hannibal's resolution?

PRESIDENT: Yes, that would be okay.

SENATOR R. JOHNSON: Okay, thank you.

PRESIDENT: Thank you. We'll go on to LB 232 then.

CLERK: Mr. President, LR 232 offered by Senators Schmit, Warner, Labedz, Baack and Lynch found on page 125 of the Legislative Journal. (Read brief description.)

PRESIDENT: Senator Schmit, please.

SENATOR SCHMIT: Mr. President and members, I will just speak briefly at this time. Other members will address the resolution and then I might have some closing remarks. There may be some questions. I'll be glad to answer those and I'd just like to suggest that this resolution does authorize a continuation of the committee and it authorizes the expenditure of an additional \$200,000. And Senator Withem called my attention to the fact that we may need a rules change that would allow the committee to introduce bills at any time during the legislative session, so I will discuss the rules change with Senator Withem at a later time. But at this time I'd like to ask other members of the committee, Senator Baack, Senator Lynch, Senator Warner, Senator Labedz to comment on the resolution as it stands today.

PRESIDENT: Thank you. I'll call the lights as they come on. Senator Crosby.

SENATOR CROSBY: Thank you, Mr. President. I'd like to ask two or three questions of Senator Schmit if he would allow me to and answer.

PRESIDENT: Senator Schmit, please.

SENATOR CROSBY: First, Senator Schmit, I understand and appreciate all the work that your committee has done, and especially in the field of problems of the child abuse. But at this time as I understand it, you have turned over all the evidence and so on to the law enforcement authorities, right?

SENATOR SCHMIT: We have turned over, Senator, the evidence that we have discovered thus far that we feel does have a basis for a prosecutor to file charges.

SENATOR CROSBY: And, second, the thing is that it seems to me at this stage of the game, the law enforcement, and I don't understand the mechanism that would put this into being, but it seems to me that you're at the point where all of this should maybe be turned over to a grand jury. I do not feel that Legislature is a court and I just have mixed feelings about your continuing investigating something that it seems to me you have investigated almost to the point where there is no more investigating to be done. What about a grand jury? Have you thought about calling a grand jury? I think there is a grand jury in Omaha. I guess not.

SENATOR SCHMIT: Senator Crosby, the committee has discussed a grand jury. The committee views our responsibility very seriously. We feel that there are additional areas which need to be investigated. They are a legislator responsibility, and if you will read the resolution as it is...(interruption)

SENATOR CROSBY: I have read the resolution, I have read the resolution.

SENATOR SCHMIT: Let me tell you then exactly what I interpret this responsibility to be. Our responsibility as I envision it at this time is one which will eventually determine whether or not the confidence of the people in their government will continue or it is going to be further decimated by inactivity by responsible individuals.

SENATOR CROSBY: Thank you, Senator Schmit, that's the answers that I wanted. I simply feel that if that is your point now, that you want to investigate the investigators, that's an entirely different subject and I think that you maybe should start over. I don't feel good about your committee continuing the way it is, and so I may vote against your resolution. I just want you to understand why, because I do appreciate the work you have done, especially the child abuse and I hope that something comes out of that that is productive for our state to stop the child abuse that has been going on. The videos and the pornography, one of the things that hurts children and women in the world and the United States of America and in this state is

that youths and furtherance of pornographic materials and the people...the post office has caught up with some of these child abusers that order these things through the mail so they have definite proof that this happened, but I think if you're going to investigate the investigators and the law enforcement, then I think that is a different subject. Thank you.

PRESIDENT: Thank you. Senator Lynch, please, followed by Senator Haberman.

SENATOR LYNCH: Mr. President and members, as a member of the committee I'd like to stand in support of the resolution. I certainly appreciate the comments made by Senator Crosby. Until about a month...about two months ago, I would have agreed with her that I honestly thought in my heart that all of the avenues pursued by the regular or routine or, I guess, established law enforcement agencies was accomplished and that probably appeared that there was nothing that could be more accomplished. However, we felt it important to make sure. With our own investigator and new counsel it was obvious that there was much more out there. Some of us on the committee feel that this legislative body would be hard put to justify spending money to check the money trail. That is now being accomplished by federal agencies. However, our concern was when and if children in our care were, in fact, accessed from private or public agencies or, in fact...would you hold the phone, please. But in any case, that we wanted to make sure that if, in fact, we needed to make recommendations regarding our system that we accomplish those, that we could recommend to this body during this session. It was amazing to me what was discovered by our own investigator. I think the way that investigation proceeded was very professional indeed. It raised a lot of questions and concerns on the part of some of us regarding our already established law enforcement agencies. I think what we have to do is to proceed long enough to know the difference, who is right, and most importantly, pursue and identify those people that may have been involved, which kind of things that concern Senator Crosby and all of us. It's a terrible thing indeed. I'd just like to tell all of you this. If you think you've got troubles at home, if you think your daughter got pregnant and that's a problem, or your kid stole a car or your wife got caught speeding or they are not doing well in school, you haven't got any troubles at all, folks. That's nothing compared to what some of the things we've heard. It's the kind of thing that we just can't let pass and we can't be concerned with who

people are, how important they are or not. But we have to do is to make sure that justice is served, that we identify, in fact, almost a way of life and discourage that kind of thing. We can't do that if we stop now. We've got the tools with the kind of people we have on board and staff. I would hope you would give us a chance to continue with this. Obviously, there is a lot of things we can't say that could jeopardize any prosecution, but I can tell you that the committee has worked hard to try to uncover everything and anything necessary to justify the committee's existence in the first place and I think it is, in fact, a rightful responsibility of this legislative body which, in fact, not only interprets and establishes policy, but has the responsibility of carrying it out as well. So I would urge your support for this resolution.

PRESIDENT: Thank you. Senator Haberman, followed by Senator Labeledz, please.

SENATOR HABERMAN: Mr. President, members of the body, Senator Schmit, I would like to make some remarks and comments and then direct a question to you if I may. Senator Schmit, I am going to support your request for additional funds, but I would like to ask you, would you consider seriously and favorably turning a report in to the Clerk of the Legislature within the next 10 days showing an expenditure of the first \$100,000, broken down into three or four categories, attorneys fees, investigators fees, travel, extra help and so and so forth, so that those senators who are interested such as myself in the expenditure of the funds can go to the Clerk's Office and pick up a copy of that report?

SENATOR SCHMIT: Yes, Senator Haberman, we have those expenditures listed and if they are not separated into the categories that you desire, for the most part I believe those categories can be identified. There are a few expenditures which are not identified to the degree that you might like because to do so, very frankly, might reveal some of the contacts that were made that provided the committee with information and at this time it is important that that confidentiality is maintained. But the overall expenditures are available to you. I believe Senator Labeledz might answer that if you would allow her to do that at this time on the rest of my time or your time.

SENATOR HABERMAN: Senator Schmit, I, in no way, am I

questioning the expenditure of the funds, the method or the...I don't feel that there is anything going on that is funny. All I am trying to say is, and I will accept if there are some of the funds that the expenditures should remain confidential, that's fine with me, I'm willing to accept that. But I feel that we should have some sort of a report and I, quite frankly, will accept whatever you submit, Senator Schmit, but I would like to have something submitted to the Clerk, and if I have some time left will, Senator...you're next anyway? Thank you, Mr. President.

PRESIDENT: Thank you. Senator Labedz, please, followed by Senator Schellpeper.

SENATOR LABEDZ: Thank you, Mr. President. I rise in strong support of LR 232. The...being a member of that committee has probably been the most difficult part of anything I have ever done in the Legislature. To listen to the witnesses that we've had and to find what has happened to a lot of our young people in the City of Omaha I just can't imagine anyone saying that we should quit now. Senator Haberman, Kirk Naylor and Jerry Lowe started in February. They resigned July 13, 1989, and at that point the expenses were \$56,132 which left, in round figures, about \$44,000 for the new investigators, John Stevens Barry and the investigator. That 44,000 is now spent. It is essential and very, very important that we receive more money. We cannot quit now. If we do, we're letting a lot of people down that have come forward with...and it was very difficult for them to do it. I truthfully and honestly believe those young people and to quit now would be devastating not only for the children, but for the committee themselves. We feel very strongly that we should continue and we may not even need the 200,000, but so help me, if we don't get it and we quit now, we're letting not only the people down, the young people down, but we're letting the people of this state down because we have quit and that's one thing that I will never do and we can't do it without any money and that is very, very important and I think that every one of us on this floor should gladly appropriate the 200,000. As I said, it may be that we may not even need it, but, believe me, if Senator Haberman, if he would like to go down to the accounting office and get a copy of the expenditures that I, as Chairman of the Exec Board, had to approve, you will find that you don't get any information as to where the investigator went, who did he talk to as you and I would do if we were turning in an expense report. You will find the expenses in total, broken

down by day and any expenditures by the attorneys, by the hours. So I don't see anything secretive about that report and if you feel like you have to see that report, you certainly can go down and get it. I don't think that we should go into detail as to where the money was spent, the long distance calls and the travel, where to and from, wherever the investigator had to go. I think what we should be thinking about now is whether or not this committee can continue its work and it is very, very important that we do. I would not live with myself if I knew I let those children down. Thank you.

PRESIDENT: Thank you, Senator Labedz. Senator Schellpeper, followed by Senator Richard Peterson.

SENATOR SCHELLPEPER: Thank you, Mr. President and members. First of all, I would like to commend the committee. I think they have done a very good job, but, I, too, agree with Senator Crosby. I think that maybe it is to the point where we should let some other investigative committee do something. I have a big problem putting the Legislature in a law enforcement business. I think we need to look at what they have done and how far they have gone. We have the State Patrol, we have other investigative agencies and I think we need to let them do their job at this time. At the present time I do not think we need this additional \$200,000. I think there is some areas that we can put it in that will do maybe a little bit better place for that much money. Thank you.

PRESIDENT: Thank you. Senator Richard Peterson, please.

SENATOR R. PETERSON: Thank you, Mr. President and members. If Senator Schmit would...I'd like to ask him a couple of questions if he would, please.

PRESIDENT: Senator Schmit, please.

SENATOR SCHMIT: Yes, Senator Peterson.

SENATOR R. PETERSON: Yes, Senator Schmit, according to the papers, and fill me in if I am wrong. Your report said so far and recently have been turned over to the highway patrol and the Attorney General's Office. Is that true or is there another one or so?

SENATOR SCHMIT: Senator Peterson, we submitted the evidence

that we have developed that we feel ought to be taken to a prosecutor to the Attorney General of the State of Nebraska and to the United States Attorney, and we have contacted the United States Attorney General and we intend to make that information available also to the United States Attorney General.

SENATOR R. PETERSON: Follow up on that, have any of those people indicated to you when they will have this reviewed and get back to you on what they think about this report and their suggestions?

SENATOR SCHMIT: Senator, one of the frustrations of this committee has been the fact that we have been informed repeatedly, although I shouldn't say that entirely, that for the most part the prosecutorial function is not going to...is not going to inform us of what they are doing. The information is a one-way street we've been told. Now we have worked fairly closely with the Attorney General's Office in recent weeks and, in fact, we worked with them repeatedly during the investigation and we have contacted the office of the United States Attorney. But we have been told by the FBI and others that, of course, they will not give us a timetable, they will not report back to us. I am sure if they find in their opinion that the evidence is sufficient to file an action, they will do so.

SENATOR R. PETERSON: One other question, you are asking for \$200,000. The first request was for 100,000. Will you inform this body what you are going to spend the \$200,000 on?

SENATOR SCHMIT: Yes, I'd like to do that, Senator. We feel very strongly that we have only touched the tip of the iceberg. Number one, we would like to find out why there were shortages of money in the Franklin accounts between the time of 1976 and 1984 when there were apparently audits that were conducted at that time which did not report any shortage. We would like to find out why after 1984 audits did not take place as were required. We would like to find out why, when attempts were made to audit the records, that the institution was not available for audit and no one went back and pursued that audit. We'd like to know what contacts might have been made by out of state persons that might have influenced activities at Franklin. We would like to know what impact perhaps that influential persons outside of Franklin have upon the activities at Franklin. Most of all, Senator, we would like to know why the institutions of government have failed. Why did a committee of

legislators, hiring their own investigators, be able to uncover evidence which, as we were told time and time and again and on the streets of Omaha, everybody knows, unquote. It is apparent to me that the system of government has broken down.

SENATOR R. PETERSON: Senator Schmit, do you actually need 200,000. Would 100,000 do you for now till we get these final reports back?

SENATOR SCHMIT: Senator, let me tell you this. I don't have any doubt that at this time there are hundreds if not thousands of times as much money being spent to contain this investigation than I am asking for in this resolution. I don't know whether 100,000 would be enough. I am telling you that right now we are asking for 200,000, Senator, and I think the money is going to be needed. And I might also add that I think there might be a need for more money.

PRESIDENT: One minute.

SENATOR R. PETERSON: Well, thank you, Senator Schmit, for enlightening me a little bit. I am...I can see what you are doing and I commend you for that, but at this point I have got reservations like Senator Crosby and Senator Schellpeper whether we really need that much right at this time, so I don't know what I am going to do, but thank you anyway.

PRESIDENT: Thank you. Senator McFarland, please, followed by Senator Baack.

SENATOR MCFARLAND: Thank you, Mr. President. As someone who was a former member of the committee, I have some background on this issue, although certainly in the past recent months I have not been familiar or privy to the information that the other committee members have been knowledgeable about. Nevertheless, I would recommend that the resolution be approved and that the appropriate money be set aside for the committee. It seemed to me in the initial investigation, and I read through all of the initial reports that it became readily apparent that the foster care system in our state is not working adequately. There are just far too many children who are shifted from home to home who are not supervised by their counselors and their persons assigned to supervise their work. The people in state government who are supposed to be carrying out these functions do not have enough staff to do an adequate job. The people that

are there are overworked and underpaid and furthermore there is a high turnover in the state department in trying to supervise and follow and allocate these children to particularly caring homes. I think it is important to remember that the function of the committee is not a criminal investigation. I know that the press and sometimes reports are made which suggest that this committee is really like to investigate for crimes. That is not their specific function. The really...the purpose of the committee is to investigate and see if we can change the legislation, change the laws that would help prevent this type of problem in the future and I think that there are some laws and that things need to be changed within the state agencies of our government to try to make sure that these kind of problems do not occur again. If, in the course of those investigations, the committee uncovers criminal conduct, then, of course, it becomes their duty to submit that information to the appropriate authorities and I think the committee can do that. I just think that it is a good process. My resignation was not prompted because of the purpose of the committee or the goals of the committee, my resignation was prompted because I thought the initial legal counsel and investigator were doing an adequate job, actually doing a very competent job and that their efforts were not appreciated as they should have been. Nevertheless, I think it is important to continue the investigation. I think that the members of the committee are...that remain there, are dedicated to investigating all of the allegations and I can tell you from reading those reports, there were plenty of allegations and there were reports of numerous incidents that occurred. None of them could be absolutely verified. Some of the reports were inconsistent and some were outright contradictory, but my view after reading all those was there were too many consistencies, there were too many reports from different sources that were similar that suggested that there was really a significant problem here with the child abuse and how the children were shifted from one home to another and how they were not supervised and how the caseworkers were not able...

PRESIDENT: One minute.

SENATOR MCFARLAND: ...because of their staffing and because of time limitations and whatever to do a proper job in their supervision of the children and monitoring of those children and how those homes were being administered. So I would recommend that the body pass the resolution, appropriate the money and let the investigative work continue, and I would hope that the

committee would focus on what can we do to pass legislation that would prevent this in the future and remember that it is not a criminal investigation. If criminal activities are uncovered, then it's a duty for them to turn that information over to the State Patrol and the appropriate authorities. Thank you.

PRESIDENT: Thank you. Senator Baack, please, followed by Senator Wesely.

SENATOR BAACK: Yes, Mr. President and members, if you would have asked me a couple of months ago or after the initial phase of the investigations that the committee was doing I would have said, no, we don't need any more money to continue. Not that there weren't plenty of allegations and plenty of things that had been uncovered by the committee in their investigation up to that point, but we had no corroboration for those allegations. Since that time we have come up with a lot of evidence that does corroborate some of the things that we saw in the early allegations and I think for us to stop now would be a big mistake. I know that we have turned certain of the certain amounts of evidence over to the Attorney General's Office and also to the U.S. Attorney's Office and because there are certain crimes in there that probably need to be prosecuted and need to be checked into more thoroughly by those people. But I think what I have seen through the whole process is, is that after you view some of the things that we have seen on the tapes and after you see how the system has reacted or, in this case, not reacted to what is going on, I don't see how that you could view any of these things or look at the things that we have and not have shaken to the very foundation, your belief that the system does work. That is what has happened to me. I'm not so sure the system does work in this case and I'm not so sure that we don't have a group of citizens out in this state that our system doesn't work for. And the citizens I am talking about in this case are citizens that don't necessarily have a strong voice in this state. They are kind of the left out citizens of this state and I don't think we can leave them out. I think that we need to be very careful as we look at this and to see why the system did not react as it was supposed to react when certain allegations were brought forward and that is what we have seen. We have seen that the system did not work. Supposedly, the people that were supposed to be working on this, investigating all of these things had looked at all the same things we had looked at and they said, there is nothing to it, forget it; there is nothing to it; we don't find anything; there is no

evidence to corroborate these things, but yet when we put our investigator out there he was able to find some things that was able to corroborate these allegations. I think we need to continue with this investigation because we need...I know that the justice system has to take over in the prosecutorial matter. That is fine, I don't have any problem with that. The problem I have is why didn't they do that in the very first place? Why didn't they continue with that investigation? Why didn't they push forward with these things? They did not. They backed off. I think we need to push forward with these. I don't think we should let that certain group of citizens out there that maybe doesn't necessarily have a strong lobbying voice so that they can get their voice heard in this state. I don't think we necessarily need to leave those people out of the justice system in this state. Our system is set up to react justly to all citizens of the state. I think we need to investigate that system and see why it did not react to that and how we can make changes to make sure that it doesn't happen again. I think this money is very necessary. I think we need to continue as an investigating committee. Thank you very much.

PRESIDENT: Thank you. Senator Wesely, please, followed by Senator Chambers, then Senator Landis.

SENATOR WESELY: Thank you. Mr. President, ladies and gentlemen of the Legislature, I would rise in support of the resolution and for increased support for the committee's work in examining the Franklin case. As Chairman of the Health and Human Services Committee I have worked long and hard examining the issue of child welfare and have spent a great deal of my time in my twelve sessions in the Legislature trying to work hard to protect the children of the state. The work of the Franklin Committee has been extremely valuable in examining how the system we have in place is broken down. In this particular case, but also it points to larger issues and problems that we are finding some solutions to that will hopefully help our children far into the future and let me cite a couple of examples of that. First off, in a matter of hours or perhaps early next week you will consider a bill, LB 720, which deals with the caseload of individuals involved in child protective custody, CPS workers they are referred to. Also foster care families are reviewed by these caseworkers and we would up the number of workers so that they would meet the standards set nationally for the amount of work that should be allocated to these workers to do their job. We have found a serious problem

January 4, 1990

LB 886
LR 232

in our system with overwork for our individuals examining child abuse complaints in foster care situations and trying to make sure that our children are safe and sound in our state, and we are trying to do something about that problem. Now that issue is going to be looked at but it, again, fundamentally points to a problem overall, not just with Franklin, but the Franklin case highlights it. In addition, another bill, LB 886 is a follow-up to a bill introduced last year by myself. This year LB 886 is introduced by myself and Senator Schmit and it changes the way we prosecute child abuse and other family domestic violence issues so that the Attorney General would take over that responsibility away from the county attorneys. Again, this problem was brought to light prior to the Franklin case just as the caseload was but the Franklin case highlighted it for us, made it apparent what the problem is and allowed us the chance to move forward with some reform in this area. Now I truly believe that further research in this area, the Franklin study, will help us better know what broke down, what the problem was and will help us find other problems and, hopefully, solutions to those problems to make the system we have in place work better. I think anytime we can try to find more information, have more knowledge to base policy on, we will make better policy. And at this point we have got some information, but more I think can be found and more value will be, I think, gained from having that than not having it. And the cost involved, I know a number of people have gotten up to talk about \$200,000, well that scares me as well. \$200,000 is a lot of money, but let me cite for you the cost of some of these other measures to reform the system. LB 720 dealing with the caseworkers would cost over \$2 million more a year to bring us up to standards and we already increased the caseworkers over a million dollars a year last year. The child protection division in the Attorney General's Office would cost over a million dollars a year and in addition, this is just additional expenditures we need to make to reform the system, there is already in place a multimillion dollar system trying to take care of our children and protect our young people in this state. But despite the expenditure, despite the need for additional expenditure, we still have serious problems. The system is still not working the way it should. We have about 8,000 reported cases of child abuse a year in this state. That is 8,000 too many cases of child abuse and we need to stop that. In addition, about 60 percent, over 4,000, maybe 5,000 cases are confirmed. We have four or 5,000 children abused a year in this state. Now that system in place is doing some good in

identifying that, but when we have even a few of those children slip through the system...

PRESIDENT: One minute.

SENATOR WESELY: ...even a few children have problems not pursued by caseworkers. When even a few children have their cases dropped by county attorneys and not pursued when justice is not brought to bear on these individuals, then that is a few too many cases for me to tolerate and I think in this particular instance, what we're doing is looking at a special case but it has application across the board and I, for one, plan to utilize the work of the committee in the other types of legislation that is coming before this Legislature and hopefully reform the system so we never have a repeat of this or other cases like it.

PRESIDENT: Thank you. Senator Chambers, please, followed by Senator Landis and Senator Warner.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I have some comments that I think I need to put into the record because I was one of the original members of the committee. I very strongly supported the establishment, organization and work of that committee. However, when an interim report had been offered by committee staff, Senator Schmit added an addendum which indicated very definitely that he intended to change the direction of the committee. His addendum had stated on page 1 that he felt that it is, "most important I make it clear as Chairman where I intend to study to direct its efforts in the future." Then on page 2 of his addendum, at the bottom, are these words: "The best advice I have obtained from people far more knowledgeable about investigating this type of activity than I, suggest the most important trail to follow is the trail of the money, find where the money went and you will find hanging on the limbs of those expenditures the individuals involved and the improprieties involved, if any." Going to the top of page 3, "This is my intent to clearly direct committee staff to follow the trail of the money." Because I have such strong feelings about child abuse and the kinds of allegations that had been made, some of which contrary to Senator Schmit's comment in his addendum that none had been corroborated or verified, I felt some had been. There were polygraph tests by the State Patrol which indicated that the individual speaking had told the truth. So to make a public declaration that none of the allegations had been substantiated followed by editorial

comments in the Omaha World-Herald, disparaging, demeaning and humiliating some of the young people who came forth made it impossible for me to stay on that committee. There is no way I could have functioned on a committee which was going to "follow the trail of the money" when there was so much concern about child abuse which I believe existed then, I still believe it and what the committee subsequently has found indicates that it does exist, it existed then and it would have been a mistake to leave that direction. I wanted it clear why I got off the committee. I applaud the work that the committee has done since the time that I resigned. They did see the issue of child abuse and related matters as being very important and consequential. They found an investigator who, and I'm basing what I say now on what I have read in the papers. I have no access to any of the reports that the committee had developed. So I am accepting what I read in the paper as being true. I want that straight in the record too because nobody on the committee has leaked any information to me. They have substantiated, or feel that they have evidence that would substantiate, serious misconduct that reaches the level of criminal activity on the part of individuals associated with Franklin and perhaps others not directly associated. They have turned this information over to various prosecutorial authorities including the Attorney General, the U.S. Attorney. I don't know about the Douglas County Attorney, to what extent he would be involved. But it clearly is in the court of those prosecutorial bodies now as far as the criminal activity. What the committee is proposing to do now, based on my understanding of the resolution, is to look at what the investigators have done, and I suspect they will conclude what I concluded already from the reports that I read and looking at the work that the Omaha police division did not properly investigate...

PRESIDENT: One minute.

SENATOR CHAMBERS: ...the State Patrol and the FBI were inadequate and lacking in concern about the investigations they conducted. I do fault the committee for taking statements from the chief of police, former Chief Robert Wadman, in secret and not publicizing those statements. He was a public person paid with taxpayer money. He was not accused of a crime and I don't think there is anything he said that should be kept from the public. There have been allegations and to my mind evidence to indicate that he may have been involved in squelching the investigation by the Omaha police division. Rather than have to

be shut off in midsentence, I will stop now because my time is up, then put my light on because I haven't stated what my position on the resolution is yet.

PRESIDENT: Thank you. Senator Landis, please, followed by Senator Warner and Senator Labedz.

SENATOR LANDIS: Mr. Speaker, I will speak for about 30 seconds, then sit down. I was thinking of calling the question, but I guess there are enough of our colleagues who want to speak that I will not exercise that privilege. The argument that this appropriation is unnecessary and that this function should more appropriately be turned over to law enforcement agencies ignores the history of this very issue. It is because we have become the investigator of last resort that we're faced with this reappropriation. Frankly, I have little confidence to return back to the agencies who dropped the ball. There is no other way to say it. You can't look at the Omaha Police Department and say that they carried this issue with every level of authority, power, investigative resource that they had. You can't say that the Highway Patrol of the State of Nebraska did that and you sure can't say it about the FBI. No. In fact, it is because everyone else dropped the ball that we were into this situation and at this point I don't have the confidence to go back to those agencies that in my mind didn't do their job well enough and trust them with the continuation of this process without the continued active oversight of the Legislature. This story, this case would not have broken without us and this is not the time to get cold feet or to go back to the days when we think that is all right, these existing policies, these existing agencies will take care of it, they didn't, and we only add fuel to the fire that says government takes care of its own, that they sweep things under the rug, that there is an effort out to squelch things. If we grow weak-kneed now or simply return back to the way things are always done because our history is that the way things have been going on this issue, our existing agencies have not pushed this issue to the max for whatever reason. We should go forward and challenge them to go forward with the vigor that this body has shown and match us in our efforts with efforts of their own. I support the resolution.

PRESIDENT: Thank you. Senator Warner, please.

SENATOR WARNER: Mr. President, members of the Legislature, I'd rise to support the resolution because I, too, believe it is

necessary to proceed. During the years I have been in this body I have been involved in a number of investigative committees and this one is far different than any I have ever been involved with before and it has a much broader range of responsibility than I think any of us realize as it initially started. I would rather candidly say that it would be a mistake to assume that the investigation is primarily or solely focused on foster care children because certainly some of the things that we have seen would not be within that scope nor would those problems come to the attention of proper authorities through that scope. That doesn't lessen the importance of looking at those in foster care, I'm just suggesting that it is broader than just that and you don't want to narrow yourself to that narrow viewpoint. It has been pointed out by others, which obviously the committee understands, is our role is to review as an oversight capacity how the system function and whether or not changes ought to be made in a variety of areas to be more effective. Unfortunately, as it has, or maybe fortunately, as it has evolved we have found ourselves in a position of having to go out and make investigations independently in order to accurately determine if a variety of agencies had performed as you would have hoped they did. I'm not in a position where I'm going to take a firm position that the whole system broke down because I don't know if that's necessarily true. I have not made that decision yet. Certainly there is sufficient evidence of what we have seen to date, however, that there are aspects of it that for some reason or another were not pursued as far as I think now, based on what we know, could have been or should have been done. And I think it's necessary to proceed to try and substantiate those what may appear to be shortcomings, I think it is necessary to substantiate more clearly than we have whether or not, in fact, that is the case, that there was shortcomings and then why and then come back to this body with the appropriate recommendation, whether it be changes in substantive law, whether it be changes in appropriations, whether it be reallocation of existing appropriations, whether it is establishment of new agencies. I'm not prepared to respond to any of those as a conclusion at this point, but what I am prepared to be fully supportive is the continuation of what we are now doing because I think in the orderly fashion as it has been laid out, that we could come to some conclusions that will be acceptable in this body and can...I would never suggest prevent a reoccurrence from ever happening because I'm sure there is no way you can write a law to prevent unfortunate events from reoccurring. But the chances for those events to go unnoticed or unattended to or ignored

could be reduced significantly with some changes and that is the direction I think we will eventually get to. So I would hope the body would support the resolution and the concept that as has already been said, the very major role of a legislative body is to review an oversight responsibility and in this case it has taken a remarkable amount of time to do that but, nevertheless, I think it is being done thoroughly and correctly and I would hope that the body approves it.

PRESIDENT: Thank you. Senator Labedz, please.

SENATOR LABEDZ: Thank you, Mr. President, I'll be very brief. I stand more or less to defend Senator Schmit as chairman of the committee when he did mention several months ago that we should follow the money trail. Believe me, some of the evidence we turned up was by following the money trail on the airplane flights and other expenses. I also would like to say that the State Patrol, the FBI, the Omaha Police Department and the Attorney General's Office at one time or another during the first investigation had said that there was nothing there actually, even though I thought there was and I agree with Senator Chambers on that because I believed everything in the first investigation and in the second investigation. But I firmly believe that as we continued on past July we were able to uncover witnesses that have never been talked to by any law enforcement agency before and, to me, they were very sound, honest young people that came forward and jeopardized not only their own safety, but their families and so forth. So I applaud those young people for coming forward because it's very difficult for any member of the committee to worry about the safety of those children and the witnesses that we do have. I can recall in the past 14 years that I've been here studies that we have had on different issues, one in particular where we allocated I believe it was 250,000 for a tax study. Then they came back and asked for another 100,000 and so many of the studies that we have had and paid hundreds of thousands of dollars for, those studies are on the shelf and nothing has ever been done. I assure you that if we spend another dollar, you'll get results. Thank you.

PRESIDENT: Thank you. Senator Rod Johnson, please, followed by Senator McFarland.

SENATOR R. JOHNSON: I'll pass.

PRESIDENT: Senator McFarland, please, followed by Senator Crosby.

SENATOR MCFARLAND: Thank you, Mr. President. I think the comments have been very good on the floor today. Appreciate and agree with many of the senators who have spoken on this issue. Senator Chambers didn't have a chance to finish his statement about what his actual position is on the resolution itself so I'll yield the rest of my time to him.

PRESIDENT: You still have four and a half minutes on it, Senator.

SENATOR CHAMBERS: Thank you, Senator McFarland. Members of the Legislature, when you look at the scope of the investigation that was envisioned in the first resolution, it is clear that there is no way that charge could have been completed in the interim, meaning between the time that the resolution was passed and the beginning of this session. The committee has done substantial work. It has been time consuming. There is a thoroughness that has resulted in the disclosure of witnesses and information of substance. So since the Legislature believed when it passed the first resolution that that issue was serious enough to be investigated and a committee to be established, and the committee has acquitted itself well up to this point. To cease the investigation at this point would be to have undertaken an act by the Legislature which is not to be carried through to completion. So I do think that the resolution should be approved. There is one comment that I have to make, Senator Labedz, about the prior investigation conducted by the Attorney General's Office or the noninvestigation, whatever it was. We had a gentlemen before us whose name was Vlahoulis and he was one of the most inept, incompetent people I have ever had come before a committee on which I sat as a member. For that individual to have been hired by the Attorney General and to be paid taxpayers money is almost in and of itself a dereliction of duty. For him to carry the title, investigator, I felt was to disparage anybody who carries that title. I sat through his entire testimony, I questioned him, there is a transcript of that testimony for anybody who wants to read it and be mightily amused. I asked him a question about what he had done in terms of investigating on the Franklin issue. Well, he had gone over to the Secretary of State's Office and got some papers relative to the board of directors or something like that and I told him that's secretary work, that's not investigating work. But on

the chance that it is investigative work and the person doing such work is an investigator, I have now added to the title of my legislative aide that of investigator. She does things of much greater substance than that, things in the nature of research, independent research, making phone calls and indeed, actually investigating. So we have people on our staffs who are doing this high professional work and not being paid for it and not even carrying the title. So if you walk in my office, above the door of my legislative aide in very large letters is the title, investigator. And I think at one of these Executive Board meetings some consideration should be given to adding compensation to any legislative aides, any administrative assistants, any secretaries who do investigative work. Give them the title behind the slash mark/investigator and pay them accordingly and we can get an idea of what they should be paid by checking the salary given to Mr. Vlahoulis. All of that having been said...

PRESIDENT: One minute.

SENATOR CHAMBERS: ...I wish the committee well and I do believe they are going to come forth with concrete recommendations because from the time that I was on the committee I saw things that needed to be changed. So I hope that this resolution will indeed pass.

PRESIDENT: Thank you. Senator Crosby, please, followed by Senator Chizek.

SENATOR CROSBY: Thank you, Mr. President. First, I'd like to emphasize that nothing I have said this morning has anything to do with any individuals on the committee nor the work that they have done. I think that what has come out of the committee is very good. I just wish at this point that they would focus on corrective measures rather than continuing the innuendoes about influential people who might have been involved or continuing investigations and saying we've turned it over, but they are not doing their job. I am really pleased to see that Senator Wesely has brought in LB 886. I am anxious to read that bill and I think that if you focus on strengthening our foster care program, the training of foster care parents, there are bills that are sitting that would help that situation, then I am all for your continuing the committee. I simply think that you should focus on a different field. I think the investigations are at the point where you're investigating the investigations.

I've read everything that I can read. I have not read the transcripts, I may have to go back and do that, but I think at this point I, again, I say I think you have all worked very hard, I respect every one of you. I say think you're every bit as sincere as you come across that you want this situation to be corrected, but I think now we need to emphasize and focus on corrective measures in the foster care, in law enforcement. Give law enforcement and Social Services the money that they need for the people to do these jobs. Every one of the state agencies in this particular field is hampered by not ever having enough money, nor enough people, and I think...as I say, I'm please that Senator Wesely has brought in LB 886. We need to look at 720. Again, all of those have big price tags and in the tenor of the times right now anything that has a big price tag is not going to get much attention. I am really concerned about that in this session. I think the things that Senator Warner said were very good and I do think at this time if you would focus on corrective measures, let the law enforcement group investigate again and follow up on everything that you have given them and follow up with them to be sure it is being done, that would be fine, but I still have reservations about continuing in the investigation itself. Thank you.

PRESIDENT: Thank you. Senator Chizek, please.

SENATOR CHIZEK: Call the question.

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

CLERK: 26 ayes, 0 nays to cease debate, Mr. President.

PRESIDENT: Debate has ceased. Senator Schmit, would you like to close, please?

SENATOR SCHMIT: Mr. President and members, I appreciate very much the remarks of all the members of this body. I appreciate especially the comments of Senators McFarland and Senator Chambers. Each of them has spoken from the heart and each of them have exercised their own convictions and acted upon their conscience and I respect them and I admire them and I continue to work with them and I know that we will in the future. I want to emphasize that I have not changed the direction of this investigation from the first time I stood on this floor and told

you that in my opinion that I would promise that we would take the investigation wherever it would lead regardless of who was involved and what we discovered and we have proceeded to do that. I would suggest that each and every one of you would be amazed, you would be horrified, you would be sickened by what this committee has discovered. Ladies and gentlemen, we are dealing with something, in my opinion, which is far more serious than of someone merely dropping the ball. I want to tell you this, we are dealing with the institutions of government, how they function, why they function or why they fail to function. I think Senator Baack, Senator Lynch and others have, Senator Warner, have touched upon it. I want to emphasize again, that in this particular instance it would appear that the institutions of government upon which we must rely, for whatever reason, and we have our own suspicions relative to that, did not function on behalf of certain individuals. I believe Senator Crosby refers to the foster care review program, that is a part of it, but only a small, very small part of this entire investigation. The bills which Senator Wesely referred to are important bills. There will be many more. But I would suggest to you that this committee has discovered evidence which we believe will lead to convictions, but that is not the most important part at this time. The important part of this investigation is why, why didn't it work? Why is a part-time investigator working for this committee? Why was that individual able to find witnesses and secure testimony which no area of law enforcement were able to secure? Number two, why were we told repeatedly by responsible officials whom I have defended time and time and again on this floor and whom I am sure I will defend again when the time is right and they have done something right. Why were we told that there was, in effect, nothing there, that it could not be substantiated? Why, when the inspector general came out with his report only recently, and I received a copy of it yesterday from Congressman Bereuter, why did the inspector general say that the only problem relative to child abuse in the State of Nebraska as they viewed it was, I believe, to paraphrase it, a lack of communication between law enforcement and the Department of Social Services. I say, hogwash! I am appalled that the inspector general would write such a report and make it appear as if there was not a problem here in the State of Nebraska. The members of this committee and the members of this Legislature have performed a service to the people of the State of Nebraska.

PRESIDENT: One minute.

SENATOR SCHMIT: We intend to continue to do that and I want to emphasize again, I do not have the time to go into details, but I want to emphasize again that this committee does not take our responsibility lightly. I can promise you that I would prefer, I wish a thousand times that I could stand here before you today and tell you that the committee has investigated all of these rumors and has found them to be of no consequence. Tragically, that is not true, not because some of the allegations have been made against influential individuals, but because if the allegations are true and I believe some of them are true, that means that children have suffered immeasurably, have suffered untold abuses and I would suggest that if it were not for the work of this committee, those abuses would never have been brought to light.

PRESIDENT: Time.

SENATOR SCHMIT: Mr. President and members, I ask your support of the resolution.

PRESIDENT: Thank you. The question is the adoption of the LR 232. All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 37 ayes, 3 nays, Mr. President, on adoption of LR 232.

PRESIDENT: The resolution is adopted. I would like to announce that we have a birthday boy with us today, birthday man, Senator Kristensen, and he provided the doughnuts for them and you can either clap for his furnishing the doughnuts or wishing him a happy birthday, whichever. Furthermore, I understand you'd like a moment of personal privilege. Oh, I'm supposed to announce, okay. In addition to furnishing the turkey, Senator Kristensen is announcing his candidacy for Governor on his birthday. (laughter) Oh, it says he is not announcing his candidacy for Governor on his birthday. Thank you for the doughnuts. We'll move on to...do you have anything for the record, Mr. Clerk, at this time?

CLERK: Mr. President, just an announcement. Banking Committee, chaired by Senator Landis, would like to hold an executive session now in the Senate Lounge, Banking Committee, Senate Lounge, now. That's all that I have, Mr. President.

PRESIDENT NICHOL PRESIDING

PRESIDENT: (Recorder not activated) ...Chamber. We have with us today as our Chaplain of the day, Pastor Jay Schmidt of the Lakeview Methodist Church in Lincoln. Would you please rise for the invocation.

PASTOR JAY SCHMIDT: (Prayer offered.)

PRESIDENT: (Gavel.) Thank you, Pastor Schmidt. We appreciate your being with us again. Please come back again. Roll call, please. Record, Mr. Clerk, please.

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

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

CLERK: Mr. President, I do. I have three appointment letters from the Governor requiring legislative confirmation. Those will be referred to Reference Committee for referral to the appropriate Standing Committee.

I also have a communication from Senator Coordsen, who is Chair of Business and Labor. A series of reports, Mr. President, one from the Natural Resources Commission; a report from one of the NRDs regarding payment of attorney fees, which is required to be filed pursuant to statute; Audit reports for the State Athletic Commission, Wayne State College, Chadron State, Peru State, Kearney State, as well as the Department of Administrative Services, Secretary of State, Department of Personnel, Nebraska Corn Development, Utilization, and Marketing Board, Governor's Office, Lieutenant Governor's Office, Racing Commission, the State Historical Society, State Electrical Division, Department of Water Resources, Policy Research and Energy Office; a series of other attorney payment reports by various NRD Districts, Mr. President, to be on file in my office; a report from the Department of Environmental Control. That is all that I have, Mr. President.

PRESIDENT: Thank you. While the Legislature is in session and capable of transacting business, I propose to sign and do sign, LR 230, LR 232, and LR 234. We will move on to the motion to adopt the temporary rules, Senator Lynch, please. Just a moment, Senator Lynch. (Gavel.) Senator Lynch.