

January 13, 1981

LB 122 - 133

RECESS

SPEAKER MARVEL PRESIDING

CLERK: Mr. President, Senators Sieck, Clark, Nichol would like to be excused until they arrive.

SPEAKER MARVEL: Clerk, record the vote.

CLERK: Quorum present, Mr. President.

SPEAKER MARVEL: Do you have some items to read in now?

CLERK: Mr. President, I do. I have a Reference Report from the Executive Board referring LBs 81 through 113. (Signed) Senator Lamb, Chairman. (See page 133, Legislative Journal.)

Mr. President, new bills: LB 122, title read; LB 123, title read; LB 124, title read; LB 125, title read; LB 126, title read; LB 127, title read; LB 128, title read; LB 129, title read; LB 130, title read; LB 131, title read; LB 132, title read; LB 133, title read. (See pages 134 to 136, Legislative Journal.)

SPEAKER MARVEL: I would like to alert you to the schedule for tomorrow. At eight thirty will the chairmen please make a note that we would like to meet in Room 1520 to discuss two or three items, one of them is the calendar; another has to do with the ending date as far as the introduction of bills is concerned. At nine o'clock the Legislature will convene, and at ten o'clock the Governor will come over and give us his State of the State message. So at eight thirty the chairmen at a caucus in Room 1520, nine o'clock we will convene and the Governor will be in at ten o'clock. Are we ready, Mr. Clerk? Senator Wesely. Senator Wesely, are you prepared to bring the Legislature up-to-date as to where we are at the moment and where we need to go in the immediate future?

SENATOR WESELY: Yes, Mr. Speaker, members of the Legislature, we have now taken care of three issues dealing with the Rules that were of some controversy and we are now left with the rest of the Rules of the blue book. We have dealt with Rule 7, Section 1; Rule 3, Section 11; and Rule 5, Section 5. We are now to the rest of the rules in the blue book and that is what is now open for discussion. We have a number of rule changes that have been proposed that are on the desk of the Clerk which we will go through in the order in which they have been

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LR 21
LB 47, 432, 129

CLERK: 19 ayes, 1 nay, Mr. President, on adoption of Senator Rumery's amendment.

SPEAKER MARVEL: So the amendment to the amendment is adopted. Now we vote on the committee amendments as amended.

SENATOR KREMER: Mr. Chairman, I move we adopt the committee amendments as amended by the Rumery amendment.

SPEAKER MARVEL: As explained by Senator Kremer. All those in favor of that motion vote aye, opposed vote no. Have you all voted? Have you all voted? This is the last bill of the morning. Record the vote.

CLERK: 25 ayes, 0 nays on the motion to adopt the committee amendments, Mr. President.

SPEAKER MARVEL: The committee amendments are adopted and now, Senator Rumery, do you want to advance the bill?

SENATOR RUMERY: Mr. President, I move that LB 47 be advanced.

SPEAKER MARVEL: All those in favor of that motion vote aye, opposed vote no. We are voting on the advancement of LB 47 to E & R for review. Have you all voted? Record the vote.

CLERK: 25 ayes, 1 nay on the motion to advance the bill, Mr. President.

SPEAKER MARVEL: The motion is carried. The bill is advanced. Now do you have some items on the desk?

CLERK: Yes, sir, I do. Mr. President, first of all, I have a series of motions for unanimous consent. Senator DeCamp asks for unanimous consent to add his name to LR 21.

SPEAKER MARVEL: Hearing no objections, so ordered.

CLERK: Senator DeCamp asks unanimous consent to withdraw his name from LB 432.

SPEAKER MARVEL: Hearing no objection, so ordered.

CLERK: Senator Nichol asks unanimous consent to add his name to LB 129.

SPEAKER MARVEL: Any objection? So ordered.

CLERK: (Read record vote as found on pages 908-909 of the Legislative Journal.) 25 ayes, 9 nays, Mr. President, 15 not voting.

SPEAKER MARVEL: The motion carried. The bill is advanced. Are you ready for the next item? We are going to continue on Select File. What we are trying to do in the meantime between now and noon we hope to have the priority list as promised for you. So we hope that everybody who possible will stick with us until we adjourn. Go ahead.

CLERK: Mr. President, Revenue Committee will meet in executive session Tuesday, March 17, at one-thirty in Room 1520.

Your committee on Judiciary reports LB 126 to General File with amendments; 129 to General File with amendments; 228 to General File with amendments and 242 to General File with amendments. (See pages 909-913 of the Journal.)

Senator DeCamp would like to print amendments to LB 273 in the Journal. (See pages 913-194 of the Journal.)

Your committee on Revenue reports LB 486 to General File and 412 to General File with amendments. (See pages 914-916 of the Journal.)

Mr. President, a new resolution by Senator Fenger and others. (Read LB 37 as found on pages 916-917 of the Legislative Journal.) That will be laid over.

I have a report of registered lobbyists. Your Enrolling Clerk has presented certain bills to the Governor. (Re: 55, 114, 128, 217, 246, 279, 388, 434, 462. (See page 917 of the Journal.)

Your committee on Miscellaneous Subjects recommends approval of certain gubernatorial appointments. (See page 918 of the Journal.)

Mr. President, LB 500, there are E & R amendments to the bill. Mr. President, there are E & R amendments to LB 500.

SPEAKER MARVEL: Before we proceed with that I want to introduce some guests who are underneath the South balcony from Chadron State College, 6 students, Angie Kolar from Neligh, Jim Stewart from Omaha, Laura Larson from Wauneta, Casey Frye from Lander, Wyoming, Gene Mohr of Stratton, Rhonda Hernandez of Scottsbluff. They have ridden four hundred and thirty miles on bicycles. If you would like to talk to them or see their equipment it is in the rotunda after 1:00 p.m. We welcome you to the Unicameral. Senator Beutler.

ones who are least in a position to be struck at. All of these anti-abortion bills fit into that category. I don't think that the committee amendments which basically are the bill

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: Excuse me, for what purpose do you arise Senator Labedz?

SENATOR LABEDZ: We already on this stage, General File have already had an indefinite postponement by Senator Marsh. Can it be done twice at this stage?

SENATOR CHAMBERS: It can be done everyday. It can be done once everyday, if the bill comes up. Everyday the bill comes up. I have had it done to mine and there is no rule against it. It can't be done twice on the same day, I don't believe.

SPEAKER MARVEL: The Chair, this kind of decision could go either way. The Chair rules in favor of Senator Chambers.

SENATOR CHAMBERS: I'll tell you what I'll do Mr. Chairman. I will make the motion on Select because I don't think that I would have 25 votes here and I won't have it there, but I will let the thing go for today.

SPEAKER MARVEL: Senator Cullan, do you wish to be recognized? Senator Labedz, there are no other lights.

SENATOR LABEDZ: In the interest of time there will be no closing. I just move for the adoption or advancement rather.

SPEAKER MARVEL: The motion is to advance 466. All those in favor of the motion vote aye, opposed vote no. Have you all voted? Record the vote.

CLERK: 26 ayes, 7 nays on the motion to advance the bill Mr. President.

SPEAKER MARVEL: Motion is carried the bill is advanced. Does the body want to continue or do you want to adjourn? Pardon. Okay, we will go with one more bill. The Clerk will read LB 129. Is that the one.

CLERK: Mr. President, LB 129 (read title). The bill was read on January 13, referred to Judiciary for public hearing. The bill was advanced to General File. There are committee amendments pending, Mr. President, by the Judiciary Committee.

SPEAKER MARVEL: Senator Nichol. Committee amendments to LB 129, Senator Nichol.

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LB 129

SENATOR NICHOL: Mr. Chairman, I move for the adoption of the committee amendments since they are the bill. As soon as you adopt the committee amendments, I will ask Senator Cullan to explain the amendments which is the bill.

SPEAKER MARVEL: Senator Cullan. Senator Cullan.

SENATOR NICHOL: Mr. Chairman, I will ask for the adoption of the committee amendments, then Senator Cullan will explain (interruption).

SPEAKER MARVEL: Okay, the motion is the adoption of the committee amendments to LB 129. The Chair recognizes Senator Cullan. Do you want to explain the amendments.

SENATOR CULLAN: All the committee amendments do is increase the tax on liquor, beer and wine. I guess I would have to open it up here to find out exactly what that is. I know it increases the tax on beer by three cents per gallon. I will have to check to tell you what the other increases are. It increases the tax on beer from twelve to fifteen cents per gallon, on light wines from fifty-five to sixty-five cents per gallon, on fortified wines from a dollar ten to a dollar twenty-five cents per gallon, and on hard liquor from two dollars and fifty cents per gallon to two dollars and seventy-five cents per gallon. I am not exactly sure what those percentage increases are. I think many of them we tried to get approximately in the ten percent range. I would urge for the adoption of the amendments. The amendments do delete all provisions from the bill dealing with public intoxication and so we leave the current status of the intoxication in the State of Nebraska as not being a crime, and with these amendments that will not affect that particular statute of Nebraska now. So I guess I would ask you to adopt the committee amendments.

SPEAKER MARVEL: Senator Higgins.

SENATOR HIGGINS: Mr. Speaker, members of the body, I rise to ask that this bill be referred back to the reference committee. According to the committee statement, LB 129 as originally drafted would reestablish public intoxication as a criminal offense in the State of Nebraska. Then the explanation of the amendments by the committee says, "The committee considered amendments offered by the introducer, Senator Cullan, which struck all original provisions of the bill and inserted sections increasing liquor taxes. After discussion, the amendments were adopted. The committee amendments become the bill." The committee amendment was actually the introducer's amendment. This bill was advertised to the public that it was a

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bill to criminalize public drunkenness and it was sent before the Judiciary Committee and the people of the State of Nebraska came to hear about a bill that was going to criminalize public drunkenness, but after the introducer said take out every reference that I had for public drunkenness, take out the entire bill that I have offered, and instead insert this amendment that says we want to tax alcohol. So there was no one there to really testify against the bill for alcoholism...for the tax on alcohol. It was merely...I consider it a sham to send this bill before the Judiciary Committee saying it is a bill that will criminalize public drunkenness and then totally take out all reference to public drunkenness and say we just want to put a tax on alcohol. So, in effect, the people who would be affected by a tax on alcohol have never had a public hearing on this bill.

SPEAKER MARVEL: Senator Higgins, do you have a....

SENATOR HIGGINS: So I would move that the bill be either indefinitely killed or sent to the Reference Committee to be properly referred to the proper committee. There has never been a public hearing on this.

SPEAKER MARVEL: Would you come up to the Clerk's desk and you need to write out what your motion is, please. Senator Chambers.

SENATOR CHAMBERS: I was asked a question on the previous bill. I had assumed that the committee amendments had been adopted but I don't see it listed in the book so were they officially adopted, 466?

SPEAKER MARVEL: I will check in just a minute. Are you talking about 129 or 466? 129?

SENATOR CHAMBERS: I was looking at 466 and I don't see where any committee amendments were adopted, so if what was advanced on 466 was the original bill, I just want to know if that is true so I will know what to do for Select.

CLERK: Senator, will you, I am sorry, there is a lot of conversation. Your question is whether the committee amendments were adopted on 466?

SENATOR CHAMBERS: Yes.

CLERK: They were. On March 30, Senator, Monday, when we last considered it.

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SENATOR CHAMBERS: I don't have it in my book. I just wanted to be clear, thank you.

CLERK: Okay, they were.

SPEAKER MARVEL: The motion by Senator Higgins is to refer the bill back to the...

CLERK: Reference Committee, Mr. President.

SPEAKER MARVEL: ...Reference Committee, is that correct?

CLERK: Yes, sir.

SPEAKER MARVEL: Is there any further discussion? You have a minute left.

SENATOR HIGGINS: I would just like to remind the body that the reason we hold public hearings in the State of Nebraska is to give notice to the people of what we are doing to them or for them, and in this case, we were going to raise the tax on alcohol without letting anybody know about it and without any public hearing and we did it under the sham of saying we are going to criminalize public drunkenness. Had this really been a committee amendment, I probably wouldn't feel this way but this amendment was introduced by the introducer of the bill. So it was never his intent to criminalize public drunkenness but, merely, to tax alcohol without having the public receive due notice and this is why I ask that it be referred back to the proper committee for a public hearing. Thank you.

SPEAKER MARVEL: Senator Warner.

SENATOR WARNER: I would assume, Mr. President, that we either accept or reject the committee amendment and then make a decision to send it back to committee for a hearing. My question is, if the committee amendment is not adopted by the body, then there is no need to have a hearing I would assume.

SPEAKER MARVEL: Senator Higgins, would you respond to Senator Warner.

SENATOR HIGGINS: My only response it, I don't know what you call a committee amendment, I call a committee amendment an amendment that the committee decides on. But this sheet out of the Journal itself says that this was an amendment that the original introducer proposed after he asked that his original bill be gutted. So it is not really a committee amendment. It is the introducer's

amendment. So what you are saying is we have to vote on whether or not we are going to vote for the introducer of the bill to be able to use an amendment to his original bill and actually it is a new bill. It is not an amendment. It is another bill.

SPEAKER MARVEL: Senator Nichol, can you move the adoption of the committee amendments?

SENATOR NICHOL: Yes, Mr. Chairman, I would move the adoption of the committee amendments, and I would just say this that, yes, we did have a hearing, and, yes, it was Senator Cullan's original intent to have the hearing on the basis of what the bill said originally. I don't think, as Senator Higgins has suggested, that he had this in mind all of the time but I do move for the committee amendments and then we can go from there.

SPEAKER MARVEL: The motion first of all is the adoption of the committee amendments as explained by Senator Nichol. Senator Cullan, do you wish to respond to that motion?

SENATOR CULLAN: Yes, Mr. President, members of the Legislature, I think I do wish to respond. I guess I am a little surprised at Senator Higgins who evidently as of late has become some kind of a mind reader, and Senator Higgins has made some charges today that my intent here has always been to raise the alcohol taxes and that I had no intent to decriminalize or to reinstate intoxication as a crime. It is too bad that our mind reader hasn't done a little bit more research in this regard. If our mind reader had done a little bit more research in this regard, she would have discovered that I have consistently opposed the decriminalization of public intoxication. I voted against the bill that did that. I introduced a bill the very next year to reinstate intoxication as a crime and I introduced this bill for the purpose of reinstating intoxication as a crime. Now when it became clear that the Judiciary Committee would not adopt that concept, when it became clear that instead they chose to put a version to the floor that Senator Higgins had introduced, a bill that would allow individuals on quasi public property to be taken into custody, then I saw that LB 129 could serve as a vehicle to solve many of the same problems that had been caused to a large extent by decriminalization of public intoxication. Now some of you may or may not know but about \$600,000 in federal funds are going to be lost very shortly for alcohol treatment facilities and that doesn't bother me because I would just as soon fund those things from the state level but some existing alcohol treatment facilities in the State of Nebraska are

going to be closed unless we do something and there is a need, in my opinion, and in the opinion of those of us who are familiar with the alcohol issue, that we need additional alcohol treatment facilities in the state and that much of the need for those facilities is a direct result of decriminalizing public intoxication. Now we can ignore the pro

if we want to or we can take the funds from the general fund if we want to, but it is my feeling and it is my strong feeling that we need to meet the problem headon and that we should take those funds from alcohol tax and not from many of the people in the State of Nebraska who do not use alcohol. Now these amendments appropriate the money to the general fund and then the A bill would appropriate most of that money to alcohol treatment programs. I think this is a very important bill. I think the charge that I did not intend to reinstate public intoxication as a crime is simply ridiculous. I have never supported decriminalizing public intoxication, and if I thought I could get the votes to keep it, I would do it now but I know I can't. So I am going to do the next or try to do the next best thing, to insure that in the Chadrons and the Gordons and the Rushvilles, and, yes, in Omaha, we don't leave people laying in the street, that we insure that those individuals with alcohol problems do get some treatment and that they are not just ignored and left on the street to do whatever they want to do. I guess...I guess that is all I have to say. I hope you adopt the amendment and then I hope you reject Senator Higgins' attempt to who knows do what.

SPEAKER MARVEL: Senator Hefner.

SENATOR HEFNER: Mr. President...Mr. President, what motion are we talking to now. Is this to adopt the committee amendments?

SPEAKER MARVEL: This is the motion to adopt the committee amendments.

SENATOR HEFNER: Okay, I would like to talk to that just a little bit and I don't know why Senator Cullan has his feathers so ruffled. I don't see any reason to get up-tight. The original bill was to reestablish public intoxication as a criminal offense in the State of Nebraska. Now the committee has offered amendments that does not address this. It addresses raising the liquor and beer and wine taxes and maybe I should get a little ruffled here because I think that this bill should go back to the Revenue Committee. Senator Cullan, what is the purpose of the Revenue Committee? The purpose of the Revenue Committee is to analyze the taxes that we have in the State of Nebraska and that is what we do on these liquor

taxes. These amendments change the bill entirely. I think that we should give the industry, the beer, wine and liquor industry, a chance to get their two cents worth into this bill and, therefore, I would like to have you kill the amendments and then perhaps kill the bill, too. I think Senator Cullan's deal is a back door approach and Senator Cullan knows better than to do this. I don't know how he feels he can get something across like this, I suppose because it is late in the day, well, he thought this is a good chance to do it and maybe we do need an increase in liquor taxes. I am not saying that we don't but let's go through the proper channels and do this in the correct way.

SPEAKER MARVEL: Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, we just got through discussing LB 466 which I understood from reading the title was to define an act of professional...of professional misconduct or an act of unprofessionalism or something and it turns out to be a licensure bill brought about with the committee amendment and Senator Hefner sat there and voted for that bill and now without even any other business intervening he stands up on this floor and says "Why this amendment changes the bill and I don't know why Senator Cullan did it". Well, he is following your lead, Senator Hefner, and the lead of others on this floor who have done the same thing, and as for the industry getting its two cents worth in to this bill, the way it is drafted they will get more than two cents worth in to it and I am very much in favor of that. So what I wish the body would do is adopt the committee amendments, and we should stop everytime an amending process like this is utilized pretending to be so surprised. It has been done in manners more drastic than this. Why, Senator Hefner, to get a medical malpractice bill through the Legislature, Senator Schmit amended a meat cutter's bill and to my way of thinking he was trying to protect the meat cutters who call themselves doctors so they couldn't be sued so maybe there was a connection there, too, really. But if you take the words on their ordinary meaning, those two had no relationship to each other whatsoever. These two concepts are intimately related and I assure you that if we adopt the committee amendments, instead of rerefering the bill anywhere, the industry is very capable of taking care of itself. If one individual in this industry can marshal the Governor of Nebraska, the mayor, the news media, the Legislature to come trotting out to his place and sending messages to him, you know the industry as a whole, Senator Hefner, will make its opinion known to the Legislature. So rather than delay this bill any more, I

hope you will at least adopt the committee amendments and then we can deal with that issue by itself. All of us have looked at bills before that dealt with raising the taxes on liquor so it is not new and there have been hearings in the past. So I am in favor of the adoption of the committee amendments. I am a member of the Judiciary Committee. I agreed with it there. I agree with it now.

SPEAKER MARVEL: Senator Nichol.

SENATOR NICHOL: Mr. Chairman, members of the Legislature, this is nothing new. This has been heard many times about securing money for detox centers and what was the big hubbub about when we had the hearing on this bill and on Senator Higgins' bill? Well, I will tell you what it was. The City of Omaha didn't know what to do. They couldn't arrest people. They couldn't pick them up. They couldn't take them to jail. They couldn't do anything. The county sheriff...no, excuse me, the Chief of Police was down here from Omaha. What will we do? He was frantic. No money. No detox centers. They won't take them at the hospital. They won't take them in this situation or that situation. We can't do anything, he said. His officers were down here. His legal counsel was here. Couldn't do a darn thing. That is why Senator Higgins had another portion of her bill that we took out but we need money, he said, we don't have any money to do anything. So we said we will raise some money for you. Senator Cullan had a very good bill here so, Senator Higgins, we are from the government. We are here to help you. Have you heard that before? Now since Omaha can't obviously handle their affairs, as has been proven in the last two or three days here, it looks like this Legislature will have to take care of this one, too. So that is why we are suggesting this. It doesn't make a bit of difference to me. We have a detox center where I live. We have a place that will take them, have a mental health center, not hurting too bad, but Omaha is the one that is in trouble. Well, here is a place to take a hold. Be sensible about it. I don't care if you want to refer it back to committee. We will have a hearing. But I think maybe if we do we ought to raise that a little bit on the beer. Actually we have the goodwill of the hard liquor and the wine industry, I understand, but we don't have the goodwill of the beer industry yet. Maybe we could raise that another nickel while we are at it. So maybe it ought to go back to a hearing. I would suggest, I think it would probably go back to Judiciary, we could solve a problem that has to do with that field more so than the revenue but I do urge you to adopt the committee amendments because there is no chance of going back to the bill in its original state.

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LB 129

SPEAKER MARVEL: Senator Koch.

SENATOR KOCH: Mr. Speaker, I move the previous question.

SPEAKER MARVEL: Do I see five hands? Okay, all those in favor of ceasing debate vote aye, opposed vote no. Record the vote.

CLERK: 28 ayes, 0 nays to cease debate, Mr. President.

SPEAKER MARVEL: The motion is to adopt the committee amendments and the Chair recognizes Senator Nichol.

SENATOR NICHOL: No closing.

SPEAKER MARVEL: All those in favor of the adoption of the committee amendments vote aye, opposed vote no. Have you all voted? The motion is the adoption of the committee amendments. Record the vote.

CLERK: 25 ayes, 10 nays, Mr. President, on the adoption of the committee amendments.

SPEAKER MARVEL: Senator Higgins.

CLERK: Mr. President, Senator Higgins moves to rerefer the bill back to the Reference Committee.

SENATOR HIGGINS: Mr. President, members of the body, first I think I had better tell you what my buddies, Nichol and Cullan, are really doing here. If you look at the original bill you see the original introducer was just good old Sam Cullan. Later, Senator Nichol, Chairman of the Judiciary Committee, was added as a cointroducer. Now Senator Cullan has accused me of crystal ball gazing and talking about knowing in advance what his plans were. I want to read you just parts of an article from the Omaha World Herald regarding my LB 87 which as Senator Sam Cullan said the Judiciary Committee did advance to this floor but what Senator Cullan never told you was they gutted the bill that would have helped Omaha. They took out everything that Omaha had put into the bill and they advanced it and left only one thing, quasi public property and holding derelicts up to twenty-four hours instead of twelve. But in the Omaha World Herald when Senator Cullan's bill was heard before the hearing, this is what the World Herald said, "Cullan, as the lone spokesman for LB 129, said the public needs protection", now this is what he said when he introduced the bill to criminalize alcoholism or drunkenness. "He said he wasn't attempting to subvert alcoholism treatment reminding committee members he sponsored legislation in prior years to increase funding

for such treatment. Now two minutes ago he told you he wants to tax alcohol because he wants to do something for these treatment centers. Then he went on and in the World Herald they said or Senator Cullan said, "But I do believe the experiment that we have begun with public intoxication has not worked, he said." And to my knowledge Senator Sam Cullan has not asked the World Herald to retract his statements that day when he said the treatments we have for public intoxication have not worked and that is why he was there, he said, with his bill to criminalize public drunkenness. And that is why I am making the motion today that since this was, I still say, a sham, a trick, because it was Cullan's motion that said take everything out to do with public drunkenness and my amendment doesn't do anything but say let's tax alcohol. So you be the judge, Senators. What was his intent? He just told you he wants to help the alcoholics. So did Senator Nichol. But he told the World Herald that he knew these alcoholic treatment centers weren't working. That is right here...anybody wants to read it. So I am asking in fairness to the people of Nebraska that this bill be referred back to the Reference Committee in order that it be set for a public hearing and this time those who will really be affected by his bill will have a chance to hear it and to oppose it, and it looks kind of silly for LB 129, which he says is going to raise money for the treatment of alcoholism, when you look at the committee statement it says who are the opponents: The Lincoln Council on Alcoholism and Drugs, Omaha Council on Alcoholism and Drugs, Chairman of the National Council on Alcoholism, the Nebraska Chapter of the National Society of Social Workers. So how could those people possibly be against the bill that Senator Cullan has said is going to do so much good for alcoholism. It just looks facetious and ridiculous for them to oppose a bill that he says is going to help them. I think, Senators, you owe it to the people of Nebraska to give them a fair and an honest hearing on this bill. Thank you.

SPEAKER MARVEL: Senator Koch.

SENATOR KOCH: Mr. Speaker, we are not here to argue the merits of what the committee amendment is at the present time, we are here to argue whether or not we are going to follow I think what is properly in order for this body, that when you are introducing a subject matter such as this that the industry, whoever it might be, have an opportunity at a public hearing to either defend or oppose. And so therefore I am going to support the motion to re-refer and have a public hearing in the interest of integrity and I think this body owes that to anyone and I remember

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Senator Nichol who so ably handled the yellow bus bill a few years ago. The Education Committee held a public hearing on it and I was gone one day. Suddenly it became a blue bus and went to the Judiciary Committee to be heard again. Now we gave that a double jeopardy and I have never heard from that bill since but it had 28 votes once on this floor. So I want to merely follow tradition and I want to make certain that public hearings are properly provided under the rules of this Legislature. I ask for the referral of this bill to the Reference Committee for placement with the proper committee.

SPEAKER MARVEL: The motion is to rerefer the bill. Senator Cullan, do you wish to respond to that motion?

SENATOR CULLAN: No, Mr. Chairman, I just wish to call the question.

SPEAKER MARVEL: The question has been called for. Do I see five hands? All those in favor of ceasing debate vote aye, opposed vote no. Record.

CLERK: 27 ayes, 1 nay to cease debate, Mr. President.

SPEAKER MARVEL: Okay, debate ceases. Senator Higgins, do you wish to close?

SENATOR HIGGINS: I just want to say one thing, once again, Mr. President and Senators, if this state really believes in giving the people a fair shuffle and not a fast shuffle, we will give the people who will be affected by this tax a chance to be heard. Thank you.

SPEAKER MARVEL: The motion is to rerefer the bill to the Reference Committee. All those in favor of that motion vote aye, opposed vote no. Have you all voted? Have you all voted? Clerk, record the vote. Shall the Legislature go under Call? All those in favor vote aye, opposed vote no. Record.

CLERK: 17 ayes, 14 nays to go under Call, Mr. President.

SPEAKER MARVEL: The House is under Call. All legislators please return to your seats and record your presence. Senator Pirsch, will you record in please? Senator Kahle, will you please record your presence? Senator Labeledz. Senator Lowell Johnson, will you record your presence? Do you want to proceed with the...do you want a roll call? Okay, everybody is accounted for. The motion is to rerefer the bill to the Executive Board. Call the roll.

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CLERK: (Roll call vote taken. See pages 1266 and 1267, Legislative Journal.) 19 ayes, 24 nays on the motion to rerefer, Mr. President.

SPEAKER MARVEL: Motion fails. Senator Nichol, for what purpose do you arise?

SENATOR NICHOL: I just wanted to advance the bill, Mr. Chairman. You have heard the amendments which is the bill and I just move to advance the bill.

SPEAKER MARVEL: Senator Koch, your light is on.

SENATOR KOCH: Well, if we are going to do this, Mr. Speaker, then we might as well stick around awhile. Senator Cullan never did get into the bill. I don't know what the amount of money that is involved. We were talking primarily about criminalization of intoxication. Then we got into possibly increasing dollars for detox centers and health, and off the back of my hand here I read the bill really should have gone to education because I understand some of that money is going to develop curriculum to handle alcohol's disease and how we can avoid that, but since we did not see fit to follow the tradition of this body and refer it, we might as well stick around here and discuss it very thoroughly because I want to hear Senator Cullan tell me exactly what he is going to take from the industries and the amount of money that can be expected to be raised and how we are going to allocate it and what the noble purposes are going to be. Originally, I might advise you, Senator Nichol came up to me in his very suave way the other day and asked me if I could support a little more money for the purpose of treating alcohol's disease and I sort of offhandedly said, "Yes, I could", but that was before I found out that it hadn't been through a hearing. So I am not going to allow this to happen to an industry whether I believe in their half or the other half. So I would want a complete explanation of the bill by Senator Cullan, since obviously he is the author.

SPEAKER MARVEL: Senator Haberman, for what purpose do you arise?

SENATOR HABERMAN: A point of order, please.

SPEAKER MARVEL: What is the point.

SENATOR HABERMAN: I believe we have got a rule that all bills like this are supposed to have an A bill with it and I don't believe this...no, Pat. Doesn't the rule book

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say that any bill that...I withdraw my point of order.

SPEAKER MARVEL: Okay. Yes, state your point.

SENATOR HIGGINS: Under the Rule 6, Section 3, paragraph (g), the rule says "In the event a bill has become substantially a new and different bill by reasons of amendments having been adopted, the Speaker may refer said bill to the Reference Committee who must refer the said bill to a proper committee for a public hearing." That is Rule 6, Section 3, paragraph (g). We have adopted the amendment, haven't we, Mr. Speaker?

SPEAKER MARVEL: Senator Chambers, for what purpose do you arise?

SENATOR CHAMBERS: Mr. Chairman, there is such a thing as a proper use of the rules and an improper use. A motion was made to refer this bill and the motion was defeated and the bill is not mandatory on the Speaker, it is discretionary with the Speaker, but if the Speaker exercises his discretion to refer it back to the Reference Committee, then they are compelled to rerefer it. But rather than to make a request to the Speaker to refer it, you offered a motion which failed. So now we have the bill properly before us and there is no way that the rules can be turned or manipulated to require the Speaker to undo the vote that was taken, and the only way you can get another vote on it is to move for reconsideration, and if you couldn't get twenty-five on the first one, I don't think you can get twenty-five on the second one.

SPEAKER MARVEL: I am sorry. I am sorry, we have been... Senator Beutler, for what purpose do you arise? The motion is to adjourn. That is not debatable. All those in favor of adjourning vote aye, opposed vote no, and by adjourning we mean nine o'clock tomorrow morning. No, that is what adjourn means. Record the vote.

CLERK: 26 ayes, 8 nays to adjourn, Mr. President.

SPEAKER MARVEL: Okay, we have adjourned and we will see you all tomorrow morning bright and early, nine o'clock.

Edited by:

Marilyn Zank
Marilyn Zank

2768

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LB 129

RECESS

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: Has everybody recorded their presence?
Record the vote, Mr. Clerk.

CLERK: There is a quorum present, Mr. President.

SPEAKER MARVEL: Have you got some items to read in?
None. Okay, the first order of business this afternoon
is General File, priority bills, and the first bill is
LB 129.

CLERK: Mr. President, LB 129 was offered by Senators
Nichol and Cullan. The bill was first read on January 3rd,
referred to the Judiciary Committee. The bill was advanced
to General File. The committee amendments were adopted
by the membership. Mr. President, there was a motion con-
sidered on April 1 to refer it back to a committee. I
believe Senator Nichol has some additional information.

SPEAKER MARVEL: Senator Nichol.

SENATOR NICHOL: Mr. Chairman, members of the Legislature,
in discussing this with Senator Cullan and some other
members of the body, we ask permission to refer it back
and I would ask to have it go back to Judiciary Committee
where the bill was heard in the first place. I think
perhaps Senator Hefner may have an idea of it going some-
where else but I thought it would be the most expeditious
to have it back to the Judiciary where we've heard similar
type bills in the past. And as I understand the rules
now with the order of the Chair, with the order of the
Speaker, this can be done. So I would request that we would
have it go back to Judiciary for a hearing since the subject
matter has been entirely changed from the original draft of
the bill.

SPEAKER MARVEL: Senator Nichol, do you want to make a
motion to that effect?

SENATOR NICHOL: Yes, Mr. Chairman.

SPEAKER MARVEL: The motion is to send the bill back to
the Judiciary Committee? All right, Senator Koch, your
light is on and then Senator Higgins.

SENATOR KOCH: Mr. Speaker, members of the body, we were
discussing this legislation or proposed legislation the

other day. There was a motion to rerefer it to the Reference Committee for proper reference and referral, and when the bill originally came in the Judiciary Committee, certainly that language was germane to that committee because it was dealing with decriminalizing or criminalizing intoxication. Now the bill is strictly a bill that discusses revenue which primarily would be derived from alcoholic beverages and I am proud of Senator Nichol and his fairness now to finally see the light and want to refer it for proper hearing. However, I would disagree with the fact it would go back to Judiciary and I move if we are going to do this properly it should go to the Revenue Committee, and then if you want to take it one step further, since that money is going to be used to provide education for those who abuse themselves with excessive alcoholic beverage, then it might well go to the Education Committee because there is an issue involved here with education. But seriously, I would, if it is appropriate, is there an amendment up there by Senator Nichol to that effect that it be referred directly to the Judiciary Committee?

CLERK: Senator Nichol's motion is to refer it to the Judiciary. I do have an amendment pending to the motion to refer it to Revenue.

SENATOR KOCH: To refer it directly to rather than going back to the Reference Committee?

CLERK: Right.

SENATOR KOCH: I will draft an amendment to Senator Nichol's amendment then. Thank you.

SPEAKER MARVEL: Senator Higgins.

SENATOR HIGGINS: Mr. Speaker, members of the body, I have to support Senator Koch. I was the one that originally asked that the bill be rereferred to the Reference Committee for them to decide, since it is no longer germane to the original bill, and that as it is now written it is strictly a tax measure which my first guess would have been that it should go to the Revenue Committee. But then Senator Koch pointed out the money is supposedly going to be used to educate people about alcoholism so here is Senator Higgins saying it should go to Revenue and Senator Koch said it should go to Education and I think in all fairness to the introducer of the bill and everyone concerned that the Reference Committee should decide where it should go. Thank you, Mr. Speaker,

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SPEAKER MARVEL: Senator Hefner.

CLERK: Mr. President, Senator Hefner moves to amend the Nichol motion by striking Judiciary Committee and inserting Revenue Committee.

SPEAKER MARVEL: Senator Hefner.

SENATOR HEFNER: Mr. President and members of the body, the reason that I have amended the Nichol motion is because I feel this bill should go back to the Revenue Committee. What is in this bill now? What is in this bill now is strictly increasing the taxes on alcoholic beverages and I don't know why we would have to send it back to the Reference Committee. I think it is very clear that the Revenue Committee should have a hearing on this bill and I realize that as the session goes on time is getting more precious. I doubt whether this bill would come before the body again this session but the Revenue Committee could go ahead and have a hearing on this bill, get input from the pros and cons, let the industry defend its position and also let the introducer tell us exactly what he has in mind and, therefore, I would urge you to support this amendment to the Nichol motion.

SPEAKER MARVEL: Senator Nichol.

SENATOR NICHOL: Mr. Chairman, I would suggest that if you don't want to take it to Judiciary Committee, perhaps it should go to the Reference Committee and that would be all right with me. I don't know that it is up to this body to say which committee it should go to, is it? Should it go to the Reference Committee?

SPEAKER MARVEL: Senator Nichol, your motion would be in order.

SENATOR NICHOL: Okay, then I would urge you not to support the Hefner amendment.

SPEAKER MARVEL: Senator Lamb.

SENATOR LAMB: Mr. President, members of the Legislature, if we are going to rerefer a bill, that properly should be the domain of the Reference Committee, so I suggest that if it is going to be referred anywhere, as Senator Higgins suggested, it should go to the Reference Committee for proper disposal.

SPEAKER MARVEL: The question has been called for. Do I see

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five hands? With the permission of the introducer of the last motion, if you can hold it for a moment, I think we have a solution to the problem. Go ahead. We have a solution to the problem. The Clerk will read the solution.

CLERK: Mr. President, Senator Hefner will withdraw his motion and I understand Senator Nichol is now offering a motion to refer LB 129 to the Reference Committee for rereferral.

SPEAKER MARVEL: Hearing no objections on Senator Hefner's motion, so ordered. Now what is the other?

CLERK: Mr. President, the motion then is to refer LB 129 to Reference Committee for rereferral.

SPEAKER MARVEL: Is there any discussion on that motion? Senator Newell, your light was on. Do you wish to speak to the motion? The motion before...the Clerk will read the motion.

CLERK: To rerefer LB 129 to the Reference Committee.

SENATOR NEWELL: Yes, I would like to ask a question. I don't know, Senator Nichol, this is your bill and Senator Cullan's bill. If you could answer a question for me, is it...you are offering the motion to rerefer now to the Reference Committee, isn't that correct? Why...has this basically been worked out or agreed to, and I am not sure there is a need to refer it back to the Reference Committee and have a hearing on it but...

SENATOR NICHOL: Well, the other day you recall we voted on it and some members of the body would rather have had it to go back for a hearing since all of the innards of the bill had been stripped out and a new amendments replaced it and many members requested that it go back for a hearing, and in a sense of fairness, Sam and I decided that is what we would do.

SENATOR NEWELL: Thank you, Bill. Now I guess one of the things that comes to mind in this whole area of sending things back to committee to have another hearing is whether or not the committee is going to have hearings on them, whether they want to have hearings on them, and whether or not this precedent is going to work for 284 or this precedent is going to work for the vet school since there were some changes made on it on the floor of the Legislature, whether this sort of precedence is going to work for just a myriad of other bills that have, in fact, been changed

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LB 129, 412

or altered either by committee amendments or by this floor. I think we have to analyze this whole question of referring things back and holding public hearings on them everytime there is a change because we may find ourselves having as many public hearings here towards the end of the session as we had earlier on. I just wish the body would consider that. I am not opposed to sending it back to the Reference Committee but I hope this precedence doesn't last, and if it does, I would like to know now so that I can start requesting hearings.

SPEAKER MARVEL: The motion before the House is to refer LB 129 to the Reference Committee, is that right? Okay, all those in favor of that motion...Senator Hefner, do you wish to speak again? The motion is to refer 129 to the Reference Committee. All those in favor of that motion vote aye, opposed vote no. Have you all voted? Record the vote.

CLERK: 33 ayes, 2 nays on the motion to rerefer to Reference, Mr. President.

SPEAKER MARVEL: That motion is carried. The bill is re-referred.

CLERK: Mr. President, LB 412 was offered by Senator Dave Newell. (Read title.) The bill was first read on January 20, referred to the Revenue Committee for public hearing. The bill was advanced to General File. There are committee amendments pending by the Revenue Committee, Mr. President.

SPEAKER MARVEL: Senator Hefner, do you wish to take the committee amendments?

SENATOR HEFNER: Mr. President, members of the body, the committee amendments become the bill now and so I am going to ask Senator Newell to explain these amendments.

SPEAKER MARVEL: Senator Newell.

SENATOR NEWELL: Thank you, Senator Hefner. Basically the amendments, the amendments to the bill clarify the intent in the use of the greenbelt provisions. In the former language it was required that the agricultural zone be totally agricultural and that has created some problems. The Attorney General has written some opinions about the difficulty of anything being totally or solely agricultural so we are changing the word from "solely" to "predominantly" agricultural so that we can get that kind

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LB 241, 129, 436

CLERK: Yes, sir. Mr. President, your committee on Judiciary gives notice of hearing on LB 129 next Monday.

A reference report from the board, and Senator Koch would like to print amendments to LB 436 in the Journal, Mr. President. That is all I have.

SENATOR KAHLE: Senator Clark, would you like to adjourn us until tomorrow morning at nine o'clock?

SENATOR CLARK: Mr. President, I move we adjourn until nine o'clock tomorrow morning, April 7th.

SENATOR KAHLE: All those in favor of that motion signify by saying aye, those opposed same sign. We are adjourned until nine o'clock tomorrow morning, April 7th.

Edited by


Mary A. Turner

April 14, 1981

LB 40, 129, 296

RECESS

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: In the North balcony from Senator Fowler's District, it is my privilege to present 25 fifth and sixth grade students from Saratoga School, Lincoln, Nebraska. Mrs. Janice Harry, Mrs. Connie Niedt, Mrs. Wanda Dissmeyer are the teachers and you are in the North balcony. Will you raise your hand so we can see where you are? Record the vote.

CLERK: A quorum present, Mr. President.

SPEAKER MARVEL: The Clerk will read the items.

CLERK: Mr. President, your committee on Judiciary to whom was referred LB 129 respectfully reports the same back to the Legislature with the recommendation it be advanced to General File as previously amended.

Mr. President, Senator Cope would like to print amendments to LB 296. That is all that I have, Mr. President.

SPEAKER MARVEL: We are ready for a change in the agenda and the first motion, if I can have your attention, I would like to make a comment. The first change in the agenda or the first motion should be a change in the agenda in order to take up LB 40. Does anybody want to speak to that motion? The first motion is the change in the agenda in order to take up LB 40. The Chair rules that you have to overrule the Speaker's order. Are you already for that motion? All those in favor of overruling the Speaker's agenda vote aye, opposed vote no. Senator Marsh.

SENATOR MARSH: (Mike off) I am sorry but I do not know what the issue is (inaudible) and I need to have it clarified further before I vote on this issue.

SPEAKER MARVEL: Senator Dworak.

SENATOR MARSH: I am not debating.

SPEAKER MARVEL: The original motion was the motion by Senator DeCamp and the Chair is ruling that in order to proceed with that motion you have to overrule the Speaker's agenda. So what you are now doing is voting one way or the other to either sustain or overrule the Speaker's agenda. That is about as plain as I can make it, Senator Marsh. Have you all voted? Senator DeCamp.

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SENATOR CLARK: You have heard the motion. All those in favor say aye. Opposed. The bill is readvanced. We have six students from K to 7th Grade, the Nebraska Families for Christian Education, Columbus, Nebraska, John Harrington and Russ Mohrman are the Elders. There's seven adults with them. They are in the north balcony. Will you raise your hands so we can see where you are? Welcome to the Legislature. We now go to item #5, General File, LB 129. Do you have anything to read in, Pat?

CLERK: Mr. President, with respect to LB 129, it was a bill introduced by Senator Nichol and Cullan. (Read title.) The bill was first read, Mr. President, on January 13, referred to the Judiciary Committee for hearing. The bill was advanced to General File. On April 1 of this year the committee amendments were adopted. The bill at that point, Mr. President, was referred back to the Judiciary Committee because of the committee amendments. The bill has since been....has had a second public hearing, has been readvanced to General File. The committee amendments that were previously adopted are still...are the bill, Mr. President, at this point.

SENATOR CLARK: No additional committee amendments? Senator Nichol.

SENATOR NICHOL: Mr. Chairman, the committee amendments have been adopted. I believe there is one other amendment we should take up.

CLERK: Mr. President, Senator Nichol would move to amend the committee amendment previously adopted. (Read the Nichol amendment as found on page 1965 of the Legislative Journal.)

SENATOR NICHOL: Ladies and gentlemen, you will recall this was a beer, wine and liquor tax bill that we had up quite some time ago and several of you voiced opposition because we had not had a hearing specifically on the amendments that are now the bill. Did have another hearing, advanced the bill. It is not out here. In that...in those amendments we did have beer at 15 cents per gallon and the beer people thought this was a little strong, visited with us and we agreed to reduce that to 14 cents instead of 12 as the current amount of tax. I move for the adoption of this amendment.

SENATOR CLARK: Senator Cullan, on the amendment. Okay, is there any discussion on the amendment? If not, all those in favor vote aye. All those opposed vote nay. I would

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LB 129

like to announce there is 25 students from Conquerors Christian Academy from Lincoln. They are in the south balcony. The teacher is Mrs. Wasmundt. They're from Senator Landis' District. Where are you, please? Welcome to the Legislature. Record the vote.

CLERK: 29 ayes, 0 nays on adoption of Senator Nichol's amendment.

SENATOR CLARK: The amendment is adopted. Senator Cullan, on the bill.

SENATOR CULLAN: Mr. President and members of the Legislature, I think most of you are familiar with the contents of this bill and the reason behind it. As you can see, the amendment which we just adopted will raise...we have compromised with those who represent the liquor and wine and beer industries so that we will raise \$1.7 million instead of the 2 point, I believe 3 million dollars that we were going to raise previously. These funds, we will introduce an A bill later to determine how these funds should be expended. Whether or not you agree with the proposal for expending these funds, I think it is prudent for us to raise these taxes. As Senator Nichol and I have told you on previous occasions, we do believe that these funds should be spent for alcohol treatment and alcohol education. Approximately \$600,000 of federal funds will be lost in the very near future and we would believe that these funds should be replaced to continue alcohol treatment programs in Omaha, in Gordon and other locations throughout the State of Nebraska, and then we would propose consistent with the plan that we distributed to you earlier that alcohol treatment facilities, particularly detoxification centers, be expanded at various locations throughout the State of Nebraska. Also we believe that some of this money should be used for educational programs to discourage people from drinking, from drinking and driving and other things. The philosophy of the State of Nebraska and the philosophy behind decriminalization of intoxication was that we should not punish people with drinking problems, that rather we should ensure that these individuals are treated. Well, the State of Nebraska went half way with that philosophy. We said that we are not going to punish people with drinking problems and then we stopped. We didn't continue to do anything or to address the problem of what we were going to do with those individuals that we no longer incarcerate. So the problem is in many parts of the State of Nebraska that these individuals are not picked up, these individuals are not taken to treatment facilities because in many parts of the State of Nebraska the treatment facilities

simply did not exist. So if the philosophy of decriminalization of intoxication is ever going to work, then we have to back up that philosophy with the treatment facilities that we need. And so as you may know I introduced this bill originally to reinstate intoxication as a crime, but the Legislature and the Judiciary Committee rejected that philosophy. So now we should proceed with the second best alternative, that is to increase alcohol taxes and then support the appropriations bill which will send those funds for the improvement of alcohol treatment programs in the State of Nebraska. The one comment that I would like to make is this, and that is that LB 129 does not...does not earmark funds at all. Those funds will come...and those programs which we have will come under the review of the Appropriations Committee each year and these funds are not in any way earmarked. I would also like to say for the record that is in part of the compromise that we reached with representatives of the liquor industry on behalf of Senator Nichol and myself we agreed that we would not endorse, introduce nor encourage the raising of alcohol taxes for the next three years. And so with that understanding I think we can ask you to vote to increase the taxes on alcohol and hopefully when the A bill is drafted and introduced, you will support the appropriation of those funds to alcohol treatment programs throughout the State of Nebraska. Thank you.

SENATOR CLARK: Senator Koch.

SENATOR KOCH: A question of Senator Cullan.

SENATOR CLARK: Senator Cullan.

SENATOR KOCH: Senator Cullan, was this subject matter properly heard in committee after we rereferred it?

SENATOR CULLAN: The subject matter was reheard. The Judiciary Committee held a special hearing on the increase in alcohol taxes. The alcohol industry did appear and opposed the increase tax at the time.

SENATOR KOCH: And as a result of that hearing, you were able to arrive at a compromise?

SENATOR CULLAN: After that hearing the Judiciary Committee advanced the bill without the compromise. They advanced the bill and then later we visited with representatives of the alcohol industry and agreed to a reduced sum.

SENATOR KOCH: And one further question for a reminder to the body, when we first discussed this amendment to tax the industry, that action was more or less taken on the floor as an amendment to the bill, was it not without a public hearing?

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SENATOR CULLAN: That is correct.

SENATOR CLARK: Senator Warner.

SENATOR WARNER: I have a question for Senator Cullan, I guess.

SENATOR CULLAN: Yes.

SENATOR WARNER: Senator Cullan, I am wondering and I did not have something specific in mind at the moment, but I am wondering if this tax is to be increased, if a portion of those funds in the A bill might be utilized somehow to have a more direct effect upon the number of accidents that we see on the highways because of drunken driving or at least accidents in which individuals are under the influence. It seems to me that reading the newspapers the last few months there are increasing numbers of accidents. Now I understand that the programs for alcoholics certainly has value and I am not quarreling with that, but I am developing an increasing concern about the number of accidents that are related to the use of alcohol, and that if we are going to raise the tax, if some of those funds could not be utilized for a more vigorous program of some nature either education enforcement, something through some other division other than the alcohol division because I tend to look at their responsibility as being one primarily with treatment, but it seems to me that we need a much more aggressive program to somehow or other reduce this number of automobile accidents that are related to the use of alcohol which seems to me a bit dramatic in their increase, and certainly a number of lives have been lost. And would you be willing to consider because I do not have a specific proposal, but would you be willing to consider in the A bill using a portion of these additional funds for a more aggressive program in that area, or Senator Nichol indicates he may want to answer, Sam.

SENATOR CULLAN: Mr. President, I....Senator Nichol may also want to respond, I think definitely Senator Warner that we certainly believe that that would be appropriate. If you would like to believe that the Department of Motor Vehicles, I believe they are talking about expanding significantly an advertising program and another program as far as DWI is concerned. This bill I think indirectly has a very significant effect upon that problem. You may be familiar, Senator Warner, with the facility that they have located here on 48th and Cornhusker Highway here in Lincoln, which is where they take individuals who they find in an intoxicated state. Part of the problem that we have seen

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is that these individuals who used to be taken to jail are no longer picked up at all, and I am certain that some of these individuals are now getting in their cars and driving away and that part of the effect of our decriminalizing intoxication is that these same individuals are getting in their cars and driving away. If we can develop facilities throughout the State of Nebraska so that these people can be taken off the streets, I think it will have a significant effect upon the number of DWI related deaths that we have seen in Nebraska. So setting up this network of detoxification facilities and protective custody facilities certainly should accomplish that objective. And, Senator Nichol, I think also wishes to comment.

SENATOR CLARK: Senator Nichol.

SENATOR NICHOL: In addition to what Senator Cullan has said, we do have concerns and we are in favor of further education, especially in junior high and high school age for some of these funds to be spent in that direction. We didn't want to push it down the throat of the Department of Education through whom we hope will wish to administer perhaps some of these funds for programs as they see fit in the schools rather than us dictating as to how this should be done.

SENATOR CLARK: Senator Warner.

SENATOR WARNER: My concern is that while it is appropriate to use some of these funds in a sense for cure, but I would like to see a portion of these funds also used as a preventive type of program particularly as it relates to automobile accidents, and perhaps in the next few days before it gets clear over past Select File a portion of those funds could be utilized in an appropriate fashion that would more vigorously attack the increasing automobile accidents that we are having.

SENATOR CLARK: Senator Nichol, do you want to advance the bill?

SENATOR NICHOL: Mr. Chairman, just one word if I may. We think this is a good bill. We are concerned about the problem Senator Warner had. I move for the advancement of the bill.

SENATOR CLARK: The question before the House is the advancement of 129 to E & R. Is there any discussion? All those in favor vote aye. All those opposed vote nay. Have

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LB 129, 118

you all voted? Record the vote.

CLERK: 29 ayes, 4 nays, Mr. President.

SENATOR CLARK: LB 118.

CLERK: Mr. President, LB 118 was a bill introduced by Senator Hefner and Senator Maresh. (Read title.) The bill was read on January 13 of this year. It was referred to the Business and Labor for hearing. The bill was advanced to General File. There are committee amendments pending by the Business and Labor Committee, Mr. President.

SENATOR CLARK: Senator Maresh.

SENATOR MARESH: Mr. Chairman and members of the Legislature, originally LB 118 had to do with unemployment compensation and because we had other legislation on the floor of the Legislature there was no need to advance this from committee and because there was a need to extend the barge compact deadline from 1981 to '84, I talked to the committee and they went along with amending this bill to extend that compact that will have Iowa, Missouri and Kansas join Nebraska to promote barge transportation on the Missouri River which we passed last year to enabling legislation for the Governor to join other states in this barge compact. And this is moving right along. In Iowa they passed the compact legislation. Missouri is about ready to pass it, but Kansas has adjourned with just the House passing it and it hasn't passed the Senate. So this will give us more time to get this barge compact completed. So I move that the committee amendment be adopted. Also in this amendment we are adding...allowing other states such as North and South Dakota which have an interest in the Missouri River and even Montana does have interest to join us if they wish to. And it allows the Governor to appoint a three member advisory committee to work with the manager of this barge compact for advice and to carry out the compact, and the deadline being extended to July 1st, 1984. So that is the way the committee amendments read to the bill and I move that the committee amendments be adopted.

SENATOR CLARK: Senator Hefner, on the committee amendments.

SENATOR HEFNER: Mr. President and members of the body, I rise to support Senator Maresh. Originally this started out as my bill. It started out as an unemployment compensation bill, but we were able to get parts of my bill into 394, and so therefore I told Senator Maresh that he could use this bill for this. This bill, of course, would

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LB 248A, 318, 334, 334A,
LB 184, 118, 129, 190, 248,
LB 463, 487

at Arms will secure the Chamber. All members who are not at their desks will return to their desks. All members will record your presence. The House is under Call. The House is under Call. Senator Goodrich, Senator Wagner. Senator Haberman is right here. Senator Labedz, Senator Pirsch. We can take call in votes, Mr. Clerk, yes.

CLERK: Senator Fowler voting yes. Senator Kremer voting yes. Senator Marsh voting no. Senator Wagner voting no. Senator Labedz voting yes.

PRESIDENT: All right, record the vote.

CLERK: 25 ayes, 14 nays, Mr. President, on the motion to advance the bill.

PRESIDENT: All right. The motion carries and LB 184 is advanced to E & R Initial. You want to read some material in, go ahead, Mr. Clerk.

CLERK: Mr. President, Senator Schmit would like to print amendments to LB 487 in the Journal.

Mr. President, LBs 190, 334, 334A, 463, 248 and 248A are ready for your signature.

PRESIDENT: While the Legislature is in session and capable of doing business, I propose to sign and I do sign LB 190, LB 334, LB 334A, LB 463, LB 248 and LB 248A.

CLERK: Mr. President, an announcement from the Public Works Committee regarding an executive session to discuss interim study resolutions.

Your committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 129 and recommend that same be placed on Select File with amendments; LB 118 Select File; and LB 318 Select File with amendments; all signed by Senator Kilgarin as Chair.

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LB 129, 529, 381, 384

Reading for today.

CLERK: Mr. President, while we are waiting I have amendments from Senator Wesely to LB 129 to be printed in the Journal.

PRESIDENT: While we are also waiting, Senator Beyer has four students from Political Behavior Class at Papillion High School, Rick Cogruue, Rus Koski, Jim Wiedelhouse and Jeff Valenta. Would they all stand up over there and be recognized. Welcome to your Unicameral Legislature.

CLERK: Mr. President, Senator Chronister would like to print amendments to LB 529.

PRESIDENT: I believe we are ready Mr. Clerk. We will start with LB 381.

CLERK: Read LB 381 on Final Reading.

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 381 pass with the emergency clause attached. All those in favor vote aye, opposed nay. Record the vote.

CLERK: 48 ayes, 0 nays, 1 excused and not voting. Vote appears on pages 2064-65 of the Legislative Journal.

PRESIDENT: LB 381 passes with the emergency clause attached. The next bill on Final Reading, LB 384.

ASSISTANT CLERK: Read LB 384 on Final Reading.

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 384 pass. All those in favor vote aye, opposed nay. The board is open on LB 384. Record the vote.

ASSISTANT CLERK: 31 ayes, 16 nays, 2 present and not voting. Vote appears on page 2065 of the Legislative Journal.

PRESIDENT: LB 384 passes. Before we get to the next bill I have been asked to make an announcement that there is a blue Triumph automobile parked on H Street with the lights on, license number, 2-V2207, if it belongs to anyone, if you know anyone, you had better get there before the battery is worn out. Also, we will

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LB 129

CLERK: Mr. President, there are E & R amendments to LB 129.

SPEAKER MARVEL: Senator Kilgarin.

SENATOR KILGARIN: I move the E & R amendments to LB 129.

SPEAKER MARVEL: All in favor of that motion say aye, opposed no. The motion is carried. The E & R amendment is adopted.

CLERK: Mr. President, Senator Wesely would move to amend the bill. The amendment is on page 2063 of the Journal.

SPEAKER MARVEL: The Chair recognizes Senator Wesely.

SENATOR WESELY: Mr. Speaker, members of the Legislature, my amendment deals with a problem that has been brought to my attention from my district, in Lincoln, Nebraska, and any city in the state, the process you go through to challenge a liquor license application is a very complicated one. In Lincoln, for instance, you have a proposal to go to the Liquor Control Commission. That is then referred to the city council here. They have a hearing on that proposal, they make a decision and it goes to the mayor. The mayor makes a decision. It goes back to the Liquor Commission. They can ignore it or support it or they really don't need to follow that local advice at all. Nevertheless, it is done as a proforma, I think, activity. At that point the Liquor Commission then holds a hearing. Now the problem that has come up in Lincoln and probably elsewhere in the state is the problem where the average guy on the street, the common citizen who is a bit concerned about a neighborhood bar being brought in feels as though they have an obstacle before them if they want to challenge that liquor license application. They have to put up a hundred dollar surety bond in order to get a chance to appear before the Liquor Commission and oppose a liquor license application. Now think of the possibilities if this Legislature would ask for a hundred dollar surety bond and use some of that to pay for the expenses of holding our public hearings. I think it is quite reasonable to expect that any public body should have as little barrier or obstacle as possible to allowing citizens to express themselves on a liquor license application or any other public decision that needs to be made and so I know that there are many citizens in my district in University Place which has regularly opposed liquor license applications and that the concern that has been expressed there is probably shared by others in the state that it should be an easy thing for people to protest a liquor license. Not only do they have to put up a hundred dollar surety bond but they have to put that up and file their requests for a hearing within three

days after the local decision is made by the mayor of the City of Lincoln or whatever town we are talking about. So, in three days time they have to decide and know how to go about putting in the proper forms and putting up the hundred dollar surety bond and bringing to the Liquor Commission an opportunity to protest a liquor license application. Both seem a bit unreasonable to me. Quite frankly, the citizens that have come to me do not want to see this barrier. They don't think it is fair. They don't see it as reasonable and I agree with them. I don't think it makes much sense. I also think that there are many other ways in which we can make it a lot easier for the citizens to express their opinion on these applications but I also realize that we have an important bill, LB 129, and that the liquor retailers do not like this amendment and that there are others that have talked to me that are not certain about its impact and so I am quite reluctant to put it up at this time. But I thought I ought to bring to your attention the problem, to bring to your attention a potential solution and tell you that perhaps that if you have a similar problem that I would be willing to work with you to do something about it. I think that we need to do something about it and I will certainly work toward that end next session but at this time I would ask the Speaker for permission to withdraw my amendment and proceed with the bill.

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

SPEAKER MARVEL: Okay, the motion is to advance 129. All in favor of that motion say aye, opposed no. Motion is carried. The bill is advanced.

CLERK: Mr. President, with respect to the A bill, there is an amendment by Senator Warner, Mr. President, to the A bill.

SPEAKER MARVEL: The Chair recognizes Senator Warner.

SENATOR WARNER: Mr. President, members of the Legislature, you may recall that 129 is the bill that increases the tax on certain alcoholic beverages and the funds would be appropriated as the A bill calls out but I raised the issue on I guess General File with the introducers if they would object if some portion of the additional funds could be utilized for an accelerated program relative to drinking drivers on the highways at this time and I don't know what their attitude is on the amendment now but what I am suggesting is that of the, I believe, billion seven or the million four that is raised that \$81,000 be appropriated for this year and this year only to the Department of Motor Vehicles Safety Program which currently has about a \$60,000 appropriation, but that \$81,000 of these additional funds be appropriated for the

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LB 376, 111, 118, 129,
129A, 138, 523

SENATOR BARRETT: How many are still absent? Two excused? Yes, proceed in reverse order if you would please.

SPEAKER MARVEL: Mr. Clerk.

CLERK: 25 ayes, 22 nays, 2 excused and not voting. Vote appears on page 2206 of the Legislative Journal.

SPEAKER MARVEL: The motion is carried. The bill is advanced.

CLERK: Mr. President, while we are waiting your committee on Enrollment and Review respectfully reports that they have carefully examined and engrossed LB 111 and find the same correctly engrossed, 118 correctly engrossed, 129, 192A, 138 and 523 all correctly engrossed. (Signed) Senator Kilgarin, Chair.

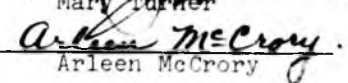
SPEAKER MARVEL: Senator Landis.

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

SPEAKER MARVEL: The motion is not debatable. The motion is to adjourn until 9:00 tomorrow. A machine vote has been requested. All those in favor of adjournment vote aye, opposed vote no. Okay, motion carried. We are adjourned until 9:00 a.m.

Edited by


Mary Turner


Arleen McCrory

May 27, 1981

LB 111, 118, 129

SENATOR CLARK: The amendment is withdrawn. That is all we have. We will go to item #6. Do you have some things to read in? We will go to item #6, Final Reading. All senators will take their seats. All senators will be in their seats before we start Final Reading. Mr. Sergeant at Arms, will you keep them from scattering there before we get on it. We will start Final Reading when we get everyone in their seats. (Gavel.) Can we get everyone in their seats, please. The Clerk will read on Final Reading, LB 111.

CLERK: (Read LB 111 on Final Reading.)

SENATOR CLARK: All provisions of law having been complied with, the question is, shall the bill pass. All those in favor vote aye, all those opposed vote nay.

CLERK: Senator Clark voting no.

SENATOR CLARK: Have you all voted? There is not much reason to hold it open up here because you are all in your seats. Have you all voted? Record the vote.

CLERK: (Read record vote as found on page 2338 of the Legislative Journal.) 25 ayes, 15 nays, Mr. President, 5 excused and not voting, 4 present and not voting.

SENATOR CLARK: The bill is declared passed. The Clerk will now read LB 118 with the emergency clause.

CLERK: (Read LB 118 on Final Reading.)

SENATOR CLARK: All provisions of law having been complied with, the question is, shall the bill pass with the emergency clause attached. All those in favor vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

SENATOR CLARK: Record the vote.

CLERK: (Read record vote as found on page 2339 of the Legislative Journal.) 43 ayes, 0 nays, 6 excused and not voting, Mr. President.

SENATOR CLARK: The bill is declared passed with the emergency clause attached. The Clerk will now read LB 129.

ASSISTANT CLERK: (Read LB 129 on Final Reading.)

SENATOR CLARK: All provisions of law having been complied

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LB 129, 129A, 138, 396

with, the question is, shall the bill pass. All those in favor vote aye. All those opposed vote nay. Voting no.

ASSISTANT CLERK: Senator Clark voting no.

SENATOR CLARK: Have you all voted? Record the vote.

ASSISTANT CLERK: (Read record vote as found on pages 2340-2341 of the Legislative Journal.) The vote is 34 ayes, 8 nays, 6 excused and not voting, 1 present and not voting, Mr. President.

SENATOR CLARK: The bill is declared passed. The Clerk will now read LB 129A.

ASSISTANT CLERK: (Read LB 129A on Final Reading.)

SENATOR CLARK: All provisions of law having been complied with, the question is, shall the bill pass. All those in favor vote aye, those opposed vote nay. It takes 30 votes. Voting no.

ASSISTANT CLERK: Senator Clark voting no.

SENATOR CLARK: Record the vote.

ASSISTANT CLERK: (Read record vote as found on page 2340 of the Legislative Journal.) The vote is 35 ayes, 9 nays, 5 excused and not voting, Mr. President.

SENATOR CLARK: The bill is declared passed. The Clerk will now read LB 138, a constitutional amendment. It will take 40 votes to put this on the primary ballot. Senator Johnson, for what purpose do you arise?

SENATOR V. JOHNSON: Yes, I would ask unanimous consent of the body to have this passed over. With five members excused and this bill requiring 40 votes to go on the primary ballot, it really is swimming upstream it seems to me and I think maybe tomorrow morning we would have more of our members here.

SENATOR CLARK: Senator Marvel. All right, we will pass over it.

SENATOR V. JOHNSON: Thank you.

SENATOR CLARK: The Clerk will now read LB 396. Senator Carsten, for what purpose do you arise?

SENATOR CARSTEN: Mr. President, I would respectfully ask that we pass over LB 396 momentarily at least this morning. The Attorney General found one section that he feels is unconstitutional. We are trying at the moment to get an

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LB 111, 118, 129, 129A, 213,
318, 389, 389A, 523, 556,
556A

bills we didn't have time for before.

SPEAKER MARVEL: It is my understanding we have got about an hour, Mr. Clerk, is that right...?

CLERK: Yes, sir.

SPEAKER MARVEL: ...and at the end of that time we should have the bills up here and I appreciate your cooperation. I have nothing else to say because Senator Clark can't understand English.

SENATOR CLARK: We will be "easy" until then. Senator Marvel.

SPEAKER MARVEL: Where did you go? Oh. The Legislature will be at ease until seven o'clock.

SENATOR CLARK: Or until the bills come up?

SPEAKER MARVEL: Pardon me?

SENATOR CLARK: Or until the bills come up?

SPEAKER MARVEL: I think what we need, Mr. Clerk, and you can correct me, we need a quorum.

CLERK: That would be desirable, yes, sir.

SPEAKER MARVEL: Okay.

EASE

SPEAKER MARVEL: While the Legislature is in session and capable of transacting business I am about to sign and do sign LB 111, LB 118, LB 129, LB 129A, LB 523, engrossed LB 523, engrossed LB 556, engrossed LB 556A, one of the smaller bills of the session, engrossed LB 213, engrossed LB 318, reengrossed LB 389 and reengrossed LB 389A. Okay. Senator Goll, will you adjourn us until nine o'clock tomorrow morning.

SENATOR GOLL: I move that we adjourn until nine o'clock tomorrow morning.

SPEAKER MARVEL: All in favor of that motion say aye, opposed no. The motion is carried. We are adjourned until nine o'clock tomorrow morning.

Edited by LaVera M. Benischek
LaVera M. Benischek

May 28, 1981

LR 192
LB 111, 118, 129, 129A, 213, 318, 322,
389, 389A, 472A, 523, 540, 548, 556, 556A

PRESIDENT LUEDTKE PRESIDING

DR. ROBERT PALMER: Prayer offered.

PRESIDENT: Would you all register your presence? We would like to get started. Senator Carsten, would you give us a green light and then we will start. Thank you, you got us under way. Record the presence, Mr. Clerk.

CLERK: Quorum present, Mr. President.

PRESIDENT: Quorum being present, are there any corrections to the Journal?

CLERK: I have no corrections, Mr. President.

PRESIDENT: The Journal will stand as published. Any messages, reports or announcements?

CLERK: Mr. President, your Committee on Enrollment and Review respectfully reports they have carefully examined LB 540 and find the same correctly enrolled; 322 correctly enrolled.

Mr. President, your enrolling clerk has presented to the Governor for his approval the bills that were read on Final Reading yesterday. (See page 2356 of the Journal regarding LBs 111, 118, 129, 129A, 523, 556, 556A, 213, 318, 389, and 389A.)

Mr. President, I have an Attorney General's Opinion addressed to Senator Beutler regarding LB 472A. (See pages 2356 through 2358 of the Journal.)

Mr. President, I have a report from the Department of Administrative Services regarding lease approval.

Mr. President, new resolution, LR 192, offered by Senator Rumery. (Read LR 192 as found on pages 2358 and 2359 of the Legislative Journal.) That will be laid over, Mr. President.

Mr. President, LB 548 and 322 are ready for your signature.

PRESIDENT: While the Legislature is in session and capable of doing business, I propose to sign and I do sign LB 548 and LB 322. Before we get started with today's activities, the Chair would like to introduce fifteen students from across the whole State of Nebraska,

May 29, 1981

LB 129, 129A, 322, 376, 466

CLERK: (Read the roll call vote as found on pages 2420 and 2421 of the Legislative Journal.) 30 ayes, 14 ayes on the motion to override 129A, Mr. President.

PRESIDENT: Motion carries and LB 129A has become law notwithstanding the action of the Governor. Now, some matters to be read in, Mr. Clerk.

CLERK: Yes, sir. Mr. President, before we proceed with the next motion, I must read the veto message on the bill.

PRESIDENT: All right, proceed.

CLERK: At the same time, Mr. President, I would advise you that your enrolling clerk has presented to the Governor for his approval the bills that were read today on Final Reading. (See page 2421 of the Journal.)

Mr. President, letter from the Governor addressed to the Clerk. (Read letter regarding LB 466 as found on page 2421 of the Legislative Journal.) (Read letter regarding LB 129 as found on page 2421 and 2422 of the Legislative Journal.)

Mr. President, I have an Attorney General's Opinion addressed to Senator Nichol and Clark and Marvel. (See pages 2422 through 2424 of the Legislative Journal regarding LB 376.)

Mr. President, veto message on LB 322 addressed to Dear Mr. President and Senators. (Read message from the Governor as found on page 2422 of the Legislative Journal.)

Mr. President, I have a motion from Senator Schmit that LB 322 become law notwithstanding the objections of the Governor.

PRESIDENT: Senator Schmit on the motion that LB 322 become law notwithstanding the action of the Governor. Senator Schmit.

SENATOR SCHMIT: Mr. President and members of the Legislature, LB 322 was a bill which was enacted several days ago when I was absent. It was passed into law. It was refused to be signed by the Governor. The bill is a very simple bill but it does have in it the objections. The Governor objected to the bill because there was an amendment placed on the bill which provided that the Director of Agriculture did not have to sign