

February 12, 1981

LB 109, 167, 206A

SPEAKER MARVEL: Does the Clerk have some business to read in?

CLERK: Yes, sir. Mr. President, new bill, LB 206A by Senator Chambers. (Read title. See page 521 of the Journal.)

Mr. President, Senator Carsten would like to print amendments to LB 167 in the Journal. (See page 521.)

Mr. President, your committee on Banking gives notice of hearing for March 2 and 3.

Mr. President, Administrative Rules gives notice of hearing, (Signed) by Senator Johnson as Chair. That is all that I have, Mr. President.

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

SENATOR WAGNER: Can we go ahead and move the bill?

SPEAKER MARVEL: We have about three motions we are going to have to dis..... Pardon?

SENATOR KREMER: Mr. Chairman.

SPEAKER MARVEL: Senator Kremer.

SENATOR KREMER: I repeat my motion to reject the emergency clause. It is not needed now since the other amendment is not on.

SPEAKER MARVEL: Senator Wagner, do you wish to speak on the motion?

SENATOR WAGNER: No.

SPEAKER MARVEL: Senator Marsh, do you wish to speak on the motion? Senator Kremer's motion is to...okay, the motion before the House is the rejection of amendment #3 to LB 109 and amendment #3 is the emergency clause. Senator Kremer, do you want to make any other statements?

SENATOR KREMER: No closing.

SPEAKER MARVEL: All those in favor of rejection of the committee amendment 3 vote aye, opposed vote no. This removes the emergency clause. Have you all voted? The motion is the rejection of amendment #3, the emergency clause. Record.

CLERK: 26 ayes, 7 nays, Mr. President.

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LB 67, 206A

SPEAKER MARVEL: The motion is carried. The bill is advanced. The next bill is LB 67.

CLERK: Mr. President, LB 206A offered by Senator Chambers. (Read title.)

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, this is the funding portion which must go with the bill so I ask that you advance it also.

SPEAKER MARVEL: The motion is the advancement of LB 206A. All those in favor vote aye, opposed vote no. Record the vote.

CLERK: 25 ayes, 7 nays on the motion to advance the A bill, Mr. President.

SPEAKER MARVEL: Okay, the bill is advanced. The next bill is LB 67.

CLERK: Mr. President, LB 67 offered by Senator Rumery. (Read title.) The bill was read on January 9. It was referred to the Miscellaneous Subjects Committee for public hearing. The bill was advanced to General File. Mr. President, there are committee amendments pending by the Miscellaneous Subjects Committee.

SPEAKER MARVEL: Senator Hefner.

SENATOR HEFNER: Mr. President and members of the body, this is rather....I move the adoption of the committee amendment. This is rather a simple amendment. You will find it on the white page in your bill book. The purpose of this amendment is to eliminate the wording which states that a licensed electrician must have knowledge of the bidding, and so I would urge you to support the committee amendment and I move for its adoption.

SPEAKER MARVEL: The motion is the adoption of the committee amendments to LB 67. All those in favor of that motion vote aye, opposed vote no. We are voting on the committee amendments to LB 67. Have you all voted? Record.

CLERK: 29 ayes, 0 nays on adoption of the committee amendments, Mr. President.

SPEAKER MARVEL: The motion is carried. The committee amendments are adopted. Senator Rumery.

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LR 17, 18
LB 9, 20, 21, 27-30, 37, 156,
38, 42, 43, 67, 77, 124,
186, 206, 206A, 244, 345, 354

PRESIDENT LUEDTKE PRESIDING

PRESIDENT: Prayer by Father Dale Harges, Sacred Heart Catholic Church here in Lincoln.

FATHER DALE HARGES: (Prayer offered).

PRESIDENT: Roll call. Record the presence, Mr. Clerk.

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

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

CLERK: Mr. President, the Journal is without error this morning.

PRESIDENT: Ah, that is good news. The Journal stands correct as published. We go on to any messages, reports or announcements?

CLERK: Mr. President, your committee on Enrollment and Review respectfully reports it carefully examined and reviewed LB 21 and recommend that same be placed on Select File with amendments; 186 Select File with amendments; 124 Select File; 206 Select File; 206A Select File; 67 Select File; 77 Select File with amendments; 9 Select File with amendments; 38 Select File with amendments; and 345 Select File. Those are signed by Senator Kilgarrin as Chair.

Mr. President, I have an Attorney General's opinion addressed to Senator Haberman regarding delegation of legislative authority; and one addressed to Senator Beyer regarding LB 354.

Mr. President, I have a report from the Department of Administrative Services, State Building Division regarding the Request for Program Statement/Preliminary Plan Approval. It will be on file in my office.

Mr. President, a communication from the Governor. (Read: Re 244. See page 593, Legislative Journal.)

Mr. President, LBs 28, 42, 156, 20, 27, 29, 30, 37, 43, LR 17 and 18 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 28, LB 42, LB 156, LB 20, LB 29, LB 30, LB 37, LB 43, LR 18 and LR 17. We are ready then for agenda item #4, Final Reading. The Sergeant at Arms will make sure that all unauthorized personnel

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LB 124, 67, 206, 206A

CLERK: Mr. President, I have an amendment on the bill from Senator Hefner. To amend LB 124, page 3 on line 18 after the word "licenses" add "or bottle club licenses".

SPEAKER MARVEL: Senator Hefner.

SENATOR HEFNER: Mr. President, I ask unanimous consent to pass over this bill for several days and I will try and clear up the language in parts of (c) and (d) in Section 2. And then we also have another amendment, it is getting late so...

SPEAKER MARVEL: I think...is there any objection to that motion? If not, so ordered and I will be glad to work with you, too.

SENATOR HEFNER: Okay, thank you, Mr. Speaker.

SPEAKER MARVEL: The bill is temporarily passed over. We now go to LB 206.

CLERK: I have nothing on the bill, Senator.

SENATOR KILGARIN: I move LB 206 be advanced to E & R for engrossment.

SPEAKER MARVEL: All those in favor of that motion say aye, opposed no. The motion is carried. The bill is advanced.

CLERK: Nothing on 206A, Senator.

SENATOR KILGARIN: I move LB 206A be advanced to E & R for engrossment.

SPEAKER MARVEL: All in favor of that motion say aye, opposed no. The motion is carried. The bill is advanced. LB 67.

CLERK: There are E & R, Senator.

SENATOR KILGARIN: I move LB...I move the E & R amendments to LB 67.

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

SENATOR KILGARIN: I move LB 67 be advanced to E & R for engrossment.

SPEAKER MARVEL: All in favor of that motion say aye, opposed no. Motion is carried. The bill is advanced. LB 77.

LR 23
LB 21, 38, 67, 77, 80,
104, 109, 144, 186, 205,
206, 206A, 221, 236, 260,
204A.

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SENATOR LABEDZ: Will it be on the agenda tomorrow morning?

SPEAKER MARVEL: It will either be on the agenda tomorrow or the next day.

SENATOR LABEDZ: Thank you.

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

CLERK: Yes, sir, I do. Mr. President, Senator Warner would like to print amendments to LB 144 in the Journal. (See pages 659 and 660 of the Legislative Journal.) New resolution, LR 23 by Senator Maresh and Senator Beutler. (Read LR 23 as found on page 660 of the Legislative Journal.) Mr. President that will be laid over. New bill, LB 204A, offered by Senator Wagner. (Read title to LB 204A for the first time.) Your committee on Public Works gives notice of public hearing. Your committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 21 and find the same correctly engrossed, 38, 67, 77, 80, 104, 109, 126, 206, 206A, 221, 236, and 260 all correctly engrossed. (Signed) Senator Kilgarin, Chair.

SPEAKER MARVEL: Okay, we revert to General File, LB 205.

CLERK: Mr. President, LB 205 was considered by the body yesterday. There was a motion to adopt the committee amendments which prevailed. There was some discussion and I now have a motion to indefinitely postpone the bill as offered by Senator Chambers.

SPEAKER MARVEL: The Chair recognizes Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, the first thing I have to do is apologize to Senator Pirsch because yesterday I said this bill emerged from committee without a single dissenting vote, but she did vote against it. It is kind of interesting that she being from Omaha and I being from Omaha, she being notoriously law and order, I being notoriously whatever the contrary is, both agree that this bill is not a very good thing. So what I am asking that you do is consider what the purpose and role of an arson investigator is. The bill states it's to study the cause, origin and circumstances of fires. Nothing in this bill enhances that responsibility or that function. We don't want to create quasi law enforcement people when their job is not law enforcement. They have the team concept in Omaha right

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LB 206, 206A

PRESIDENT: Before we start on Final Reading, the Chair has a very important announcement to make. I wish you would all pay some attention to this because it is a very noteworthy day. A historical day several years ago occurred in the lives of the O'Donnell family when Patrick O'Donnell was born. This is his birthday and another year of stature and attainment has been added to his years of life. Congratulations on your birthday, Pat. I won't tell how old he is if he doesn't. Okay. All right, now he is in good form ready for Final Reading. So if the Sergeant at Arms will get the aisles cleared and all legislators will be at their desks, we will proceed with agenda item #4 on Final Reading. So we can start before while everybody is getting ready we do have to...the Clerk advised me we do have to unbracket these bills, so a motion is in order to unbracket them before we do go on Final Reading. So has that motion, Mr. Clerk?

CLERK: Mr. President, Senator Chambers moves that LB 206 and 206A be unbracketed notwithstanding the motion offered by Senator Warner which was adopted on February 9 of this year and is found on Journal page 391.

PRESIDENT: The Chair recognizes Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I have talked to Senator Warner about this motion and he obviously will oppose it because we couldn't expect him to vote for a proposition that would go counter to a proposal that he has offered. And although I understand his reasons for not wanting A bills read until after the budget bill is read, this one is in a bit of a unique situation. I think there is no way we are going to avoid having a lawsuit on this matter. Last year the bill was not passed until after the budget and everything else. We were out of session and the Governor vetoed it. There was no chance to override so the issue was never in a position to be presented. The only way, in view of Senator Warner's motion, that this bill can be read at this point is to unbracket it and have it read and passed in spite of the fact that it has an A bill or an appropriation provision attached. Because of the time frame that would be involved in having a resolution of this matter, I think it would be self-defeating to hold it until the end of the session, perhaps having it vetoed again when we are not in session. So to avoid all of that, I would request that you vote to unbracket this bill, that we pass it and be in a position to resolve this issue of expenses once and for all. As you know, we currently are

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granted expenses when we are not in session, but an Attorney General's Opinion in 1937 stated that we could not be given the expenses during session. The purpose of this bill is to create a situation where if a lawsuit is necessary all of the ingredients that would be required will be available in the law. So I am asking that you support this motion despite the arguments of Senator Warner to the contrary.

PRESIDENT: The Chair recognizes Senator Warner.

SENATOR WARNER: Mr. President and members of the Legislature, Senator Chambers indicated he talked to me yesterday about accepting this because of filing a lawsuit and I indicated I had no concern about or no problem with having the issue brought up, but I do have a problem of precedent. One of anything never hurts, I suppose, ten can be harmful. If we get in the habit of making exceptions then as tight as we are on money this year we are going to have some problems. So other than if the body would like to take it and understand that this is the only one that we are going to do, that is one thing, but if this is a first of several more to come, then I would argue much harder not to do it.

PRESIDENT: The Chair recognizes Senator Hefner.

SENATOR HEFNER: Mr. President and members of the body, I rise to oppose unbracketing this bill. If we unbracket this bill, we are going to open up the floodgates. Many other A bills are going to follow this one, and so I would just say again, let's leave this bill bracketed and group all of these A bills together and see how our budget comes out. I believe this would be a fair way of doing it and I will say again to you, if we let this one bill go, then I am sure that many more will follow. Therefore, I would urge you to vote against unbracketing this bill.

PRESIDENT: Before we go on to the next speaker, the Chair would like to introduce some guests of Senator Nichol, Charles Barr, Jack R. Preston, Virginia Lenhart and Mike Chrisman. They are under the south balcony. Would they stand and be recognized? Welcome to your Legislature. The Chair recognizes Senator Schmit.

SENATOR SCHMIT: Mr. President and members of the Legislature, I rise in support of Senator Chambers' motion to unbracket his bill. Although I do not support the bill, I don't think it is going to be allowed anyway in the long run, but I would just like to suggest to you again

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that there are 49 members of this Legislature. I have here the stack of the bills so far, the A bills that are listed at the top of your worksheets that are going to be held up, and I know that when Senator Warner offered his motion at the earliest days of the Legislature that we bracket those A bills regardless of the impact, that there was a lot of activity on this floor and very few people understood what was going on. But once again we are falling right back into that same old routine and each succeeding day we march one nearer to the final days of the session and one of these days the budget committee is going to come to the floor with their budget and they are going to say, okay, folks now we have saved for the other 40 members of you \$1412 you can spend as you see fit. We have in our wisdom decided how to spend \$600 million or \$700 million and we have left you this \$1400 and you can jockey it around any way you like just as long as you stay within that amount, and we will be glad to go along with it, and we will approve it with some reservations, of course, but you try to tinker with that budget bill, we are going to descend on you with the full weight of the 9 members like we did last year. And I think you should recall what happened last year, and I think the members of the budget committee should recall what happened. I tried time after time to amend areas of the budget bill. My major contribution last year was to delete the \$7500 that Senator Kelly had put in the bill to be spent on unidentified flying objects. I think we all recognized that that was not a major contribution on my part last session. But that was all I was able to do, and the bill went to the Governor intact, and then Governor Thone, because he had some very serious reservations about the bill, took the meat cleaver to the bill and when Governor finished with the meat cleaver, it looked like a four year old kid had used it on George Washington's cherry tree, and it came back to this body, and this body, because we have our own way you know getting back at people, we supported the Governor's vetoes, even though we probably didn't agree with all of them. But in any case, with a few major exceptions, as Senator Koch said, there were some alterations. But that didn't seem to me and I don't think it seemed to you at the time, nor did it seem to the members of the budget committee to be the most reasonable way to approach the process. Now if you are going to leave those A bills bracketed, then bear in mind that when the time comes to vote upon them, you are not going to be arguing as the impact upon the total expenditures of the state. You are only going to be arguing about those budget bills as they impact upon each other, I mean, those A bills, and the relationship

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of one A bill to another may not be nearly as significant or it may be much more significant than its impact upon the entire budget. It may well be that all of these A bills are more desirable, more important, more qualified to be passed into law than some of the expenditures that the budget committee has decided upon. I think, ladies and gentlemen, that you have once again and I have with you, although I voted against Senator Warner's motion....

PRESIDENT: Half a minute, Senator.

SENATOR SCHMIT:Fallen into the same old trap, the easy does it method whereby we just sit back and say we will bracket those bills and then when we get done, like the father tells his son, I would like to have bought you the new bicycle but I've run out of money and so you will have to keep on walking this year. So, ladies and gentlemen, I rise in support of Senator Chambers' motion and I ask you to consider carefully what you are doing because the consequences of what you are doing will be with us the rest of the session.

PRESIDENT: The Chair would also like to introduce at this time a guest of Senator Chronister, Mark Schoultman from Howells, Nebraska, presently a student at Chadron State College. He is under the south balcony. Would Mark stand up and be recognized. Welcome, Mark. The Chair recognizes Senator Kremer.

SENATOR KREMER: Mr. Chairman and members, I intended to make a statement but I think I would make it in the form of a question to Senator Chambers.

PRESIDENT: Senator Chambers, will you respond?

SENATOR CHAMBERS: Yes, I will.

SENATOR KREMER: Relative to LB 206, unbracketing, I think you will have to agree with me this will probably go to the court immediately.

SENATOR CHAMBERS: Yes. Right.

SENATOR KREMER: And you would agree that there will be a constitutional amendment offered that would raise the salaries of the Senators.

SENATOR CHAMBERS: Yes.

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SENATOR KREMER: What kind of an effect would that have on the constitutional amendment if this thing is in court at the time? Would it not practically destroy our chances of getting a raise in our salaries?

SENATOR CHAMBERS: No, Senator Kremer, I think the two issues are entirely distinct...(interruption).

SENATOR KREMER: I mean in the eyes of the public. I am talking about the eyes of Mr. Public out there. He is saying, now wait a minute, here they are trying to get reimbursed for their expenses and at the same time they want a raise in their salaries, and will that harm to any extent at all in your opinion the chances of getting something passed in the way of a constitutional amendment to raise our salaries?

SENATOR CHAMBERS: No, Senator Kremer, because I think most people who have jobs are aware of expenses and what those entail and I doubt that any provision which is designed to raise the Senators' salary is going to pass. There have been all kind of efforts. There have been all types of phrasings of the amendment. There have been support in terms of telling that you will only spend a penny, or something like that and people say, well, that's a penny too much. So I don't think this issue ought to be tied into that. Either we are entitled to the expenses under the Constitution or we are not. Right now we have what I feel to be is a very confusing situation for the public. We get expenses when we are not in session. We don't get them when we are. We have an obligation, I think, to resolve the matter and had the Attorney General done proper research it wouldn't be necessary to go to court anyway. But I don't think the two are related and I don't think despite what has been said by some news editors in Lincoln that the two ought to be joined. The World Herald yesterday supported an increase in salary but also supported the idea of dealing with the expenses issue. So I think the two can run side by side without hurting each other.

SENATOR KREMER: Thank you, Senator Chambers. I probably agree with you that the two do not necessarily have to run together or they could. I just don't want...and I think I will support the motion to unbracket and I will support the court's taking a look at this and they will make the decision anyway. But I am still a little bit worried what Mr. John Q Public is going to say, well, here they are trying to get everything all at once, and maybe we won't, I don't know. Thank you.

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PRESIDENT: The Chair recognizes Senator Cullan.

SENATOR CULLAN: Mr. President and members of the Legislature, I think Senator Kremer raises a very excellent point with respect to why this bill should be unbracketed and why we should attempt to pass it at this point in time. I think it is to our advantage to try and have this issue resolved in the courts as soon as possible. From my perspective, I fail to understand why it is proper for us to receive expenses during the interim if it is not proper for us to receive expenses during the session, which is, of course, the point in time when most of us do our work and when it is more expensive for us to maintain our existence here in Lincoln. And I just fail to understand the constitutional arguments that it is proper during the interim but it isn't proper during the legislative session, and I think Senator Chambers is appropriate in getting this resolved as soon as possible, and the sooner this issue is resolved one way or the other, the better off that we will be as far as pay raises are concerned I think. And as far as timing is concerned, Senator Kremer, if this issue passes early in the session, Senator Chambers and others will have an opportunity to litigate the issue early and that will be resolved before November of 1982 when the issue will be before the voters. And so I think it is wise of us to resolve this just as soon as possible and I applaud Senator Chambers for bringing the issue to us and for doing the research behind it to convince a number of us that it is, in fact, a good proposal.

PRESIDENT: The Chair recognizes Senator DeCamp.

SENATOR DeCAMP: Mr. President and members of the Legislature, I am supporting the unbracketing motion if, indeed, the bill is legitimately ever bracketed, and I would just make a matter of record something at this time. Number one, the motion you passed that has locked this bill up and others was dramatically different than what you passed in previous years. The motion says that all these bills that have basically any impact whatsoever on the General Fund are going to be locked up until after, after the Appropriations bills are all passed. Now I have done a little checking on it and you are talking about a couple hundred bills. All the major bills of the Legislature are going to be sitting there to be decided I am going to guess on the last day or so of the Legislature with everything created into a jumble again. It is a major change from the way you have done it in the past in terms of what the procedure is. I think there were two votes

against the motion, mine was one of them. I think you are going to discover before all is said and done that no matter what we do on General File, Select File and everything else and all the debate we are spending on all of these bills, you are just wasting your time because on a calm day at the beginning of the session without too much information you passed a motion that is going to trap you completely. And I am supporting unbracketing it for that very reason. I also have a ten year study of Appropriations bills showing when the last Appropriations bill, remember it says all Appropriations bills, when the last Appropriations bill has always been passed. You are talking the last day of the session in almost every case. Now you tell me how you are going to handle two or three hundred major bills that can all be amended or changed or anything else in the last couple of hours. I am just saying that you are in a lot deeper than anybody dreams in what you did at the beginning of the session so I am supporting unbracketing the motion irrespective of any merits of the bill itself which is a completely separate issue. I am supporting unbracketing it to set the precedent that we better be handling these issues now as they come up rather than locking everything in and be the prisoner, literally the prisoner, on the last day or whenever the Appropriations Committee chooses, be their prisoner forever. So I support unbracketing.

PRESIDENT: We would save a lot of time, too, if we would restrain ourselves to the subject of the motion to unbracket rather than get into the merit of the...as Senator DeCamp said, into the merit of the bills. The Chair recognizes Senator Koch.

SENATOR KOCH: I will yield to Senator Warner.

PRESIDENT: All right, Senator Warner.

SENATOR WARNER: Mr. President and members of the Legislature, what Senator DeCamp just said is not so. The motion that was adopted this year is identical to the one adopted last year. What we did do last year was after the Appropriation bills had passed this body, we then went ahead and withdrew the motion and took up the A bills. But the wording was the same. I said when I initially started that I didn't object if this was one bill, but it is very evident from Senator Schmit's remarks and Senator DeCamp's remarks and there may have been one or two others, that that is not the issue of this bill. The issue is their intent...is their attempt to get new programs that have higher priority than the funding of existing programs of state government and state aid programs, and it is

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perfectly clear what they are trying to do, and if that is the case then I am going to oppose the unbracketing of 206. Senator Chambers has an alternative he can use. He can take the '81-'82 appropriation out of the A bill, leave the appropriation for '80-'81, which is a deficiency appropriation that is not covered by the motion. He can then file his lawsuit and there is no need whatsoever to do it. I was trying to be a friendly fellow about this, but obviously that is not the purpose of the....I am sure Senator Chambers' purpose was exactly what he said. But obviously there are others who want to make this into something else. So on the basis of the discussion that I have heard and the obvious intent of a number of people, and I am not going to comment on some of their other remarks at this time, but I am sure I will have an opportunity to later, I am going to have to oppose the bill to unbracket and inform you that Senator Chambers has an option to pass it by amending the A bill so that can proceed and I would hope the body would turn the motion down.

PRESIDENT: The Chair recognizes Senator Barrett.

SENATOR BARRETT: Mr. President and members, I rise in support of Senator Chambers' motion to unbracket the bill. I think timing is so very, very important. This matter... a similar bill as you will recall was passed last year. Because of the lateness of the session, the Governor vetoed the bill. We did not have a chance to override it. We could very well be in the same position this year. The matter has been a ping pong, a virtual ping pong for nearly 44 years. The time has certainly come for this thing to be resolved by the courts once and for all, and I believe the unbracketing of the bill is the obvious move in the right direction. I support Senator Chambers in his effort to get this matter of 206 moving. Thank you.

PRESIDENT: The Chair recognizes Senator Dworak.

SENATOR DWORAK: Mr. President and colleagues, I don't know how we got two issues going here at the same time, but we certainly do and they seem to be counteracting against each other. I very strongly support what Senator Chambers is trying to do and if he could use the vehicle outlined by Senator Warner, I think that would be a more proper way to go about it. Now as far as bracketing A bills so that we can take a look at the total amount of expenditures before we make our prioritization as to what expenditures should or shouldn't be made, I don't know of any other common sense way to budget. If we keep taking

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things as they come across the floor one at a time without any concept or any idea as to the total amount of money we are going to spend, whenever we see a goodie we like and we are going to buy it, there is no way we can possibly stay with any kind of fiscal responsibility whatsoever. We have to look at the total package and then make our priorities. We can't look at it from the perspective of the request. The requests, as many of you are finding out already, are unlimited and they are all worthwhile and they are all something everybody needs some place, but obviously, everybody can't get everything they want. And this body, come the day when we look at the budget and look at all the A bills, is going to be forced to do some extremely hard decision making and prioritization, and if we don't get the whole basket together where we can take a look at it, pick our priorities, take a look at existing revenues, there is no way we can make an intelligent decision. So I, as much as I am in favor of Senator Chambers and LB 206, because of this other issue that has been interjected into this debate, am going to have to vote against unbracketing.

PRESIDENT: The Chair recognizes Senator Cope.

SENATOR COPE: I call for the question.

PRESIDENT: All right, the question has been called for. Do I see five hands? Yes, I do, I see five hands. All those in favor of ceasing debate vote aye, opposed nay. Record the vote.

CLERK: 26 ayes, 3 nays to cease debate, Mr. President.

PRESIDENT: The motion carries. Debate ceases. Senator Chambers, you may close.

SENATOR CHAMBERS: Mr. President and members of the Legislature, let me try to say something very briefly and I hope you will hear what I am saying. There are undercurrents related to other bills that are flowing across the floor this morning. But remember this, if there are enough votes to unbracket any other bill, that will be done in disregard of what is done on this particular matter. On the other hand, those of you who don't want to unbracket any bills, I am sure each and everyone of you can see that this bill is unique and distinct from every other A bill on the board. It is a matter which did pass last year, as Senator Barrett pointed out, and was vetoed while we were out of session. There is nobody who can ensure that an appropriation bill will not be left for

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action on the last day of the session. If that would occur, this bill could pass the last day and be vetoed again. So I would bring it in the following year and it would be bracketed. We would get down to the tail end, it would be vetoed and we couldn't override and it would be a yearly thing. If you vote to unbracket this bill and you are opposed to unbracketing others, your vote on this will not establish a precedent because there is a distinct difference between this and every other bill. So I am hoping that you will vote on the basis of what this bill is and the purposes to be accomplished. If it is not done in a timely fashion, it will have to be redone last year as it is being redone this year. So I hope you will vote to unbracket this bill, then vote to pass it. Thank you.

PRESIDENT: The question before the House then is the motion to unbracket LB 206 and 206A. All those in favor vote aye, opposed nay. Record the vote.

CLERK: 30 ayes, 13 nays to unbracket the bill, Mr. President.

PRESIDENT: The motion carries. The bills are unbracketed. So we are then ready in a position to go on Final Reading.

CLERK: Yes, sir.

PRESIDENT: All right. The Sergeant at Arms will see that all unauthorized personnel are off the floor. All members will be at their desks, and we will proceed then with Final Reading on these two bills. All right, Mr. Clerk, you may proceed with the reading of LB 206.

CLERK: Mr. President, I have a motion on the desk.

PRESIDENT: Read the motion.

CLERK: Mr. President, Senator Hefner moves to return LB 206 to Select File for a specific amendment, that amendment being to strike the enacting clause.

PRESIDENT: The Chair recognizes Senator Hefner.

SENATOR HEFNER: Mr. President and members of the body, I have a motion up there to return LB 206 to Select File and strike the enacting clause. This bill as written does one thing. It authorizes the legislators to receive actual expenses during the session as is now allowed between sessions. But our State Constitution says each

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member of the Legislature shall receive a salary not to exceed \$400 per month during his or her term of office. In addition to his salary, each member shall receive an amount equal to his actual expenses in traveling by the most usual route once to and returning from each regular or special session of the Legislature. Members of the Legislature shall receive no pay or perquisites other than such salary and expenses. I think our Constitution is very clear. It is very distinct. Senator Chambers, I think it is black on white. It says one trip down and one trip back, no others. And I realize that Senator Chambers here is trying to prove a point, but to prove this point it is going to cost the State of Nebraska thousands and thousands of dollars and, therefore, I am objecting to this bill. Senator Chambers has diagnosed a problem but he has come up with the wrong solution. This solution that he has is wrong. I think the correct solution would be to introduce a bill calling for a constitutional amendment so that the people, so that the people in the State of Nebraska could vote on it. I think that we have hoodwinked the public long enough. Let's get back to principles. I think that if this bill passes, it could jeopardize our chances of getting a constitutional amendment to raise our salary, defeat it. I believe Senator Labeledz and Senator Johnson each have a bill to raise our salaries. But I am sure that if this bill goes through, they will...the public will turn these constitutional amendments down. Think of the court cost. Think of the attorney fees that this will cost us if this bill is passed. I feel that this bill attempts to circumvent the Constitution. It attempts to end-run our Constitution and, of course, I don't think the public likes to see us do these things. It is against my principle to not stand up here this morning and explain to you why I oppose this bill. Our Constitution spells it out so plainly and so clearly, no expenses should be allowed to Senators during the session except one trip to Lincoln and one trip home. Our Constitution doesn't say anything about expenses in between sessions, and so I say to you this morning, let your conscience be your guide and I just wanted to call this to your attention one more time. I truly believe that Senator Chambers is doing what he thinks is right, but I believe it is wrong. I believe that the right solution would be a constitutional amendment. With this being said, I unanimously ask this motion to be withdrawn.

PRESIDENT: The Chair recognizes Senator Cullan.

SENATOR CULLAN: He asked unanimous consent to withdraw the motion.

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PRESIDENT: Oh, excuse me, I didn't hear you. I was talking and I didn't hear you. The motion is withdrawn, so we are then....is there anything further on the desk, Mr. Clerk?

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

PRESIDENT: All right, we will then proceed as we started to proceed a couple of times before with Final Reading. Is everybody at their desks? The Sergeant at Arms will see that everyone is off the floor and that all legislators are at their desks. We are on Final Reading. Mr. Clerk, you may proceed then with the Final Reading of LB 206.

CLERK: (Read LB 206 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 206 pass with the emergency clause attached? All those in favor vote aye, opposed nay. Record the vote.

CLERK: (Read the record vote as found on pages 723 and 724 of the Legislative Journal.) 27 ayes, 20 nays, 2 present and not voting, Mr. President.

PRESIDENT: The bill fails to receive the constitutional majority to pass with the emergency clause. Having failed to receive that majority for the emergency clause, the question now is, shall LB 206 pass without the emergency clause? All those in favor vote aye, opposed nay. Record the vote.

CLERK: (Read the record vote as found on page 724 of the Legislative Journal.) 27 ayes, 20 nays, 2 present and not voting, Mr. President.

PRESIDENT: LB 206 passes. Now the next bill is the A bill and we want to call upon the Chairman of the Appropriations Committee to explain whether this will be one of those bills that will require 30 votes because it exceeds the budget. Senator Warner, would you comment on that?

SENATOR WARNER: Mr. President and members of the Legislature, at least under the procedure that we have been operating since what, '76 or 7, the requirement for an A bill that is an item in excess of the Governor's budget requires 30 votes. Since the Governor does not have this item in his budget and I have not specifically checked on

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this bill with the Attorney General's office if there is something different about it, but I would suggest to the Chair that based upon the past interpretations it would require 30 votes for a valid appropriation. And if you want to enact it, then find out from the Attorney General if that is untrue in this case, fine. But I believe at least based on the past it will require 30 votes.

PRESIDENT: Senator Chambers, do you wish to comment on the....?

SENATOR CHAMBERS: Mr. Chairman, I have a question of the Chairman of the budget committee.

PRESIDENT: Senator Warner, will you respond?

SENATOR CHAMBERS: Senator Warner, this bill having passed, should there not be an appropriation and should there be a favorable decision in a lawsuit, any Senator would be authorized by law to seek reimbursement for expenses. Isn't that correct?

SENATOR WARNER: I would imagine that within existing.... I don't....it's a matter of priority, I assume, within existing appropriations to the Legislature you could file a claim to be reimbursed for those expenditures. The other option, of course, whether or not that would create a deficiency requirement is something that we couldn't predetermine at this time.

SENATOR CHAMBERS: Now, if this bill were passed, the Appropriation bill, then the talk of deficiency budgets and whatever would be nullified. The only reason, in other words, we would have to talk about a deficiency is if the Appropriation bill is not passed. Is that correct?

SENATOR WARNER: The reason I want....I want to look at the bill, Senator Chambers.

SENATOR CHAMBERS: Sure.

SENATOR WARNER: This is....it's the program 501 as it is written and program 501 within the Legislative Council budget has, I forget how much money, but it's obviously ample to cover this. If you assume that that money that is in program 501 is already committed, then it takes additional funds to have funds available, and if those funds are not available because of prior commitments, then

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you are either talking about a deficiency for the current year or rearranging the expenditures within the department...within the program to cover the expense.

SENATOR CHAMBERS: Or, Senator Warner, and this is for the record now, 501, that program would be a part of the Appropriation Committee's appropriation bill.

SENATOR WARNER: Well, it's part of the law right now, program 501.

SENATOR CHAMBERS: So I meant the funds that would go into it to fund any programs would be assailable when the budget bill itself comes before the body should this appropriation for this bill not pass.

SENATOR WARNER: Well, that's always true except we have operated where any legislation increase in expenditure for an agency that the cost of this additional authorization for expenditure would carry an A bill so you can clearly identify, the members could clearly identify that cost with that bill.

SENATOR CHAMBERS: But here is what I am asking, based on the legalities of the situation and what can be done despite any agreements that we have made among ourselves as a legislative body, the bill has already passed...

SENATOR WARNER: Um hum.

SENATOR CHAMBERS:should this A bill not pass, when the Appropriation Committee's bill comes to the floor, an attempt could be made to amend it to put this amount of this A bill into program 501.

SENATOR WARNER: Yes, that is possible, Senator Chambers, which....(interruption).

SENATOR CHAMBERS: That's all I wanted to be clear on.

SENATOR WARNER:obviously returns us back to the system prior to A bills and again creates, you know, a precedent that I think is improper. There is one exception to what I just said, that....and I am not proposing it, but if the body would decide to put this expenditure into a total separate program without funding it, then there would be no money to do it, but as the bill is written, it puts it into an existing program and it would mean that if it isn't paid here it would have....if this is paid, something else might not be able to be paid.

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LB 206A, 125

SENATOR CHAMBERS: Thank you, Senator Warner.

PRESIDENT: All right, we will proceed then on...we are still on Final Reading, members of the Legislature. We will proceed then with the Final Reading, Mr. Clerk, of LB 206A.

CLERK: Mr. President, LB 206A was introduced by Senator Chambers. (Read title.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 206A pass with the emergency clause attached? All those in favor vote aye, opposed nay. Have you all voted? Record the vote.

CLERK: (Read the record vote as found on page 725 of the Legislative Journal.) 30 ayes, 18 nays, 1 present and not voting, Mr. President.

PRESIDENT: Having failed to receive the constitutional majority for passage with the emergency clause on LB 206A, the question now is, shall LB 206A pass without the emergency clause attached? All those in favor vote aye, opposed nay. Have you all voted? Have you all voted? Record the vote.

CLERK: (Read the record vote as found on pages 725 and 726 of the Legislative Journal.) 30 ayes, 18 nays, 1 present and not voting, Mr. President.

PRESIDENT: The motion....LB 206A passes without the emergency clause attached. That will conclude Final Reading for today. Do you have some other matters to read in, Mr. Clerk? Ready then for agenda item 5, Select File. We are continuing with LB 120. All right, do you want to bring us up to date as to where we are?

CLERK: Mr. President....yes, sir. The bill has been before us a couple of different occasions. I now have pending, Mr. President, a motion from Senators Fowler, Marsh, Wesely and Landis. The amendment would read as follows: (Read the amendment as found on page 726 of the Legislative Journal.)

PRESIDENT: All right, the Chair recognizes Senator....is Senator Fowler going to discuss this? Who is....

CLERK: Yes.

PRESIDENT: The Chair recognizes Senator Fowler.

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LB 9, 34, 59, 69, 206,
206A, 308, 331

(Recorder malfunctioned. Following are the proceedings taken from the Journal.)

SPEAKER MARVEL PRESIDING

G. BRUCE CURRIER: Prayer offered.

ROLL CALL

CORRECTIONS FOR THE JOURNAL

MESSAGES, REPORTS, ANNOUNCEMENTS: LB 331 placed on General File as amended. (See pages 746-747 of the Journal.)

Message from the Governor. (See page 747.)

Executive Board report. (See pages 747-748.)

Attorney General's opinions re LB 59, LB 308, LB 69 as found on pages 748-752.

Speaker Marvel signed LE 206 and LB 206A.

FINAL READING: LB 9 read and passed on Final Reading. Final vote 33 ayes, 12 nays as found on pages 752-753 of the Journal.

Senator DeCamp moved to return LB 34 to Select File for a specific amendment.

Senator DeCamp asked unanimous consent to withdraw his motion.

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LB 345, 30, 206, 206A, 457

SENATOR CLARK: LB 345 is declared passed. We will now go to item #5, a motion by Senator Koch, LB 30.

CLERK: Mr. President, Senator Koch moves that LB 30 become law notwithstanding the objections of the Governor.

SENATOR CLARK: Senator Koch.

SENATOR KOCH: Mr. Chairman, I would ask unanimous consent to pass over item #5 on the agenda, both items.

SENATOR CLARK: Mr. Speaker, is that all right with you?

SENATOR KOCH: I am requesting, Senator Marvel, that we pass over item #5 on the agenda. We may pass over it indefinitely but we might take it up later this morning. I will advise you of that. Thank you.

SENATOR CLARK: We will pass over item #5 and go to item #6, Select File.

CLERK: Mr. President, if I may right before that, read a few things. Your Enrolling Clerk respectfully reports that she has presented to the Governor at 10:12 a.m. today, 206 and 206A.

Mr. President, Senator Stoney asks to be excused all day tomorrow and Monday.

Mr. President, Senator Koch asks to be excused through Friday, March 6.

SENATOR CLARK: LB 457.

CLERK: Mr. President, LB 457, there are no E & R amendments to the bill. I do have amendments from Senator Maresh, Mr. President.

SENATOR CLARK: Read the amendment. Senator Maresh, do you want to explain the amendment? It is two pages long.

SENATOR MARESH: Yes, Mr. Chairman, the amendment is very brief and simple and what it does, it adds waterways to the duties of the Transportation Advisory Committee. This is one area that is not covered by the Transportation Advisory Committee and I serve on this committee and I feel this is one of the duties we should include for this committee, to study what can be done to promote barge transportation on the Missouri River. Governor Thone has used some of the Old West Regional Commission money to establish a Missouri River Marketing Office and they are trying to promote the river with this. Last year this body passed

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LB 32, 76, 83, 136, 144,
206, 206A, 354, 457, 492

respectfully reports and examined engrossed LB 76 and finds the same correctly engrossed; LB 83 correctly engrossed; LB 136 correctly engrossed; LB 144 correctly engrossed; and LB 354 correctly engrossed; LB 457 correctly engrossed. (Signed) Senator Kilgarin.

Mr. President, I have a message from the Governor. (Read. Re: LB 206 and 206A. See pages 818 and 819, Legislative Journal.)

Mr. President, I have an Attorney General's opinion addressed to Senator Vickers regarding LB 32.

Mr. President, Senator Kremer would like to have the Public Works Committee meet underneath the North balcony right now for purposes of an exec session, the Public Works Committee underneath the North balcony, Mr. President, right now if possible.

Mr. President, your committee on Government, Military and Veterans Affairs reports LB 492 to General File, (Signed) by Senator Kahle as Chairman.

PRESIDENT: The Chair recognizes Speaker Marvel for an important announcement. Speaker Marvel. Would the Legislature please pay some attention to the Speaker at this point.

SPEAKER MARVEL: I wish you would get out your paper and pencils because we are talking about deadlines for priority bills. You will find on page 137 of the Journal for the fifth day, January 13, 1981, Rule 5, Section 6 which talks about scheduling of bills and priority bills. Your individual priority selection as well as your committee selection, the deadline is March 13 which is Friday. The deadline for the Speaker is March 17 and the chairmen who met this morning, although the rule does create some misunderstanding, what would happen is that your bills designated by either yourself or the chairman of your committee or committees, those bills would be gathered in by the Speaker's office and we would set them up as priorities on the agenda. Now there is some discussion about a way to maneuver so you can get more priority bills than somebody else and I would assume that no one in this body would operate that way but March 13 is the deadline for priority bills individual and committee and March 17 is the deadline as far as the Speaker's office is concerned and we would implement this through the agenda. If anybody has any questions I will try to answer them, otherwise you can find on your worksheet for this morning the beginnings of a listing of priority bills. There are five listed this morning, 56, 245, 269, 290 and 404.

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LR 32
LB 132, 206, 206A, 361
190

CLERK: Mr. President, your committee on Public Works whose Chairman is Senator Kremer reports LB 132 to General File with amendments; Mr. President, LB 361 to General File with amendments. Those are both signed by Senator Kremer as Chair.

Mr. President, new resolution, LR 32 by Senator Hefner. (Read. See pages 829 and 830, Legislative Journal.) That will be laid over, Mr. President.

Mr. President, Senator Chambers moves that LB 206 and 206A become law notwithstanding the objection of the Governor. That will be laid over as well.

PRESIDENT: We are ready then for agenda item #7, General File. The first bill on General File is LB 190. Mr. Clerk, will you read?

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LB 206, 206A, 245

CLERK: 21 ayes, 0 nays to go under Call, Mr. President.

SPEAKER MARVEL: The House is under Call. All legislators should be in their seats. Unauthorized personnel should be off the floor and you need to record your presence. Senator Kilgarin and Senator Cope, would you please record your presence. Senator Kremer, Senator Lamb. Okay, everybody who is not absent is here so will all legislators please be in their seats and we can proceed with the roll call. Did you ask for a roll call? Call the roll. The motion before the House is the adoption of the Chambers motion in regard to LB 206.

CLERK: (Read roll call vote found on pages 938-939 of the Legislative Journal.)

SPEAKER MARVEL: The Legislature is still under Call. All legislators be in their seats. Unauthorized personnel please leave the floor.

CLERK: 31 ayes, 12 nays on the motion to override LB 206, Mr. President.

SPEAKER MARVEL: The motion carried. 206A. Senator Chambers.

CLERK: Mr. President, Senator Chambers moves that LB 206A be passed notwithstanding the objections of the Governor.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I am going to ask for a machine vote on this and now that the bill has passed the money can be taken if we win anyway so I think we should appropriate the money to cover the bill. So, I am asking that this bill be passed also.

SPEAKER MARVEL: Okay, the motion is the adoption of the A bill 206A. All those in favor of overriding the A bill vote aye, opposed vote no. Record the vote.

CLERK: (Read record vote as found on pages 939-940 of the Legislative Journal.) 33 ayes, 11 nays, 5 excused and not voting, Mr. President.

SPEAKER MARVEL: The motion is carried. Okay, we are ready for item #6.

CLERK: LB 245 was a bill introduced by Senators Schmit, Hefner, Wagner, Kahle, Lamb, Kremer, Rumery, Howard Peterson, Maresh and DeCamp. (Read title.) The bill was first read on January 16 of this year. It was referred to the Ag and Environment Committee for a hearing. The bill was advanced to General File. I do have committee amendments pending by the Agriculture and Environment Committee, Mr. President.

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LB 328, 477, 35, 112,
245, 206, 206A, 22, 50,
74, 89, 89A, 171, 194,
425, 475, 500, 550,

SPEAKER MARVEL: The motion is the adoption of the Beutler amendment to the committee amendment. All those in favor of the motion vote aye, opposed vote no. Have you all voted? Have you all voted? Shall the House go under Call, all in favor of that motion vote aye, opposed vote no.

CLERK: 13 ayes, 2 nays to go under call Mr. President.

SPEAKER MARVEL: The House is under Call. All Legislators should be in their seats. Record your presence. Unauthorized personnel please leave the floor. Senator Fenger, Senator Koch, Senator Cope, Senator Kilgarin, Senator Kremer, Senator Schmit, Senator Vard Johnson, Senator Sieck, Senator Landis, Senator Newell, Senator Chambers, Senator Pirsch. Do we have them all now? Senator Vard Johnson and Senator Sieck. Will all legislators please be in their seats before we start the roll call. Senator Beutler everybody is accounted except Senator Vard Johnson. He is across the street. This is a roll call vote on the Beutler amendment to the committee amendment. Are you all in your seats? Okay, call the roll.

CLERK: Roll call vote. 15 ayes, 28 nays, 1 present and not voting, 4 excused and not voting, and 1 absent and not voting. Vote appears on pages 940-941 of the Legislative Journal.

SPEAKER MARVEL: Motion lost. Do you have another item?

CLERK: Mr. President, I have certificates and letters accompanying certificates regarding the overrides of LB 206 and 206A. (See pages 941-42 of the Legislative Journal).

Your committee on Enrollment and Review respectively reports we have carefully examined LB 22 and find the same correctly engrossed, 50, 74, 89, 89A, 171, 194, 425, 475 and 500, all correctly engrossed. (Signed) Senator Kilgarin, Chair.

Your Enrolling Clerk has presented certain bills to the Governor on this day. (See page 943 of the Legislative Journal).

Have a reference report referring LB 550.

Government Committee will meet in Executive Session on Thursday at 1:30 in Room 1113.

Judiciary reports 328 to General File as amended and 477 to General File with amendment.

Public Works reports 35 to General File and LB 112 indefinitely postponed. (Signed) Senator Kremer, Chair.

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LB 245, 11, 179, 206, 206A,
257, 346, 396, 452,
468, 495, 542, 543

Banking, Commerce and Insurance Committee reports LB 257 to General File with amendments. (Signed) Senator DeCamp.

Ag and Environment reports LB 542 to General File; LB 11 to General File with amendments; LB 396 General File with amendments; LB 452 and 468 indefinitely postponed. All those signed by Senator Schmit as Chair.

Business and Labor reports LB 495 as indefinitely postponed. (Signed) Senator Maresh.

Banking, Commerce and Insurance reports LB 543 to General File with amendments. (Signed) Senator DeCamp.

Senator Lamb would like to print amendments to LB 179 in the Journal.

Senator Nichol's Judiciary Committee reports LB 346 to General File with amendments.

I have a set of Rules reports from Senator Wesely's Rules Committee. That will be inserted in the Journal. (See pages 977-979.)

Mr. President, I have a communication from Secretary of State and accompanying certificate regarding the Legislature's override of LB 206 and 206A. Both will be inserted in the Journal. (See pages 980-982.)

SENATOR CLARK: Senator Schmit, do you want to advance 245?

SENATOR SCHMIT: Mr. President, I move that LB 245 be advanced.

SENATOR CLARK: We have two more amendments up here.

CLERK: Mr. President, the first amendment I have is offered by Senators Dworak, Goll, Vickers, Sieck, Warner, Lowell Johnson, Carsten, Clark, Haberman and Koch and it is found on page 868 of the Journal.