

January 19, 1981

LR 6  
LB 311-356

read some bills in now, we will recess until 3:30 and come back and hopefully there will be more bills to process and then I would like to have a meeting with the chairmen in Room 1520 at 9:00 tomorrow morning. The Clerk now will....Senator Carsten.

SENATOR CARSTEN: Mr. President, I am hopeful to have a meeting of the Revenue Committee at 3:00. We may be a little late getting back in Exec Session, so I just wanted to alert you of that.

SPEAKER MARVEL: Okay. Senator Carsten is calling a meeting of the Revenue Committee for three o'clock this afternoon. In which room? 1520. Okay, Mr. Clerk, go ahead.

CLERK: Mr. President, first of all, Senator Marsh has an explanation of vote to be inserted in the Journal. (See page 244 of the Legislative Journal.)

New bills, Mr. President. Read by title LB 311-355 as found on pages 244 through 255 of the Legislative Journal.

Mr. President, new resolution. (Read LR 6 as found on pages 255 and 256 of the Legislative Journal.)

Mr. President, Senator DeCamp asks unanimous consent to have the names of all the members added as co-introducers to LR 6.

SPEAKER MARVEL: Okay, the motion before the House is the unanimous consent request that all names be added to the resolution which was just read. Is there objection to that motion? If not, the motion is so ordered.

CLERK: Mr. President, pursuant to our rules....

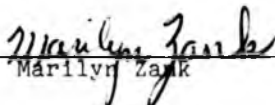
SPEAKER MARVEL: It will be in the Journal?

CLERK: Yes, sir, it will be taken up some time later.

Mr. President, LB 356. (Read title to LB 356 as found on pages 256 and 257 of the Legislative Journal.)

SPEAKER MARVEL: Okay, the motion by Senator Marsh to recess until 3:30 p.m. All those in favor of that motion say aye. Opposed no. We are recessed until 3:30 this afternoon.

Edited by:

  
Marilyn Zark

March 9, 1981

LB 55, 114, 128, 190, 198, 217, 246,  
271, 279, 297, 327, 388, 434, 462,  
407, 258

fellows walk around lobbying for this bill. They say, we hear you are against our bill, Rex, we are going to...we have some lobbyists working against you. They are sure are. They have been working their heads off this morning. I don't mind standing up here all alone, I have done it before, but I would like to have you fellows stop and think, we are only raising it from 6 to 8. They had a profit, a net profit of forty million in 1979. Thirty percent crosses the state. So I will ask for you to think down the road, raise it the two percent and then we will go from there. Thank you.

SPEAKER MARVEL: Motion is the Haberman amendment to legislative bill 190. All those in favor vote Aye, opposed vote No. Have you all voted? O.K. Record the vote.

CLERK: Eight Ayes. Fifteen Nays, Mr. President.

SPEAKER MARVEL: O.K. The motion lost. Now do you have some items to read in?

CLERK: Yes, sir.

SPEAKER MARVEL: While you are bringing them up, the Chairmen of the various committees have received a note this morning that we will meet tomorrow at 8:30a.m. in Room 2102. We need to start talking about priorities. If you will look at the sheet, you will find that this is the 39th day. Okay.

CLERK: Mr. President, your Committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 55 and find the same correctly engrossed; 114, 128, 217, 246, 279, 388, 434, 462, all correctly engrossed.

Mr. President, your Committee on Government reports LB 407 to General File. (Signed) Senator Kahle). LB 297 indefinitely postponed. Your Banking Committee whose Chairman is Senator DeCamp reports LB 271 to General File with amendments. (Signed) Senator DeCamp. (See page 809 of the Legislative Journal.) Miscellaneous Subjects Committee whose Chairman is Senator Hefner reports LB 258 to General File with amendments. (See pages 809 and 810 of the Legislative Journal.) (Signed) Senator Hefner. Your Banking Committee reports 327 to General File with amendments. (See page 810 of the Legislative Journal.)

Finally, Mr. President, Senator Warner would like to print amendments to LB 198 in the Legislative Journal. (See pages 810 through 815 of the Legislative Journal.)

SPEAKER MARVEL: Senator Peterson, will you adjourn us until 9:00 o'clock tomorrow morning. Howard Peterson.

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LB 113A, 327

CLERK: Mr. President, Senator DeCamp offered 113A.  
(Read.)

SPEAKER MARVEL: Do you make a motion to advance the bill,  
Senator DeCamp, 113A?

SENATOR DeCAMP: Oh, yes.

SPEAKER MARVEL: The motion is to advance 113A to E & R  
for review. All those in favor vote aye, opposed vote  
no. This is the A bill. Have you all voted? Record.

CLERK: 25 ayes, 2 nays on the motion to advance 113A,  
Mr. President.

SPEAKER MARVEL: Okay, the motion is carried. The bill  
is advanced. We now go to LB 327.

CLERK: Mr. President, LB 327 is offered by Senator Landis.  
(Read.) The bill was read on January 19, referred to Bank-  
ing, Commerce and Insurance. It was advanced to General  
File. There are committee amendments pending.

SPEAKER MARVEL: Senator DeCamp.

SENATOR DeCAMP: Mr. President, members of the Legislature,  
since this is Senator Landis' bill and he is on the committee  
I will let him handle the committee amendments.

SPEAKER MARVEL: Senator Landis.

SENATOR LANDIS: Mr. Speaker, members of the Legislature,  
the committee amendments are those offered by the insurance  
industry. LB 327 comes out of a drafting error made last  
year in LB 940 and you might recall that LB 940 was gutted  
just at the time of Final Reading and the banking industry  
and the retailing industry did that move in order that we  
would decline the federal bankruptcy exemptions. Pursuant  
to an agreement, however, they also raised the homestead  
exemption for bankruptcies and the personal property exemp-  
tion for bankruptcies and at the same time we attempted to  
close a loophole in Nebraska law which allows an individual  
going through bankruptcy to take with them and to keep as  
their own, all of the proceeds, loan values, cash values  
of their life insurance policies and annuities. We attempted  
to simply write a statute that said you can only keep \$5,000  
of the loan value of your insurance when you went through  
bankruptcy and that all the other additional amounts of loan  
value you had to surrender for the purpose of the bankruptcy.  
However, because of the lateness of the hour and the ill-  
drafted version that was passed we inadvertently applied

that section across the board to proceeds, cash values, benefits, annuities of life insurance, accident insurance, health insurance and all kinds of things. It was just simply a not well drafted amendment. In meetings with the insurance industry over the summer they indicated they had problems with how they were going to administer and handle the accounting problems that were faced with them with the advent of LB 940. I told them that in response that I would make a good faith attempt to change that this year and make their jobs easier. The green copy of the bill was their first attempt to do so in which they relied on the Fraudulent Transfers or Preferences Act portion of the Bankruptcy Act. Now this in subsequent discussions seems unsatisfactory. The committee amendments then re-institute the \$5,000 maximum and then grammatically apply that in a way that will apply to the loan values of life insurance only. In frankness I have to tell the body that the banking association at this point does not have complete acceptance and agreement on that language. I have made the arrangements with the appropriate parties to check two things. First have we created a rational or irrational classification with the committee amendments in distinguishing between debtors that go through bankruptcy and all other debtors which would be done by the committee amendments and secondly, do we in any way endanger the declination of the federal bankruptcy exemptions of last year by making reference to the bankruptcy section in the committee amendments? In answer to those questions then by way of giving legislative history let me respond that, number one, I believe we create a rational classification and, number two, it is not my intention by the introduction of LB 327 nor its passage, to decline or to in any way infringe upon the action we took last year in LB 940, that I am not trying to make a partial waiver of the federal exemptions and, therefore, allow federal bankruptcy judges to imply that this body somehow wishes to live under the federal bankruptcy exceptions. It is strictly my intention to live by the declination of federal exemptions and, secondly, to make sure that we solve that loophole. The committee amendments do that and they will be held on Select File until we have the answer from the Attorney General to the satisfaction of all parties and with that, I would urge the body to adopt the committee amendments and to pass the bill on to Select File where it will be held for the Attorney General's opinion on those two questions. Of course, I will have that printed and made available to all members as well as to the insurance end of the banking industries and the bill will only proceed with the approval of all the necessary and relevant parties. Thank you.

SPEAKER MARVEL: The motion is to adopt the committee amendments. All those in favor vote aye, opposed vote no. Have

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LB 327, 181, 284, 317

you all voted? While you are voting on the adoption of the committee amendments, from Senator Kahle and Cope's district 21 students, three adults from Kenwood School, Kearney, Nebraska, Becky Brown, Gayle Asche, Lyle White, teachers, North balcony. Do you want to hold up your hands so we can see where you are from Kearney? From Senator VonMinden's district 55 students from Wayne Middle School, Wayne, Nebraska, Dan Johnson, teacher, North balcony. Do you want to show us where you are? Welcome to you. Record.

CLERK: 28 ayes, 0 nays, Mr. President, on the motion to adopt the committee amendments.

SPEAKER MARVEL: Senator Landis.

SENATOR LANDIS: Mr. Speaker, the speech on the committee amendments serves also to explain the bill. I will simply add this final note. The purpose of LB 327, and this maximum on exemptions, is to control the very large and sophisticated and well-to-do person who goes through bankruptcy who can utilize the loophole that we have had in Nebraska law up until this time, to buy a life insurance policy, a paid up life insurance policy just before going through bankruptcy that has 80 or a 100 thousand dollars of value and then because of our Nebraska law, have that value survive bankruptcy and that is the intent behind LB 327, is to cut off that kind of practice and that is why I ask for its adoption and move that it be advanced to E & R initial.

SPEAKER MARVEL: The motion is to advance the bill to E & R initial. All those in favor vote aye, opposed vote no. Have you all voted? Record the vote.

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

SPEAKER MARVEL: The motion is carried. The bill is advanced. Now I think the Clerk has an item or two to read in. Right?

CLERK: Yes, sir. Mr. President, Senator Lamb would like to print amendments to LB 317; Senator Wesely to print amendments to LB 181. Senators DeCamp and Schmit ask unanimous consent to withdraw all their amendments as well as their names from any amendments offered jointly to LB 284 and, finally, Mr. President, Senator Warner would again like to remind the Appropriations Committee to meet today upon adjournment in Room 1003.

SPEAKER MARVEL: Okay, members of the Legislature, I wish

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LB 113A, 179, 292, 292A,  
317, 327, 479.

amendments; 113A, Select File; 327, Select File; 317, Select File; 292, Select File with amendments; 292A, Select File; 479, Select File. All signed by Senator Kilgarin as Chair, Mr. President. (See pages 1235 through 1238 of the Legislative Journal.)

SPEAKER MARVEL: The next order of business is Final Reading, item #4. All legislators will please take your seats so we can proceed with Final Reading. All unauthorized personnel please leave the floor. The first bill on Final Reading is LB 179E. Senator Koch, your light is on, did you wish to be recognized? Okay. LB 179E.

CLERK: Mr. President, I have a motion on the desk. Senator Hoagland moves to return LB 179 to Select File for a specific amendment, and there are copies that have been distributed, Mr. President.

SENATOR HOAGLAND: Mr. Speaker and colleagues, we had intended to have this printed in the Journal but we adjourned abruptly enough yesterday so it was not done, and I apologize for that. I would ask you to turn to page 19 of the bill. This is an amendment which is of a technical nature basically, in my opinion, and I apologize for holding up final passage of a bill as long as this to get this change made or to seek this change made but I think it is important enough to do it. If you turn to page 19 and review Section 12 of the bill, there is an inference there in that section that if there is a lawsuit filed against a public employee or public official and that lawsuit is successful, why then the public official or public employee has to pay the entire damages out of his own pocket if the jury in that lawsuit or the court in that lawsuit finds that his action was not reasonable or that his action was not in good faith. Now, what the amendment would provide is that the political subdivision that he is working for will pay the judgment against him as long as he operated...let me get the language here, within the scope of his office or employment. The amendment goes on to provide that there is nothing that should be construed to prevent the discipline of an employee or an official who does not act reasonably and in good faith in the performance of his duties. Now the reason I think this is important is because if this particular provision stays in the law, in my opinion it is going to scare the living daylights out of a lot of public officials and a lot of public employees and they are not going to execute their statutory functions as they should. Now let me try and give you two examples of why I think this could have a detrimental

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LB 311, 355, 56, 327

with, the question is, shall the bill pass? Those in favor vote aye, opposed vote no. LB 311 on Final Reading. Have you all voted? Record the vote.

CLERK: 43 ayes, 3 nays, 1 excused and not voting, 2 present and not voting. Vote appears on pages 1293-94 of the Legislative Journal.

SPEAKER MARVEL: The bill is declared passed on Final Reading. Next bill on Final Reading, LB 355. Clerk will read.

CLERK: (Read LB 355 on Final Reading.)

SPEAKER MARVEL: All provisions of law having been complied with, the question is, shall the bill pass on Final Reading. LB 355. Those in favor vote aye, opposed vote no. Have you all voted? Have you all voted? The Clerk will record the vote.

ASSISTANT CLERK: 41 ayes, 4 nays, 2 excused and not voting, 2 present and not voting. Vote appears on page 1295 of the Legislative Journal.

SPEAKER MARVEL: The bill is declared pass on Final Reading. Finally LB 56. The Clerk will read on Final Reading.

CLERK: (Read LB 56 on Final Reading.)

SPEAKER MARVEL: All provisions of law having been complied with, the question is, shall the bill pass on Final Reading. All those in favor vote aye, opposed vote no. Have you all voted? Record the vote.

ASSISTANT CLERK: 39 ayes, 8 nays, 1 excused and not voting, 1 present and not voting. Vote appears on pages 1295-96 of the Legislative Journal.

SPEAKER MARVEL: The bill is declared passed on Final Reading. Do you want to read some items in?

CLERK: Yes sir. Mr. President, I have a Attorney General's opinion addressed to Senator Vard Johnson (Pages 1296-98 of the Legislative Journal). And, one addressed to Senator Landis regarding 327 (Page 1298-99 of the Legislative Journal).

Mr. President, the Government Committee will meet in Executive Session at the noon recess underneath the north balcony. The Government Committee at the noon recess underneath the north balcony.

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LB 379, 494, 290, 327

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

SPEAKER MARVEL: Senator Kilgarin.

SENATOR KILGARIN: I move LB 379 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.

CLERK: Mr. President, I have. . . Senator Labeledz would like to print amendments to 494. Senator Chambers would like to print a motion to LB 290 in the Journal. Senator Landis prints amendments to LB 327. Again, Mr. President, a reminder to the Government Committee will meet under the north balcony upon recess this morning.

SPEAKER MARVEL: Senator Pirsch, will you recess us until 1:15 p.m. please.

SENATOR PIRSCH: I would be happy to, Mr. Speaker. I move we recess until 1:30 p.m. this afternoon.

SPEAKER MARVEL: 1:15.

SENATOR PIRSCH: 1:15? Excuse me. 1:15 this afternoon.

SPEAKER MARVEL: The motion is to recess until 1:15 p.m. All those in favor say aye, opposed no. (Gong) All those in favor vote aye, opposed vote no to recessing until 1:15. Have you all voted? Record.

CLERK: 16 ayes, 6 nays to recess till 1:15 p.m., Mr. President.

SPEAKER MARVEL: Motion carries. We are recessed till 1:15 p.m.

Edited by

Lavera M. Benischek  
Lavera M. Benischek



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LB 173, 327

CLERK: (Record vote read. See page 1481, Legislative Journal.) 42 ayes, 1 nay, 6 excused and not voting, Mr. President.

SPEAKER MARVEL: The bill is declared passed on Final Reading. That completes item #4. Then we now proceed to item #5, Select File. First I would like to introduce some folks in the North balcony from Senator Von Minden's District. 25 eighth grade students from Wakefield Community School, Wakefield, Nebraska. Mr. Joe Coble is the principal and they are in the North balcony. Will you hold up your hand so we can see where you are so we can welcome you to the Unicameral?

CLERK: Mr. President, Business and Labor would like to have an executive session, Thursday, April 16 at one o'clock in the west lounge.

And I have an explanation of vote offered by Senator Haberman.

SPEAKER MARVEL: The first bill on Select File is LB 327.

CLERK: Mr. President, I have no E & R amendments to LB 327. I do have an amendment from Senator Landis. That is found on page 1305 of the Journal.

SPEAKER MARVEL: Senator Landis.

SENATOR LANDIS: Mr. Speaker, members of the Legislature. Thank you, Mr. Speaker. The amendment that is offered is clarifying language suggested to me by the insurance association in conjunction with the banking association. You will notice it strikes a reference to the Federal Bankruptcy Act and the reason for striking that reference is the fear, irrational I believe, but present in the minds of some bankers that by referring to the Bankruptcy Act it may in some way open a legal question that we are somehow authorizing the federal exemptions to bankruptcy. As you recall, last year we slammed the door on those and indicated that we would use only state exemptions. This defines in law what we had intended to do last year to make a maximum of \$5,000 of cash value to survive bankruptcy, that anything over that amount was subject to attachment. It has been the practice in the past that well-to-do and well-heeled and knowledgeable individuals going through bankruptcy purchased life insurance policies just before going through bankruptcy with paid up cash values which they could then use after bankruptcy for their own financial resources and this would stop that. We had intended to stop this last year but it was drafted poorly

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LB 327, 298

at the last eleventh hour gasp of the session and, anyway, this amendment strikes reference to the Federal Bankruptcy Act and is satisfactory to all parties and, thereby, makes LB 327 satisfactory to all parties as well. I would move its adoption.

SPEAKER MARVEL: The motion is the adoption of the Landis amendment to LB 327. All those in favor of that motion vote aye, opposed vote no. Have you all voted? Record the vote.

CLERK: 32 ayes, 0 nays on adoption of Senator Landis' amendment.

SPEAKER MARVEL: Motion is carried. The amendment is adopted and now the vote is the advancement of the bill as amended. All those in favor of advancing 327 say aye, opposed no. Motion is carried and the bill is advanced. The next bill on Select File is LB 298.

CLERK: Mr. President, there are E & R amendments to LB 298.

SPEAKER MARVEL: Senator Kilgarin.

SENATOR KILGARIN: I move the E & R amendments to LB 298.

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

CLERK: Mr. President, I now have an amendment from Senator Koch. It is found on page 1279 of the Journal.

SPEAKER MARVEL: The Chair recognizes Senator Koch.

SENATOR KOCH: Mr. Speaker and members of the body, as you recall, this piece of legislation proposes that the various subdivisions of primary cities of this state will provide for certain kinds of zoning for manufactured homes. The original bill obviously because of Lincoln's concern felt that the primary cities should be omitted. Now many of our communities in which we live other than Lincoln we have had proper planning and zoning for a great number of years. The city in which I live in 1972 spent considerable money for the same purpose of master planning and zoning. I believe that if the cities of the state by and large are subject to this provision, then it is not unreasonable that the primary city of the State of Nebraska should also be subject to this provision and it should make those kind of provisions for manufactured homes and with certain restrictions, and I ask for the adoption of this amendment.

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LB 44, 74, 87, 113, 271, 298,  
327, 328, 331, 404, 478, 486,  
252, 241, 483

not going to be built for a variety of reasons, environmental costs, eminent domain and many other reasons. You start talking about building a project and immediately you have a whole group of people that rise up in arms to it. We all know that, but yet it is nice to stand up on the floor and make glowing speeches about how we need to store more water. But now when we are talking about an issue where we might be able to save some of that water in the State of Nebraska although it might not be in your area, it might not be in your basin, you might have to drive a couple hundred miles to go fish in it, suddenly you don't want to do that and you want to put language in the statutes that I assure you is going to prohibit it from happening. I suggest that reasonable people that are of conservative nature should agree with me to remove the language in lines 13 and 14.

SPEAKER MARVEL: Okay, the motion is on the second half of the Vickers amendment, is the adoption of that amendment. All those in favor vote aye, opposed vote no. Have you all voted? Senator Vickers, where are you? Oh, there you are. Eight are excused, Senator Vickers.

SENATOR VICKERS: Record the vote. Oh, make it...I want a record vote.

SPEAKER MARVEL: Okay, record.

CLERK: (Read the record vote as found on page 1519 of the Legislative Journal.) 10 ayes, 23 nays, Mr. President, on adoption of the amendment.

SPEAKER MARVEL: The Clerk has some items to read in.

CLERK: Your Enrolling Clerk has presented to the Governor LB 483.

I have a communication from the Governor addressed to the Clerk. (Read communication regarding the signing of LBs 44, 74, 87, 271 and 483 as found on pages 1520 and 1521 of the Legislative Journal.)

Mr. President, Senator Fowler would like to print amendments to LB 404. (See pages 1521 and 1522 of the Journal.)

Your committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 241 and find the same correctly engrossed; 298, 327, 328, 486, 113, and 331 and 478, all correctly engrossed, Mr. President. (See pages 1524 and 1525 of the Legislative Journal.)

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LB 3, 134, 248A, 327,  
328A, 394, 470

SPEAKER MARVEL: Motion carried. The bill is advanced.  
Any other items?

CLERK: Yes, Mr. President, if I may, I have Reference Report referring gubernatorial appointments to the Ag and Environment Committee for hearing. (See page 1574 of the Legislative Journal.)

Senator Schmit would like to print amendments to LB 327. (See pages 1574 and 1575 of the Legislative Journal.)  
Senator Schmit to LB 328A. (See page 1575 of the Journal.)  
Senator Fenger to LB 134. (See page 1575 of the Journal.)  
And Senator Carsten to LB 3. (See page 1575 of the Journal.)

SPEAKER MARVEL: We have got two items we are going to take up before we adjourn, and one is LB 248A. Senator Fowler.

CLERK: Mr. President, LB 248A was offered by Senator Fowler. (Read title.)

SENATOR FOWLER: This is the appropriation bill that accompanies Senator Wiitala's retirement bill. I introduced it as Chairman of the Retirement Committee. It was based on the actuarial report and the actuarial assumptions on the fiscal impact of that bill. I would move it be advanced.

SPEAKER MARVEL: The motion is to advance the bill. All those in favor of that motion....all in favor of that motion vote aye, opposed vote no. 248A. It is the second item under General File. Have you all voted? Record the vote.

CLERK: 27 ayes, 0 nays, Mr. President, on the motion to advance the A bill.

SPEAKER MARVEL: Okay, the motion is carried, the bill...(Mike off). Item 470. LB 470.

CLERK: Yes, sir. Mr. President, LB 470 was introduced by the Business and Labor Committee and signed by its members. (Read title.) The bill was first read on January 20, referred to Business and Labor for public hearing. The bill was advanced to General File. There are committee amendments pending, Mr. President.

SPEAKER MARVEL: Senator Maresch.

SENATOR MARESH: Mr. Speaker and members of the Legislature, this bill puts Nebraska in conformity with national

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LB 241, 296, 327

SENATOR KOCH: Mr. President, that gentleman is reading it so distinctly I can hear it for once and I am tired of it already. Tell him to mumble it.

PRESIDENT: The point is well taken, Senator Koch. The Clerk will please pay attention to the request of the Senator.

CLERK: (Continued reading LB 241 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 241 pass. All those in favor vote aye, opposed nay. Record the vote.

CLERK: (Read record vote as found on page 1580 of the Legislative Journal.) 31 ayes, 15 nays, 2 excused and not voting, 1 present and not voting, Mr. President.

PRESIDENT: LB 241 passes. The next bill on Final Reading is LB 298.

CLERK: (Read LB 298 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 298 pass. All those in favor vote aye, opposed nay. Record the vote.

CLERK: (Read record vote as found on page 1581 of the Legislative Journal.) 28 ayes, 17 nays, 3 excused and not voting, 1 present and not voting, Mr. President.

PRESIDENT: LB 298 passes. The next bill on Final Reading is LB 327, Mr. Clerk.

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

PRESIDENT: Read the motion.

CLERK: Mr. President, Senator Schmit moves to return LB 327 to Select File for a specific amendment. The amendment is on page 1574 of the Journal.

PRESIDENT: The Chair recognizes Senator Schmit.

SENATOR SCHMIT: Mr. President and members of the Legislature, I have discussed the amendment with Senator Landis. The amendment provides and allows the subdivision of government that is facing bankruptcy to reorganize similarly to the provisions we provide for an individual. Now it happens very rarely but it

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LB 327

has happened in the past and the only other alternative that they can undertake is just to allow the people who might be the creditors of the subdivision of government to suffer the loss. So the federal law allows the states to do this but we have to take the positive action. I have offered the amendment. It is printed in the Journal and as I said, I would like to have Senator Landis speak to it. I understand he has no objection.

PRESIDENT: The Chair recognizes Senator Landis.

SENATOR LANDIS: Mr. Speaker, members of the Legislature, I have no objection to the Schmit amendment. The chapter now on the bankruptcy act allows for the organization of a bankrupt's debts and the payment of those on an organized schedule and limits creditors rights to be consistent with that organized pattern of repayment. I have no objection to Senator Schmit offering this amendment and I intend to vote for it.

PRESIDENT: The Chair recognizes Senator Beutler.

SENATOR BEUTLER: Mr. Speaker, members of the Legislature, a question of Senator Schmit if I may.

PRESIDENT: Senator Schmit, will you respond?

SENATOR BEUTLER: I am sorry I did not see this amendment before hand but I really do have a concern about what this kind of an amendment might do to the bond ratings of municipalities and the cities of Nebraska because it seems to me that if the information is put out that they can declare bankruptcy and absolve themselves from debt it might have a tremendous effect on bond ratings and an effect on the interest rates being paid by municipalities on bonds. Have you checked with bond counsel on this question?

SENATOR SCHMIT: Yes, I visited with counsel on it. In fact, just the opposite should occur, Senator. It has been a long time, I believe, since I believe the City of Ralston, maybe Senator Koch could inform us of that, the City of Ralston at one time years ago went through default but what this does is it will allow for reorganization and the payment of those debts whereas otherwise if you go bankrupt, we have seen that happen a few times with our major cities in some parts of the country, there is nothing but a bail out system. This does provide a system of reorganization just as you would have for an individual. It should strengthen the credit rating rather than otherwise.

SENATOR BEUTLER: Thank you.

PRESIDENT: The Chair recognizes Senator Warner.

SENATOR WARNER: Mr. President, I have a question, I suppose for Senator Schmit or whoever could answer.

PRESIDENT: Senator Schmit, will you respond.

SENATOR WARNER: I am wondering, it is more a general question of bankruptcy which I wouldn't know, but if an SID went broke who, and a portion of the bonded indebtedness is governmental as opposed to private. There might be private indebtedness involved too. Who gets priority if anyone between the governmental subdivision and debts that an SID might hold that was to suppliers or something?

SENATOR SCHMIT: You would have to...maybe Senator Johnson could answer that question. I really don't know but it does, as I said before, probably SIDs will be one of the principal subdivisions which would be covered by this because there might be a few of them that might go broke and I don't know who would have the priority. I would believe the governmental subdivision would take priority.

SENATOR WARNER: I guess the only other question I would have is if anybody knows anything differently because I don't know but I would have a concern that we would be...if we would be...

SENATOR SCHMIT: I think the governmental indebtedness, the bonded indebtedness of the subdivision would be the first priority and again, that is just my offhand knowledge with my conversation, not as an authority on this, but people I have visited with indicated that that would be true.

PRESIDENT: The Chair recognizes Senator Vard Johnson.

SENATOR V. JOHNSON: Mr. President, members of the body, with some reluctance I am going to rise in opposition to Senator Schmit's amendment. And the reason I say it is with reluctance is because I think that Senator Schmit has moved into an area about which I have so little personal knowledge and yet which I think is so important, that before I could support the amendment I really would want to know more about what it's full impact is. Under Senator Schmit's amendment, if passed, the State of Nebraska will permit all local governments to be able to use the provisions of the United States Bankruptcy Act when local government for one reason or another becomes insolvent. Now if we can scratch our collective heads and ask ourselves when that is likely to occur, but as Senator Warner has rightfully pointed out there is at least one SID in Omaha which is in financial distress and there may be more than one SID that is having similar difficulties. I think under existing law

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LB 327

where a local government is not able to take out a bankruptcy what happens simply is that it's bonds are continued to be discounted quite substantially. It just is not able to meet its obligations as they come due and that is essentially it. I mean, creditors really are left high and dry. I know that when New York was faced with its financial difficulties there was a lot of head scratching on the part of the Wall Street lawyers as to what was to be done to save New York because at that time the existing bankruptcy laws on governmental reorganization were extremely sketchy. It was allowed but they were extremely sketchy and so I think a considerable amount of thought has gone into, in the bankruptcy code revisions the kind of provision that should obtain when a government literally goes broke but it seems to me that given the magnitude of what Senator Schmit is requesting, this body would be better advised if it was to decline the amendment at this time, to bring the matter in next year as a bill, to have full committee hearings on the subject and to then pass it if it is necessary.

PRESIDENT: Any further discussion on Senator Schmit's motion to return for the specific amendment, return to Select File? Senator Schmit, you may close.

SENATOR SCHMIT: Mr. President and members of the Legislature, I would have to ask you to return the bill. I believe, as Senator Vard Johnson has pointed out, there is some concern there. I think he is really not in opposition to it. I do think, however, that there are some instances where there may be an SID that could go bankrupt and without this action they have no recourse. There is nothing for them to do. Now if you want them to just walk away from those obligations and do nothing, then I guess, you wouldn't adopt the amendment but if you want to provide them the mechanism which the federal statute has allowed us to do, to reorganize and to attempt to pay off those obligations, then I think you have to adopt the amendment. It makes no difference to me personally. I have none of this problem in my area but I think that we need to recognize that problems may occur and those problems will very likely occur before we get back here next session. I would hope that you would do the opposite of what Senator Vard has suggested, that we would pass it and then if there is a problem, we will probably have a better experience record by next January to act upon it. So with all respect to Senator Johnson who I know understands it far better than I do, I would ask you to return the bill for that specific amendment.

PRESIDENT: The motion is the return of LB 327 for the specific Schmit amendment. All those in favor vote aye, opposed nay. Have you all voted? Record the vote.



April 27, 1981

LB 327, 331

CLERK: 28 ayes, 5 nays, Mr. President, on the motion to return the bill.

PRESIDENT: The motion carries. LB 327 is returned to Select File. Senator Schmit, do you wish to take it up at this time, a motion to...

SENATOR SCHMIT: I move for the adoption of the amendment, Mr. President.

PRESIDENT: The motion by Senator Schmit to adopt the Schmit amendment to LB 327. Any further discussion at this time? If not, Senator Schmit, that would be your opening and your closing. The question then is the adoption of the Schmit amendment to LB 327. All those in favor vote aye, opposed nay. Record the vote.

CLERK: 26 ayes, 6 nays, Mr. President, on adoption of the Schmit amendment.

PRESIDENT: The motion carries. The Schmit amendment is adopted. Senator Schmit, do you wish to move the bill?

SENATOR SCHMIT: I move the bill to E & R final, Mr. President.

PRESIDENT: Motion to readvance LB 327 to E & R for engrossment. Any discussion? All those in favor signify by saying aye, opposed nay. LB 327 is advanced to E & R for engrossment. We are now ready for the next bill on Final Reading which is LB 331.

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

PRESIDENT: Read the motion, Mr. Clerk.

CLERK: Senator Schmit moves to return LB 331 to Select File for a specific amendment.

PRESIDENT: The Chair recognizes Senator Schmit.

SENATOR SCHMIT: Mr. President and members of the Legislature, I am sure you are aware of the fact that the Attorney General had issued an opinion in which he stated that he did not know for sure if he could defend LB 331 because of the fact that it might possibly, the way it was drafted, lend the credit of the state to an individual. With no dishonor on our part to do this, we did draft an amendment which I will summarize for you. I am sorry I do not have it on your desk but it provides that the \$50,000 award that would be made under LB 331 would be made only in the event that those donations would be made to the Gasohol Committee and that the Governor

April 29, 1981

LR 62, 66  
LB 132, 249, 296, 327,  
331, 499, 512

SPEAKER MARVEL PRESIDING

REVEREND JAMES C. COUSER: (Prayer offered.)

CLERK: Mr. President, Senator Vard Johnson would like to be excused until he arrives; Senator Hoagland would like to be excused for the day; and Senator Beyer, Pirsch and Labedz until they arrive.

SPEAKER MARVEL: Will you record your presence please? Record.

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

Mr. President, first of all, I do have a correction to the Journal. (Read. See page 1620, Legislative Journal.)

Mr. President, your committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 512 and recommend that same be placed on Select File with amendments; LB 499 Select File with amendments. Both signed by Senator Kilgarin, Chair.

Your committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 296 and find the same correctly engrossed; 327 correctly engrossed; and 331 correctly engrossed. (Signed) Senator Kilgarin, Chair.

Mr. President, a new resolution, LR 66 (read). Mr. President, that will be laid over pursuant to our rules.

Mr. President, LBs 132 and 249 are ready for your signature.

SPEAKER MARVEL: While the Legislature is in session and capable of transacting business, I am about to sign and do sign, LB 132 and LB 249. Item #4, resolutions, the first resolution #62.

CLERK: Mr. President, LR 62 (read). It is found on page 1551.

SPEAKER MARVEL: Senator Kahle.

SENATOR KAHLE: Mr. Speaker and members, if you paid attention to the reading of the resolution, you know that Kenneth Bowen passed away on April the 18th. He was a resident of the 37th District until his death, the District that I represent. You also know that he was a State Senator from '59 to '67 and he was Speaker in '65 of this body. Later he was appointed to the Farmers Home Administration and was Executive Secretary of the League of Nebraska Municipalities.

May 4, 1981

LB 327, 331, 190

PRESIDENT: As soon as everyone gets to their desk, we will commence with Final Reading. All right, Mr. Clerk, I guess we are about ready. We can commence on the first bill on Final Reading today is LB 327.

CLERK: (Read LB 327 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 327 pass? All those in favor vote aye, opposed nay. Record the vote.

CLERK: (Record vote read. See page 1702, Legislative Journal.) 36 ayes, 4 nays, 7 excused and not voting, 2 present and not voting, Mr. President.

PRESIDENT: LB 327 passes. The next bill on Final Reading, Mr. Clerk, is LB 331.

CLERK: (Read LB 331 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 331 pass? All those in favor vote aye, opposed nay. Record the vote.

CLERK: (Record vote read. See page 1703, Legislative Journal.) 43 ayes, 0 nays, 5 excused and not voting, 1 present and not voting, Mr. President.

PRESIDENT: LB 331 passes. Next bill on Final Reading is LB 190.

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

PRESIDENT: Read the motion.

CLERK: Mr. President, first of all, Senator Warner had amendments on page 1276 that I believe he wishes to withdraw.

PRESIDENT: Senator Warner. The Chair recognizes Senator Warner.

SENATOR WARNER: Withdraw the first one, it had a reference in it that is in error. The next one is a identical amendment except it has the reference that is correct.

PRESIDENT: So the first one is withdrawn, Senator. It shall be withdrawn. Read the second motion then.

CLERK: Mr. President, Senator Warner moves to return LB 190 to Select File for specific amendment. The amendment is

May 5, 1981

LB 327, 331, 506, 536

PRESIDENT LUEDTKE PRESIDING

PRESIDENT: Prayer by the Reverend Jack Glass from the First Assembly of God Church here in Lincoln.

REVEREND GLASS: Prayer offered.

PRESIDENT: Roll call. Have you all registered your presence? Has everyone registered your presence? Record the presence, Mr. Clerk.

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

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

CLERK: Mr. President, on approximately page 1774 we will insert LB 536 having been signed by the presiding officer.

PRESIDENT: All right, the Journal will stand as being corrected. Any messages, reports or announcements?

CLERK: Mr. President, yes, sir, two resolutions. Read LR 78. That will be referred to the Executive Board for reference. LR 79, introduced by several members. Read. (See pages 1737-1739 of the Legislative Journal.) That will be laid over, Mr. President.

Mr. President, I have a notice of hearing from Education Committee on gubernatorial confirmation hearings scheduled for May 21. I have an Attorney General's opinion addressed to Senator Vard Johnson regarding LB 506 and LB 327 and 321 (sic) 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 327 and LB 331.

CLERK: Mr. President, I have a series of interim study resolutions. The first is LR 80 offered by the Business and Labor Committee. The purpose of the study to consider numerous questions that have arisen concerning Nebraska's unemployment compensation program. Mr. President, that is all that I have.

PRESIDENT: Before we begin on agenda item #4, the Chair takes pleasure in introducing some guests of Senator Kremer from Aurora, Nebraska, Mr. and Mrs. Larry Carrier and son, Steven. Would the Carriers stand and be recognized and welcome to your Unicameral Legislature, welcome. We will

RECESS

May 5, 1981

LB 209, 284, 284A,  
327, 331

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: Record.

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

Mr. President, right before we start, your Enrolling Clerk respectfully reports she has on this day presented to the Governor for his approval LB 327, 331, 284 and 284A.

SPEAKER MARVEL: Okay, the first order of business is where we left off on LB 209.

CLERK: Mr. President, we left off on 209, the next motion that I had was a motion to indefinitely postpone and that was signed by Senator Haberman but Senator Haberman is not yet with us so I have got a Hoagland amendment. Mr. President, while we are waiting for Senator Haberman, I have a motion from Senator Hoagland to amend the bill. (Read amendment found on page 1758, Legislative Journal.) That is offered by Senator Hoagland.

SPEAKER MARVEL: The Chair recognizes Senator Hoagland.

SENATOR HOAGLAND: Mr. Speaker and colleagues, this amendment strikes the presidential primary provisions of LB 209. It follows the recommendations of the Government Committee in reporting this bill out. I think there has been some criticism of the bill because of the amount of money that it would cost the taxpayers to schedule a special separate presidential preferential primary. I don't think that there is much support in this body for this particular aspect of LB 209 and this amendment would clean the bill up to that respect. I would be pleased to answer any questions anybody might have about it. I am sure Senator Koch would as well. I ask for your support for this amendment.

SPEAKER MARVEL: The motion before the House is the Hoagland amendment. Any further discussion? All those in favor of the adoption of the Hoagland amendment to LB 209 vote aye, opposed vote no. This is the...have you all voted? Have you all voted? Senator Hoagland, what is your pleasure.

SENATOR HOAGLAND: Yes, this amendment, Mr. Speaker, strikes the presidential preferential primary which I think has received a lot of opposition and I see that we need about 8...I hate to have a Call of the House...waiting for people to come back into the Hall from lunch so I would be content

May 8, 1981

LR 164  
LB 326, 35, 76, 327, 331

public bodies and agencies created, and I just think that while we are at it we might as well take this opportunity to vote against another...to nip in the bud another new agency or commission. Thank you.

SPEAKER MARVEL: The motion is the adoption of the Hoagland amendment to LB 326. Senator Wagner, do you want recognition?

SENATOR WAGNER: Mr. Speaker and members, I had my light on. Was Senator Hoagland closing on his amendment?

SPEAKER MARVEL: Well, you will have to wait until we close with Senator Hoagland and then I will recognize you. Senator has closed, yes. Okay. The motion is the adoption of the Hoagland amendment. All those in favor vote aye, opposed vote no.

SENATOR CLARK PRESIDING

SENATOR CLARK: Have you all voted? Once more, have you all voted? If we could get it a little bit quiet in here we could get something done. Record the vote.

CLERK: 10 ayes, 16 ayes, Mr. President, on adoption of the amendment.

SENATOR CLARK: Is there another amendment?

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

SENATOR CLARK: Senator Kremer.

SENATOR KREMER: Mr. Chairman, I move the bill be advanced with the amendments....adopted this afternoon.

SENATOR CLARK: The motion is to advance the bill. Senator Wagner, did you want to talk on the advancement? Senator Warner, did you want to talk on the advancement? The question before the House is the advancement of the bill. All those in favor say aye. All those opposed nay. The bill is advanced. Go ahead and read it in.

CLERK: Mr. President, a communication from the Governor addressed to the Clerk. (Read communication regarding LBs 35, 76, 327 and 331 as found on page 1883 of the Journal.)

Study resolutions, LR 164, by Senators Newell, Beutler, Kahle and Sieck and Wesely. It calls for a study of the rules of the Legislature as they pertain to certain particulars.