

January 20, 1981

LB 3, 278, 468-489

CLERK: Mr. President, new bills. (Read LB 468-489 as found on pages 291-297 of the Legislative Journal.)

Mr. President, your committee on Urban Affairs gives notice of public hearing for February 4, 11 and 18, 1981.

Mr. President, the Business and Labor Committee would like to meet underneath the North balcony at 2:00 p.m.

Mr. President, Senator Chronister would like to have his name added to LB 3 as co-introducer.

SPEAKER MARVEL: No objection? So ordered.

CLERK: Mr. President, Senator Warner offers proposed rules change which will be submitted to the Rules Committee for their consideration. (See pages 298-300 of the Journal.)

Mr. President, Senator Wesely gives notice of Rules hearing scheduled for January 27.

Mr. President, Senator Hefner and Howard Peterson want to add their name to LB 278.

SPEAKER MARVEL: No objection? So ordered.

CLERK: Mr. President, I believe that is all that I have.

SPEAKER MARVEL: Senator Rumery, do you want to recess us until three-thirty?

SENATOR RUMERY: One-thirty?

SPEAKER MARVEL: Three-thirty. The motion is to recess until three-thirty. All those in favor say aye, opposed no. The motion carried. We are recessed until three-thirty.

Edited by:

  
Mary A. Turner

March 11, 1981

LR 12, 33 - 35  
LB 173, 205, 479

A new resolution, LR 33. (Read. See page 862, Legislative Journal.) That will be laid over, Mr. President. Mr. President, LR 34 offered by Senator Marsh. (Read. See page 863, Legislative Journal.) That will be laid over, Mr. President. Mr. President, LR 35 offered by Senators Newell and Fenger. (Read. See pages 863 and 864, Legislative Journal.) That, too, will be laid over, Mr. President.

Mr. President, your committee on Banking, Commerce and Insurance whose Chairman is Senator DeCamp reports LR 12 back to the membership. That is signed by Senator DeCamp.

Mr. President, Senator Carsten reports LB 479 to General File with amendments.

An Attorney General's opinion addressed to Senator Warner regarding 173 will be inserted in the Journal.

SENATOR CLARK: We will now take up the readvancement of LB 205. I understand that E & R can clarify anything that is in there. All those in favor of readvancing the bill vote aye, opposed vote no.

CLERK: Senator Clark voting aye.

SENATOR CLARK: Have you all voted on the readvancement of 205? Record the vote.

CLERK: 27 ayes, 4 nays on the motion to readvance the bill, Mr. President.

SENATOR CLARK: The bill is readvanced. We now have a motion on the desk.

CLERK: Mr. President.

SENATOR CLARK: Senator Chambers.

SENATOR CHAMBERS: I would like to know for future reference how that matter was handled where the amendment improperly stated where it should be inserted, how was that handled?

SENATOR CLARK: Where the what?

SENATOR CHAMBERS: The issue on 205 was that the amendment stated where in the bill the new language should be inserted and it could not be inserted there.

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LB 292, 292A, 479

E & R Initial.

SPEAKER MARVEL: All in favor of that motion vote aye, opposed vote no. Record the vote.

CLERK: 28 ayes, 0 nays on the motion to advance the bill, Mr. President.

SPEAKER MARVEL: The motion is carried, the bill is advanced. 292A.

CLERK: Mr. President, LB 292A is a bill offered by Senator Maresh. (Read title.)

SPEAKER MARVEL: Senator Maresh, do you want to advance the bill?

SENATOR MARESH: Yes, Mr. Chairman, I move that this bill be advanced. This is to carry out the functions that we need the first year.

SPEAKER MARVEL: The motion is to advance 292A to E & R for Review. All those in favor vote aye, opposed vote no. Record the vote.

CLERK: 30 ayes, 0 nays on the motion to advance 292A, Mr. President.

SPEAKER MARVEL: The motion is carried. The bill is advanced. The next bill, LB 479.

CLERK: Mr. President, LB 479, offered by the Revenue Committee and signed by its members. (Read title.) The bill was first read on January 20, referred to Revenue. It was advanced to General File. There are committee amendments pending, Mr. President.

SPEAKER MARVEL: Senator Carsten.

SENATOR CARSTEN: Mr. President and members of the Legislature, I move for the adoption of the committee amendments. The committee amendments do really two things. Number one, it would provide if the counties' failure to implement a valuation manual, it must be established by the examination of the counties' valuation books and records, and second, that the values resulting from the tax commissioner's corrective action shall be used and may be appealed as other new values and property owners would be notified of valuation changes. The basic reasoning behind the bill and the amendments is this, that in

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some instances some county assessors have failed to use the manuals as has been provided by the Department of Revenue and as a result of that there have been inequities between counties in valuation of property. And it is in that light that the Department of Revenue came to us with this bill and asked our committee to introduce it. So I move the adoption of those committee amendments. They are really clarifying amendments to say what the bill really does.

SPEAKER MARVEL: The motion is to adopt the committee amendments to 479 as explained by Senator Carsten. All those in favor vote aye, opposed vote no. Record the vote. Have you all voted? Record the vote.

CLERK: 25 ayes, 0 nays on adoption of the committee amendments, Mr. President.

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

SENATOR CARSTEN: Now, Mr. President, I move LB 479 as amended to E & R Initial. LB 479 is intended to secure compliance with LB 159 which was passed by the Legislature in 1979. It is an effort to promote the uniform assessment of property. LB 159 made the use of the manuals prescribed by the State Tax Commissioner mandatory by the county assessors. The bill would now authorize the State Tax Commissioner after due notice and hearing to actually perform or contract for the performance of the necessary work in those counties who have neglected or refused to implement the prescribed manuals. Mr. President and members of the Legislature, there is no intent to be harsh, cruel or indifferent to the county level and without question the Department of Revenue would proceed with utmost caution and warning and give ample opportunity for the counties to correct their noncompliance, I am sure, before they took these necessary actions to complete the performance in this bill. I would move, therefore, for the advancement of 479 as amended to E & R Initial. Thank you.

SPEAKER MARVEL: Senator Wesely, do you wish to be recognized?

SENATOR WESELY: I would like to ask a question of Senator Carsten, Mr. Speaker.

SPEAKER MARVEL: Senator Carsten.

SENATOR WESELY: Senator, I was wondering, how big of a

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problem are we having presently with the implementation of that law? How many counties are we looking at that perhaps have had a problem in carrying out the manual, and how serious a matter is it at this point?

SENATOR CARSTEN: Well, there is not a large number, and, Senator Wesely, I can't give you the exact number, but there are several counties that did fail to use the manual as it was directed and as the instructions are in it. It is a problem of enough that it has caused the Department of Revenue a great concern in the attempt to bring valuations to some degree of uniformity across the state. There are enough of them, at least, that the Department felt that they needed this to get that job done.

SENATOR WESELY: Would it be fair to say, Senator Carsten, that this bill attempts to provide an option for the Tax Commissioner to first encourage compliance if it is not being complied with, and second, if that compliance after encouragement is not completed, that they can then step in from the state and complete it on their own? Is that correct?

SENATOR CARSTEN: That is correct, Senator Wesely. They certainly would be given an opportunity to do the job themselves before the state would ever move in and do the job for them.

SENATOR WESELY: Thank you very much. Senator Carsten, I would like to encourage the support for LB 479. The effort two years ago led by Senator Carsten to adopt these manuals and try to gain some uniformity in assessments across the state was a good step for the state to take and this seems like a good additional step to see that it is properly enforced, and certainly encourage support for the bill.

SPEAKER MARVEL: Senator Kahle.

SENATOR KAHLE: Mr. President and members, I certainly support 479. One of the problems, Senator Wesely, that counties have had, back a number of years ago some counties adopted, or the state really adopted, a different manual than the Marshall Swift Manual that they are using now, and some of the counties have had a little bit of a hang-up about that. They thought that a manual had been developed by the state that they could use and now they are required to use the Marshall Swift Manual, which, I believe, in my estimation is a better way to go at it and

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more universally used. I think that with a little persuasion that the counties will all be using the Marshall Swift Manual, and until we get on one manual across the state, I think we will still have difficulty getting equalization. So we have gone a long ways and I think with this bill and a little encouragement we can accomplish what we set out to do. I guess it is in the neighborhood of ten years now that I have known about it, so I do support 479. Thank you.

SPEAKER MARVEL: The motion is the advancement of 479 to E & R for Review. All those in favor of that motion vote aye, opposed vote no. This is the bill. Record the vote.

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

SPEAKER MARVEL: The motion is carried. The bill is advanced. LB 466.

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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 292, 292A, 479

SPEAKER MARVEL: The motion is carried and the emergency clause has been added. Do you want to advance 292A?

CLERK: 292.

SPEAKER MARVEL: 292.

SENATOR KILGARIN: I move we advance LB 292 to E & R for Engrossment.

SPEAKER MARVEL: All in favor of that motion say aye. Opposed no. The motion is carried. 292 is advanced. Senator DeCamp.

CLERK: Mr. President, Senator DeCamp moves to add the emergency clause to LB 292A.

SENATOR DeCAMP: This makes the A bill compatible with the other bill.

SPEAKER MARVEL: Okay, the motion is the adoption of the emergency clause to LB 292A. All those in favor of adding the E clause to that bill vote aye, opposed vote no. Has everybody voted who wishes to vote on adding the emergency clause to 292A? Record.

CLERK: 25 ayes, 2 nays on adoption of Senator DeCamp's amendment.

SPEAKER MARVEL: The motion is carried. The emergency clause is adopted. Senator Kilgarin.

SENATOR KILGARIN: I move LB 292A be advanced to E & R for Engrossment.

SPEAKER MARVEL: All in favor of that motion say aye. Opposed no. All in favor of the motion say aye. Opposed no. The motion is carried. The bill is advanced.

SENATOR KILGARIN: I move LB 479 be advanced to E & R for Engrossment.

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LB 113, 113A, 125, 174,  
LB 179, 291, 328A, 331,  
LB 257, 379, 392, 400,  
LB 478, 479

as previously explained. All those in favor of adopting the amendments vote aye, opposed vote no. Have you all voted? Senator DeCamp. Have you all voted?

SENATOR DeCAMP: Mr. President, how many are excused? And who might they be? I just wondered. Mr. President, I change from aye to nay for purposes of reconsideration.

CLERK: 16 ayes, 22 nays, Mr. President, on the adoption of the DeCamp, Fowler, Wesely amendment.

SPEAKER MARVEL: Motion lost.

CLERK: Mr. President, may I read some material in?

A communication from the Governor addressed to the Clerk. (Read. Re: LB 125, 174, 291. See page 1358, Legislative Journal.)

Senator Landis offers explanation of vote.

Senator Carsten would like to print amendments to LB 179.

A new A bill, LB 328A. (Read title. See page 1359, Legislative Journal.)

Your committee on Enrollment and Review respectfully reports we have carefully examined and engrossed LB 113 and find the same correctly engrossed; LB 113A correctly engrossed; 331 correctly engrossed; 379 correctly engrossed; 392 correctly engrossed; 478 correctly engrossed; and 479 correctly engrossed. All signed, Senator Kilgarin.

Public Works reports LB 400 to General File with amendments, Mr. President.

Mr. President, the next motion I have on LB 257 is to indefinitely postpone the bill and that is offered by Senator Beutler.

SPEAKER MARVEL: Senator Beutler.

SENATOR BEUTLER: Mr. President, I would like to withdraw that. I ask unanimous consent to withdraw that motion.

SPEAKER MARVEL: Hearing no objection, so.....

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

SPEAKER MARVEL: Senator Warner, your light is on. Do you

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LB 478, 479E

well, why didn't I do something about it. I did have a bill drafted. I did follow up on the Revenue Department's recommendations. I did send a memo to the Revenue Committee asking that they do something, but when you have twenty-three some bills and you are getting to a point where you just don't know if you can add that many more issues to your workload, I decided not to introduce the bill thinking that perhaps the interim period would provide a chance to introduce a bill next year. So I think clearly Senator Beutler, Senator Landis and others have talked about the need to do something. I hope the Revenue Committee is listening and will take on this initiative and I think that there definitely is a cause for a whole rewriting of our disability section of our home-stead exemption law and I would at this point withdraw my amendment making the point that I wanted to and ask for unanimous consent to do that.

SPEAKER MARVEL: Okay, we are still on Final Reading. Will everyone return to their seats and we will complete the last bill on Final Reading. The Clerk will read on Final Reading LB 479E.

CLERK: (Read LB 479E on Final Reading.)

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

CLERK: (Read the record vote as found on pages 1456 and 1457 of the Legislative Journal.) 42 ayes, 0 nays, 5 excused and not voting, 2 present and not voting, Mr. President.

SPEAKER MARVEL: The motion is carried. The first order of business is under item 5, LB 76. There has been a request to pass over that. Do I hear any objection? Senator DeCamp.

SENATOR DeCAMP: Mr. President, just to clarify, Senator Chambers and some others want to get some information from the Attorney General. I have tried in this bill to accommodate them one hundred percent on the theory that if I do, then when we finally read the bill, I may stand a better chance, so I will give in one more generous time to show what a loving person I am.

SPEAKER MARVEL: Any objection to his being....yes, I was going to say, is there any objection to his being a loving person? Hearing no objection, so ordered. Now, Mr. Clerk,

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LB 11, 40, 184, 248,  
334, 334A, 346, 379,  
392, 463, 479

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: The opening prayer this morning will be given by Dr. Al J. Norden, Pastor at the University Lutheran Chapel, 15th and Q Streets since 1951.

DR. AL J. NORDEN: (Prayer offered.)

SPEAKER MARVEL: Please record your presence.

CLERK: Mr. President, Senators DeCamp and Beyer would like to be excused for the day; Senators Hoagland, Wesely, Wiitala and Cullan until they arrive.

SPEAKER MARVEL: Have you all recorded your presence? We still need a vote. Record.

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

SPEAKER MARVEL: Do you have anything under item #3.

CLERK: Mr. President, your committee on Enrollment and Review respectfully reports that they have examined and reviewed LB 11 and recommend that same be placed on Select File with amendments; 346 Select file with amendments; 334 Select File; 334A Select File; 248 Select File with amendments; 463 Select File with amendments. All signed by Senator Kilgarin as Chair.

Mr. President, an Attorney General's opinion addressed to Senator Richard Peterson regarding LB 184. That will be inserted in the Journal. (See pages 1476 and 1477.)

I have a report from the Department of Administrative Services to do with communications. That will be on file in my office, Mr. President.

And, Mr. President, LBs 40, 379, 392, and 479 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 40, LB 379, LB 392, LB 479. We are now ready for item #4, Final Reading. Will all legislators please take their seats, unauthorized personnel please leave the floor? We cannot proceed until all legislators are in their seats. We are still waiting for all legislators to leave your group and go to your seat so we can proceed with Final Reading. Will the whip in the back of the room please

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LB 3, 40, 249, 366  
LB 35, 379, 381, 392, 479

SPEAKER MARVEL: Record the vote.

CLERK: 14 ayes, 18 nays, Mr. President.

SPEAKER MARVEL: Motion lost. There is still a lot of discussion. Senator Beutler, for what purpose do you arise?

SENATOR BEUTLER: Mr. Speaker, I move to recess until 1:30 p.m. today.

SPEAKER MARVEL: Can we hold that just briefly while we advance LB 249 which is below? Senator Kilgarin, are you there? The E & R amendments to LB 249.

SENATOR KILGARIN: I move the E & R amendments to LB 249.

SPEAKER MARVEL: All in favor of that motion say aye. opposed no. Excuse me?

SENATOR KOCH: Record vote.

SPEAKER MARVEL: On 249? Okay, a record vote has been requested. On the motion to advance, Senator Koch? Okay. All those in favor of the... Okay, the motion now is to advance the bill. We have already advanced the E & R amendments and this or a machine vote has been requested. So, we are voting on the advancement of LB 249. All in favor of that motion vote aye, opposed vote no. The motion is the advancement of the bill. Have you all voted? Have you all voted? Record the vote.

CLERK: Mr. President, Senator Landis requests a record vote. (Read record vote as found on pages 1486-1487 of the Legislative Journal.) 25 ayes, 10 nays, Mr. President.

SPEAKER MARVEL: I have a couple of announcements. First of all, we will return to the bill that is pending. If we don't adopt this procedure you simply lose all the momentum that has been created. So somebody asked the question, do we come back to LB 35 and the answer is yes. In case the chairmen have not received a notice, we will meet at 8:15 a.m. tomorrow in Room 2102 and by this afternoon we will discuss a little bit about appropriation bills so lest you think you are going to have a lot of rest, just come on back this afternoon. Okay.

CLERK: Mr. President, your committee on Enrollment and Review respectfully reports they have carefully examined LB 381 and recommend that same be placed on Select File; LB 3 Select File; 366 Select File, all (Signed) Senator Kilgarin.

Your Enrolling Clerk has presented LB 40, 379, 392 and 479 to the Governor.

LB 40, 132, 200, 266, 280, 284,  
329, 330, 333, 360, 366, 371,  
379, 392, 395, 407, 437, 479, 318.

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SENATOR BEUTLER: Mr. Speaker, I think I would like to have a roll call vote and a Call of the House.

SPEAKER MARVEL: All those in favor of placing the House under Call vote aye, opposed vote no. Record.

CLERK: 20 ayes, 0 nays to go under Call, Mr. President.

SPEAKER MARVEL: The House is under Call. All legislators please take your seats. Record your presence. Unauthorized personnel.....yes, go ahead.

CLERK: Mr. President, I have an Attorney General's Opinion addressed to Senator Carsten regarding LB 284. (See pages 1499 through 1501.) Senator Schmit would like to print amendments to 360, Senator Wesely to 266, Senator Newell to 395, Senator Wesely to 366, Senator Beutler to 132, Senator Vickers to 266. (See pages 1494 through 1498 of the Legislative Journal.)

Mr. President, a communication from the Governor addressed to the Clerk. (Read communication regarding LBs 40, 200, 280, 329, 330, 333, 371, 379, 392, 407, 437, and 479 as found on page 1502 of the Journal.)

SPEAKER MARVEL: Senator Wagner, Senator Schmit, Senator Haberman, Senator Chambers. Senator Haberman, Senator Higgins. Senator Koch.

SENATOR KOCH: Mr. Speaker, I move that we adjourn until tomorrow morning at nine o'clock.

SPEAKER MARVEL: We are in the middle of a vote, Senator Koch. Senator Beutler, everyone who is not excused.... everybody is here except Senator Chambers. Shall we proceed with the roll call? Okay, all legislators will please return to your seats so we can complete the roll call. The Chair is not authorized to proceed until you are in your seats. Okay, call the roll.

CLERK: (Read the roll call vote as found on pages 1493 and 1494 of the Legislative Journal.) 23 ayes, 19 nays, on the motion to indefinitely postpone the bill, Mr. President.

SPEAKER MARVEL: Motion prevails. What else do we have?

CLERK: Mr. President, Senator Vickers asks unanimous consent to add his name to LB 266 as co-introducer.

SPEAKER MARVEL: No objection, so ordered.