

January 8, 1982

LB 264, 710-726

Mr. President, the Ag and Environment Committee gives notice of hearings on gubernatorial appointments. That is offered by Senator Schmit. (See page 170 of the Journal).

New bills. LB 710 offered by Senator Wiitala. (Read title). LB 711 offered by Senator Nichol. (Read title). LB 712 offered by Senator Fowler. (Read title). LB 713 offered by Senator Schmit. (Read title). LB 714 offered by Senator DeCamp. (Read title). LB 715 offered by the Judiciary Committee and signed by its members. (Read title). LB 716 offered by the Judiciary Committee. (Read title). LB 717 offered by the Judiciary Committee. (Read title). LB 718 offered by the Law Enforcement Criminal Justice Advisory Committee. (Read title). LB 719 offered by the Law Enforcement and Criminal Justice Advisory Committee. (Read title). LB 720 offered by the Law Enforcement and Criminal Justice Advisory Committee. (Read title). LB 721 offered by the Law Enforcement and Criminal Justice Advisory Committee. (Read title). LB 722 offered by the Law Enforcement and Criminal Justice Advisory Committee. (Read title). LB 723 offered by the Law Enforcement and Criminal Justice Advisory Committee. (Read title). LB 724 by the Law Enforcement and Criminal Justice Advisory Committee. (Read title). LB 725 offered by the Judiciary Committee. (Read title). LB 726 offered by Senator Vickers. (Read title). (See pages 170 through 174 of the Legislative Journal).

SPEAKER MARVEL: We are ready for LB 264 on General File.

CLERK: Mr. President, LB 264 offered by the Public Health and Welfare Committee and signed by its members. (Read title). The bill was first read on January 16 of this year, or last year, excuse me. It was referred to the Public Health and Welfare Committee for hearing. At that time it was advanced to General File, Mr. President.

SPEAKER MARVEL: The Chair recognizes Senator Wesely.

SENATOR WESELY: Mr. Speaker and members of the Legislature, this bill was brought to the committee by the Department of Welfare in terms of trying to make a conformity with the present age of majority statutes. It is a rather small technical change. All it would do basically at this time lower it from the age of 20 to the age of 19 the age at which a guardian would be appointed for a mentally retarded individual and then the possibility of placing them in a Department of Welfare local mental retardation facility would take place. I don't see much of a problem with it. There was very little testimony as you can see from the committee statement, and basically it is a technical change.

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LB 287, 646, 649, 716, 717,
720, 723

SENATOR KILGARIN: I move the E & R amendment to LB 287.

SPEAKER MARVEL: All in favor of that motion say aye, opposed no. The motion is carried. The E & R amendment is adopted. Now what do we do with the bill?

SENATOR KILGARIN: I move we advance LB 287.

SPEAKER MARVEL: All in favor of that motion say aye, opposed no. The motion is carried. The bill is advanced. LB 649.

SENATOR KILGARIN: I move we advance LB 649.

SPEAKER MARVEL: All in favor of that motion...649? Okay, all in favor of...the first thing we do, I'm sorry. Senator Kilgarin, 649. Okay, the motion is to advance the bill. All in favor of that motion vote aye, opposed vote no. A machine and record vote have been requested. Have you all voted? The Clerk will record the vote.

CLERK: (Read record vote as found on pages 579-580 of the Legislative Journal.) 41 ayes, 3 nays, Mr. President.

SPEAKER MARVEL: The motion is carried. The bill is advanced. 571 will be passed over because there are some amendments. We go to 598.

SENATOR KILGARIN: I move we advance LB 598.

SPEAKER MARVEL: All in favor of that motion say aye, opposed no. The motion is carried. The bill is advanced. The last bill, LB 646.

SENATOR KILGARIN: I move we advance LB 646.

SPEAKER MARVEL: All in favor of that motion say aye, opposed no. The motion is carried. The bill is advanced. The Clerk has a couple items to read in and then, Senator Goodrich, after the Clerk has read in the items will you make the motion that we adjourn until Monday, February 8th, at 9:30 a.m. Okay, Mr. Clerk.

CLERK: Mr. President, Senator Haberman offers an explanation of vote.

Your committee on Judiciary whose chairman is Senator Nichol instructs me to report 720 advanced to General File; 716 advanced to General File with amendments; 717 General File with amendments; 723 indefinitely postponed, all signed by Senator Nichol. (See page 580 of the Legislative Journal.)

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LB 413, 717

Senator Higgins is on her way. Do you wish to proceed with a roll call?

CLERK: Mr. President, the motion is to reconsider the vote on Final Reading of LB 413. (Read roll call vote as found on page 720 of the Legislative Journal.) 24 ayes, 19 nays, Mr. President, on the motion.

SPEAKER MARVEL: Motion lost. The Call is raised. Okay, we go to item #6, General File, special order, LB 717.

CLERK: Mr. President, LB 717 offered by the Judiciary Committee and signed by its members. (Read.) The bill was read on January 8 of this year. It was referred to Judiciary for public hearing. The bill was advanced to General File, Mr. President. There are Judiciary amendments attached.

SPEAKER MARVEL: Senator Nichol.

SENATOR NICHOL: Mr. Chairman, members of the Legislature, this bill was before the Judiciary Committee and has to do with the Nebraska Law Enforcement Training Center at Grand Island, Nebraska, and of course with that we have the law enforcement improvement fund which for several years has been funding the operation out there and what has been happening with inflation and so forth, funds are running out and by the middle of 1981-'82 or I should say 1982 year we will most likely run out of money. As you know we have been funding this with a one dollar charge on each criminal proceeding including traffic violations filed in all the courts in this state and the violations of state law and city ordinances as well. So what the bill originally said was that we would charge three dollars for each charge and the amendment says that we will charge two dollars for each violation instead of three and also the other amendment was to add the emergency clause since we will need this money during 1982. I move for the adoption of the committee amendments.

SPEAKER MARVEL: Senator Chambers, do you wish to speak to the motion? Senator DeCamp. Okay, the motion is to adopt the committee amendments as explained by Senator Nichol. All those in favor of the motion vote aye, opposed vote no. Have you all voted? Okay.

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

SPEAKER MARVEL: The motion carried. The committee amendment is adopted. Senator Nichol.

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SENATOR NICHOL: Mr. President, I move for the advancement of the bill. At the level of two dollars per offense we would raise approximately \$700 thousand a year. The projection is that this will fund the institution, the Nebraska Law Enforcement Training Center at Grand Island for approximately seven years. The three dollar charge would probably have run for thirteen years and the committee felt that two dollars was adequate for approximately seven years funding. So that is the extent of the bill.

SPEAKER MARVEL: The motion is to advance. Senator Chambers, do you wish to speak to the motion to advance the bill? Senator DeCamp.

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SENATOR DeCAMP: Well, Mr. President, just so I can fully understand the bill or which way we are going. Senator Nichol, would you yield to a question or two so I can...?

SENATOR NICHOL: Yes, sir.

SENATOR DeCAMP: As I understand it, we need money. We need to fund or finance the operation of the center.

SENATOR NICHOL: That is right.

SENATOR DeCAMP: And the mechanism we are using is just tabbing a dollar on in this other area?

SENATOR NICHOL: Another dollar.

SENATOR DeCAMP: Okay, but the money is going strictly for, is it Grand Island?

SENATOR NICHOL: That is right.

SENATOR DeCAMP: Okay, now, then it is not going for the court as such or anything, it is going for actually financing something completely separate from the court?

SENATOR NICHOL: That is right.

SENATOR DeCAMP: Okay, so it is not what you would call I guess "court costs" as such but it is money coming from the court but it is not court costs to fund the court?

SENATOR NICHOL: Yes, the money comes, when you pay a fine for speeding, for example, you pay one dollar now and you will pay two in the future, if the bill passes, and that two dollars goes into the state treasury and the state puts that money out directly to the financing of the training center at Grand Island.

SENATOR DeCAMP: Okay, so it is kind of an additional penalty or fine on the offender in the criminal case to help finance the system?

SENATOR NICHOL: Yes, you could look at it that way, yes.

SENATOR DeCAMP: Okay. Mr. President, that is kind of what I thought it was and I think Senator Nichol is describing it one hundred percent accurately, that it is kind of an additional penalty, fine, whatever you want to call it, for a purpose completely separate from the courts. Now at the time we originally did the first dollar, I raised some

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questions and the questions were, well, is it constitutional? Now that we are doubling it, I didn't push it at that time but at this time I think that it would be unconstitutional to do this because all fines and penalties have to go into a special fund and court costs are supposed to be for the financing of the court which is the way they are justified. So I would just throw this out as something for you to think about, that you may be destroying the financing that is already there when somebody raises a question.

SPEAKER MARVEL: There is a motion on the desk. The Clerk will read the motion.

CLERK: Mr. President, Senator Chambers would move to indefinitely postpone LB 717.

SPEAKER MARVEL: The Chair recognizes Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I hope you paid attention to what Senator DeCamp said but in addition to that I have objections to this type of thing. If you look at the committee statement you see that Joe Steele, the court administrator, testified in an informational capacity. I have talked to the Chief Justice and I have talked to other judges and they don't like the idea of the court system being used as a revenue raiser for other activities that have nothing to do with the administration of the court. The purpose of the courts is not to raise revenue. The purpose of the courts is to dispense justice. It is to see that the innocent are vindicated and that the guilty are punished. If there is an operation like this training facility which the state thinks merits retention. The state should make a general fund appropriation to ensure that this activity continues but to load down the court system in this fashion I think is an unwise public policy. That first dollar ought never to have been attached in the fashion that it was. I know that there are people at that center who want to keep working so I don't blame them for trying to find any vehicle they can to attach their dreams and their hopes to. I think, however, it is a poor practice to load down the courts in this fashion. Remember, the only intent of this bill is to raise revenue for an operation that has nothing to do with the court system and I think the bill ought to be indefinitely postponed. I have been willing in the past but was unsuccessful to amend bills that were going through to ensure that the training center received an appropriation from the general fund but apparently those who say that they think this activity is important don't think it is important enough for the state to fund it. This is an improper use of the court system and for that reason I am moving that the bill be indefinitely postponed.

SPEAKER MARVEL: Senator Landis. We're on the kill motion, Senator Landis.

SENATOR LANDIS: Oh, thank you. I'm sorry, my attention was turned. This idea, the question of court fees as revenue raising came to the Government Committee about two years ago and at that time the committee had much the same reaction that Senator Chambers has to LB 717. The difficulty with the policy question that we face in 717 is that I think everybody here supports the Grand Island Training Center, something we all want to see funded. It is, I think in all of our perceptions, an important piece of law enforcement training and one which deserves state support. There is, however, the policy question of how you are going to fund that and on more than one occasion we've talked about special earmarkings. We've talked about cigarette taxes that are sent to one form of particular budget making and generally speaking this Legislature has stood for the principle that general fund obligations should be paid for out of the general fund. 717 violates that policy. I understand it is a convenient way of raising revenues rather like a gas tax or a cigarette tax, sort of a hidden tax that is tacked onto another bill which somebody is compelled to pay. You don't have much choice about paying a ticket or paying court costs. It is not, however, I think a reasonable revenue raising mechanism and I support Senator Chambers' motion. I intend to vote against LB 717 and yet if I were faced with choosing to support the Grand Island Training Center with a general fund appropriation I would be counted among the proponents of that. I would be happy to support that, not only this year but in the coming years. It is an important task to be accomplished and it is an important appropriation but this is not the correct method, the appropriate method to raise the revenue towards that end. We have people in a captive situation when they come to pay a traffic ticket or when they come to pay a violation and we now add on hidden surcharges to supplement the general fund. It is just not a good way to do business. It is not full disclosure and I think it constitutes a misleading and hidden tax on people that we more properly should do through the general fund appropriation, an appropriation I, and I hope the rest of the body, the members of this body would be happy to support in the event it was brought to us by the Appropriations Committee. I will be voting against LB 717 and I hope you will as well and distinguish if you will, the question of what is the appropriate way to raise this money from whether or not we should raise this money. All of us here, Senator Chambers and myself included agree this money should be raised. Our point is this is not the appropriate way to do it by this hidden tax. Thank you.

SPEAKER MARVEL: The Chair recognizes Senator Hoagland.

SENATOR HOAGLAND: Mr. Speaker and colleagues, I would like to rise in support of LB 717 and against the kill motion. Senator Landis is correct that as a general matter we discourage in this body earmarking of funds for particular purposes but we do do it in a number of instances. The most significant instance, of course, is the gas tax that people pay when they purchase gasoline that goes to improving our roads and those funds of course amount to tens of millions of dollars each year. Basically the entire Department of Roads' budget well in excess of a hundred million dollars a year is supported by gas tax funds which are paid by people that actually use the roads and highways of the State of Nebraska. We have that major exception. We have a number of other minor exceptions in the law to the general principle that general fund appropriations are paid out of the general fund. I think this is another appropriate exception to that principle. The people that come through the court system charged with speeding violations and other minor criminal offenses I think appropriately can be asked to contribute to the Law Enforcement Training Center fund for the training of law enforcement officers at every level. This additional dollar that is appropriated or that is added on to court costs by 717 will provide improved training for all levels of law enforcement, will also improve the investigation and prosecution of criminal offenses. I think it is appropriate for people that use the system, use the criminal justice system by way of receiving speeding tickets or whatever to contribute to the training of law enforcement officers, prosecutors, whatever and for that reason I would support LB 717 and the exception this makes to the general principle that Senator Landis talked about. Thank you, Mr. Speaker.

SPEAKER MARVEL: The Chair recognizes Senator Cope.

SENATOR COPE: Mr. President, members, I would ask you not to support the kill motion. The Law Enforcement Center at Grand Island is doing a fine job. I think we all agree on that. Now remember this Legislature passed this bill with the full knowledge that it would be supported this way. Now what is more fair and look at it with me in this way. I break a law and I get fined. Now should you as the public help pay for what I am doing? I break the law. I'm the reason why we have a law enforcement center or you break a law, why should I pay? I think this is the fairest tax, and that is what it is, that there is. Let the people who play, let them pay. Now remember, too, that we are talking about \$700 thousand, and this year when we are having such a problem with the budget, do we want to add another \$700 thousand on general funds? Also remember that we have a huge invest-

ment in the Law Enforcement Center and we certainly must maintain it but if we go back to general funds we may not. This is fair. There is just no way I can see to look at it in any other manner so I would ask you to continue what the Legislature passed and the means of enforcing and, lastly, I can't see a great deal of difference in this than where the courts add a certain amount of money for the retirement of judges. Now isn't that...that doesn't come from the general fund I don't believe because that is levied in addition. What is the difference? I'm not an attorney so I don't know but I can't see it as a lay person.

SPEAKER MARVEL: The Chair recognizes Senator Kahle.

SENATOR KAHLE: Mr. Speaker and members, most everything has been said. I am opposed to the kill motion and in favor of LB 717. I do think it is related to what we are talking about because it is a user fee in one sense of the word. Those of us that break the law occasionally and have to contribute to not only the training center but the judges retirement fund probably should. If you do abide by the law 100% and aren't apprehended you certainly shouldn't have to pay. And another thing of course is that with the system that we have today and Senator Chambers has mentioned this many times, if the arrest is not made exactly in order it is worthless. The courts throw it out so I think the training is an absolute necessity and I don't object at all if I am caught going too fast or with some other fine that I have to pay for some of that training that officer has received so he knows how to handle his job. So I am very much in favor of LB 717 in its present form with the \$2 added instead of \$3 and I certainly hope you won't kill the bill. Thank you.

SPEAKER MARVEL: Senator Nichol.

SENATOR NICHOL: Mr. President, members of the Legislature, I oppose the kill motion for two or three reasons. First of all this is not a fine or a penalty. This is the same as a court cost. Senator Cope suggested it might be called a users fee. Those who are not bucking the law, breaking the law, aren't called on to pay anything. Now what are the alternatives if we don't fund it this way? First of all, we can take it out of the general fund. I don't see anybody saying this is a ground swell out there in Nebraska that we should raise the taxes on the general public to pay for this. Secondly, the local governments could pay for it for training sheriffs, deputies, police chiefs, policemen and put the cost on the counties and cities. Do you want to do this? The money has to come from someone and we have done this ourselves. This Legislature has mandated these training courses for the various officers across the state. We, the

Legislature, say city policemen, county sheriffs and deputies you aren't being trained right. We want you to go out there ' and be trained. We have mandated, now we are thinking of maybe wanting them to pay for it? Not this guy. Thirdly, our court administrator, Joe Steele, came and said philosophically that the Supreme Court was opposed to raising this users fee for the financing of the training center. I didn't hear him say anything about doing away with that one dollar for the court's judges retirement but philosophically they were opposed to this. This doesn't hardly make sense. Lawyers on this floor, why don't you get up and say let's do away with the one dollar for the retirement of judges? I don't hear you saying that when you are opposing this bill. This isn't a hidden tax. It is right out in front where you see it. It is not a tax at all. It is a users fee. I urge you to vote against the kill motion.

SPEAKER MARVEL: Senator Pirsch.

SENATOR PIRSCH: Thank you, Mr. Speaker and members of the body, I really should be for this motion because Omaha and Douglas County does their own training and do not rely on the Grand Island Law Enforcement Academy that much and also probably Omaha and Douglas County collect the most fees which go to that pot. But I am not going to be provincial and I am going to urge you to vote against the kill motion and I, too, thought it was interesting that Senator Chambers mentioned that the judges were against tampering with any court costs or fines when the judges themselves have come in for a dollar retirement added onto the court costs and fees. That is different though. I would urge that you vote against the indefinite postponement of this bill.

SPEAKER MARVEL: Senator Howard Peterson.

SENATOR H. PETERSON: Mr. Chairman and members of the Legislature, I sat here and listened to the arguments. It appears to me that we have one other situation where we did a similar type of thing last year when we raised the cigarette tax one cent and specifically earmarked it for Eppley Institute for cancer. It seems to me that we might say that breaking the law is a cancer in our society and there is nothing wrong with trying to solve that cancer problem of our society by training policemen and sheriffs in this state to do the job right and I would just urge to defeat the kill motion.

SPEAKER MARVEL: Senator DeCamp.

SENATOR DeCAMP: Mr. President and members of the Legislature, I am going to vote against the kill motion. I am going to vote to keep the bill alive but I want to be honest with you, it is a completely different reason. I happen to believe this bill brings to the forefront for the first time current violations that I have contended for about seven years here, even took a case to the Supreme Court on it on parking meter fines, where the fine is a nickel and the court costs are \$1.95, they used to have it, and then they said that wasn't part of the fine, the \$1.95, only the nickel was the penalty or fine. But anyway, let me give you a little history of how this all came about. Our Constitution, and, Howard, I agree with you, we do earmark cigarette tax funds. We earmark all kinds of thing. Forget the merits of it. Forget the wonderful things. Forget, if you can, the center itself and it is a good thing. It is one of the best things this Legislature has done since I have been here. Forget all those things and look at our Constitution, and I didn't write it, you guys didn't write it. It says, "Fines and penalties shall go into a certain fund." You can only do a certain thing with them. Quite a few years ago the reason this all came about was back when the state was kind of new, cities, counties were trying to find ways to raise funds. Some of them were trying to find money for their police departments. People didn't want to finance them. So city councils and different people started adding a dollar or whatever, fifty cents, on "the fine and the penalty in the court", and that went to support the police department. Somebody else had some problems with a library. They wanted a law library or something for the county so they added a quarter or fifty cents on for that. Somewhere along the line the people that framed the Constitution said this is getting out of hand. It is going to destroy the court system, and so they said, what we will do is make it real clear. All the fines and penalties have to go to this particular fund and they said the school fund, the reason they chose the school fund was because they said, look, if we do it that way, then there is no prejudice. You don't assess a fine or a penalty just because you are trying to raise money to pay a judge or just because you are trying to raise money. It is just for a general thing that everybody is involved in. A few years after that they carved a little hole in that that has been upheld by the Supreme Court and that little hole they carved in the fines and penalties provision went something like this. Court costs are not really court costs. Court costs are not really a fine or penalty. They are part of the administrative procedure of actually processing that in the courtroom. Since that time, a few years ago, the Legislature started adding a fifty cent here,

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and then a judges' retirement and so on and so forth, started making inroads and every year since I have been here there has been a bill or two, one time or another, to make another inroad, finance this, finance that, whatever. Consequently, I believe we are going to be forced one of these times to face up to the fact that most of these are probably unconstitutional. Now, obviously, the Supreme Court is going to be in a tough position when they get to that magic moment of truth on judges' retirement but I can think of no better way to start bringing it to a head than the Law Center at Grand Island. I repeat, I didn't write the Constitution. You can read it. You can make your own interpretations and read the case law but I think properly we should be funding that institution out of the general fund with the background of the Constitution. And so I am going to vote against killing the bill. In fact I am going to vote to advance the bill at this time. I am sure if I were a Supreme Court Justice I could explain how the...

SENATOR CLARK PRESIDING

SENATOR CLARK: You have one minute left.

SENATOR DeCAMP: ...Law Enforcement Center was different than judges' retirement because judges' retirement really is a part of the judges' salary which is a part of the court costs. I am sure if they get faced with it they will reason that way.

SENATOR CLARK: Senator Chambers, did you wish to close?

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I don't know whether Senator Pirsch was implying that I've been in favor of the one dollar added to the court costs for the judge's retirement fund but I have opposed that ever since I have been in the Legislature. I have opposed all of these things. I am consistent on that because I understand what the purpose of the courts is and I think I understand what some of these votes are. But when Senator Hoagland talks about using the gas tax for the roads, you are taxing those who use the roads. If the costs levied in court are going to be used to administer the courts that is one thing but he is talking about something entirely different, distinct from and apart from the courts themselves. So that analogy falls down completely. I see why some people wonder about the educational integrity of these liberal eastern educational institutions. Then you talk about the training that occurs in this center and this morning one of

dumbest, "trogloдитish" votes was given where you rejected the very training that the center gives with reference to radar. So there is a lot of fat mouthing up here about going for this and going for that when it is convenient but when the moment of truth comes and we want to see if we're really dealing with the issue that we're talking about, namely the quality of training, then you reject that notion of the validity of the training. So you are not interested in the Law Enforcement Training Center and I defy most of you to tell what even goes on out there. As for saying that those who happen to get a traffic ticket or come before the courts for some other infraction ought to foot the cost of training all law enforcement personnel, it shows again how dumb the Legislature is. Less than 15% of law enforcement time is spent in catching criminals or enforcing that aspect of the criminal law so 85% of the people who gain benefits from law enforcement are not being asked to foot any of the bill so another dumb thing, dumb, dumb, a lah-de-de-da-da, dumb, dumb. That ought to be the theme song of the Legislature. I used to think it is possible through rational argument to inform people's minds and persuade them but I can see I'm not going to be able to accomplish that. I'm going to have to lift more weights, eat better food so that I can outlive most of you. Then when most of you have died out or quit out, a better caliber of people will come into the Legislature who will look at the issues and those things that relate to the integrity of the judicial system, to the welfare of the populous and things that can give some consideration to this Legislature as a deliberative body. Every argument given in favor of this tax, of this fine, of this fee or whatever you want to call it has been beside the point. We're talking about taking a court system and weighing it down but I can see what direction the thing is going to go this morning as so many other things have and I'm going to read you something that was written in the World Herald last night by one of the people who don't think much of me. But when this is the worst your enemy can say about you, you will understand why sometimes I am so arrogant and lack humility. "There is good evidence that in the process of the black Americans continuing emancipation an Ernie Chambers here and there is an absolute necessity. As perceived by various factions Senator Chambers can be needlessly contrary, admirably vigilant, persistently abrasive, triumphantly correct, outrageously," let me get this right, "egotistical, surprisingly resourceful, seemingly paranoid and superciliously intellectual, all of which gives the black communities militant important emotional satisfaction and so infuriates the white community's racial hardheads that even some of them appreciate the progressive young blacks who have moved to the economic main stream." Now to get the rest of

that story you have to read last night's Wally Provost's column in the sports section but all of those things are true and it is why it is difficult to stand on the floor of this Legislature where the I.Q. level seems to be going up all the time and the I. in this formula stands for ignorance and not feel a degree of frustration and futility. Your old ideas...

SENATOR CLARK: You have one minute left, Senator Chambers.

SENATOR CHAMBERS: ...coming from coming from old people who are totally out of touch with reality, who wonder why people have contempt for the Legislature but if they read the transcriptions of the debate on the floor of this Legislature and see how incorrect, unfactual and totally off the mark these people are who call themselves lawmakers, you can understand why they say there should be no increases in salary. Although I know this motion is going to be voted down I'm not going to withdraw it. You've got to vote on it and, Mr. Chairman, I want a Call of the House and a roll call vote.

SENATOR CLARK: A Call of the House has been requested. All those in favor of a Call will vote aye, opposed vote nay.

CLERK: 13 ayes, 3 nays to go under Call, Mr. President.

SENATOR CLARK: The House is under Call. All legislators will return to their seats. Unauthorized personnel will leave the floor. Would everyone check in please. Can we get Senator Lowell Johnson checked in please? Senator Wesely, Senator Remmers, Senator Chronister, Senator Burrows, Senator Carsten, Senator Wesely. Senator Chambers, are you ready for the roll call vote? There is only three. The Clerk will call the roll. We're voting on the kill motion.

CLERK: (Read roll call vote as found on page 721 of the Legislative Journal.) 13 ayes, 30 nays, Mr. President, on the motion to indefinitely postpone.

SENATOR CLARK: The motion failed.

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

SENATOR CLARK: Senator Nichol, do you wish to move the bill.

SENATOR NICHOL: Mr. Chairman, members of the Legislature, I think we are simply down to one thing. I don't think we are going to do away with the training center. I don't think we are going to lower the funds. It is just a matter of how you want to pay for it. It seems logical since this Legislature has mandated the training that we think reason-

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able and proper and I agree that those who use the system should pay for it. I move for the advancement of the bill.

SENATOR CLARK: The question before the House is the advancement of 717. All those in favor vote aye, opposed vote nay. Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, that is what Wally Provost meant when he said I am vigilant. When I intend to speak and I put my light on I expect to be called on like anybody else so I watch and I am getting tired of having to do that but I will make sure that I stand up and point out that my light was on.

SENATOR CLARK: I'm sorry, I didn't see your light, Senator Chambers.

SENATOR CHAMBERS: That reminds me of the time I was in court and a person was charged with having followed too close and ran into the back of a car and the person told the judge, your Honor, I didn't see the car. The judge said, I don't see why you didn't see it when it was right in front of your eyes, so I guess if you are inattentive you may not see things that are right in front of your eyes. But my job is to be vigilant and, Mr. Chairman and members of the Legislature, I have this to say. I am disturbed about what is being done by the Legislature this morning because I know when various people run for reelection and try to make themselves appear as law and order candidates, they are going to criticize the judges, they are going to criticize the court system and talk about being soft on criminals. Yet, they will make votes that will make themselves look good for campaign purposes that dilute the effectiveness of the court system, that will diminish the public regard for the court system and will, in fact, go contrary to what the system is supposed to be about. Now one reason I spoke in the way that I did this morning in irritating and antagonizing you because I knew I could make you vote against me and that is what you did. Senator DeCamp does want to have the opportunity to challenge not only this added fee but the original one dollar. So if by a proper legal challenge you can knock out that also, then I will not have lost, will I, and the very court system whose integrity I say that I believe in will have done what it is supposed to do, will it not? It will have maintained its own integrity and will put you then in a position to see if all you are doing is fat mouthing about the value of this training center. If the fee that you are attaching is ruled to be a fine and cannot go for the training center and you cannot fund it in that fashion, will the polygraph technique come into play again and we'll see that the Legislature was full of sound and fury signifying nothing when it talked about the

value of the center or is it going to belly up and appropriate from the general fund enough money to keep going something that it says is so valuable and useful. You will advance this bill. The Governor will sign it into law and I am confident that Senator DeCamp, in the same way that I do when I say I intend to do something, will pursue the issue to a legal conclusion. I would like to see this same Legislature come back but if merit determines who is elected, practically nobody who is running will be reelected but we know merit has nothing to do with it and fortunately for members of the Legislature, the public is unaware of what happens down here, cannot see the lack of preparation, the lack of concern about the integrity of the government that has extolled so much when young people are being talked to. I am speaking against the advancement of this bill and when it gets to Select File I may have an appropriate amendment which would be to take that dollar off that is going to the judge's retirement fund. If this is not an appropriate provision of statute to make that amendment, then I may not be able to accomplish it. But at least I will offer the amendment so that the issue has been made formally a part of the discussion of this whole idea of tacking on fees for purposes other than the administration of the judicial system. There should come a time....

SENATOR CLARK: You have one minute left, Senator Chambers.

SENATOR CHAMBERS: ...when other considerations can be laid aside and we can see exactly what the true principle is that we're dealing with. The Law Enforcement Training Center's existence is not nearly so important as maintaining the integrity of the judicial system and all of its operations. I think that the attachment of this dollar, the two dollars it will be now, for the purpose of operating a facility that has absolutely nothing to do with the court system is wrong. I think it is irresponsible and the failure of the Legislature to make a general fund appropriation for the training center is an abdication of legislative responsibility. So I am suggesting that you vote no on the advancement of this bill. And if you follow this suggestion of mine as you have followed so many of the others, I expect that the Communist lights will be more than overbalanced by the whatever the green ones represent.

SENATOR CLARK: Senator DeCamp.

SENATOR DeCAMP: Mr. President and members of the Legislature, I tried to be real straight and explain the background of the situation and I would like to ask anybody in the room, any Senator, particularly Senator Nichol since he is Chairman of the Judiciary Committee, one final question just for the record. Is the Grand Island Training Center, is it a part officially under our laws of any court or any court system of the state? In other words, does it actually get its funding through the court? I mean it isn't, is it? So it is...okay, I just wanted to clarify that. I have a case I would like to recite to you. You might check maybe sometime in your spare time and I am going to vote to advance the bill, by the way. The case is a 19...oh, it is about a year or two ago, it doesn't even have it on the front...the case is in the Supreme Court of Nebraska and it is John W. DeCamp, plaintiff, versus City of Lincoln, Nebraska. It has to do with this specific issue on parking meter fines and so on and so forth and the first thing they had to do in that case was establish that there was a court involved and I will read you Proposition I: "The Lincoln Municipal Court is a duly constituted court of record and collects court costs in addition to fines and penalties, so on and so forth. Court costs assessed against the defendant as reimbursement for costs incurred by the court are not a part of the fine or penalty." And all I am trying to do is establish for you that I think maybe it is time we face up to the whole big problem of how we are going to use court costs now and in the future and I think this is the bill to do it and that is why I am going to vote to advance it, keep it alive for now, because I think it will raise the issue. I also would offer the speculation that maybe out of this bill might...this little bill might grow a mountain, that mountain being how we finance the training center if you lose the first dollar and I think that is a legitimate question you might be faced with before too long.

SENATOR CLARK: The question before the House is the advancement of LB 717. All those in favor vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

SENATOR CLARK: Record the vote.

CLERK: 27 ayes, 8 nays, Mr. President, on the motion to advance the bill.

SENATOR CLARK: The bill is advanced. The next bill will be 669, no 634, pardon me. The Clerk wants to read in first.

February 18, 1982

LR 198
LB 259, 375, 378, 706, 717,
766, 769, 773, 842, 947

CLERK: (Read the record vote as found on page 752 of the Legislative Journal.) 21 ayes, 22 nays, Mr. President.

SPEAKER MARVEL: The motion failed. The Clerk has some things to read into the record.

CLERK: Mr. President, Senator Cullan would like to print amendments to LB 375 in the Legislative Journal and 378. (See pages 752 and 753 of the Journal.)

Mr. President, Senator Hoagland asks unanimous consent to add his name to LB 259 as co-introducer.

SPEAKER MARVEL: No objection, so ordered.

CLERK: Mr. President, I have an announcement from the Speaker regarding the Special Order scheduling and also priority designations by Senator Chambers and Chronister.

Your Committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 717 and recommend that same be placed on Select File with E & R amendments attached. (See page 754 of the Journal.)

Your Committee on Constitutional Revision and Recreation whose Chairman is Senator Labedz reports LB 766 advanced to General File with committee amendments; LB 947 General File with committee amendments; 769 indefinitely postponed; 773 indefinitely postponed; 842 indefinitely postponed and LR 198 indefinitely postponed. All those signed by Senator Labedz as Chair. (See pages 754 and 755 of the Legislative Journal.)

SPEAKER MARVEL: Senator VonMinden, your light is on, for what purpose do you rise?

SENATOR VON MINDEN: For information, sir. Mr. Speaker, fellow legislators, the past few weeks different Senators have brought in treats for us such as sugar and popcorn and apples, and Senator Peterson said he would bring in some honey. I also brought a treat for you this morning. At 11:30 the Abu Bekr Shrine Chanters from my District will be performing for you. They are 45 strong and I can vouch and tell you they are 45 male voices that is something you have never before. So stick around at 11:30 and appreciate the treat I have for you. Thank you.

February 19, 1982

LR 225, 226, 227
LB 454, 378, 440, 623, 645,
673, 679, 717, 759, 827

clause. Have you all voted? Record the vote.

CLERK: (Read the record vote as found on pages 769 and 770 of the Legislative Journal). 34 ayes, 9 nays, 1 excused and not voting, 5 present and not voting, Mr. President.

SPEAKER MARVEL: The bill is declared passed with the emergency clause attached. The Clerk has got some business to read in to the.....

CLERK: Mr. President, I have a motion from Senators Nichol, Wesely, Higgins, Rumery, Kilgarin, L. Johnson, DeCamp, Kahle, Remmers, Koch, and Haberman to advance LB 679 to General File notwithstanding the action of the Judiciary Committee That will be laid over.

I have a lobby registration report for February 11 through February 18.

Your committee on Public Works whose Chairman is Senator Kremer reports LB 759 advanced to General File; 645 indefinitely postponed; 673 indefinitely postponed.

Senator DeCamp would like to print amendments to 623.

Mr. President, I have new resolutions. LR 225 by Senator Nichol calls for a study of considering the legislative solution allowing the Mexican American Commission to provide direct services, assisting both the area service providers, agencies, and organizations. The second study resolution from Senator Nichol calls for a study on the way to improve the older Hispanic's knowledge of and participation in applicable service programs. (LR 226.) Mr. President, LR 227 by Senator Marsh. (Read resolution. See pages 773 and 774, Legislative Journal.) That will be laid over, Mr. President.

Mr. President, Senator Higgins offers explanation of vote; Senator Haberman offers explanation of vote.

Senator Higgins would like to withdraw her name as co-introducer from 827; and Senator Koch to add his name as co-introducer to 440.

SPEAKER MARVEL: Hearing no objections, so ordered.

CLERK: I have Attorney General opinions, one to Senator Cullan regarding LB 378; and one to Senator DeCamp regarding LB 717.

And Mr. President, I have a hearing notice from the Appropriations Committee.

March 4, 1982

LB 801, 717

SENATOR DeCAMP: I move they be adopted, whatever they might be.

PRESIDENT: Okay, the motion then is to adopt E & R amendments on LB 801. All those in favor signify by saying aye. Opposed nay. The E & R amendments on LB 801 are adopted. Any further amendments, Mr. Clerk?

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

PRESIDENT: Senator....well, I think Senator Barrett is... Okay, Senator Kilgarin, do you want to move the bill then?

SENATOR KILGARIN: I move we advance LB 801.

PRESIDENT: All right, motion is to advance LB 801 to E & R Final. All those in favor signify by saying aye. Opposed nay. Very vigorous sound there. Thank you, Senator Clark. The motion carries and LB 801 is advanced. We will take up next LB 717.

CLERK: Mr. President, I have E & R amendments to LB 717.

PRESIDENT: The Chair recognizes Senator Kilgarin.

SENATOR KILGARIN: I move the E & R amendments to LB 717.

PRESIDENT: Motion to adopt the E & R amendments on LB 717. Is there any discussion? The motion then is the adoption of the E & R amendments on LB 717. All those in favor signify by saying aye. Opposed nay. The E & R amendments on LB 717 are adopted. Anything further, Mr. Clerk?

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

PRESIDENT: Senator Kilgarin, do you wish to move the bill?

SENATOR KILGARIN: I move we advance LB 717. LB 717 advance... the motion is to advance to E & R for Engrossment. Any further discussion? All those in favor of advancing LB 717 signify by saying aye. Opposed nay. LB 717 is advanced to E & R for Engrossment. Now we are ready to come back to LB 378. Mr. Clerk, are there some E & R amendments?

March 4, 1982

LB 378, 717

SENATOR CULLAN: It is clear to me that what the health planners have done in so ably assisting the Nebraska Legislature in 1979 was to have a system that requires more than twice as many health planners as the State of Missouri which is more than twice as large as the State of Nebraska. That is a little bit out of whack. But at any rate, I think LB 378 is a step in the right direction. It is going to reduce the number of certificate of need applications that need reviewing. I think it is going to make the process more fair and more impartial and I think it is going to force those twenty-two health planners over there, if we still retain all of them, to do a better job and I think that is going to, if anything, is going to make certificate of need work. Finally, I'll be happy to look at the amendments which under Senator Schmit's leadership that we'll bring to the Legislature to provide some other means of providing health cost care containment and if those are reasonable perhaps we can support them at that time and perhaps not, but at any rate I think LB 378 is a step in the right direction. I think it improves certificate of need and I would urge you to advance it at this time.

PRESIDENT: The motion before the House is the advance of LB 378 to E & R for engrossment. All those in favor vote aye, opposed nay. Have you all voted? Record the vote. Senator Cullan, did you ask for a record vote on this? Did I hear somebody ask? Senator Cullan, did you want a record vote on this? Alright.

ASSISTANT CLERK: (Read record vote as found on pages 976-977 of the Legislative Journal.) The vote is 27 ayes, 10 nays, 6 present and not voting, 6 excused and not voting, Mr. President.

PRESIDENT: The motion carries and LB 378 is advanced to E & R for engrossment. That will conclude the agenda item on Special Order for one hour's limit to debate and we will be ready to take up now the worksheet order for a thirty minute limit, commencing with, shown LB 305 I might indicate. Senator Beutler has requested the Speaker to pass over and the Speaker announces that will go down to the bottom of the file. So we are ready then, unless you have some matters to read in, Mr. Clerk? Do you have anything to read in?

ASSISTANT CLERK: Mr. President, I have one item. Senator Nichol asks unanimous consent to expedite 717.

PRESIDENT: All right, request to expedite 717. So ordered, Senator Nichol. All right, we are ready then for LB 208, Mr. Clerk.

March 4, 1982

LB 631, 717, 792, 849

RECESS

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: Would you please record your presence? We are going to need all the help we can get this afternoon because there are at the moment two committees out. Pardon? Okay. Have you all registered your presence so we can proceed? Record.

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

SPEAKER MARVEL: Okay, the Clerk has got a couple items to read in and then we will turn to Senator Dworak.

CLERK: Mr. President, your Committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 717 and find the same correctly engrossed. Your Committee on Administrative Rules whose Chairman is Vard Johnson reports LB 792 as advanced to General File. And Mr. President, Senator Hoagland would like to print amendments to LB 849 in the Legislative Journal. (See page 987 of the Journal.)

SPEAKER MARVEL: The first order of business this afternoon is LB 631, and then the next bill is Senator Nichol's bill, 705.

CLERK: Mr. President, the Legislature considered 631... I guess they didn't this morning. Mr. President, there are E & R amendments to LB 631.

SPEAKER MARVEL: Senator Nichol.

SENATOR NICHOL: Mr. President, I move the E & R amendments be adopted.

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

CLERK: Mr. President, I have an amendment from Senator Fowler who is not in the Chamber right now. Senator Dworak would move to amend the bill, Mr. President.

SPEAKER MARVEL: The Chair recognizes Senator Dworak.

SENATOR DWORAK: Mr. Speaker and colleagues, I feel terribly disadvantaged with just 26 or 27 people on the floor, and I hope you people will take that into account

March 16, 1982

LB 702, 717

ASSISTANT CLERK: Senator Lamb voting yes.

SENATOR LAMB: Have you all voted? The Clerk will record.

ASSISTANT CLERK: (Record vote read. See pages 1184 and 1185, Legislative Journal.) The vote is 41 ayes, 5 nays, 2 excused and not voting, 1 present and not voting, Mr. President.

SENATOR LAMB: The bill is passed with the emergency clause attached. Please read LB 717 on Final Reading.

ASSISTANT CLERK: (Read LB 717 on Final Reading.)

SENATOR LAMB: All provisions of law relative to procedure having been complied with, the question is, shall the bill pass with the emergency clause attached? All those in support vote aye, those opposed vote no.

ASSISTANT CLERK: Senator Lamb voting yes.

SENATOR LAMB: Have you all voted? Have you all voted? It requires 33 votes. Record.

ASSISTANT CLERK: (Record vote read. See page 1185, Legislative Journal.) The vote is 34 ayes, 11 nays, 2 excused and not voting, and 2 present and not voting, Mr. President.

March 18, 1982

LR 243
LB 202, 267, 449, 579, 606, 628, 630,
654, 662, 692, 702-703, 717-719,
728-729, 778, 801, 829, 852

PRESIDENT LUEDTKE PRESIDING

PRESIDENT: Prayer by LeRoy Hofker, Treasurer of Gideons International, the bible distribution society, from Lincoln, Nebraska.

LeROY HOFKER: (Prayer offered).

PRESIDENT: Roll call. Have you all registered your presence so we can get underway? Senators Wagner and Fowler, if you would go over there to the desk and push that button, we could get underway. Senator Higgins, if you will push that button, I will show you are here. Okay, have you all registered your presence? 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: I have no corrections this morning, Mr. President.

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

CLERK: Mr. President, LBs 267, 702, 717, 449, 579, 662, 718, 719, 728, 729, 778, 606, 630, 801, 703, 692, 654, and 829 are ready for your signature; as is LR 243.

PRESIDENT: While the Legislature is in session and capable of doing business, I propose to sign and I do sign LB 267, 702, 449, 579, 662, 718, 719, 728, 729, 778, 606, 630, 654, 692, 703, 801, and 829.

CLERK: Mr. President, Senator Wagner would like to print amendments to LB...I am sorry, Senator Wesely, to print amendments to LB 852.

And Senator Chambers would move to reconsider the vote to indefinitely postpone LB 202. That will be laid over.

PRESIDENT: Okay, so ordered. We are ready then for Final Reading. The Sergeant at Arms will secure the Chamber, all members will return to your desks, and all other people will leave the floor of the Legislature. We are ready for Final Reading. All right, Mr. Clerk, I guess we are all in place so let's proceed with the reading of LR 628 on Final Reading.

CLERK: (Reading of LB 628 on Final Reading.)

LB 69, 267, 359, 435, 449, 579, 606, 628,
630, 654, 662, 692, 702, 703, 717, 718,
719, 722, 728, 729, 778, 782, 801, 829

March 22, 1982

PRESIDENT: The amendment is adopted. We are going to stop now and recess until 1:30 and then we will come right back onto this bill. Senator Nichol, would you like to recess us until 1:30. We have one communication to read in.

CLERK: Mr. President, engrossed LBs 267, 359, 435, 449, 579, 606, 628, 630, 654, 662, 692, 702, 703, 717, 718, 719, 722, 728, 729, 778, 782, 801, 829 and 69 were signed by the Governor on March 19 and delivered to the Secretary of State.

SENATOR NICHOL: Mr. Chairman, I move we recess until 1:30 this afternoon.

SENATOR CLARK: You have heard the motion. All those in favor say aye. Opposed. We are recessed until 1:30.

Edited by:

Marilyn Zank
Marilyn Zank