

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.

January 14, 1982

LB 138, 231, 233, 622,
664, 722, 825-833

SPEAKER MARVEL PRESIDING

DR. PALMER: Prayer offered.

SPEAKER MARVEL: Roll call. Please record your presence. Record.

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

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

CLERK: Yes, sir, Mr. President, your committee on Administrative Rules and Regulations gives notice of hearing for Wednesday, January 20.

Mr. President, your committee on Business and Labor gives notice of hearing for January 20, 27 and February 3 and that is signed by Senator Barrett and Senator Johnson.

Mr. President, I have two Attorney General's opinions, one addressed to Senator Labeledz regarding LB 138 and one addressed to Senator Fowler regarding LB 231. (See pages 280-282 of the Legislative Journal.)

Mr. President, Senator DeCamp would like to print amendments to LB 622 or 233. (See pages 282-283 of the Journal.)

Mr. President, I have received two reports from the Middle Republic NRD and the Lower Platte South NRD regarding payment of attorney fees. (See pages 283-284 of the Legislative Journal.)

I will have on file in my office a report I received from the Director of State Engineer Department of Roads pursuant to LB 722.

Mr. President, new bills: (Read by title for the first time LB 825-833 as found on pages 284-286 of the Legislative Journal.)

SPEAKER MARVEL: We are ready for item #5, Final Reading, and the Chair recognizes Senator Vard Johnson.

CLERK: Mr. President, Senator Johnson would move to suspend Rule 6, Section 7(b) to permit the Final Reading of LB 664 today.

SENATOR V. JOHNSON: Mr. Speaker, members of the body, I want to thank you for your indulgence with this particular measure. As you know this is the bill that would name the gymnasium for the Nebraska School for the Deaf after Mr. Nick Peterson who is an alumnus of the Nebraska School for

January 29, 1982

LB 590, 677, 705, 718,
719, 722, 724

Mr. President, your committee on Judiciary whose Chairman is Senator Nichol reports LB 590 to General File; LB 705 to General File; LB 718 to General File; LB 719 to General File; LB 724 to General File; LB 677 General File with amendments; LB 722 General File with amendments. Signed by Senator Nichol as Chair.

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LB 677, 722

merely an option which will alleviate the burdensome expense of requiring the use of certified or registered mail in all cases. A jury summons returned to the Jury Commissioner for any reason could then be served by use of certified or registered mail. It gives an alternative to the Jury Commissioners, that checking with the largest, Douglas County, to one of the smallest, the Jury Commissioners are very much in favor of it and it is a cost-saving device. Again it is not mandated, and if for any reason a first class letter is returned, then they may go to other procedures to see that that jury summons does indeed reach the person that it is sent to. I passed you out a letter from the District Court of Nebraska signed by Jerry Gitnick, the presiding judge, who said that the members of the bench in this district had no problem with that and in fact supported it. I urge your adoption of the amendment to 677 and then your vote to send it on to Select File. Thank you.

SENATOR CLARK: The question is the adoption of the committee amendments. All those in favor vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

SENATOR CLARK: Record the vote.

CLERK: 30 ayes, 0 nays on the motion to adopt the committee amendments, Mr. President.

SENATOR CLARK: Committee amendments are adopted. Senator Pirsch on the bill please.

SENATOR PIRSCH: I would now like to move LB 677 to Select File.

SENATOR CLARK: The question is the advancement of 677 to E & R. All those in favor vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

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

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

SENATOR CLARK: The bill is advanced. LB 722.

CLERK: Mr. President, LB 722 (read title). The bill was read on January 8 of this year, referred to the Judiciary Committee for public hearing. The bill was advanced to General File. There are committee amendments pending, Mr. President.

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LB 722, 659

SENATOR CLARK: On the committee amendments, Senator Nichol.

SENATOR NICHOL: Mr. Chairman, members of the Legislature, the committee amendments are technical amendments which remove duplicative language and unnecessary references to the Workmen's Compensation Court. I move for the adoption of the committee amendment.

SENATOR CLARK: Any discussion on the committee amendments? If not, all those in favor vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

SENATOR CLARK: Record the vote.

CLERK: 30 ayes, 0 nays, Mr. President, on adoption of the committee amendments.

SENATOR CLARK: Committee amendments are adopted. Senator Nichol, on the bill.

SENATOR NICHOL: Mr. Chairman, members of the Legislature, LB 722 was brought to the committee by the Nebraska Supreme Court and provides for the elimination of the writ of error of criminal appeals. As I understand it, the writ of error is a common law method of seeking appeal in a criminal case, and as there are no other statutory methods of appealing a criminal conviction, the elimination of the writ of error would save the Supreme Court unnecessary paperwork without affecting any substantive rights. I move for the advancement of the bill.

SENATOR CLARK: The question is the advancement of 722 to E & R. Is there any discussion? All those in favor vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

SENATOR CLARK: Record the vote.

CLERK: 29 ayes, 0 nays on the motion to advance the bill, Mr. President.

SENATOR CLARK: The bill is advanced. LB 659.

CLERK: LB 659 (read title). The bill was read on January 6 of this year, referred to Business and Labor for hearing. The bill was advanced to General File. Mr. President, I have no amendments to the bill.

February 10, 1982

LB 264, 309, 347, 403, 418, 542
563-66, 572, 579, 642, 659, 677
703, 705, 718, 719, 722, 724,
764, 774, 778, 779, 797, 852,
879, 606, 32, 229, 490, 492

SPEAKER MARVEL PRESIDING

RABBI BISMAN: Prayer offered.

SPEAKER MARVEL: Item #2, roll call. Please record your presence. Record your presence. Pat, do you want to record.

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

SPEAKER MARVEL: Do you have anything under #3?

CLERK: Mr. President, I have several items. First of all I have a reference report referring LR 218 to the Banking Committee for public hearing.

Mr. President, a communication from the Governor addressed to the Clerk. (Read communication re: 264, 309, 347, 403, 418, 563, 564, 565, 566 and 572 as found on page 613 of the Legislative Journal.)

A second communication. (Read re. LB 542.) And a third, Mr. President, from the Governor addressed to the Clerk. (Read re. 32, 229, 490 and 492. See pages 613-614 of the Legislative Journal.)

Mr. President, your committee on Education whose chairman is Senator Koch reports LB 642 advanced to General File; LB 774 advanced to General File; LB 797 advanced to General File with amendments. Those are signed by Senator Koch.

Your committee on Public Works whose chairman is Senator Kremer offers a corrected statement to LB 852. (See pages 614-615 of the Legislative Journal.)

Mr. President, your committee on Government, Military and Veterans Affairs whose chairman is Senator Kahle reports LB 879 advance to General File with committee amendments attached. That is signed by Senator Kahle. (See page 615 of the Legislative Journal.)

Mr. President, your committee on Enrollment and Review respectfully reports we have carefully examined and reviewed LB 606 and recommend that same be placed on Select File; 579 Select File; 703 Select File with amendments; 705 Select File; 718 Select File; 719 Select File; 724 Select File; 677 Select File; 722 Select File with amendments; 659 Select File; 764 Select File with amendments and 778 Select File with amendments and 779 Select File with amendments, all signed by Senator Kilgarin as Chair. (See pages 615-616 of the Legislative Journal.)

March 4, 1982

LB 677, 722, 659

SENATOR KILGARIN: I move we advance LB 677.

SENATOR CLARK: You heard the motion. All those in favor say aye, opposed. The bill is advanced. LB 722.

CLERK: Mr. President, there are E & R amendments to LB 722.

SENATOR CLARK: Senator Kilgarin.

SENATOR KILGARIN: I move the E & R amendments to LB 722.

SENATOR CLARK: The motion is the adoption of the E & R amendments. All those in favor say aye, opposed. They are adopted.

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

SENATOR CLARK: Senator Kilgarin.

SENATOR KILGARIN: I move we advance LB 722.

SENATOR CLARK: You heard the motion. All those in favor say aye, opposed. The bill is advanced. LB 659.

CLERK: Mr. President, I have no E & R amendments and I do have an amendment from Senator Barrett to the bill. Senator Barrett's amendment is found on page 904 of the Journal.

SENATOR CLARK: Senator Barrett.

SENATOR BARRETT: Mr. Speaker, yes, the amendments to 659 are found on 904 in the Journal. They have been introduced at the request of the Department of Labor. First, they simply add subdivision numbers to the bill's original language. This part of the amendment was recommended to us by E & R in order to make the bill easier to read. Second, the amendments would give the Commissioner the authority to adopt by regulation the most recent version of the American National Standard Safety Code as of the effective date of the bill in order to inspect elevators. Now presently I understand the most recent version which can be adopted is September 2 of 1973. So it is an attempt to update it. The Commissioner has also indicated that he would like very much to adopt the most recent version of the code as soon as practicable so, therefore, we have also added the emergency clause. I would, therefore, move the adoption of the amendments.

SENATOR CLARK: The motion before the House is the adoption

March 11, 1982

LB 628, 631, 669, 669A,
722, 782, 827, 870

SENATOR CLARK PRESIDING

SENATOR CLARK: You will check in, please. Record the presence, please.

CLERK: Quorum present, Mr. President.

SENATOR CLARK: Senator Stoney. We have another motion on the bill right now.

CLERK: Mr. President, your Committee on Enrollment and Review respectfully reports they have carefully examined engrossed LB 628 and find the same correctly engrossed; 631, 669, 669A, 722, 782 and 827 all correctly engrossed.

Mr. President, on LB 870, Senator Chambers would move to indefinitely postpone the bill.

SENATOR CLARK: Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I feel that this is a motion that can bring the whole subject of this particular bill to a head. Now one of my major concerns, it should be clear, is the provision about mandatory sentencing, mandatory jail time. I am sending another handout around to you to show you in documentation in the newspapers about the type of overcrowding that is occurring not just around the country but in Nebraska. We have, on the second page the headline says: "Penal complex is sorely overcrowded." This is a statement from the people who run the Penitentiary here. Another statement from Judge Krivosha that there is no evidence that putting people in jail for longer periods of time prevents others from committing crimes. Jail alone is not a way to handle problems. Then for those from Lancaster County and surrounding areas, dangerous overcrowding is jail's worst. Their head of their Department of Corrections has pointed out that they are facing the worst overcrowding in the history of their twelve-year jail. Then the following page talks about a judge in Albuquerque, New Mexico who was faced with the law requiring mandatory sentences. Rather than sentence a young man in accord with the law, this judge stunned everybody in the court room by resigning on the spot from his judgeship, and he had a philosophy of sentencing, a philosophy of justice both of which were violated by the provisions of the mandatory sentencing law, so he resigned on the spot. It shows that people do have convictions, that they will follow them to what some people might consider unreasonable extremes. The next page will tell about a judge in Philadelphia who ordered the release of over a hundred prisoners because of

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LB 628, 722, 782, 827

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 628 pass? All those in favor vote aye, opposed nay. Record the vote.

CLERK: (Record vote read. See pages 1249 and 1250, Legislative Journal.) 43 ayes, 0 nays, 4 excused and not voting, 2 present and not voting, Mr. President.

PRESIDENT: LB 628 passes. The next bill on Final Reading is LB 722, Mr. Clerk.

CLERK: (Read LB 722 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 722 pass? All those in favor vote aye, opposed nay. Record the vote.

CLERK: (Record vote read. See page 1250, Legislative Journal.) 45 ayes, 0 nays, and 2 excused and not voting, 2 present and not voting, Mr. President.

PRESIDENT: LB 722 passes. The next bill on Final Reading is LB 782.

CLERK: (Read LB 782 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 782 pass with the emergency clause attached? All those in favor vote aye, opposed nay. Record the vote.

CLERK: (Record vote read as found on page 1251, Legislative Journal.) 46 ayes, 0 nays, Mr. President, 2 excused and not voting, 1 present and not voting.

PRESIDENT: LB 782 passes with the emergency clause attached. The next bill, Mr. Clerk, is LB 827.

CLERK: (Read LB 827 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 827 pass? Those in favor vote aye, opposed vote nay. Record the vote.

CLERK: (Record vote read as found on page 1252, Legislative Journal.) 45 ayes, 1 nay, 2 excused and not voting, 1 present and not voting, Mr. President.

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LR 249
LB 69, 359, 435, 626, 628,
687, 722, 782, 827

ASSISTANT CLERK: (Read LB 435 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 435 pass? All those in favor vote aye, opposed nay. Record the vote.

CLERK: (Read the record vote as found on page 1257 of the Legislative Journal.) 38 ayes, 9 nays, 1 present and not voting, 1 excused and not voting, Mr. President.

PRESIDENT: LB 435 passes. That will conclude Final Reading today. Mr. Clerk, you probably have some matters to read in which you will do at this time and then we will immediately proceed to agenda item #5 to take up the two resolutions on the agenda for today. Proceed, Mr. Clerk.

CLERK: Mr. President, explanation of votes offered by Senators Warner and Kilgarin to be inserted in the Journal.

Mr. President, your Enrolling Clerk has presented to the Governor the bills that were signed this morning. Mr. President, Senator Rumery would like to print amendments to LB 626; Senator Hoagland to 687. (See page 1258 of the Legislative Journal.)

Mr. President, LBs 628, 722, 782, 827, 69, 359 and 435 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 628, 722, 782, 827, 69, 359 and 435. Before we take up agenda item #5, the Chair takes pleasure in introducing Greg Krieser from Eagle, Nebraska who is seated under the south balcony. At the present time Greg is in Senator Warner's District and he will be in Senator Carsten's District. So, Greg, would you step forward there if you are still over there and welcome, Greg, to the Legislature. Proceed then, Mr. Clerk, with agenda item 5, resolutions, commencing with LR 249.

CLERK: Mr. President, LR 249 offered by Senators Howard Peterson, Senators Wagner, Cope and Kremer, found on page 1171 of the Journal. (Read LR 249.)

PRESIDENT: The Chair recognizes Senator Howard Peterson.

SENATOR H. PETERSON: Mr. Chairman, so we don't take a lot of time, I just want to say a special word of thanks to this legislative body and to the Governor of this state

March 18, 1982

LB 69, 359, 435, 628,
722, 726, 782, 827

people and if the instrumentalities that they use to control the water situation do not please them ten years down the line they can adjust it. Finally it was suggested that this is a tool for land use control. It is not land use control. It is water use control. Now we all recognize that it has an effect on land use just as limiting withdrawal of water has effects on land use but at the same time not to act, not to act at all, is equally land use control because you will simply dictate that the use of the land will be for the developer who is putting the land into grain crops. That is the land use control that you will dictate by not acting. If you act, then you don't dictate anything. You say to the people in the local community, decide the issues yourself, resolve the differences, determine where your benefits are and where your detriments are and make the best of it in your own local community. In conclusion, I was distressed to hear that many of us who would be voting on this issue have no interest whatsoever in the issue. Time and time again in this Legislature the agricultural interests have pointed out to us and rightfully so, that the cities of this state and the city folk of this state depend in the end on agriculture. To suggest to us today that we should take no interest in agriculture is a contradiction of the grossest type and I don't think anybody believes in that. As the old beer commercial goes, "We're all in this together."

PRESIDENT: The question before the House is the motion to advance LB 726 to E & R initial. All those in favor vote aye, opposed nay. Have you all voted? All right, record vote. Record the vote and a record vote is requested.

CLERK: (Read record vote as found on page 1262 of the Legislative Journal.) 27 ayes, 16 nays, 5 excused and not voting and 1 present and not voting, Mr. President.

PRESIDENT: The motion carries and LB 726 advances to E & R initial. Next, do you have some matters to read in? Go right ahead.

CLERK: Mr. President, a few items to read in. New resolution, LR 255 offered by Senator Schmit. It calls for a study committee of the Legislature to conduct an interim study of the problem of theft of electricity, gas and water. That will be referred to the Executive Board for reference, Mr. President. (See pages 1262-1263 of the Legislative Journal.)

Your Enrolling Clerk has presented to the Governor for his consideration the bills that were read this morning on Final Reading. (Re: LB 628, 722, 782, 827, 69, 359, 435. See page 1263 of the Legislative Journal.)

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
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