

January 13, 1981

LB 122 - 133

RECESS

SPEAKER MARVEL PRESIDING

CLERK: Mr. President, Senators Sieck, Clark, Nichol would like to be excused until they arrive.

SPEAKER MARVEL: Clerk, record the vote.

CLERK: Quorum present, Mr. President.

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

CLERK: Mr. President, I do. I have a Reference Report from the Executive Board referring LBs 81 through 113. (Signed) Senator Lamb, Chairman. (See page 133, Legislative Journal.)

Mr. President, new bills: LB 122, title read; LB 123, title read; LB 124, title read; LB 125, title read; LB 126, title read; LB 127, title read; LB 128, title read; LB 129, title read; LB 130, title read; LB 131, title read; LB 132, title read; LB 133, title read. (See pages 134 to 136, Legislative Journal.)

SPEAKER MARVEL: I would like to alert you to the schedule for tomorrow. At eight thirty will the chairmen please make a note that we would like to meet in Room 1520 to discuss two or three items, one of them is the calendar; another has to do with the ending date as far as the introduction of bills is concerned. At nine o'clock the Legislature will convene, and at ten o'clock the Governor will come over and give us his State of the State message. So at eight thirty the chairmen at a caucus in Room 1520, nine o'clock we will convene and the Governor will be in at ten o'clock. Are we ready, Mr. Clerk? Senator Wesely. Senator Wesely, are you prepared to bring the Legislature up-to-date as to where we are at the moment and where we need to go in the immediate future?

SENATOR WESELY: Yes, Mr. Speaker, members of the Legislature, we have now taken care of three issues dealing with the Rules that were of some controversy and we are now left with the rest of the Rules of the blue book. We have dealt with Rule 7, Section 1; Rule 3, Section 11; and Rule 5, Section 5. We are now to the rest of the rules in the blue book and that is what is now open for discussion. We have a number of rule changes that have been proposed that are on the desk of the Clerk which we will go through in the order in which they have been

February 9, 1981

LB 21, 67, 77, 80,
LB 104, 124, 143, 167, 234A,
LB 186, 188A, 206, 221, 236

SPEAKER MARVEL: The Chair is going to make a suggestion. We are going to be facing this kind of procedure from now on and the Chair would like to meet with Senator Chambers. The Chair would like to meet in the Speaker's office with Senator Chambers, Senator Beutler, Senator Kremer and Senator Goodrich immediately upon adjournment and see if we can settle this without taking all this extra time. Now what is before the House? Okay, the Clerk has some items to read in. I would like to meet with Senator Chambers, Beutler, Kremer and Goodrich as soon as we adjourn.

CLERK: Mr. President, your committee on Public Works gives notice of hearing in Room 1517. Your Committee on Education gives notice of public hearing in Room 1517.

Mr. President, a second notice from the committee on Education regarding scheduling of public hearings.

Mr. President, new bills. (Read LB 188A; LB 234 A. See page 478 of the Legislative Journal.)

Mr. President, I have an Attorney General's opinion addressed to Senator Maresh regarding LB 518 from the 1977 legislative session.

Senator Burrows would like to have amendments printed in the Legislative Journal. (See page 479 regarding amendments to LB 167.)

I have notice of hearing from the Public Works Committee.

Mr. President, your committee on Ag and Environment whose chairman is Senator Schmit to whom is referred LB 80 instructs me to report the same back to the Legislature with the recommendation it be advanced to General File; 104 General File with amendments; 236 General File with amendments, (Signed) Senator Schmit. (See page 480 of the Journal.)

Your committee on Government, Military and Veterans Affairs whose chairman is Senator Kahle to whom is referred LB 221 instructs me to report the same back to the Legislature with the recommendation it be advanced to General File; 21 General File with amendments; 186 General File with amendments, (Signed) Senator Kahle. (See page 481 of the Journal.)

Mr. President, your committee on Miscellaneous Subjects whose chairman is Senator Hefner to whom is referred LB 124 instructs me to report the same back to the Legislature with the recommendation it be advanced to General File; 206 General File; 67 General File with amendments; 77 General File with amendments.

February 18, 1981

LB 5, 49, 72, 73, 74, 124,
128, 176, 279, 419, 462, 476.

to whom was referred LB 128 instructs me to report the same back to the Legislature with the recommendation it be advanced to General File, LB 462 to General File. (Signed) Senator Fowler as Chair.

Your Committee on Business and Labor whose Chairman is Senator Maresh to whom was referred LB 176 instructs me to report the same back to the Legislature with the recommendation it be advanced to General File, 279 General File. (Signed) Senator Maresh, Chair.

Mr. President, your Committee on Constitutional Revision and Recreation whose Chairman is Senator Labeledz to whom was referred LB 5 instructs me to report the same back to the Legislature with the recommendation it be advanced to General File; 476 to General File with amendments; 49 indefinitely postponed and 419 indefinitely postponed; LB 72 General File with amendments; LB 73 indefinitely postponed, and LB 74 advanced to General File with amendments. (See pages 559 and 560 of the Legislative Journal.) (Signed) Senator Labeledz, Chair.

SPEAKER MARVEL: The next order of business is LB 124.

CLERK: Mr. President, LB 124 offered by the Miscellaneous Subjects Committee and signed by its members. (Read title.) The bill was first read on January 13. It was referred to the Miscellaneous Subjects Committee. The bill was advanced to General File. There are no amendments, Mr. President.

SPEAKER MARVEL: Senator Hefner.

SENATOR HEFNER: Mr. President and members of the body, I move to advance LB 124 to E & R Initial. This is a Miscellaneous Subjects Committee bill and this bill consists of four sections. The first section, if you are following along, establishes legislative intent in relation to liquor control. It also establishes that it is the Legislature's intent to control and regulate all liquor transported into the state with the same regulations affecting liquor produced within the state. The second section establishes conditions which must be met before a retail or a bottle club liquor license can be obtained from the Liquor Commission. An applicant must be fit, willing and able to provide the service proposed as described in the application. An applicant must conform to all provisions, requirements, rules and regulations. The premises for the proposed service are or will be required by present or future public convenience and necessity.

And lastly, the operation of service will be consistent with the public interest by providing services designated to meet distinct needs of each individual customer or specifically designated class of customers. And the reason the bill is doing this is because the Liquor Commission has on occasion not granted a license for one reason or another. When the party appeals this decision, the court usually grants the license because it appears the Commission's decision was arbitrary. This bill, LB 124, would establish guidelines for the Commission and for the courts when decisions are appealed. And then, of course, the third section changes the fee for the permit. The fee for a permit for manufacturers to ship to distributors is changed from \$100 to \$200 and, of course, this just would be equalizing it now because the shippers now pay \$200, and, of course, this would add to the state treasures an amount a little over \$20,000. This fee has not been changed for eight years. And then section 4 allows minors working in restaurants and lounges to handle and serve alcoholic beverages. If you will remember last year when we passed LB 221 we missed this part, and so what this section does is allow minors 16 years and older to be able pick up containers when they are working in lounges or restaurants that serve liquor. So I move for LB 124 to E & R Initial.

SPEAKER MARVEL: Senator Dworak.

SENATOR DWORAK: Mr. President, I have a question of Senator Hefner.

SPEAKER MARVEL: Senator Hefner, do you yield?

SENATOR DWORAK: Senator, will this bill encourage competition or will it curtail competition?

SENATOR HEFNER: Senator Dworak, it is real hard to say. I don't think it will change it that much.

SENATOR DWORAK: If it isn't changing anything, why do we need it?

SENATOR HEFNER: One of the reasons why we want to clarify the liquor laws a little bit more is because when the Liquor Commission has not granted a license, then the party will take it to court.

SENATOR DWORAK: Well, is this restricting due process then?

SENATOR HEFNER: I wouldn't say it would be.

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LB 124

SENATOR DWORAK: It would be?

SENATOR HEFNER: It wouldn't be, no.

SENATOR DWORAK: Will they still have as much opportunity to take a turned down license to court as they had currently?

SENATOR HEFNER: I would say what it does is set more guidelines for the Commission and for the courts to use in establishing whether they want to grant this liquor license.

SENATOR DWORAK: Well, Senator Hefner, I don't want to... I'm not trying to badger it, but I am trying to find out why we need this bill. Do we have incomplete inadequate guidelines now that are creating problems in certain areas of the state and where specifically are these problems that exist now that are going to be solved with this piece of legislation?

SENATOR HEFNER: It would just clarify some of the guidelines, and yes, we have had problems. I...(interruption).

SENATOR DWORAK: Can you be specific on some of those problems, Senator Hefner?

SENATOR HEFNER: No, I can't.

SENATOR DWORAK: They weren't brought up in the committee hearing at all?

SENATOR HEFNER: Not the exact ones.

SENATOR DWORAK: But you are relatively certain that this will do nothing to stifle competition as to the way it is right now?

SENATOR HEFNER: I don't believe it would, Senator Dworak.

SENATOR DWORAK: Thank you, Senator Hefner.

SPEAKER MARVEL: The motion is the advancement of 124, right? Do you wish to close, Senator Hefner?

SENATOR HEFNER: Mr. President and members of the body, I just move to advance LB 124 to E & R Initial.

SPEAKER MARVEL: All those in favor of that motion vote aye, opposed vote no. Have you all voted? Record the vote.

February 19, 1981

LR 19
LB 143, 20, 124, 167,
197, 313

SPEAKER MARVEL: Motion is carried. The bill is indefinitely postponed. What is the next? Okay, the Clerk has some items on the desk.

CLERK: Mr. President, your committee on Education whose Chairman is Senator Koch to whom was referred LB 313 instructs me to report the same back to the Legislature with the recommendation it be advanced to General File.

Mr. President, I have a report from the Executive Board. It will be inserted in the Journal regarding selection of the ombudsman.

Mr. President, Senator Fowler would like to print amendments to LB 124; Senator Vickers, Beutler and Hoagland to LB 167.

Your committee on Public Health gives notice of hearings for March 12, Public Health for hearing on March 16 and your Constitutional Revision and Recreation Committee gives notice of hearing for February 27.

Mr. President, a communication from the Governor addressed to the Clerk...yes, sir.

SPEAKER MARVEL: I would caution the Legislature that after we finish what is on the Clerk's desk there are some amendments that go to 109. We will have to pass over that temporarily and then we go to Final Reading. So we will be on Final Reading in just a few moments. Go ahead, Mr. Clerk.

CLERK: Mr. President, a communication from the Governor. (Read. See page 580, Legislative Journal.)

Mr. President, a new resolution, LR 19 by Senator Cullan. (Read. See pages 580 and 581, Legislative Journal.) That will be referred to the Executive Board, Mr. President.

Mr. President, Senator Marsh asks unanimous consent to have her name added to LB 197 as cointroducer.

SPEAKER MARVEL: No objection, so ordered.

CLERK: Mr. President, finally, Senator Stoney offers explanation of vote.

SPEAKER MARVEL: The Legislature will be at ease for about three minutes and then we will go into Final Reading. The legislators will please take your seats so we can proceed. Okay, we are ready to proceed on Final Reading, item #6, and the first bill on Final Reading is LB 20. The Clerk will read.

February 20, 1981

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

PRESIDENT LUEDTKE PRESIDING

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

FATHER DALE HARGES: (Prayer offered).

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

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

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

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

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

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

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

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

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

Mr. President, LBs 28, 42, 156, 20, 27, 29, 30, 37, 43, LR 17 and 18 are ready for your signature.

PRESIDENT: While the Legislature is in session and capable of doing business I propose to sign and I do sign LB 28, LB 42, LB 156, LB 20, LB 29, LB 30, LB 37, LB 43, LR 18 and LR 17. We are ready then for agenda item #4, Final Reading. The Sergeant at Arms will make sure that all unauthorized personnel

February 23, 1981

LB 186, 124

CLERK: 31 ayes, 1 nay, Mr. President, on adoption of the Pirsch amendment.

SPEAKER MARVEL: The motion is carried. The amendment is adopted. Senator Kilgarin.

SENATOR KILGARIN: I move LB 186 be advanced to E & R for engrossment.

SPEAKER MARVEL: All in favor of that motion say aye. Okay, a machine vote has been requested. All those in favor of advancing the bill vote aye, opposed vote no. Have you all voted? Record.

CLERK: 26 ayes, 8 nays, Mr. President, on the motion to advance the bill.

SPEAKER MARVEL: Motion is carried. The bill is advanced. Next, LB 124.

CLERK: Mr. President, there are no E & R amendments. Senator Fowler does have an amendment, however. His amendment is found on page 578 of the Journal. (Read).

SPEAKER MARVEL: Senator Fowler.

SENATOR FOWLER: Mr. President, probably the easiest way to understand the amendment is not to look in the Journal but to turn to the bill, LB 124. The bill is a Miscellaneous Subjects Committee bill that deals with standards for issuing liquor licenses and I put this amendment up because I think the bill did not get adequate discussion on General File or explanation of the implications of this legislation. It creates four standards on page 3 with regards to what it would take to get a liquor license, a retail license or a bottle club license. My amendment strikes number (c) and number (d). (a) is that the applicant is fit, willing and able to properly provide this service and (b) is that the applicant can conform to the provisions, requirements, rules, and regulations of the Liquor Control Act. Now (c) and (d) are new concepts, concepts that are carried in other regulatory functions, like motor transportation, airfare, construction of power plants and so on but (c) indicates that the proposed service within the area will be required by the present or future public convenience and necessity, and then (d) is that the operation of proposed service will be designed to meet distinct needs of each individual customer or a specifically designated class of customer. Now what concerns me is what are we creating here with regards to liquor licenses. The concept of public convenience and necessity I could perhaps

understand the question of opening a trucking route between one community or another but I am not sure, and I hope that members of the Miscellaneous Subjects Committee can try and indicate, I do not know what public convenience or necessity is with regards to a liquor establishment. When is the public's convenience served by the establishment of a bar and when is it not served? Certainly, what is the necessity? How do you prove the necessity for a liquor establishment? Is it served because it is within walking distance perhaps of the area? Can you come in and say, well, there is no bar within six blocks of this area so the public convenience and necessity can be served if we grant a liquor license? These are the types of questions I think we need answered. We need to know what our constituents would have to prove, what they would have to demonstrate to get such a license. Now the second one, (d), I think is even more ambiguous and that is that the operation of the proposed service will be consistent with public interest by providing services designated to meet the distinct needs of each individual customer or a specifically designated class of customer. What is the distinct need of a patron of a liquor establishment? Is it that a certain brand of liquor is not available? Is it that a certain quality of alcohol is not available? Is it that there is no bar in the area that serves light beer and, therefore, there is a need for a beer that serves light beer? And what is a specifically designated class of customer for liquor establishment? What types of things would be considered appropriate or inappropriate for a class of customers? Is it related to the income level, socio-economic class, age group? How do we decide that this bar will serve this class of customer? For example, some parts of Lincoln lack a country western bar. Perhaps they need one, perhaps they don't. Are those the types of questions that people are going to have to come to the Liquor Commission and indicate, and then if you get your license on that basis and say we will serve this class of customer and we will meet this need, we will serve country western customers and we will provide light beer, what happens when the license is sold? Suppose then you wanted to change the class of customer that you were serving or the type of need that you were meeting? What this bill does is establish a whole new criteria. Now I have no problem with (a) and (b), that the applicant is fit, willing and able to properly provide the service. I think that we should limit liquor licenses to those who, in fact, are able to implement that license and I have no problem with the (b) that says that it should be willing to conform to all provisions, laws, regulations, et cetera. I think those are essential. But (c) and (d) are I think interesting concepts that need to be explained. I think that perhaps in this age of deregulation that we should not be establishing these extra criteria

on people that want liquor licenses unless we can explain on the legislative floor how the Liquor Commission is going to implement these. How is the Liquor Commission going to establish that this license serves a public convenience and necessity and this one doesn't? How do we know what is a distinct need of an individual customer? These are the questions that I hope can be answered before this bill is advanced.

SPEAKER MARVEL: Senator DeCamp.

SENATOR DeCAMP: Mr. President, I reluctantly oppose the Fowler amendment. I believe the bill in its present form can accomplish the goals that are needed in the liquor licensing industry. The bill in its original form or its existing form is supported by the Liquor Control Commission. Now as a practical matter a couple of court cases recently made it very clear that we had to do something, we had to give some directions, some guidelines, some authority to the Liquor Commission to determine when and when they are not going to grant license. And so as I say, as a practical matter, I think we have reached the point where we have got to give them almost...almost blanket authority to start really looking closely to see when they are going to start giving new liquor licenses because the state is presently drowning in liquor licenses and there is going to probably be in the next couple of years now one after another in cutthroat competition put each other out of business. Because the liquor license is the highest priced license in this state, the only one you pay for annually at an incredible rate, the only one that is called a privilege as opposed to almost all other licenses, when you make the guy pay so much for it, you should at least give him a reasonable chance to stay in business, and when you don't, you create a condition that they start doing practices, such as, selling to minors, operating after hours, using all kinds of practices that we don't want to condone. So, as I say, reluctantly, I oppose the Fowler motion or the Fowler amendment and suggest that we basically give the Liquor Commission blanket authority to start being very strict on who they give liquor licenses to and maybe even cutting down the number when one after another expires.

SPEAKER MARVEL: Senator Hefner.

SENATOR HEFNER: Mr. President, members of the body, I rise to oppose the Fowler amendment because if we approve this amendment, then the bill doesn't do too much more. I will try to explain it just a little bit clearer. He is striking the (c) and (d) parts of this one section and the reason we

are putting that in is that the Liquor Commission has on occasion not granted a license to an applicant for one reason or another, and when this applicant or this party appeals this decision, the court will usually grant the license because it appears that the Commission's decision was arbitrarily. LB 124 as now proposed would establish guidelines for the Commission and it would also establish guidelines for the courts to follow and, of course, this is very important when this party appeals to the court for a decision. I truly believe that we need this bill as drafted because it will tighten up some of the rules and regs that we have. We need to adopt and pass this bill as drafted. We do not need the Fowler amendment because I believe we need all the guidelines that we can possibly spell out for the Liquor Commission. Therefore, I would urge you to oppose the Fowler amendment.

SPEAKER MARVEL: Senator Dworak.

SENATOR DWORAK: Mr. President, colleagues, I had numerous questions concerning this bill when it was on General File. I asked Senator Hefner several times, many different ways, the intent of this bill, whether in fact this was an endeavor to close the shop, to restrict competition, to enhance those people now holding a liquor license from additional competition coming into the area. At that time, Senator Hefner wasn't sure or didn't want to answer those particular questions as to whether this in fact increased competition or whether this in fact narrowed competition in this particular industry. Now Senator DeCamp has made it very clear that the intent of the legislation, the practical results of the legislation will be to make it very difficult to, or at least more difficult for the issuance of new licenses. It is kind of interesting that Senator DeCamp was lamenting the fact that liquor licenses have a high price tag by the mere virtue of being a license and being in a restricted and controlled industry. This will only tend to make those licenses more valuable, more blue sky. The state through rules and regulations creating personal and individual values. I think Senator Fowler's amendment, and I am not sure exactly what its total effect on the bill is, but it certainly brought to play, brought to light the direction this specific piece of legislation is heading. I would think that we are establishing criteria in (a), (b), and (d) sections. I think Senator Fowler makes a good point that in (c) the criteria is fuzzy, nebulous, almost as Senator DeCamp says, using his words, "giving a blank check to the Commission". I am not sure that is good policy. I think Senator Fowler's amendment does a lot in the general direction of the bill initially to give criteria, a reasonable criteria, and to take out Section (c) which seems to be an omnibus, broad, almost

totally undefinable section would be good policy for this Legislature. I support Senator Fowler's amendment.

SPEAKER MARVEL: Senator Vickers.

SENATOR VICKERS: Mr. Speaker, members, I rise also to support Senator Fowler's amendment. Here we go again once more regulating an industry for the good of an industry. If you will notice the bill at the hearing had no opponents, but you will also notice that all the proponents or the majority of the proponents were people that will be in business regardless of what happens to LB 124. I guess I just...it seems to me, I was sitting here thinking of an analogy that could perhaps be used in this instance. I am in the livestock business. Right now I am losing money on both cattle and hogs. It would be a pretty good idea if we could set up a licensing procedure to restrict people going into my business but grandfather in those that are already in the business and then make that procedure as strict as possible to not allow people to come in. I would really support that. That would be great. I suppose we could use some of the language in (c) and (d) to indicate that maybe that would be a good thing to do because of public convenience and necessity and distinct needs and so forth but I would remind you that if you can't stand the heat in the kitchen then maybe you had better get out of the kitchen and I think that not only applies to the livestock industry but it seems to me that applies to the liquor industry as well. I don't know how you determine what the distinct needs are in the small village that I come from in regards to whether or not there should be another license for a beer joint in that town. I think this is ridiculous. Obviously the person that holds the license there in that town would be all for this because there is good money in that type of an operation and he doesn't want any opposition or any competition. But here we are again, as we have done in the past, passing special interest legislation for special interest groups to hold down competition and I don't think that is good for the public, and since we are representing the public, I don't think that is smart for us to be doing. I certainly support Senator Fowler in his amendment.

SENATOR CLARK PRESIDING

SENATOR CLARK: Senator Barrett.

SENATOR BARRETT: Mr. President, I move the previous question.

SENATOR CLARK: The previous question has been called for. Do I see five hands? I do. The question before the House

is to cease debate. All those in favor vote aye, those opposed vote nay.

CLERK: Senator Clark voting aye.

SENATOR CLARK: Have you all voted on ceasing debate? Once more, have you all voted on ceasing debate? Record the vote.

CLERK: 19 ayes, 10 nays to cease debate, Mr. President.

SENATOR CLARK: Motion has failed. Debate is not ceased. Senator Newell.

SENATOR NEWELL: Mr. President, members of the body, I rise to support LB 124 and to oppose the Fowler amendment. Now I have been listening to the debate and I think it is very interesting. There is a lot of confusion around what this bill does and what its intent is and what, in fact, will be the effectiveness of the legislation. Let me say as I read Senator Fowler's amendment, it takes out some clarifying language but probably wouldn't affect the bill in any substantial way and I think that that would create some problems down the road in terms of truly understanding just what the purposes of this legislation is. Let me assure Senator Dworak, if I could, who has a legitimate point but I think maybe hasn't analyzed it as well as he should that this bill, in fact, is not screwed down...Senator Dworak, is Senator Dworak...he is listening, that is good...Senator Dworak, this bill does not screw down to any great extent the number of people that will be getting liquor licenses. In fact, what the bill does is it allows for a better interpretation of what has always been the case, for a more clear interpretation of what has always been the case in the issuance of liquor license by the Commission. Let me explain the problem and how we got to where we are at. The problem is very simple. We found that over the years since Nebraska has not delineated each and every possible criteria for denying a liquor license that the Supreme Court in recent cases has decided that there is no real criteria unless the Legislature has delineated that, and so when that happened, there was some legitimate liquor licenses that should have been denied that were, in fact, allowed to go through because of these court cases. And so the Legislature, the Miscellaneous Subjects Committee was faced with a couple of options and those options were (a) put in a quota system. Senator Dworak, you have always been opposed to the quota system so I knew with you in mind or this Committee knew with you in mind that we would not want to offer such a ludicrous sort of proposal for this Legislature to tear apart. (b) was to delineate thousands of different

criteria under which you could deny the liquor license.

SENATOR CLARK: Senator Newell, your time is up. I am sorry. Senator Dworak is next.

SENATOR NEWELL: And (c) is the better idea.

SENATOR DWORAK: Mr. President and colleagues, I have no problem with (a) or (b), Senator Newell. (c) is the only one I am having problem with and that is all the Fowler amendment addresses itself to so I would assume that if (a) and (b), in fact, is the nuts and bolts of the bill, you and I should see eye to eye on this particular issue.

SENATOR CLARK: Senator Fowler, did you want to talk again on the bill before you close?

SENATOR FOWLER: Yes. I don't think that there has been anyone on the floor yet who has explained what the criteria really is and perhaps Senator Hefner can explain in greater detail Sections (c) and (d). I think Senator DeCamp has admitted that the intent of the bill is to try and limit access to liquor license and protect people, but let's say that in fact somebody in Nebraska after this bill passed gets the idea they would like a new liquor license. I would like to know if I was applying for a liquor license in Lincoln, how would I prove (c) that I will be serving the public convenience and necessity. What would I have to demonstrate to the Liquor Commission to prove that? And (d) what would be considered "distinct needs of individual customers" and what is a "specially designated class of customer"? Senator Hefner, could you provide the Legislature some indication in what the Liquor Commission would do to determine whether or not I am serving the public convenience and necessity, whether I am meeting distinct needs of an individual customer, and whether I am serving a specifically designated class of customer before I get a liquor license.

SENATOR CLARK: Senator Hefner.

SENATOR HEFNER: Senator Fowler, would you repeat that question again?

SENATOR FOWLER: (Mike off) publish two criteria, (c) and (d), and (c) is that if I am to get a liquor license I must prove that I will serve the public convenience and necessity and I want to know what the Liquor Commission would use, what I would have to prove to the Liquor Commission so that they would know that I am serving the public convenience and necessity or not, and then in (d) you say that I must prove that I meet the

distinct needs of individual customers. I would like to know what I have to prove in that regard. And also you talk about "specifically designated class of customers", I would like to know what those are. So that if I am applying for a license, at least I know what I am supposed to come in and prove.

SENATOR HEFNER: Okay, Senator Fowler, I would say in part (c), the Liquor Commission would have to set up this criteria but I believe like necessity and accessibility, it could perhaps be miles traveled. How far a distance, and the population of a certain village or city and see how many liquor licenses we actually needed, and I would just like to cite an example here. I believe during the committee hearing there was one person that testified that said that in a population of a village of less than a thousand had eight liquor licenses and the Liquor Commission had disapproved of the additional licenses. The local town board had disapproved but the applicant took them to court and the court ruled that our laws were not clearly defined and so, therefore, they went ahead and granted this particular applicant a liquor license and so what we are trying to do with this bill is to set out more guidelines so that the commission can follow these guidelines. Also, if they are overruled, then the court would have to follow these guidelines, and before I...could I just make one other statement. I think Senator Dworak said we were just amending part (c) out of this and I think you are amending part (c) and (d), is that right?

SENATOR FOWLER: (Mike off) the distinct need of an individual customer would be. What is the distinct need of a liquor customer? As opposed to just the need for alcohol, I mean what....

SENATOR HEFNER: Okay, the Liquor Commission would spell this out in their rules and regulations.

SENATOR FOWLER: Okay, and what is a specifically designated class of customers?

SENATOR HEFNER: They would be spelling this out.

SENATOR FOWLER: Okay. Mr. President, I think we can see that Senator Hefner is promoting a bill that not only is tightening competition but delegates a tremendous amount of authority to an administrative board. What he indicates is that we can't explain on the legislative floor what public convenience and necessity is, we don't know what a distinct need of an individual customer is, and we don't know what a specifically designated class of customer is, but we will let the Liquor

Commission work those things out. We will let the Liquor Commission develop through rules and regulations what these terms mean. I think we need a little better definition than that. I think before we enact this into law, before we limit access to liquor licenses, we had better know on the floor of the Legislature what we are calling for. Now public convenience and necessity Senator Hefner said might be the number of people in a community. Basically then all we are doing is giving the Liquor Commission authority to establish a quota system, one liquor license per one thousand people. It seems to me that we are reaching too far in terms of delegation of authority, as far as what this agency can do. If we cannot explain to an applicant what they have to prove to get a liquor license, then I think that we are doing a disservice to everyone in the state. So I would suggest that Section (c) and (d) be struck from the bill until such time as we can actually define what the intent of the Legislature is with regards to these sections. I don't think it is satisfactory simply to stand up and say we are going to let the Liquor Commission decide what these terms mean. I think we have to assume some responsibility ourselves to be able to explain these.

SPEAKER MARVEL PRESIDING

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

SENATOR HEFNER: Mr. President, members of the body, just a few points of clarification. This amendment does take out both parts, (c) and (d). I think Senator Dworak said it would just take out (c) but it takes out both parts. Then Senator Fowler said what we are doing, we are setting up guidelines or rules and regulation that perhaps that there would be only one license per thousand people. Well, this is not what we are intending to do and I don't believe that we are doing this in this bill. This would still be up to the local village board or local control and I believe that what we are trying to do in this bill is just spell out a better interpretation of the guidelines that the Liquor Commission have to follow. Also when this applicant feels that he is not getting a fair shake and he takes it to the courts, that this would spell out guidelines for the courts to follow, and, therefore, I would urge you to oppose the Fowler amendment.

SPEAKER MARVEL: Okay, Senator Newell, I will recognize you and then we go back to Senator Fowler to close on his amendment and then we have got about five bills we want to push across, if we can. Senator Newell.

SENATOR NEWELL: Yes. Very simply, Senator Dworak, you took great advantage of me when I was going through (a), (b) and (c) and (d). They are different (a), (b)s and (c)s. I am not talking about the sections of the bill. I was talking about the arguments for public need and convenience. Now the situation is simply this is that you take the criteria out if you adopt the Fowler amendment. You take any criteria for basing a liquor license, not any criteria, you take most of the criteria for authorizing a liquor license if you take this out. I am opposed to it. This is a well thought out bill. It is one in which the Commission, the industry, everyone is in concurrence. It is not going to make the liquor license all that much more dear. It is just going to allow some criteria for denial.

SPEAKER MARVEL: Senator Vickers.

SENATOR VICKER: Mr. President, I would like to ask Senator Hefner a question if he would yield.

SPEAKER MARVEL: Senator Hefner, do you yield?

SENATOR VICKERS: Senator Hefner, would you explain to me how the Commission is going to determine whether or not an applicant as spelled out in Section (c) in the small town in rural Nebraska is going to determine the required...let's see, "...where the described premises are located is or will be required by the present or future public convenience and necessity...", the proposed service, could you explain to me how that is going to be determined?

SENATOR HEFNER: Senator Vickers, are you talking about Section (2) (c)?

SENATOR VICKERS: I am talking about subsection (c) of Section 2, yes.

SENATOR HEFNER: Okay, I would say that the Liquor Commission will consider what a local government has proposed to them.

SENATOR VICKERS: Could I read that to mean that if there is one beer joint in the community the size of my hometown, 250, that they are going to take the number of people and divide it by the number...how are they going to determine the present or future needs of those number of people? I guess that is what I am trying to understand. How do they know whether there is a need for one establishment or two based on the criteria set out there by "the convenience and necessity required by the present or future public"?

SENATOR HEFNER: I think that they would have to draw up rules and regulations to that effect and then consider what the local board is doing with their local ordinance.

SENATOR VICKERS: Well, what about in Section (d) then, just below that, when it says "the operation of the proposed service, as set forth in the application, will be consistent with the public interest by providing services designated to meet the distinct needs of each individual customer or a specifically designated class of customers." How do you determine the distinct needs of an individual customer?

SENATOR HEFNER: Okay, and the last sentence there, "specifically designated class...", we are talking about bottle clubs in that case there. If you noticed....

SENATOR VICKERS: Yes, but what about the distinct needs of each individual customer? What is the distinct need of a customer of this service in Farnam, Nebraska? How do you determine that?

SENATOR HEFNER: It would be real tough but they'd set guidelines or rules and regulations to that effect.

SENATOR VICKERS: One final question, Senator Hefner, do you believe that this will, in fact, (interruption).

SPEAKER MARVEL: Senator Vickers, you have one minute left.

SENATOR VICKERS: Do you believe this will cut down on competition? Is that the purpose of this?

SENATOR HEFNER: Senator Vickers, I don't think the purpose of this bill is to cut down competition, no, but I think what we are trying to do, we are trying to set out guidelines for the Liquor Commission to follow and also the courts.

SENATOR VICKERS: Okay, thank you, Senator Hefner. I would remind this body that as I indicated a little bit ago I really and truly believe this is an attempt to cut down on competition. Thank you, Mr. President.

SPEAKER MARVEL: Senator Haberman. The question has been called for. Do I see five hands? All those in favor of ceasing debate vote aye, opposed vote no. Record the vote.

CLERK: 28 ayes, 5 nays to cease debate, Mr. President.

SPEAKER MARVEL: Debate is ceased. The Chair will recognize Senator Fowler to close on his amendment to LB 124.

SENATOR FOWLER: Mr. President, again talking on page 3 of LB 124, section (c) and (d), I introduced an amendment to strike those sections so that perhaps we could get a little clarification as to what the intent was of the criteria that would be used by the Liquor Commission to decide whether or not to allow a new license and I guess I do not think that that clarification was forthcoming, at least to the detail that we'd need. There were suggestions made, Senator DeCamp and others, that this was to try and slow down the number of liquor licenses. In fact perhaps it could stop the granting of new liquor licenses because let's say you go in and request one. You don't know what is the criteria other than public convenience and necessity and all the Liquor Commission says is you didn't prove you are serving the public convenience and necessity but they won't tell you how to prove that. At least no one here on the legislative floor can explain how do you prove that. Then we get to Section (d) where you talk about distinct needs of an individual customer. In fact, Senator Hefner himself admitted it may be very difficult to try and explain what is the distinct need of a liquor customer. I mean it seems that the needs are either type of alcohol, bourbon versus beer, brand of alcohol, Wild Turkey versus something else, hours that you want to drink. Those seem to be the needs that I am not sure that any of those really are needs of customers. They are more like professed desires. I am not sure that there is any necessity that could ever be proven for the existence of a bar. Now this Legislature I think prides itself on being against government regulation and, in fact, probably a number of Senators have used the phrase about "let's leave small business alone and let's deregulate industry", and so on, but then we are going to write into statutes language that a small businessman must comply with that we can't even explain. We are going to ask that someone explain as a bar owner before they get a license what needs of a customer they are going to serve. They are going to talk about the necessity of a community to have a bar and I daresay that those are impossible things to prove. If the desire was to try and develop more specific criteria for granting liquor licenses so that those licenses, denials or acceptances, could hold up in court, I don't think this bill does it because I think this criteria is as broad and as ambiguous and as impossible to define as anything else and all we have done is pass the decision back to the Liquor Commission. I would suggest that we strike Sections (c) and (d) and we are left with two basic understandable criteria for a liquor license, that the applicant is fit, willing and able to provide the service, and that the applicant will follow the laws of the state and the regulations of the Liquor Commission, and to try and ask

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LB 124

someone to prove they are meeting a necessity for alcohol or serving the distinct need of a certain type of customer I think is absurd. For this reason I move that we strike Section (c) and (d) of this bill.

SPEAKER MARVEL: The motion is the adoption of the Fowler amendment to LB 124. All those in favor vote aye, opposed vote no. Have you all voted? Senator Fowler, what is your pleasure?

SENATOR FOWLER: Well, I guess I need to know how many are excused.

SPEAKER MARVEL: One.

SENATOR FOWLER: Okay, then I will ask for a Call of the House and a roll call vote.

SPEAKER MARVEL: Shall the House go under Call? All those in favor vote aye, opposed no. Record.

CLERK: 16 ayes, 2 nays to go under Call, Mr. President.

SPEAKER MARVEL: The House is under Call. All legislators please return to your seats and record your presence. Senator Cullan, Senator Koch, Senator Wiitala, Senator Cope, Senator Schmit, Senator Rumery, Senator Maresh, Senator Lowell Johnson, Senator Howard Peterson, Senator Richard Peterson, Senator Goodrich, Senator Landis, Senator Marsh, Senator Chambers, Senator Pirsch, Senator Haberman, Senator Carsten. That is it. Senator Goodrich, Senator Cullan, Senator Carsten, Senator Koch, Senator Schmit, Senator Pirsch, Senator Howard Peterson. Senator Cullan and Senator Carsten and Senator Koch. Senator Fowler, there are three absent still...four absent. Shall we proceed?

SENATOR FOWLER: We could lay it over until tomorrow.

SPEAKER MARVEL: Not in the middle of a vote.

SENATOR FOWLER: Okay, let's proceed.

SPEAKER MARVEL: The Clerk will call the roll.

CLERK: (Roll call vote taken. See page 632, Legislative Journal.) 19 ayes, 26 nays, Mr. President.

SPEAKER MARVEL: Motion lost. The Call is raised. Is there another motion?

February 23, 1981

LB 124, 67, 206, 206A

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

SPEAKER MARVEL: Senator Hefner.

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

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

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

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

CLERK: I have nothing on the bill, Senator.

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

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

CLERK: Nothing on 206A, Senator.

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

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

CLERK: There are E & R, Senator.

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

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

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

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

February 24, 1981

LB 205, 198, 124

not sure what hearing is provided for in this act, but if there is a legal proceeding provided for, it would seem to me that the perjury provisions that are applicable that are presently in our statute and applicable to someone who puts himself under oath would be equally applicable here. But it seems to me, and I guess I am really repeating in part what Senator Chambers has said, that the bill is extremely broad and overdrawn and a very serious set of amendments should be added to it before it advances any further in this Legislature I would think. Thank you.

SPEAKER MARVEL: Unless there is objections, since it is after twelve, we will stop and everything will be left as it is and then we will take it up the next time we reach General File which will probably be tomorrow. Any objections? Okay, are there any items that the Clerk needs to read into the record?

CLERK: Yes, sir. Mr. President, Senator Hefner would like to print amendments to LB 124 in the Journal. (See page 649 of the Legislative Journal.)

Mr. President, two resolutions. The first is LR 21 offered by Senator Fowler. (Read LR 21 as found on pages 647-648 of the Legislative Journal.) Mr. President, in conjunction with that resolution Senator Fowler asks unanimous consent to have LR 21 referred to Public Works for a public hearing.

SPEAKER MARVEL: No objections, so ordered.

CLERK: Mr. President, yes, sir, new resolution, LR 22, offered by Senators Von Minden, Hefner, Chronister and Wagner. (Read LR 22. See page 650 of the Journal.) That will be laid over, Mr. President.

Mr. President, Senator Schmit would like to have the Ag and Environment Committee meet tomorrow at 8:45 a.m. under the North balcony for purposes of conducting an executive session.

Finally, Mr. President, Public Works Committee whose chairman is Senator Kremer to whom is referred LB 198 instructs me to report the same back to the Legislature with the recommendation it be advanced to General File with amendments. (Signed) Senator Kremer. (See pages 650-654 of the Journal.)

SPEAKER MARVEL: Senator Wiitala, will you adjourn us until 9:00 a.m., February 25, 1981.

SENATOR WIITALA: Mr. Chairman, I move that we adjourn until 9:00 a.m., February 25.

February 25, 1981

LB 124

to LR 22 as co-introducer.

SPEAKER MARVEL: Hearing no objection, so ordered.

CLERK: Mr. President, I have another appointment letter from the Governor. That will be referred to the Reference Committee. I also have a notice of hearing from the Miscellaneous Subjects Committee for a hearing set for March 12. (See page 658 of the Legislative Journal.) That will be inserted in the Journal.

SPEAKER MARVEL: Okay, we move to item #5, Select File, and you will note there is one hour time limit, and the first bill is LB 124.

CLERK: Mr. President, the bill was considered by the body on February 23. I have pending an amendment from Senator Hefner to amend LB 124. (Read the Hefner amendment as found on page 658 of the Legislative Journal.)

SPEAKER MARVEL: Senator Hefner.

SENATOR HEFNER: Mr. President and members of the body, this is a corrective amendment. If you will notice that on page 3, line 18, we have "retail licenses", and what we are doing is add "and bottle clubs", and this will make it the same as the amendment that we adopted several days ago. If you will notice, if you are following in the bill book, section 2, line 22, we say "cause a retail license" and we added "or a bottle club license". All this amendment would do is have the same language in both of these sections. Therefore, I would urge the adoption of this amendment.

SPEAKER MARVEL: Senator DeCamp, do you want to talk? Is there any other discussion on the Hefner amendment? If not, Senator Hefner, do you have any close? Okay, the motion is the adoption of the Hefner amendment to LB 124. All those in favor vote aye, opposed no. Have you all voted? This is the Hefner amendment to LB 124. Record.

CLERK: 25 ayes, 0 nays, on adoption of the first Hefner amendment, Mr. President.

SPEAKER MARVEL: The motion is carried and the amendment is adopted.

CLERK: Mr. President, I now have an amendment from Senator Hefner found on page 649 of the Legislative Journal.

SPEAKER MARVEL: Senator Hefner.

SENATOR HEFNER: Mr. President and members of the body, I move for the adoption of this amendment, and if this body will remember that the other day when the amendment...an amendment was adopted and we defeated the Fowler amendment, there were several Senators that were very concerned about (c) and (d) in section 2 of this bill. You will find this amendment on page 649 in your Journal, and what we are trying to do is spell out the distinct needs of an individual customer or class of customer, and this amendment responds to the concerns of those Senators by doing the following: Number one, it specifically establishes a standard of review of the public and the necessity when reviewing an application of a liquor license; and number two, it eliminates the vague standards of clause (d) dealing with specific customers or class of customers, and it also sets out ten determining factors which shall be considered by the Liquor Control Commission when reviewing a liquor license applicant. And if you follow along with me, the first one is the recommendation of the local governing body. Number two, the existence of a citizens' protest made in accordance with the section 53-133, and this section spells out what citizens need to do if they want to protest a liquor license application. Another one is the existing population of a city, village or county as the case may be, and also their projected growth. Another one would be the nature of the neighborhood or community of the location of the proposed licensed premises. Another one would be the existence or absence of other retail licenses or bottle club licenses with similar privileges within the neighborhood or community of the location of the proposed license premises. Another one would be the existing motor vehicle and pedestrian traffic flow in the vicinity of the proposed licensed premises. It would also consider the adequacy of the existing law enforcement, the zoning restrictions, the sanitary conditions on or about the proposed licensed premises and last, whether the type of business or activity proposed to be operated in conjunction with the proposed license is and will be consistent with the public interest. Yesterday morning we met with the group of Senators that were previously opposed to (c) and (d) in section 2, and I believe that by putting this amendment on the bill we will have answered their questions and why they opposed the bill. And so I would urge you to support this amendment.

SPEAKER MARVEL: Senator Dworak.

SENATOR DWORAK: Mr. President and colleagues, I support

February 25, 1981

LB 9, 124

the amendments, but I think we should be cognizant of two things, number one, many of you accused us of merely harrassing, badgering a bill. Now, we are looking at a refinement that forced the committee, the Liquor Commission, to sit down, reevaluate, come back with specific tighter recommendations and I commend Senator Hefner and all those that worked with him on this. But just a couple days ago many were very critical of those who had grave concerns about this. Number two, I think it demonstrates the danger of curtailing debate in this body. Legislative process is not a fast process, and many times when we try to act expeditiously things get overlooked, concepts get approved that, in fact, aren't truly understood and truly desired. So I think in the future we need to be very, very cautious about curtailment of debate and about trying to do too many things too fast.

SPEAKER MARVEL: Senator DeCamp. There are none others who wish to speak. The motion is the adoption of the Hefner amendment as found on page 649 to LB 124. All those in favor of the Hefner amendment vote aye, opposed vote no. Record the vote.

CLERK: 27 ayes, 0 nays on adoption of the second Hefner amendment, Mr. President.

SPEAKER MARVEL: The motion is carried. The Hefner amendment is adopted. What is next?

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

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

SENATOR HEFNER: Mr. President, I move the advancement of the bill to E & R Engrossing.

SPEAKER MARVEL: All those in favor of that motion vote aye, opposed vote no. This is on the advancement of the bill. 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. The next bill, LB 9.

CLERK: Mr. President, there are E & R amendments to LB 9.

March 2, 1981

LB 9, 34, 110, 124, 178,
214, 345, 547

opposed nay. Record the vote.

CLERK: 31 ayes, 1 nay, Mr. President, on the motion to introduce the bill.

PRESIDENT: The motion carries. The bill may be introduced. Read the bill.

CLERK: Mr. President, LB 547 introduced by the Ag and Environment Committee. (Read LB 547 for the first time.)

PRESIDENT: Senator Landis, did you wish to....thank you. I thought you might want to speak. Ready for agenda item #5, Final Reading. The Sergeant at Arms will see that all unauthorized personnel are off the floor of the Legislature. All legislators are to be at their desks. We are ready to proceed with Final Reading. As soon as everyone is at your desk we will commence with LB 110.

CLERK: Mr. President, while we are waiting, your Committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 9 and find the same correctly engrossed; 34 correctly engrossed; 124 correctly engrossed; 178 correctly engrossed, and 345 all correctly engrossed. (Signed) Senator Kilgarin, Chair.

PRESIDENT: All right, we are ready to proceed then with Final Reading. Mr. Clerk will proceed with the Final Reading of LB 110.

CLERK: (Read LB 110 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 110 pass? All those in favor vote aye, opposed nay. Record the vote.

CLERK: (Read the record vote as found on page 704 of the Legislative Journal.) 35 ayes, 8 nays, 5 present and not voting, 1 excused and not voting, Mr. President.

PRESIDENT: LB 110 passes. The next bill on Final Reading is LB 214.

CLERK: (Read LB 214 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 214 pass with the emergency clause attached? All those in favor vote aye, opposed nay. Record the vote.

March 5, 1981

LB 34, 124

SENATOR HABERMAN: A question of the Chair, please. During debate on Final Reading, does the rule say that you have to remain in your chair? When there is an amendment on the bill and there is debate?

SENATOR CLARK: Technically, yes because you are not supposed to debate on Final Reading.

SENATOR HABERMAN: That was a good answer.

SENATOR CLARK: Thank you. We have thirty-four checked in out of forty-nine. Would you please check in? Senator Haberman, would you check in, please? Anyone else that is in your seat will you please check in. We have to have one more. We have two excused. Senator Warner. Do you want to proceed with a roll call without Senator Warner? Senator Lamb, do you want to proceed with a roll call without Senator Warner or do you want to wait for him?

SENATOR LAMB: Let's proceed, Mr. Chairman.

SENATOR CLARK: All right, the Clerk will call the roll.

CLERK: (Read roll call vote as found on page 754 of the Legislative Journal.) 19 ayes, 26 nays on the motion to return the bill, Mr. President.

SENATOR CLARK: The motion fails. Is there any more motions on the desk?

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

SENATOR CLARK: The Clerk will read LB 34.

CLERK: (Read LB 34 on Final Reading.)

SENATOR CLARK: All provisions of law having been complied with, the question is, shall the bill pass. All those in favor vote aye, opposed no. Have you all voted? Once more, have you all voted? I am going to call the vote. Record the vote.

CLERK: (Read record vote as found on page 755 of the Legislative Journal.) 26 ayes, 19 nays, 2 excused and not voting, 2 present and not voting, Mr. President.

SENATOR CLARK: The Chair declares the bill passed. The Clerk will now read LB 124.

ASSISTANT CLERK: (Read LB 124 on Final Reading.)

March 5, 1981

LB 124, 178, 345

SENATOR CLARK: All provisions of law having been complied with, the question is, shall LB 124 pass. All those in favor vote aye, opposed no.

ASSISTANT CLERK: Senator Clark voting aye.

SENATOR CLARK: Have you all voted? The Clerk will record the vote.

ASSISTANT CLERK: (Read record vote as found on page 756 of the Legislative Journal.) The vote is 43 ayes, 3 nays, 1 excused and not voting, 2 present and not voting, Mr. President.

SENATOR CLARK: LB 124 is declared passed. If we can get all the senators back in their seats we can continue with LB 178. Senator DeCamp, Senator Hoagland. It looks like a train station up here. The Clerk will read 178.

ASSISTANT CLERK: (Read LB 178 on Final Reading.)

SENATOR CLARK: All provisions of law having been complied with, the question is, shall LB 178 pass. All those in favor vote aye, opposed no. Voting aye, Mr. Clerk.

CLERK: Senator Clark voting aye.

SENATOR CLARK: I am going to hold a vote on this until the people get a chance to get back in. Senator Marvel, you said no? Record the vote.

CLERK: (Read record vote as found on page 757 of the Legislative Journal.) 42 ayes, 6 nays, 1 excused and not voting, Mr. President.

SENATOR CLARK: LB 178 is declared passed. The Clerk will now read LB 345.

CLERK: (Read LB 345 on Final Reading.)

SENATOR CLARK: All provisions of law having been complied with, the question is, shall the bill pass. All in favor vote aye, opposed no. Voting aye, Mr. Clerk.

CLERK: Senator Clark, voting aye.

SENATOR CLARK: Record the vote.

CLERK: (Read record vote as found on pages 757-758 of the Legislative Journal.) 45 ayes, 0 nays, 1 excused and not voting, 3 present and not voting, Mr. President.

LB 9, 34, 51, 78, 91, 124,
125, 133, 150, 178, 195,
205, 223, 272, 273, 273A
277, 317, 320, 321, 345
363, 376, 409, 439, 459

March 6, 1981

PRESIDENT LUEDTKE PRESIDING

REVEREND GERALD LUNDBY: (Prayer offered.)

PRESIDENT: Senator Higgins, do you want to put your light on and then we will make sure we have got enough. Thank you. Record the presence, Mr. Clerk.

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

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

CLERK: I have no corrections to the Journal, Mr. President.

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

CLERK: Yes, sir, I do. Mr. President, first of all, your committee on Education whose Chairman is Senator Koch to whom was referred LB 78 instructs me to report the same back to the Legislature with the recommendation it be advanced to General File with amendments; LB 317 General File with amendments; 320 General File with amendments; 321 General File with amendments; 91 Indefinitely postponed; 223 Indefinitely postponed; 363 Indefinitely postponed; 439 Indefinitely postponed. (Signed) Senator Koch, Chair.

Mr. President, your committee on Banking, Commerce and Insurance whose Chairman is Senator DeCamp to whom was referred LB 376 reports LB 376 to General File with amendments; LB 133 Indefinitely postponed; and 277 Indefinitely postponed. (Signed) Senator DeCamp, Chair.

Mr. President, your committee on Enrollment and Review respectfully reports they have carefully examined LB 51 and find the same correctly engrossed; LB 125 correctly engrossed; 150 correctly engrossed; 195 correctly engrossed; 205 correctly engrossed; 272 correctly engrossed; 273 correctly engrossed; 273A correctly engrossed; 409 correctly engrossed; and 459 correctly engrossed. (Signed) Senator Kilgarin, Chair.

Mr. President, LB 9, 34, 124, 178 and 345 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 9, LB 34, LB 124, LB 178, and LB 345.

March 10, 1981

LB 9, 34, 50, 74, 89,
89A, 124, 174, 178,
194, 345, 425, 500

PRESIDENT LUEDTKE PRESIDING

PRESIDENT: I take great pleasure in introducing my own pastor, Pastor Harold Hamilton from First Lutheran here in Lincoln.

PASTOR HAROLD HAMILTON: (Prayer offered)

PRESIDENT: Roll call. Senator Marsh.

SENATOR MARSH: Mr. President, for all who are within my range of my voice, I would like to give notice that tomorrow I am going to ask for a recorded vote on those who are here by 9:05 a.m.

PRESIDENT: Thank you, Senator Marsh. Senator Nichol.

SENATOR NICHOL: Mr. President, I will make sure to be here tomorrow but I wonder if that is going to be an occurrence every day, Senator Marsh. I am sorry, she is talking. I was just curious about what the rule would be.

PRESIDENT: Have you all recorded your presence? It is now 9:05 a.m. Has everybody recorded your presence? Record the presence, Mr. Clerk.

CLERK: A quorum present, Mr. President.

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

CLERK: I have no corrections, Mr. President.

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

CLERK: Mr. President, your committee on Enrollment and Review respectfully reports that we have carefully examined LB 74 and recommend that same be placed on Select File with amendments; LB 500 Select File with amendments; LB 425 Select File with amendments; LB 194 Select File with amendments; LB 174 Select File with amendments; LB 89 Select File with amendments; LB 89A Select File with amendments; LB 50 Select File with amendments.

Mr. President, your Enrolling Clerk respectfully reports that she has presented to the Governor at 2:10 p.m. yesterday LBs 9, 34, 124, 178, and 345.

Mr. President, your committee on Enrollment and Review

March 11, 1981

LB 4, 9, 22, 24, 34, 38,
54, 124, 171, 178, 275,
276, 288, 292, 345,
368, 460, 475, 517

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: Pastor David L. Erdman, Plains Baptist Church.

PASTOR ERDMAN: (Prayer offered.)

SPEAKER MARVEL: Record your presence.

CLERK: Mr. President, Senator Vard Johnson would like to be excused until he arrives; Senator Goll, Barrett and Waitala until they arrive.

SPEAKER MARVEL: Have you all recorded your presence? Record the vote. Yes. Senator Marsh, for what purpose?

SENATOR MARSH: I ask for this to be a recorded vote for those who are here at 9:05 a.m.

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

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

CLERK: Mr. President, your committee on Enrollment and Review respectfully reports we have carefully examined LB 475 and recommend that same be placed on Select File with amendments; 171 Select File; 22 Select File with amendments. (Signed) Senator Kilgarin, Chair.

Mr. President, your committee on Government reports 292 to General File with amendments; LB 460 to General File; LB 276 Indefinitely postponed; 517 Indefinitely postponed. (Signed) Senator DeCamp, Chair.

Mr. President, LB 288, 275, 54, 38, and 24 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 24, LB 38, LB 54, LB 275, LB 288.

CLERK: Mr. President, a communication from the Governor addressed to the Clerk. (Read. Re: LB 9, 34, 124, 178 and 345.) (See page 844, Legislative Journal.)

Two Attorney General's opinions, a first to Senator Koch regarding LB 368. The second to Senator Beutler regarding LB 4. They also will be inserted in the Journal, Mr. President.

Finally, Mr. President, Senator Maresh asks unanimous consent