

January 14, 1981

LB 185-192

roll call but we have to have everybody in their seats first. Senator Wesely, for what purpose do you rise?

SENATOR WESELY: Point of information, please. I was wondering if the Clerk would one last time explain the vote we are taking at this point.

SPEAKER MARVEL: Can we just simply read the motion? Is there a motion?

SENATOR WESELY: If that is sufficient, that would be fine.

CLERK: Mr. President, the motion pending before the body is to adopt the remaining permanent rules for the 87th Legislature, First Session, as now currently in our possession.

SPEAKER MARVEL: Roll call has been requested. Clerk will call the roll.

CLERK: (Roll call vote taken as found on page 174 of the Legislative Journal). 15 ayes, 27 nays, Mr. President.

SPEAKER MARVEL: Motion lost. The Call is raised. Senator Wesely, for what purpose do you rise?

SENATOR WESELY: If I could have an opportunity to explain the situation as it stands right now, Mr. Speaker, so they would understand where we stand with the rules. Would that be possible?

SPEAKER MARVEL: No, sir. The only motion the Chair will entertain is the motion to adjourn. The Clerk has got some items to read in and then we will adjourn.

CLERK: Mr. President, new bills: LB 185 (Read title). LB 186 (Read title). LB 187 (Read title). LB 188 (Read title). LB 189 (Read title). LB 190 (Read title). LB 191 (Read title). LB 192 (Read title). (See pages 174 through 176 of the Legislative Journal.)

Mr. President, I have a Reference Report from the Executive Board referring legislative bills 114 through 139, and rereferring LB 69. (See pages 176 and 177 of the Legislative Journal.)

Mr. President, your Committee on Retirement gives notice of public hearing for Tuesday, January 20 in Room 1520. That is it, Senator.

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LB 197A, 40, 192, 231,
340, 341, 411, 541

consideration of 197A and advancing it also. Thank you.

SENATOR CLARK: Senator Marsh. The question before the House is the advancement of 197A. All those in favor vote aye, opposed vote nay. Have you all voted? The advancement of 197A. Record the vote.

CLERK: 27 ayes, 2 nays on the motion to advance the A bill, Mr. President.

SENATOR CLARK: Motion carried. The bill is advanced. We will now take up LB 40.

CLERK: Mr. President, if I may right before we get to that, Banking, Commerce and Insurance gives notice of gubernatorial appointments as approved by the committee.

The committee on Judiciary reports LB 541 to General File with amendments; 192 General File with amendments; 231 General File with amendments; 411 General File with amendments; 340 General File with amendments; 341 General File with amendments. (Signed) Senator Nichol, Chair.

Mr. President, LB 40 was a bill introduced by Senators Koch, DeCamp and Goodrich. (Read title.) The bill was first read on January 8, referred to the Revenue Committee. The bill was advanced to General File. There are committee amendments pending by the Revenue Committee, Mr. President.

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: Senator Carsten.

SENATOR CARSTEN: Mr. President and members of the Legislature, I move for the adoption of the committee amendments. The committee amendments to LB 40 would require that the tax could not be continued, the Omaha city half-cent sales tax could not be continued after December 31, 1981 unless the majority of those voting in an election approved of the extension. I think the philosophy of the committee after we heard this bill realizing full well that the people of the City of Omaha did vote to accept the half-cent sales tax for a specific period of time, now this bill as it was presented is a permanent tax that would be put on. The committee felt that it was improper, I believe I am speaking for the committee, for this Legislature to impose upon the people of the City of Omaha a permanent half-cent sales tax without their consent or rejection and it was in that light that this amendment

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opposed vote nay.

CLERK: Senator Clark voting aye.

SENATOR CLARK: Have you all voted on the advancement of 322? Have you all voted on the advancement of 322? Record the vote.

CLERK: 25 ayes, 0 nays on the motion to advance the bill, Mr. President.

SENATOR CLARK: The bill is advanced. The next bill is LB 192.

CLERK: Mr. President, LB 192 introduced by Senators Maresh and Remmers. (Read title.) The bill was read on January 14 of this year. It was referred to the Judiciary Committee. The bill was advanced to General File with Judiciary Committee amendments attached, Mr. President.

SENATOR CLARK: On the committee amendments, Senator Nichol. LB 192.

SENATOR NICHOL: Mr. Chairman and members of the Legislature, the committee adopted three amendments to LB 192. These amendments are clarifying in nature and do not change the intent or substance of the bill, also add the severability clause in 192. I ask for the adoption of the committee amendments.

SENATOR CLARK: Is there any discussion on the committee amendments to LB 192? We have an amendment to the committee amendments.

CLERK: Mr. President, Senators Kilgarrin, Hoagland and Vickers move to amend the committee amendments by striking the word "shall" on page 1, line 15, and inserting "in its discretion"...is it discretion, Senator..."in its discretion, may"; striking the word "except" in line 16 on page 1, and striking all of line 17 through 19.

SENATOR CLARK: Senator Hoagland, do you want to take this amendment?

SENATOR HOAGLAND: Yes, if I can make some initial comments. The other cosponsors may want to address this too, Mr. President, but let me give you all the background. We have been confabbing for the last 15 minutes over here underneath the balcony and what this amendment does essentially is insert a finding that the court must grant attorney

fees and expert witness costs and other costs to a prevailing party in an action against the state where the prevailing party is not the state unless certain conditions exist, why we are changing it around to simply say the court may in its discretion grant attorney fees, expert witness costs and other costs. Now I think we have done this for two reasons. First this will bring this provision relating to the granting of attorney fees in line with other provisions we have in the Nebraska statutes relating to the granting of attorney fees where it is left completely discretionary with the court, without saying attorney fees shall be granted unless certain conditions exist. And even though I am an attorney and I suppose this is against the interest of my profession in some respects, I think it is better policy to leave the judges with complete discretion in determining whether or not attorney fees are going to be granted if we are going to permit attorney fees at all, rather than saying they have to be granted unless certain conditions exist. Now I think the second...so the first reason that at least I am cosponsoring this amendment is because it brings it into conformity with other provisions in the statute, other bills that have been introduced this year relating to attorney fees which puts it completely in the discretion of the court without any indication one way or another as to how the court should exercise that discretion. And I think the second reason that we are introducing this is we are afraid that it might operate too harshly on the state because it is the state and the taxpayers that are going to have to pick up the attorney fees under this bill, and the way the bill is written right now I think it is my feeling at least that we may wind up... the courts may wind up being forced to pay attorney fees and expert witness costs and other costs in litigation where the court would rather they not be paid and the public interest would not be served and the taxpayers' interest would not be served by making those payments. So I would urge your adoption of this amendment to the committee amendments, and some of the other cosponsors may want to speak and I would be happy to answer any questions anybody might ask.

SENATOR CLARK: Senator Maresh.

SENATOR MARESH: Mr. President, I oppose this amendment. I think this is watering the bill down. The committee reviewed this and they agreed with the bill. I think if we are going to do something, we ought to do it properly and not "yes" and "no" and "maybe" and so I think we should spell it out in the law that they shall pay these court costs and attorney fees.

SENATOR CLARK: Senator Vickers.

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LB 192

SENATOR VICKERS: Mr. President and members, I rise to support the amendment. Let me outline for you a little bit of what I think could happen under 192. Under 192 because of the way the bill is drafted, it says that a corporation with less than 50 persons under the employment and one that has gross receipts for a 12 month period preceding the filing of the action of under \$2 million. Now out in Lincoln County, as most of you are aware, Prudential Insurance Company has purchased quite a substantial holding and are developing it for irrigation. Now this corporation that actually bought the land is a subsidiary of Prudential Insurance Company, but it is a separate Nebraska corporation, they would have probably less than 50 and I am just using them as an example for this idea that I have got. They are using...they would have probably less than 50 persons. It is possible that they would have less than \$2 million worth of gross receipts if they had 10,000 acres and corn was 100 bushel to the acre and \$3 a bushel and they gave half of it, and so forth. Now, if the Natural Resources District imposed some sort of a regulation on the use of water or fertilizer or something in that area and they decided they wanted to fight it, then under this provision of this law if they fought it and put an injunction on it, could drag it out for years in the courts, and if they should happen to win, we would pay their attorney fees. Now I don't think that is exactly the intention of the introducers. I agree with the assumption that the introducers introduced this bill with the Mom and Pop grocery store or the individual farmer or the individual business man that is harassed by a government agency, an agency of the State of Nebraska, whatever agency, if they are successful in defending their case, the state should pay their attorney fees. I think that is a good conclusion. I think it should be that way. But I agree that it should be discretionary so that it would allow the judges some discretion in a case that I just mentioned to you that...and I think this could happen. I can foresee it happening that if the individuals that are bringing the case about or fighting it in the courts obviously could afford it and have plenty of money behind them and maybe even doing it just for an opportunity to drag it out, put an injunction on it to keep it from happening, then it seems to me that making it discretionary and allowing the judges some discretion in this area would, in fact, reimburse the small individual that the intention of the bill or the introducers of the bill is to try to get to, and I urge the body's adoption of this amendment.

SENATOR CLARK: Senator Nichol.

SENATOR NICHOL: Mr. Chairman and members of the Legislature,

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I rise certainly to object to this amendment. First of all, I don't think it is an amendment to the amendments. I think it ought to stand on its own two feet, which I don't think it can do anyway. But this absolutely goes contrary to what the bill intends to do. When the state comes out and harasses somebody, whether it be a person or a corporation, the state should not be allowed to do this nor should the individual or corporation have to stand their legal expense. This is a parallel of the bill we passed a few weeks ago in which it says, when the state makes a mistake, it shouldn't be up to the public to pay for legal defense when the state makes a mistake. We have a typical example of this in the Panhandle right now where the state is out harassing about five or six individuals and a corporation, a couple of corporations, and absolutely I think they are going to lose the case, but if they do, I don't think it should be up to some of these individuals and corporations to spend thousands of dollars defending it, and they are actually spending several thousand in this particular case to defend that. I think this is a terrible amendment to expect us to accept and I don't think we should do it. I think if Senator Hoagland and Kilgarin and whoever else signed this want a bill of this nature, then go at it, but this is absolutely contrary to what the bill says. I have no pride of authorship in the bill, but I certainly go along with it and think we should reject the amendment to the amendment that has been suggested.

SENATOR CLARK: Senator Kahle.

SENATOR KAHLE: I call the question.

SENATOR CLARK: The question has been called for. Do I see five hands? I do. All those in favor of ceasing debate vote aye. All those opposed vote nay.

CLERK: Senator Clark voting aye.

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

CLERK: 25 ayes, 2 nays to cease debate, Mr. President.

SENATOR CLARK: Debate is ceased. Senator Hoagland.

SENATOR HOAGLAND: Mr. President and colleagues, I want to share my closing time with Senator Kilgarin and Senator Vickers because I think they both want to talk on this. In response to what Senator Nichol said, you know, he was talking about suits that are going to be for harassment, the state harassing somebody, well, you know, a suit which

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is harassment to one person is going to be the enforcement of good public policy to the other person. For instance, in Iowa not very far from maha there is a hazardous waste disposal area where drums have been stored for 15 or 20 years and they are leaking and there are a variety of six or seven different kind of chemicals that are leaking out into the ground and that are leaching down into the ground. There are puddles of chemicals around. Now if the federal government comes in and sues the owner of that abandoned waste disposal plant to get him to conform to federal regulations, now I am sure that the owner of that plant is going to feel he is being subject to harassment, but I am sure a lot of other people who live in that neighborhood and don't want those chemicals washing around in the rivers and leaching into the ground don't view it as harassment at all. They view that as an enforcement action to basically good public policy. Now, what this would do is... this amendment would do is leave it up to the judge to decide on a case by case basis whether harassment is involved or not. The problem is the way the bill is written. the bill assumes that all actions by the state are for harassment purposes and furthermore, as Senator Vickers will elaborate on, it assumes that whenever an individual sues the state to have something like the Groundwater Management Act declared unconstitutional, why that is a harassment action against the individual as well because it is not just when the state is suing under this Act, it is when somebody sues the state that they also have as the Act is written now a heavy presumption in favor of granting attorney fees. Now, of course, as a lawyer I shouldn't be complaining about that, but as a lawmaker and as somebody who tries to make good public policy decisions, I don't think it makes sense and I think the thing to do is leave it in the discretion of the court to decide what is best on a case by case basis and not try in this body in 1981 to anticipate what the situation might be in some lawsuit out there in 1986. Now, let me yield the rest of my time, Mr. President, to Senator Vickers and then Senator Kilgartin. Thank you.

SENATOR CLARK: Sorry to tell you, but the time is up on the bill. We are going to pass over the bill. I would like to announce thirty-four 6th graders and students, 3 adults, from Creighton Elementary School, Creighton, Nebraska. Mrs. Faith, Mrs. Wade and Mrs. Heaton, are the sponsors of it. Will you stand and be recognized, please? They are in the north balcony. Thank you for coming to the legislature. The next bill is 411.

CLERK: Mr. President, LB 411 introduced by Senator Slick.

SENATOR CLARK: For what purpose do you arise?

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SENATOR MARESH: I want to override the Chair on the Speaker's order that this bill be completed.

SENATOR CLARK: I am not going to change it at all. He's said 15 minutes and that is what it is going to be as far as I am concerned.

SENATOR MARESH: Well I talked to the Chair and he says to talk to the Clerk.

SENATOR CLARK: You talked to who?

SENATOR MARESH: I talked to the Speaker, I mean, and he said to talk to the Clerk about the motion.

SENATOR CLARK: You will have to overrule the Speaker's agenda to do that, and that takes 30 votes.

SENATOR MARESH: Right, I want to overrule the Speaker's agenda.

SENATOR CLARK: The question before the House is the overruling of the Speaker's agenda. Senator Landis.

SENATOR LANDIS: Mr. Speaker and members of the Legislature, regardless of my opinions on LB 192, consent calendar rules are clear. We have always stood by them. We know exactly what has happened when we go into consent calendar. Everybody plays this game the same and if you want your bill on consent calendar, you put it on there. If not and you want it under General File you go into that way. To my knowledge, two years ago when we did consent calendar extensively, we never broke the Speaker's agenda because we all knew the rules to begin with. We had a bill earlier today that came to the 15 minute deadline. What happened? We all abided by the rules. Now, if we have a mechanism like a consent calendar, it is only on the basis of all of us agreeing to those ground rules that we go forward. It is General File where we can play these kind of procedural games. But I, personally, have to think that the consent calendar is a contrived mechanism to allow bills which there is a large measure of unanimity on to get a quick but fair hearing and move on, and obviously LB 192 does not fit in that category. I don't think we should bend consent calendar from its normal mode of operation to conform to what happens to be a controversial bill. And for that reason I am going to vote against the Maresh motion to overrule the Chair.

SENATOR CLARK: Senator Hoagland.

SENATOR HOAGLAND: I would just like to very briefly, Mr.

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body agree to consent calendar and agree to 15 minutes, then that is the way it should be for all bills that are on consent calendar. Now obviously three of us could have signed it and pulled it off, but we didn't. We didn't catch it in time. The rules say you are supposed to do it ahead of time. Now maybe you have all read them all and you knew what ones you wanted to pull off before we started today, but I didn't. So I don't apologize for putting up the motion and I don't apologize for taking the 15 minutes, and I don't apologize for opposing the motion to overrule the Chair.

SENATOR CLARK: Senator Kahle.

SENATOR KAHLE: Well, Mr. President, we got along pretty good today so far, and there were very few bills that did run over the 15 minutes, but I guarantee you that there isn't one of us in here that can't kill any one of these bills today by adding amendments whether they be good or bad, or arguing the bill for over the 15 minute period. It's no problem at all. I have gotten a lot of mail on 192 and I would like to see that bill moved and I think all Senator Maresh is asking is that you take a vote on overruling the Chair. The Chair has ruled, so that's fine. Let's do it.

SENATOR CLARK: Senator Cope.

SENATOR COPE: Mr. President, I call the question.

SENATOR CLARK: That wouldn't be necessary, you are the last speaker. The question before the House is, should the Chair be overruled? Should the agenda be overruled, pardon me. All those in favor of overruling the agenda vote aye. All those opposed vote nay.

CLERK: Senator Clark voting no.

SENATOR CLARK: Have you all voted? Six people are excused. Once more, have you all voted? Record the vote.

CLERK: 11 ayes, 14 nays, Mr. President, on the motion to overrule the agenda.

SENATOR CLARK: The motion lost. The agenda is not overruled. We will go to 411.

CLERK: Mr. President, LB 411 was introduced by Senator Harold Sieck. (Read title.) The bill was first read on January 20. It was referred to Judiciary Committee for hearing, Mr. President. The bill was advanced to General File.

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LB 192, 665-676

clear what was in the bill and easier for the public to follow. Germaneness is the same concept that you have one issue, one subject area and you stick to that and don't start spreading all over the place with what is in the bill. So this would attempt to clarify and make sure that that is the case in this legislative body.

SPEAKER MARVEL: Senator Nichol. Number 15. The motion before the House is the adoption of item #15 on germaneness. All those in favor of that motion vote aye, opposed vote no. Twenty-five. Have you all voted? Have you all voted? Senator Wesely.

SENATOR WESELY: I think we're giving up.

SPEAKER MARVEL: Okay, record the vote.

CLERK: 19 ayes, 21 ayes, Mr. President.

SPEAKER MARVEL: The motion lost.

CLERK: Mr. President, if I may I would like to read some items. New bills, Mr. President. LB 665 offered by Senator DeCamp, Labedz, Wesely and Kilgarin. (Read by title for the first time, LB 665-677 as found on pages 124-126 of the Legislative Journal.)

Mr. President, Senator Johnson asks unanimous consent to be excused tomorrow, Senator Vard Johnson.

The Retirement Systems Committee gives notice of public hearing for next Tuesday.

Mr. President, Senator Vickers asks unanimous consent to add his name to LB 192 as cointroducer.

SPEAKER MARVEL: Hearing no objections, so ordered.

CLERK: Mr. President, I have a new resolution, LR 202 offered by Senator DeCamp. (Read LR 202 as found on page 127 of the Legislative Journal.) Mr. President, I have a request from Senator DeCamp to refer that, LR 202 to the Reference Committee for purposes of referencing it to committee for a public hearing.

SPEAKER MARVEL: No objections, so ordered. Senator Warner, are you ready to take up item #16? Oh, I'm sorry, Senator Wesely. It's #16, appropriations process.

SENATOR WESELY: Yes, Mr. Speaker, members of the Legislature there has been a great deal of discussion the last

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CLERK: 25 ayes, 16 nays, Mr. President, on the motion to advance the bill.

SPEAKER MARVEL: The motion is carried. The bill is advanced. Ready for 192?

CLERK: Yes, sir.

SPEAKER MARVEL: LB 192.

CLERK: Mr. President, LB 192 introduced by Senator Remmers and Mr. President, I have a request from Senator Vickers to add his name as co-introducer to 192. (Read title). The bill was originally read on January 14 of last year. It was referred to the Judiciary Committee for public hearing. The bill was advanced to General File with committee amendments attached, Mr. President. The Legislature did consider the bill on May 1st of last year. I now have pending, Mr. President, the Judiciary Committee amendments.

SPEAKER MARVEL: LB 192. Senator Chambers, do you wish to be recognized?

SENATOR CHAMBERS: Yes. Mr. Chairman, the committee amendments that were offered are not too difficult. They primarily are for the purposes of clarification. And if any of you are interested enough in the bill to follow, I would like to tell you the page and the location of the amendments so you will see that all they do accomplish is clarification. Then there is the addition of the severability clause. But on page 2 in line 8, rather than the word "an" we put the words "a state" so that you would have a state agency rather than an agency of the state. Then in place of the words "of the state", those three words are stricken and this is added: "as defined in Section 60-109", and that will ensure that the agency mentioned here complies with everything else in the statutes relative to agencies. Then if you come down to lines 19 and 20, after the word "justified" put a period. Strike the rest of the language and the language stricken would be "or special circumstances exist which would make such award unjust". That is really not necessary so it was stricken. On page 3, when we come to line 6, after the comma following the word "act" these words would be inserted: "fees and other expenses shall be awarded as provided in this act", then after the word "only" you insert the word "to". So it would read thusly: "Notwithstanding any other provision of this act, fees and other expenses shall be awarded as provided in this act only to those prevailing parties who are", and then it goes on. Then as I say, the severability clause is to be added. The Clerk mentioned that

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Senator Vickers is asking that his name be added as a co-introducer, but I presume he would make that motion himself. So those are the committee amendments. I am sure that Senator Remmers and his associates, colleagues or co-conspirators, whichever the case might be, can adequately explain the bill and answer any questions you might have. I move the adoption of the committee amendments.

SPEAKER MARVEL: All those in favor of the adoption of the committee amendments vote aye, opposed vote no. Record the vote.

CLERK: 27 ayes, 0 nays on adoption of the committee amendments, Mr. President.

SPEAKER MARVEL: The motion is carried. The amendments are adopted. Senator Remmers, do you wish to explain your bill?

SENATOR REMMERS: Would Senator Vickers like to introduce his amendment first?

CLERK: Okay, Mr. President, first of all, Senator Vickers that amendment that you offered last year, do you wish to withdraw that, or....okay. In that case, Mr. President, Senator Vickers now offers an amendment to the bill that is found on page 118 of the Legislative Journal.

SPEAKER MARVEL: Senator Vickers, do you wish to discuss your amendment?

SENATOR VICKERS: Yes, Mr. President. Mr. President and members, if you will look on page 118 of the Journal, you will find an amendment to LB 192 and for those of you that might not recall, LB 192 is the equal access to justice act that was on the consent calendar last year and I was one of the three people that asked for removal of that bill from consent calendar because I was concerned at that time that we were putting something in the statutes that required payment of attorney fees even though there might be an instance where in the court's discretion those attorney fees probably should not be paid or at least should drastically be reduced, particularly if an individual or a corporation that was able to fight the...whatever act that a state agency might be bringing against them, were attempting to do it only in an effort to drag out the application of that regulation. So if you will notice what the amendment does is on page 2 following "justified" on line 19 there would be a period put in and the committee amendments just

explained by Senator Chambers and just adopted did put a period there and did strike the rest of that sentence. It says, "or special circumstances exist which would make such award unjust". In place of that the amendment then would say that the court in its discretion may reduce the amount to be awarded pursuant to this section or deny an award to the extent that the prevailing party during the course of the proceedings engaged in conduct which unduly and unreasonably protracted the final resolution of the matter in controversy or when an overriding public interest exists which would make an award unjust. This language, by the way, is practically word for word from the federal statutes dealing with this area. So this is the concern that I had that I raised last year on consent calendar on 192. With the adoption of this amendment then I think that LB 192 is in very good shape and would urge the body's adoption of this amendment and the passage of LB 192.

SPEAKER MARVEL: The motion before the House is the adoption of the Vickers amendment as explained. Senator Hoagland, do you wish to be recognized?

SENATOR HOAGLAND: Mr. Speaker and colleagues, I would just like to rise in support of Senator Vickers' amendment. LB 192 and the two bills that follow on the agenda today, 340 and 341, basically all deal with the same issue, and that is whether or not people who sue or who are sued by the government should be permitted to recover attorney fees over and above the other costs of the action. You all will recall that there was a state conference on small business that was convened by the Governor about nine or ten months ago, and one of the issues that was raised there is whether or not small business men when they sue or are sued by the state and forced to incur considerable legal expenses should not have some recourse when the suit is over with if they have been vindicated as defendants or successful as plaintiffs. And there was considerable sentiment at that conference that provisions should be made that if businesses are sued by the government or in a position to have to sue the government they should be able to recover their attorney fees. Now these three bills, 192 and the two following bills, all deal with that subject. 192 are situations where small businesses and others are sued by the government and the two subsequent bills are situations where they are required to sue either local governments or state government for one reason or another. And I think the prevailing trend nationwide where we are having more and more governmental regulation and government activities are more and more involved in our daily lives is to permit some kind of recovery that will approach the actual costs of being involved in litigation,

and by actual costs I mean not only recovering the amount you are suing for but recovering what it costs you to get that amount provided, of course, the judge thinks you are entitled to it. And all three of those bills leave it ultimately in the judge's discretion as to whether or not these fees should be granted. So I think following the sentiments of the Governor's conference on small business it makes sense to adopt all three of these bills. For that reason I rise in support of Senator Vickers' amendment which effectuates that and then will support the bill as amended. Thank you, Mr. Speaker.

SPEAKER MARVEL: Senator Vickers, do you wish to close on your amendment? The motion is the adoption of the Vickers amendment. All in favor of that motion vote aye, opposed vote no. Record the vote.

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

SPEAKER MARVEL: The motion is carried. The amendment is adopted. Senator Remmers, do you wish to explain the bill?

SENATOR REMMERS: Mr. Speaker and members of the Legislature, during the previous session I was co-introducer of LB 192 with Senator Maresh, and since he has resigned, Senator Vickers has agreed to co-sponsor this legislation with me, and I have agreed to the amendments that he suggested. I think they make the bill...make a much better bill out of it. LB 192 is known as the equal access to justice act and is based on the federal act of the same name. The bill basically says that if a state agency sues a small business or individual, and the agency is found to have been in the wrong, the court is compelled to award attorney and expert witness fees to the prevailing party. Also, if an individual or business asks for judicial review of an agency's decision or mandate and the agency is found to be in the wrong, the court must award these same fees to the prevailing party. LB 192 will not present the same problem that we had in the bill the last session. I believe that we had a bill once before, LB 120, but I think this held individuals responsible for their actions and this is not the case in this bill. Under the provisions of LB 192, it is the state agency that must pay the bills if the agency acted in bad faith. If the agency did not act in bad faith, the money would come from the general fund. Agencies would be required to report the amount of fees paid out annually to the Appropriations Committee of the Legislature. It is important to emphasize that in no case will any individual be compelled to pay under the provisions of LB 192, that is

an individual in the government will not be held liable. There are several limitations to this legislation that I think should be addressed at this time. This bill does not apply to criminal actions. It also does not apply to actions initiated against the state. An award is not mandatory. An award is made only when the state cannot show that its position was substantially justified, that is with a reasonable basis in fact of law. LB 192 also limits this legislation to small businesses. Large businesses with the resources to challenge the government are not eligible. A small business is defined as a business with 50 employees or fewer, and gross receipts up to a million dollars or less. LB 192 is legislation which is needed in Nebraska at this time. Currently if a state agency threatens an individual or a small business with a law suit, if the business or individual does not comply with the order, the individual or business often capitulates and agrees to the order. Even if they know they are right they will not pursue the action because it is economically unfeasible for them to pursue that action. Even if they win, their costs would be too great. If a small business is forced to do something by the state with all its resources and the business agrees to go along simply because they do not have the monetary resource to fight the order, even though they feel strongly that they are right, then justice is not being served. LB 192 would provide the small business and individuals with that access to justice. A question some Senators had deals with the current status of providing legal fees if a state agency has wrongly sued an individual or business. In other words, this legislation is necessary. There is a need for this legislation. LB 192 modifies the common law American rule which says attorney fees will not be shifted unless the specific statute provides for shifting. I move for the advancement of LB 192 to E & R Initial.

SPEAKER MARVEL: Senator Dworak.

SENATOR DWORAK: Mr. President and colleagues, I have a question of Senator Remmers.

SENATOR REMMERS: Yes.

SENATOR DWORAK: Senator Remmers, the question I have is if the small business bringing suit, winning doesn't pay for their court costs and attorney's fees, who is going to pay for it? Where is the money going to come from? The attorney isn't going to work for nothing.

SENATOR REMMERS: It would come from the agency's fees

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unless there was no wrongdoing on the part of the agency and otherwise it would come from the general fund.

SENATOR DWORAK: So the taxpayers are going to pay for these funds.

SENATOR REMMERS: Right.

SENATOR DWORAK: Thank you.

SPEAKER MARVEL: The Chair recognizes Senator Beutler who has an amendment.

CLERK: Mr. President, Senator Beutler would move to amend LB 192. (Read the Beutler amendment as found on page 247 of the Journal). Senator, help me, I can't read the last sentence here.

SENATOR BEUTLER: And substitute the words "shall not".

CLERK: Oh, okay. "And substitute the words 'shall not'". (Reread the Beutler amendment).

SENATOR BEUTLER: Mr. Speaker and members of the Legislature, let me say to begin with I think this is a very good bill and it is only my intent to try to polish it up a little bit if, in fact, this is polishing, and I think this does help. Basically, the bill provides for the payment of attorneys' fees and expenses under certain conditions, and then it says "except that the court is not required to award fees and expense if it finds that the position of the state was substantially justified." And what I want to change it to say is that "except that the courts shall not" instead of "is not required", "shall not award fees and expenses if it finds that the position of the state was substantially justified." In other words, if the court makes a finding that the state's position was substantially justified, then there is no way that it can award fees and expenses. Whereas, under the current language of the bill the court could make that finding and then go ahead and award fees and expenses anyway. But I feel that it is probably the intent of the introducers only to award fees and expenses in those cases where the state's position was not substantially justified. So the substitution of the words "shall not" clarifies that situation. I would ask for your adoption of the amendment.

SPEAKER MARVEL: Senator Dworak, do you wish to speak to the Beutler amendment? Senator Beutler, do you want to close on your amendment? The motion before the House is

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LB 192

the adoption of the Beutler amendment to LB 192. All those in favor of the motion vote aye, opposed vote no. Record the vote.

CLERK: 30 ayes, 0 nays on adoption of Senator Beutler's amendment.

SPEAKER MARVEL: Senator Vickers, do you want the bill advanced? Senator Remmers. Okay, the motion then is the advancement of the bill. All those in favor of that motion....I am sorry, Senator Vickers.

SENATOR VICKERS: Yes, Mr. President, could Senator Remmers and I have a little bit of time for closing perhaps.

SPEAKER MARVEL: You are a little too close to the mike, would you repeat?

SENATOR VICKERS: Could Senator Remmers and I have some time for closing perhaps, Mr. President?

SPEAKER MARVEL: Certainly.

SENATOR VICKERS: Okay, thank you. I will allow Senator Remmers to go first.

SENATOR REMMERS: All right, Mr. President and members of the Legislature, I will be very brief. I feel that governments agencies should be held responsible for their actions. An individual cannot afford to challenge government agencies with the resources of this state to support them. If a person feels he has been wronged, he should protest. With the possibility of being reimbursed for his expenses he would be encouraged to do so. I believe it would result in better government, more care and concern when complaints are received. The federal government has already taken this step, and I think we should do no less.

SPEAKER MARVEL: Senator Vickers.

SENATOR VICKERS: Mr. President and colleagues, the question raised by Senator Dworak was a very good one as to where the money is coming from to pay these fees or other expenses pursuant to this act and if you will notice in Section 5 the agencies are required to report annually to the Appropriations Committee of this Legislature as to the amount of funds, the amount of fees or expenses paid out as a result of the passage of LB 192. Now realize that these fees and these expenses are not going to be paid out

unless the state is found to be wrong. So it would seem to me that if there are very many fees or very many dollars paid out that somebody from this body, the Appropriations Committee would be the appropriate place, better be questioning those people why they are getting in a situation where they are trying to impose regulations or whatever on individuals that are wrong to start with. That is the issue. I think we need to make it clear to our state agencies that if you are going to impose regulations on the individuals or the corporations of this state that fall under this act that you had better be sure you are on solid ground and don't go around harassing people. It is that simple. So I would urge the body's advancement of LB 192 to Select File.

SPEAKER MARVEL: The motion is the advancement of LB 192. All those in favor vote aye, opposed vote no.

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

SPEAKER MARVEL: The motion is carried, the bill is advanced. Are you ready for 231?

CLERK: Yes, sir. Mr. President, LB 231 offered by Senator Fowler. (Read title).

SPEAKER MARVEL: The motion before the House now is the.... LB 340.

CLERK: Mr. President, LB 340 is a bill introduced by Senator Hoagland. (Read title). The bill was first read on January 19, referred to the Judiciary Committee for public hearing. The bill was advanced to General File, Mr. President, and there are committee amendments pending by the Judiciary Committee.

SPEAKER MARVEL: The Chair recognizes Senator Nichol for the discussion on the committee amendments.

SENATOR NICHOL: Mr. Speaker and members of the Legislature, the Judiciary Committee has adopted two amendments to the bill. The first returns the period for which the statute of limitation runs to one year rather than two as provided in the bill. The second amendment reinstates stricken language regarding claims which accrued before January 1, 1970. While it was thought to be obsolete language, the committee felt that while remote there might be individuals who with this language removed might be able to present a claim which did arise before 1970. I move

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SENATOR CLARK: The motion lost. The next amendment is amendment number two of Senator Vickers to Section one. He wants to read a few things in first.

CLERK: Mr. President, very quickly, new bills: (Read by title for the first time, LBs 895-914 as found on pages 343-347 of the Legislative Journal.)

Mr. President, I have a hearing notice from the Public Works Committee for January 29, February 10, 11 and 17. That is signed by Senator Kremer as Chair.

Mr. President, Retirement sets hearings for Wednesday, January 7 and Revenue sets hearings for January 25, 26 and 27, signed by the respective chairmen.

I have a reference report referring LBs 848 through 880.

Mr. President, your committee on Enrollment and Review reports that 511 be reported to Select File with amendments, 192 Select File with amendments, 231 Select File with amendments, 454 Select File, 304 Select File, 69 Select File with amendments, 139 Select File, 139A Select File, 305 Select File, 239 Select File with amendments, 410 Select File with amendments, 278 Select File with amendments, 126 Select File with amendments, all signed by Senator Kilgarin.

SENATOR CLARK: We are now ready for the second Vickers amendment to Section one.

CLERK: Mr. President, the amendment reads as follows: On page 2, line 13, strike the word "life" and insert "safe yield."

SENATOR CLARK: Senator Vickers.

SENATOR VICKERS: Mr. President, since that is more of a technical one there the following amendment on Section two would be more applicable to take up and I think the Clerk has other amendments on Section one so if you would want to skip over this and go to the other amendments that are on Section one, that would be fine with me. You have other amendments and I think Senator Beutler and some other people might have amendments on Section one if you want to go ahead and take those up at this time.

CLERK: So are you withdrawing. . .you don't want this one then, Senator?

SENATOR VICKERS: That one is more of a technical one. It

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LB 410, 428, 448, 657
LB 417, 192, 314,

dangerous and I think that we have a responsibility to ensure that that doesn't continue to happen. I urge you to advance LB 417. I don't think that it is a major problem if you are going to move a combine a great distance to drop the platform, put it on a trailer and not endanger the public. I urge you to advance the bill.

SENATOR CLARK: The question before the House is the advancement of the bill. All those in favor say aye, opposed nay. The bill is advanced. LB 421. The Clerk would like to read in.

CLERK: Mr. President, I have a series of items to read in. Senator Higgins would like to print amendments to LB 314; Senator Vard Johnson to print amendments to LB 428; Senator Vard Johnson to LB 410; Senator Vickers to LB 192; Senator Warner to LB 192 and Senator Warner to LB 448. (See pages 456-462 of the Legislative Journal.)

Mr. President, I have a reference report referring gubernatorial appointments. (See page 463 of the Legislative Journal.)

I have a notice of hearing from the Education Committee and Senator Nichol moves that LB 657 be placed on General File notwithstanding the action of the committee. That will be laid over, Mr. President. (See page 463 of the Journal.)

January 29, 1982

LB 511, 192

SENATOR CLARK: Is there any discussion on the Lamb amendment to 511? If not, all those in favor vote aye, opposed vote nay. We do need 25 votes for each one of these amendments. Record the vote. I voted.

CLERK: Senator Clark voting yes. 25 ayes, 0 nays on adoption of Senator Lamb's amendment.

SENATOR CLARK: The amendment is adopted. Any further amendments?

CLERK: Nothing further on the bill, Mr. President.

SENATOR CLARK: Senator Lamb.

SENATOR LAMB: Mr. President, I move that the bill be advanced.

SENATOR CLARK: You heard the motion. All those in favor say aye, opposed. The bill is advanced. LB 192.

CLERK: Mr. President, on LB 192, there are E & R amendments pending.

SENATOR CLARK: Senator Kilgarin.

SENATOR KILGARIN: I move the E & R amendments to LB 192.

SENATOR CLARK: You heard the motion. All those in favor say aye, opposed. The amendments are adopted. Further amendments?

CLERK: Yes, sir, Mr. President, Senator Warner now has an amendment found on page 461 of the Journal.

SENATOR CLARK: Senator Warner.

SENATOR WARNER: Mr. President, members of the Legislature, what the amendment does, and I visited with Senator Leathers, Senator Vickers and others, it doesn't change the purpose of the bill. This is one where there is a lawsuit filed and that there are attorney fees to be paid by the state or by the agency why that that can be done, but what the amendment does, it struck a portion of the language that set up the system as to how those funds would be, fees or assessments would be paid, and puts in a system which is similar to what we are all familiar with on the Claims Board. It spells out also more specifically the process that would be used to notify the Legislature of any of these situations specifically that the agency involved, if it did have an assessment against it by virtue of court action, would notify in writing the Claims Board and then it would require that

the Standing Committee of the Legislature that had an assigned interest to that area would also make recommendations on the payment of the court judgment to the Appropriations Committee which would be included in a bill similar to the Claims bill. Now the reason for having that process is so that the Standing Committee that dealt with that Department in the normal course of things would also be alerted formally that there had been some court action, that they may want to be looking at the statutes or the operation of that agency. Also they would have input on advice to the Appropriations Committee then to place that appropriation in the bill and it was mostly a case of notification. And also the original bill, again, is one of these areas where it authorized DAS to write a check on the general fund without a requirement for an appropriation which, obviously, they can't do unless there is an appropriation. The payments will be after the fact which is the way it is with the Claims bill that we all are familiar with. Now the amendment does one other thing as well and that is that we have had occasions the state will be assessed attorney fees and expenses in federal courts under certain types of cases and this would permit the same system where in case those kinds of fees were assessed the state that they could be handled in the same fashion, where now there is an absence of any process, at least spelled out in statute, as to how those should be done. This only has occurred the last two or three years as I recall but it is a very recent federal court process, at least as far as the state is concerned, and I think we need that same vehicle for meeting those costs as this amendment will provide. Now there is an amendment that Senator Vickers has offered which I have an amendment I think in lieu of Senator Vickers' which will spell out specifically that we would look first to the agency's appropriation where the agency would be required to pay out of their regular appropriation or we would look first at their regular appropriation before any additional funds would be authorized to pay those costs. And so that is the purpose of the amendment.

SENATOR CLARK: We have an amendment to the amendment.

CLERK: Mr. President, the first amendment to the amendment is from Senator Vickers. That Vickers amendment is on page 462.

SENATOR CLARK: I think he wants to withdraw that?

CLERK: Do you want to withdraw that one, Senator?

SENATOR CLARK: You have another amendment to the amendment.

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LB 192

CLERK: Senator Warner would move to amend the amendment.

SENATOR CLARK: All right.

SENATOR WARNER: Again that is identical to Senator Vickers, the purpose of his amendment. It merely places it in a different sequence within my amendment and I would move its adoption. It is the one that assesses the agency's appropriation operating budget first before the payment of any court fees.

SENATOR CLARK: Senator Remmers, do you want to talk to the amendment on the amendment?

SENATOR REMMERS: Mr. Speaker, members of the Legislature, I just want to say that the amendments that Senator Warner is speaking of were certainly in order. There were some problems in the bill that I was not aware of earlier and I urge the body to support these amendments.

SENATOR CLARK: Senator Vickers, do you want to talk on the amendment to the amendment?

SENATOR VICKERS: Mr. President, members, very briefly, I would support Senator Warner's amendment and his amendment to the amendment. As he indicated, I did have some concern with the wording of his original amendment to make certain that first of all the filings before the Claims Board were done by the agencies and not by the individual that had won his day in court, he had won in his day in court, he had won his attorney fees, and then have to turn around and file and fight that battle all over again before the Claims Board to get those attorney fees from the Claims Board. So Senator Warner's amendment to his amendment clarifies that it is the agency that is responsible for doing that and not the individual. It also clarifies that another concern of mine was that we wanted to make that shoe pinch just a little bit to those agencies if possible so that they wouldn't get into the position of harassing people to start with, in other words not have these lawsuits, too many anyhow, and Senator Warner is doing that with his amendment. So I would urge the body's adoption of Senator Warner's amendment to his amendment and then his amendment to the bill. I think it makes the bill much more workable and I consider it a friendly amendment.

SENATOR CLARK: Any further discussion on the amendment to the amendment? All those in favor of the amendment to the amendment vote aye, opposed vote no.

January 29, 1982

LB 192, 231

CLERK: Senator Clark voting yes.

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

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

SENATOR CLARK: The amendment to the amendment is adopted. Now the amendment as original. Senator Warner. All those in favor of the amendment as amended vote aye, opposed vote no.

CLERK: Senator Clark voting yes.

SENATOR CLARK: Record the vote.

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

SENATOR CLARK: The Warner amendment is adopted. Any further amendments?

CLERK: Nothing further on the bill, Mr. President.

SENATOR CLARK: Senator Warner, do you want to move the bill?

SENATOR WARNER: I move it be advanced.

SENATOR CLARK: The motion is to advance LB 192. All those in favor say aye, opposed. The bill is advanced. LB 231.

CLERK: Mr. President, LB 231 does have an E & R amendment pending.

SENATOR CLARK: Senator Kilgarin.

SENATOR KILGARIN: I move the E & R amendment to LB 231.

SENATOR CLARK: You heard the motion. All those in favor say aye, opposed. The E & R amendments are adopted. The next amendment.

CLERK: Mr. President, Senator Fowler would now move to amend the bill.

SENATOR CLARK: Senator Fowler.

SENATOR FOWLER: Mr. President, members of the Legislature, when this bill was advanced from General to Select File, I indicated that I was working with the County Sheriffs

February 4, 1982

LB 32, 69, 192, 198, 229, 231, 239,
263, 264, 270, 309, 347, 370, 403,
418, 423, 431, 448, 449, 490, 492,
511, 542, 563-66, 572, 592

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: The opening prayer will be given by Pastor Glenn Frazier of the Antelope Park Church of the Brethren.

PASTOR FRAZIER: Prayer offered.

SPEAKER MARVEL: Roll call. Please record your presence. Will you please record your presence? Senator Cope and Senator Warner, would you please record your presence? Record.

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

SPEAKER MARVEL: Do you have anything to read into the record?

CLERK: Mr. President, your committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 69 and find the same correctly engrossed; 192, 198, 231, 239, 263, 370, 431, 448, 449, 511 and 592 all correctly engrossed. (See pages 540 through 544 of the Legislative Journal).

Mr. President, LBs 32, 229, 264, 309, 347, 403, 418, 423, 490, 492, 542, 563, 564, 565, 566, and 572 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 engrossed LB 32, engrossed LB 229, engrossed LB 264, engrossed LB 309, engrossed LB 347, engrossed LB 403, engrossed LB 418, engrossed LB 423, engrossed LB 490, engrossed LB 492, engrossed LB 542, engrossed LB 563, engrossed LB 564, engrossed LB 565, engrossed LB 566, engrossed LB 572. We are down to item #4, motions, and the first motion concerns LB 270.

CLERK: Mr. President, LB 270 was last considered by the Legislature January 27th. At that time Senator Barrett offered a motion to indefinitely postpone the bill. That motion prevailed. Subsequent to that action, Senator Cullan offered a motion to reconsider the body's action to indefinitely postpone LB 270. That motion is found on page 450.

SPEAKER MARVEL: The Chair recognizes Senator Cullan.

SENATOR CULLAN: Mr. President and members of the Legislature,

February 11, 1982

LR 220

LB 69, 192, 198, 423, 590

SENATOR MARSH: (Mike not activated).....purposes of reconsideration.

CLERK: 20 ayes.....I'm sorry, Senator, you are changing, is that right? I'm sorry. Okay, Senator Marsh changing from yes to not voting for purposes of reconsideration. 19 ayes, 26 nays, Mr. President.

SPEAKER MARVEL: The motion lost. The Clerk has got a couple items on the desk and then we will go back to Final Reading.

CLERK: Mr. President, communication from the Governor addressed to the Clerk. (Read communication with regard to LB 423 as found on page 652 of the Legislative Journal).

Senator Kilgarin would like to print amendments to LB 590 in the Legislative Journal. (See pages 652 and 653 of the Journal).

I have a report of registered lobbyists for the week of February 5 through February 10. (See page 653 of the Journal).

New resolution, LR 220, offered by Senators DeCamp, Wagner, Hefner, Chronister and VonMinden. (Read LR 220 as found on pages 653 and 654 of the Journal). That will be laid over pursuant to our rules, Mr. President.

SPEAKER MARVEL: Before we continue, in the north balcony it is my privilege to introduce from Senator Marsh's District 18 Fifth and Sixth Graders from Beattie School, Lincoln. Ann Jablonski is the teacher. Would you let us see where you are? Up here. Welcome to the Unicameral. Next on Final Reading LB 192. The Clerk will read.

CLERK: (Read LB 192 on Final Reading).

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

CLERK: (Read the record vote as found on pages 654 and 655 of the Legislative Journal). 45 ayes, 1 nay, 2 excused and not voting, 1 present and not voting, Mr. President.

SPEAKER MARVEL: The bill is declared passed on Final Reading. The Clerk will now read on Final Reading LB 198.

February 16, 1982

LB 192, 198, 231, 239,
263, 370, 448, 450,
465, 511, 592

Mr. President, Senator Barrett would like to have an executive session of the Business and Labor Committee tomorrow at ten-thirty, is that right, Senator, ten-thirty in the West Lounge. That is tomorrow morning, Business and Labor Committee.

Mr. President, Senator Duda asks unanimous consent to be excused all day February 17.

Mr. President, I have Legislative Bills passed on Final Reading 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 592, 511, 448, 370, 263, 239, 231, 198, 192, 450 and LB 465. We have one more guest that we would like to introduce. I believe he is under the North balcony, here as a guest of Senator Kremer, Mr. John Harris from Aurora. He has filed for the Legislature from the 34th District. Would Mr. Harris stand up and be recognized. Welcome to your Unicameral, Mr. Harris. And now the Chair recognizes the Honorable Senator Nichol from Scottsbluff, Nebraska.

SENATOR NICHOL: Mr. Chairman, members of the Legislature, I want you to know that western Nebraska is still in great shape. Since it is Valentines Day just past and you need a little sweetening up, I heard a few remarks while out west over the weekend and so I thought I would sweeten you up a little today. There is some sugar from the Great Western Sugar Company up in front of the podium and I would ask that you would please take a bag for yourself. I would like to take the credit for buying this but I didn't buy it. It was given to me to give to you, and in spite of what Senator Dick Peterson says, why it is still a good food to eat and if he wants equal time that is fine but I thought I would return good for evil and bring you a little sugar this morning. Thank you.

PRESIDENT: Thank you, Senator Nichol. Did Senator Richard Peterson have something to add or another point? Senator Peterson.

SENATOR R. PETERSON: Yes, Mr. Speaker, fellow colleagues, I would encourage my fellow colleagues to hands off all the sugar that is up there and you know the dentist and that are saying...I don't know, maybe Senator Nichol is being paid off by the dentist because you know this is bad for your teeth, so for gosh sakes go to honey.

LR 211, 224
LB 131, 192, 198, 211, 224, 231,
239, 263, 270, 274, 274A, 287,
314, 402, 440, 448, 450, 454,
465, 511, 547, 589, 592, 634,
646, 649, 669A, 672, 827

February 22, 1982

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: The prayer will be delivered by the Reverend Palmer.

REVEREND PALMER: Prayer offered.

SPEAKER MARVEL: Record your presence, please. While we are waiting for a quorum, underneath the South balcony from Scottsbluff, Nebraska, Audrey Towater is the guest of Senator Nichol. She is the one that has that large object there she is working on. I suggest that at your convenience you take a look at it. It is very interesting. Record, Mr. Clerk.

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

SPEAKER MARVEL: The Clerk has got some items to read into the Journal.

CLERK: Mr. President, your committee on Enrollment and Review respectfully reports we have carefully examined and reviewed LB 634 and recommend that same be placed on Select File with amendments; 672 Select File with amendments and LB 827 Select File and 669A Select File, all signed by Senator Kilgarin. (See pages 790-791 of the Journal.)

Your Enrolling Clerk respectfully reports that she has presented to the Governor on February 19 at two-fifty, bills passed on Final Reading that day. (Re: LB 131, 274, 274A, 287, 314, 402, 440, 454 and 589.)

Mr. President, I have communications from the Governor. The first is addressed to the Clerk. (Read communication re: LB 239 as found on page 791 of the Legislative Journal.) The second communication is addressed to the Clerk. (Read re: LB 192, 198, 231, 263, 270, 448, 450, 465, 511, 592, 131, 274, 274A, 287, 314, 402, 454 and 589.)

Mr. President, your committee on Urban Affairs whose chairman is Senator Landis reports LB 904 as indefinitely postponed. That is signed by Senator Landis as Chair.

Senator Schmit would like to print amendments to LB 547 in the Legislative Journal. (See page 792 of the Journal.)

Mr. President, LR 211, 224 and LB 646 and 649 are ready for your signatures.

SPEAKER MARVEL: While the Legislature is in session and capable of transacting business I am about to sign and do sign LR 211, LR 224, engrossed LB 646, LB 649. (See page