

January 15, 1981

LB 193-222

rules which the motion is before the desk.

SPEAKER MARVEL: Any further discussion? All those in favor of that motion vote aye, opposed vote no. Have you all voted? The motion is the Wesely motion. Have you all voted? Record the vote.

CLERK: 25 ayes, 10 nays on adoption of the permanent rules, Mr. President.

SPEAKER MARVEL: The motion is carried and the amendment is adopted. Senator Cullan wants to meet with the Public Health and Welfare Committee underneath the south balcony. Is that right, Senator Cullan? What is the next item?

CLERK: Mr. President, I have a series of matters to read in, if I may. First of all, Senator DeCamp offers a proposed rule change which will be submitted to the Rules Committee for their consideration. (See pages 180 and 181 of the Legislative Journal.)

Mr. President, new bills: LB 193 (Title read). LB 194 (Title read). LB 195 (Title read). LB 196 (Title read). LB 197 (Title read). LB 198 (Title read). LB 199 (Title read). LB 200 (Title read). LB 201 (Title read). LB 202 (Title read). LB 203 (Title read). LB 204 (Title read). LB 205 (Title read). LB 206 (Title read). LB 207 (Title read). LB 208 (Title read). LB 209 (Title read). LB 210 (Title read). LB 211 (Title read). LB 212 (Title read). LB 213 (Title read). LB 214 (Title read). LB 215 (Title read). LB 216 (Title read). LB 217 (Title read). LB 218 (Title read). LB 219 (Title read). LB 220 (Title read). LB 221 (Title read). LB 222 (Title read). (See pages 181 through 188 of the Legislative Journal.)

Mr. President, in addition your Committee on Business and Labor gives notice of public hearing for Wednesday, January 28. (See page 189 of the Legislative Journal.)

Mr. President, communication from the Chairman of the Executive Board which will be inserted in the Legislative Journal. (See page 189 of the Journal.)

Mr. President, I have an Attorney General's Opinion addressed to Senator Beutler regarding deferred compensation funds which will be inserted in the Legislative Journal. (See pages 189 through 192 of the Journal.)

SPEAKER MARVEL: May I have the attention of the members of the Legislature for just a second. I think the last few days have been tough on all of us. I think we are all

February 27, 1981

LB 23, 32, 87, 90, 99,  
111, 128, 166, 175, 180,  
215, 283, 347, 413, 437,  
465, 483

Senator Hefner reports 483 to General File.

Your committee on Ag whose Chairman is Senator Schmit reports 283 be advanced to General File with amendments.

Your committee on Judiciary whose Chairman is Senator Nichol reports 413 to General File with amendments; 32 General File with amendments; 215 General File with amendments; 180 General File; 347 General File with amendments; 111 General File with amendment; 465 General File; 99 General File with amendments; 87 General File with amendments; 23 Indefinitely postponed; 90 Indefinitely postponed; 166 Indefinitely postponed; 175 Indefinitely postponed. (Signed) Senator Nichol, Chair.

Your committee on Urban Affairs whose Chairman is Senator Landis reports 437 to General File with amendments. (Signed) Senator Landis.

Mr. President, LB 128 was introduced by Senator Myron Rumery. (Read title.) The bill was read on January 13 and referred to Retirement for public hearing. It was advanced to General File. I have no amendments on the bill, Mr. President.

SPEAKER MARVEL: Senator Rumery, do you wish to explain the bill?

SENATOR RUMERY: Mr. President, members of the Legislature, if I could have your attention for a few minutes, I would appreciate it. We introduced this bill for these reasons, that should a member of the school employee's retirement system die before retirement, LB 128 would provide an option for the payment of benefits to the spouse of the member, if the spouse is the sole surviving beneficiary. Presently the law provides that if a teacher has twenty years service and is at least 55 years of age or thirty years of service regardless of age and dies before retirement, a monthly annuity for life would be paid the spouse if the spouse is the sole surviving beneficiary in an amount equal to the joint and survivor benefit that would have been paid if the deceased member had retired on the date of death. The joint and survivor benefit is a greatly reduced benefit. The amount of the reduction is determined by the age of the deceased member and the age of the spouse. There are times when the surviving spouse would prefer to have a lump sum benefit rather than a meager monthly payment for life. Often a surviving spouse of a deceased member needs funds for retraining or to enter another job market or to invest in a business that may have some opportunity. LB 128 would give a spouse who is the sole surviving beneficiary

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LB 215, 472A, 694-697

SPEAKER MARVEL: The Clerk has some items to read in.

CLERK: Mr. President, new bills. LB 694 (Read title). LB 695 (Read title). LB 696 (Read title). LB 697 (Read title).

Mr. President, Senator Fenger would like to print amendments to LB 472A in the Legislative Journal.

Mr. President, Business and Labor Committee chaired by Senator Barrett announces that Senator Wiltala is selected as Vice Chairman of that committee.

Mr. President, your committee on Public Works gives notice of hearing in Room 1517 ofr next Friday.

And finally, Mr. President, the Executive Board will have a reference meeting underneath the North balcony at three-thirty this afternoon, Reference Committee at three-thirty underneath the North balcony.

SPEAKER MARVEL: The next item of business is LB 215.

CLERK: Mr. President, LB 215 offered by Senator Chronister. (Read title). The bill was originally read on January 15, 1981, referred to the Judiciary Committee for public hearing. The bill was advanced to General File. There is a committee amendment pending, Mr. President.

SPEAKER MARVEL: Senator Nichol.

SENATOR NICHOL: Mr. Speaker, members of the Legislature, this is simply the emergency clause. The district courts in the State of Nebraska currently have the statutory authority to terminate parental rights as part of the divorce proceedings. However, in a recent case the Supreme Court said there was not adequate guidelines for the termination procedure. Because the district court's authority to terminate parental rights is now unclear, the committee felt that the bill should be moved as quickly as possible. For this reason we are asking that the emergency clause be added to the bill.

SPEAKER MARVEL: The motion is the adoption of the committee amendment as explained by Senator Nichol. All those in favor of that motion vote aye, opposed vote no. Have you all voted? Record the vote.

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LB 215

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

SPEAKER MARVEL: Senator Chronister, do you wish to explain the bill?

SENATOR CHRONISTER: Mr. Speaker and members of the body, the purpose of LB 215 is to amend Section 42-364 which provides for the termination of parental rights in conjunction with court cases. LB 215 would remove from Section 42-364 language that was found to be constitutionally deficient by the Nebraska Supreme Court in 1980. The bill would then add language which provides standards of conduct to which parents should conform so as not to risk termination of parental rights. Under this bill, parental conduct or conditions which could give rise to termination, when the court finds termination to be in the best interest of the child, involve abandonment, neglect, unfitness or mental illness. The bill's descriptions of parental conduct or condition have been substantially borrowed from Section that was formerly 42-209 but which has been recodified as 43-292 by LB 346 in 1981. The Nebraska Supreme Court ruled in 1980 that Section 42-364 is vague and lacks adequate and understandable standards of conduct to which parents should conform so as not to risk the termination of parental rights. Therefore, said the court, this section violates the due process requirement of the 14th Amendment of the U. S. Constitution. LB 215 would insert standards of parental conduct into Section 42-364. This bill was prepared by the Judiciary Committee staff and reviewed by District Court Judge Fahrnbruch, who is Chairman of the Supreme Court Committee on Practice and Procedure. At the present time, juvenile matters which go to the juvenile court or the county court sitting as a juvenile court, when termination of parental rights come up, there are guidelines to follow. Divorce cases which go to the district court and sometimes involve the termination of parental rights do not have the benefit of these guidelines today and we are simply taking the guidelines from the juvenile court statutes and placing them in the statutes pertaining to divorce proceedings in the district court so as to provide this conformity in the law. I urge the passing of LB 215.

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

SENATOR LANDIS: Very briefly, Mr. Speaker. I want to put the body on notice that Senator Johnson and I have some, I am speaking of Senator Vard Johnson and I have some concerns about LB 215 which we will address in the form of an amendment which we intend to offer on Select File allowing for

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LB 215

the taking of cases from one court to another one and I will make sure that the amendment that we draw will be placed in the Journal so that members of the body can see that language before we ask for your support on the amendment at the time of Select File consideration of LB 215. I intend to support LB 215 today and I do make the caveat that there will be amendatory language offered on Select File.

SPEAKER MARVEL: Senator Pirsch.

SENATOR PIRSCH: Thank you, Mr. Speaker, and members of the body, we had about three bills dealing with this subject in the Judiciary Committee and I think probably this is one of the more milder of the three bills. However, there is a provision in it that does bother me and I was going to ask a question of Senator Chronister but I think I shall ask Senator Landis if he will yield a question. Senator Landis, can I ask you a question.

SENATOR LANDIS: You may.

SENATOR PIRSCH: In your proposed amendment, well, I will tell you my concerns.

SENATOR LANDIS: Well, it will be tough to answer since the amendment isn't written, I mean if you are going to ask about the terms of the amendment.

SENATOR PIRSCH: Oh, I see. Will it include something on the guardian ad litem? Including the guardian ad litem personal investigation of the children in the family situation?

SENATOR LANDIS: I can't tell you since the amendment is as yet not written.

SENATOR PIRSCH: Okay.

SENATOR LANDIS: I would anticipate that some of the provisions of LB 227 transferring jurisdiction may be made applicable. There is another bill on guardianships, 428, I believe.

SENATOR PIRSCH: Senator Kahle?

SENATOR LANDIS: That is right, and I think there will be some discussion and Senator Johnson will be inclined to lead on that question as well.

SENATOR PIRSCH: Thank you. Now I would like to ask Senator Chronister a question, if he would yield please.

SENATOR CHRONISTER: Yes, Senator Pirsch.

SENATOR PIRSCH: Senator Chronister, could you refresh my memory and tell me why you did exclude the provision that the guardian ad litem shall forthwith personally investigate the facts and circumstances on all matters pertinent to the best interest and welfare of the children?

SENATOR CHRONISTER: I think the feeling, Senator Pirsch, was that it wasn't necessary, that the court could make that determination, and in the interest of saving time and not having a lengthy drawn out procedure, that it would be of benefit to everyone concerned.

SENATOR PIRSCH: But the court still has to appoint a guardian ad litem?

SENATOR CHRONISTER: Yes, a guardian ad litem is appointed but he is not authorized to make an investigation.

SENATOR PIRSCH: Wasn't one of the problems that the guardian ad litem was not actually doing that, was not actually gathering personal information in those family situations, wasn't that one of the problems?

SENATOR CHRONISTER: That could very well be although I am not certain of that point so it may be that they are also eliminating it because it wasn't being done in the first place, but it was also an attempt I think to shorten the process so that it wasn't dragged out, that the children involved were taken care of sooner in this way. I think that was his sincere attempt.

SENATOR PIRSCH: Thank you, Senator Chronister. I know that the children protection groups are concerned that enough time would be taken that the personal family situation would be examined more closely than it is now, when we direct the guardian ad litem to personally investigate the facts and one of their complaints was that this was not being done. So I really question the fact that we take it out of the law just because it is not being enforced and I think we should look very carefully at that point, should we make sure that the guardian ad litem is personally investigating or is it just a frierid in court who has no real personal interest or investigation into that family situation, and that I feel really bears some investigation and some real thinking on the part of the legislators. I will be very interested in seeing the amendments that Senator Johnson and Senator Landis will present and I hope that you will give this your close perusal also. Thank you.

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LB 215, 347, 180

SPEAKER MARVEL: Senator Chronister, do you wish to close?

SENATOR CHRONISTER: Yes, Mr. Speaker and members of the body, I think the issues to keep in mind regarding LB 215 is to remember that no change was made in the substantive law of the termination of parental rights. The bill only corrects a deficiency in Section 42-364. It would put parents on notice about conduct which could subject them to termination of parental rights. Section 42-364 is part of the divorce statutes. The inserted language is taken from Section 43-209 which is part of the juvenile court statutes. Section 43-209 has withstood a constitutional challenge in Nebraska similar to the one which overturned Section 42-364. I urge advancement of the bill. Thank you.

SPEAKER MARVEL: The motion is to advance the bill as explained by Senator Chronister. All those in favor of that motion vote aye, opposed vote no. Have you all voted? Record the vote.

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

SPEAKER MARVEL: Motion is carried. The bill is advanced. The next bill is LB 180.

CLERK: Mr. President, LB 180 introduced by Senator Landis and DeCamp and Fowler. (Read title). The bill was first read, Mr. President, on January 14 of last year. It was referred to the Judiciary Committee for public hearing. The bill was advanced to General File.

SPEAKER MARVEL: Senator Fowler.

SENATOR FOWLER: Yes, Senator DeCamp was planning to handle this bill, and since he is not here, why don't we I guess move on because he wanted to handle it.

SPEAKER MARVEL: Okay, do you want to move on?

SENATOR FOWLER: Yes, the same for the A bill, too, until Senator DeCamp gets back.

SPEAKER MARVEL: Okay, any objection. If not, so ordered. We will go to LB 347.

CLERK: Mr. President, LB 347 (Read title). The bill was first read on January 19 of this year. The bill was referred to the Judiciary Committee for public hearing. The bill was advanced to General File, Mr. President. There are committee

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LR 207  
LB 839, 215

CLERK: Mr. President, Senator Warner offers a motion to reconsider the Committee on Committees vote as found on page 258 yesterday. That will be laid over.

Mr. President, new bill, LB 839 (Read title).

Mr. President, committee on Banking gives notice of hearing for Monday, January 25, January 26, February 1, 2, and 8. Your committee on Revenue gives notice of hearing for January 19.

Senator Johnson and Landis would like to print amendments to LB 215 in the Journal.

Mr. President, a new resolution, LR 207 (Read. See pages 298 and 299, Legislative Journal.) That will be laid over, Mr. President.



January 18, 1982

LB 32, 198, 215, 264, 274, 274A,  
347, 413, 431, 465, 664, 848-851

PRESIDENT LUEDTKE PRESIDING

PRESIDENT: Prayer by Chaplain.

CHAPLAIN PALMER: Prayer offered.

PRESIDENT: Roll call. Senator Fenger, do you want to hit the button so we can get started? Thank you. Now we will start. Record the presence.

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

PRESIDENT: 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 they have carefully examined and reviewed LB 198 and recommend that same be placed on Select File with amendments; LB 274 Select File with amendments; LB 274A Select File with amendments; LB 413 Select File; LB 32 Select File with amendments; LB 215 Select File with amendments; LB 347 Select File with amendments; LB 465 Select File with amendments; LB 264 Select File with amendments; LB 431 Select File with amendments. Those are all signed by Senator Kilgarin, Chair. (See pages 311 through 316 of the Legislative Journal).

Mr. President, I have a Reference Report referring LB 839 through 847. (See page 316 of the Journal).

Mr. President, communication from the Governor addressed to the Clerk. The Governor has signed LB 664.

PRESIDENT: Ready then for agenda item #4, introduction of new bills, Mr. Clerk. Are there any bills to introduce?

CLERK: Yes, sir, there are.

PRESIDENT: Proceed.

CLERK: Mr. President, new bills. LB 848 offered by the Public Works Committee and signed by its members. (Read title). LB 849 offered by the Public Works Committee and signed by its members. (Read title). LB 850 by the Public Works Committee and signed by its members. (Read title). LB 851 offered by the Public Works Committee and

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LB 215, 648, 668, 678, 713

CLERK: Mr. President, Senator Koch would like to be excused from legislative activities tomorrow for purposes of attending the Nebraska Assessment of Educational Progress meeting.

And finally, Mr. President, LR 217 is 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 LR 217.

CLERK: Mr. President, your committee on Ag and Environment whose chairman is Senator Schmit reports LB 648 advance to General File; LB 678 advance to General File; LB 668 General File with amendments and LB 713 General File with amendments, all signed by Senator Schmit. (See page 617 of the Journal.)

SPEAKER MARVEL: Do you have any other items under #3? Okay, we're ready for item #4.

CLERK: Mr. President, the first bill on Select File, LB 215. There are E & R amendments pending.

SPEAKER MARVEL: Senator Chronister, do you want to move the adoption of the E & R amendments?

SENATOR CHRONISTER: That is right, Mr. Speaker, I do.

SPEAKER MARVEL: The motion before the House is the adoption of E & R amendments to LB 215. All those in favor of the motion as presented by Senator Chronister vote aye, opposed no.

CLERK: Mr. President, I now have an amendment offered by Senator Vard Johnson and Senator Landis. The amendment is on page 297 of the Legislative Journal.

SPEAKER MARVEL: Senator Landis. I'm sorry. Senator Johnson.

SENATOR V. JOHNSON: (Mike not on.) ...amendments in the Journal. I would ask that they be withdrawn.

SPEAKER MARVEL: Any objection? So ordered.

CLERK: Mr. President, I now have an amendment from Senator Vard Johnson, Senator Landis and Senator Chronister. (See pages 617-619 of the Legislative Journal.)

SPEAKER MARVEL: Senator Johnson.

SENATOR V. JOHNSON: I would like to describe this amendment if I could, Mr. Speaker, members of the body. Senator Chron-

ister, Senator Landis and I have prepared early this morning. It is being photocopied. By the time I think my description is over you ought to be having it on your desk, I hope. It is a relatively simple amendment. LB 215 deals with proceedings in district courts for the termination of parental rights. What happens from time to time in the district court is that parents will be involved in divorce cases and it will come to the attention of the judge that the parents are not fit parents. And the judge will conclude in his own mind that the rights of the parents to their children should be terminated. However, under some, and this Legislature has dealt with that issue at a couple of times in the past. The Nebraska Supreme Court, however, has held that the way that the Legislature has dealt with the issue has been unconstitutional. So what LB 215 does is 215 establishes a constitutional method for permitting district court judges to terminate parental rights. What the amendment to 215 by Senator Chronister, Senator Landis and myself does is this. The most important part of the amendment is on page three, I see it is now being passed out, which says that when a district court is faced with a termination question, when it is faced with a termination question, the district court will not decide the termination question but rather will refer the termination issue to the juvenile court which has been terminating parental rights for a long period of time. In other words, termination of parental rights is something that the juvenile courts have done for a long period of time and they have a lot of experience in that area. So the amendment says when the district court is called upon to consider whether to terminate parental rights in the context of an ongoing case it shall refer the termination issue to the juvenile court but it also says it won't refer the issue if a showing can be made that the district court is a more appropriate forum. In making that showing, in making that determination, the district court may consider such factors as cost to the parties, undue delay, congestion of dockets and relative resources available for investigative and supervisory assistance if no such transfer is made. Now all this amendment does is it puts the burden on the district court to take a termination case, refer that to juvenile court but the burden may be lifted upon affirmative showing that the district court is the better forum for the case. The basic thrust of the amendment is to get those termination cases before the one court system that has a lot of experience in dealing with termination issues, the juvenile court. Now this amendment has been agreed to by the bill's sponsor, Senator Chronister, as well as Senator Landis and myself who have taken a lively interest in the measure. I at this time would move the amendment to the bill.

SPEAKER MARVEL: The motion is the adoption of the amendment as explained by Senator Vard Johnson to LB 215. Is

there any further discussion to the adoption of the amendment? Senator Chronister.

SENATOR CHRONISTER: Mr. Speaker and members, I support the adoption of this amendment and urge its passage, thank you.

SPEAKER MARVEL: Senator Koch.

SENATOR KOCH: A question of Senator Johnson.

SPEAKER MARVEL: Senator Johnson, do you yield?

SENATOR V. JOHNSON: Yes, I will, Senator Koch.

SENATOR KOCH: Senator Johnson, in perusing that amendment aren't you sure that is a new piece of legislation?

SENATOR V. JOHNSON: Well the amendment, the first thing the amendment does, Senator Koch, is...I really start back on page three where page three deals specifically with referring the termination issue from a district court to juvenile court. That clearly is no new piece of legislation. Now what you find on pages one and two is some very small change to the juvenile court act just to make certain that the juvenile court will have jurisdiction of these kinds of transferral cases. That is really what that first part is about. It is not a new piece of legislation but it is necessary to make some small change just to the juvenile court statutes, just so it has jurisdiction over these transfers.

SENATOR KOCH: Alright, thank you.

SPEAKER MARVEL: Senator Fowler.

SENATOR FOWLER: A question of Senator Johnson.

SPEAKER MARVEL: Senator Johnson.

SENATOR V. JOHNSON: Senator Fowler.

SENATOR FOWLER: I may have missed it in your opening but what is the rationale for transferring these cases to juvenile court? What value is there or why is one court better than the other? Why would you set up a mechanism of procedure to do this? What do we gain?

SENATOR V. JOHNSON: Yes, actually it is kind of interesting. I'd almost like to have Senator Fenger respond to that because Senator Fenger has been dealing over the last couple of weeks with the foster care review system and one of the things that I am confident Senator Fenger will have learned is that children in the district court have a greater frequency of getting

lost in the overall termination shuffle than they do in juvenile court because juvenile court just has a lot more experience in the area and that is the basic reason behind the transfer. Juvenile court has been doing this for years under our statutes. Our statutes have always allowed juvenile courts to terminate parental rights. They have experience in the area. They have probation officers to monitor the family situation prior to effecting a transfer. It is a better system and that is the basic purpose behind this amendment.

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

SENATOR FENGER: Yes, Mr. Speaker. At first glance, I'm looking at page three of the amendment, lines 8 and 9 say that the courts shall transfer jurisdiction to a juvenile court. This is mandatory language. Further it says, "unless a showing can be made in that district court that it is a more appropriate forum." In regard to the testimony that we received on the bill mentioned by Senator Johnson, it is very obvious that our juvenile courts, at least the three we have pronounced as juvenile courts, are currently apparently overworked because of the previous mentioned day to day operation that they had with their juveniles. I believe a good case can be made that they are either over worked or inept and until such time as we find out which I cannot vote for any amendment that would lay an additional burden on them. I have to vote against this amendment.

SPEAKER MARVEL: Is there any further discussion? Senator Johnson, do you wish to close?

SENATOR V. JOHNSON: Yes, I do wish to close and I do wish to respond to Senator Fenger's remarks. Senator Fenger has concluded that some juvenile courts are overburdened and possibly inept and his conclusion may not be totally inappropriate, but what this does, it does not, and I call this to Senator Goodrich's attention too, this bill, this amendment would not require a district court judge to transfer every termination case. It says he shall transfer the case unless an affirmative showing can be made that the district court is a more appropriate forum and in making such determination the district court may consider such factors as cost to the parties, undue delay, congestion of dockets which could be district court dockets as in Lincoln or which could be juvenile court dockets as in other communities and relative resources available for investigative and supervisory assistance. So it is basically designed to use the mechanism in the juvenile court but that mechanism is not to be used if an affirmative finding can be made that is not appropriate to do so. That is the simple nature of the amendment. I think it is a solid amendment and I would ask that it be passed.

SPEAKER MARVEL: The motion is the adoption of the Johnson amendment to LB 215. Senator Johnson was closing. All those in favor of the motion vote aye, opposed vote no. Record.

CLERK: 27 ayes, 1 nay on adoption of the Johnson-Chronister-Landis amendment, Mr. President.

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

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

SPEAKER MARVEL: Senator Chronister, do you want to move the advancement of the bill?

SENATOR CHRONISTER: Yes, Mr. Speaker. I move to advance the bill.

SPEAKER MARVEL: Any further discussion? All those in favor of the Chronister motion say aye, opposed no. The motion is carried. The bill is advanced. We are now ready for LB 304.

CLERK: Mr. President, LB 304, I have no E & R amendments. I do have an amendment from Senator Beutler to the bill, Mr. President. The Beutler amendment would read as follows: (Read Beutler amendment as found on page 619 of the Legislative Journal.)

SPEAKER MARVEL: The Chair recognizes Senator Beutler.

SENATOR BEUTLER: Mr. Speaker, members of the Legislature, half of the proposed amendment is technical in nature. The other half of the amendment merely does this. The bill itself is a small bill. It simply provides for notice of the Board of Equalization meetings and it provides for notice by press release and the press itself would prefer that there be at least one publication. They want a number of publications but they don't like the practice of doing it by press release. So the amendment would require one publication of the notice of Board of Equalization meeting in a legal newspaper in the state and I think this is a good amendment to the extent also that it ensures that the public gets the notice. A press release ensures that they give notice to the press but it doesn't ensure that it actually appears anyplace and so I think that the small amendment does have some advantages and I would ask you to adopt it. Thank you.

SPEAKER MARVEL: Senator Carsten.

SENATOR CARSTEN: A question of Senator Beutler, if I may, Mr. President. Senator Beutler, I gather this is only one newspaper publication. Is that correct?

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LR 222  
LB 126, 137, 139, 212,  
212A, 215, 278, 304,  
353, 410, 417, 421

PRESIDENT: Any discussion on the motion to appoint a committee of five to escort the Chief Justice into the Chamber? Hearing none, all those in favor then of the motion to appoint the committee signify by saying aye, opposed nay. Motion carries and the Chair appoints the following committee to escort the Chief Justice; Senator Nichol, Senator Vard Johnson, Senator DeCamp, Senator Cullan, and Senator Beutler. Those members would please follow Senator Nichol up the aisle and go to escort the Chief Justice. And now the Chair will read some matters in.

CLERK: Mr. President, new resolution, LR 222 by Senator Chambers. (Read.) Pursuant to our rules, that will be laid over, Mr. President.

Mr. President, your committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 215 and find the same correctly engrossed; LB 304 correctly engrossed; LB 410 correctly engrossed; LB 278 correctly engrossed; LB 126 correctly engrossed; LB 212 correctly engrossed; LB 212A correctly engrossed; LB 353 correctly engrossed; LB 417 correctly re-engrossed; LB 139 correctly engrossed; LB 421 correctly engrossed; all signed by Senator Kilgarin.

Mr. President, your committee on Banking whose Chairman is Senator DeCamp instructs me to report LB 137 advanced to General File with committee amendments attached, Mr. President.

PRESIDENT: While we are waiting for the committee to come back, the Chair takes pleasure in introducing Bill Hefner, son of Senator Elroy Hefner. He is under the North balcony. Will Bill stand up and be recognized. Bill, where are you? Welcome to the Unicameral, Bill. The Legislature will be at ease until the committee returns. The Chair recognizes Sergeant at Arms, Ray Wilson.

SERGEANT AT ARMS: Mr. President, your committee now escorting his honor the Chief Justice of the Supreme Court of the State of Nebraska.

PRESIDENT: The committee will escort the Chief Justice to the podium. Chief Justice Norman Krivosha.

CHIEF JUSTICE NORMAN KRIVOSHA: (Gave the State of Judiciary Message as found on pages 689 - 703, Legislative Journal.)

PRESIDENT: The committee will escort the Chief Justice

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LB 215

CLERK: Mr. President, I have a motion on the desk.

SENATOR CLARK: Read the motion.

CLERK: Senator Landis would move to return LB 215 to Select File for a specific amendment. (Read the Landis amendment as found on page 850 of the Legislative Journal.)

SENATOR CLARK: Senator Landis.

SENATOR LANDIS: Mr. Speaker and members of the Legislature, this was brought to me late yesterday. Let me read again the one sentence that makes a change here and I will tell you what it does. "A determination that the district court is a more appropriate forum shall not be a final order for the purpose of enabling an appeal." This is a determination of parental rights. The bill says in the event there is a divorce case and the divorce case is in district court, if the more appropriate forum is a juvenile court for the determination of a child termination, the case should be transferred to juvenile court, the reason being juvenile court has expertise with the handling of children and it is a question of parental rights. Now, a district court can hold onto both the divorce and the child termination issue. Because the district court has to decide that it is the proper forum, there is a potential for an appeal on just the issue of whether or not it is the right forum all the way up to the Supreme Court before you would proceed with the other questions which are the divorce and the termination. This one sentence was brought to me by the Bar Association. It has, I believe, the concurrence of the judges who work in this area and the idea is this. The district court will decide it is the appropriate forum. The case will proceed and one appeal will be available to the Supreme Court based on the issues that the district court decides, but you don't get to delay the process which either an unscrupulous or a well financed parent would use against each other in a divorce proceeding by running up this issue of whether or not the district court was the appropriate forum to the Supreme Court for an appeal and stop the proceedings with respect to the divorce or the termination of the parental rights. Our change in the law was not designed to create another administrative or appeal loophole that will allow for the delay of justice and the delaying of a decision on the question of a divorce or the question of the termination of parental rights. Now, Senator Chronister is the introducer of the bill. He is here and would he yield to a question?

SENATOR CLARK: Senator Chronister.



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LB 215, 304

SENATOR CHRONISTER: Yes.

SENATOR LANDIS: Senator Chronister, you have seen the language, do you have any qualms and do you have any comments?

SENATOR CHRONISTER: No, no, I agree with your move, Dave, because this is in agreement with the original concept of the bill which was to bring into alignment the provisions in the district court to be the same as in the juvenile court. And I am in complete agreement. Thank you.

SENATOR LANDIS: With that, I would move the adoption of the amendment.

SENATOR CLARK: Senator Nichol.

SENATOR NICHOL: Mr. Chairman and members of the Legislature, I just rise to support the Landis amendment. It cut out a possible appeal and you don't want an appeal at this stage of the game anyway, so I would just support the amendment.

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

CLERK: Senator Clark voting yes.

SENATOR CLARK: Record the vote.

CLERK: 38 ayes, 0 nays, Mr. President, on the motion to return the bill.

SENATOR CLARK: The bill is returned. We will take the amendment up after the Final Reading. LB 304.

CLERK: Mr. President, I have a motion on 304.

SENATOR CLARK: Read the motion.

CLERK: Senators Carsten and Warner would move to return LB 304 to Select File for a specific amendment. (Read the Carsten-Warner amendment as found on page 851 of the Legislative Journal.)

SENATOR CLARK: Senator Warner. Senator Carsten, did you want to take it up?

SENATOR CARSTEN: Mr. President, I would move to return

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LB 215, 421, 431

CLERK: (Read LB 421 on Final Reading.)

SPEAKER MARVEL: All provisions of law relative to procedure having been complied with, the question is, shall the bill pass? Those in favor vote aye, opposed vote no. LB 421. Have you all voted? Senator DeCamp.

SENATOR DeCAMP: I don't think it is going to pass right now. I will change to not voting for purposes of reconsideration.

SPEAKER MARVEL: Okay.

CLERK: (Read the record vote as found on page 872 of the Legislative Journal.) 17 ayes, 29 nays, Mr. President.

SPEAKER MARVEL: The motion lost. Okay, the Clerk will read LB 431.

CLERK: (Read LB 431 on Final Reading.)

SPEAKER MARVEL: All provisions relative to procedure having been complied with, the question is, shall the bill pass with the emergency clause attached? Those in favor... (gavel)...can't do business up here and out there both. All provisions of law relative to procedure having been complied with, the question is, shall the bill pass with emergency clause attached? Those in favor vote aye, opposed vote no. Record the vote. Have you all voted? This has the emergency clause. The Chair continues to receive criticism on the fact that when we are on Final Reading you are to be in your seats and not moving all over the room. There is a reason for this, and if this continues you are going to destroy the whole operation, but I said that before. Record.

CLERK: (Read the record vote as found on pages 872 and 873 of the Legislative Journal.) 33 ayes, 12 nays, Mr. President, on the motion to pass the bill.

SPEAKER MARVEL: Okay, the Chair recognizes Senator Landis.

SENATOR LANDIS: Mr. Speaker, earlier today we moved back from Final Reading to Select File LB 215. It was the amendment I talked to you about about appeals in District Court on the question of child termination. It was moved back but then we didn't vote on the amendment, and since I have explained the bill once today, rather than holding it over, I would like a vote on the amendment now and then

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LB 215, 304, 353, 408, 431,  
608, 641, 653, 688, 702,  
852, 873, 896, 938, 953, 969

if it readvances we will be done with the issue for the day. To reacquaint the members, this is where we allow... the District Court does not appeal the issue of whether or not it is the appropriate forum on child termination cases as described earlier in today's session.

SPEAKER MARVEL: The motion is to adopt the Landis amendment. All those in favor of that motion vote aye, opposed vote no. Record the vote.

CLERK: 39 ayes, 0 nays on the motion to adopt the amendment.

SPEAKER MARVEL: The motion is carried. The amendment is adopted. Okay, the motion is to readvance the bill to E & R for Engrossment. All in favor of that motion say aye. Opposed no. The motion is carried. The bill is readvanced. Senator Nichol has a meeting underneath the south balcony, and the Clerk has several items to read in- to the record.

CLERK: Mr. President, Senator Newell would like to print amendments to 702 in the Journal. (See pages 879 and 880 of the Journal.) Senator Beutler to print amendments to LB 852. (See pages 878 and 879 of the Journal.) Notice of hearing from Public Works for LB 969 set for Thursday, March 4. Your committee on Education whose Chairman is Senator Koch reports 653 advanced to General File with committee amendments attached; 688 General File with committee amendments attached; 896 General File with committee amendments attached; 938 General File with committee amendments attached, and 641 indefinitely postponed. (See pages 873. (See pages 873 and 874 of the Legislative Journal.) Your Enrolling Clerk has presented the bills passed on Final Reading this morning to the Governor. LB 608 offered by the Public Works Committee has been advanced to General File. Senator Chambers would like to print amendments to LB 408. (See pages 875 and 876 of the Journal.) The Ag and Environment Committee reports LB 953 advanced to General File with committee amendments attached. (See page 876 and 877 of the Journal.)

SPEAKER MARVEL: While the Legislature is in session and capable of transacting business, I am about to sign and do sign engrossed LB 304, re-engrossed LB 353, re-engrossed LB 431. This announcement from the Nebraska Livestock Feeders Luncheon at the Airport Inn. Transportation for those who have made reservations will be at the west entrance. Senator Marsh, do you want to adjourn us to

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LR 232  
LB 215, 378, 410, 417,  
665, 848, 850, 898

advanced to General File with committee amendments attached.  
Signed by Senator Cullan.

Public Works committee whose Chairman is Senator Kremer reports 848 advanced to General File with committee amendments attached; 850 advanced to General File with Committee amendments attached. Both signed by Senator Kremer as Chair.

Your committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 215 and find the same correctly engrossed; 410 and 417, all correctly engrossed.

Mr. President, LR 232 is ready for your signature.

PRESIDENT: While the Legislature is in session and capable of doing business, I propose to sign and I do sign LR 232.

CLERK: Mr. President, communications from the Governor on gubernatorial appointments: Mr. Sheldon Harris to the Nebraska Investment Council, and a series of appointments to the Manufactured Housing Advisory Board. Both will be referred to the Reference Committee.

I have an Attorney General's opinion addressed to Senator Wesely; an Attorney General's opinion to Senator Vard Johnson on LB 665; and an opinion to Senator DeCamp on LB 898. All will be inserted in the Journal.

Mr. President, Senator DeCamp would like to print amendments to LB 378 in the Legislative Journal.

And I have received a report from the Policy Research Office pursuant to statutory provision.

And the committee on Constitutional Revision and Recreation reports a gubernatorial appointment confirmation hearing.

PRESIDENT: We are ready then for agenda item #4 on motions. We are ready for, Senator DeCamp, the Banking Committee's gubernatorial appointments report which I believe is the first motion up. Mr. Clerk, do you want to proceed with that motion?

CLERK: Mr. President, the first report is by Banking and it is a report on a Ms. Rosemary Hannam and it is found on page 777 of the Journal.

PRESIDENT: The Chair recognizes Senator DeCamp.

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LB 215, 410, 417

SENATOR CLARK: As soon as all Senators get in their seats, we will start Final Reading. Will all Senators take their seats please so we can start Final Reading. Senator Haberman. We will now go to Final Reading, LB 215 with the emergency clause. The Clerk will read.

CLERK: (Read LB 215 on Final Reading.)

SENATOR CLARK: All provisions of law according to procedure having been complied with, the question is, shall the bill pass with the emergency clause attached? All those in favor vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

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

CLERK: (Record vote read. See page 1115, Legislative Journal.) 47 ayes, 0 nays, 1 present and not voting, 1 excused and not voting, Mr. President.

SENATOR CLARK: The bill is declared passed. The Clerk will now read LB 410E.

CLERK: (Read LB 410 on Final Reading.)

SENATOR CLARK: All provisions of law according to procedure having been complied with, the question is, shall the bill pass with the emergency clause attached? All those in favor vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

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

CLERK: (Record vote read. See pages 1115 and 1116, Legislative Journal.) 48 ayes, 0 nays, Mr. President.

SENATOR CLARK: The bill is declared passed with the emergency clause attached. The Clerk will now read 417 with the emergency clause.

CLERK: (Read LB 417 on Final Reading.)

SENATOR CLARK: All provisions of law according to procedure having been complied with, the question is, shall the bill pass with the emergency clause attached? All those in favor vote aye, opposed vote nay. Have you all voted? Have you all voted? Record the vote. I voted aye.

CLERK: (Record vote read. See pages 1116 and 1117, Legislative

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LB 215, 410, 417, 493, 577,  
584, 538, 643, 689, 791, 837,  
807, 900, 815

SENATOR KILGARIN: I move we advance LB 807.

PRESIDENT: Motion to advance LB 807 to E & R for Engrossment. Any discussion? All those in favor signify by saying aye. Opposed nay. The motion carries and LB 807 is advanced to E & R for Engrossment. The Clerk will read some matters into the record.

CLERK: Mr. President, I have a reference report referring LB 971 to Appropriations. I have notice of hearing for LB 971 by the Appropriations Committee.

Your Committee on Miscellaneous Subjects reports LB 493 indefinitely postponed; 584, 638, 643, 689, 791, 815, 837, and 900 all indefinitely postponed.

Mr. President, LBs 215, 410 and 417 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 417, LB 410 and LB 215. Ready, Mr. Clerk, then for LB 577.

CLERK: Mr. President, I have no E & R amendments to LB 577. I do have a motion to indefinitely postpone the bill. That is offered by Senator Wesely. That would also lay the bill over unless Senator Beutler or Koch agree to take it up at this time.

PRESIDENT: Senator Koch or Beutler, do you have any reaction to the motion....there is a motion to indefinitely postpone, what do you wish to do? Senator Koch, did you... what do you wish to do?

SENATOR KOCH: Mr. President, I will leave that to the high and profound ethics of my good friend, Senator Wesely. First of all, I did not like the motion in the first place, but obviously Senator Wesely thinks it is important that we discuss it some more, so why don't we discuss it today.

PRESIDENT: Okay, we will let it go then, Senator Koch, is that all right? Let's debate it today then.

SENATOR KOCH: What's my prerogative here?

PRESIDENT: Senator Wesely.

SENATOR KOCH: I would prefer to take it up today.

PRESIDENT: All right. Senator Wesely, he would just as soon take it up right now.

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LB 215, 410, 417

Your Enrolling Clerk has presented to the Governor the bills that were read on Final Reading this morning. (Re: LBs 215, 410 and 417.)

PRESIDENT: I want to compliment everybody for really sticking around and cooperating for moving quite a number of bills this afternoon. It was a very good performance at a time where it was very well needed, so congratulations to you and have a good weekend and we will ask....is Speaker Marvel here? Senator Haberman, do you want to move....Rex, do you want to move that we adjourn us until Monday 9:30 a.m.

SENATOR HABERMAN: Mr. President, I move that we adjourn until Monday 9:30 a.m.

PRESIDENT: Senator Haberman moves that we adjourn until 9:30 a.m. Monday, March 15th. All those in favor signify by saying aye. Opposed nay. We are adjourned until Monday at 9:30 a.m.

Edited by:

Marilyn Zank  
Marilyn Zank

March 16, 1982

LR 252  
LB 215, 410, 417

SENATOR LAMB PRESIDING

SENATOR LAMB: The morning prayer will be offered by Reverend William Beatty, pastor of the Covenant Presbyterian Church, Omaha.

PASTOR BEATTY: (Prayer offered).

SENATOR LAMB: Roll call. Record.

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

SENATOR LAMB: Any corrections for the Journal?

CLERK: I have no corrections, Mr. President.

SENATOR LAMB: Are there any messages, reports or announcements?

CLERK: Two items, Mr. President. A communication from the Governor addressed to the Clerk. (Read. Re: LBs 215, 410, 417. See pages 1180 and 1181, Legislative Journal.)

Mr. President, a new resolution offered by Senator Beyer, LR 252. (Read. See page 1181, Legislative Journal.) That will be laid over, Mr. President.

SENATOR LAMB: Item #5, Final Reading, one hour limit. Item #4, gubernatorial appointments, Public Works Committee. Senator Kremer.

CLERK: Mr. President, the first report offered by the Public Works Committee is regarding Mr. Harold Peterson, Babette Prostok, and Merle Kingsbury. That report is on page 1076 of the Legislative Journal.

SENATOR LAMB: Senator Kremer, would you care to handle the gubernatorial appointments?

SENATOR KREMER: Thank you, Mr. Chairman. The Public Works Committee wishes to report favorably on the appointments of Mr. Guy F. (Jeff) Bush and Mr. Reed Gilmore appointed by the Governor to the Nebraska Oil and Gas Conservation Commission. The committee heard the testimony of these two men, reviewed their transcripts and report favorably and recommend to the Legislature these gubernatorial appointments be adopted by the entire Legislature. I so move.

SENATOR LAMB: The motion is to approve the gubernatorial appointments. All those in favor vote aye, those opposed

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