

January 15, 1981

LB 2, 223-228

all voted? Clerk will record the vote.

CLERK: 33 ayes, 0 nays on the advancement of LB 2,
Mr. President.

SPEAKER MARVEL: The motion is carried and the bill is
advanced to E & R for Initial. That concludes General
File. Mr. Clerk, do we have other items on the desk?

CLERK: Mr. President, I have nothing further to read in.

SPEAKER MARVEL: Senator Lowell Johnson, do you want to
adjourn us until 9:30 tomorrow? Do you have a bill?
The Legislature will stand at ease until 3:00 o'clock.

EASE

SPEAKER MARVEL: The Clerk has some business to read
into the record and then we will adjourn.

CLERK: Mr. President, new bills: LB 223 (Title read).
LB 224 (Title read). LB 225 (Title read). LB 226
(Title read). LB 227 (Title read). LB 228 (Title read).
(See pages 195 and 196 of the Legislative Journal.)

Mr. President, finally, the Education Committee wants
to hold an Executive Session in Room 1517 on Monday,
January 19 at 9:00 o'clock a.m.

SPEAKER MARVEL: Since there is no other business, I will
now recognize Senator Lowell Johnson to adjourn us until
9:30 tomorrow morning.

SENATOR L. JOHNSON: Mr. Speaker and members of the Legis-
lature, I move that the Legislature adjourn until 9:30
a.m. Friday, January 16, 1981.

SPEAKER MARVEL: All those in favor of the motion say
aye. Opposed no. We are adjourned until tomorrow morning.

Edited by:

Marilyn Zank
Marilyn Zank

CLERK: (Read record vote as found on pages 908-909 of the Legislative Journal.) 25 ayes, 9 nays, Mr. President, 15 not voting.

SPEAKER MARVEL: The motion carried. The bill is advanced. Are you ready for the next item? We are going to continue on Select File. What we are trying to do in the meantime between now and noon we hope to have the priority list as promised for you. So we hope that everybody who possible will stick with us until we adjourn. Go ahead.

CLERK: Mr. President, Revenue Committee will meet in executive session Tuesday, March 17, at one-thirty in Room 1520.

Your committee on Judiciary reports LB 126 to General File with amendments; 129 to General File with amendments; 228 to General File with amendments and 242 to General File with amendments. (See pages 909-913 of the Journal.)

Senator DeCamp would like to print amendments to LB 273 in the Journal. (See pages 913-194 of the Journal.)

Your committee on Revenue reports LB 486 to General File and 412 to General File with amendments. (See pages 914-916 of the Journal.)

Mr. President, a new resolution by Senator Fenger and others. (Read LB 37 as found on pages 916-917 of the Legislative Journal.) That will be laid over.

I have a report of registered lobbyists. Your Enrolling Clerk has presented certain bills to the Governor. (Re: 55, 114, 128, 217, 246, 279, 388, 434, 462. (See page 917 of the Journal.)

Your committee on Miscellaneous Subjects recommends approval of certain gubernatorial appointments. (See page 918 of the Journal.)

Mr. President, LB 500, there are E & R amendments to the bill. Mr. President, there are E & R amendments to LB 500.

SPEAKER MARVEL: Before we proceed with that I want to introduce some guests who are underneath the South balcony from Chadron State College, 6 students, Angie Kolar from Neligh, Jim Stewart from Omaha, Laura Larson from Wauneta, Casey Frye from Lander, Wyoming, Gene Mohr of Stratton, Rhonda Hernandez of Scottsbluff. They have ridden four hundred and thirty miles on bicycles. If you would like to talk to them or see their equipment it is in the rotunda after 1:00 p.m. We welcome you to the Unicameral. Senator Beutler.

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LB 228, 417

SENATOR DWORAK: I would have no problem with that. I would compromise on that.

SPEAKER MARVEL: If there is no objection, why we will proceed that way. Senator Koch, do you object? Your objection can be met but it still doesn't solve any problem. Go ahead.

SENATOR KOCH: Mr. Speaker, if Senator Dworak wants to place an amendment on Select File as Senator Lamb indicated, I would hope that in fairness and the interest of that area we are talking about that he withdraw his objection and let us advance the bill, let him have an amendment placed on Select File where it can be discussed. With the interest of time if we leave this sitting on General File, our chances of getting back to it are virtually nil, and I think it is important to the industry out there of both wheat and beets and others. And I would ask Senator Dworak to withdraw it and allow us to advance the bill and then let him prepare his amendments on Select File and let us discuss it there.

SPEAKER MARVEL: All right, since there is an objection, we will just proceed with the business. What is the next item on the bill?

CLERK: Senator Dworak, you then have requested division. Is that correct, Senator?

SENATOR DWORAK: Unless Senator Koch withdraws his objection, then I request a division of the question.

SPEAKER MARVEL: Okay, we have solved the problem. Time is up. Okay, we are ready for LB 228.

CLERK: Mr. President, LB 228 was introduced by Senator Landis. (Read title.) The bill was read on January 15, referred to Judiciary. The bill was advanced to General File. There are committee amendments by the Judiciary Committee, Mr. President.

SPEAKER MARVEL: Senator Nichol.

SENATOR NICHOL: Mr. Speaker and members of the Legislature, the committee adopted four amendments to LB 228. Three of these amendments are technical in nature, striking the term "magistrate" which is not presently used in the statutes and replacing the word "magistrate" with the term, "court". The one amendment which is substantive in nature is found on page 3, line 6 of the green copy of the bill. This is the 10 percent bonding procedure which is available

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LB 228

for use by criminal defendants. The committee felt that because in the case of a witness who is there for the convenience of the state, the committee didn't feel that it was fair to retain 10 percent of the posted amount for administration purposes. Once again, the remainder of the committee amendments are technical. I move for the adoption of the committee amendments.

SPEAKER MARVEL: The motion is the advancement of the...or the adoption of the committee amendments. All those in favor of that motion vote aye, opposed vote no. The number of the bill is 228. We are in the process of adopting the committee amendments as explained by Senator Nichol. Have you all voted? Record the vote.

CLERK: 26 ayes, 0 nays on adoption of the committee amendments, Mr. President.

SPEAKER MARVEL: The committee amendments are adopted. Senator Landis.

SENATOR LANDIS: Mr. Speaker and members of the Legislature, LB 228 has been in the legislative pipeline for two years running. It died because it did not have a priority spot last year, but it did get a good hearing by the Judiciary Committee. This time the committee sent it out unanimously and that is why it is here before us. It is the recommendation of a committee formed two years ago, the LR 154 Committee. That included Senators DeCamp, Vard Johnson, Senator Chambers, Senator Dworak, Senator Schmit and Senator Fowler and myself, and it was just one of the several recommendations that year. It rests essentially on two legal problems which surfaced a couple of years ago. The first was a case of about...of the jailing of some material witnesses. Material witnesses are not people charged with crimes but they are people who observe crimes or have information about crimes that a prosecutor needs to make a case. Sometimes these people are not very forthcoming in an attempt to participate and help along the prosecution of a criminal. Perhaps the prosecutor fears that the person, if left on the streets, will suddenly take a quick vacation to New Mexico. Material witnesses then, under a section of Nebraska law, can be jailed and kept against their will in a jail in custody until such time as they can participate in the legal case against the charged alleged convict or criminal. Material witnesses again, I repeat, are not people charged with crimes. They are people used to participate in the prosecution of some other party. We have had for years, for decades, a material witness statute. That statute is unconstitutional on its face. It distinguishes between women and men for one thing. It

distinguishes on the basis of age on another. And those kinds of classifications are clearly unconstitutional. We also had an application of this usage in a case regarding the Cochran brothers about two and a half years ago, and the two gentlemen were jailed for roughly 60 days while they made application to the Federal Court. The Federal Court said that Nebraska statute was unacceptable because it did not have adequate due process guarantees. Judge Urbom wrote those guarantees in the Cochran decision and those guarantees now appear in the bill on pages 4 and 5. The bill accomplishes this, it sets, number one, the standard under which you can jail somebody for being a material witness, and that standard is when a judge determines in the exercise of his discretion that such release will not reasonably assure that the witness will appear and testify at a trial. Secondly, it indicates the due process guarantees for the hearing which a material witness has available to them before they are jailed. Thirdly, it allows for prospect of a bond. And, fourthly, it creates a series of restrictive or least restrictive alternatives that a judge could apply. That means that before they can be jailed, the judge should consider placing the person in the custody of a designated person or organization, or that the judge should consider placing restrictions on travel and association, or place of abode, or that the judge may require an execution...the execution rather of an appearance bond. All of those should be considered prior to the jailing of a person to serve as a material witness. Now if none of those other circumstances will apply, then the judge is free to go ahead after there has been a hearing and jail the material witness. What this does then is take our decades old material witness statute and solve the constitutional flaws that exist. It has been reported out by the Judiciary Committee. It is approved by the Nebraska State Bar Association. It is the recommendation of the LR 154 Committee and I would move its adoption by the body.

SENATOR DWORAK PRESIDING

SENATOR DWORAK: The motion is to advance to E & R Initial. All those in favor say aye.

CLERK: Senator Dworak voting aye.

SENATOR DWORAK: Have you all voted? The sooner we vote we can get on with....

SENATOR LANDIS: I wouldn't want to be the first one today, and I have been sitting in my seat quietly voting on everybody else's bill.....(interruption).

May 4, 1981

LR 76
LB 12, 99, 228, 257, 361, 385,
LB 561, 428, 451, 472, 472A, 501

SENATOR CLARK: Senator Cullan. The question has been called for. Do I see five hands? I don't see them. Now I do. All those wishing to cease debate will vote aye, opposed no. Have you all voted to cease debate?

CLERK: Senator Clark voting aye.

SENATOR CLARK: Record the vote.

CLERK: 25 ayes, 1 nay, Mr. President, to cease debate.

SENATOR CLARK: Debate is ceased. Senator Wiitala, do you want to close?

SENATOR WIITALA: Mr. Speaker, members of the Legislature, in all due respect to my distinguished colleagues, Senator Warner and Senator Marsh, since the legislative intent has been placed in the record by their remarks as far as the responsibility to the duties of the Performance Review and Audit Committee, I would respectfully withdraw my amendment at this time. Thank you.

SENATOR CLARK: It is withdrawn. Do you have anything else on the bill?

CLERK: Mr. President, if I may read some matters in right before?

SENATOR CLARK: You go right ahead.

CLERK: Mr. President, a new resolution, LR 76 calling for a study offered by Senator Hoagland. (Read LR 76 as found on page 1724 of the Legislative Journal.)

Mr. President, your committee on Enrollment and Review respectfully reports we have carefully examined and reviewed LB 12 and recommend that same be placed on Select File; 501 Select File; 472 Select File with amendments; 451 Select File with amendments; 428 Select File with amendments; 472A Select File; 99 Select File with amendments; 385 Select File with amendments; 361 Select File with amendments. 228 Select File. (See pages 1725-1726 of the Journal.)

And Senator Remmers would like to print amendments to LB 257, Mr. President. (See pages 1726-1727 of the Journal.)

Mr. President, the next motion I have on LR (sic) 561 is a motion by Senator Landis to reconsider the body's action in adopting the Kremer-Schmit amendment to LB 561.

SENATOR CLARK: Senator Landis.

May 8, 1981

LB 361, 228, 250, ,
369, 497

SENATOR KILGARIN: I move LB 361 be advanced to E & R for engrossment.

SPEAKER MARVEL: All in favor of that motion say aye, opposed no. Motion is carried. 361 is advanced. Next bill, 228.

SENATOR KILGARIN: I move we advance LB 228 to E & R for engrossment.

SPEAKER MARVEL: All in favor of that motion say aye, opposed no. Motion is carried. 228 is advanced. 369.

SENATOR KILGARIN: I move we advance LB 369 to E & R for engrossment.

SPEAKER MARVEL: All in favor of that motion say aye, opposed no. Motion is carried. The bill is advanced. The next one, 310.

SENATOR KILGARIN: I move the E & R amendments to LB 310.

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

SENATOR KILGARIN: I move we advance LB 310 to E & R for engrossment. 310.

SPEAKER MARVEL: The motion is the advancement of 310. All in favor of that motion say aye, opposed no. The motion is carried. The bill is advanced. The next bill is 497.

SENATOR KILGARIN: I move the E & R amendments to LB 497.

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

SENATOR KILGARIN: I move we advance LB 497 to E & R for engrossment.

SPEAKER MARVEL: All in favor of that motion say aye, opposed no. Motion is carried. The bill is advanced. 250 is the next one.

SENATOR KILGARIN: I move we advance LB 250 to E & R for engrossment.

SPEAKER MARVEL: All in favor of that motion say aye, opposed no. Motion is carried. 250 is advanced. The next bill is LB 70. We are going to pass over 302 and 544 so it is LB 70.

LB 3, 11, 12, 70, 95, 99, 228,
250, 257, 266, 266A, 296A,
310, 318, 328A, 369, 381, 384,
389, 428, 441, 470, 472, 472A,
497, 501, 506, 541, 543, 556A

May 11, 1981

PRESIDENT LUEDTKE PRESIDING

PRESIDENT: Prayer by Chaplain Palmer.

REVEREND PALMER: Prayer offered.

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

CLERK: Quorum present, Mr. President, plus one.

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

CLERK: Mr. President, I have no corrections.

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

CLERK: Mr. President, I have an Attorney General's opinion addressed to Senator Chronister regarding compensation of rural water districts. That will be inserted in the Journal. (See pages 1899-1900 of the Journal.)

Mr. President, your committee on Enrollment and Review respectfully reports that we have carefully examined engrossed LB 3 and find the same correctly engrossed. 11 correctly engrossed, 12 correctly engrossed, 70 correctly engrossed, 95 correctly engrossed, 99 correctly engrossed, 228 correctly engrossed, 250 correctly engrossed, 257 correctly engrossed, 266 correctly engrossed, 266A correctly engrossed, 296A correctly engrossed, 310 correctly engrossed, 328A correctly engrossed, 369 correctly engrossed, 381 correctly engrossed, 384 correctly engrossed, 389 correctly engrossed, 428 correctly engrossed, 441 correctly engrossed, 470 correctly engrossed, 472 correctly engrossed, 472A correctly engrossed, 497 correctly engrossed, 501 correctly engrossed, 506 correctly engrossed, 541 correctly engrossed, 543 correctly engrossed. Those are all signed by Senator Kilgarin as Chair.

Mr. President, a new A bill, LB 556A, offered by the Speaker at the request of the Governor. (Read as found on page 1904 of the Legislative Journal.)

Mr. President, Senator Vard Johnson would like to print amendments in the Journal to LB 428 and Senator DeCamp to LB 318. See pages 1904-1906 of the Legislative Journal.)

PRESIDENT: The Chair recognizes Speaker Marvel for an explanation of order of business today on the agenda. Speaker Marvel.

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LB 228, 250, 266

RECESS

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: Record your presence please. While we are waiting for the other twenty-six legislators to check in, from Senator Warner and Senator Schmit's Districts in the North balcony we welcome to the Unicameral 54 eighth graders from Raymond, Nebraska Central, three parents, Sue Kendle, Trudy Pedley and Jack Gould, teachers. Where are you all located so we may welcome you to the Unicameral? Senator Remmers, would you please check in? Thank you. Okay, Patrick, record the presence.

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

SPEAKER MARVEL: Do you have items to read into the...

CLERK: No, sir, I do not.

SPEAKER MARVEL: First order of business for the afternoon under Final Reading is LB 228. The Clerk will read.

CLERK: (Read LB 228 on Final Reading.)

SPEAKER MARVEL: All provisions of the law having been complied with, the question is, shall the bill pass? Those in favor vote aye, opposed vote no. LB 228, Final Reading. Record.

CLERK: (Record vote read. See page 2036, Legislative Journal.) 33 ayes, 0 nays, 14 excused and 3 present and not voting, Mr. President.

SPEAKER MARVEL: The bill is declared passed on Final Reading. Next bill, LB 250.

CLERK: (Read LB 250 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: (Record vote read. See page 2037, Legislative Journal.) 44 ayes, 1 nay, 4 excused and not voting, Mr. President.

SPEAKER MARVEL: The bill is declared passed on Final Reading. The next bill is LB 266.

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LB 3, 11, 11A, 12, 70, 99, 146,
184, 228, 250, 266, 266A, 296,
296A, 310, 328, 328A, 361,
366, 369, 376, 561

Mr. President, your committee on Enrollment and Review respectfully reports they have carefully examined LB 184 and recommend that same be placed on Select File with amendments; LB 376 placed on Select File with amendments. Those are both signed by Senator Kilgarin as Chair.

Mr. President, LBs. 3, 11, 11A, 12, 70, 99, 146, 228, 250, 266, 266A, 296, 296A, 310, 328, 328A, 361, 366, and 369 are ready for your signature.

SPEAKER MARVEL: While the Legislature is in session and capable of transacting business, I am about to sign and do sign LB 3, LB 11, LB 11A, LB 12, LB 70, LB 99, LB 146, LB 288, LB 250, LB 266, LB 266A, LB 296, LB 296A, LB 310, LB 328, LB 328A, LB 361, LB 366, LB 369. Okay, if we may have your attention, the first item will be from the Clerk's desk and the second item will be Senator Warner's. So, Mr. Clerk.

CLERK: Mr. President, I have a letter addressed to the membership from Senator Warner who is Chairman of the Appropriations Committee. (Read. See pages 2052 and 2053, Legislative Journal. Re: Line item vetoes of LB 561.)

SPEAKER MARVEL: Senator Warner, you are recognized to comment on the letter just read.

SENATOR WARNER: All right, Mr. President, again under the provision of the rule, the Appropriations Committee is to make such report, and as the report indicates, there was one item which the majority of the committee did support to offer a motion for override which at the time which will be designated by the Senator representing the majority of the committee's position on that issue. The other portion I might just go through briefly with you is the second and third page which is to give you for your information. Page two that is an analysis of the Governor's line item vetoes points out those vetoes that occurred relative to committee recommendations and it shows what the collective floor amendments were, and the last group indicates the vetoes that were relative to the floor amendments and shows the total dollar amount then of \$728 million to \$74,747 that would remain under the Governor's veto as the legislation now stands. If you look at page 3, headed Financial Status Summary, it is similar to what is on the back of the agenda but in a slightly different form. Above the line at the top it shows again the original committee level of recommendation in those bills. The next shows the allocation for A bills that was originally recommended, that subtotal, and then it shows the amount that was

May 18, 1981

LB 11, 11A, 113, 113A, 228, 266,
266A, 296, 296A, 310, 328,
328A, 334, 334A, 369, 381, 384,
441, 463, 470, 501, 543, 545

RECESS

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: In the North balcony, the Legislature welcomes from Senator Newell's District 5 students from St. Paul Lutheran, Omaha, Nebraska, Richard Ulmer, the teacher. Are you up in the North balcony? If you are, hold up your hand so we can see where you are. Welcome to the Unicameral. Then underneath the South balcony as guests of Senator Shirley Marsh we welcome Mrs. Marie Sal-verda from Sidney, Australia and Anne Johnson from Lincoln. Will you step out and say "hello"? Okay, record.

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

Mr. President, I have communications from the Governor addressed to the Clerk. (Read. See pages 2074 and 2075, Legislative Journal. Re: LB 463. LB 11, 11A, 228, 266, 266A, 296, 296A, 310, 328, 328A, 334, 334A, 369, 113 and 113A.)

SPEAKER MARVEL: The Clerk will read on Final Reading LB 545.

ASSISTANT CLERK: (Read LB 545 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, those opposed vote no. Have you all voted? Clerk, record the vote.

CLERK: (Record vote read. See page 2076, Legislative Journal.) 48 ayes, 0 nays, 1 present and not voting, Mr. President.

SPEAKER MARVEL: The bill is declared passed on Final Reading. While the Legislature is in session and capable of transacting business, I am about to sign and do sign engrossed LB 545, LB 381, LB 384, LB 441, LB 470, LB 501, LB 543. Now if I could have your attention for a moment and refer you to the agenda, what we propose to do is first of all go to item #5 on motions which has to do with consideration of the override and we propose to...in order to begin to catch up in some of the areas, especially if you look now on the agenda you will find the General File priorities that are left, and so we propose first of all to work until five o'clock and then, secondly, to start at eight o'clock tomorrow morning. Unless we begin to have a schedule like this, there are going to be a lot of bills that'll go down the drain. So we propose to work until five this evening and start work in the morning at