

January 16, 1981

LR 5

Taiwan, and to answer Senator Wesely's question, is it going to make Red China unhappy? Are they going to call me or Senator Remmers naughty names for voting for it? I don't think so but they are going to be aware of the fact, they are going to be aware of the fact that this particular state which they have to rely on for agricultural products, too, isn't going to play the game of, we want to be your friend so we stab our old friend in the back. We will export grain to any of them and food, but not on terms of tit for tat, stab old friends for new friends. I urge you to support the resolution.

PRESIDENT: The question before the House is the adoption of LR 5. All those in favor vote aye, opposed nay. Have you all voted? Record the vote.

CLERK: 35 ayes, 3 nays on adoption of the resolution, Mr. President.

PRESIDENT: The motion carries. The resolution is adopted. Anything to be read in before we go into introduction of bills?

CLERK: Well one thing, Mr. President, your committee on Urban Affairs would like to have an executive session for Monday, January 19, 1981, upon adjournment.

Mr. President, your committee on Ag and Environment whose chairman is Senator Schmit gives notice of public hearing in Room 1520 for Friday, January 30. (See page 199 of the Legislative Journal.)

PRESIDENT: We are ready then for agenda item #5, introduction of new bills. Mr. Clerk, you may proceed with the reading of the new bills to be introduced today.

CLERK: Read title to LB 229-233 as found on pages 198-200 of the Legislative Journal. Mr. President, in conjunction with that bill we have a communication from the Governor advising the Legislature as to the intent of the bill and the supplemental appropriations required by various state programs. That will be inserted in the Legislative Journal. (See pages 203-204.)

Read title to LB 233-246 as found on pages 200-203 of the Legislative Journal.

Mr. President, your committee on Public Works gives notice of hearing for January 30 and February 6 and that is signed by Senator Kremer as chairman.

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LB 101, 134, 193, 241, 267,
296, 368, 430, 490, 497

SPEAKER MARVEL: The motion is carried. The report is approved. Now we go to the last one, Banking, Senator DeCamp.

SENATOR DeCAMP: The committee voted unanimously to support the approval of Gwen Hershberger. I move she be approved by the Legislature. She is from Milford.

SPEAKER MARVEL: All in favor of the DeCamp motion on behalf of the Banking Committee to approve the young lady from Milford vote aye, opposed vote no. Have you all voted? Record the vote.

CLERK: 29 ayes, 0 nays, Mr. President, on adoption of the report.

SPEAKER MARVEL: The motion is carried. The report is adopted. It is my privilege to introduce to the Legislature David Noonan who is a student from Bethany School and is visiting Senator Fitzgerald today. Will you please stand and hold up your hand so we can see where you are? Okay. From Senator Goll's District, 19 junior and senior students from Tekamah-Herman High School, Tekamah, Nebraska, Mr. Gordon Gentzler, Instructor, Mr. Gene Chamberlain, member of the American Legion, who was instrumental in bringing the group to Lincoln. Where are you folks located? Will you hold up your hand so we can see? Welcome. And from Senator Goodrich's District, 31 eighth grade students from St. Thomas More School, Omaha, Nebraska, Miss Kathy Wilcox, teacher. Where are you folks located? The Clerk has some items to read in and then we will move to item #5.

CLERK: Your committee on Urban Affairs whose Chairman is Senator Landis reports 241 to General File with amendments. (Signed) Senator Landis.

Public Health and Welfare whose Chairman is Senator Cullan reports 267 and 296 to General File with amendments. (Signed) Senator Cullan, Chair.

Mr. President, your committee on Miscellaneous Subjects whose Chairman is Senator Hefner reports a series of items to the Legislature; reports LB 134 to General File, LB 490 to General File; LB 497 to General File with amendments; LB 101 Indefinitely postponed; LB 193 Indefinitely postponed; LB 368 Indefinitely postponed; and LB 430 Indefinitely postponed. All signed by Senator Hefner as Chair.

Mr. President, a new resolution, LR 38. (Read. See pages 937 and 938, Legislative Journal.) That will be laid over, Mr. President.

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LB 59, 167, 168, 168A,
329, 333, 483, 241

engrossed; 167, 168 and 168A, 329, 333 and 483 all correctly engrossed. (Signed) Senator Kilgarin, Chair.

Mr. President, LB 241 was introduced by Senator Don Wesely and Senator Haberman. (Read title). The bill was first read on January 16. It was referred to Urban Affairs for public hearing. The bill was advanced to General File. There are committee amendments pending by the Urban Affairs Committee, Mr. President.

SENATOR KAHLE: Senator Landis, will you give us the committee amendments?

SENATOR LANDIS: Mr. Speaker, members of the Legislature, LB 241 is the sign bill. It is the death struggle between the City of Lincoln and various members of the outdoor advertising industry. It is the Roy Mehmken Memorial Scholarship Fund bill and this bill came through the Urban Affairs Committee. The committee heard the bill and took proponents and opponents which you will find listed in the committee statement. At the conclusion of the hearing, the committee made some alterations, struck some language from the bill, striking lines 10 through 12 on page 2 and indicated a formula to describe what full economic value was and that language appears in the committee amendment, in the first ten lines of the committee amendment. The addition of the words "a legally erected" sign was for the purpose of clarification and, lastly, there is with the striking of some language that appears on page 3 and on page 4, by striking some of the new language the committee intends to create in effect a grandfathering mechanism so that signs which are now unconfirming uses may continue to be unconfirming uses or at the city's discretion, if they wish to force the taking down of a nonconforming sign that is presently legally erected that they will pay either relocation costs or the value of the formula that appears in the committee amendments. So those are the three things that the committee amendment does. It indicates clearly the formula of repayment. It adds the qualifier "a legally erected" sign, and, thirdly, by striking some of the language in the bill, it creates in effect the option of the city to keep these signs which they declare to be nonconforming uses as nonconforming uses until such time, well, in the normal course of events they would fall down or need repair, and as all of those of you who are familiar with zoning, that means that at that time you may not replace a nonconforming use but, in fact, you will have to take the sign down. That is what the committee amendments do and I would urge the adoption by the body. Let me say this, I understand there is some controversy on

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the bill. However, all parties would agree that the committee amendments, I believe, are a more accurate reflection of the policy that we are going to argue about later on. We should adopt the committee amendments and then argue the soundness of the policy embodied by the bill but the committee amendments are a better way of phrasing legally the issue before the House which will be this restriction on the cities on the way in which they zone for outdoor advertising signs.

SENATOR KAHLE: Go ahead, Mr. Clerk.

CLERK: Mr. President, Senator Beyer moves to amend the committee amendments (Read Beyer amendment found on page 1318, Legislative Journal). It is offered by Senator Beyer.

SENATOR KAHLE: Senator Beyer.

SENATOR BEYER: Mr. Speaker and members of the Legislature, if I read the bill right, the word "reproduction" in there would mean the cost of whatever it would cost them to reproduce it even if that sign was ten or fifteen years old and depreciated out. I would rather see the word "reproduction" taken out and have it depreciated cost of what their sign originally cost them. Thank you.

SENATOR KAHLE: Senator Wesely, do you want to speak to the amendment to the amendment?

SENATOR WESELY: Yes. Senator Kahle, members of the Legislature, I discussed this question with Senator Beyer and his point is well taken although I would like to inform you that the formula that we do have pending in the committee amendment which Senator Beyer would like to amend are amendments drafted based on what the present state reimbursement policy is. Also we looked at other states and the federal legislation and came to the language which is before you in the committee amendments. The change that Senator Beyer proposes would provide for just depreciated reimbursement which would basically be much lower than I think would be a fair return for the individual sign. With the depreciated reproduction cost, we are talking not about reproducing a brand new sign but a sign that has been depreciated, at a lesser extent than it would be brand new, and so I think it in fact does what Senator Beyer says it should do, which is to say it recognizes the fact that an older sign should not receive as much compensation to be reproduced as a new sign. So I think the formula we have now is fair. Again it was based on federal and state legislation. We looked at other states, and it is one that has been

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commonly adopted as a fair and equitable means of reimbursement.

SENATOR KAHLE: Senator Landis, do you want to speak to the amendment to the committee amendments?

SENATOR LANDIS: No, I don't.

SENATOR KAHLE: Correction, we are speaking to the Beyer amendment to the committee amendments and I am recognizing Senator Koch.

SENATOR KOCH: I wish to speak to the bill proper.

SENATOR KAHLE: Senator Howard Peterson, would you like to speak to the amendment?

SENATOR H. PETERSON: Mr. Chairman, I would rise to oppose the Beyer amendment. It seems to me we need to be fair in replacement and just doing what Senator Beyer is proposing to do is not a fair method of handling the matter.

SENATOR KAHLE: Senator Beyer, do you want to close on your amendment to the amendment? We will have the Clerk read the amendment to the committee amendment.

CLERK: Mr. President, Senator Beyer moves to amend the committee amendments by striking the word "reproduction" found on line 5.

SENATOR KAHLE: Those that agree with the amendment please vote yes, and those opposed no. Please vote. Please vote as this is an amendment to an amendment. It takes a simple majority. Senator Beyer, what do you want to do? Record.

CLERK: 13 ayes, 18 nays on adoption of Senator Beyer's amendment.

SENATOR KAHLE: Motion fails. We are now back on the committee amendment. Senator Koch, do you want to speak to the committee amendments?

SENATOR KOCH: Yes, I do. The committee amendment really becomes the bill when you look at it because what we are doing is we are saying that if a sign becomes obsolete because of nonconforming uses we are going to arrive at a formula how we are going to pay that man back or whoever the owner is and I submit to you having served in city government before I came here that for us to pass this we might as well go ahead and say any building that once

becomes out of conformance because of zoning or new types of zoning that we are going to have to reward that person because we have placed that business in some way, shape or form out of conformance and I don't believe this is a good piece of legislation, even though supposedly it refers to Lincoln. I think it has statewide impact. I have got a copy of the Lincoln ordinance here and they give those people seven years to fourteen years to remove or modify the sign. I think that is ample. I don't know how some of you people feel that served in city governments but you ought to go back and look at your ordinances to see how your city handles this kind of a problem and I think for us to act favorably on LB 241, we place the municipalities in this state in a position that is very tenuous and very difficult because it isn't only just signs we could be talking about, we could be talking about a lot of other kinds of facilities. And until such time as we want to talk about the total issue, other than just the sign, I cannot support LB 241 and I hope most of you will not either.

SENATOR KAHLE: There are no other lights on. Pardon me, Howard Peterson, would you like to speak again.

SENATOR H. PETERSON: Mr. Chairman, I would like to rise to support the committee amendments and to support the bill in its entirety. I think Senator Koch is entirely wrong. Whenever we take property from someone we need to repay that person for the property regardless of whether it is a sign or whether it is a house or whatever it may be that we condemn, whether we do it by zoning or whatever it may be. Property is property and it seems to me that it is only reasonable for us to say to a city, if you are going to condemn a sign, if you are going to condemn property, you need to repay that person for that property. Therefore, I would rise to support the committee amendments and the bill.

SENATOR KAHLE: Senator Newell, your light has been on. Do you wish to speak on this issue? Who will close? Senator Wesely. Senator Landis. Senator Wesely.

SENATOR LANDIS: Well, since I think Senator Wesely has some of his own amendments, let me just conclude by indicating that the committee amendments were adopted unanimously, and also indicate to you that there will be an amendment offered I believe by Senator Wesely which lays out the terms of the grandfather clause very explicitly. Now we had done this we thought by deleting some of the existing language but, in fact, there is a more explicit grandfather clause which will be offered later on. But

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with that, I would close on the committee amendments and urge their adoption by the body.

SENATOR KAHLE: The issue is to adopt the committee amendments. Those favoring that vote aye, those opposed no. Record the vote.

CLERK: 28 ayes, 0 nays on the adoption of the committee amendments, Mr. President.

SENATOR KAHLE: Committee amendments are adopted. Do you have anything else on the bill?

CLERK: Mr. President, Senator Wesely has an amendment to the bill.

SENATOR KAHLE: Senator Wesely.

SENATOR WESELY: Mr. President, members of the Legislature, you have had passed out on your desk a number of materials concerning this bill. One of those materials that you received concerns the amendment and you should be able to find a copy of the wording of the amendment in the different materials that you have on your desk concerning LB 241. Essentially with this amendment we make it very clear, although we believe that it is implicit in the bill anyway, but we still make it very clear with this additional section which this amendment would provide for that, number one, you could leave a sign up, that that would be possible even for a city to go ahead and leave the sign up that is nonconforming and just leave it at that point and then, number two, it would require that when a business or a commercial or industrial premise would change ownership or in any way need to change their sign, that they would then when they change that sign have to make the new sign in conformance with the existing ordinance. So I think that gets out a lot of the problems some of the individuals that have opposed this concept in the past have talked about. Certainly what it does is provide for a very orderly and less expensive effort to change over and to bring in time total compliance with the present ordinances of the city, in any city in the state for that matter. By doing this, essentially you have a percentage of signs that every year have to be changed because businesses go out of business or somebody takes over a new business, and at that time they may change the sign, and so when they do that, they would be required under this to come into conformance with the ordinance, whatever ordinance may be adopted by whatever city in the state. At the same time, we would make it clear that again a grandfather clause would exist and that you would not

have to pay a sign owner for taking down their sign. You could just leave the sign up. Now with the adoption of the amendment, you essentially have these options. Number one, a city with a sign ordinance would perhaps leave the sign up. Number two, they could just pay for relocating the sign. They could just have it moved somewhere else where it would be in compliance. Number three, it could just wait until that sign would be altered by the change in business or ownership and then at that time bring the sign into compliance. Number four, it could remove the sign if it was deteriorating and a threat to public health and safety so that that would be another option that would not require compensation, and then, finally, and finally, and this is the one key element of the bill is that after all those options are exhausted they still have the last option that they do not have to necessarily use which would say that the sign could be taken down by the city, but if they take that person's property, they will pay that person a fair price for it, and that is, essentially, all that the bill really gets at but it allows all those additional options, and so that at the last resort, if all of these others fail, the city would have that option to take the sign down, to use their police powers to say "Your property can no longer exist and you can no longer have it standing", but if they use that police power, then that person gets compensated for the loss of that sign that they owned and that property that they possessed. And so that is what the amendment would essentially do, add a couple of more options to the city that they could use in lieu of having to take a sign down. Those two options again would be to allow for the grandfather clause, make it clear they could leave them standing, or, number two, they could require that any change in that sign would then have to bring that sign into conformance with the ordinance that it is under. So with that I think the bill is extremely fair and urge your adoption of the amendment.

SENATOR KAHLE: Senator Haberman, you are next. Senator Hefner.

SENATOR HEFNER: Mr. President, colleagues, I rise to support the Wesely amendment. I think it is a good one. It institutes the grandfather clause and I certainly feel that we should have that in this bill. It also helps to update the signs that we have along our roadsides and in our cities and villages. I think the amendment is reasonable and is fair and I would just like to say that I also support the committee amendments and the bill. I feel that an owner of property such as signs, such as advertising signs, should be reimbursed at a fair and equitable

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price. I would urge you to support the Wesely amendment.

SENATOR KAHLE: Okay, seeing no more lights that want to speak to the Wesely amendment, the issue is the adoption of the Wesely amendment. Would Senator Wesely want to close?

SENATOR WESELY: Mr. President, just in closing, again, and I appreciate the support from Senator Hefner, this bill would allow for the grandfather clause and allow or I mean require that when a sign would have to be altered it would be brought into compliance with any ordinance and I think it takes care of a lot of the problems that some people have had with the bill.

SENATOR KAHLE: Okay, if you favor the Wesely amendment vote yes, opposed vote no.

CLERK: Senator Kahle voting aye.

SENATOR KAHLE: Have you all voted? Record.

CLERK: 28 ayes, 3 nays on the motion to adopt the Wesely amendment, Mr. President.

SENATOR KAHLE: The amendment passes. Is there anything else on the bill?

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

SENATOR KAHLE: Senator Haberman, do you want to talk on the bill?

SENATOR HABERMAN: I move to advance the bill.

SENATOR KAHLE: Senator Koch, do you wish to speak on the bill?

SENATOR KOCH: Thank you, Mr. Chairman. Senator Wesely, the amendment we just adopted grandfather's whom?

SENATOR WESELY: It would allow for in a situation where a new ordinance came in and that new ordinance said certain signs have to be this certain way and the sign was up that wasn't that way, it would say that the city could just leave the sign up.

SENATOR KOCH: Forever?

SENATOR WESELY: Yes, until it becomes a threat to the public

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health and safety and then they have the option of just tearing it down. They have the option also of paying for it if they want to tear it down or paying for the relocation.

SENATOR KOCH: Well, don't people use signs to I think sort of debeatify the areas, don't they know there is a risk when they put those there in the first place? Is a sign a form of litter?

SENATOR WESELY: I don't think so. I think it is a communication device.

SENATOR KOCH: What effect does it have on the public in terms of influence?

SENATOR WESELY: The amendments.

SENATOR KOCH: Yes, you talk about free enterprise, isn't that always a risk and a sign is a free enterprise. Isn't there a risk that you may put that sign in the wrong place that someday you are going to be asked to remove it?

SENATOR WESELY: Well, if they put it up in the right place when they built it, and then all of a sudden the ordinance changes out from under them the right to keep that sign up. So without any action on their part, no longer is the business, the property, the sign that they own no longer possible to keep standing and that is no fault of their own.

SENATOR KOCH: How long has Lincoln's ordinance been in place, the one they have presently, the copy I have before me?

SENATOR WESELY: I guess it is a couple of years now it was adopted.

SENATOR KOCH: Do you think they change that frequently?

SENATOR WESELY: I think that they might change it in small ways but now that the comprehensive plan has been adopted they shouldn't change it very frequently.

SENATOR KOCH: Well, I just feel that this Legislature is trying to place an obstacle before appropriate planning and zoning and I think that many of you on this floor believe in the same thing, that there should be appropriate planning and zoning, and for too many years we forgot this and we got ourselves in some difficult situations. So now what we are doing here is by law we are trying to run against

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the municipalities and place them into some I think difficult positions. I understand what Senator Peterson said. Sure, I have sat on city councils and we have changed some things and we condemned something we pay people for the property that we take but that is generally a building or something of this nature and, of course, we are talking here about signs, and we do pass ordinances which have certain kinds of stringent positions in them in relation to a sign, where it should be placed, the size of it. The community in which I live, we have ordinances on signs and those have to be inspected by the inspector to see whether or not they are complying to ordinance. By the same token when they place those signs and we suddenly pass something else, we don't expect to have to pay for those signs because that is the risk you take, and for us now to come here with this kind of a bill, we could place any number of cities in this state I think in a serious position. And the last thing that I would want to happen was to put cities in a condition again where they are trying to maintain a position that has been their jurisdiction and I think that is where it ought to stay, their jurisdiction and not for us to come in and try to be the all-seeing, all-knowing body and give someone advantage at the expense of the municipality. I oppose LB 241.

SENATOR KAHLE: Senator Vard Johnson.

SENATOR V. JOHNSON: Mr. Speaker, members of the body, I, too, oppose LB 241. As I read existing law, as I read existing law, a municipality right now can permit a nonconforming sign to remain in place if it wants to do so and it can allow the owner of that sign to recover his investment in a signboard and the equipment by establishing an amortization schedule so that that investment is recovered over several years. Thus, if the sign has got a value of \$1,000 and the municipality concludes that that value can be amortized in five years time at \$200 a year, that means that the municipality can conclude that that sign shall stay in place even though it is now a nonconforming sign. It stays in place for five years, and at the end of five years, the sign has to come down. Now I think that is pretty good law. It looks to me like we have provided through our zoning laws for municipalities to be able to make exceptions on zoning ordinances to allow nonconforming structures as well as signs to stay in place. But the Wesely bill would prohibit, would prohibit the application of the amortization device to signs though it doesn't prohibit the application of the amortization device to apartment houses that no longer conform, to industrial tracts that no longer conform, and to a lot

of other buildings that no longer conform. I say why should signs be singled out for this special treatment. Either the signs have a powerful lobby. I look back and I see exactly who all came down in support of this bill. It wasn't the city that supported this bill. It was sign people that supported this bill. This is, in my opinion, this is special interest legislation. We are creating a unique exception for one small industry. I think that good zoning requirements say simply that cities can deal with these problems as the cities see fit and ought not to be locked in, ought not to be locked into a compensation program which is what the Wesely bill does, but instead should be allowed to continue existing practice which it looks to me like our existing law is basically good law and ought not to be touched. I, therefore, oppose the bill.

SENATOR KAHLE: Senator Landis.

SENATOR LANDIS: Mr. Speaker, members of the Legislature, I would like to respond to some of the arguments made in opposition to LB 241, since after having thought over the bill, I am one of its supporters. Well, I find it ironic I guess I would have to say that Senator Koch objects so strenuously to LB 241's attempt to change a city's policy, he having been before the Urban Affairs Committee and persuading us to, in fact, overrule the City of Omaha's Mayor with his ability to take a look at SID improvements and sunsetted the proposition here on the floor. However, that irony aside, I think the policy is this, that the Urban Affairs Committee and the Legislature should act upon, and that is that unlimited city powers when exercised unreasonably will be curbed by the Legislature, that, in fact, you can't grant an entire panoply of powers and then say, "Well, if the city does act unreasonably, we won't respond". In fact Senator Koch persuaded this body to respond in exactly that way and that is what Senator Wesely is doing so I think the body ought to listen to the merits of Senator Wesely's case with the exceptions that Senator Johnson pointed out. The city does have grandfather rights if they want to. However, in this case the City of Lincoln chooses not to grandfather but in fact force everyone to amortize if they want to...rather not if they want to but because the city decrees it. That a city may grandfather doesn't ensure that they will, and by passing LB 241 we ensure that they can utilize that mechanism, and if they don't, then they have to have an appropriate response. As far as this being a unique exception, actually quite the contrary is the truth. With respect to those industrial tracts, apartment houses, they are amortized perhaps but they are not torn down because of a nonconforming use. This bill or rather the existing ordinances in certain places can say that the sign will

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be taken at the end of a certain amount of time. Unconforming uses generally run ad infinitum until the structure falls down, burns out, sold or whatever and then it is replaced but not with the timed end as the sign ordinance is and that is why we actually move closer to existing practice by passing 241 than adopting Senator Johnson's theory. Finally, let me say this, and this is I guess why I support LB 241. The city's position, generally, the League of Municipalities position, generally, is that amoritization is an adequate response, amoritization is an adequate compensation to the sign holder. In my own opinion, amoritization is not always the adequate response. Amoritization freezes in time the value of an item and as we all know inflation passes very quickly. Amoritization returns to you your initial investment costs but, in fact, some objects increase in value. A sign that was set up a year ago at \$1,000 cost which lives and has an existence for seven years and that intersection becomes very busy and those materials accrete in value and has a replacement cost of \$5,000 and the visibility of that sign has increased three or four times because of its location has actually increased in value. To amoritize at \$1,000 is not a fair assessment of the value of that sign. My theory then is this, that amoritization is not adequate recompense in all cases, that because of inflation, because of the increase in values of a sign or a location or a business, that a sign after seven years might well be worth more than that which you have been able to write off...

SENATOR CLARK: You have one minute.

SENATOR LANDIS: ...on amoritization, and because of that, because in the net end result of that time period, if you force the sign to be taken down only for the amoritization recompense, in effect you have a certain value that is lost to the property holder, and although this may not be of constitutional standards, I would stand by the policy that is in both the state and the federal Constitution that values taken from property holders should be compensated and that is why I support LB 241.

SENATOR KAHLE: Senator Haberman.

SENATOR HABERMAN: Mr. President, members of the Legislature, as long as we are studying credentials and pedigree, I, too, served on a city council. So that makes it two to one, two say yes, and one says no, so I am sorry, Senator Koch, you are outvoted on our city council. All new signs erected will conform to the zoning laws so that problem

goes away. All the new signs will conform. Now they said when they did this, the only business that they said could not remain is the sign people. All other businesses are not going to be torn down or moved out. Hairdressers, garages, filling stations, they don't take their livelihood away. They let them stay but they have singled out the sign company and, Senator Johnson, I am surprised at you saying that this is special interest legislation. Why, Senator Johnson, what is the Omaha sales tax if that isn't special interest legislation, and all the banking bills and all of the insurance bills and the railroad bills, raise the lid for Nebraska City and Omaha, over half of the bills here, over half the bills here are special interest bills. So I am ashamed of you pointing to those fine people out there in the lobby. They are not even lobbyists. One of them is a member of the City of Lincoln. Or we mustn't forget the Sanitary Improvement District bill that we passed here a little while ago. I will tell you what we are doing. We are protecting private property rights. That is what we are doing with this bill. We are saying to the government, "You shall not trod on the sign people and make them go out of business". Now stop and think of what the sign business is. It is a big, big business in lots of towns and they deserve to be treated better than they are being treated. That is the purpose for this bill. They were singled out. The state does a better job of paying people when they take their property than some cities. So I say to you you can vote for this bill. It is not going to ruin any cities, harm any cities, blowup any zoning laws. It is a good bill. It protects the citizens, and that, quote the Governor of Iowa when they signed this bill they passed to protect the sign people. So I ask you to support 241 and let's get on with our business, Mr. President. Thank you.

SENATOR KAHLE: Senator Higgins.

SENATOR HIGGINS: Mr. President, members of the body, we have been speaking for sometime now about the sign companies and even mentioned the fact that signs are litter. I would like all of you to know that when I ran for this Legislature this candidate never used any yard signs because I said I wouldn't litter their beautiful neighborhoods but I support LB 241 for one reason. Where do you see the signs in Omaha and in Lincoln? You see them on the corner drug store building. You see them on a small mom and pop grocery store. You see them on a barbershop. Who is really making money off of this? Small businessmen, not just the sign companies. They pay rent to these small businesses and it helps their exorbitant light bill that they get every month

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or maybe their heating bill. It is just a little something extra to keep a small businessman going. So if you want to help put more small businessmen out of business, then kill this bill, but if you are for the small businessman as I am, and if you are for being fair to the sign companies, you will promote this bill. I think each and every Senator here has probably bought sign advertising when they ran for office and you have got to know if you have a sign that is seen every day by 10,000 cars going up and down main street it is worth a lot more than a sign sitting out in a pasture where maybe 10 cars a day see it. So you can't compensate these sign companies just for the cost of the sign. There is the actual value that they get for the price they get to charge because it has more advertising value to them the more people that see it. For the sake of the small businessman who does get income from these signs, I urge you to vote yes and advance LB 241. Thank you, Mr. President.

SENATOR KAHLE: Senator Vickers.

SENATOR VICKERS: Mr. President, members, you know this is a rather fun afternoon. Here we are again, special legislation. Senator Haberman says that is what we do all the time. This is a perfect example of it. I would say quite honestly that when I saw Senator Haberman and Senator Wesely both being introducers of this legislation, that was enough right there to make a red flag go up. That was a rather strange marriage to start with. But I wonder a little bit about some of the comments that Senator Haberman and Senator Higgins just made. Senator Haberman indicated, first of all, that it was all right to treat signs differently than we treat other...or that we allow the cities and the counties through their zoning regulations to treat other individuals, and yet he is the person that stands up on this floor, time and time again, and says he is for local control and gets up on his soapbox and yells and screams about local control. Well, Senator Haberman, I think we are taking local control away from those people. We are saying here is an exception. Signs have to be treated differently than everybody else. If you will read the existing language as Senator Johnson pointed out just ahead of the new language on page 3 and also at the bottom of page 4 of the bill. It says that "The municipal legislative body", or in the other instance, the county, "may in any zoning regulation, provide for the termination of nonconforming uses, either by specifying the period or periods in which nonconforming uses shall be required to cease,...", and somebody mentioned that they can't cause them to stop, they can't close down the apartment houses. Oh, yeah! It says there they can. It says there they can. If they are out of compliance, you can

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make whether it be an industrial use, an apartment house, a feedlot or whatever, I don't see that it says they are going to set up a special exception so why don't we write a whole group of exceptions in here, except for mom and pop grocery stores, except for the corner drug-store, except for somebody's small feedlot on the edge of some city, except for a whole bunch of things. I can't see where the sign manufacturer is that much different than anybody else. Senator Haberman also indicated that the Governor of Iowa had signed this bill in Iowa and indicated it was a good thing. You know, just the other day Senator Haberman had a letter sent around telling us about how the Governor of the State of Nebraska was for a specific piece of legislation. Now he has branched over to Iowa. That is really great to know that Iowa's governor is for this. That really didn't impress me that much to find out the Governor of the State of Nebraska was for it the other day, and it impresses me even less to find out the Governor of Iowa is for it. Also Senator Higgins mentioned that most of us probably have paid sign advertisements when we ran for this job. Well, I didn't, Senator Higgins, and you also mentioned it is worth a lot more if it is where 10,000 cars a day goes by as opposed to out in the pasture where 10 cars go by. Well, we have got a lot of pastures where 1 car wouldn't go by, let alone 10. I just philosophically I think this body needs to be aware of what we are doing. We are saying that it is all right to have a law as it applies to everybody else in zoning but it is different when it comes to one purpose. It is different when it comes to advertising. Senator Higgins says if you are for small businesses you have got to be for this bill. If that is true, how is come the Small Business Association didn't come in and support the bill. I don't see them as being listed as one of the ones that supported it. I see a whole group of advertising companies being the ones that supported it. I rather doubt that this is anti small business if you vote against this bill. I don't see it as being anti advertising either. I see it as an issue of fairness. Let's treat everybody the same, otherwise I think we should have an exemption for the small feedlots out there that might be out of compliance also. Let's make sure that we set it up so that they can be amortized out over a number of years. I have a feeling that isn't the way it would happen in reality but I am opposed to starting a laundry list in statutes. If we say signs this year, next year we are going to say something else and the next year after that something else. Why don't we just do away with the zoning regulations altogether. Maybe that would be the best thing to do. I am opposed to LB 241.

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SENATOR KAHLE: Senator Carsten.

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

SENATOR KAHLE: Do I see five hands? I do. All those in favor of closing debate signify by voting aye, those opposed no.

CLERK: Senator Kahle voting aye.

SENATOR KAHLE: Have you all voted? Record.

CLERK: 32 ayes, 0 nays to cease debate, Mr. President.

SENATOR KAHLE: Debate ceases. Senator Wesely, do you want to close on your amendment?

SENATOR WESELY: I think we are on the bill, aren't we, Mr. President.

SENATOR KAHLE: Excuse me, on the bill.

SENATOR WESELY: On the advancement of the bill. Thank you. Mr. President, members of the Legislature, there has been a great deal of discussion about the bill. I think I would like to go back again and reiterate some of the key points. Number one, these are the options that the city would have with the adoption of this bill: Number one, they could allow a sign to keep standing when they changed an ordinance on it and it is now nonconforming. They could just say, "Okay, you can just keep your sign up until its get worn down or they want to change the business or whatever. Otherwise, just leave your sign up". Number 2, they could just say, "Well, we don't like that sign so we will pay to relocate it in a place where it is more appropriate", and they would have to pay for that but they could relocate the sign. That wouldn't be as expensive. Then, three, they could just wait and say, "Okay, you can keep your sign up but when you change your business or when you change that sign in any way, that new sign that you would put up would have to come into conformance with this present ordinance". So they have that option. That would be required. Number four, they could say, "Well your sign is a threat to public health and safety. It is kind of rundown. We are going to remove it and you are not going to get compensated". They have that option also. And then, finally, if these options don't appeal to them and they want to get rid of the sign, they can take that sign down but they have to pay that sign owner and that property owner and that business person an appropriate amount of money that would reflect the value

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of that sign. It is taking a personal property. This bill would say, "Cities and counties, you cannot take somebody's property without compensating for it", and you have all these other options that you could use that would prevent you from having to do that in the first place. Now let's go through a couple of the other items that have come up. We have talked about the changes this law would bring to the state. I passed out for you some information about what other states have done. Quite clearly the effort to allow for just compensation for the taking of personal property, and more specifically the taking of someone's signs, has become very much an issue in other states and the handout I gave you shows that, that frequently throughout the country now states have adopted legislation just like LB 241. The federal policy is exactly like 241. The State Highway Department uses the policy exactly like LB 241. This is a policy decision that is now becoming much more prevalent across the country and it is only a matter of time, I think, until Nebraska takes that step and I would prefer that that step be taken this year with LB 241. I think that it was brought up earlier that this is an exception for signs and that this makes a difference on behalf of signs and, in fact, that is wrong. The reason we are bringing this bill to the Legislature is that signs have been singled out in Lincoln, particularly, but other cities can do the same thing. Although they have the option of amortizing other businesses and other nonconforming zoning situations, they really don't except for in the case of signs. The exception is now being placed in by the present ordinance we have in the City of Lincoln. This would bring signs in the same situation as all other nonconforming uses. It would bring them to the same situation as other nonconforming uses instead of singling them out to take away their personal property. So this is an attempt to try and make more fairness and more equity in the situation, not to provide a special exemption or a special help to the signs. So that is a misconception. I hope you realize that that is not the case at all. I think it should be clear that this whole situation is one in which I think is unconstitutional, the present law that we have. A number of states have declared legislation such as on the books right now that LB 241 would amend as unconstitutional. In New Mexico they said, and I quote, "The public good the city sought to protect by this ordinance is questionable while the loss to the individual is clear. The failure of the city to pay for the signs or to provide a grandfather clause makes the ordinance unconstitutional", and that is just one court case. You can find numerous court cases which have shown that the right of the police powers of the cities to take somebody's property and not compensate them for it is

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unconstitutional. Our Constitution of the State of Nebraska, our national Constitution provide for compensation for when the state takes your property. I think it should also be important that you realize that this does not just affect sign companies which have supported the bill. It affects all businesses in the state that have signs that are under such sign ordinances as we have discussed. That is to say all businesses in the City of Lincoln that have a sign up fall under the sign ordinance and, thus, those businesses are subject to the same provisions and it is businesses of all sizes, as well as sign companies, that are subject to these provisions. Finally, it should be clear that what we are trying to do is to say that when somebody puts up a sign, when somebody puts up a sign and they do it legally and they do it in support of their business or what have you, and then the city comes and they say, "No, you can't have that sign any more. In seven years you have got to take it down", but they put the sign up legally and they did it in good faith and the city takes away their property, well then they are going to get compensated or they are going to have the right to keep the sign up and I think it is only a just and fair situation that I think needs to be supported by this Legislature and I urge your support for LB 241.

SENATOR KAHLE: Senator Koch, why do you rise?

SENATOR KOCH: Mr. Chairman, a point of personal privilege for the record.

SENATOR KAHLE: State your point.

SENATOR KOCH: I want to correct my good friend, Senator Haberman. That was not Governor Ray of Iowa. It is Governor Ray of Washington who no longer is Governor on the sign issue.

SENATOR KAHLE: Okay, thank you for that great information. The issue is the movement of LB 241 to E & R for engrossment. Those in favor vote aye, those opposed vote no.

CLERK: Senator Kahle voting aye.

SENATOR KAHLE: Please vote. Record.

CLERK: 27 ayes, 10 nays, Mr. President, on the motion to advance the bill.

SENATOR KAHLE: The bill passes. Mr. Clerk, do you have anything to read in?

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LB 241, 129, 436

CLERK: Yes, sir. Mr. President, your committee on Judiciary gives notice of hearing on LB 129 next Monday.

A reference report from the board, and Senator Koch would like to print amendments to LB 436 in the Journal, Mr. President. That is all I have.

SENATOR KAHLE: Senator Clark, would you like to adjourn us until tomorrow morning at nine o'clock?

SENATOR CLARK: Mr. President, I move we adjourn until nine o'clock tomorrow morning, April 7th.

SENATOR KAHLE: All those in favor of that motion signify by saying aye, those opposed same sign. We are adjourned until nine o'clock tomorrow morning, April 7th.

Edited by


Mary A. Turner

April 8, 1981

LR 51
LB 241, 486

PRESIDENT LUEDTKE PRESIDING

PRESIDENT: Prayer by Father Samuel Boman, St. David's Episcopal Church here in Lincoln.

FATHER SAMUEL BOMAN: Prayer offered.

PRESIDENT: Roll call.

CLERK: Mr. President, Senator Vard Johnson would like to be excused until he arrives.

PRESIDENT: Record the presence, Mr. Clerk.

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

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

CLERK: No, sir, there are no corrections to the Journal this morning.

PRESIDENT: The Journal stands correct as published. We will go then to messages, reports and announcements.

CLERK: Mr. President, your committee on Enrollment and Review respectfully reports they have carefully examined LB 486 and recommend that same be placed on Select File with amendments, LB 241 with amendments. (Signed) Senator Kilgarin, Chair. (See pages 1346 and 1347 of the Legislative Journal.)

PRESIDENT: Okay, we will go on then to the first item on the agenda, item #4, resolutions. LR 51, Mr. Clerk.

CLERK: Mr. President, LR 51 is found on page 1328 of the Journal. It is introduced by Senators Kilgarin, Dworak, Wesely, Cullan and others. (Read LR 51.) That is found on page 1328, Mr. President.

PRESIDENT: The Chair recognizes Senator Kilgarin.

SENATOR KILGARIN: Thank you, Mr. President, and members of the Legislature I think we have a real opportunity here to honor our Nebraska Gymnastics Team. Three straight titles three years in a row. We have got some wonderful gymnasts down there, Phil Cahoy, Jim Hartung, lots of them. So I just would really encourage you to vote for this. It is a chance to honor our gymnastic team and they have just done really fantastic.

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PRESIDENT LUEDTKE PRESIDING

PRESIDENT: Prayer by Senator Peterson.

SENATOR H. PETERSON: Prayer offered.

PRESIDENT: Thank you, Senator. Roll call.

CLERK: Mr. President, Senator Higgins would like to be excused until she arrives, Senator Fitzgerald all day, Senator Pirsch for the day, Senators Haberman, Hoagland, Newell, VonMinden and Warner until they arrive.

PRESIDENT: Would everybody register your presence so we can get started on Final Reading. Has everyone registered your presence so we can get started with Final Reading and the Speaker would like to have a productive day so we had better get going. Senator Nichol is ready to go so why don't we all join him? Senator Labeledz, will you press your button so we can get going here. Thank you. Record the presence, Mr. Clerk.

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

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

CLERK: I have no corrections, Mr. President.

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

CLERK: Mr. President, your committee on Enrollment and Review respectfully reports we have carefully examined LB 257 and recommend that same be placed on Select File with amendments; 249 Select File with amendments, (Signed) Senator Kilgarin.

Mr. President, LB 17, 59 and 167 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 17, LB 59 and LB 167.

CLERK: Mr. President, Senator Barrett offers explanation of vote. I have a report of registered lobbyists for the week of April 2 through April 9. (See page 1392 of the Journal.)

Senator Sieck would like to print amendments to LB 241 in the Journal and, Mr. President, new resolution, LR 55 offered by Senator DeCamp. (Read. See pages 1392-1394 of the Journal.) That will be laid over, Mr. President.

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LB 241

SENATOR KILGARIN: I move the E & R amendments to LB 241.

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

CLERK: Mr. President, I now have an amendment from Senator Koch. The amendment would read as follows: (Read Koch amendment found on page 1484, Legislative Journal.) That is offered by Senator Koch.

SPEAKER MARVEL: Senator Koch.

SENATOR KOCH: Thank you, Mr. Speaker, and members of the body, I have had some problems with this piece of legislation since its inception on the floor for debate in terms of how we are going to arrive at a fair price for those who own the signs as opposed to those who are responsible for changing the directions of the city in terms of conforming and nonconforming uses. The Department of Highways presently deal with signs in many different ways and at many different times. I asked the Department of Highways to send to me their schedule on how they deal with signs and how they arrive at a fair value for replacement. I have received that and they have many categories. So what I am simply saying is that in our municipalities when this occurs that we shall use those guidelines as developed by the State Department of Roads in terms of how we arrive at a fair price for both sides. I ask for the adoption of the amendment. It is only a guide. It's not total, that they should use that as a guide in establishing the fair value for both parties.

SPEAKER MARVEL: Senator Haberman. We are on 241.

SENATOR HABERMAN: You say...I move the adoption of the amendments. Okay, did he move the adoption then? Okay. Then I have nothing to say.

SPEAKER MARVEL: Senator Wesely.

SENATOR WESELY: Yes, Mr. Speaker, members of the Legislature, I did sit down with Senator Koch and have looked at the information he received. It parallels what we were trying to do with the bill in the first place. We set up a number of criteria that would have to be used in terms of establishing the reimbursement for these different signs that would be taken down and, in fact, we did use the model of the State Roads Department and the schedule they now use so what Senator Koch is trying to do here I think is a more obvious attempt to try and parallel what we are already doing at the state level. I would like to emphasize that

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LB 241

we are saying that it should be used as a guideline and guideline only. The reason is that if you wanted to use it specifically you need to reference it more formally than this and so I don't think we can really do that but I think what Senator Koch is trying to accomplish is the right thing, that is to say if the city did decide they wanted to take down these signs and did, as a result of that, have to compensate the sign owner, then they could use as a guideline the State Highway Department's schedule that they already have established and that would simplify the process for them, it would pretty well do what the bill says they have to do anyway and so I think it makes it a lot easier for the local governments to carry out the bill. So I think it is a good amendment.

SPEAKER MARVEL: The motion is the adoption of the Koch amendment to LB 241. All in favor of that motion vote aye, opposed vote no. Have you all voted? Record the vote.

CLERK: 26 ayes, 0 nays, Mr. President, on the motion to adopt the Koch amendment.

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

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

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

SENATOR MARSH: Yes, thank you very much. Senator Wesely, I would like to have you explain to me how a sign that has been up for fourteen years in a business district and under current law the city could say that sign is not in a position that we would like to have it, so that they would allow another fourteen years, how much then would be required to pay for a twenty-eight year old sign? Which has been in nonconformity for fourteen years?

SENATOR WESELY: Number one, that sign was not in nonconformity when it was first put up.

SENATOR MARSH: That is right. The first fourteen years it was not but the second fourteen it was.

SENATOR WESELY: Well, after it was already erected and they changed the zoning ordinance on them, then it all of a sudden became nonconforming...

SENATOR MARSH: And fourteen years later, how much would our city be expected to pay to take down that twenty-eight year old sign?

SENATOR WESELY: They would have a depreciation schedule that would look at cost of erecting the sign, it would look at the stability of the sign. The Highway Department now uses, as we talked about before, a schedule where they go out, look at the sign, the square footage of the sign, how solid the sign is, and how stable it is, and see, you know, how much it would cost to replace that sign somewhere else and erect it.

SENATOR MARSH: I have another question I would like to ask. Since we have adopted, and I helped to adopt, Senator Koch's amendment, if the city chooses to wait fourteen years after the ordinance, after this law is passed, that value and cost to the city would be considerably less than if the city did it next year, is that correct?

SENATOR WESELY: It should be, that is true. Yes.

SENATOR MARSH: Thank you very much. One more questions, is there ever a case where the value is so low the city does not have to pay at all or is this costing all of the city taxpayers additional dollars?

SENATOR WESELY: No, if the sign should be in that sort of a state, it might be declared a threat to health and safety and thus, under the bill, the city would have the authority to say that no longer is a safe sign, you have to take it down and wouldn't have to compensate them.

SENATOR MARSH: Thank you very much.

SPEAKER MARVEL: The motion is the advancement of LB 241. A machine vote has been requested. All those in favor of advancing the bill vote aye, opposed vote no. The question is the advancement of the bill to E & R for...Senator Wesely.

SENATOR WESELY: Mr. Speaker, how many are absent?

SPEAKER MARVEL: Six.

SENATOR WESELY: I see that twenty-two people aren't voting. Well, I would hate to have a Call of the House and bring everybody out.

SPEAKER MARVEL: Record.

CLERK: 25 ayes, 4 nays on the motion to advance the bill, Mr. President.

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LB 241, 328

SPEAKER MARVEL: The motion is carried. The bill is advanced. Now before we go to the next item, I wish to introduce from Senator Maresh's District in the North balcony 16 seniors from Deshler High School, Deshler, Nebraska, Mr. Ron Streit, Instructor. Will you raise your hand so we can see where you are? Okay, welcome. The next bill, LB 296, is Senator Cope's bill. He is ill so we will pass over that and start with 328.

CLERK: There are E & R amendments to LB 328.

SPEAKER MARVEL: E & R amendments.

SENATOR KILGARIN: I move the E & R amendments to LB 328.

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

CLERK: Mr. President, Senator Schmit now has an amendment. The amendment is found on page 1398 of the Journal.

SENATOR SCHMIT: Mr. President, the amendment will move the staff of the Jail Standards Board from where they are now physically housed with the Department of Corrections to the Crime Commission. They will be able that way to use the budgeting services and some of the other physical services that are necessary for their operation and the staff will be able to cooperate and perform in a little more efficient manner. There is no objection from anyone that I know of and I believe it is a wise move. I move the adoption of the amendment.

SPEAKER MARVEL: Senator Koch, do you wish to be recognized? Senator Kremer.

SENATOR KREMER: Mr. Chairman, I would like to ask Senator Schmit a brief question. Senator Schmit, your amendment does leave the Jail Standard Board intact, does it not? It does not entirely move the responsibility to the Crime Commission? Leaves the Board intact, is that right?

SENATOR SCHMIT: Yes, only the staff is moved, Senator Kremer. The Jail Standards Board remains intact, the composition remains the same, the geographical distribution remains the same. There is no change in any of that.

SENATOR KREMER: Okay, thank you.

SPEAKER MARVEL: Is there any other discussion? Senator Beutler.

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LB 44, 74, 87, 113, 271, 298,
327, 328, 331, 404, 478, 486,
252, 241, 483

not going to be built for a variety of reasons, environmental costs, eminent domain and many other reasons. You start talking about building a project and immediately you have a whole group of people that rise up in arms to it. We all know that, but yet it is nice to stand up on the floor and make glowing speeches about how we need to store more water. But now when we are talking about an issue where we might be able to save some of that water in the State of Nebraska although it might not be in your area, it might not be in your basin, you might have to drive a couple hundred miles to go fish in it, suddenly you don't want to do that and you want to put language in the statutes that I assure you is going to prohibit it from happening. I suggest that reasonable people that are of conservative nature should agree with me to remove the language in lines 13 and 14.

SPEAKER MARVEL: Okay, the motion is on the second half of the Vickers amendment, is the adoption of that amendment. All those in favor vote aye, opposed vote no. Have you all voted? Senator Vickers, where are you? Oh, there you are. Eight are excused, Senator Vickers.

SENATOR VICKERS: Record the vote. Oh, make it...I want a record vote.

SPEAKER MARVEL: Okay, record.

CLERK: (Read the record vote as found on page 1519 of the Legislative Journal.) 10 ayes, 23 nays, Mr. President, on adoption of the amendment.

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

CLERK: Your Enrolling Clerk has presented to the Governor LB 483.

I have a communication from the Governor addressed to the Clerk. (Read communication regarding the signing of LBs 44, 74, 87, 271 and 483 as found on pages 1520 and 1521 of the Legislative Journal.)

Mr. President, Senator Fowler would like to print amendments to LB 404. (See pages 1521 and 1522 of the Journal.)

Your committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 241 and find the same correctly engrossed; 298, 327, 328, 486, 113, and 331 and 478, all correctly engrossed, Mr. President. (See pages 1524 and 1525 of the Legislative Journal.)

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LB 160, 161, 163, 232, 241,
252, 326, 557-562

PRESIDENT LUEDTKE PRESIDING

PRESIDENT: Prayer this morning by the Reverend Dwayne Lueck from Trinity Lutheran Church, Martinsburg, Nebraska. This is Senator VonMinden's pastor.

REV. LUECK: Prayer offered.

PRESIDENT: Roll call. Has everybody registered your presence? Record the presence, Mr. Clerk.

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

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

CLERK: Mr. President, correction, page 1577, line 7, add Senator Hefner's name after Sieck.

PRESIDENT: Correction so ordered. Any messages, reports or announcements, Mr. Clerk?

CLERK: Mr. President, your committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 252 and recommend that same be placed on Select File with amendments; LB 326 Select File with amendments; LB 232 Select File with amendments; LB 160 Select File; LB 161 Select File; LB 557 Select File; LB 558 Select File; LB 559 Select File with amendments; LB 560 Select File; LB 561 Select File; LB 163 Select File with amendments; LB 562 Select File, all signed by Senator Kilgarin as Chair.

Mr. President, LR 60 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 60. We are ready then for agenda item #4. The Sergeant at Arms will see that all members are at their desks and clear the aisles for Final Reading. We are ready for Final Reading as soon as everyone takes their places. We are about ready for Final Reading. As soon as everyone is in their place we will commence Final Reading. All right, we will commence. The first bill on Final Reading, Mr. Clerk, is LB 241.

CLERK: (Read LB 241 on Final Reading.)

PRESIDENT: (Interrupts reading.) Pardon me, Mr. Clerk, will you stop please. Senator Koch, for what purpose do you arise?

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LB 241, 296, 327

SENATOR KOCH: Mr. President, that gentleman is reading it so distinctly I can hear it for once and I am tired of it already. Tell him to mumble it.

PRESIDENT: The point is well taken, Senator Koch. The Clerk will please pay attention to the request of the Senator.

CLERK: (Continued reading LB 241 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 241 pass. All those in favor vote aye, opposed nay. Record the vote.

CLERK: (Read record vote as found on page 1580 of the Legislative Journal.) 31 ayes, 15 nays, 2 excused and not voting, 1 present and not voting, Mr. President.

PRESIDENT: LB 241 passes. The next bill on Final Reading is LB 298.

CLERK: (Read LB 298 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 298 pass. All those in favor vote aye, opposed nay. Record the vote.

CLERK: (Read record vote as found on page 1581 of the Legislative Journal.) 28 ayes, 17 nays, 3 excused and not voting, 1 present and not voting, Mr. President.

PRESIDENT: LB 298 passes. The next bill on Final Reading is LB 327, Mr. Clerk.

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

PRESIDENT: Read the motion.

CLERK: Mr. President, Senator Schmit moves to return LB 327 to Select File for a specific amendment. The amendment is on page 1574 of the Journal.

PRESIDENT: The Chair recognizes Senator Schmit.

SENATOR SCHMIT: Mr. President and members of the Legislature, I have discussed the amendment with Senator Landis. The amendment provides and allows the subdivision of government that is facing bankruptcy to reorganize similarly to the provisions we provide for an individual. Now it happens very rarely but it

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LR 65
LB 11A, 35, 241, 248,
296A, 298, 328A, 394, 470,
478, 486.

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: Harold M. Onwiler, United Methodist Church, Lincoln, Nebraska. Aldersgate United Methodist Church.

PASTOR HAROLD M. ONWILDER: Prayer offered.

CLERK: Mr. President, Senators Newell and Koch would like to be excused until they arrive. Senator Wiitala as well.

SPEAKER MARVEL: Record your presence. Have you all recorded your presence? Okay, record.

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

SPEAKER MARVEL: Do you have some items in item #3?

CLERK: Yes, Mr. President, if I may, your committee on Enrollment and Review respectfully reports that we have carefully examined and reviewed LB 11A and recommend that same be placed on Select File; 296A, Select File; 328A, Select File; 394, Select File with amendments; 248, Select File and 470, Select File. All signed by Senator Kilgarin as Chair. (See pages 1599 and 1600 of the Legislative Journal.)

Mr. President, new resolution, LR 65, offered by Senator Wesely. (Commenced reading LR 65.) Oh, well then we will hold off on that, Mr. President.

Mr. President, LBs 241, 298, 478 and 486 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 241, 298, 478, 486. Do you have any other items under #3?

CLERK: Mr. President, Senator.....I have nothing further, Mr. President.

SPEAKER MARVEL: We are ready to go on Final Reading. Will all legislators please return to your seats. Will you please return to your seats so we can begin reading about three bills on Final Reading? Okay, the first bill on Final Reading is LB 35.

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

SPEAKER MARVEL: Read the motion.

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LB 13, 184, 241, 242,
284A, 298, 477, 478, 486

Reading? Those in favor vote aye, opposed vote no.
Have you all voted? Have you all voted? Record the vote.

ASSISTANT CLERK: (Read the record vote as found on page 1607 of the Legislative Journal.) The vote is 41 ayes, 11 nays, 2 excused and not voting and 2 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 249.

ASSISTANT CLERK: (Read LB 249 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. LB 249 on Final Reading. Have you all voted? Record the vote.

ASSISTANT CLERK: (Read the record vote as found on page 1608 of the Legislative Journal.) The vote is 33 ayes, 11 nays, 2 excused and not voting, 3 present and not voting, Mr. President.

SPEAKER MARVEL: The bill is declared passed on Final Reading. There has been a request to lay over LB 477. Senator Pirsch, do you have any comments you want to make?

SENATOR PIRSCH: Thank you, Mr. Speaker, I do ask that we lay over 477. I have been informed that it does require an A bill, although it is not over the \$50,000 that I thought was necessary to require an A bill. So I will get that in the works immediately and ask you to indulge the lay-over of this bill at the present time.

SPEAKER MARVEL: Hearing no objection, we will pass over the bill. Okay, the Clerk has some items to read in and then we will go to Select File.

CLERK: Mr. President, Senator Carsten would like to print amendments to LB 284A. (See page 1609 of the Legislative Journal.)

Mr. President, your Enrolling Clerk has presented to the Governor for his approval LB 486, 478, 298 and 241.

Mr. President, Miscellaneous Subjects will have a meeting at twelve noon in Room 2102.

Mr. President, Senator Burrows would like to print amendments to LB 184. (See page 1609 of the Legislative Journal.)

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LB 132, 241, 255, 486, 560

LR 67 as found on pages 1668 and 1669 of the Legislative Journal.)

Mr. President, your committee on Appropriations reports LB 255 to General File with amendments. (See page 1669 of the Legislative Journal.)

I have a message from the Governor addressed to the Clerk. (Read message as found on page 1669 of the Legislative Journal regarding LBs 241, 486 and 132.)

Mr. President, with respect to LB 560, I have no E & R amendments. There are Appropriations Committee amendments, Mr. President, found on page 1640, 1641.

SPEAKER MARVEL: Senator Warner, do you wish to explain the committee amendments?

SENATOR WARNER: Yes. Mr. President, I move adoption of the committee amendments. There are three in number, none of which has any impact on...or any addition of dollars. The first amendment merely changes some program numbers in the state college appropriation to accurately accommodate the state accounting system. The second amendment is an adjustment in the salary policy for the Coordinating Commission...the maximum salary of the Coordinating Commission for Postsecondary Education for one of the positions and the adjustment, which again is no increase in money. It's \$47. And the last amendment is only language clarifying that the University's budget submission next year for '82-'84 would be under the interchange program classification structure with the University of Nebraska at Lincoln. The Institute of Agriculture, the University of Nebraska at Omaha, the Medical Center, and the Systems Office will be submitted as individual budgets which is what we traditionally do anyway, but it spells it out in the bill. I would move adoption of the amendments.

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

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

SPEAKER MARVEL: The motion is carried and the committee amendments are adopted.

CLERK: Mr. President, I now have an amendment from Senator... well, Senator Newell had amendments on 1547 that he would like