

January 16, 1981

LB 95, 247-283

Mr. President, Senator Schmit would like to have a meeting of the Ag Committee underneath the North balcony now if he could, and it is Ag Committee underneath the North balcony with Senator Schmit, immediately if possible.

PRESIDENT: The Legislature will be at ease until Speaker Marvel determines that we will go back.

EASE

PRESIDENT: The Legislature will come to order just for the purpose of the Clerk reading some matters into the record. Mr. Clerk, you may proceed.

CLERK: Mr. President, Senator Clark would like to announce that Senator Goodrich has been selected as vice chairman of the Telecommunications Committee.

Mr. President, new bills. Read LB 247-265 by title as found on pages 205-209 of the Legislative Journal.

Mr. President, your committee on Appropriations gives notice of agency hearings for Monday, January 26, signed by Senator Warner as chairman.

PRESIDENT: The Legislature will continue to stand at ease until approximately 11:15 a.m.

CLERK: Meet in Room 1517 at eleven o'clock? The Executive Board in Room 1517 at eleven o'clock.

PRESIDENT: The Legislature will come back to order. The Clerk has some matters to read in.

CLERK: Mr. President, I have a reference report referring LB 172-205 and rereferring LB 95. (See page 213 of the Legislative Journal.)

Mr. President, I have new bills. (Read by title, LB 266-283 as found on pages 214-218 of the Legislative Journal.) Mr. President, that is all the matters that I have this morning.

PRESIDENT: Any other messages on the desk, Mr. Clerk?

CLERK: No, sir, I have nothing further.

PRESIDENT: In that case the Chair will recognize Speaker Marvel.

SPEAKER MARVEL: I move we adjourn until Monday, January 19, 1981, at 10:00 a.m.

LB 253, 89A, 243, 262,  
291, 295, 330, 333,  
408, 422, 433, 496

February 26, 1981

CLERK: Mr. President, new A bill, LB 89A, offered by Senator Marsh. (Read.)

Senator Kremer would like to give notice of cancellation of public hearing scheduled for LB 408 next Thursday.

Mr. President, your committee on Ag and Environment whose chairman is Senator Schmit reports 333 to General File; 243 to General File with amendments; 253 General File with amendments; 291 General File with amendments, (Signed) Senator Schmit. (See page 676 of the Journal.)

Your committee on Banking whose chairman is Senator DeCamp reports LB 330 to General File with amendments.

Your committee on Public Health whose chairman is Senator Cullan reports 262 indefinitely postponed; 295 indefinitely postponed; 422 indefinitely postponed; 433 indefinitely postponed and 496 indefinitely postponed, (Signed) Senator Cullan. (See page 676 of the Legislative Journal.)

Mr. President, Senator Lamb wants to have a meeting of the Executive Board tomorrow morning at eight o'clock in Room 2102, the Executive Board tomorrow morning at eight o'clock, in 2102.

Senator Koch asks to be excused, Friday, February 27th.

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: Okay, we are ready for item #5, Select File. You will note that there is a designation of one hour and then we will move to item #6 which has to do with reconsideration of LB 143. Okay, Mr. Clerk.

March 23, 1981

LB 40, 157A, 253, 317,  
427A, 472A, 478, 543

SPEAKER MARVEL: The first motion is, shall the House go under Call? All those in favor vote aye, opposed vote no. Record.

CLERK: 16 ayes, 5 nays to go under Call, Mr. President.

SPEAKER MARVEL: The House is under Call. All legislators return to your seats, record your presence, unauthorized personnel please leave the floor, and as soon as everybody is in their seats, we will proceed with the roll call vote.

CLERK: Mr. President, while we are having members check in, Senator Lamb would like to print amendments to 317; Senator Hoagland to 253.

I have a corrected committee statement for LB 543 from the Banking Committee.

An announcement from the Administrative Rules and Regulations committee.

Appropriations Committee gives notice of executive meetings Monday, March 23 at adjournment and for March 24, 25 and 26.

New A bills, LB 157 A, (title read); LB 472A, (title read); and LB 427A, (title read).

Senator Hoagland would also like to print amendments to LB 478, Mr. President.

SPEAKER MARVEL: Senator Burrows, do you want to record your presence? Senator Pirsch, do you want to record your presence? All legislators must be in their seats before we can start the roll call. Call the roll. The motion before the House is the advancement of the bill. Senator Barrett, for what purpose do you arise?

SENATOR BARRETT: Mr. Speaker, I respectfully request the roll call be reversed.

SPEAKER MARVEL: Okay, go ahead, Mr. Clerk.

CLERK: (Roll call taken in reverse commenced.)

SENATOR WIITALA: I would just like to say I have no objections.

SPEAKER MARVEL: Okay, a roll call vote has been requested. Go ahead. Proceed with the roll call.

CLERK: (Roll call taken in reverse. See vote on page 1075,

March 24, 1981

LB 475, 17, 168, 253, 334A, 500

Senator Kahle, Senator Cullan. Okay, call the roll. What is the motion now?

CLERK: Mr. President, the motion is to return LB 475 to Select File for a specific amendment, that amendment being to strike all of Section 9 of the bill. (Read roll call vote as found on page 1102 of the Legislative Journal.) 6 ayes, 32 nays, Mr. President, on the motion to return.

SPEAKER MARVEL: The motion lost. What is the next order of business?

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

SPEAKER MARVEL: All provisions having been complied with, the question is, shall the bill pass. All those in favor vote aye, opposed no. It has the emergency clause. Record the vote.

CLERK: (Read record vote as found on page 1103 of the Legislative Journal.) 36 ayes, 4 nays, 9 excused and not voting, Mr. President.

SPEAKER MARVEL: The motion is carried. The bill is passed on Final Reading. LB 500, the Clerk will read.

ASSISTANT CLERK: (Read LB 500 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. Record the vote.

ASSISTANT CLERK: (Read record vote as found on page 1103 of the Legislative Journal.) The vote is 36 ayes, 2 nays, 2 present and not voting, 9 excused and not voting, Mr. President.

SPEAKER MARVEL: The bill is declared passed on Final Reading. Now we will...Senator Sieck.

CLERK: Mr. President, if I may before, a few items to read in. LB 334A. (Read by title for the first time as found on page 1104 of the Journal.)

I have an Attorney General's opinion addressed to Senator Stoney regarding Section 7 of LB 17.

I have amendments to be printed in the Journal by Senator Carsten and Senator Hoagland, Senator Carsten's to LB 168 and Senator Hoagland's to LB 253.

March 24, 1981

LB 253, 376, 555

this bill would also relate to them. So it isn't just singling out one particular industry, but it just appeals to the only remaining industry that is in the state. I ask your support of the introduction of this bill too because the senators that this bill most relates to, as far as their districts are concerned, are not here with us today, but are in California hopefully in conference trying to decide the issue at that level. I would also like to remind the body that Falstaff Breweries that 50 percent of the volume of beer that they do produce is placed in private label and generic beer containers and so if it isn't clarified effectively, what we have done is shut down the plant. I would also like to state in closing that I realize that there may be some necessity of amending this bill in order to harmonize the parties that have interest in it that the bill doesn't directly relate to at the present moment. Thank you for your consideration and your support.

SPEAKER MARVEL: The motion is to suspend the rules to allow for introduction. All those in favor of the suspension of the rules for that purpose vote aye, opposed vote no. Have you all voted? Record the vote.

CLERK: 31 ayes, 1 nay to suspend the rules and allow for the introduction, Mr. President.

SPEAKER MARVEL: Okay, the motion carries.

CLERK: Mr. President, new bill, LB 555, introduced by Senators Higgins, Fenger, Labedz, Pirsch, Newell, Beyer, Vard Johnson, Witata and Kilgarin. (Read LB 555 by title.)

Mr. President, while we are waiting, Senator DeCamp would like to print amendments to LB 376 in the Legislative Journal. (See pages 1109 and 1110 of the Journal.)

SPEAKER MARVEL: We now turn to item #6, General File. We start with LB 253.

CLERK: Mr. President, LB 253 was a bill introduced by Senator John DeCamp. (Read title.) The bill was first read on January 16 of this year. It was referred to the Agriculture and Environment Committee. The bill was advanced to General File. There are committee amendments pending by the Ag and Environment Committee, Mr. President.

SPEAKER MARVEL: Senator Schmit, do you want to handle the amendments to LB 253?

March 24, 1981

LB 253

SENATOR SCHMIT: Mr. Speaker and members of the Legislature, the bill allows for contributions to the litter control fund from private sources and reinstates the original date for the act. And that's all the amendments do. I move the adoption.

SPEAKER MARVEL: The motion is the adoption of the amendments to 253. Senator Dworak. Okay, the motion is the adoption of the committee amendments. All those in favor of the motion vote aye, opposed vote no. Okay, record the vote.

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

SPEAKER MARVEL: The committee amendments are adopted. Senator DeCamp, do you wish to explain the bill?

SENATOR DeCAMP: Not really, but I will. Mr. President and members of the Legislature, the bill is similar to 965 of last year. It simply imposes a retail fee of \$150 for each \$1 million of gross proceeds of sales on fast foods and beverages and groceries, establishes a floor of \$100,000 at the manufacturing, wholesale and retail level before the fee is imposed. Hence, of course, we have a minimum fee, would be \$15, and as a result of these changes we hope to raise about an additional 210 to 220 thousand dollars fiscal year 1981-'82, maybe another 240...250 thousand dollars new money, fiscal year '82-'83. As you probably realize as promised under our original litter bill, we are raising 400 to 500 thousand dollars right on projection, and the expenses, by the way, for imposing this additional retail fee by the Department of Revenue are estimated at \$10,000. So you are not talking about an additional huge amount of money to raise this money. It is going to be very minimal, pretty much one-time, and we would anticipate then once this legislation is put into place that we would have between six and seven hundred thousand instead of four to five hundred thousand to attack the litter problem and continue our work that is going so well now. It also clarifies any question in the legislation about agricultural products within the act, makes clear they are eliminated. You may remember there was a slight question when eight million farmers got litter forms as to whether they were involved or not and we are simply clearing that up so that doesn't happen again. I move advancement of the bill.

SPEAKER MARVEL: Senator Dworak.

March 24, 1981

LB 253

SENATOR DWORAK: I have an amendment on the desk which I will not ask the Clerk to read because it is a four or five page amendment. I want to compliment Senator DeCamp for his valid efforts in fighting litter. This bill now has been with us for the past two or three years. I am not suggesting that maybe this bill is one of the reasons that Falstaff is leaving the state, but that might be a possibility. But I want to say that I have noticed in driving back and forth from Columbus to Lincoln that with the successful passage and implementation of this bill, I have seen less bed springs in the ditch, less stereo tapes, less cardboard boxes, and quite a few...fewer overshoes and tennis shoes, trousers and other things that was really a concern in this body when we talked about the bottle and can bill. Unfortunately, however, I haven't seen less cans and bottles. They seem to proliferate. They seem to be a blight on our landscape like they have in the past and continue to do so. Certainly newspaper articles recently have indicated that Iowa has been very satisfied with their bottle bill, that the amount of litter in the ditches in the form of cans and bottles has diminished in Iowa with the bottle bill. So this amendment that is before us right now merely goes arm in arm with the present war on litter. It is commonly referred to as the bottle bill. I think it would be a good companion to the job that Senator DeCamp's initial legislation has so effectively taken out after, and I think it is worthy of consideration. It seems like right now we have a car going down the road with just the front two wheels and this gives them an opportunity to put the back two wheels on where we have a full chassis, so to speak, a full united attack against litter in all forms. So I would urge the adoption of this amendment which....

SENATOR CLARK PRESIDING

SENATOR CLARK: Senator Dworak, your amendment is not up.

SENATOR DWORAK: It was on the desk.

SENATOR CLARK: No, there are two ahead of yours. Senator Hoagland's amendments are ahead of yours.

SENATOR DWORAK: Well, there was no....we're not debating any amendment. Before we debate, wouldn't we take an amendment?

SENATOR CLARK: We will take Hoagland's amendments because they were filed first.

SENATOR DWORAK: Very good. Then what I have been....

March 24, 1981

LB 253

in order to debate the bill with an amendment on the desk?

SENATOR CLARK: It will be when he gets his amendment up. We will take his amendment right now.

CLERK: Mr. President, Senator Hoagland moves to amend the bill. (Read the Hoagland amendment as found on page 1110 of the Legislative Journal.)

SENATOR HOAGLAND: Mr. President....

SENATOR CLARK: Senator Hoagland.

SENATOR HOAGLAND: Thank you, Mr. President. This amendment is very simple. I would urge you all to take a look at this bill. In the initial...the initial section of the bill, on page 4, goes into the existing criminal provisions and weakens them. It goes into the existing criminal provisions for litter and changes them from a Class IV misdemeanor to a Class V misdemeanor. Now I don't really see any need for that. I think if we are sincerely interested in doing something about the litter problem, there is really no need to weaken the little criminal provision we have already got. So unless Senator DeCamp has a good reason for doing that, I would ask that this amendment be adopted.

SENATOR CLARK: Senator DeCamp.

SENATOR DeCAMP: Mr. President and members of the Legislature, I don't personally have any strong objections to this particular amendment. I would point out though to answer Senator Hoagland's implied question that it was the Department of Environmental Control, or whatever it is currently called, that came in and suggested you can make the penalties too harsh and unenforceable and all that. I put the original penalty I think what he is offering in the original bill and I have no objections and I hope we could adopt this amendment and then maybe he could drop the next one that he is attempting.

SENATOR CLARK: Senator Hoagland.

SENATOR HOAGLAND: The next amendment I have is a lot more important, Mr. President. I would be happy to make the reverse arrangement with Senator DeCamp.

SENATOR CLARK: Senator Higgins.

SENATOR HIGGINS: Mr. President, would Senator Hoagland



March 24, 1981

LB 253

answer a question for me?

SENATOR HOAGLAND: Happy to, Senator Higgins.

SENATOR HIGGINS: You know I am not an attorney, what are these Class IIIs and IVs penalties that you are talking about?

SENATOR HOAGLAND: Well, right now, Senator Higgins, littering carries a penalty of \$100 to \$500. It's a Class IV misdemeanor. Senator DeCamp would change that to a Class V misdemeanor which carries a maximum fine of \$100 and no minimum fine.

SENATOR HIGGINS: What would happen if I was given a \$500 fine and couldn't pay it?

SENATOR HOAGLAND: Well, I can't tell you that, Senator Higgins. I think that if you were a first offender, the first time you littered it is very unlikely that the court would give you the \$500 fine. But that would be in the discretion of the court. I think one thing that would happen is you would be very unlikely to litter again.

SENATOR HIGGINS: Well, if I got a \$100 fine, do you think I would be likely to litter again?

SENATOR HOAGLAND: Well, you know, it's up to you, Senator Higgins. You can vote on this any way you want. It's just that it seems to me that if this is an honest effort to deal with a litter problem, it doesn't make sense to begin by softening the penalties right out of the chute.

SENATOR HIGGINS: Well, I am just saying that if you go to \$500 and I can't pay it, you can't make me pay it and you can't put me in jail for not paying it, so for all intents and purposes, you know, if I am a poor person and you can't send me to jail for not having the money to pay a fine, I think the penalty thing....a hundred dollars is reasonable to me. Five hundred, a lot of people won't have, and they are going to get off scot-free because as you know the Supreme Court says you can't put somebody in prison just because they can't pay a fine. It's called debtor's prison.

SENATOR HOAGLAND: Well, Senator Higgins, all I can respond to is that....to that is to say this, a Class IV misdemeanor carries a minimum of \$100 to a maximum of \$500, and it is up to the judge depending on the severity of the offense. Now, again, if we are serious about doing

something about litter, I don't see that it makes sense to start right out by putting the opposite message out by changing the sanctions in this particular bill.

SENATOR HIGGINS: In other words, you wouldn't want to lower the penalty?

SENATOR HOAGLAND: My amendment prevents the lowering of the penalty, that's right.

SENATOR HIGGINS: What did you want to lower it to, Senator? Or you just want to keep it at a maximum of \$500?

SENATOR HOAGLAND: Well, right now the law is that littering is a Class IV misdemeanor which carries \$100 to \$500 in fine, depending on what the judge feels is appropriate. Senator DeCamp wants to change it to a Class V misdemeanor which is zero to \$100, and my amendment would strike that proposed change by Senator DeCamp.

SENATOR HIGGINS: My only comment would be, being able to go from \$100 to \$500 is a pretty stiff fine for littering. I think it would be a hardship on not just poor people but even middle income people if they got a hanging judge, and said, boy, I'm going to teach you a lesson, 300 bucks because you threw a cigarette out the window or a hamburger wrapper. Thank you, Senator Hoagland.

SENATOR CLARK: Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I think the bill as Senator DeCamp had it drafted, at least on page 4, line 2, is all right. We have...the members of the Judiciary Committee, have seen case after case come before the committee where people who have specific interests are trying to heap penalty on top of penalty and a harshness develops which prevents prosecutors from even filing charges because the penalty is so out of line with the offense. So I think Senator Hoagland's amendment ought to be defeated. He has not offered any attempt to demonstrate the need for a stiff penalty. What I think the intent of the law is is to cut down on the littering. If you have a penalty that is never brought to bear, you have a non-effective law, if the only thing about the law that brings any compliance is the penalty. So I think a Class IV misdemeanor is too steep, Class V probably is. And I would like to ask Senator Hoagland a question or

March 24, 1981

LB 253

two before my time is up, if I may. Senator Hoagland, how many prosecutions for littering are you aware of that have occurred since the implementation of the present litter law? Senator Haberman, let him talk just for a second and then I will be through with him. How many prosecutions are you aware of?

SENATOR HOAGLAND: Senator Chambers, I don't know how many there have been in the last calendar year in the State of Nebraska. I don't have that statistic.

SENATOR CHAMBERS: Could you say without fear of contradiction that there has been even one?

SENATOR HOAGLAND: I just don't know, Senator Chambers. Now Senator DeCamp might have that information. He is the sponsor of this bill.

SENATOR CHAMBERS: But you are the one who wants to amend it and make the penalty steeper. If we have....

SENATOR HOAGLAND: No, I don't...I don't want to make it steeper, I want to leave it where it is, Senator Chambers.

SENATOR CHAMBERS: But the bill as it is before us now, you want to stiffen the penalty over the bill as it is drafted before us now.

SENATOR HOAGLAND: I just want to leave current law alone. I don't see any need in changing that. I don't think Senator DeCamp has shown a need to change the current law.

SENATOR CHAMBERS: But here is what I am trying to find out. Is there evidence....Senator Hoagland, you are an attorney, right? Is there evidence existing to justify what you are trying to do?

SENATOR HOAGLAND: The evidence...the burden for change is on Senator DeCamp, Senator Chambers. He is the one that is proposing we make a change in the law. I am saying, let's leave the law the way it is. Now, I don't have the burden to show anything. He is the one who has got to come in and show why we should lessen the penalties, and I think you should address your questions to him.

SENATOR CHAMBERS: Thank you, Senator Peter Judge Jeffries Hoagland. Judge Jeffries was a famous English hanging Judge who gave people the opportunity to either hang or go as a Colonist to America and many of them

chose to hang. But nevertheless I think what Senator DeCamp is offering is valid and it is reasonable. If you have a punishment that is never brought to bear, you have no punishment. And I don't think really arresting and prosecuting people for litter is going to deal with the problem anyway. Criminal sanctions will not deal with litter. You are going to have to find a bill that takes away the incentive for littering, and I don't know whether Senator Dworak has such an amendment or not. But in the meantime, stumbling and fumbling along the best we can, I think we will stumble in the right direction if we defeat Senator Hoagland's amendment.

SENATOR CLARK: The question before the House is the adoption of the Hoagland amendment. All those in favor vote aye, opposed vote no. Have you all voted? Have you all voted? Record the vote.

CLERK: 11 ayes, 13 nays on adoption of the first Hoagland amendment, Mr. President.

SENATOR CLARK: The motion fails. The amendment is not adopted. The next amendment by Senator Hoagland.

CLERK: Mr. President, the second Hoagland amendment is found on page 1079 of the Journal.

SENATOR CLARK: Senator Hoagland.

SENATOR HOAGLAND: Mr. President and colleagues, let me explain what this particular amendment does. This changes the definition of persons who are subject to this act. Currently if a manufacturer or a wholesaler or a retailer gross a \$100,000 or less they are exempt from the operation of this act. Now if you take a look at the fiscal note, the fiscal analyst has indicated that that means that an organization employs approximately 1.5 persons per year or less, if they have gross sales of \$100,000 or less. Now what this amendment proposes to do is exempt any retailer, wholesaler or manufacturer that has fewer than 10 employees. Now let me explain why I think this is important. Now what we are having here, you know, is the annual replay of Senator DeCamp's "barking dog" bill. It's been before us every year now for about three years and every year he comes in with a bill to try and make it work a little bit better and every year there seem to be a lot of problems with the bill, at least in my opinion. Now, we all know why this bill came about two years ago. On the November 1978 ballot we had the bottle bill, and that

was put on the ballot pursuant to an initiative petition, and it was rejected by the voters in their wisdom in that election about two and a half years ago. Now three months prior to the vote in November of '78 why the public opinion poll showed the bottle bill leading about two to one, then the industry spent over \$200,000, and Senator Dworak can tell you about that because he was involved in that, in television advertising and other kinds of advertising to defeat it, and they were successful and it was defeated by a fairly significant margin. Now you will all remember that during that advertising campaign the industry used the slogan "Right Problem, Wrong Solution". And what we are seeing with this bill here now is the right solution. This is the proposal that the industry came in with after the November election, and they came with a so-called right solution and that is this bill that we have here now that we are amending. Now it was passed two years ago and it was passed amid a lot of howls and barks because there were few people that really felt that it would do any good. I am sure those of you that were here then remember that. But because the large can manufacturers and the large grocery chains wanted it in order to head off another attempt at the bottle bill, why it did pass. Now let me ask you this question. Who do you think this bill really serves? I think if you read the bill and read the underlying legislation carefully, why you can see that it doesn't really serve the public or the people of this state. It was written by the large can manufacturers and the grocery chain retailers, and it is really intended to serve those people who want to be absolutely sure we don't have a bottle bill in this state ever. And my feeling is that we ought to pass this exemption so that we will avoid inflicting the bad provisions of this whole act on other kinds of people, particularly on the small mom and pop grocery stores and drug stores around the state. Now, let me explain what this bill does, and I really hope you will listen to this because I think if you haven't read the bill carefully, you are not going to really understand its provisions. Now, it imposes a new kind of governmental regulation and it imposes a new kind of tax, and it imposes that governmental regulation and that new tax on a whole category of manufacturers, wholesalers and retailers. Now, let me read to you the definition of retailers that are covered by this bill, and it is found on page 12 in Section 18. "Any retailer who grosses \$100,000 or less a year", and as I indicated earlier that means 1.5 fulltime employees or fewer, "who sells any products falling in the following categories

is covered by this thing", and by covered by this thing I mean they have to get a permit in order to operate and they have got to pay the tax in order to operate. Now here are the retailers that are covered by this. Anybody who sells any food, beverages, liquor, wine, and beer, except things like that sold for consumption on the premises or groceries. Now that is all contained in Section 18. Now, if you happen to sell that sort of stuff, why then you are automatically brought within the provisions of this act if you have more than one and a half fulltime employees per year. Now, note who that would cover, who would be brought into that act. Well, in Senator Lowell Johnson's District there is a small, little Dairy Queen out by Valley, and that little Dairy Queen a lot of us use from Omaha. It has three or four employees. They would be brought into that act, even though as far as I am able to tell they keep their premises fairly neat out there. In my legislative district, the corner drugstore that sells prescriptions, that sells candy bars and sells vitamin pills would be brought into this act. Every little drug store in the state, whether they have one, whether they have two employees, three employees or more, if they sell groceries or food items like candy bars or vitamins, are going to be pulled into this thing. All right now how about all the corner mom and pop grocery stores that are all around Omaha, and I assume other cities around the state? There are small, little family grocery establishments all around the state that are going to be drawn into this act because the can manufacturers and the bottle manufacturers want something in order to show people we don't need the bottle bill. Now what I propose to do with this amendment is to exempt those people, because remember what this bill does, it requires that everyone of those people have a permit before they operate, a permit before they operate issued by the state. And, secondly, in order to be able to operate, they pay the taxes due. Now, if we are really worried about a lot of shops like that, littering around their premises, why why don't we pass a criminal provision saying they have got to police their premises and they can't litter. But if instead we require a permit and then require to pay the tax, their attitude is they are off the hook, and they just might not do it, you know, anyway. Now, finally, let me point out the extent to which I don't think this whole statutory scheme really addresses the litter problem in any meaningful way. I mean this reminds me very much of the vehicle inspection system which we will have an opportunity to vote on later this session. It is a system that pretends to deal with the problem and really doesn't. Now, there

is a section in the bill that sets out how this money that Senator DeCamp referred to is to be spent, and if you refer to pages 16 and 17 of the bill you can get an idea as to how this centralized state fund is to be spent in order to clean up litter around the state. Now look on page 16. It says we are going to spend this money to encourage programs of public education aimed at creating an ethic conducive to the reduction of litter. Now when I was in grade school, you know, more years ago than I can remember, we had plenty of education about litter and we had plenty of stuff to raise an ethic conducive to the reduction of litter. Now how else is the money going to be spent? It is going to be spent for the organization and operation of cleanup drives conducted by local agencies. It is going to be spent for....

SENATOR CLARK: You have one minute left, Senator Hoagland.

SENATOR HOAGLAND: Thank you, Mr. President. It is going to be spent for the cleanup of public highways. It is going to be spent to fund Boy Scout troops to go out and police the roads. Now, I would submit there are not enough Boy Scouts in the whole s'tate...in the whole United States to police the rural roads of Nebraska. The original bill that is on the books now requires that the fast food places have trash cans. Well, they already have trash cans. In other words, I don't think there is really any need for this bill at all. But if we are going to have the bill, let's at least exempt the small people who didn't ask for it in the first place and who as far as I am able to tell are doing a decent job in this area anyway. Thank you.

SENATOR CLARK: Senator DeCamp.

SENATOR DeCAMP: Mr. President, since Senator Hoagland has chosen to talk about the history of the legislation a little bit, I think I would like to correct history. The issue has been around the Legislature for at least five or six years now and there was a contest between two proposals. One of those proposals was the bottle bill, and one of those proposals was an alternate scheme tested in Washington State particularly, which was called the litter bill concept. The bottle bill, of course, was that you deposit your money and theoretically people don't throw away their cans, or if they do, somebody gathers them up because they can get money from it. It dealt with only bottles and cans and those that had a deposit. The litter bill concept of Washington dealt with all the litter, had educational programs

involved, had funds and grants to private organizations to get involved in litter cleanup. That was the approach Nebraska chose to adopt after the issue had been put on the ballot and after the people of the State of Nebraska had rejected the bottle bill. We passed our litter bill and like any new legislation it had a few growing pains. One of those growing pains was trying to economically identify all the people that would be covered by the tax, and you may remember that one of the problems there was somebody who only does maybe five or ten or fifteen or twenty thousand dollars worth of business, was spending some time and maybe as much paying the ten or fifteen dollars or five dollars litter tax or litter fee as the fee was worth. Therefore, in this corrective legislation or if you want to call it, as Senator Wesely says, a "cleanup bill", no pun intended, we are making a floor of \$100,000. Very simple. How does the rest of the tax work? \$150 tax on each million dollars of products. Senator Hoagland's amendment would basically destroy the bill. Seventy-six percent of all the businesses including ninety percent, Senator Hoagland, my good friend, ninety percent of all the beer retailers, distributors, the beer distributors would be exempt if they have less than ten employees. So what you are doing is you are just wiping out the legislation making it so it can't generate any revenue, making it so that those responsible for litter aren't covered any more. Why don't you do it directly and put a kill motion or put a repeal motion on the existing litter law? That's the honest way. And I'll tell you why I say that's the honest way. For those of you who were here in the waning days of the last legislative session, you may remember that we had LB 965, an almost identical bill that was going to correct these things, and would have now raised that additional several hundred thousand dollars for the state coffers, that bill because of an amendment put on by my good friend, Senator Hoagland, which he said did a particular thing, his amendment which I, poor dumb Johnny, trusted and believed that nobody would ever fib to me, that amendment instead of increasing the tax one hundred percent on one group which we could have lived with and cutting it in half on the other, in fact, multiplied it by one thousand percent on the wrong group, and, therefore, on the last day of the Legislature I was forced to kill my own bill because of that amendment. Now I realize that amendment was probably due to a combination of errors. It was not intentional and so on and so forth. But the simple fact is we are already one year behind and that little incident cost this state and our litter funds and our litter cleanup funds hundreds of thousands of



March 24, 1981

LB 253

dollars. I would ask Senator Hoagland respectfully not to repeat this incident, not to push forward with an amendment that guts the bill or makes it inoperable and unworkable. It just simply destroys it. I don't know how to say it other than that. I repeat, seventy-six percent of the various businesses covered and everything I have been able to check out, have less than the ten employees.

SENATOR CLARK: You have got 30 seconds.

SENATOR DeCAMP: As a practical matter, however, the amendment he offers has other technical difficulties including additional bureaucracy, calculations of part-time and full-time workers, ways of getting around it with family members. It just completely destroys the whole mechanism and system of the bill. I urge you to reject it.

SENATOR CLARK: Senator Higgins.

SENATOR HIGGINS: Question.

SENATOR CLARK: There is no question needed. There is no one else up.

SENATOR HIGGINS: Is there another amendment?

SENATOR CLARK: No.

SENATOR HIGGINS: Aren't we speaking on....

SENATOR CLARK: We're on an amendment. There is no one else to speak on it. We are going to have Senator Hoagland close on his amendment now.

SENATOR HOAGLAND: Mr. President and colleagues, let me say to Senator DeCamp that if he would like to compromise on this amendment and bring it down to five employees, I would have no problem with that. But let me tell you what my concern about this thing is. You know, this is an era of "let's get the government off our backs". Now we are supposed to have a conservative Legislature here and I read in the newspaper yesterday that all we do is rubber stamp bills through and there is not really enough opposition...well...not enough debate on the issues. Now let me tell you as far as I am concerned this is a perfect opportunity to get in and nip a new regulatory and taxation scheme in the bud unless it is truly justified. Now we have been hearing a lot at the national

level during these national campaigns about too much government, too much taxes, too much regulation. Now here is a chance...we have it again at the very beginning. This is a new tax and a new regulation that is going to be imposed on a whole lot of new people beginning with the effective date of this particular act. Now, I pulled ten employees out of the air because I thought that was fair. If that, in fact, does away with 76 percent of the revenue of this bill, if Senator DeCamp wants to compromise on five employees or seven employees, that is fine. But my point is this, this bill is all fluff, this tax is unnecessary, why go around imposing a taxation requirement and a permit requirement on hundreds of small grocery stores and small drug stores and small country drive-ins around this state if it is not going to do any good...if all it's going to do is pay for Boy Scouts to pick up beer cans out of ditches from time to time and when we know it is not going to accomplish anything. We know that it came in here at the request of the large industry. Well let's let the large industry pay for it if they want it. Let's follow David Stockman's advice. We have been hearing him on television every day now for the last couple of weeks, only instead of cutting government budget, let's stop it before it gets started. I mean, if we have conservatives in the Legislature who are truly against governmental regulation, this is your time, this is your chance to stand up and speak. I mean, here is your opportunity. Senator DeCamp is asking for a new regulatory scheme, a new permit scheme, a new taxation scheme that is going to reach into every single legislative district in this state. It is going to pick up every grocery store, every drug store, every liquor store that has more than one and a half employees a year. For what reason? So we can finance volunteer organizations to walk the rural roads and pick up litter. Now who is kidding who? We know the litter is not going to get...we know it's not going to do anything to help the litter problem, yet you are imposing governmental regulation on hundreds and hundreds of small businesses around the state. And here is me, a Democrat, urban from Omaha, Nebraska who Senator Schmit constantly is needling because I am a Democrat urban from Omaha, Nebraska, standing up and saying, look, let's get government regulation off our backs. Now I call on you Republican conservatives to stand up and be counted, and if you want to compromise at five or at seven or even at three, it's fine with me. But to come in here with a bill like this without having read it, without understanding what you are doing, I mean, all I want to say is, when you go home to your legislative districts, you

March 24, 1981

LB 253

can answer to your drug stores and your grocery stores and your liquor stores. I am not going to answer to them because I am going to vote against this thing all the way across the board, unless we can do something to bring it into shape. Thank you.

SENATOR CLARK: I would like to introduce to you legislators Mr. Clark Dierks under the south balcony. He is the State Treasurer of Arizona. He is the President of the Western State Treasurers. Welcome to the Legislature, and I hope you teach our State Treasurer something over there. I got the mike now, Frank, that's all right. The question before the House is the adoption of the Hoagland amendment. All those in favor vote aye, opposed no.

CLERK: Senator Clark voting aye.

SENATOR CLARK: Have you all voted? All but 30 of you. Voting on the Hoagland amendment. 253. Once more, have you all voted? Record the vote. Senator Hoagland.

SENATOR HOAGLAND: I would like a Call of the House and a roll call vote, please, Mr. President.

SENATOR CLARK: Call of the House has been requested. All those in favor of a Call of the House vote aye. Opposed vote nay. Have you all voted?

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: Have you all voted? Record.

CLERK: 21 ayes, 1 nay, Mr. President, to go under Call.

SPEAKER MARVEL: The Legislature is under Call. Record your presence. Have you all recorded your presence? Senator Warner, would you record your presence, please? Senator Lamb, would you record your presence? Senator Hefner. Senator Marsh, Senator Higgins, Senator Haberman, Senator Pirsch, Senator Vickers, all record your presence, please. Senator Hoagland, for what purpose did you arise?

SENATOR HOAGLAND: There ~~were~~ so many people out of the hall, Mr. Speaker, I wonder if either the Clerk or myself could explain in a sentence what the amendment does. And I would be happy to do that, or if that is not kosher, we could ask Patrick to do it.

SPEAKER MARVEL: I think one of the first things we need

March 24, 1981

LB 253

to do is get as many back in as we can. The Clerk will read the amendment so we can proceed.

CLERK: Mr. President, the amendment is found on page 1079 of the Journal, and it reads as follows: (Read the Hoagland amendment.) That amendment is found on page 1079, Mr. President.

SPEAKER MARVEL: Everybody is supposed to be in their seats. Senator Pirsch, Senator Fitzgerald, Senator Higgins, Senator Marsh, Senator Beyer. Will everybody please record your presence so we can proceed? We can't proceed until everybody is in their chairs. Once more, what are we recording?

CLERK: Mr. President, we are voting on the Hoagland amendment found on page 1079 of the Journal.

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

CLERK: (Read the roll call vote as found on page 1111 of the Legislative Journal.) 15 ayes, 24 nays, Mr. President, on the motion to adopt.

SPEAKER MARVEL: The motion lost. The Call is raised.

CLERK: Mr. President, Senator Dworak now moves to amend the bill.

SPEAKER MARVEL: The Chair recognizes Senator Dworak.

SENATOR DWORAK: Mr. Speaker and colleagues, I gave my pitch a little premature. What I said then still goes. I think this would be a good companion measure to the litter tax. I am opposed to the solution we have right now but I am not trying to repeal that solution. But it just seems to me that it has been a typical bureaucratic approach to a problem of taxation and throwing a lot of money at it and hoping it will go away. It seems to me kind of ironic that Senator DeCamp wants to use this money to provide an incentive for Boy Scouts to pay Boy Scouts to go out and hike the ditches to pick up cans and bottles, while if we just simply had a value of five cents on those cans and bottles, we wouldn't have to pay them. They would be out there on their own hiking the ditches, picking up the cans and bottles until the ditches were clean and then they wouldn't be out there any more. It just seems to me a better solution and the people that would have paid the five cents would have been the people that would have thrown the can and

March 24, 1981

LB 253

bottle in the ditch in the first place. We would not have had to impose a tax. We would not have had to confiscate income from people who were unwilling to be confiscated. So let's vote this up or down.

SPEAKER MARVEL: The Chair recognizes Senator DeCamp.

SENATOR DeCAMP: Mr. President, I would first raise a question and I don't like to do it but I think it is proper. Is this considered germane? I mean other than Senator Sam saying, sure it is. You know, what you are talking about is a completely different bill that has never had a hearing, a complete different concept. It doesn't matter to me either way, but then what the heck, I thought I'd raise it.

SPEAKER MARVEL: A cursory look at the amendment would indicate that it is on the borderline and it is barely germane. Now if you want a more thorough search, why we will have....we can have that by tomorrow.

SENATOR DeCAMP: No, no. Let him....whatever. Fine, let's fight it out...whatever.

SPEAKER MARVEL: Would you like to talk now?

SENATOR DeCAMP: Yes.

SPEAKER MARVEL: The Chair recognizes Senator DeCamp.

SENATOR DeCAMP: DeCamp.

SPEAKER MARVEL: What did you say your name was?

SENATOR DeCAMP: Mr. President and members of the Legislature, I respectfully oppose the amendment. This noble concept which is the bottle bill was rejected by the people of Nebraska even though people like Senator Schmit and I diligently worked to get it passed four or five years ago. Unfortunately, on a difficult day our good friend, Senator Bereuter, was absent and that bill got killed by one vote and he was one of our sponsors. And since then we have simply been unable to get anything done on the bottle bill. It was put on the ballot, as you know, and the people rejected it. We adopted this alternate concept, the litter bill. Rather than try to put a bottle bill in place at this time, I would suggest that we go along...we're trying to make ours the best litter bill in the United States. California is using this approach. Washington, several other states, are

now adopting it. It is taking a little longer to see its effects as was predicted than the bottle bill, by the same token as was also predicted the bottle bill in states like Iowa where you saw an immediate overnight cleanup of some bottles and cans, they are seeing now that cost them \$30 million dollars last year. So I urge you to reject this proposal at this time. Possibly in the next year or two years with the development of more recyclable materials we will find it is not even necessary because free enterprise and of their own volition a lot of people are getting into the litter cleanup business because it is becoming profitable, and it may not even be necessary to do this other thing. At this time I urge you to reject the amendment. Senator Wesely and I have discussed the alternate amendment that would accomplish every single thing that Senator Hoagland wanted, and I think he will be offering that next. As long as we deal with dollars rather than number of employees, we can be a little bit flexible and try to make it more workable or exempt more of the Ma and Pas as Senator Hoagland says. But at this time I think we ought to go ahead with the original bill and maybe make some changes as Senator Wesely is going to suggest and then pass it onto Final Reading and see if we can't really make this start functioning even better this summer than it has in the past, and it has worked very good in the past.

SPEAKER MARVEL: Senator Fowler.

SENATOR FOWLER: Mr. Chairman, not to come between Senator Hoagland and Senator Wesely in their discussion, but I did want to rise in support of Senator Dworak's concept. I think that it's something that can be done in Nebraska and I really don't think it would harm the effort that Senator DeCamp is talking about. If he wants to have the best in the nation, and I always know that he is interested in doing that and establishing precedence and doing that which is unique, there is probably nothing more unique than the suggestion that Senator Dworak has and that is a tandem approach...the tax that Senator DeCamp has imposed and the extra government that Senator DeCamp has called for in the area of litter pick-up, the advertisements that we have on television that are so wonderful to encourage us not to litter, and that is one part of the tandem approach. The other would be a direct financial incentive, as Senator Dworak indicates, for picking up cans and bottles along the roadside. It is being done just across the river in Iowa. It is being done in six other states. So I think that if we really want to have the best, as Senator DeCamp is telling us

to aspire to, we ought to accept Senator Dworak's amendment. It cannot harm or detract from the effort that Senator DeCamp is talking about. It in no way interferes with the Department of Environmental Control's effort. In fact, it makes it that much easier for their advertising, for their little litter bags, for their efforts to work by providing a tangible financial benefit for people to pick up cans and bottles. So I think Senator Dworak has an excellent suggestion. I am really surprised that Senator DeCamp couldn't see the vision of Senator Dworak in coupling these two things together.

SPEAKER MARVEL: Senator Cullan.

SENATOR CULLAN: Mr. President and members of the Legislature, I rise to support the Dworak amendment. I guess I am a little surprised that Senator DeCamp even raised the issue of germaneness, I mean Senator DeCamp who a few weeks ago with his Banking Committee set out an energy bill with a little 20-page uranium amendment, I mean, raises the issue of germaneness, that takes guts. Senator DeCamp, we applaud you for that. I do think that this is a good concept and a good bill and I'm still convinced that we would have had a workable bottle bill in the State of Nebraska if there hadn't been so much money poured into campaign a few years ago to try and convince people that this deposit was actually a tax, and, of course, it isn't a tax. It is simply a deposit and one that would help very much in cleaning up the State of Nebraska. I guess when you get a chance to get out in the tractor and drive along Highway 2 in Western Nebraska and you see all those cans and bottles thrown in the road ditches, it bothers you a little bit. And as a farmer I think that this is a bill that would be of great assistance to the State of Nebraska in getting people out to pick those cans and bottles up, and I think that we should commend Senator Dworak for bringing this good amendment to us. We should support it, and hopefully we can have an effective bottle bill in place in the State of Nebraska.

SPEAKER MARVEL: Senator Dworak, do you want to close on your amendment?

SENATOR DWORAK: Mr. President and colleagues, I liked Senator DeCamp's first speech better when he said, I don't care, it doesn't make any difference one way or the other. I kind of thought maybe we were getting him to come over to our side, and then apparently he got a different signal from out in the rotunda and came in and gave a pretty fiery speech in opposition of this

amendment. He brought up the election. I just might name one other statistic in that election. I believe about....well, anyway hundreds of thousands of dollars were spent on one side and I can tell you specifically about \$32,000 was spent on the other, and consequently I don't believe the public had a fair vision of the issue. I commend Senator DeCamp and Senator Schmit for their past efforts in this measure that we have before us right now, and I would hope that they would be tenacious to stick with the vision they had four or five years ago and continue to pursue this matter. I also might mention that the war chest of the container people is swelling and if we put this on and just let the public get a little light on it, I am sure we will all be visited frequently in the next several weeks by interest on this and you might find it very entertaining and very enlightening. So I don't think it would hurt anything to put it on here on General File and if there are some technical problems with it, we can clean it up on Select File. Apparently the Speaker thought that there could be a couple small problems and I have a lot of confidence in Emery Burnett and I am sure that he will get it straightened out and then we can discuss it additionally on Select File. So let's give it one vote...one for the gipper this time and send this pup along its way.

SPEAKER MARVEL: All those in favor of the Dworak amendment vote aye, opposed vote no. Have you all voted? Yes, sir.

SENATOR DWORAK: We don't even have a quorum voting. I don't know how....irregardless of this amendment, we have other important business this afternoon, so I think we ought to have a Call of the House and get people in and back to work.

SPEAKER MARVEL: The question before the House is, shall the House go under Call? All those in favor of placing the House under Call vote aye, opposed vote no. Record.

CLERK: 16 ayes, 6 nays, Mr. President.

SPEAKER MARVEL: The House is under Call. All legislators please take your seats and record your presence. We spent about an hour getting all legislators in before, I wonder if it would be possible to without quite such a struggle to get the Legislature back in. When we have a Call of the House, we mean a Call of House. Senator Lowell Johnson, will you record your presence? Senator Sieck. Senator Kremer. Senator Chronister, Senator Goodrich, Senator Beyer. Goodrich is in California, yes.



March 24, 1981

LB 253

Who else? Is Senator Wiitala here? Will you please record your presence? Senator Kilgarin, will you please record your presence? Senator Chronister. All legislators please remain in your seats so we can start the roll call vote. Okay, call the roll, Mr. Clerk.

CLERK: Mr. President, Senator Barrett....

SPEAKER MARVEL: Maybe we better tell them what we are voting on. Okay, go ahead...go ahead.

CLERK: (Read the roll call vote as found on page 1113 of the Legislative Journal.) 14 ayes, 20 nays, Mr. President, on adoption of the Dworak amendment.

SPEAKER MARVEL: The motion lost. Any others?

CLERK: Yes, sir. Mr. President, Senator Hoagland now moves to amend. Mr. President....

SPEAKER MARVEL: Excuse me. Senator Nichol. Call is raised.

CLERK: Mr. President, I now have an amendment from Senator Vickers. (Read the Vickers amendment as found on page 1113 of the Legislative Journal.)

SPEAKER MARVEL: Senator Vickers.

SENATOR VICKERS: Mr. Speaker and members, if you will look at LB 253 on page 6, Section 10, the new language that is inserted in Section 10, I am really not quite aware, I guess, as to the intent here, but we are going to almost litter the countryside with litter receptacles it seems to me. The first part of the new language, if you will look at line 26 on page 6, it says, "Litter receptacles meeting minimum standards established by the Department shall be placed along public highways lying outside the limits of incorporated cities and villages". I don't know how close they are going to be placed along these public highways, how close together, but I just seriously wonder how often people are going to stop along the public highways in the State of Nebraska to empty out a receptacle or empty out a trash bag into the receptacle. On page 7 it includes park, camp grounds, trailer park facilities and a whole host of laundry list, if you will, of places that receptacles need to be put. If you read the existing language, the language that I am suggesting we leave in, it says that "litter prone activities and areas shall be

required to have appropriate litter receptacles meeting minimum standards established by the Department. The Council shall by regulation determine what are litter prone activities and areas." I am a little bit nervous whenever we start putting in a laundry list in the statutes anyhow. I think we are going to leave out some places that should be and probably include some places that shouldn't be, especially when you look at page 8, and it says that it shall be the responsibility of any person owning or operating any establishment or public place in which litter receptacles are required by Section 81-1550 which is the section I am attempting to amend, to procure and place such receptacles at his or her own expense, and to maintain the same and so forth. I believe we are creating a nightmare for the Department of Roads and many other public facilities if we are going to increase the number of receptacles by a very large number which it seems to me we might be doing. It also seems that we might be increasing the cost to various other places simply to have the receptacles available. I am a little bit curious or doubtful that all these receptacles are going to in essence cut down on the amount of litter. I am just simply suggesting that we strike all that new matter, go back, leave the existing language and, Senator DeCamp, this is not an attempt on my part to gut your bill in any way, shape or form. It just seems to me that this is a laundry list that is unnecessary in the statutes. I ask the body's adoption of this amendment.

SPEAKER MARVEL: Senator DeCamp.

SENATOR DeCAMP: Mr. President and members of the Legislature, it is not an attempt to gut the bill, and it is very reasonable, and I will explain why the laundry list is in there, and then let Senator Vickers judge whether he wants to go ahead. The original language...the Department of Environmental Control, when they went around and tried to say, you should have a litter receptacle here, or we see a litter problem developing along this particular intersection of the highway, or at this particular location, if you will read the existing law which, quite frankly, as I say I think would be adequate, they ran into trouble, some legal problems that the law as it exists was too vague and they couldn't enforce it and couldn't say, okay, you need a receptacle here. So we specify a laundry list, admittedly, of places where they would have discretion to say, hey, we have got a litter problem here, our rules and regs require that under these circumstances you have a receptacle here.

It was put in at their request specifically because they did run into problems. I was happy with the old language. They say it is necessary to do it this way to overcome the, as I say, the legal problems they ran into when people just said, aw heck, we ain't going to put anything here. This was their solution. That's why it was put in. So with that understanding, does it make any sense to you, and would you agree to withdraw the amendment?

SPEAKER MARVEL: .....posing a question to Senator Vickers. Senator Vickers, do you respond?

SENATOR VICKERS: Well, no I will not agree to withdraw the amendment, if that is the question. It seems to me that many areas of the regulations and many different departments of government regulations seem to be able to work without setting a laundry list in the statutes, and I would doubt very seriously that this department is different than any of the rest of them. It seems to me the language is pretty clear, the existing language. It allows them to set up regulations, and I don't see where that is any different than many other areas of the statutes. So I won't withdraw the amendment, Senator DeCamp.

SPEAKER MARVEL: Senator Marsh.

SENATOR MARSH: Mr. Speaker and members of the Legislature, I like the language which is proposed in LB 253. Perhaps some of you have traveled across the country as we have on numerous occasions with our family. We gather litter in our car just traveling with six children. We need a place to stop from time to time to dump our litter, and when there are designated receptacles at reasonable spots along the wayside, it's much easier, number one, to teach your children to keep things within the car, and, two, to dispose of those things properly in a container. I do not support the proposed amendment, but I do like the language of the proposed bill, LB 253, and expect to support it.

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

SENATOR VICKERS: Thank you, Mr. Speaker. What I would like to point out, not only are we putting in a laundry list, including an awful lot of new places, including the public highways, outside of the villages, outside of the cities of the State of Nebraska, in other words, out in the wide open spaces, but also on page 8 in Section

81-1551, it says that it shall be the responsibility of those people that are required to put these receptacles up whether it be public or private to maintain them. And it further goes on to say that it is a Class V misdemeanor if they are not maintained in the manner required by the Department. Now I have a little bit of a problem with telling the Department that certain areas.... and specify in the statute. We don't know whether there is litter at those places or not, but we are saying that there must be because we are requiring them to put a receptacle there, and then we require them to maintain them, and we are telling them it is a criminal offense if you don't. I just think that is a little bit out of line. As I said earlier, it's not an attempt on my part to damage this bill at all, although I will thoroughly admit I don't love it that much. But it does seem that if it's going to pass, and, Johnny, it must be going to, then I think it should pass in a reasonable fashion. I think it is unreasonable for us to expect those people to put these in, maintain them and then slap a Class V misdemeanor on them if they don't. I repeat, I think these receptacles are going to wind up being almost as much of a litter as the litter is. I originally drafted an amendment that I didn't take up but in jest, I guess, it would have required...maybe we should just require that we have a trash receptacle every 500 feet along every road in the State of Nebraska. Maybe that's what we should do, but I don't think that would do a bit of good. I think we should strike this matter and let the Department by regulation require where the receptacles should be, and I think they can do it and will do it.

SPEAKER MARVEL: The motion is the adoption of the Vickers amendment to LB 253. All those in favor of the amendment vote aye, opposed vote no. Have you all voted? We are voting on the Vickers amendment to 253. Have you all voted? Okay, record the vote.

CLERK: 14 ayes, 14 nays on adoption of the Vickers amendment, Mr. President.

SPEAKER MARVEL: The motion lost. Any other items?

CLERK: Mr. President, the next amendment is by Senators DeCamp, Hoagland and Wesely. (Read the DeCamp, Hoagland and Wesely amendment as found on page 1114 of the Legislative Journal.)

SPEAKER MARVEL: Who is going to take the first one? Senator DeCamp.

SENATOR DeCAMP: Mr. President, never let it be said that I didn't try to accommodate every legitimate objection raised. Senator Hoagland said he was trying to exempt the Ma and Pas and the small guy and so on and so forth and he tried to do it with employees. That would have destroyed the bill. He raised a question. Senator Wesely came to me and said, look, I want to increase that amount. I do want to exempt some of these. I am willing to go 350 percent higher with this amendment. Now that may not be what people supporting the bill somewhere want, but I think it is reasonable and I think it is a reasonable compromise. In other words, the floor, before you ever were involved in this litter tax, would be \$350,000, and I urge you to support the amendment and then, of course, once you have done that to support the bill onto Final Reading.

SPEAKER MARVEL: Senator Hoagland.

SENATOR HOAGLAND: Mr. Speaker and colleagues, as I indicated earlier, there are a lot of good reasons for exempting the small guy, and I am glad that we were able to reach this agreement. Now, if you take a look at the fiscal note, it seems to indicate....the fiscal note to this bill seems to indicate that for every \$100,000 in sales, it requires about 1.43 employees. Now that is a ballpark guess and it is an estimate. But if you extrapolate that, why it means that this particular amendment is exempting Ma and Pa grocery stores, little drug stores, little drive-ins, that have anywhere from five to six full-time employees per year. So I think what we are going to do is to a certain extent anyway, not to the extent I would like, but to a certain extent we are going to be able to get the people out of this bill that really never wanted it, that really, in my opinion, are not creating a litter problem around this state, and we are going to relieve them of the permit and the taxation requirements, and I think that, at least, improves the bill, and we should adopt this.

SPEAKER MARVEL: Senator Wesely.

SENATOR WESELY: Mr. Speaker and members of the Legislature, I would just like to express my appreciation to Senator DeCamp and Senator Hoagland for agreeing to this compromise. I think it strikes a balance between the concerns of Senator Hoagland for the small retailer and at the same time meets the needs that Senator DeCamp has identified in providing revenues, and I think that it is certainly a reasonable compromise. I urge your support.

SPEAKER MARVEL: Senator Vickers. I called for Senator Vickers.

SENATOR VICKERS: Mr. Speaker and members, I rise to support this amendment. I believe it adequately alleviates the concerns that several of us were having that this bill would affect some of the smaller businesses of the State of Nebraska that do not contribute to the litter problem. And even though I still have concerns with Section 10 and the fact that I think we are going to overregulate a lot of people, at least this is a legitimate attempt, I think, to alleviate some of those problems, and I would urge the body's adoption of this amendment.

SPEAKER MARVEL: Senator Dworak.

SENATOR DWORAK: Mr. President and colleagues, I really don't understand what we are doing. If a retail store with large assets manufactures throw away cans and throw away bottles, or sells throw away cans and throw away bottles and you buy them from this large establishment and go out and throw them in the ditch, then this establishment pays a fee to go out and pick it up. But if you buy those cans and throw away bottles from a small shop and you throw them out in the ditch, that is perfectly all right. That litter is not unacceptable. I just have a hard time finding...figuring out the logic of this amendment, Senator Hoagland. Litter is litter. It is just as bad if it comes from a small store as if it comes from a large store. I don't see any two classes of litter, a better class of litter and a poorer class of litter. And that is what we are doing here. If you happened to buy that throw away can or bottle from a momma and poppa shop and throw it in the streets and on my lawn Saturday night so that I have to pick it up Sunday morning, that is perfectly okay, that's acceptable, that's clean litter. Well that can is just as unsightly to me as the can that came from the big grocery store. I just fail to...I just fail to fathom the logic of this amendment. Now I've failed to fathom the logic of this body in this particular issue in the past and I suppose I will....I should cease being surprised. But this amendment is one of the most inconsistent things on this bill I have seen across. If the bill is sound, if we have got a thing that supposedly is going to work some time in the future and they told us three years, that three years from now it would be cleaned up, and now they are telling us it is going to take a longer time, and if it is a solid, sound concept, then how in the world can we start exempting certain types of throw away cans and throw away

March 24, 1981

LB 253

bottles and throw away sacks and what have you, depending on where they are bought? It doesn't make any sense to me at all. I personally will not put a vote up in support of this amendment.

SPEAKER MARVEL: Senator Cullan.

SENATOR CULLAN: Mr. President and members of the Legislature, I have to rise in agreement with Senator Dworak. I fail to...although I guess, Senator Dworak, I think I can offer you a little better explanation as to why Senator DeCamp is so enthused to jump along with this little amendment here. He knows that this will exempt some people from the provisions of this bill and maybe some of those people out there who know what a mess the whole thing is from the first place. So he wants to exempt a few more people and so that there is less political opposition and yet the can and bottle people can still say several years from now that they are doing something effective with this issue. I think it is kind of a joke. I think we ought to reject this amendment and then I just placed a kill motion up there, and maybe we ought to kill the bill in a few minutes.

SPEAKER MARVEL: Senator Hoagland.

SENATOR HOAGLAND: Mr. Speaker and colleagues, I think I really want to spend just a minute or two responding to Senator Dworak and Senator Cullan, particularly Senator Dworak. Now, Senator Dworak, in my remarks about a half an hour ago, or 45 minutes ago, I tried to make clear my position on this whole bill. I don't think this whole litter act control concept addresses the problem of litter meaningfully. I mean I said then that there are not enough Boy Scouts in the United States to clean up all the rural roads in the State of Nebraska through grants and through voluntary organizations funded by three or four hundred thousand dollars a year at the state level. I mean, I concur with Senator Cullan. I think this whole concept is nuts, and as I indicated earlier, this whole idea was brought in several years ago by the large companies that are deathly afraid of the bottle bill to put something on the books so they can tell the public we are doing something meaningful to address this problem. Now this doesn't do anything meaningful to address the litter problem. I mean, if you look at how the money is to be spent, if you look at the whole function of the bill, I think it is all puff and it is really a joke and I think even the sponsors of the bill from time to time have conceded that and that is why it is known as a "barking dog

bill" around here. You really won't find anybody who is willing to sit down and defend it on the merits. Now, my point is that if we have to have it for political reasons, let's at least...let's at least do as little damage as possible, and let's at least exempt the little people. Let's exempt the people that didn't want this bill in the first place who are not particularly going to benefit from the bill, who as far as I know would just as soon live with the bottle bill. And let's not jam a whole lot of governmental regulation and a whole lot of taxes down their throats when it is just not going to accomplish that much. So, Senator Dworak, I hope that answers your response. I am not trying to lessen the political opposition to this thing. I am just trying to cut down the exposure and cut down the damage as much as possible. Now this amendment is going to have the effect of exempting, I would guess, hundreds of small drug stores and grocery stores and little places along the road where you can buy a sandwich that would otherwise be included. And I see no reason to include a drug store, simply because it sells vitamins and candy bars and a few other things. So, I think we are in basic agreement on the merits and I am surprised that you don't concur with this amendment as a means of lessening the exposure to people we don't want to drag into it. Thank you.

SPEAKER MARVEL: Senator DeCamp, do you wish to close on your motion?

SENATOR DeCAMP: Yes, Mr. President. Senator Dworak raised the question that he couldn't understand the amendment. Now there are many things we can do here. We can explain things. We can attempt to clarify things. But there is no way I or anybody else can guarantee that Senator Dworak can understand it. That is up to him. So let me explain the origins. This is the way the original litter bill was. You had a minimum of \$50 before you ever paid anything. This goes back to the original concept, \$350,000, minimum payment of \$50 before you started to pay it. You do that on your income tax. You do that on any number of things. You have minimal amounts because the cost of processing and so on and so forth outweighs or doesn't justify the lower amounts. And whether that amount should be \$100, \$200, \$300, \$400,000 is a judgment matter. Senator Hoagland, Senator Wesely, other people interested in the legislation and myself have conceded that maybe \$350,000 which was the original first litter proposal be a reasonable amount. And you do exempt a number of businesses. Senator Hoagland pointed it out,



March 24, 1981

LB 253

but you still collect the bulk of the tax and it becomes more effective in collection because you are dealing with a much smaller number but much larger amounts for each collection action. So I urge you to adopt the amendment and then advance the bill, which will be in good shape, and has been consistent and will improve our existing long term litter cleanup program.

SPEAKER MARVEL: The motion is the adoption of the DeCamp amendment. All those in favor of that motion vote aye, opposed vote no. Have you all voted? Senator Wesely.

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

SPEAKER MARVEL: About 50.

SENATOR WESELY: About 50? Would it be possible to have a Call of the House?

SPEAKER MARVEL: There are ten excused.

SENATOR WESELY: I would like to make a Call of the House and I think if we could have call ins I suppose we would be all right.

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

CLERK: 8 ayes, 1 nay to go under Call, Mr. President.

SPEAKER MARVEL: The House is under Call. All legislators return to their seats. All unauthorized personnel please leave the floor. Record your presence. The issue before the House is the Call of the House. You are supposed to record your presence and remain in your seats. Senator Haberman, Senator Hefner, Senator Kilgarin. All legislators are to be in their seats. We can't record your presence until you are. Senator Hefner and Senator Chambers. Two absent, Senator Wesely.

SENATOR WESELY: I think we can go ahead with the roll call, I guess, if the Clerk would read the amendment and then go ahead I think that would be fine.

SPEAKER MARVEL: Do you want to read the amendment?

CLERK: Mr. President, the amendment reads as follows:  
(Read the DeCamp, Hoagland and Wesely amendment as found

March 24, 1981

LB 253

on page 1114 of the Legislative Journal.)

SPEAKER MARVEL: Call the roll.

CLERK: (Read the roll call vote as found on page 1114 of the Legislative Journal.) 28 ayes, 8 nays, Mr. President.

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

CLERK: Mr. President, Senator Cullan moves to indefinitely postpone the bill.

SPEAKER MARVEL: The Chair recognizes Senator Cullan.

SENATOR CULLAN: Mr. President and members of the Legislature, I think the bill has had significant amount of discussion so I will not talk a great deal about indefinitely postponing this bill, but I am serious in the kill motion. I do think that we have, in fact, are regressing with this bill and we are doing some things that I don't think are appropriate. If we were doing something serious about the litter issue in the State of Nebraska, I do not believe it would be accomplished through this particular vehicle. I am a little concerned personally about our failure to strike Section 10 which Senator Vickers mentioned previously. I would like you to think for a second about what is actually in this bill and particularly that one section. There we require a number of individuals who are in business to ensure that they have trash receptacles available and then we will fine them up to \$100 if they fail to have one of Senator DeCamp's trash cans located on their premise. I guess I am concerned that now we are taking...exempting some of the industries which may contribute as much to the litter problem as other industries. We are exempting perhaps, I don't know, perhaps the small Kwik Shops or the facilities that sell some of the Kwik foods and sell some of the pop and beer and other things, and perhaps some of the businesses that contribute most to the litter problem are now exempt from the tax. And I guess I don't believe that that is a wise thing for us to do. So I guess I do not believe that the proposal in the long run will result in less litter in the State of Nebraska. I do think it will provide an excuse for those who oppose the bottle bill to say, look, we have something on the books and we ought to leave it there. But I guess I would urge you to kill this bill. I think it is improper for us to place increased regulation upon small business and other

industry in the State of Nebraska in the name of doing something for litter. And Senator Marsh talked about hoping for increased availability of trash cans. I would guess, Senator Marsh...this weekend I went out to my legislative district and I simply put a little trash bag in the car and then when I got back to Lincoln I could clean my car up. I didn't have to throw things along the highway and I don't think people who make a sincere effort need to have these kinds of requirements. Just read the bill and think about it a little bit and I think that you will hopefully join us in indefinitely postponing the bill. What I would really like to do is add a repealer to the entire thing and then shoot it along but I don't think that is possible. So I would ask you to take a minute, think about it and join us in killing LB 253.

SPEAKER MARVEL: Senator DeCamp.

SENATOR DeCAMP: Mr. President and members of the Legislature, as you may have guessed, I am not going to support the kill motion. And the only objection that I could see that was raised by Senator Cullan with respect to this particular bill was the Section 10, the one...or whatever the number is, that Senator Vickers tried to amend. And so, Senator Cullan, I am going to do with you here on the floor, what Senator Hoagland and I just did. Senator Hoagland is a lawyer, a bright one, one of the best. I am a lawyer after a fashion. You are a lawyer almost. You are in law school. I am going to now teach you something I think you have already learned but that we almost always forget every once in a while, and it is helpful for every member of the body to be aware of this because you will see it come up time and time again, at least once or twice a day, even though we don't recognize it all the time. But it is a rule. It's a constitutional rule that governs criminal laws, and that rule is something like this, that when you have criminal penalties or sanctions, even if it's only a \$1 penalty, that criminal law falls into a whole different area of interpretation and rules, and the rule that applies is it has to be clear, not vague, absolutely understandable so that Mr. and Mrs. Average American can understand what they are ordered not to do or what they are ordered to do. The problem with the original language in that bill was something like this, that if you will read the original language, it goes like this. "Litter prone activities and areas shall be required to have appropriate litter"... blah, blah, blah. What are litter prone activities? What are litter prone areas? When the DEQ, or whatever it is called, Department of Environmental Control, went out

and tried enforcing this, Joe said, well I don't have a litter prone area, I don't think this is a litter prone area. So what we are doing is we are doing what we have done on so many other laws in here, we are getting specific and clear and we are saying, these are litter prone areas. We are naming them. And then what are we doing next in order that we don't commit the very offense you are talking about of putting unreasonable bureaucracy on people, we are saying, okay, Department of Environmental Control, now you have got the specifics what we are calling the litter prone areas, now you draft rules and regs, which, of course, Senator Vard Johnson and the Administrative Rules Committee will get a chance to look at and review, you draft the rules and regs to make sure that we are reasonable and that we do have some receptacles put out in these areas. That is why that is in there and if that is your objection, I think Senator Hoagland, after we discussed it, even though he had reservations about it at first, I think he now sees and agrees that this is probably a necessary part, at least I would hope he would. He indicated he did. The balance of your opposition to the bill was you don't like the litter law. Fine. That's what you do. You repeal the existing litter law. All the rest of the bill does is make some technical corrections, to make what we have got work better. We raise a little more money. We create a little less...let's call it harrassment of the average individual business. We clarify some other areas and goals. If these things are bad, then any legislation we pass in here or sponsor that takes any bill and improves it or corrects it is bad legislation. You have disagreement with the original litter law. I respect you for that. I understand that. But don't attack this bill on the basis that you hate the original litter law when this just simply improves whatever system it is the state has decided to adopt. So I urge you to reject the kill motion and hopefully advance the bill so we can take up the next 200 amendments and kill motions on it on Select File that I know will be coming.

SENATOR KAHLE PRESIDING

SENATOR KAHLE: Senator Fowler.

SENATOR FOWLER: Mr. President, I can't quite accept what Senator DeCamp says about the section that Senator Vickers and Cullan have pointed out as being most offensive. I think we have a section of the act that Senator DeCamp is correct in saying essentially was not operative, and that is the requirement that private businesses have their

certain litter receptacles as required by the Department of Environmental Control and the reason it wasn't operative is the language was very vague. Now Senator DeCamp adds language that is specific in part and probably will give effect to the law but it is also very broad in some sections and I think could create a whole new series of concerns. We got a bunch of people removed from the act on the basis that we were concerned about small business. But now we are going to require grocery store parking lots, for example, you have restaurants which sell food, gasoline service stations, drive-in restaurants, indoor-outdoor sporting events, parade routes, fairgrounds, any event of any kind to which the public is invited along business district sidewalks. These are all things that are going to have to have litter receptacles that are going to have to be designed by the Department of Environmental Control and the number of litter receptacles is to be dictated by the Department of Environmental Control, and in addition to those specific small businesses that are going to have to purchase some type of litter receptacle, we have language on page 7 that says, "at such other public places within this state as specified by the rules and regulation of the Council." Now it used to be at least that it had to be a litter prone area and maybe that was vague, but at least that gave some sort of definition. Now it just says, "such other public place within this state as specified." Now that is a very, very broad grant of authority to a state agency to be able to come in and establish minimum standards for a type of litter receptacle and also to provide and require a certain number of receptacles. And then if you turn to page 8, this agency has the power to indicate to that private businessman how they are to maintain that receptacle. Now that is a very broad grant of authority to bureaucracy to be able to come in and at any public place or any business or any restaurant to say, you shall have a receptacle of this size, you shall have five of those, you shall empty them every day. And then added to that, it says that any person who fails to place such litter receptacles on the premise in the numbers required, so if you only thought you should have three and you don't put them in, or this is new language, "to maintain such receptacles in the manner required, shall be guilty of a Class V misdemeanor," a criminal penalty, as Senator DeCamp pointed out. Now that is quite a reach for government. I think it is quite an imposition on small business. I would daresay that it is going to cost small business a lot more to buy and maintain these litter receptacles than the burden that we took off with the previous amendment with regards to the tax. I don't think Senator DeCamp has answered the problems

March 24, 1981

LB 253

with this section. We haven't had to worry about it before because the bill was so poorly written the first time it went through that this section wasn't operative. Now they are trying to find language to make it operative, to empower a state agency to go out and tell the filling stations and restaurants in your district, you shall have so many receptacles, they shall be such and such a size, and you have got to empty them every day, or we are going to slap a criminal penalty on you. I think the bill overreaches. I think there are easier solutions and I don't think we should be making criminals out of our small businesses because they don't want to put out a certain number of trash cans because the state agency tells them they have to.

SENATOR KAHLE: Senator Marsh.

SENATOR MARSH: I rise to oppose the kill motion. The proposal before us at this moment is a motion to indefinitely postpone. I think that there have been some acknowledgements that there needs to be some clarification in our current legislation. I really hate to see individuals who supported a bottle bill concept throwing stumbling blocks in the way so that this concept which is on the books won't work, in the hopes that the people of Nebraska will change their mind. The people of Nebraska did vote on this issue. It isn't what I personally choose or do not choose. The voters of Nebraska spoke already on this issue. Let's now try to find the best mechanism we can within the concept which is on the books. Let's give the tools for making this work to the department who has the responsibility. Let's not be so picky that we are trying to delay what could help our state. I oppose the kill motion.

SENATOR KAHLE: Senator Wiitala.

SENATOR WIITALA: Mr. Speaker, I would like to call the question.

SENATOR KAHLE: Do I see five hands? I do. All in favor of ceasing debate vote aye.....(microphone not on). Please vote if you want to cease debate. Record.

CLERK: 25 ayes, 0 nays to cease debate, Mr. President.

SENATOR KAHLE: Senator Cullan, would you like to close?

SENATOR CULLAN: Yes, I would. Mr. President and members of the Legislature, I hope that some of you took the

occasion to listen to Senator Fowler. Just to show you how ridiculous this bill can be, at least I guess the current bill is, as Senator DeCamp indicated, so vague that it is unenforceable, thank God for that, because we really have given away and we have given to the state agency specified here a great deal of authority. And I think it is ridiculous how far we are allowing government to reach with this particular bill. We are allowing state government to tell an individual who runs one of these businesses specified in this bill, in fact, we are allowing them to tell any business under this bill as long as they fall under the broad definition of such other public places as required, we are requiring them to put up these trash receptacles that Senator DeCamp is talking about. We can even tell them what color they have to be. We could have one put in Senator DeCamp's law office if he gets one some day. That's how ridiculous this bill is. It is a....I can't believe that we are going to give this kind of authority to a state agency, that we are going to allow this kind of an intrusion into the lives of Nebraskans just in the name of litter, and that we are going to fine them \$100 for that purpose. Now if we are going to do something meaningful, if we are going to correct some of the problems, then let's not have this kind of vague language. I personally don't think that the bill is worth any further debate. I think it has many problems. We have exempted those people who should be paying the tax if there is going to be this kind of a tax. I think let's kill the bill. Let's stop unnecessary regulation on the industries and the citizens, the small businesses in the State of Nebraska. Please indefinitely postpone LB 253.

SENATOR KAHLE: Okay, all those in favor of postponing LB 253 vote green. Those that want it to continue vote red.

CLERK: Senator Kahle voting no.

SENATOR KAHLE: Please vote so we can move along. Record. The motion fails.

CLERK: 12 ayes, 17 nays, Mr. President.

SENATOR KAHLE: The motion does fail.

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

SENATOR KAHLE: Senator DeCamp, would you like to close?

SENATOR DeCAMP: Mr. President, I waive closing.

March 24, 1981

LB 253, 284

SENATOR KAHLE: Okay, all those in favor of LB...moving LB 253 vote yes, those opposed no.

CLERK: Senator Kahle voting aye.

SENATOR KAHLE: Please vote.

SENATOR DeCAMP: Mr. President, how many people are excused?

SENATOR KAHLE: Eleven.

SENATOR DeCAMP: Eleven, great. How many are at Executive Sessions or indisposed? Oh, heck, ask for a Call of the House and a roll call vote.

SENATOR KAHLE: Call of the House has been asked for. Those in favor of a Call of the House....(microphone not one)...those opposed red. Record.

CLERK: 16 ayes, 1 nay to go under Call, Mr. President.

SENATOR KAHLE: The House is under Call. All unauthorized persons please leave the floor. The Sergeants at Arms round up the Senators, please. Register your presence when you are in place.

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: Senator Beyer, Senator Chambers, Senator Chronister, Senator DeCamp, Senator Cullan, Senator Kilgarin, Senator Pirsch, Senator Schmit, Senator Sieck, Senator Warner, will you please record your presence. Senator Kilgarin. Senator Chronister, will you please check in. Senator Nichol, Senator Pirsch. Have you all recorded your presence, please? Senator Kilgarin. Okay, we will call the roll as soon as everybody is in their seats. We can't call the roll until everybody is in their seats. Call the roll.

CLERK: (Read the roll call vote as found on page 1115 of the Legislative Journal.) 18 ayes, 15 nays, Mr. President.

SPEAKER MARVEL: The motion lost.

CLERK: Mr. President, Senator DeCamp would like to print amendments to LB 284. (See pages 1116-1118 of the Journal.)

SPEAKER MARVEL: The Call is raised.



March 27, 1981

LB 535, 233, 245, 253, 278

CLERK: Mr. President, if I may right before that, Senator Lamb would like to print amendments to LB 245; Senator DeCamp to LB 253; Revenue reports LB 233 to General File with amendments and LB 278 to General File with amendments, (Signed) Senator Carsten, Chair. (See pages 1162-1163 of the Legislative Journal.)

Mr. President, LB 535 was offered by Senator Warner. (Read.) The bill was first read on January 29, referred to Constitutional Revision Committee. The bill was advanced to General File.

PRESIDENT: The Chair recognizes Senator Warner.

SENATOR WARNER: Mr. President, let me first tell you what LB 535 does not do. LB 535 does not put the issue of biennial sessions on the ballot. As a matter of fact, it has no reference to biennial sessions. What it does do is two other things. It would permit the Legislature during the odd session, adopt a biennial budget, which then could be amended, altered just as we would do a bill now in the even number years. Budgets are already submitted on a biennial basis. They have been that way forever and there is no change there. The provisions of the Constitution would permit us to do that portion if we wanted to now but I think it would, personally I support on a program basis, biennial budget so that you give an agency clear instructions as to a policy matter decided by the Legislature, those programs that should be expanded over the two year or reduced in its scope over a two year period. You still make annual adjustments for inflation or whatever other factors you want to affecting salaries so it makes no change there. It would require 33 votes to do the second year funding just as it requires 33 votes now for every budget bill so there is no impact there. The purpose is solely one, in my opinion, to permit the Legislature for a longer period of time to indicate to an agency the programs that they want to expand or the programs we want to reduce. That brings greater efficiency and orderliness. The second part of the amendment permits an A bill or funding for a new program to be extended as far out as four years and I would suggest that if you adopt that portion that you will go a long ways, in fact, you will eliminate the problem we have had since we went to annual sessions in that if you want to pass legislation that has incremental increases in funding, this would allow you to enact and authorize expenditure for up to a four year period with the incremental increase such as we have had in a number of areas would be spelled out into the budget, into the appropriations. It would then be automatically be considered by the Board of Equalization for setting rates. If you remember the problem we have had with

March 30, 1981

LR 47  
LB 171, 253, 556

PRESIDENT LUEDTKE PRESIDING

DR. ROBERT PALMER: (Prayer offered.)

PRESIDENT: Roll call.

CLERK: Mr. President, Senator Labedz would like to be excused until she arrives. Excuse Senators Hoagland, Newell, and Marsh until they arrive and Senator Cullan all day.

PRESIDENT: Record the presence, Mr. Clerk.

CLERK: A quorum present, Mr. President.

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

CLERK: I have no corrections, Mr. President.

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

CLERK: Mr. President, a communication from the Governor addressed to the Clerk. (Read. Re: LB 171. See pages 1176 and 1177, Legislative Journal.)

Mr. President, I have amendments from Senator DeCamp to be printed in the Journal regarding LB 253. Senator DeCamp would like to withdraw certain amendments to LB 253 as well, Mr. President.

PRESIDENT: All right, the amendments are withdrawn.

CLERK: Mr. President, a new bill, LB 556. (Read title.)

Mr. President, finally, LR 47 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 47. Before we get started on agenda item #4, the Chair takes pleasure in introducing Senator Howard Peterson's brother from Olympia, Washington, Arthur W. Peterson. Would Art come forward and be recognized? Welcome to the Nebraska Unicameral. We also have a guest of Senator Lamb, Mr. and Mrs. Clifford Armstrong from Broken Bow. They are the parents of Rod Armstrong who is on Senator Fowler's staff. Would the Armstrongs step forward? They are under the North balcony. Good morning and welcome to the Unicameral. We will proceed then with agenda item #4, gubernatorial

April 1, 1981

LB 298, 40, 167, 208,  
384, 483, 253

and support things for somebody else but don't mess in my little bird nest. So I'd just like to include us all in it if we are going to go. I don't like to see somebody excluded just because they are working on it. I can work on something between now and next year, too.

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

CLERK: 25 ayes, 12 nays, Mr. President, on the motion to advance the bill.

SPEAKER MARVEL: The motion is carried. The bill is advanced.

CLERK: Mr. President, if I may while we are waiting, Education reports LB 208 to General File with amendments.

Senator Labeledz would like to print amendments to LB 483; Senators Goodrich and Newell and DeCamp and Koch to LB 40; Senator Vickers to LB 384; and Senators Hoagland and Warner to LB 167.

SPEAKER MARVEL: The next business is LB 253.

CLERK: Mr. President, LB 253, (Read title). It was read on January 16, referred to Ag and Environment. On March 24 the committee amendments were adopted. At that time the bill failed to advance. There was also an amendment from Senators DeCamp, Hoagland and Wesely which was adopted at that time. Mr. President, Senator DeCamp has amendments found on page 1162 that I understand he wishes to withdraw. You want to withdraw those on 1162, is that right, Senator?

SENATOR DeCAMP: Yes, the longer page ones is the ones I want.

CLERK: Okay, and then, Mr. President, I have an amendment from Senator DeCamp that is on page 1177 of the Journal.

SPEAKER MARVEL: We are now on the DeCamp amendment, page 11, what?

CLERK: 1177.

SPEAKER MARVEL: 1177.

SENATOR DeCAMP: Mr. President, members of the Legislature, you may remember...this is the litter bill. You may remember Senator Fowler and Wesely and Vickers and Chambers and,

April 1, 1981

LB 253

golly, just about whoever it was was complaining about the garbage can part of the bill. This strikes all that and remains with the original bill and the Department of Environmental Control says they will live with that situation and so on. So I urge you to adopt the amendment. This was the issue that seemed to take up almost all the time last time and by taking it out it should resolve that question and make everybody happy on that aspect. So I urge adoption of the amendment.

SPEAKER MARVEL: Senator Vickers, you are speaking to the amendment on page 1177 of the Journal.

SENATOR VICKERS: Thank you, Mr. Speaker. Mr. Speaker and members, I haven't had an opportunity to see the amendment ahead of time, I guess. I am just looking to find out what exactly it does. But I would like to ask Senator DeCamp a question, if I may.

SENATOR DeCAMP: Yes.

SENATOR VICKERS: Senator DeCamp, is this taking out all the new language in Section 10?

SENATOR DeCAMP: Yes, that is the garbage can section?

SENATOR VICKERS: It is putting...it is reinstating the old language?

SENATOR DeCAMP: Yes, that is what you tried to do I think.

SENATOR VICKERS: It is exactly the same amendment that I tried to do (interruption) General File.

SENATOR DeCAMP: Well, it is exactly the same effect. It was drawn by the bill drafter so they use a different way. They use all their legalese but it does the same thing you were talking about.

SENATOR VICKERS: It takes out all the new language and leaves it in as (interruption).

SENATOR DeCAMP: Yes, you didn't like my gestapo system so we won't use it.

SENATOR VICKERS: Well, I guess I would rise to support this DeCamp amendment and I suppose I would also point out that since I didn't get enough votes to do it on General File we will find out where the real power is in this Legislature when we see the votes that fall in

April 1, 1981

LB 253

line here on Senator DeCamp's amendment. Thank you very much, Mr. President.

SPEAKER MARVEL: Senator Dworak.

SENATOR DWORAK: Mr. Speaker and colleagues, tell me, John, it isn't true. Tell me, John, it is just an April Fool's joke. What is going to be left in this bill? I mean this is the major thrust of all the debate, all the arguments, all the persuasion you have given us that we have to have these cans on every corner of every mainstreet across this state and now we are taking it out and what is going to be left? I can't believe it.

SPEAKER MARVEL: Senator Chambers.

SENATOR CHAMBERS: Yes, Mr. Speaker, and members of the Legislature, I would like to ask Senator DeCamp a question or two about another part of the bill before I see whether or not we should eliminate these cans. Senator DeCamp, these questions are for clarification, now seriously.

SENATOR DeCAMP: Okay, you are going to have to turn Senator Chambers up. I can't hear him.

SENATOR CHAMBERS: Oh, wasn't it on?

SENATOR DeCAMP: It was on but they don't turn it up so you can hear.

SENATOR CHAMBERS: Can you hear me now?

SENATOR DeCAMP: Yep.

SENATOR CHAMBERS: Okay. Senator DeCamp, on page 3 we have a definition of litter as being waste material. Then we have a definition of wastematerial further down saying, "any material appearing in a place or in a context not associated with that material's function or origin". And also it excludes certain waste products from primary farming activities. So let's forget that farming activity portion. If along the highway there were weeds growing, could somebody dump weeds along the highway because weeds would not...where they would be located with other weeds would not be inconsistent with the function or the origin of the weeds, and I am just trying to find out?

SENATOR DeCAMP: No. Senator Chambers, as you know, clearly the new weeds would not be performing their legitimate function as were the old weeds so the new weeds would be litter.

SENATOR CHAMBERS: Thank you. Members of the Legislature, I disagree with Senator DeCamp and I think that the definition is kind of loose and there are substances that could be dropped where similar substances are and it wouldn't be litter or waste material under the terms of this bill. And I have one other question, and I am not going to try to kill the bill, by the way. Up at the top of page 3 in line 5 and line 6, "disposes of any litter on any public or private property". Now not having read through all parts of the bill carefully or followed all of the debate, and I don't even know if any of it touched on this, this private property would not refer to that which is owned by an individual, would it? I mean you can litter your own property if you choose to? Or does this bill prohibit that also?

SENATOR DeCAMP: Well, you have other laws regulating nuisance in a city, so on and so forth.

SENATOR CHAMBERS: But what I am saying, things defined as waste material in this bill would not necessarily apply if you were putting those things on your own property?

SENATOR DeCAMP: They might not necessarily apply. It might still constitute litter under the definitions but there may be no sanction against your doing it, if you wanted to litter your own house, so to speak.

SENATOR CHAMBERS: Well, here is what I mean.

SENATOR DeCAMP: I see what you are saying.

SENATOR CHAMBERS: Like weeds in your own yard, you cut them down.

SENATOR DeCAMP; You have different statutes on that.

SENATOR CHAMBERS: Okay, so this bill doesn't touch that or prohibit that kind of thing on your own property?

SENATOR DeCAMP: Not the prime goal of the bill, no.

SENATOR CHAMBERS: Could anybody use it for that purpose, do you think? If a prosecutor were ambitious or he didn't like somebody, could he say since it says, "any public or private property or in any waters commits the offense of littering unless such property is in an area designated by law for disposal of such, or if you put it in the proper receptacles".

SENATOR DeCAMP: Okay, why don't we do this? You get your

April 1, 1981

LB 253

specific hypothetical issue or question you want answered, I will get the research done on it so we know exactly what the aspect of weeds is when it comes up on Select File.

SENATOR CHAMBERS: That is just an example. Okay, (interruption) I will give to you, okay.

SENATOR DeCAMP: I understand.

SPEAKER MARVEL: Senator DeCamp.

SENATOR DeCAMP: Mr. President, just quickly, Senator Dworak, in a jesting mood, of course, said, well, what does the bill do? Well, with the amendment it does precisely everything it was intended to do, at least all the major things. It raises several hundred thousand dollars additional money. That is one thing. Second, it clarifies some of the questions that were raised in the past as to whether agriculture was or wasn't involved. It does one of the biggest things that Senator Hoagland and some of the other people have been complaining about over the years. It says unless you are above I think three hundred and fifty thousand was the number put in now, you aren't even involved in the litter fee or whatever. So it does everything we wanted and it improves the existing litter control system we have adopted and I would urge you to support the bill and the amendment, of course. All the amendment does with respect to the overall thing is it says instead of going ahead with the garbage can aspect of clearing up where you could have garbage cans or giving some additional authority, we will leave that situation pretty much the way it is. The Department of Environmental Control says they will concentrate on other aspects of litter rather than the garbage cans this year and I think if you accept the concept that we are going to do something about litter we have got a litter system and this just makes it work a little better. Now if your argument is, well, you want a bottle bill. There is nothing I can do about, that is a separate issue. We may, indeed, pass a bottle bill. Maybe next year, maybe this year, I don't know but with the system we have that we have agreed on or previous legislatures have, we are just improving it with this legislation, raising additional money, so on and so forth. So I urge adoption of the amendment and maybe advancement of the bill.

SPEAKER MARVEL: The motion before the House is the adoption of the DeCamp amendment to the bill which is on page 1177. Senator Higgins, do you wish speak to the amendment?

April 1, 1981

LB 253

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

SPEAKER MARVEL: The question has been called for. Do I see five hands? Okay, all those in favor of ceasing debate vote aye, opposed vote no. Have you all voted? Record the vote.

CLERK: 26 ayes, 0 nays to cease debate, Mr. President.

SPEAKER MARVEL: Debate has ceased. The Chair recognizes Senator DeCamp to close on his amendment to the bill.

SENATOR DeCAMP: I will waive closing.

SPEAKER MARVEL: All those in favor of adopting the amendment vote aye, opposed vote no. Record.

CLERK: 25 ayes, 0 nays on adoption of Senator DeCamp's amendment, Mr. President.

SPEAKER MARVEL: The amendment is adopted. Okay, the motion now is to advance the bill and the Chair recognizes first Senator Hoagland and then Senator Vickers. Senator Hoagland.

SENATOR HOAGLAND: Mr. Speaker and colleagues, we have spent a lot of time talking about this bill and I am as guilty of that as much as anyone but I, what I want to do is just spend a minute or two briefly reminding the body what this bill does, because I think that unless you go through it real carefully, the impact of the bill doesn't really sink in. What this bill does is it levies a litter tax on a whole new class of people, retailers in the State of Nebraska that sell groceries and beer and pop and things like that of over \$350,000 per year according to the amendment that we attached on last time we debated this bill in order to raise money to implement this litter program. Now Senator Sieck has distributed an editorial from a paper in his district which talks about the efficacy of the whole program and I leave that to all of you individually to make up your own minds about. But I think what we are doing here is we are levying tax monies like we do for so many items for a public purpose. In this particular bill we are spreading the tax out over a whole lot of people that have never been taxed before, namely, the retailers. We are requiring them to get a permit before they can operate, to fill out a form, to pay a tax that goes into this fund, and we have all talked previously about how that fund is to spend the money. So I think the fundamental question you have got to ask yourself is, is this program really good enough and really of high enough quality to justify the paperwork and the tax,



to justify everything that is involved when you levy a new tax on a whole lot of new people. Now my feeling about, my personal feeling, about this situation, and I don't feel strongly about it, I am not passionately arguing one way or another, my personal feeling is that before we go around levying new taxes on new categories of people, we have got to be sure we know what we are doing and we have got to be sure that it is for a valid public purpose and we have got to be sure that we really are going to get value for our dollar, and I think you have heard me express my opinion about this before. I just really don't think this whole program, I tend to agree with Senator Sieck's editorial, I just don't think this whole program is worth it and I don't think it is worth the candle and I personally am going to vote against the bill and would suggest that before you make up your minds on it you fully understand what we are doing and that is levying a new tax on a whole lot of people that never paid that tax before. Thank you, Mr. Speaker.

SPEAKER MARVEL: Senator Vickers.

SENATOR VICKERS: Mr. Speaker and members, I would like to ask Senator DeCamp a question if he would respond please.

SPEAKER MARVEL: Senator DeCamp.

SENATOR VICKERS: Senator DeCamp, in section 3 on page 4, it indicates that "Litter shall mean all waste material susceptible to being dropped, deposited, discarded, or otherwise disposed of by any person upon any property in the state,..." and if I understood your answers to Senator Chambers a little bit earlier, that would include private property, is that correct?

SENATOR DeCAMP: Yes.

SENATOR VICKERS: Okay, if that is the case, then it goes on to say that it does not include wastes of primary processes of farming or manufacturing. What is a waste of primary processing of manufacturing?

SENATOR DeCAMP: Say again.

SENATOR VICKERS: It excludes..."but not including wastes of primary processes of farming or manufacturing." I know what it is of farming, what is it of manufacturing?

SENATOR DeCAMP: I am an expert on the farming one and I will have to do some research on the other but I am sure there was a reason for putting that in there.

SENATOR VICKERS: Okay, now, another question, on Section 15 of page 10, it indicates that "The penalties which may be imposed for littering in this state and any provisions of sections 81-1534 to 81-1566.." which includes the section I just ask you questions about, what is the penalty for littering in this state? I can't seem to find it in here. What is the penalty for littering under those sections?

SENATOR DeCAMP: I would have to look up the specific statutes in which section of the new Criminal Code we put it into. I don't know, what is it? Class something or other misdemeanor. I will get you the specific information. Do you know what it is, Bill?

SENATOR VICKERS: Then you indicated to Senator Chambers that if he could come up with some specific questions, perhaps you might have an answer. Senator Chambers was using weeds. I would like to use something else to impose a hypothetical question. I have got on my place a dump, I guess you could call it, where we throw trash. We also have on our place, to me it is very valuable, to my wife has a different viewpoint of it, an iron pile, old machinery that I have torn part and thrown in there and then when we need a piece of metal to weld on a broken piece of machinery or something of that nature I can get it out. To a lot of people that would be an eyesore, old machinery setting around, vehicles of this sort, could that be classified as litter, Senator DeCamp, and if somebody chose to be real aggressive as far as bringing people to court, would that, in fact, put me in a position where I could be taken into court and fined?

SENATOR DeCAMP: Not under this law.

SENATOR VICKERS: Why not? Where does it say it wouldn't be?

SENATOR DeCAMP: Because I said not, I don't know.

SENATOR VICKERS: Under the interpretation of Section 3, it seems to me that it would, but you just got through telling me it was Section 3.

SENATOR DeCAMP: I think you should vote against the bill yourself. You intend to anyway.

SENATOR VICKERS: Senator DeCamp, (interruption).

SENATOR DeCAMP: When we've dealt with litter for about five years here, and you know what litter is as well as I.

SENATOR VICKERS: Thank you for your questions or for your answers. I think we have got something here that is very broad and I think that this body needs to recognize that there are some dangerous things in 253 as it applies to private landowners. Now I suppose people can make the argument that nobody is going to bring up that situation, but when you have people bringing up arguments against feedlots because of the smell and various other activities that agriculture gets into, then it is a real possibility it seems to me that somebody could also bring up the fact that certain things are eyesores in the community and use this sort of a legislation to impose a penalty on people and I think that is wrong and I think this body should reject LB 253.

SPEAKER MARVEL: Senator Sieck, and then Senator Higgins.

SENATOR SIECK: Yes, Mr. President, members of the body, I, too, stand opposed to this amendment or this bill. I have got to congratulate Senator DeCamp for trying. I think he is trying his utmost to get the job done but I don't feel he is going to get the job done. I feel that we have got to come to a better system. We have got to find the causes of the litter being out there. The jerks and so on that are throwing the litter out there on the highways and roadsides, they are the causes, and if we would have a deposit on these containers, I think it will solve the problem. I would like to read to you a part of an editorial. "To hope that placing more litter barrels along highways and in public places will solve the problem of irresponsible, mindless spaceheads throwing beer cans and bottles out of cars seems to be the ultimate in wishful thinking. Those who haven't the intelligence to quit drinking while driving around in an automobile are certainly not going to be impressed with more litter barrels. To these idiots even a deposit probably wouldn't do very much but it could help since money can make an impression even on the hardest of heads." And that is true. I hear some comments in the back of me here but that is very true. Money counts and I know that these young people would be picking up these cans and these bottles and would be cleaning up our roadsides. "A beverage container deposit law would do more to solve the litter problem in the state than all the litter barrels we can find in the whole U.S. It is about time that we figured out that to simply assess some business to pay for litter will only result in more consumer cost and no reduction in litter. The assessment should come at the source of the litter, the consumer who purchases those items which cause the most problems." I happen to have a son-in-law who operates a 7-Eleven store

in Michigan. They have a deposit law in Michigan and the deposit law is twenty cents per can and per bottle. When they were debating the law, and by the people, it was a vote of the people, he was very much opposed to it but last fall when I came into his place of business he said, "Harold, you have got to get a litter law in Nebraska. It is the best thing that ever happened in Michigan." I said, "Well, I can't believe it. I just can't believe that you are saying this." I said, "How do you handle this?" He said, "It isn't that difficult", and he showed me how he handled it in his place of business. So it will work. Now I can assure you that I have a bottle law or bill laying in my desk in my office which I will come up with a year from now. I didn't think this was the appropriate time because I thought there was needed more research and I wanted to actually see whether this would work and if it is working fine and let's see whether it will work. So I am going to be opposed to this litter bill. Thank you.

SENATOR CLARK PRESIDING.

SENATOR CLARK: Senator Higgins.

SENATOR HIGGINS: I call the question.

SENATOR CLARK: Do I see five hands? I do. The question before the House is ceasing debate. All those in favor vote aye, opposed vote nay. Have you all voted on ceasing debate? Record the vote.

CLERK: 25 ayes, 7 nays to cease debate, Mr. President.

SENATOR CLARK: Debate is ceased. Senator DeCamp.

SENATOR DeCAMP: Mr. President, I will try to be real brief and answer the questions that were raised that I had some questions about myself. Regarding the penalties, I think it was Senator Hoagland who was successful in getting an amendment on and it is a Class IV misdemeanor. I tried changing it to Class V. He wants to keep the original language Class IV. That is fine. That is in the bill, answers the question on that. The waste that Senator Vickers is talking about, that has to do, the primary waste he is talking about has to do with the residue or remnants of a manufacturing plant and let me use a simple example. Let's imagine we had a can company called "Continenti-telly Can". The can itself is the product that is taxed, the excess aluminum or other material is not. It is a primary waste, therefore, it is not taxed. That is what is involved in that particular portion. With regard to the issues raised

April 1, 1981

LB 253, 253A

by Senator Sieck, Senator Sieck supports the bottle bill. I supported it in the past. Whether it can or cannot be passed next year or whether it is going to be needed is a separate issue. LB 253, this bill, funds the programs to collect and recycle litter, not just bottles and cans but all kinds of litter. It funds programs to educate the youth regarding litter problems, a litter consciousness. The alternative is for absolutely nothing to be done because there is no funding anywhere else. So you can say you want a bottle bill, but what you do have now is another alternative, a different type of program. At least it makes sense to me, I would think, to get as much money in that as you can to make it function as efficiently, to make it function with a minimum of harassment and that is what the bill does for you, gets some additional money and eliminates some of the problems of the smaller guy getting harassed. I think you should advance it.

SENATOR CLARK: The question is the advancement of 253. All those in favor vote aye, opposed vote nay. Have you all voted? Record the vote.

CLERK: 25 ayes, 13 nays on the motion to advance the bill, Mr. President.

SENATOR CLARK: The bill is advanced. LB 253A. Senator DeCamp.

SENATOR DeCAMP: Is there an amendment?

CLERK: On what?

SENATOR DeCAMP: 253A.

CLERK: Yes, sir, from you. Mr. President, Senator DeCamp moves to amend the A bill. (Read amendment of Senator DeCamp found on page 1264, Legislative Journal.)

SENATOR DeCAMP: Is that a deal, huh? How many people come in and cut their A bills almost in half? The reason we are able to cut this is because when you went from the hundred thousand to I think it is three hundred or three hundred and fifty thousand, whatever, we all agreed on that one day, you made major cuts in the administrative costs and so you only need thirteen thousand instead of twenty thousand. So I move adoption of the amendment and so on.

SENATOR CLARK: Is there any discussion on the amendment to 253A? If not, the question before the House is the adoption of the amendment to 253A. All those in favor

April 6, 1981

LR 50  
LB 40, 22A, 158A, 317A,  
298, 253, 253A, 271,  
132, 466, 174, 351, 125,  
167

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: The opening prayer will be given by  
Senator Rumery.

SENATOR RUMERY: Offered prayer.

SPEAKER MARVEL: Roll call. Please record your presence.  
While we are in the process of the roll call may I indicate  
to you that today is Senator Kahle's birthday. We wish you  
all the best. Record.

CLERK: Quorum present, Mr. President.

SPEAKER MARVEL: Do you have anything under three?

CLERK: Mr. President, your committee on E & R respectfully  
reports that we have carefully examined and reviewed LB 40  
and recommend the same be placed on Select File. 22A, 158A,  
317A, 298, 253, 253A. . . .

SPEAKER MARVEL: Just a minute...(Gavel) okay.

CLERK: .....271, 132, 466 all placed on Select File, (signed)  
Senator Kilgarin, Chair.

Mr. President, LB 174, 351, 446, 125 and LR 50 are ready  
for your signature.

SPEAKER MARVEL: While the Legislature is in session and  
capable of transaction business, I am about to sign and  
do sign LB 174, 351, 446, 125, and LR 50.

CLERK: Mr. President, I have two communications from the  
Governor. (See page 1290-91 of the Legislative Journal).

Mr. President, Senator Newell moves to return LB 167 to  
Select File for a specific amendment. That will be printed  
in the Journal.

Your Enrolling Clerk respectfully reports that she has on  
this day presented to the Governor for his approval the  
following bill.

Mr. President, I have a report from the Department of  
Administrative Services from the State Building Division.

April 9, 1981

LB 284, 113, 344, 253

complex problem. So I urge you to accept the Wesely amendment and to strike the...and to reinstate the sunset provision.

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

CLERK: Senator Clark voting aye.

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

CLERK: 15 ayes, 22 nays on the Wesely motion, Mr. President.

SENATOR CLARK: The motion failed. Do you have anything else further on the bill?

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

SENATOR CLARK: Senator DeCamp, do you want to advance the bill? The question before the House is the advancement of the bill. It will take a machine vote on it to E & R Final. All those in favor vote aye, opposed vote nay.

CLERK: Senator Clark voting aye.

SENATOR CLARK: Have you all voted except 22 of you. Record the vote.

CLERK: 33 ayes, 6 nays on the motion to advance the bill, Mr. President.

SENATOR CLARK: The bill is advanced.

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: Do you have any other items?

CLERK: Mr. President, I have two Attorney General Opinions, one to Senator Hoagland regarding 253; one to Senator DeCamp regarding 113. (See pages 1384 through 1387 of the Legislative Journal.) Corrected committee statement for 344; and Senator DeCamp would like to print amendments to 113. (See pages 1388 and 1389 of the Legislative Journal.)

SPEAKER MARVEL: Do you want to read the A bill?

April 10, 1981

LB 253

Mr. President, with respect to LB 298 I do have E & R amendments pending.

SENATOR CLARK: We are going to pass over 298. There are some amendments that are coming up from the bill drafters. We will go into 253. Before we go into 253 I will announce these before the kids leave up there. There are 58 students from La Vista West, fourth graders, Senator Beyer's and Senator Cope's district, and they have their two teachers with them. Where are your hands please? There they are. There is 58 students from the Millard Public Schools and 10 adults with them from Senator Wiitala's district, Julia Schanou and Terry Wilcox. Will you hold your hands up so we can recognize you. 33 girl scouts from Guiding Star Girl Scout Council, Mrs. Carol Aten, Mrs. Carol Swain are the leaders. They are in the South balcony. Will you hold your hands up, please. Welcome to the Legislature. From Senator Vickers' district we have Daryl Mellester, Jeff Gustafson, Leo Schulte, Ray Rempe and Dale Anderson, workers of the American Communication. Where are you located? They are in the back there. Welcome to our Legislature. What do you have on 253, Mr. Clerk?

CLERK: Mr. President, the first thing I have on 253 are E & R amendments to the bill.

SENATOR CLARK: Senator Kilgarin, E & R amendments on 253.

SENATOR KILGARIN: I move the E & R amendments on LB 253.

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

CLERK: Mr. President, the next amendment I have is from Senator Hoagland. The amendment is on page 1106. It would strike "1986" and insert "1984" on page 19, line 5.

SENATOR CLARK: Senator Hoagland.

SENATOR HOAGLAND: I would like to withdraw that amendment at this time, Mr. President.

SENATOR CLARK: They are withdrawn. Anything further on the bill?

CLERK: Senator DeCamp moves to amend the bill. (See pages 1408-1409 of the Journal.)

SENATOR CLARK: Senator DeCamp.

SENATOR DeCAMP: Mr. President, the amendment does two things.



April 10, 1981

LB 253, 253A

It strikes one section of the bill, Section 19 and it also puts the severability clause in. Let me read you my little notation I handed out on the desk and I think that should about do it. An Attorney General's opinion indicates on page 1384 of the April 9 Journal to Senator Hoagland that Section 19 is constitutionally suspect. This conclusion is based upon the assumption that Section 19 is an unlawful delegation of legislative authority. Well I do not necessarily agree with this. I have submitted an amendment to strike Section 19. This section is no longer necessary due to the fact that we have a floor of \$350,000 for any fee assessment. This would result in a minimum fee of \$50. Section 19 was in the original draft of the bill last year and carried over to this year. Its purpose was to permit the Revenue Department to deal with businesses whose fees would be so small they would not be worth collecting. This matter is remedied with the new floor concept in the bill and hence, I offer the amendment to strike Section 19.

SENATOR CLARK: Is there any discussion on the DeCamp amendment to LB 253? If not, all those in favor vote aye, all those opposed vote nay. Have you all voted? Have you all voted on the DeCamp amendment to LB 253? It takes 25 votes. Record the vote.

CLERK: 25 ayes, 1 nay, Mr. President, on the adoption of Senator DeCamp's amendment.

SENATOR CLARK: The amendment is adopted. Do you have anything further on the bill?

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

SENATOR CLARK: Senator Kilgarin, do you want to move 253?

SENATOR KILGARIN: I move LB 253 be advanced to E & R for engrossment.

SENATOR CLARK: You have heard the motion. All those in favor say aye, all those opposed no. The bill is advanced. LB 253A

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

SENATOR CLARK: Senator Kilgarin.

SENATOR KILGARIN: I move LB 253A be advanced to E & R for engrossment.

SENATOR CLARK: You have heard the motion. All those in favor say aye...Senator Hoagland.

April 13, 1981

LB 11, 17, 59, 132, 167,  
LB 205, 253, 253A, 284,  
LB 284A, 329, 333, 366,  
LB 483

first one now and then see how we get along.

CLERK: Mr. President, if I may, right before we go to that, your committee on Enrollment and Review respectfully reports LB 132 correctly engrossed; 253, 253A, 284, 284A, and LB 483 all correctly engrossed.

A letter from the Governor addressed to the Clerk. (Read. Re: LB 59, 167, 17 and 205. See page 1446, Legislative Journal.)

Senator Wagner would like to print amendments to LB 11.

And your Enrolling Clerk has presented to the Governor LB 329 and 333.

Mr. President, LB 366 (Read title). The bill was first read on January 19, referred to Retirement for public hearing. The bill was advanced to General File. There are committee amendments by the Retirement Committee.

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

SENATOR FOWLER: I do. I move adoption of the committee amendments. LB 366 is a bill that deals only with police and fire in the City of Lincoln or that is cities of the primary class. The committee amendments are a compromise, a negotiated compromise, between the police, the fire and the city administration. It is acceptable to all sides and acceptable with an amendment that Senator Landis offers. The basic thrust and the reason for the agreement is that civilian employees if you want to use that term, the nonpublic safety employees, are currently being matched \$2 for every \$1 that they contribute. The city matches \$2 for every \$1 that is contributed. The city working with its actuary developed a proposal to improve the Lincoln Police and Fire system to the point that the same matching ratio would be used and that the 7% of employees salary contributed by the police and fire would be matched with a 14% of payroll contribution by the police. So these are amendments. 366, there is a companion bill, 367. That bill was killed. This integrates the proposals. It may be less than the public safety organizations initially wanted but it is something that provides equity and comparability between the systems. I would move for the adoption of the amendments.

SPEAKER MARVEL: The motion is the committee amendments to LB 366. Okay, the motion is to adopt the committee amendments. Senator Schmit, do you wish to speak to the committee amendments?

May 12, 1981

LB 158, 253

CLERK: Read LB 158.

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. 158. Record the vote.

CLERK: 42 ayes, 4 nays, 3 present and not voting. Vote appears on page 1957-58 of the Legislative Journal.

SPEAKER MARVEL: The bill is declared passed on Final Reading. The Clerk will now read 158A.

CLERK: Read LB 158A 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 158A. Record the vote.

CLERK: 42 ayes, 4 nays, 3 present and not voting. Vote appears on pages 1958-59 of the Legislative Journal.

SPEAKER MARVEL: The bill is declared passed on Final Reading. The Clerk will now read 253 on Final Reading.

CLERK: Read LB 253 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. LB 253 with emergency clause. While we are waiting for the vote from Senator Kremer's district in the north balcony we welcome 28 fourth, fifth and sixth grade students from Hampton Public School, Hampton, Nebraska and the teacher is Mrs. Lois Ahl. Where are you folks located, will you hold up your hand. Welcome to the Unicameral. Record the vote. This bill requires 33 votes. Have you all voted? Okay, record the vote. Roll call has been requested. Do you want to record your presence please. Have you all recorded your presence? As soon as we get through this vote we will recess over the noon hour. Senator Howard Peterson will you press your button. Senator Warner will you. . . . Senator Clark. The Clerk is authorized to take in call in votes.

CLERK: Stoney changing from no to yes.

SPEAKER MARVEL: Okay, record.

CLERK: 33 ayes, 15 nays, 1 present and not voting. Vote appears on page 1960 of the Legislative Journal.

May 12, 1981

LB 22, 22A, 157, 157A, 158, 158A,  
168, 168A, 197, 197A, 245, 245A,  
253, 253A, 292, 292A, 317, 317A,  
427, 427A, 529

RECESS

SPEAKER MARVEL PRESIDING

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

SPEAKER MARVEL: The Clerk has some items on the desk that need to be read in for the record.

CLERK: Mr. President, I have for your signature LBs 197, 197A, 245 and 245A, LBs 168, 168A, LB 157 and 157A, LB 427 and 427A, LB 292, 292A, LB 317 and 317A, LB 22 and 22A, and LB 158, 158A, and 253 and 253A, Mr. President.

Mr. President, Senator Chronister would like to print amendments to LB 529 in the Journal. (See page 1963 of the Legislative Journal.)

SPEAKER MARVEL: While the Legislature is in session and capable of transacting business, I am about to sign and do sign engrossed LB 197, engrossed LB 197A, engrossed LB 245, engrossed LB 245A, engrossed LB 168, engrossed LB 168A, engrossed LB 157, engrossed LB 157A, engrossed LB 427, engrossed LB 427A, engrossed LB 292, engrossed LB 292A, engrossed LB 317, engrossed LB 317A, engrossed LB 22, engrossed LB 22A, engrossed LB 158, engrossed LB 158A, engrossed LB 253, engrossed LB 253A. Before we begin with some other bills, it is my privilege to introduce a number of visitors from Senator Cope and Kahle's Districts, ten students, 1st to 10th Grade, First Church of God Christian Academy, Kearney, Pastor Larry Lautaret, Jane Perry, teacher and Chester Trew, sponsor. In the north balcony. Will you hold up your hands so we can see where you are? Okay. From Senator Howard Peterson's District, eight students K through 12th Grade, Calvary Academy, Grand Island, Nebraska, Agnes Rich, Louise Bonne and Bonnie Skala, teachers. Where are you located? Okay. From Senator Chronister's District, eleven students from District 9, District 43, Wisner, Nebraska. Miss Koester and Miss Kansier, teachers. North balcony. Where are you located? Okay. From Senator Dworak's District five students, 3rd and 7th Grade from Christian Liberty Academy, Leigh, Nebraska, Susan Turvy, teacher, also Barbara Hall, in the south balcony. Are you in the south or north? From Senator Beutler's District sixteen 4th Graders, Hawthorne Elementary School, Lincoln, Nebraska, Mrs. Stephenson and Mrs. Anderson, teachers, in the north balcony. Where are you located? From Howard Peterson's District seven students K through 12th Grade, York Christian Academy, York, Nebraska, Edward Moray, Irene Moray, teachers. Where are you located? Okay. From

May 12, 1981

LB 22, 22A, 144, 144A, 157, 157A, 158,  
158A, 168, 168A, 188, 188A, 197, 197A,  
204, 204A, 207, 207A, 243, 245, 245A,  
317, 317A, 253, 253A, 292, 292A, 427, 427A

Mr. President, your committee on Enrollment and Review respectfully reports....your Enrolling Clerk reports that she has presented to the Governor those bills that were read this morning on Final Reading. (See page 1977 regarding LBs 207, 207A, 188, 188A, 144, 144A, 204, 204A, 197, 197A, 245, 245A, 168, 168A, 157, 157A, 427, 427A, 292, 292A, 317, 317A, 22, 22A, 158, 158A, 253, 253A, in the Legislative Journal.)

SENATOR CLARK: I would like to announce the guests of Phyllis Todd from Senator Beutler's District, Mr. Kim, Mrs. Kim and Mrs. Bae-Pusan from Seoul, Korea. They are under the south balcony. Will you stand and be recognized, please? They are in the south balcony. Welcome to the Legislature. LB 243.

CLERK: Mr. President, LB 243 was a bill introduced by Senator Schmit. (Read title.) The bill was first read on January 16, referred to Ag and Environment. The bill was considered by the body on April 10, Mr. President. At that time the committee amendments were adopted. There was an amendment from Senator Schmit that was adopted. The bill failed to advance on that date, Mr. President. I have nothing further on the bill.

SENATOR CLARK: Senator Schmit.

SENATOR SCHMIT: Mr. President and members of the Legislature, I am going to ask you once again to consider LB 243. The bill was heard and discussed and debated at length. The previous time it was up it received 23 votes to advance on a Friday afternoon with about 27 or 8 people on the floor. I think that the fact that we have discussed the bill should perhaps wipe out any reason for a lot of lengthy debate. I know there are a lot of other bills that you want to get to today. I just want to say in reply to a piece of material that is lying on your desk, two and a half pages in length, which casts serious doubts about the problems that LB 243 can cause, I want to say this. You will recall that Senator Kremer and myself and along with several...at least 23 others in this body successfully added about \$2 million to the water development fund. There are rumors now that they may want to cut that back in the Executive Office to \$3 million from 4. That means that we will have about an additional \$800,000 in the water development fund, 50 cents per capita. Not exactly an overwhelming amount of public support I would guess for water development. My concern as I have indicated many times on this floor is this, if we are going to use funds that have been generated by a subdivision of government for

May 14, 1981

LB 22, 22A, 144,  
LB 144A, 138, 188A,  
LB 207, 207A, 253,  
LB 466, 253A, 376, 548

SENATOR NICHOL: The amendment fails. Mr. Clerk, do you have anything else?

CLERK: I have nothing further, Mr. President.

SENATOR NICHOL: Senator Labedz, would you like to speak to the bill?

SENATOR LABEDZ: Thank you, Mr. President. I move for the advancement of LB 466 to E & R engrossing, and unless there is going to be some debate, I will offer further comments on my closing.

SENATOR NICHOL: Senator Cullan.

SENATOR CULLAN: Mr. President, just one thing for the record and that is I want to state for the record that I voted against the Marsh amendment, not because I believe that the concept of hospitalization is a bad one, but because we did not have adequate chance to review that amendment thoroughly and sufficiently at this point in time. We may very well sponsor some similar legislation in future years. Thank you.

SENATOR NICHOL: We are now voting on the advancement of LB 466. All those in favor signify by voting aye, opposed nay. Record, Mr. Clerk.

CLERK: 28 ayes, 9 nays, Mr. President.

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: Motion carried. The bill advanced.

CLERK: Mr. President, a few items to read in, if I may. I have an appointment letter from the Governor. That will be referred to the Executive Board for reference, Mr. President.

Mr. President, a communication from the Governor addressed to the Clerk. (Read: Re: LB 22, 22A, 144, 144A, 188, 188A, 207, 207A, 253 and 253A. See page 2049, Legislative Journal.)

Mr. President, Senator Maresh would like to print amendments to LB 548 in the Legislative Journal; Senator Dworak to print amendments to LB 376 in the Legislative Journal.

Your committee on Retirement gives notice of hearing on gubernatorial appointments for two, Thursday, May 12 (sic).