

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.

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LB 55, 114, 128, 190, 198, 217, 246,
271, 279, 297, 327, 388, 434, 462,
407, 258

fellows walk around lobbying for this bill. They say, we hear you are against our bill, Rex, we are going to...we have some lobbyists working against you. They are sure are. They have been working their heads off this morning. I don't mind standing up here all alone, I have done it before, but I would like to have you fellows stop and think, we are only raising it from 6 to 8. They had a profit, a net profit of forty million in 1979. Thirty percent crosses the state. So I will ask for you to think down the road, raise it the two percent and then we will go from there. Thank you.

SPEAKER MARVEL: Motion is the Haberman amendment to legislative bill 190. All those in favor vote Aye, opposed vote No. Have you all voted? O.K. Record the vote.

CLERK: Eight Ayes. Fifteen Nays, Mr. President.

SPEAKER MARVEL: O.K. The motion lost. Now do you have some items to read in?

CLERK: Yes, sir.

SPEAKER MARVEL: While you are bringing them up, the Chairmen of the various committees have received a note this morning that we will meet tomorrow at 8:30a.m. in Room 2102. We need to start talking about priorities. If you will look at the sheet, you will find that this is the 39th day. Okay.

CLERK: Mr. President, your Committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 55 and find the same correctly engrossed; 114, 128, 217, 246, 279, 388, 434, 462, all correctly engrossed.

Mr. President, your Committee on Government reports LB 407 to General File. (Signed) Senator Kahle. LB 297 indefinitely postponed. Your Banking Committee whose Chairman is Senator DeCamp reports LB 271 to General File with amendments. (Signed) Senator DeCamp. (See page 809 of the Legislative Journal.) Miscellaneous Subjects Committee whose Chairman is Senator Hefner reports LB 258 to General File with amendments. (See pages 809 and 810 of the Legislative Journal.) (Signed) Senator Hefner. Your Banking Committee reports 327 to General File with amendments. (See page 810 of the Legislative Journal.)

Finally, Mr. President, Senator Warner would like to print amendments to LB 198 in the Legislative Journal. (See pages 810 through 815 of the Legislative Journal.)

SPEAKER MARVEL: Senator Peterson, will you adjourn us until 9:00 o'clock tomorrow morning. Howard Peterson.

SPEAKER MARVEL: The next bill is LB 258. Senator Hefner.

CLERK: Mr. President, LB 258 was introduced by the Miscellaneous Subjects Committee. (Title read). The bill was read on January 16. It was referred to the Miscellaneous Subjects Committee. The bill was advanced to General File. There are committee amendments pending by the Miscellaneous Subjects Committee, Mr. President.

SPEAKER MARVEL: Senator Hefner.

SENATOR HEFNER: Mr. President, members of the body, I move for the adoption of the committee amendments, but before I explain the committee amendments, I would just like to tell you a little bit about the bill. The bill provides for another type of liquor license and this new license would be a Class K which would be beer and wine off-sale. Now I will explain the amendment. The purpose of the amendment is to limit persons holding a Class B license, and a Class B license is for beer off-sale, from obtaining all Class K licenses. These persons would be limited to obtaining just two Class K licenses. I would like to give you an example. Say a person holds three or four Class B licenses which is the beer only off-sale, he or she would be able to obtain two Class K licenses. A Class K license would be a beer and wine off-sale and also included in this amendment is the emergency clause. The Miscellaneous Subjects Committee meant to include the emergency clause in the original bill but it was omitted and so we are adding the emergency clause.

SPEAKER MARVEL: Senator Cullan.

SENATOR CULLAN: Mr. President, members of the Legislature, I rise to support the committee amendments and LB 258. I believe the committee amendments resolve the problem that people were concerned about by creating another class of license because they were concerned that it would result in considerably more licenses in the State of Nebraska, and by limiting this upgrading to two, I think omits many of the concerns that were expressed at the committee hearing and so I urge you to adopt the amendments and support LB 258.

SPEAKER MARVEL: Senator Dworak. Senator Dworak. The latest information I have is that President Reagan is reported to have been hit in the left chest, is in the George Washington Hospital and condition is stable. Senator Haberman.

SENATOR HABERMAN: Mr. President, members of the Unicameral, a question of Senator Hefner.

SPEAKER MARVEL: Senator Hefner.

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SENATOR HABERMAN: Beings as my mail ran so heavy against this, I would like to ask, this does or does not create a new class of license?

SENATOR HEFNER: Yes, Senator Haberman, it does include a new class of license. Of course, at the present time, what we are debating is the amendment to the bill.

SENATOR HABERMAN: And what does the amendment do again, please?

SENATOR HEFNER: The amendment limits a person to only two Class K licenses. This is if a person would have, say, three or four outlets or maybe a half a dozen or a dozen outlets and had the Class B license, he or she would only be able to get two Class K license to replace the Class B license.

SENATOR HABERMAN: All right, on this list, A, B, J, K, C, D, which is the new classification?

SENATOR HEFNER: K, Class K.

SENATOR HABERMAN: And they will be limited, people will be limited to two Class K's, is that what you are saying?

SENATOR HEFNER: Okay, let me give you another example, Senator Haberman.

SENATOR HABERMAN: I run a liquor store. Okay, now that is where I have been getting my mail. I run a liquor store.

SENATOR HEFNER: What kind of license do you have?

SENATOR HABERMAN: I can sell beer and whiskey off-sale. You come in and buy it and take it with you. To you I would give you a six-pack but...

SENATOR HEFNER: Okay, Senator Haberman, what this bill would do, say you had a Class B license, this is for beer off-sale, and you wished to sell beer and wine off-sale, then you would get a Class K license. Now if you want to sell wine off-sale, you have to get another license and included in that is your other hard liquor.

SENATOR HABERMAN: So the Class C people that already have the beer, wine and liquor, this would have nothing to do with them?

SENATOR HEFNER: No, they wouldn't need to apply for a Class K license.

SENATOR HABERMAN: But it would open up more competition to them?

SENATOR HEFNER: I doubt it whether it...

SENATOR HABERMAN: Okay, thank you. I will have to oppose this as one of the statements made is that Nebraska has such few licenses compared to other states. So again we are comparing Nebraska to other states, and in many, many cases, I don't give a diddly-do what other states do. It is what we want to do here in Nebraska and my mail, I received no mail in favor of this from my district and I received lots of mail against it. And what it is, it is creating where Class A, where you sell just beer now, they will be able to sell wine. Well, it says Class K is beer and wine. Then we will go a step further next year and probably give the beer and the wine another step further and let them sell liquor. So I would have to say that we have enough classifications and enough licenses and I will have to oppose the amendment and the bill. Thank you, Mr. President.

SPEAKER MARVEL: Senator Dworak.

SENATOR DWORAK: Mr. Speaker and colleagues, I carried a similar bill last session which created a Class J license which allowed wine and beer on-sale for restaurants primarily and I got the same kind of mail from a few retailers that Senator Haberman is getting now and I would venture to guess that maybe with the exception of one letter he hasn't received a piece of mail from the general public. And the thing that baffles me, the thing that I can't understand is this paranoia, this fear that there might be one other or two other or three other liquor licenses issued in the state for this particular category. That seems to be the bottom line. There was no problems caused by the J license, no problems whatsoever. The impact was negligible other than the fact that there are a few Pizza Huts now that can serve wine and they don't have to get a Class C license and to me that is a good policy. Why should someone be forced into a full line of liquor sales when they don't need it, when they don't want it, when they don't desire it. I see absolutely no problem with this particular license. I see no problem with a K classification. In fact, Senator Hefner, I can't even understand why the bill would have any opposition at all. I can't believe that this body would take a significant amount of time on this. If that is what people desire to do, they should be allowed to do it rather than forcing these people into a full-fledged operation. So I very strongly support Senator Hefner's bill.

SPEAKER MARVEL: Senator Clark.

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SENATOR CLARK: Mr. President, members, I can see nothing wrong with the bill. I think it does fill a void, like Senator Dworak says, where you don't want to handle the alcoholic spirits themselves, just beer and wine. I can see nothing wrong with it. I think it is a bill that should be passed. It does fill a void in there instead of forcing them in like Senator Dworak says to a full Class C license. They can get beer and wine only and I'd certainly support the bill.

SPEAKER MARVEL: Senator Remmers.

SENATOR REMMERS: Mr. Speaker, members of the Legislature, I am going to vote for this bill, if for no other reason than most of the opposition I have gotten has been from those that have a license. For instance, I got a letter here today that had been circulated from the Nebraska Licensed Beverage Association. So I think if there is any...I am going to vote for it because the opposition to it has been coming from this area.

SPEAKER MARVEL: Senator Nichol, do you wish to speak to the amendments? We are speaking to the committee amendments.

SENATOR NICHOL: I wanted to speak to the bill, sir.

SPEAKER MARVEL: Senator Kahle, do you wish to speak to the committee amendments? Excuse me, the issue before the House is the adoption of the committee amendments. Senator Hefner, do you want to close?

SENATOR HEFNER: Mr. President, members of the body, I think we have been discussing the bill more than we have been talking about the amendment. All the amendment would do is allow those chains that have more than two Class B licenses to be limited to two Class K licenses and then also add the emergency clause, and let me assure you that a local governing board still controls it. If the local board says they can't do it, they absolutely cannot have it and so I urge you to support the committee amendment.

SPEAKER MARVEL: All those in favor of the adoption of the committee amendments as explained by Senator Hefner vote aye, opposed vote no. Record the vote.

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

SPEAKER MARVEL: The motion is carried. The committee amendments are adopted. Senator Hefner, do you wish to explain

the bill. Then we have a motion on the desk.

SENATOR HEFNER: Mr. President, members of the body, I move the advancement of this bill, LB 258, and I will try to explain it to you and clarify some of the things that were misstated on the floor. This bill was introduced by the Miscellaneous Subjects Committee as a result of an interim study this past summer. The bill provides for a Class K beer and wine off-sale license. The committee felt that this license would fill a void or a gap in Nebraska's existing licensed beverage laws. Currently in order to sell wine off-sale, a retailer must have a license, a Class A and a Class D license which would permit the sale of beer, wine and liquor. Now what this bill does, this makes a new license, a Class K license, that would permit a retailer to obtain a license to sell only beer and wine and this way he wouldn't need to have the license that says that he could sell hard liquor. This bill, I feel, would close the last gap in our licensed beverage laws. Due to increased consumer demand of wine and the lack of a specific license for an off-sale wine, this bill, LB 258, is a timely and a positive step towards a reasonable and effective license of alcohol beverages in Nebraska. I urge your support for the bill.

CLERK: Mr. President, I have a motion on the desk. Senator Vickers moves to indefinitely postpone LB 258.

SPEAKER MARVEL: Senator Vickers.

SENATOR VICKERS: Mr. Speaker and members, I suppose I put this motion up for some of the same reasons that Senator Clark and Senator Dworak were talking for the bill. They seem to think we need more outlets or more competition, if you will. I look around my area, I look around the entire State of Nebraska, and I really can't say that I see a gap, as Senator Hefner indicated, as far as areas where alcoholic beverages cannot be purchased. I don't happen to know where those gaps are at and I enjoy a nip of wine occasionally myself, Senator Hefner, and I haven't run into too much difficulties finding a place to buy it. I think we might as well be right up front. I read the bill book and the people that are supporting this and I will also mention for Senator Remmers' benefit that I am not putting this up on behalf of the Licensed Beverage Association either. But I do notice that the people supporting this, the majority of them, are representing food markets, supermarkets. That tells me something. That tells me who is really going to use this license if this extra gap is there or if this extra outlet is needed. I was over in Iowa this past weekend. You can go to about any 7-Eleven store or any food market in the State

of Iowa and buy beer in any of them, practically every filling station, but there is one difference. We think, well, we have got to have it that way because Iowa has got it or we have got to have it that way because it is nice to be able to buy these sort of things in the supermarkets but the difference is that in Iowa the liquor stores, as we know them over here, are owned by the state. The City of Ames, Iowa has one liquor store in the whole city. Now I will admit Ames is not the hugest city in the world but it is a much larger town than many towns that I know of in the State of Nebraska that have as high as three and four liquor stores in them. Maybe that is the reason they have got a little different set up over there but I, for one, don't really feel that it is necessary to get into a situation where the supermarkets of this state, and believe me, if the 7-Eleven's and some of the others that are mentioned in the bill book, Shaver's Food Markets, Baker's Supermarkets and so forth, if they start getting these licenses, then all the other supermarkets in the State of Nebraska are going to have to get them also in order to so-call compete. We talk about competition all the time. That is great. I don't know as it drives the price down a whole lot but it does give a few people some more income. I think another area that we need to think about is if we really are serious about providing more outlets or not, the fact of the matter is without getting on a soapbox that gets to alcoholism, I think all we need to do is read the newspapers and we know that traffic accidents are increasing at a dramatic rate. The highway fatality toll is higher each year than it was the year before and I don't think you need to be any great wizard to figure out why. The majority of those accidents are normally, over fifty percent of them, have got some sort of alcohol relation to them. Why we need more outlets to fill a so-called gap is beyond me. So since I can't see that gap, see no reason for allowing individuals to sell beer and wine off-sale, I think we have got plenty of licenses available right now. If they want to run a legitimate liquor store and handle the whole thing, then fine, we have got the licenses to do that. I would urge this body's help to indefinitely postpone LB 258.

SENATOR CLARK PRESIDING

SENATOR CLARK: Senator Dworak. Pardon me, Senator Cullan.

SENATOR CULLAN: Mr. President, members of the Legislature, I took the opportunity to listen to Senator Vickers and his explanation as to why he opposes LB 258 and I guess you could just sum it up in a sentence rather than take as much time as he did and say he doesn't like alcohol or he doesn't want to make it...I guess that is fine. I don't drink very much myself but I think he is missing the big point of LB 258 and the reason that some of us do support it and it is precisely for

the reason that Senator Haberman mentioned. The retailers in this state are afraid of that competition. They are afraid that they are going to lose some business to the grocery stores and the people that are selling wine and I guess when you look at business, and I guess sitting on the Health and Welfare Committee we are always looking at regulations and how regulations affect industry and so forth because many of the regulatory processes we have in the State of Nebraska come through that committee, and you have to ask yourself a philosophical question. Why do you impose regulation on an industry? You propose regulation on an industry to protect the public, and so here, we want to make sure that the availability of alcohol is not excessive but we are not trying to protect. It should not be the function of state government to limit the competition in this area. We shouldn't protect those retailers who have the Class C and D permits. That is where the opposition is coming from, from those marginal retailers out there who are afraid that if the grocery store or some of the other people who sell beer start to sell wine that they are going to face serious financial problems. Well, if they can't compete, that is their problem. I don't think the state should be in the business of protecting them and that is what we are doing with the current licensing structure. I see no reason for us to indefinitely postpone this bill. It is logical if we provide beer and wine on-sale that we should provide beer and wine off-sale. It just doesn't make any sense to have the licensing structure any differently than is proposed under LB 258. Another point, this particular bill is a result of an interim study which the Miscellaneous Subjects Committee did. It is one of the few provisions of that interim study that has not been implemented in statute and I would suggest that we pass this bill, create a more fair and equitable licensing structure and prevent the situation we have now where we are protecting those retailers from competition. If the liquor industry is like other industries, competition is healthy and there is no public protection issue here so I see no reason for us to indefinitely postpone LB 258. I urge you to reject the Vickers motion and to advance this bill this afternoon.

SENATOR CLARK: Senator Nichol. Is Senator Nichol in the room? Senator Kahle.

SENATOR KAHLE: Mr. Chairman and members, I would like to get a little clarification on some of the things that may happen in a grocery store. I don't know whether Senator Hefner or somebody else might be able to answer. Would you be able to buy beer and wine on food stamps in a grocery store? The answer is what? Okay.

SENATOR CLARK: Senator Hefner, did you want to answer it?

SENATOR KAHLE: I guess they say "no" for the record. I guess that the other thing I am concerned about is the age limit and I know that most liquor stores, at least, that sell liquor are very careful about ID's for youngsters that are coming in to buy but I am real concerned the food stores would not be that concerned especially if there was a six-pack of beer and whole cart full of groceries and this bothers me somewhat. And the other thing where I have seen liquor or beer and wine sold in grocery stores in other states, they had a special separate check-out. Does anybody know if that is contemplated in this bill? Senator Hefner, do you know? Would they be checked out right through the regular check-out counter or would they have a separate one?

SENATOR HEFNER: The question is, would they have a separate check-out counter, no. No, it would go right through the regular channel and I am sure that these grocery stores or convenience stores that you are talking about, I am sure that they are very careful with ones they sell to, too. I am sure they check a lot of ID's.

SENATOR KAHLE: Well, I would be concerned that they wouldn't and, of course, there wouldn't be anything to stop kids from, at the right age, going in and loading up with beer and wine and one of them having an ID that would be twenty-one, twenty I guess it is now since Senator Kelly's bill, so I think we are creating a little bit of a problem. I believe liquor stores are classified as such and they watch this a little closer than grocery stores would so I feel I guess I will have to support the kill motion at this time. Thank you.

SENATOR CLARK: Senator Dworak. Senator Higgins.

SENATOR HIGGINS: Mr. President, members of the body, Senator Cullan just rose and talked about competition and he is in favor of this bill. I would remind the body Senator Cullan has a bill in that is going to raise the tax on alcoholic beverages so I suppose that would be to his advantage. If we make alcohol available in more outlets, it is going to raise more taxes if his bill passes. When it comes to competition, in my district in Omaha, well, according to the last census there is about 24,000 people, I have got exactly 99 bars. I call them the poor man's country club because they are neighborhood bars and they are run mostly by husbands and wives. They don't get rich. They don't make a hundred thousand a year but they make enough money to support themselves and send their children to school. It keeps them off the welfare roles but this bill is going to provide the

Kwik Shops that are open twenty-four hours a day with beer and wine licenses. Now the bars in Omaha as you know all close at 1:00 a.m. The Kwik Shops are going to be open twenty-four hours a day. In Omaha almost daily you read about these twenty-four hour grocery stores being robbed by young kids at that. They just come in, there is only one attendant there usually. A gang of them come in, steal what they want, run out the door and the attendant isn't about to leave the store and he isn't going to go chase them. Now what is going to prevent them at one, two, three o'clock in the morning from coming in and doing the same thing, ripping off the twenty-four hour grocery store, stealing their six-packs or twelve-packs of beer or wine and taking off. Do you think we have got enough police in the City of Omaha to go around and check on all of these grocery stores and see that they are obeying the law and not selling at 1:15 a.m., 1:20 a.m., 1:30 a.m. They have a tough time as it is to check in on all the bars and cocktail lounges. I have to support the kill motion because I am for the small businessman, and to me these little neighborhood bars, the poor man's country club, are nothing but small businesses. And I would like to have you come up to Omaha, especially in my district, and find out how many bars are selling fruits and vegetables and meat and potatoes the same as the grocery stores do. These stores will use this license as a leader item to get people in to buy their high priced groceries, and if you think that isn't unfair competition to the small bar owner, it is. So when you think about this bill and you think about competition, remember, these little neighborhood bars, they aren't in competition with the supermarkets or the quick shops that are open twenty-four hours a day. They are just trying to stay alive and make a living and they don't need another piece of competition to run them out of business. I support the kill motion and I certainly hope that when you vote you will think about these small businessmen and vote for the kill of this bill. Thank you.

SENATOR CLARK: Senator Barrett.

SENATOR BARRETT: Mr. Chairman, and members, as a member of the Miscellaneous Subjects Committee which heard this bill, and I believe as the only member of that committee that voted against it, I rise in support of Senator Vickers' kill motion. This is a bill which simply creates a new Class K license for on and off-sale beer and wine within the corporate limits of villages and cities in the State of Nebraska. In my opinion, it is totally unnecessary. As has already been said, we have enough outlets presumably doing the job that needs to be done. The bill is sponsored by the California

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Wine Institute. It is, in my opinion at least, an overt effort to do nothing more than simply sell more wine. As has already been alluded to, I see no reason why quick stops, supermarkets and so forth should be competing against our package stores, our ma and pa operations. I have heard no great hue and cry from the hinterland for us to adopt this bill, adopt a new Class K license. Despite what has been already said by some on this floor, my correspondence against LB 258 has not been directed entirely by those in the business. Granted, a lot of those letters that I received have been from licensees but not all of them. There is a concern out there. I am concerned about it. I don't believe the bill is necessary and I wholeheartedly support the motion to indefinitely postpone. Thank you.

SENATOR CLARK: Senator Haberman.

SENATOR HABERMAN: Mr. President, members of the Legislature, there was a statement made that can you buy wine with food stamps and the answer was "no". The answer is "yes". I have been doing my shopping down here now for going on two and a half years and I watched people how they spend their food stamp. Many, many cases, many, many times they overpay in food stamp and do you know how they get the money back, in cash. And do you know what they can do, then they walk right out of the checkline, if we pass this bill, over pick out their bottle of wine or what have you, come back and pay the cash and go on their merry way. So I say, "Yes, you can purchase wine and liquors with food stamps if it is made available in the proper places and you make it a lot easier." Sure, they could carry the cash, go down to the liquor store, but you are making it a lot easier. The guy looks at his change and he says, "Boy! I have got enough change here to get me a bottle of wine", and he is going to go over and get it where he may not make the trip the block and a half, the two blocks, or three blocks down to the local liquor store to buy the wine. Also your liquor store merchants are not afraid of the competition. They are saying why allow someone else in the business to use their livelihood as a loss leader which your grocery stores and your quick stop people would do. They will cut the price to get people in to buy their groceries by cutting the livelihood of someone else. So I ask you to vote yes on Senator Vickers' indefinitely postpone which means "kill it". Thank you very much.

SENATOR CLARK: Senator Nichol.

SENATOR NICHOL: Mr. Chairman, members of the Legislature, I rise just briefly to oppose the kill bill. Ordinarily

I don't get involved in liquor bills. I don't pretend to be an authority on liquor or wine but Senator Cullan and I have a little bill coming along in a little while that does just the opposite, try to pick up a little bit of money to cure alcoholism and these sort of things, but as far as wine is concerned with the low content, I don't see any problem letting ladies or whoever does the family shopping, men, pick it up while at the grocery store. I think competition will take care of itself. As far as welfare people spending money how they want to, it was attempted many years ago to tell them how to spend their money. It was declared that they were people, they had a right to spend their money how they wanted to and they will still spend it the way they want to, I don't care what you pass in this Legislature. So I support the bill and oppose the kill motion.

SENATOR CLARK: Senator Newell.

SENATOR NEWELL: Mr. President, members of the body, I would like to kind of clear up some misunderstandings that I think have been created here. You know I think that we were for awhile on the issue. Senator Higgins certainly talked to the issue. Senator Cullan talked to the issue. I think that is, in fact, the issue, how regulated should this industry be, to what extent do we want to open up this kind of activity. You know, I would like to remind people who are not too familiar with our present licensing structure that basically this is...the same thing is done right now for beer only. Senator Kahle, for beer only they do the same thing in terms of selling. This only upgrades beer and wine. This makes it beer and wine. You go into the whole issue of the Falstaff Brewery was over how you buy beer. You know you go out and you buy beer, you run it across the counter. A person has got to be twenty-one years old or twenty years old now to ring it up. Basically that already exists in our present law, that kind of retailing already exists for beer. Now we are trying to do it for wine. I would like to just address very briefly Senator Haberman's point. Rex, did you hear your name? Senator Haberman, you are not only incorrect but you are absolutely wrong. That is soft, Rex, that is softer than what I would normally want to do it and I am trying to be a good guy this year so I am just going to say not only are you incorrect, Senator Haberman, about how you exchange if you overpay in food stamps, you get back script, Senator Haberman, script. No, Senator Haberman, you do not get back cash. No, you do not. Well, I will tell you something. I am surprised at that and that is a direct violation of the law. You know frankly the argument has always been and there has been a lot of people who argue that, in fact, there is a lot of problems created with food stamps because of food stamp

people bringing back items and asking for cash because no one knows after they have taken it out when they come back in whether or not that they purchased it with cash or food stamps but you don't get back cash from the individuals. If it is it is just pennies, I will tell you that. It is only to make the very little change. Well, I think this issue can be resolved very easily and I think that is one, key one, but you know the other part of this issue, and I think we really have to analyze it, is simply this. The interim study that the Miscellaneous Subjects Committee did, the interim study basically said there needs to be some tightening up of our liquor laws. There needs to be some regulation over the industries, Senator Higgins. Senator Higgins. I get no respect, that's the...there needs to be some regulation of the industry and the Miscellaneous Subjects Committee...

SENATOR CLARK: (Gavel).

SENATOR NEWELL: Thank you.

SENATOR CLARK: I don't know whether they want to listen to you or not but we will try to hold them down.

SENATOR NEWELL: As long as they wouldn't compete so much, that is the part that bothers me. The fact is is we do have too many retail establishments. We do have cutthroat competition. We, in fact, do have far too many retail establishments and there is some kind of cutthroat competition out there and that is the problem. But you know we passed a bill earlier this year to deal with that in a more legitimate way and that is the public need and convenience bill that was passed earlier this session. Frankly, that, that is the way you legitimately look at whether or not there is competition throughout the area, throughout the city. You look at that in the issuance of every new license. That is the way you hold competition down. You don't hold competition down by setting a price structure. You don't limit the number of retailers or the type of retailers. You do it by limiting the total number of retailers. Frankly, we have done that. We have moved in that direction this year. This proposal will open it up so that in fact we can have competition in this industry.

SENATOR CLARK: Senator Maresh.

SENATOR MARESH: Mr. President, I call for the question.

SENATOR CLARK: Well, that really won't be necessary beings you were the last speaker. Senator Vickers, do you wish to close?

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SENATOR VICKER: Thank you, Mr. Chairman and members, well, there has been quite a bit of discussion here this afternoon and some of it, as Senator Newell says, some of it on the issue and some of it not. But I would in closing very briefly like to tell you, those of you that might not know, I think most of you probably do, but I was not contacted by Mr. Radcliffe or Mr. Moylan, from either side of the issue, until after I had already made up my mind what I was going to do with this bill. In other words, what I am telling you, competition is not what worries me, the lack of it or too much of it. As far as I am concerned, that is not the issue and that is not what prompted my kill motion on 258. As Senator Barrett indicated, there are some people out there, some real people in the real world that really believe that we have enough outlets for alcoholic beverages and can't see any need to create new ones. I happen to be one of those people. I agree with him and that purely and simply is the reason for the motion to indefinitely postpone LB 258. If you believe that there are some gaps in the State of Nebraska in the ability of the people, set aside for a minute the industry on either side, but look at it from the people's viewpoint, in the ability of the people to buy alcoholic beverages, then I suppose you should vote against the kill motion. But if you really don't think that there is any gaps out there, that anybody that wants to buy beer, wine or whatever can go do so, then I suggest you support my motion to indefinitely postpone LB 258. Thank you, Mr. Speaker.

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: Senator Vickers closed on his motion. All those in favor of indefinitely postponing the bill vote aye, opposed vote no. Have you all voted? Senator Cullan, for what purpose do you arise?

SENATOR CULLAN: How many are excused, Mr. President.

SPEAKER MARVEL: Two excused.

SENATOR CULLAN: I would ask for a Call of the House and a roll call vote.

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

CLERK: 28 ayes, 5 nays to go under Call, Mr. President.

SPEAKER MARVEL: The House is under Call. All legislators please take your seats, unauthorized personnel leave the floor, and record your presence. Senator Burrows, Senator

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Wittala, Senator Warner, Senator Cope, Senator Wesely, Senator Schmit, Senator Beutler, Senator Vard Johnson, Senator Sieck, Senator Lowell Johnson, Senator Peterson, Senator Dworak, Senator Chronister, Senator Chambers. Senator Wesely, Senator Chambers. Will all legislators please take your seats so we can proceed? Senator Cullan, shall we proceed? Do you want a roll call vote?

CLERK: (Roll call vote taken. See page 1194, Legislative Journal.) 24 ayes, 21 nays on the motion to indefinitely postpone, Mr. President.

SPEAKER MARVEL: Okay, the bill is deceased. The Call is raised.

CLERK: Mr. President, while we are waiting, your committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 384 and recommend that same be placed on Select File; LB 59, Select File, 168, Select File and LB 168A, Select File. (Signed) Senator Kilgarin, Chair. (See pages 1195 and 1196 of the Legislative Journal.)

SPEAKER MARVEL: The next order of business is LB 292.

CLERK: Mr. President, LB 292 was a bill introduced by Senators Maresh, DeCamp and Kilgarin. (Read title.) The bill was first read on January 19. It was referred to the Government Committee. The bill was advanced to General File and I do have committee amendments pending by the Government Committee, Mr. President.

SPEAKER MARVEL: Senator Kahle.

SENATOR KAHLE: Mr. President and members, the committee amendments are basically the bill now, and, of course, the bill was heard before the Government, Military and Veterans Affairs Committee on February the 12th. If you look in your bill book, you will see the procedure that was taken. This is a forms management bill and, of course, in order to explain the amendment I almost have to explain the bill, and I am sure that those that introduced it will be a little bit more informed than myself. But it seems that we have a great number of forms in the procedure of state government. And I think you have all heard complaints over the years that, my gosh, how many forms do we have and how many do we have to fill out to get something done? In our education system, in our... anything that you do in the State of Nebraska or perhaps anywhere else for that matter, you have an enormous amount

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PRESIDENT. I appreciate you for giving me this privilege to clear the record. Thank you.

PRESIDENT: Thank you, Senator Haberman. Senator DeCamp, for what purpose do you arise?

SENATOR DeCAMP: Just to tell Senator Haberman that I have got a heck of a deal on one that if he wants it.

PRESIDENT: We won't have any advertising and solicitation for commissions here. I think it is time we get to agenda item #4 for Final Reading. So if the Sergeant at Arms will clear the aisles, get all the unauthorized personnel off the floor, all members return to your seats, to your desks, we will begin Final Reading as soon as possible.

CLERK: Mr. President, while we are waiting, I have a motion from Senators DeCamp and Pirsch to reconsider the body's action on indefinitely postponing LB 258 yesterday. That will be laid over.

PRESIDENT: As soon as everyone gets to your desk, we shall begin Final Reading. We are waiting the clearing of the aisles and to get everyone at their desks. I think we are about ready, Mr. Clerk. We are ready to commence Final Reading. We will begin, Mr. Clerk, then with LB 47 on Final Reading.

CLERK: (Read LB 47 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 47 pass? All those in favor vote aye, opposed nay. Record the vote.

CLERK: (Record vote read. See page 1204, Legislative Journal.) 45 ayes, 0 nays, 3 excused and not voting, 1 present and not voting, Mr. President.

PRESIDENT: LB 47 passes. The next bill on Final Reading, Mr. Clerk, is LB 56. Senator Cullan, for what purpose do you arise? The motion is on the desk, thank you. Read the motion.

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offers explanation of vote. (See page 1350 of the Legislative Journal.)

PRESIDENT: The matter of the special ceremony will be a little later in the morning. As I understand it, the time that was given to me was about eleven o'clock, so we will proceed with the agenda item #7 on motions, and start with LB 258. It's a motion to reconsider, Mr. Clerk.

CLERK: Yes, Mr. President, Senators Pirsch and DeCamp move pursuant to Rule 7, Section 7(a), to reconsider the action taken to indefinitely postpone LB 258. The motion is found on page 1203 of the Journal, Mr. President.

PRESIDENT: Senator DeCamp. The Chair recognizes Senator DeCamp.

SENATOR DeCAMP: Well, Mr. President and members of the Legislature, this is a motion to revive LB 258. 258 is a Class K liquor license bill, as you know. I was absent the day the issue came up. The issue...the bill was killed, and my main reason for supporting it, from my experience or observation of some business this was the one, so to speak, missing link. We have pretty well identified in previous legislation in previous years the link-up between beer and wine and we have said that on Sundays, for example, beer and wine can be treated separate. We said they can be treated separate in a number of ways. This merely maintains that and makes it conform in the terms of their sale. I don't think a lot of debate is really necessary because I think the votes are either here or they are not, and I think all of us could talk for 45 minutes or 4 hours and it is either going to be just shy of reviving or just revived. So I just think we ought to go ahead and vote and see what happens.

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: Senator Cullan, do you wish to be heard on the motion?

SENATOR CULLAN: Mr. President and members of the Legislature, I simply wanted to urge you to support reviving LB 258. There was some information which I circulated this morning which I thought was interesting that came from the Omaha World Herald on April 8, 1981, where Terry Micek with the Liquor Commission indicated that the action with respect to the Falstaff Brewery "grew out of complaints from retailers, the Nebraska License Beverage Association,

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as well as reports by liquor inspectors". It is interesting to me that the Nebraska License Beverage Association which is the major opponent to LB 258, was involved in that action. It kind of appears that maybe they are a little bit interested in protecting competition or protecting themselves from competition even to the extent of working to close down Nebraska's only remaining brewery. And I guess that it's just my feeling that the function of the state laws should not be to protect those retailers from competition and in that spirit I would hope that you would revive LB 258. Thank you.

SPEAKER MARVEL: Senator Vickers.

SENATOR VICKERS: Mr. President and members, I rise to oppose this motion to reconsider. In the discussion last week when we indefinitely postponed LB 258 I thought it was the body's decision at least at that point in time and I would hope that it would stay that way, that there really aren't any gaps out there as far as services provided by retail entities for alcoholic beverages, and I can't really think that there has been any change in the need in the past week for this additional license. If there is any place in the State of Nebraska where you can't buy alcoholic beverages of your choice simply because there is not a retail outlet available, I personally don't know where that is at and I can't think that having a new license category for strictly beer and wine off-sale would change that any. I also point out to this body that what we discussed last week was that in reality what this is doing is creating a new class that some of the Kwik Shops, some of the grocery outlets might use. I can't think that there is a lot of public need considering the fact that the public, I believe, recognizes that we do have enough outlets, that alcoholism is a problem. We have got several bills going through here this year attempting to raise the taxes, various other methods of dealing with the alcoholism problem, and now at the same time we are attempting to open up more avenues supposedly because there is places where you can't buy enough alcohol-related products and I just think it is a ridiculous assumption to follow this procedure and I would urge this body's voting no on the reviving of LB 258.

SPEAKER MARVEL: Senator Higgins, do you wish to be heard on this? Senator Barrett.

SENATOR BARRETT: Mr. Speaker and members, I spoke to this matter the other day, the day that it was indefinitely postponed. I again speak in opposition to the revival

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of 258. I see no reason...I see no reason at all for this bill. We have about 3800 retail outlets in the state at the present time. I heard no reason for the resurrection of the bill stated a moment ago. I really don't know who isn't being served at the present time. I don't believe we need LB 258, and I would hope that we let it lie in its grave. I am in opposition to the resurrection of 258. Thank you.

SPEAKER MARVEL: Senator Haberman.

SENATOR HABERMAN: Mr. President and members of the Legislature, the issue hasn't changed and the liquor stores I do not own. We discussed this thoroughly. It is not needed. It is not wanted. We can get along without it. This is a bill that you can call a special interest group bill, and I will even agree to that this morning. I have heard from my constituents. You have all heard from your constituents. I am sure they haven't changed their minds. Why some Senators down here would want to change their minds after voting the first time, I don't know. But I ask you to vote against returning the bill for reconsideration. Thank you, Mr. President.

SPEAKER MARVEL: Senator Higgins.

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

SPEAKER MARVEL: The question has been called for. Do I see five hands? Let's try once more. Do I see five hands? Okay. All those in favor of ceasing debate vote aye, opposed vote no. While we are in the midst of ceasing debate, in the north balcony from Senator Wesely's District it is my privilege to introduce to you 50 students from Meadow Lane School, Lincoln, Nebraska, teachers, Mrs. Foote and Mrs. Burling. Where are you located so we may say good morning to you? Here we are over here. Okay. We are ceasing debate, aren't we, Pat? Record.

CLERK: 25 ayes, 3 nays to cease debate, Mr. President.

SPEAKER MARVEL: Okay, debate has ceased. Senator DeCamp, do you wish to close on the motion?

SENATOR DeCAMP: Kind of hoping we could stall it until the Mother of the Year got here and one more member. But anyway, failing in that, this is the completion of a committee study, as has been pointed out I guess repeatedly you have heard the arguments. You have got some letters. I have got some letters. Remember this, any time you do

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anything that affects any industry in here, heck it could be the greatest thing in the world for them, they kind of automatically...their lobbyist or whoever gives them the word to send out letters, and they send out the letters and say, we are opposed to thus and so, but you have to look at the issue. Are you hurting anybody, or are you helping people or are you solving the problem. And I think if you look at the issue, you will say, hey, this just does the natural thing we have been doing over the years. We link up the beer and wine in one category and we complete that task with this legislation and that benefits the people and clears up the problem, completes the study. So I urge you to vote to revive it. I full well understand how thin this one is, and recognizing that, I would like to ask for a Call of the House and a roll call vote before we ever get rolling on it because....

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

CLERK: 20 ayes, 0 nays to go under Call, Mr. President.

SPEAKER MARVEL: Okay, the House is under Call. All legislators please be in your seats, record your presence. Unauthorized personnel please leave the floor. Have you all recorded your presence? There are two excused. Senator Labedz, Senator Higgins, Senator Wagner, Senator Chambers, Senator Beutler, Senator Goodrich, Senator Kremer. Senator Kremer, Senator Beutler, Senator Goodrich. Chambers, Labedz and Kremer, and Goodrich. Senator Goodrich and Senator Kremer, Mr. Sergeant at Arms. Senator DeCamp, everybody is here except Senator Kremer and he is on his way. Okay, Senator Schmit and Senator Warner are absent. Call the roll.

CLERK: (Read the roll call vote as found on pages 1350 and 1351 of the Legislative Journal.)

SPEAKER MARVEL: All legislators please be in your seats. We are still under Call.

CLERK: (Continued reading the roll call vote.) 21 ayes, 23 nays, on the motion to reconsider, Mr. President.

SPEAKER MARVEL: The motion failed. Are you ready to go to Select File now?

CLERK: Yes, sir.

SPEAKER MARVEL: Okay we are on Select File, item #8.