

January 16, 1981

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.

March 31, 1981

of mine, who chide me constantly wondering what kind of a record are we trying to set. The only record we are trying to set is fairness and I would suggest to you that we have with 245, we have had substantial amount of debate and I would also try to get your cooperation to debate this bill until noon and then we will come back and start on General File priority bills. If we can not do this, ladies and gentlemen, what it amounts to is that this Legislature is simply going to go down-hill and there will be many of you whose priorities will not be touched. Okay what is the next item on LB 245, Mr. Clerk?

CLERK: Mr. President, if I may read some matters in before that. Very quickly, Senator Schmit, Johnson would like to print amendments to LB 167; Senator Wesely to LB 44. (See pages 1211-1211 of the Journal.)

Your committee on Public Health and Welfare reports LB 378 to General File; 499 General File with amendments; 270 General File with amendments; 212 with amendments; 404 General File with amendments; 522 General File with amendments, all signed, Senator Cullan. (See pages 1212-1218 of the Journal.)

Mr. President, the next amendment I have is from Senator DeCamp and that amendment is found on page 1145 of the Journal.

SENATOR DeCAMP: Mr. President, members of the Legislature, it appeared to me and several others that the real stumbling block on resolving the issue of the vets school and which way we go had to do with the issue of federal funds and whether we were just going to have an indefinite forever date on this and so the purpose of this amendment was to, so to speak, "fish or cut bait," make a decision one way or another on whether we were going to have the vets school and of course that decision was contingent as has been stated many times on what happens at the federal level. So the purpose of this amendment was and is to force that issue. The second purpose of the amendment was to say, if we do not get the federal funds, then we want to use this money for another purpose, some other agricultural purpose. And so I had the money funneled off into the Beef Science Building as of a certain date so that we would not have to fight that issue again. However, it is my understanding that Senator Schmit, Kahle, Lamb, those interested in the vets school have now resolved, so to speak, the issue of the "fish or cut bait" issue which is the principal stumbling block in this thing and they have a separate amendment with a separate date. It is a little more delayed. I am perfectly willing to go along with that since, as I say, that is the big

January 26, 1982

LB 359, 270

CLERK: 30 ayes, 0 nays, Mr. President, on the motion to advance the bill.

PRESIDENT: The motion carries and LB 359 is advanced to E & R Initial. The next bill on General File is LB 349, Mr. Clerk.

CLERK: Mr. President, I have a request from Senator Haberman as an introducer to pass over LB 349.

PRESIDENT: No objection, so ordered. We will pass over the....Senator Haberman has passed over then. Then we are ready for LB 270.

CLERK: Mr. President, LB 270 offered by Senator Burrows. (Read title). The bill was first read on January 16 of last year. It was referred to the Public Health and Welfare Committee for hearing. The bill was advanced to General File, Mr. President. There are committee amendments pending by the Public Health Committee.

PRESIDENT: The Chair recognizes Senator Cullan for purposes of discussing the committee amendments.

SENATOR CULLAN: Mr. President and members of the Legislature, the Public Health and Welfare Committee adopted a couple of amendments to LB 270 prior to advancing it. The amendments provide that a license is required for a family daycare provider who cares for six or more children. It has clarified that foster homes are not covered by this definition. The amendment also allows a county board of commissioners to enact a requirement for licensure when fewer than six children are being cared for in a daycare home. The rationale for these amendments was to give some local autonomy in the area of regulation of basically babysitting services, and that is what I think we are talking about, to counties. It was felt particularly by some citizens in Lancaster County that six....not regulating babysitting services or daycare services for fewer than...or for more than four children would be disadvantageous and almost all the testimony from rural areas indicated that, in fact, there was no reason for regulating babysitters at all. And while I personally agreed with the latter philosophy, I think the committee decided to give the counties the option to set up and run their own programs if they believe that they have a problem with regulation of daycare services provided in the home or babysitting services. I guess that pretty much summarizes the amendments.

January 26, 1982

LB 270

PRESIDENT: Any question on the committee amendments on LB 270? All right, that will be the opening and closing on the committee amendments. All those in favor of adopting the committee amendments to LB 270 vote aye, opposed nay. We are voting on the committee amendments...to adopt the committee amendments on LB 270. Have you all voted? Senator Cullan, I guess the only way to do it is to get somebody in here.

SENATOR CULLAN: Mr. President, I ask for a Call of the House.

PRESIDENT: The motion is to Call the House. All those in favor of a Call of the House vote aye, opposed nay. Record the vote.

CLERK: 27 ayes, 0 nays to go under Call, Mr. President.

PRESIDENT: The motion carries, the House is under Call. The Sergeant at Arms will make sure that all members return to their desks, and all members will please record your presence at this time. The House is under Call. How many are excused? Six are excused. I have Senators Clark, Dworak, Warner, Goodrich, Kilgarin and Marsh, are excused. Senator Duda will you push your button. Calls... we may authorize some calls. You may call in your vote at this time so as to hurry things along if we can...those of you who have not voted.

CLERK: Senator Rumery voting yes. Senator Goodrich voting no.

PRESIDENT: Senator Hefner, do you want to push your button?

CLERK: Senator Duda voting yes. Senator Goll voting no.

PRESIDENT: Waiting for Senators Wesely and Newell.

CLERK: Senator Cope voting no.

PRESIDENT: For those of you who have come in, we are voting on the committee amendments on LB 270. We are accepting call in votes. We still have two members....

CLERK: Senator Higgins voting yes. Senator Vickers voting yes. Senator Goll changing from no to not voting. Senator Pirsch voting yes.

PRESIDENT: Senator Wesely I guess is the only one that

January 26, 1982

LB 270

has not.....

CLERK: Senator Richard Peterson changing from yes to not voting.

PRESIDENT: Senator Cullan, do you wish a roll call vote? We have all but Senator Wesely here. We will proceed with a roll call vote and Senator Wagner and Senator Newell, will you push your light to show your presence, so we have got all but one here. Senator Wesely is here. All right, so we are all here. All right, we will proceed, Mr. Clerk, with the roll call vote on adopting the committee amendment to LB 270. Proceed.

CLERK: (Read the roll call vote as found on page 420 of the Legislative Journal). 26 ayes, 9 nays, Mr. President.

PRESIDENT: The motion carries, the committee amendment is adopted. We will proceed then with....any further amendments, Mr. Clerk? All right, we will allow Senator Burrows at this point....Senator Burrows, do you want to explain the bill and then we will take up any amendments. Senator Burrows.

SENATOR BURROWS: Mr. President....

PRESIDENT: Before we do....motion before....to raise the Call. The Call is raised, Senator Johnson. Proceed, Senator Burrows.

SENATOR BURROWS: Mr. Chairman, members of the body, this bill was brought to my attention first in Jefferson County and then second over in an adjacent county, Johnson County. In Jefferson County there was a prosecution on a case, a complaint where a lady was babysitting for several. A few people registered and one of the people that registered and licensed that it was told to me could not get babysitting complained then for the enforcement of this law. The existing law was passed in 1945, and the purpose of that existing law was to provide babysitting service during World War II, not to restrict it. It was to provide for child care centers, but when the bill was passed it provided that to anyone providing child care for two or more children from different families, that means that if someone is babysitting for one child for two neighbors is required to be licensed by law. I would like to have you look at the handouts because one of the handouts provides the forms that must be filled out presently to babysit for two children for neighbors and the complicated affair.

It starts first of all with a physical. The person must take a urinalysis and then have their blood pressure checked. Today before you can babysit for two children from different families, this is a requirement. The existing law has 15 to 20 percent compliance after being on the books since 1945 and I believe this Legislature ought to pass laws and only laws that can achieve a majority compliance of the citizens of this state. This one has been on the books since 1945 and the compliance is 15 to 20 percent. I think when you get in the terms of what is conservative with the rural people and the urban people of this state, they want to get the government and the state out of their homes and off their backs in situations like this where the state comes into the home to inspect that home if they babysit for two different children. What the bill does, it changes the two to six and allows babysitting up to five children from different families without licensing by the state. If we keep the law, it doesn't make any difference because we are not having compliance. After this prosecution, Fairbury turned into a hornet's nest because in that case the state turned into the strong arm pushing for compliance with the law. And it is an overwhelming public opinion against it because what it is doing and if it is enforced, and if it is really enforced, it will put a lot of mothers out of babysitting and take away their opportunity to work. Johnson County had a meeting here last spring. Nobody that wanted the bill showed up. The public opinion was so overwhelming that nobody showed up that supported retention of the present law. These people are good honest people. They know the people that are babysitting for them. They don't want the state poking in and most of these babysitters will stop babysitting rather than complying with the law. Most of it is a very marginal income thing, a little additional income and a service for friends. Now in Nebraska we are rated as a conservative state and this idea of conservative I believe applies to legislation exactly like this. The public did not want big oil, natural gas deregulated but they do want the involvement of the state and federal government kept out of their homes and their personal lives. There is a limit as to what you can do. The bill does not relax child care standards for truly commercial ventures. It simply gets the state out of the home and provides that people can take care of their neighbor's children without breaking Nebraska law. In Johnson County, the situation down there, in the entire county there are three licensed babysitters. The rest of it is all out of compliance. Approximately 15 counties have no one complying with the law, and to retain such a law on the

January 26, 1982

LB 270

books without modifying it or relaxing it and getting it out of the hair of these peoples is utterly ridiculous. I am not hung up on the six. If Lancaster or Douglas County want out of the bill, I would be willing to go that route, if that is truly their desire. I have my doubt that the majority of the people in these counties want out either. There has been a very well organized drive by a couple of womens' groups in Lancaster and Douglas County to oppose the bill. However, the circumstance is this, those that don't want it can't come in here and lobby because they are operating outside the law and the majority of the people in this circumstance are really disfranchised from communicating with the Legislature and getting rid of it. I would urge this body, if not in its existing form, to relax the child care requirements or babysitting law to the point that we can at least achieve a majority participation of the people in the state. I think it is ludicrous the way the law exists and I think it is a training ground for disrespect for law to have a law on the books that received only about 15 or 20 percent compliance after it was passed in 1945. Let's pass this bill and get the support of the people and their respect for the laws in the State of Nebraska rather than disregard for them. Thank you.

PRESIDENT: We have some amendment....the Newell amendment, so we will take up the amendments next. Senator Newell's amendment, Mr. Clerk.

CLERK: Mr. President, Senator Newell would move to amend the bill. (Read the Newell amendment as found on page 420 of the Legislative Journal).

PRESIDENT: The Chair recognizes Senator Newell.

SENATOR NEWELL: Mr. President and members of the body, I am offering here an amendment that I have talked to the introducer and talked to some other members of this Legislature, it is an amendment that I think is a sincere attempt to compromise on this issue. And I want to basically lay out my arguments this way. First of all, I think that the way the bill came out of committee and the proposal that we allow counties to opt in, opt out, really isn't all that workable and I think that that in itself needed to be changed. The second thing I want to make...the second argument I want to make is simply this that what we have here is an amendment, a bill that tries to deal with a problem or a difficulty in terms of regulation. Frankly, this state, most of the child care providers or babysitting or whatever you want to call it,

January 26, 1982

LB 270

basically are not regulated, are not registered, and from time to time we get enforcement of this law and from time to time it creates a great deal of problems. Now I have served in this Legislature for five years and this is the second time this proposal has been before us. And I can also understand those people who feel that there is, in fact, a need for regulation, but, in fact, I think that that need for regulation has to be similar and fair across the state. We cannot have one set of regulations for one part of the state and another set of regulations for another part of the state especially in this area where, in fact, we have not committed a lot of money or a lot of time or a lot of commitment to find that sort of regulation. My amendment basically would do this, it would say, we are going to deregulate. You will not have to have a license if you take care of five children or less. Now that is your children and whoever's children you may be babysitting, that is we are going to look at the number of children being taken care of to determine whether or not it is a commercial venture. We are going to deregulate five children or less because it is, in fact, a commercial venture. If you have got two kids of your own and you take care of three kids, that is not a major commercial venture and ought to be deregulated and that is what this amendment basically says. In the case where there are more children, then, in fact, that looks more like a commercial venture, and, in fact, the number of kids that you take care of is the criteria in how well and effective you can do that job. So this amendment again is an honest and sincere attempt to compromise on this issue. I would like to ask Senator Burrows to take the remainder of my time and maybe some of his own to say whether he can be in agreement and I would hope that others would recognize this as a sincere and legitimate compromise that is worth this body's consideration.

PRESIDENT: Senator Burrows, go ahead.

SENATOR BURROWS: I will accept the amendment as a friendly gesture to moderate the approach of relaxation. I think the six as the bill was drafted would be reasonable, but if I understand the body and the feeling in this body, I think for passage that it is necessary we accept, and in the great art of compromise this amendment which would considerably relax the situation because most of the babysitting situations that I know of will really be covered, the ones we really intend, with the amendment, and in the area of compromise I would certainly accept the amendment. I feel it is so imperative that we pass the bill and relax the standards and get the state out of these

January 26, 1982

LB 270

small care situations that I accept the amendment as a friendly one. Thank you.

PRESIDENT: Senator Cullan.

SENATOR CULLAN: Mr. President and members of the Legislature, I rise to support this compromise. I thought that the committee had suggested a good compromise but this one is probably more acceptable to the Legislature as a whole. I personally feel that the current regulation of babysitting is a little bit ridiculous as Senator Burrows has already laid out for us. I think he should be applauded for making an effort to remove this unnecessary regulation. And I hope that the Legislature will adopt this compromise and will advance LB 270 so that we can free up the Department of Welfare from such meaningless regulation.

PRESIDENT: Senator Haberman, did you wish to speak to the amendment? All right, Senator Haberman calls for the question. I see five hands. Yes, I guess I do, let's see. Yes, I do. All right, the question is, shall debate cease. All those in favor vote aye, opposed nay. Have you all voted? The question is, shall debate cease? Record the vote.

CLERK: 18 ayes, 5 nays to cease debate, Mr. President.

PRESIDENT: Motion fails. Senator Rumery, do you wish to speak to the amendment?

SENATOR RUMERY: Mr. President and members of the Legislature, I would like to ask Senator Burrows a question if I could.

SENATOR BURROWS: Certainly.

SENATOR RUMERY: We were talking about this a little bit ago. The first amendment we passed will change the bill will it not?

SENATOR BURROWS: The first amendment, the committee amendment that was passed would allow counties to set regulations that are tighter or more strict than the state law which provides for six or more to be licensed and requires them to be licensed with six or more. The law does not prohibit people from getting a license with less than six, but it requires it with six or more under the bill. And it would allow counties to set up an enforcement system where they could require licensing below

January 26, 1982

LB 270

that. I think that the only counties that might be interested in that would be Lancaster and Douglas County.

SENATOR RUMERY: Then do I understand that the counties really do not have the authority to act on their own volition to supervise this activity as they see fit? The law would prohibit them from doing as they wish, is that right?

SENATOR BURROWS: Well, the amendment at least would specifically give them the authority. I think it might be a question of whether they have that authority without that provision, so the committee amendments provided that authority to them.

SENATOR RUMERY: Well then they could do as they see fit.

SENATOR BURROWS: Yes, they could. They could go ahead and set up tighter restrictions than what the state law is.

SENATOR RUMERY: Or they could go ahead and ignore it, is that right?

SENATOR BURROWS: That is correct.

SENATOR RUMERY: Thank you.

SENATOR BURROWS: Thank you.

PRESIDENT: The Chair recognizes Senator Carsten, speaking to the amendment.

SENATOR CARSTEN: Mr. President and members of the Legislature, I rise in support of the great compromiser, Senator Newell. I believe that his amendment will cover the troubled areas in our area and I was certainly in sympathy with the original but believe that he is trying and I think we should be willing to try to work with him. I rise in support of it. Thank you.

PRESIDENT: The Chair recognizes Senator Kahle. We will go on to Senator Vard Johnson.

SENATOR V. JOHNSON: Mr. Speaker and members of the body, I rise in opposition to the compromise because I think this is not an issue that ought to be compromised. I also rise in opposition to the bill itself. But let me

talk first about the compromise itself. If, in fact, we say simply that those child care facilities that have five or more children must receive...must be regulated one way or the other by the Nebraska Department of Public Welfare, but those facilities that have...I assume it is less than five children are not regulated by the Nebraska Department of Public Welfare. We literally are excluding a group of children right now that are in the greatest need of protection, and they very simply are the infants. The current federal requirements with respect to the provision of care for infants, and by infants I mean children who are less than two years old, is that there be one caregiver for every four infants. Now it is very difficult for the Nebraska Department of Public Welfare to even assure itself that there is at least one care giver for every four infants when, in fact, this legislation doesn't even reach that small level of regulatory authorization. And I think that would be a fairly significant breach in the overall regulatory dike. But I would deal with an issue that I know has got to be troubling every member in this body and that issue is why should the State of Nebraska regulate child care at all? Isn't the care of children a parental responsibility and will not parents adequately police and monitor what happens in the homes that they place their children? Parents in the last analysis have got to be the best judge of who is caring for their children. That is the question that clearly goes through the minds of anyone who looks at child care. Well, I think the answer is very simple. Parents...in Nebraska a lot of parents are not very affluent and they do not make much money at their jobs, and their job hours sometimes are fairly irregular and difficult. And what that means is that with many parents it truly is catch as catch can in terms of finding somebody who will take care of their children while they are at work trying to make a living to stay alive and to support their family, and they really do have to look the other way at things they find occurring in a child care facility because that is all they have for their children. Now in Senator Johnson's District...in Senator Lowell Johnson's District a year ago the State Fire Marshal walked into an unlicensed facility that had 30 children supervised by an 11 year old child, and you say to yourself, well, why would the parents put 30 children in a facility with an 11 year old child? Well, the reason why parents did that is parents didn't have very much money and it looked like it was a good facility and it was the only thing they could do under the circumstances. The Nebraska Department of Public Welfare has gone into facilities where they have

January 26, 1982

LB 270

found four infant children sleeping on cardboard pallets in the unlit, unventilated basement, and you ask yourself, well, why would parents put children in that facility? And the answer, very simply that's all parents could find, that's what they had. Now you and I really do have an obligation to the parents and to the children of our state and that obligation very simply is to keep the regulatory pressure on so that we can at least over the long haul begin to elevate the quality of care available to our children because by virtue of economics....

PRESIDENT: One minute, Senator Johnson.

SENATOR V. JOHNSON: ....not every parent in our state can put his or her child in the finest of facilities, and many parents in our state are essentially compelled to really look the other way when they put their child in a facility. I don't think you and I want ultimately to reap the whirlwind when we have children who are battered, who are abused, who are in bad fixes coming out of those facilities. Incidentally, one of the things that occurs with every application to the Nebraska Department of Public Welfare for a license or just a registration is that the name of the applicant is compared to the child abuse register. It is compared and if the person is found to be an abusive person, you know, that has got a history of child abuse, and there a number of cases of that, then there is no license granted and no permission to operate granted. Now if we continue with a compromise mode, I mean that facility won't even be available for the protection of the parents and the children.

PRESIDENT: Time, Senator.

SENATOR V. JOHNSON: This is not an issue to compromise on, in my opinion.

PRESIDENT: Time is up, and time is up on General File. The Speaker now...his agenda shows that we will go over to Select File. It's 10:30, so this will be taken up the next time the Speaker puts it on the agenda. It is pending. So the Clerk will read some matters into the record.

CLERK: Mr. President, Senator Fenger offers a proposed rules change. That will be referred to the Rules Committee for hearing. (See page 421 of the Legislative Journal).

Mr. President, your committee on Public Health and Welfare,

January 27, 1982

LB 270

CLERK: Yes, sir.

PRESIDENT: Where are we with regard to LB 270, Mr. Clerk?

CLERK: Mr. President, with respect to LB 270, it was considered by the membership yesterday. (Read title.) Yesterday when the Legislature considered it, the committee amendments offered by the Public Health and Welfare Committee were adopted. There was pending, Mr. President, an amendment offered by Senator Newell. The Newell amendment can be found in the Journal on page 420, Mr. President.

PRESIDENT: The Chair recognizes Senator Newell on the Newell amendment.

SENATOR NEWELL: Mr. President, members of the body, I presently am asking the Page to circulate a copy of the explanation of the amendment that I offered. The amendment that has been offered is an attempt to compromise on this issue. Over the summer there has been a number of people who have discussed this and, in fact, there has been a great deal of lobbying. It is symbolic and it is probably looked at more as that old urban-rural sort of conflict. My amendment is an attempt to try to compromise and find a legitimate place where we can, in fact, compromise on this issue. Basically, the amendment that is offered simply does this, it moves from five, from six to five the number of children that would be under the deregulation and removes the provision that says "from any family". Basically, this would still allow the majority of homes or the majority of child care institutions or child care families providing child care would still be regulated in the state. It does, however, strike the committee amendments which gives the counties the options to set different standards. Now I think that that was a mistake and I think it was a mistake for two very simple reasons. I doubt whether counties in this state will create their own bureaucracy or regulatory arms and so frankly that is one of the most contended or will be one of the most contested arguments in this whole thing. I have, in fact, secured the support of Senator Burrows who is the introducer of the bill. He does appreciate the attempt to compromise. I would urge this body to adopt this amendment. I think it will make it a state-wide thing in which we find that we can deregulate most or many of the child care providers and at the same time get more selective and preferable enforcement on those people that really are running commercial operations. So I would urge this body to consider this amendment.

PRESIDENT: The Chair recognizes Senator Marsh.

SENATOR MARSH: Thank you, Mr. President, and members of the Legislature, I would like to express several concerns and one is that many, many members of the PTA across the State of Nebraska have contacted me and I would like to read from a letter. "The Hartley PTA has voted to oppose LB 270, the legislative bill which we believe will seriously undermine the regulations governing homebased child care in the State of Nebraska. As parents, we are particularly concerned that each child be cared for in as safe an environment as possible. The current regulations make an effort to insure this. Parents who need and want to place their children in a child care home deserve to have the assurance that their children are protected from household poisons and fire hazards. While it may be possible for parents to know their child care provider, it is much more difficult for a parent to conduct an inspection to determine if there is adequate protection from hazards. Who among us knows the conditions of our neighbor's furnace or what combustibles may be stored near it and who knows how many places cleaning supplies are kept? We feel that children are the most precious and vulnerable of our state's resources. They need and deserve a safe environment to grow. Parents can protect their children at home but parents and children need to have the assurance that their away from home care is equally safe. LB 207 is a major step backward in protecting the health and safety of the children of Nebraska. Passage of this bill, even with the amendment, would be an abdication of state government responsibility." The Child Care Director of the League of Women Voters of Nebraska, the Junior League of Nebraska State Public Affairs Committee, there are many arguments put forth in support of the bill but what do they really say, that government should not interfere in private homes? Licensure of day care homes is not a case of government interference in homes but rather a case of government regulation of business. Citizens have historically looked to the government for protection from poor business practices. We find regulation of beauty shops and dog kennels in homes acceptable and necessary and we have zoning laws which tell us what types of businesses we may operate 'n our homes. These laws are designed for the protection of rights, health and safety. It is the legitimate goal and the legitimate role of government to set some standards of health and safety for those in the business, I underline, for those in the business of child care. The government is making no attempt with the present law to interfere with the authority of the parent. The parent has the final decision on whether to place the child in a day care home, to place the child with a relative, or

wherever he or she wishes. The state is merely setting the minimal, I underline minimal standards for the protection of those children who are at their business location of child care. When parents send children to school or choose to take them to the theater or a sports event, they expect that government standard will be enforced and their children will be safe. Parents anxious for day care may not know all of the questions to ask and may unknowingly place their child in jeopardy. Registration of day care homes can prevent problems before they occur. A person applying for a license for a day care home business must first be cleared through the central registry for child abuse and neglect. If a person has a record of child abuse or other problems, the license will be denied. Parents have no assurance of a care giver's past record without the licensing procedure. The cost is minimal and it is a business cost deductible as a business expense. When we are talking about the business of day care we need to have minimum regulations for the protection of the health and safety of the children in the State of Nebraska. I urge you to not adopt the amendment and to indefinitely postpone LB 270.

PRESIDENT: The Chair recognizes Senator Howard Peterson.

SENATOR HOWARD PETERSON: Mr. Chairman, I would rise to ask Senator Newell some questions if he would respond please. Senator Newell, we have a Senator in this body by the name of Senator Don Wagner. I believe he has fourteen children. Under your amendment, does it mean that Don has to have a day care center?

SENATOR NEWELL: Absolutely not, only if Senator Wagner or his wife take in other children for pay would they then be regulated. The present law, Senator Peterson, says if you take in two or more children, in other words if you take in one child, you are not regulated, if you have two children, then you are regulated. Now what this says is we are talking about a total number of five in the household but only if you take in children other than your family.

SENATOR H. PETERSON: All right, let's then say that I have a family of five and I decide that I would like to help my neighbor across the street and take in two more, then do I have to register?

SENATOR NEWELL: Yes, you would, Senator Peterson. What we are trying to do here is to create a compromise. The compromise will not satisfy everyone but it does create a level of deregulation much greater than presently exists in the law.

January 27, 1982

LB 270

SENATOR H. PETERSON: As I understand your amendment, what you are saying in the amendment is that the state can do this better than the county boards can?

SENATOR NEWELL: Senator Peterson, frankly, one of the arguments yesterday was that the county boards just won't and I think that is true and so they say so therefore this argument about the county boards doing it is just a ruse and they are going to oppose the bill anyway. This is an attempt to find a compromise.

SENATOR HOWARD PETERSON: I think this comes back to the old matter of whether we believe in local control or whether we don't. I am a firm believer in local control. Personally I would much prefer to have this decision in the hands of the county board where local people can make their wishes known. I think it is time for us to quit trying to regulate everybody everywhere. For that reason I would oppose your amendment.

PRESIDENT: The Chair recognizes Senator Haberman.

SENATOR HABERMAN: Mr. Dingaling, excuse me, I mean Mr. President...

PRESIDENT: I did not say "ling", just "ding".

SENATOR HABERMAN: I added the "ling".

PRESIDENT: Go ahead.

SENATOR HABERMAN: Members of the Legislature, I would like to read you from a public hearing held here in Lincoln, testimony of Barbara Chesnut. "Good afternoon. My name is Barbara Chesnut. I live in the 26th Legislative District here in Lincoln. I have two sons, aged 4 and 6. In the past I have used care services regularly outside of my home when I was working myself. I have used the licensed and unlicensed child care services. My testimony this afternoon is in favor of LB 270. I will address three points concerning the issue of child care, the first being my right as a parent in choosing the best for my children. My husband and I are very much able to take care of ourselves and of our children. I resent the statements made in recent months regarding the issue of child care services that imply only the state can determine the best care for my children. I chose to be a parent, and I will continue to rely on my own and my husband's judgment in determining what's best for our children. Licensing the people who provide child care only means that state-determined standards and conditions are met in the child care facility.

Licensing does not guarantee the presence of the personal attributes that I look for in a person who provides care for my children." We had a public hearing out at Ogallala, Nebraska. Fifty people came to the hearing, which is quite a few on one issue, fifteen testified in favor of LB 270, two testified against it and one of those was a state employee that was afraid of losing their job. And these were parents of children, some of them were day care center people who operate day care centers. This bill does not unlicense all day care centers. We are not destroying the system. We are just saying that people are capable of taking care of five without big brother and big government looking down their nose and looking over their shoulders. If the parent is interested enough, they will go to the day care center and look for themselves as to what this day care center looked like, fire exits and all these things. They can look. I don't think the state should be sticking its nose in things like this all the time, but being it is on a state level, I will have to say let's leave it there. I don't believe the county commissioners want to be saddled with this so I would support Senator Newell in his amendment and I ask you to support it also. Thank you.

PRESIDENT: The Chair recognizes Senator Dworak.

SENATOR DWORAK: Mr. President, colleagues, I am in kind of a difficult position right at this point to discuss the bill because we are on the amendment which makes the bill a little more restrictive but I think because we are almost in an auction situation it is difficult to separate the amendment from the concept of the bill. Certainly there is nothing wrong with the basic concept of the law as it exists and I want to make it clear that I support Senator Burrows attempt to liberalize the existing stipulations. What I fear is that when we set up these restrictions one of two things can happen. The first thing is obviously good in the fact that we get safer, better qualified child care and that is laudable and certainly a good thing but another thing can happen also. We become so restrictive in some areas of the state that the alternative then suddenly is no available child care, and we have seen this in the health care situation. There is just a hospital out in western Nebraska closed down because of their inability to get certified people to work in that hospital. Now I wonder if those people are better off with no hospital as they were with people with not quite the same amount of qualifications. I have some real problems with that. I think, yes, that is the alternative. They can go to a veterinarian now. That is the alternative.

And I see the same thing happening in this area. We make this too restrictive and the alternative is nothing. People have no place to leave their children and then what are those people going to opt to do. In some instances, they are going to opt to leave the children by themselves and that will happen and that has happened and that has happened in Lincoln and Omaha. We make it too expensive, we make it too restrictive and we dry up the source altogether, and I know we are faced with this issue in every discipline almost that we entertain. It is the same argument whenever we talk about certification, licensures, and standards. What kind of an alternative are we creating? So I support the Burrows amendment. I don't think it is overly restrictive or the Burrows bill and I see no reason to auction this off and, therefore, would vote to defeat Senator Newell's amendment.

PRESIDENT: The Chair recognizes Senator Burrows speaking to the amendment.

SENATOR BURROWS: Mr. Chairman, I rather reluctantly accept the amendment because I think it is extremely important and I would urge you to vote for the amendment because I think it is extremely important that this bill be passed. Currently eighty to eighty-five percent of the people are outside the law in the State of Nebraska and I think it is important that our laws be passed to create a respect for law in this state. We don't have that respect when we have overly restrictive laws that just don't have public support. So I would urge you to vote for the amendment even though I would have preferred the original bill. I am afraid if we do not pass the amendment that we will lose the bill and this will allow four and most of the situations that I have come up against are two or three or four children and I think it covers at least the substance of the problem by relaxing it this much. It has been certainly ridiculous to expect licensure of someone that is babysitting for only two or three. So the amendment will relax the law a lot and I think a step in the right direction is much more important than getting everything we started for. So I would urge you to support Senator Newell's amendment from the standpoint I think it is necessary to get the bill passed in this body. Thank you.

PRESIDENT: Senator Newell, you may close on your amendment.

SENATOR NEWELL: Mr. President, one of the difficulties in offering a compromise is not everybody wants to compromise and that has traditionally been the situation. I

think what we have here is a considerable deregulation for many small babysitters. If you have five or more children in a household, you have got a lot of kids and it starts to become a commercial operation and that is why we drew the line where we did. Now frankly, I am a little distressed that the people that don't want the bill are going to vote against the compromise and the people that do want the bill are going to vote against the compromise and we will struggle and fight and fight and continue to fight on this bill as we did three years ago for many, many an hour. I want to remind this body that three years ago when Senator Kelly offered a similar bill to Senator Burrows, I led the opposition, and in retrospect, I wasn't sure I was correct. Now this is my attempt to find a compromise that we can all live with because I think a compromise is necessary in this area. We do need to deregulate without making wholesale changes. I would urge the body to adopt this amendment.

PRESIDENT: The motion before the House is the adoption of the Newell amendment to LB 270. All those in favor vote aye, opposed nay. Go ahead and vote anyway. I refuse to ring the bell I rang before because of the insults it creates from out there. Go ahead and vote, Senator Haberman, anyway. If you have already voted, don't vote again. If you haven't voted, vote. Senator Newell. How many are excused here? Three excused. We are getting close.

SENATOR NEWELL: If we could get a couple more people to vote, we wouldn't have to have a Call of the House.

PRESIDENT: Right. I am just getting you to think about maybe having a Call of the House so we get people to vote. Senator Fowler, I will wait for you. Record the vote.

CLERK: 25 ayes, 18 nays, Mr. President, on adoption of the Newell amendment.

PRESIDENT: Motion carries. The Newell amendment is adopted. We have a motion.

CLERK: Mr. President, the next motion I have is to indefinitely postpone the bill and that is offered by Senator Barrett. Pursuant to our rules, that would lay it over unless the introducer agrees to take it up at this time.

PRESIDENT: Senator Burrows, do you wish to take it up? The introducer says he will take it up so the Chair recognizes Senator Barrett on the motion to indefinitely postpone. I think you are on. Go ahead, Senator.

January 27, 1982

LB 270

SENATOR BARRETT: Thank you, Mr. President, and members of the Legislature. I find it personally a bit difficult to place a kill motion on a particular bill and yet I do think that there are times when it is a necessity, and in the case of LB 270, I truly believe that it is necessary, possibly a requirement, at least as far as I am concerned. I have never been a particular promoter or lover because of my background and training of state regulation, state requirement, but in this particular case, I think the state has a legitimate function, a legitimate function to protect the children, particularly the children of this state. Now the purpose of the present law is simply to protect the health and the safety of the children that are involved in day care center programs, and although the law is not perfect perhaps, it does provide a registration system and minimal requirements. It does provide some consumer protection but more importantly protection for the children of this state that are involved in day care. The present law simply suggests that the day care centers must follow safety and health regulations as directed by the Department of Welfare, pure and simple. The present law requires that health checks shall be made, spot checks shall be made of day care center operations. 731 spot checks were made last year in this state alone. The law now requires that fire checks must be made. Any applicant for a day care center license must register with a child abuse registry. They must be checked against this registry. This is a very, very important requirement. The Department of Welfare suggests that the present law is working reasonably well. It is not particularly overburdensome to the Department. LB 270 would increase from two to now with the Newell amendment five the number of children which a day care center can take care of without being registered and I think this is the key, without being registered. Obviously, then LB 270 in its present form would totally deregulate all infant day care centers in the State of Nebraska as well as perhaps some family day care centers. As was suggested yesterday, infant care is becoming a very large business in this state. As Senator Newell suggested, it is a commercial venture in many cases. It is becoming increasingly more important for parents to have places in which to place their children and the health and safety standards of those children should be of paramount concern to the state. This should be a priority concern of the State of Nebraska and yet here we are trying to totally dismantle the existing law which provides minimal standards for day care. Although our current standards may not be optimum, they are minimal standards and they are working. Perhaps we should be trying to strengthen our present law rather than trying

January 27, 1982

LB 270

to dismantle the law that we have at the present time. As Senator Marsh, I believe it was, suggested, LB 270 in its present form is not a step toward quality care for our children. It is a step backward. In my opinion it will not only be a detriment to quality child care but it might also provide an avenue for warehousing of children in totally unsafe and unhealthy conditions. I would urge you to support the motion to kill LB 270. Thank you.

PRESIDENT: The Chair recognizes Senator Marsh.

SENATOR MARSH: Thank you, Mr. President, and members of the Legislature, I rise to support Senator Barrett's motion to indefinitely postpone LB 270. Currently LB 270 stipulates that counties may license these homes. It is unlikely, however, that most counties would take on the added expense, paperwork, licensing that enforcement would require. These responsibilities are being carried out right now by the Department of Public Welfare. If this bill passes, children cared for in these homes would not be protected by the rules for day care homes which are now promulgated by the Department of Welfare. Many of you have probably received the same packet I did but I would like to remind you that people from across the State of Nebraska are opposed to this bill. The President of the League of Women Voters from Omaha, the State Chairperson for Child Care, the Council for Services for Children from Omaha, the Nebraska Department of Health, parents of children who are in day care, providers of home day care, Quality Child Care, Inc. of Omaha, Central Nebraska Association for the Education of Young Children from Kearney. There are people in all counties of our state who desire the current regulations to be in place to protect the children and infants in day care. We are not taking away a decision from a parent. A parent can still choose to place the child with a neighbor. The parent can still choose to use day care home, day care center. The parent has the final decision as is right but do not take away the minimum protection which is currently available to us by the passage of LB 270. No, let's put to rest this bill this year and not be endangering the safety and welfare of children who are in needed day care services in the State of Nebraska.

PRESIDENT: The Chair recognizes Senator Kahle.

SENATOR KAHLE: Mr. President and members, this issue was before us several years ago and I used an analogy then on how sometimes animals are smarter than people and how the bovine species does share the burden of raising their young and some of the city slickers told me I didn't know

what I was talking about so they asked Senator Lamb and perhaps Senator Vickers about it who raise cattle. I think it is absolutely silly that we are trying to put a stipulation on a person that will only take care of perhaps three or four children. Where is our ability to do with our families what we want to? We have had the halls full of people the last months concerned about the state being involved in the child's education. Now we are getting into the care that they might or might not receive when a neighbor lady perhaps takes care of them. I just feel that this bill should be passed and not killed. We have many, many situations, in fact my daughter has used this sort of an operation for years where sometimes she took in two or so or three of the neighbors children while they worked, and last year she has been working and they have been taking care of her children. Senator Barrett says it is working. I understand fifteen to twenty percent of the day care people aren't cooperating and being licensed. If that is working, let me out. We are either going to have to get a lot more people out inspecting all these places, maybe we ought to inspect everybody's home, it would be safer that way, see if they have any hazard in their furnace or whether they have got their washing compounds under the sink or some other caustic material that a child could get into. I think we ought to leave it up to the people, the ones that are concerned and have the children. I am not sure all of these organizations who have been mentioned are of childbearing age and do have the problem. Some of them are probably just plain do-gooders and want everybody to get the best which is fine but what has happened to the control we have as parents? We heard this bill before and people said if we are going to pay for the babysitting, we should have the right to determine where our kids go and I think it is a fair situation that we go up to five as Senator Newell has suggested and that is not a business as such. They are not going to make enough money to retire. It is just a helpful situation for a community and I don't think we ought to disturb it.

PRESIDENT: The Chair recognizes Senator Burrows.

SENATOR BURROWS: Mr. Chairman, members of the body, I certainly urge the body to oppose this kill motion on LB 270. I would like to ask the body to look at the handout I passed out which spells out the compliance that presently exists in the state. 63 counties, and across the top we have the number of licensed child care providers, 63 counties have 10 or less child care providers licensed and I would like to draw to Senator Barrett's attention that Dawson County has only 10 licensed, that Phelps County has only 6 licensed, and that 80 or 90 percent of

the babysitting being done in his district is outside the law today and subject, if one of these licenses complains to the state, subject to as much as a thirty day jail sentence for the babysitting. 80 to 90 percent of the babysitting are outside the law and subject to a thirty day jail sentence in Senator Barrett's District. If one babysitter that is licensed objects and brings the Department in and complains on this, each of these counties will be a hornets' nest just like Johnson and Jefferson County. So one individual in either of these, and it is a similar pattern across the whole State of Nebraska. It is ridiculous. It is absurd to have a law on the books for thirty-seven years and have fifteen to twenty percent of the people in compliance, eighty, eighty-five percent of the people subjected to a thirty day jail sentence and a \$200 fine operating outside the law. If we want respect for law in the State of Nebraska, we have to pass laws that have the support of the people, at least the majority of the people. This is what...if there is deregulation wanted by any election returns, it is the mickey mouse regulation that comes down into everyone's home that the general public across the State of Nebraska resents. It is not...they did not cry for deregulation of natural gas where everybody's bill is soaring this winter. They wanted state regulation coming out of their homes where that state inspector comes in and goes through the house of somebody that is taking care of a couple of kids that are their neighbor's children. That Nebraskans don't want. I urge you to oppose the kill motion and advance LB 270 and pass the bill so we can have some compliance in the State of Nebraska. Thirty-seven years is long enough. It laid on the books quietly. People didn't even know it was there until a couple of complaints came out and that is why the bill is here today. Thank you.

PRESIDENT: The Chair recognizes Senator Hoagland.

SENATOR HOAGLAND: Mr. President, colleagues, I am rising in support of Senator Barrett's motion to kill LB 270, and there is really I don't think much I can add to the fine comments that Senator Barrett and Senator Marsh have made in support of this motion except perhaps to bring to this debate the perspective of an Omaha legislator and why I think that weakening this particular law at this time would be particularly bad for a large metropolitan area like Omaha. You know in the Omaha area we don't really know people, we don't really know our neighbors or know the people in our community as well or as thoroughly as people from smaller rural areas do and we also for reasons good or bad, probably mostly bad, tend to be in a big rush

and we think we have a lot of responsibility and we are in a lot bigger hurry oftentimes than we really ought to be so we are inclined to drop our children off with babysitters that we haven't really done a whole lot of investigating about and don't really know very much about in the first instance because, frankly, again for good or for worse, life tends to be less personal in large urban areas. It is one of the things we have lost, I think, as people have moved from the rural to the urban areas but it is a fact of life and it is something we ought to recognize in our laws. I think it would be a terrible mistake for areas like Omaha and Lincoln to weaken a law like this that does provide a few minimal protections for the children that are entrusted to the care of babysitters. What we really, of course, need is a much more comprehensive program like that incorporated in LB 520 which Senator Johnson has introduced. I don't mean to say that this current statutory regulatory scheme we have is a be all in the end all. It is not. It is weak in many respects and it needs improvement in many respects. But the answer is not to scrap the system entirely and the answer is not to throw the baby out with the bath water but to work towards an even more comprehensive system than we have now. I strongly support Senator Barrett's motion to kill. I think it would be a serious mistake for us to weaken existing law and hope that you will follow his lead in voting to kill this bill. Thank you, Mr. President.

PRESIDENT: The Chair recognizes Senator Koch.

SENATOR KOCH: Mr. President, members of the body, I rise to support the indefinite postponement of LB 270. I just merely want to advise you of a few things we do. Homes for the elderly we inspect, we license. Why do we do that? Because in many cases those people are infirm and they cannot leave a building in the case of a disaster and we make sure that a disaster might be minimized because there are minimal standards. Now then I ask you, how many toddlers could you care for, whether it be a trailer home which is a tinderbox or some of the nicer homes that you and I might live in, how many infants could you evacuate in the case of a severe fire? Just because it isn't working in a few counties doesn't mean that we should, as lawmakers, say, let the infants and the toddlers take care of themselves. I submit to you there is probably few laws that are obeyed by 100% of compliance, not even the great law, Thou Shall Pay Our Income Tax. So for those of us who sit here and say the law isn't working, it is not our fault because there is some counties that refuse to be a part of the law. We are all going to deal with Christian schools

January 27, 1982

LB 270

pretty soon and I know there are some of you in here that believe strongly in Christian schools and we want some minimal constraints. Why not protect young people? And if I were a person seeking child care and I am being paid for it, then I should apply to minimal standards and I don't think they are unreal. The only thing is they are not enforced in a lot of counties and I would advise the Senator from Imperial, he brought a bill before the Public Works a year or two ago about end guns on irrigating systems because he had a report from a principal that it was making the road muddy and it was dangerous for the buses. I would sooner have my children in that bus going through a puddle of mud than in a home where there may be a severe disaster and nobody could get them out. I would remind the Senator from Grand Island that the previous Senator had this same bill here a few years ago. His name was Senator Kelly and I don't think we ought to relax it. We ought to stick with it and we ought to advise the counties through this kind of a message in public debate that they ought to do their homework and those of us who come from Douglas County, I have seen a lady quit this summer because the county attorney wouldn't enforce the law when she advised him of day care centers and other care centers that were not in compliance. That is the fault of the county enforcement officials, not our fault. So we also have a bill that says you can't buy cigarettes until you are sixteen. I see a lot of kids playing with vending machines buying them but at least the law is there. It has been there I don't know how long so in that case we ought to repeal all laws that are not being complied with because obviously they are not being enforced. I support the indefinite postponement of LB 270.

PRESIDENT: The Chair recognizes Senator Newell.

SENATOR NEWELL: Mr. President, members of the body, I sense that this is the most symbolic of symbolic issues that will come before this Legislature and we should keep this very simple. We should not look at the bill. We should not understand its ramifications. We should keep it simple. And I think that the proponents of the indefinite postponement motion have made it and tried to keep it very simple. On one hand it is those people that wholesale want to unlicense these care, these providers of care for young children. If you love children, you have got to vote for the indefinite postponement motion. On the other hand, it is these rural guys that see it totally as deregulation and they don't understand and so, therefore, they are wrong. I want to say that I don't know that the bill is that simple or that the issue is that simple. In

fact from my perspective, we ought to look at what the bill says now. First of all, Senator Marsh was wrong. It does not say that county by county can adopt their own standards. We basically took that out because we knew it wouldn't work. What the bill says now is simply this, that if you care for five children, three of them being your own, two of them being the neighbors, you still have to have a license. We probably didn't underegulate more than twenty percent of the homes in this state with this amendment. That is the first thing. The second thing is we have wholesale disregard for this law. Twenty percent of the people at most, that is the highest projections or predictions we can do, twenty percent of the people who ought to comply with this law comply with the law. They just don't do it. We don't regulate day care centers. We don't regulate, which have far more children in all the homes in this state that we are talking about regulating, we don't regulate them at all and they have got the children, preschool programs, nor do we regulate industry or care centers. We don't regulate either of those. We ought to do that. I think that Senator Burrows would accept an amendment like that maybe on Select File where we would have, in fact, far more regulation and really deal with the urban centers that Senator Hoagland is worried about. This is a symbolic issue and it is absolute symbolism and it is not very well thought out. The people who are proposing to indefinitely postpone this bill are not thinking. They have made commitments to people who are very sincere, who haven't looked at the compromise. The commitments were made long ago and rationale and reality and what has happened doesn't make any difference. By golly, we have got to do this to save the kids. Well, frankly, it is wrong. To indefinitely postpone this bill would be wrong and I oppose it.

PRESIDENT: The Chair recognizes Senator DeCamp.

SENATOR DeCAMP: I call the question.

PRESIDENT: Do I see five hands? I do. The question is, shall debate cease? All those in favor vote aye, opposed nay. This is to cease debate. Record the vote.

CLERK: 25 ayes, 6 nays to cease debate, Mr. President.

PRESIDENT: The motion carries. Debate ceases. Senator Barrett, you may close on the motion.

SENATOR BARRETT: Thank you, Mr. President, and members. And very briefly, may I suggest to Senator Kahle in particular that the present program is working. It is my understanding that in the last two years over fifty licenses

January 27, 1982

LB 270

have been denied or revoked by the Department. It is also my understanding that an even larger number of potential applicants have been counseled out of going through with their projects before denial or before revocation became necessary. I do feel that it is the obligation of the citizens of this state to require day care centers to register and then follow these minimum requirements. The citizens of the state have an obligation to provide these minimum standards and requirements for the health and the safety and the welfare of our children in day care programs. The passage of LB 270 would totally negate all of this. If 270 is passed it would effectively deregulate all infant day care homes in the state effectively. I believe that that would be a real tragedy. I urge you to vote in favor of the kill motion. Thank you.

PRESIDENT: The motion before the House is the motion to indefinitely postpone LB 270. All those in favor vote aye, opposed nay. Have you all voted? Does anyone want to call for a Call of the House to get these people voting? We have got three still missing, three excused. Senator Barrett.

SENATOR BARRETT: A Call of the House, Mr. President.

PRESIDENT: Senator Barrett wants a Call of the House.

SENATOR BARRETT: And a roll call.

PRESIDENT: Roll call vote and a Call of the House. All those in favor of a roll call vote or a Call of the House vote aye...okay, all those in favor of the Call of the House vote aye. Record the vote.

CLERK: 31 ayes, 0 nays to go under Call, Mr. President.

PRESIDENT: The House is under Call. All members will be brought in. The Sergeant at Arms will get them in. All other people leave the floor. Everybody register your presence, please. Two excused. Senator Vickers, Senator Warner, would you show your presence? We are now down to one. Senator Chambers is here. Everyone is here now. Senator Barrett, are you ready for a roll call vote? Proceed, Mr. Clerk, a roll call vote on indefinitely postponing LB 270.

CLERK: (Roll call vote taken. See pages 436 and 437, Legislative Journal.) 25 ayes, 22 nays, Mr. President, on the motion to indefinitely postpone.

January 27, 1982

LB 270, 663, 703

PRESIDENT: Motion carries. LB 270 is indefinitely postponed, and I just might add, Senator DeCamp. You were correct. I could have voted to break that tie because that was a majority of the those members voting. You are correct. I stand corrected...yes, you are right. Motion to raise the Call. The Call is raised. The Clerk will read some matters in the record.

CLERK: Mr. President, your committee on Revenue reports LB 663 as indefinitely postpone. That is signed by Senator Carsten.

Your committee on Public Health and Welfare reports LB 703 advanced to General File with committee amendments attached.

Mr. President, I have notice of hearings from the Ag and Environment Committee, Constitutional Revision and Recreation, and Banking, Commerce and Insurance.

PRESIDENT: We are just about at ten-thirty so I think we will not take up another bill in General File since the Speaker has designated Select File at ten-thirty and I think we will go ahead to Select File at this time.

SENATOR CLARK PRESIDING

SENATOR CLARK: All right, we are on item #6, the first two bills are going to be laid over. We will take LB 215. Are there any amendments? 215 will be laid over also. 347.

January 28, 1982

LB 127, 270, 359, 378,  
423, 465, 572, 610

SENATOR KILGARIN: I move we advance LB 423.

SENATOR CLARK: The motion is to advance LB 423. All those in favor say aye, opposed. The bill is advanced. LB 192.

SENATOR KILGARIN: I move the E & R amendment to LB 192.

SENATOR CLARK: There are amendments to 192 so we will hold that bill up. 231.

SENATOR KILGARIN: The introducer requests that we pass over 231.

SENATOR CLARK: Well and 304 has amendments so that will complete them. The Clerk wants to read some things in.

CLERK: Mr. President, I have a hearing notice from the Judiciary Committee for February 22, signed by Senator Nichol. I have a hearing notice by the Appropriations Committee for February 2, 3, 5 signed by Senator Warner.

Senator Clark would like to print amendments to LB 127 in the Journal; Senator Howard Peterson and Hefner to print amendments to LB 610. Senator Warner offers proposed rules change. That will be referred to the Rules Committee for public hearing and, Mr. President, Senator Cullan moves to reconsider the body's action in indefinitely postponing LB 270. That will be laid over. (See pages 450-451 of the Legislative Journal.)

Mr. President, in addition to that I have an E & R reports. Your committee on Enrollment and Review respectfully reports that they have carefully examined and reviewed LB 378 and recommend that same be placed on Select File with amendments; LB 359 Select File with amendments and LB 572 Select File with amendments, all signed by Senator Kilgarin as Chair. (See pages 451-455 of the Legislative Journal.)

SENATOR CLARK: I would like to introduce to the Legislature 75 fourth grade students from the Zeman School in Lincoln, Shirley Marsh's District. Bob Larson, Mrs. Soukup, Mrs. Durst and Mrs. Diava (phonetic) are the teachers. Would you stand and be recognized please. Welcome to the Legislature. We are glad to have you here. We will now take up LB 465.

CLERK: Mr. President, there are E & R amendments on LB 465.

SENATOR CLARK: Senator Kilgarin, E & R amendments on 465.

SENATOR KILGARIN: I move the E & R amendments to LB 465.

February 4, 1982

LB 32, 69, 192, 198, 229, 231, 239,  
263, 264, 270, 309, 347, 370, 403,  
418, 423, 431, 448, 449, 490, 492,  
511, 542, 563-66, 572, 592

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: The opening prayer will be given by Pastor Glenn Frazier of the Antelope Park Church of the Brethren.

PASTOR FRAZIER: Prayer offered.

SPEAKER MARVEL: Roll call. Please record your presence. Will you please record your presence? Senator Cope and Senator Warner, would you please record your presence? Record.

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

SPEAKER MARVEL: Do you have anything to read into the record?

CLERK: Mr. President, your committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 69 and find the same correctly engrossed; 192, 198, 231, 239, 263, 370, 431, 448, 449, 511 and 592 all correctly engrossed. (See pages 540 through 544 of the Legislative Journal).

Mr. President, LBs 32, 229, 264, 309, 347, 403, 418, 423, 490, 492, 542, 563, 564, 565, 566, and 572 are ready for your signature.

SPEAKER MARVEL: While the Legislature is in session and capable of transacting business, I am about to sign and do sign engrossed LB 32, engrossed LB 229, engrossed LB 264, engrossed LB 309, engrossed LB 347, engrossed LB 403, engrossed LB 418, engrossed LB 423, engrossed LB 490, engrossed LB 492, engrossed LB 542, engrossed LB 563, engrossed LB 564, engrossed LB 565, engrossed LB 566, engrossed LB 572. We are down to item #4, motions, and the first motion concerns LB 270.

CLERK: Mr. President, LB 270 was last considered by the Legislature January 27th. At that time Senator Barrett offered a motion to indefinitely postpone the bill. That motion prevailed. Subsequent to that action, Senator Cullan offered a motion to reconsider the body's action to indefinitely postpone LB 270. That motion is found on page 450.

SPEAKER MARVEL: The Chair recognizes Senator Cullan.

SENATOR CULLAN: Mr. President and members of the Legislature,

February 4, 1982

LB 270

I would urge you to reconsider the action to indefinitely postpone LB 270. I think Senator Burrows' proposal is a reasonable one. I do not intend to spend a great deal of time on this issue this morning because the Legislature has debated it extensively previously. But the current law is not being enforced throughout the State of Nebraska. If it were enforced throughout the State of Nebraska it would create...first of all, it would cost thousands if not several hundred thousands of dollars to adequately enforce the existing statutes of the state. Secondly, I believe that any regulation beyond that for five children is unnecessary. We have talked about abuses and I know the abuse in the Fremont area that was in the newspaper last year was discussed, but that particular abuse still falls within the statute after Senator Burrows' bill would be passed in its current form. And so I see no reason for us to regulate in this area today. I think that any abuses which exist with large numbers of children could still be handled under the current system and I would urge you to reconsider your action to indefinitely postpone LB 270. And I would like to ask Senator Burrows to provide some additional rationale at this time.

SPEAKER MARVEL: The Chair recognizes Senator Burrows.

SENATOR BURROWS: Mr. Chairman and members of the body, I think in presenting the bill maybe it should have been put in the perspective of actually legalizing the majority of child care and babysitting in the State of Nebraska. We have only 15 to 20 percent compliance and I feel the measure will simply legalize the small units where there are four or less being cared for as the bill is presently cared for. If there are future amendments, I am open to these. If we could separate between Douglas and Lancaster County and still cover these with the original language of the law and separate it for the rural areas, I think this would be a logical move. I would like to bring your attention...to your attention LB 966 which proposes that licensing of child care providers be a self-supporting function, and if this bill were passed which is from the Appropriations Committee, the fees which are presently \$1 would go to \$70. Now I don't know whether that has a viable chance, but the 15 to 20 percent participation we have now, if the fees are raised from \$1 to \$70 will drastically drop. I don't want to take a lot of your time but I would like to appeal to you that this bill is what...presents what Nebraskans want in getting regulation out of their homes. We have a test of 37 years with the law on the books and only 15 to 20 percent participation. I would urge you to support

February 4, 1982

LB 270

Senator Cullan's motion to reconsider our action on LB 270. Thank you.

SPEAKER MARVEL: The Chair recognizes Senator Barrett. Senator Barrett.

SENATOR BARRETT: Thank you, Mr. President, and members of the body, I rise in opposition to Senator Cullan's motion to reconsider LB 270. I think it is unfortunate that Senator Cullan was not here last week when the bill was debated fully, debated fully and debated on its merits. And at that time this body in its wisdom indefinitely postponed the bill as it should have done, in my opinion, and I see no further reason for debate on the bill at this time. Here we are on the 4th day of February, the 20th day in the 60 day session of the 2nd Session of the 87th Legislature, we are one-third of the way through the short session which as we all know is the pressure packed session, considering action on a bill which met a very timely death last week. Frankly, I believe we have more important things to do than to readdress a bill which we killed last week. The bill has been around before. Some of you remember it as I believe 372. The bill went nowhere then. Virtually the same bill went nowhere last week. Here we are beating it around again. I think it is ridiculous. The issue is very simple. Either we want very minimal, and I stress the word minimal, licensure requirements for our children in day care, or we don't. The Legislature said last week, we want these minimal standards. We have already shown a very strong initiative in protecting our children. We have reasserted the state's rights in setting basic standards in child care. This we did by killing the bill once. The legislative body has indicated its opposition to the bill. I suggest to you that we should not take the time to debate the matter again. I strongly urge you to vote against the reconsideration action. Thank you, Mr. President.

SPEAKER MARVEL: Senator Wesely.

SENATOR WESELY: Mr. Speaker and members of the Legislature, I rise too to oppose the reconsideration motion. Speaker Marvel has talked time and again about floor time on debate. This bill was debated at length and decision was made to kill it. It was a proper decision a week ago. It is the proper decision today to keep that bill from coming back up on the floor and taking the time of this Legislature. The decision was good last week. The decision is good this week that this bill not proceed, not

February 4, 1982

LB 270

be alive and open for consideration. I think that the bill as heard in committee clearly had a great deal of opposition. Many organizations across the state have spoken out against the provisions of the bill. In talking about deregulation, I think it is pretty clear that deregulation isn't all it is cranked up to be. Why yesterday we killed the Weather Modification Commission and I haven't noticed any improvement whatsoever in our weather. So my feeling is that this is one indication of...obviously deregulation is not working in that case and it won't work in this case, so we ought to protect our children and I ask you to not vote for reconsideration.

SPEAKER MARVEL: The Chair recognizes Senator Cullan to close on your motion.

SENATOR CULLAN: Mr. President and members of the Legislature, this has been and I suppose is an emotional issue, but I would like you to put into perspective what we are talking about. We are saying that if there are four children in a home, four, that you do not need the state to come in and regulate you and that is the issue. If there are five children in a home, the state will provide some modicum of regulation. I just see no reason for the state to be involved in a situation where only four children are under the supervision of one caretaker of a babysitter. It just makes no sense to me. The real underlying philosophical issue is this, where does the responsibility of the state begin and the responsibility of the parents end? I think that it is the parents' responsibility in these circumstances to make sure that their children are taken care of, and I don't think any amount of state regulation or control, and certainly not the meaningless state control that we have today, is going to substitute for that. I think it is unnecessary regulation. I think it is harassing and I think that it's an area that the state simply does not need to participate in. I would urge you to reconsider your action on LB 270 to allow people to babysit for four kids without having the State of Nebraska involved. That is the issue. I urge you, reconsider LB 270 and then let's advance it and make a good change in state law.

SPEAKER MARVEL: The motion before the House as posed by Senator Cullan is to reconsider our action to indefinitely postpone LB 270. All those in favor of the Cullan motion vote aye, opposed vote no. Have you all voted?

SENATOR CULLAN: Mr. President, I would ask for a Call

February 4, 1982

LB 270

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. Have you all voted? Record.

CLERK: 27 ayes, 1 nay to go under Call, Mr. President.

SPEAKER MARVEL: Okay, record your presence. The House is under Call. All legislators are to be in their seats. Senator Fowler, will you please record your presence? Senator Nichol, will you please record your presence? All legislators please take your seats and record your presence and we will be ready for the roll call. Okay, the motion before the House is the reconsideration of the kill motion. Okay, Senator Cullan, are you ready for the roll call? We have everybody here who is available. Okay, call the roll.

CLERK: (Read the roll call vote as found on pages 544 and 545 of the Legislative Journal).

SPEAKER MARVEL: ....quiet please so the Clerk can hear the count.

CLERK: (Continued the roll call vote). 22 ayes, 22 nays, Mr. President, on the motion to reconsider.

SPEAKER MARVEL: The motion lost. Okay, the next bill is 657.

February 22, 1982

LR 211, 224  
LB 131, 192, 198, 211, 224, 231,  
239, 263, 270, 274, 274A, 287,  
314, 402, 440, 448, 450, 454,  
465, 511, 547, 589, 592, 634,  
646, 649, 669A, 672, 827

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: The prayer will be delivered by the Reverend Palmer.

REVEREND PALMER: Prayer offered.

SPEAKER MARVEL: Record your presence, please. While we are waiting for a quorum, underneath the South balcony from Scottsbluff, Nebraska, Audrey Towater is the guest of Senator Nichol. She is the one that has that large object there she is working on. I suggest that at your convenience you take a look at it. It is very interesting. Record, Mr. Clerk.

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

SPEAKER MARVEL: The Clerk has got some items to read into the Journal.

CLERK: Mr. President, your committee on Enrollment and Review respectfully reports we have carefully examined and reviewed LB 634 and recommend that same be placed on Select File with amendments; 672 Select File with amendments and LB 827 Select File and 669A Select File, all signed by Senator Kilgarin. (See pages 790-791 of the Journal.)

Your Enrolling Clerk respectfully reports that she has presented to the Governor on February 19 at two-fifty, bills passed on Final Reading that day. (Re: LB 131, 274, 274A, 287, 314, 402, 440, 454 and 589.)

Mr. President, I have communications from the Governor. The first is addressed to the Clerk. (Read communication re: LB 239 as found on page 791 of the Legislative Journal.) The second communication is addressed to the Clerk. (Read re: LB 192, 198, 231, 263, 270, 448, 450, 465, 511, 592, 131, 274, 274A, 287, 314, 402, 454 and 589.)

Mr. President, your committee on Urban Affairs whose chairman is Senator Landis reports LB 904 as indefinitely postponed. That is signed by Senator Landis as Chair.

Senator Schmit would like to print amendments to LB 547 in the Legislative Journal. (See page 792 of the Journal.)

Mr. President, LR 211, 224 and LB 646 and 649 are ready for your signatures.

SPEAKER MARVEL: While the Legislature is in session and capable of transacting business I am about to sign and do sign LR 211, LR 224, engrossed LB 646, LB 649. (See page

7842