

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.

February 12, 1981

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: Monsignor Charles J. Keenan of the Blessed Sacrament Parish, Lincoln, Nebraska.

MONSIGNOR KEENAN: Prayer offered.

SPEAKER MARVEL: Roll call. Will you please record your presence. Have you all recorded your presence? Record the vote.

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

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

CLERK: Yes, sir, I do. Mr. President, your committee on Enrollment and Review respectfully reports that we have carefully examined and reviewed LB 336 and recommend that same be placed on Select File with amendments; 336A Select File; 33 Select File; 96 Select File; 31 Select File, 214 Select File, 120 Select File and 85 Select File with amendments, (Signed) Senator Kilgarin, Chair. (See pages 512-513 of the Legislative Journal.)

Mr. President, your committee on Banking, Commerce and Insurance whose chairman is Senator DeCamp to whom is referred LB 195 instructs me to report the same back to the Legislature with the recommendation it be advanced to General File with amendments; 272 General File with amendments; 273 General File with amendments and 355 General File with amendments, (Signed) Senator DeCamp, Chair. (See pages 512-514 of the Legislative Journal.)

Mr. President, your committee on Enrollment and Review respectfully reports we have carefully examined and engrossed LB 14 and find the same correctly engrossed; 18, 41, 51, 64, 65 and 121 all correctly engrossed.

And finally, Mr. President, I have a lobby registration report covering the week of February 6 through February 11, 1981. (See page 515 of the Journal.)

SPEAKER MARVEL: Okay, we will go to item #4, introduction of new bills.

CLERK: Mr. President, Senator Nichol moves to suspend Rule 5, Section 5 so as to permit the introduction of Request 889 by himself.

SPEAKER MARVEL: Senator Nichol.

February 25, 1981

LB 272, 273

limited partnerships have until January 1, 1983, to file certificates of limited partnership and that such partnerships are governed by the act, in other words, existing ones, and that for correction of some typographical errors. Those are what the amendments do. As I say, the bill itself is a rewrite of the limited partnership laws and I would urge you to adopt the committee amendments that make those technical corrections, and if you want, then we can discuss limited partnerships further.

SPEAKER MARVEL: The motion is the adoption of the committee amendments. All those in favor of that motion vote aye. Opposed vote no. Have you all voted? Record.

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

SPEAKER MARVEL: Do you want to advance the bill now?

SENATOR DeCAMP: (Microphone not on).....that the bill be advanced. I repeat, Mr. President, it is a fairly lengthy bill as you can see. It is a rewrite of the limited partnership laws. At the hearing, the proponents were the people who were involved in drafting it, quite frankly. I think it was the Professor from Creighton Law School, and, of course, our committee people who worked on it. Senator Landis was involved in it pretty deeply and myself, Ron Sedlacek. The best evidence that I can give you that it isn't a controversial bill in terms of changing any major rights is that it did have no opposition in terms of major simplifying the procedures, making the limited partnership a better vehicle that can be more effectively used, for example, for preserving family farms, things like that, it is a very effective bill, and... that's enough.

SPEAKER MARVEL: The motion is to advance 272 to E & R for Review. All those in favor vote aye. Opposed vote no. Record.

CLERK: 28 ayes, 0 nays on advancement of the bill, Mr. President.

SPEAKER MARVEL: The motion is carried. The bill is advanced. The next bill is 273.

CLERK: LB 273 was introduced by the Banking Committee and signed by its members. (Read title.) The bill was read on January 16, referred to the Banking Committee. It was advanced to General File. There are committee amendments pending, Mr. President.

February 25, 1981

LB 273, 273A

SPEAKER MARVEL: Senator DeCamp.

SENATOR DeCAMP: Mr. President and members of the Legislature, for your information this is one of the major proposals of the Governor's Task Force and one of the ones he has a very keen interest in, and I would hope you would support the proposal, but I did want to alert you to the fact that it was one of those Task Force proposals. It redoes essentially the whole system of how the state handles its exposure and potential liability for its property and its entities. And it creates something known as a risk manager, same thing as insurance companies have for the way they handle their exposure. The amendments themselves are in truth a correction of typographical errors and other things made in the bill. I move adoption of the amendments and then we can maybe discuss the bill a little further.

SPEAKER MARVEL: The motion is the adoption of the committee amendments to LB 273. All those in favor of adopting those amendments vote aye, opposed vote no. Record.

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. Now what do we do with the bill?

SENATOR DeCAMP: I move the bill be advanced, Mr. President. I repeat again, this changes the way the state handles its insurance exposure, or I should say its liability exposure, and we are going to basically operate in the same way and with the same efficiency that insurance companies do by having a centralized risk manager program. It initially is going to cost some money because it is going to alter things. In the long run by every study we have been able to do and by every bit of information we have been able to come up with and other states, it should save major amounts of money in the future. I move the bill be advanced.

SPEAKER MARVEL: The motion is the advancement of LB 273 as amended. All those in favor vote aye, opposed vote no. Record.

CLERK: 28 ayes, 0 nays on the motion to advance the bill, Mr. President.

SPEAKER MARVEL: The motion is carried. The bill is advanced. The next bill is 273A.

February 27, 1981

LB 34, 58, 114, 125, 144,  
195, 205, 246, 272, 273,  
273A, 325, 355, 359, 388,  
409, 491, 546

the motion is the suspension of the rules to introduce a bill as explained by Senator Newell. All those in favor of suspending the rules vote aye, opposed vote no. Record the vote, Mr. Clerk.

CLERK: 30 ayes, 11 nays to suspend the rules and offer introduction, Mr. President.

SPEAKER MARVEL: The motion is adopted.

CLERK: Mr. President, a new bill, LB 546. (Title read.) While we are waiting, your committee on Urban Affairs whose Chairman is Senator Landis to whom we referred LB 58 reports the same back to the Legislature to General File with amendments; 359 General File with amendments; 491 General File with amendments. (Signed) Senator Landis.

Senator DeCamp would like to print amendments to LB 34 in the Journal.

Mr. President, your committee on Enrollment & Review respectfully reports they have carefully examined and reviewed LB 205 and recommend that same be placed on Select File with amendments; 409 Select File with amendments; 195 Select File; 272 Select File; 273 Select File with amendments; 273A Select File; 355 Select File with amendments; 114 Select File; 246 Select File, 325 Select File, 388 Select File with amendments. (Signed) Senator Kilgarin, Chair.

SPEAKER MARVEL: May I have your attention to discuss item #6 and item #6 has to do with the continuation of the discussion on LB 125. There is a request that the bill be laid over until Monday. I have contacted two of the introducers. They are amenable to laying it over until Monday. If we do this, I think we must do it with the understanding that we are not establishing a precedent. But anyway, is there objection to laying over 125 until Monday? Senator Higgins.

SENATOR HIGGINS: Mr. President, who requested that we lay it over?

SPEAKER MARVEL: Senator Haberman.

SENATOR HIGGINS: Thank you.

SPEAKER MARVEL: Any other discussion? Okay, the bill will be laid over until Monday. We now move to General File, LB 144, Mr. Clerk.

March 3, 1981

LB 195, 272, 273, 273A

SENATOR WARNER: I'm sure it's...this would I am sure is the bill that several small insurance companies are concerned about and that deals with the licensing of insurance agents,

SENATOR KAHLE: I believe that is correct, so....

SENATOR WARNER: I would be glad to explain this bill again but I don't think this one is the one that....

SENATOR KAHLE: Well we slide things by pretty fast when we get going here and I want to make sure that I wasn't slipping one by here, one wasn't being slipped by me and I understand it now. Thank you.

SENATOR WARNER: I understand.

SPEAKER MARVEL: The motion is the advancement of the bill, 195 to E & R for engrossment. All those in favor of that motion ... Senator Warner, do you want to move the bill? The motion is to advance the bill to E & R for engrossment. All those in favor say aye, opposed no. The motion is carried. The bill is advanced. The next bill is 272.

CLERK: I have nothing on the bill, Senator.

SPEAKER MARVEL: Senator Kilgarin.

SENATOR KILGARIN: I move LB 272 be advanced to E & R for engrossment.

SPEAKER MARVEL: All in favor of that motion say aye, opposed no. The motion is carried. The bill is advanced. LB 273.

CLERK: There are E & R amendments, Senator.

SENATOR KILGARIN: I move the E & R amendments to LB 273.

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

CLERK: Nothing further on the bill, Senator.

SENATOR KILGARIN: I move LB 273 be advanced to E & R for engrossment.

SPEAKER MARVEL: All in favor of that motion say aye, opposed no. The motion carried. The bill is advanced. 273A.

LB 9, 34, 51, 78, 91, 124,  
125, 133, 150, 178, 195,  
205, 223, 272, 273, 273A  
277, 317, 320, 321, 345  
363, 376, 409, 439, 459

March 6, 1981

PRESIDENT LUEDTKE PRESIDING

REVEREND GERALD LUNDBY: (Prayer offered.)

PRESIDENT: Senator Higgins, do you want to put your light on and then we will make sure we have got enough. Thank you. Record the presence, Mr. Clerk.

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

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

CLERK: I have no corrections to the Journal, Mr. President.

PRESIDENT: All right, the Journal will stand correct as published. Any messages, reports or announcements?

CLERK: Yes, sir, I do. Mr. President, first of all, your committee on Education whose Chairman is Senator Koch to whom was referred LB 78 instructs me to report the same back to the Legislature with the recommendation it be advanced to General File with amendments; LB 317 General File with amendments; 320 General File with amendments; 321 General File with amendments; 91 Indefinitely postponed; 223 Indefinitely postponed; 363 Indefinitely postponed; 439 Indefinitely postponed. (Signed) Senator Koch, Chair.

Mr. President, your committee on Banking, Commerce and Insurance whose Chairman is Senator DeCamp to whom was referred LB 376 reports LB 376 to General File with amendments; LB 133 Indefinitely postponed; and 277 Indefinitely postponed. (Signed) Senator DeCamp, Chair.

Mr. President, your committee on Enrollment and Review respectfully reports they have carefully examined LB 51 and find the same correctly engrossed; LB 125 correctly engrossed; 150 correctly engrossed; 195 correctly engrossed; 205 correctly engrossed; 272 correctly engrossed; 273 correctly engrossed; 273A correctly engrossed; 409 correctly engrossed; and 459 correctly engrossed. (Signed) Senator Kilgarin, Chair.

Mr. President, LB 9, 34, 124, 178 and 345 are ready for your signature.

PRESIDENT: While the Legislature is in session and capable of doing business, I propose to sign and I do sign LB 9, LB 34, LB 124, LB 178, and LB 345.

March 11, 1981

LB 5, 24, 38, 54, 72, 73,  
LB 154, 144A, 198, 245A,  
LB 273, 275, 288, 417, 459A

SENATOR CLARK: All provisions of law having been complied with, the question is, shall the bill pass? All those in favor vote aye, opposed no. Have you all voted? Record the vote.

CLERK: (Record vote read. See page 856, Legislative Journal.) 47 ayes, 0 nays, 2 excused and not voting, Mr. President.

SENATOR CLARK: The bill is declared passed. We will now go to #5, General File, priority bill, Senator Cullan's LB 56.

CLERK: Mr. President, may I read some things in.

SENATOR CLARK: Read some things in if you have to.

CLERK: Mr. President, first of all, your Enrolling Clerk respectfully reports that she has on this day at 10:40 a.m. presented to the Governor for his approval LBs 24, 38, 54, 275, and 288.

Your committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 5 and find the same correctly engrossed; LB 459A correctly engrossed; LB 144A correctly engrossed; LB 72 correctly engrossed. (Signed) Senator Kilgarin, Chair. LB 73 correctly engrossed.

Mr. President, Senator DeCamp would like to print amendments to LB 273 in the Legislative Journal.

Senator Koch offers explanation of vote.

Mr. President, your committee on Public Works whose Chairman is Senator Kremer reports LB 417 to General File with amendments.

I have an announcement of priority bills designation by the Government Committee.

Senator Warner would like to print amendments to LB 198.

Senator Carsten would like to be excused Thursday, March 12 all day.

A new A bill, LB 245A by Senator Schmit. (Title read.)

Your committee on Banking, Commerce and Insurance reports on certain gubernatorial appointments.

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

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

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

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

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

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

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

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

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

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

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

March 18, 1981

SPEAKER MARVEL: No objection, so ordered.

CLERK: Mr. President, Senator Koch to print amendments to LB 311; Senator Wesely to LB 361; Senator Koch to LB 245; Senator Chambers to LB 273; Senator Newell to LB 47 and Senator Koch and Burrows to LB 190. (See pages 997-1002 of the Legislative Journal.)

Mr. President, Senator Kilgarin offers explanation of vote. Finally, Mr. President, two new resolutions, LR 43 by Senator Marvel as Speaker: (Read.) That will be laid over. LR 44 by Senator Koch: (Read. See pages 1002-1003.) That too will be laid over, Mr. President.

SPEAKER MARVEL: Now before we proceed to LR 26 which is on the agenda, today is the celebration of Agriculture Day. There will be a signing of a proclamation in the rotunda and the members of the Legislature are invited. The celebration begins around eleven-thirty and I assume those of you who want can check on the rotunda. Meanwhile we will continue with LR 26.

CLERK: Mr. President, LR 26 is found on page 673 of the Journal. It is offered by the Public Works Committee and signed by its members. (Read.)

SPEAKER MARVEL: Senator Kremer.

SENATOR KREMER: Mr. Chairman and members of the Legislature, LR 26 was brought to the Public Works Committee by some of the subdivisions of government in the southwestern part of the state, namely tri-county interests and some of the NRDS in that area of the state. The resolution was signed by a number of the members of the Public Works Committee and then was held up for several days in order to learn if we could, how this project would be of benefit to Nebraska and if there were any disadvantages, what they would be. You have heard the resolution read and I have had the Pages lay a map on your desk, on each one of your desks, to show you where this proposed project is as related to Nebraska. You will note on the map that the dam would be close to Ft. Morgan, Colorado, and it would provide irrigation waters on and along the South Platte River almost to or to the Nebraska state line. Now I am trying to explain to you what the advantage would be to the State of Nebraska. I would like to make five important points why I think Nebraska should support this resolution. Some ask the question, why should Nebraska get involved in a project that is not in the state itself and it is a good question and I will try to answer that as I make these several points. First of all, if Nebraska does take a positive action on the

May 11, 1981

LB 165, 273, 273A, 336, 459A

SPEAKER MARVEL: I am referring to item #5 on your agenda. In setting up item #5 we have run into some conflicts and the conflicts basically, and Senator Warner has this motion, but the motion indicates that bills with General File implication or containing General File characteristics should not be considered until the main line appropriation bills have been acted upon by the Governor and the Legislature has had a chance to react to the Governor's action. Therefore, and if you have any questions I wish you would refer them either to the Chair or to the Chairman of the Appropriations Committee, we would change the agenda so that we would take up those bills starting on item #5, those bills, we would take up those bills which have motions to return and those bills, if you are interested I will give them to you. 165, 336, 273, 273A and 459A. So the agenda would be changed in that particular category. Do you want them again? Okay, once more, 165, 336, 273, 273A and 459A.

PRESIDENT: Is that 459A, Mr. Speaker, or 459?

SPEAKER MARVEL: It is on the sheet that Pat gave me. It is 459A.

PRESIDENT: 459A, that is what I thought. I didn't hear you say the A. 459A, okay. So those would be the only five bills taken up then under agenda item #5. Is that correct?

SPEAKER MARVEL: Yes, I think the thing that screws this deal up is the fact that we had it set up to read 204 and 204A because of the length of the bill and we were going to do this over the noon hour. I understand the conflict. This is not possible so we will have to devise another time to take up that particular item. So we are not ignoring it, Senator Wagner. It simply will come up at a different time.

PRESIDENT: The Chair recognizes Senator Lamb.

SENATOR LAMB: Mr. President and members, I discussed this with Senator Warner a few days ago and he indicated to me that this has been done both ways, that under the identical amendment which or identical motion of Senator Warner's, we have other years had the A bills after they have been passed by this body but before the Governor has acted on them, even though the motion, I agree, states that should not be the case but we have in this body, gone ahead and done that and so I would just ask Senator Warner to comment on that fact.

PRESIDENT: Did you want Senator Warner to comment? Senator Warner.

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

May 11, 1981

LB 234, 273

below it. This is a small increase, \$10 a week, 5.5%, less than the rate of inflation, something that I think we ought to do just even to try and keep pace with where we are with inflation. I would move for adoption of the amendment.

SENATOR CLARK: The question before the House is the adoption of the amendment as explained by Senator Fowler. All those in favor vote aye. All those opposed nay.

CLERK: Senator Clark voting no.

SENATOR CLARK: Have you all voted? Once more, have you all voted? We are on Final Reading. Record the vote. Senator Fowler.

SENATOR FOWLER: I would ask, oh, we are under Call. I guess I would ask people to punch in and have a roll call vote.

SENATOR CLARK: Clear the board. Would everyone check in, please? Would everyone check in, please? We are supposed to be in our seats. We have four excused. Senator Goodrich, Senator Cope, Senator Koch, Senator Dworak, would you all just check in please? Senator Haberman, would you check in, please? Senator DeCamp. Do you want to call the roll? Call the roll.

CLERK: (Read roll call vote as found on page 1919 of the Legislative Journal.) 25 ayes, 20 nays, Mr. President, on adoption of Senator Fowler's amendment.

SENATOR CLARK: The amendment is adopted. Senator Fowler.

SENATOR FOWLER: I will move to readvance the bill to Final Reading.

SENATOR CLARK: The motion is to readvance the bill to F & R. All those in favor say aye, opposed. The bill is readvanced. The Clerk will read 273. Do you have a motion on that?

CLERK: Yes, sir, I do. Mr. President, I have a series of motions on 273.

SENATOR CLARK: Read the first motion.

CLERK: The first is offered by Senator DeCamp and there was one on 856 you want to withdraw, Senator? Mr. President, he wishes to withdraw that one. The one following that is offered by Senator DeCamp and that is found on page 913 of the Journal, Mr. President.

SENATOR CLARK: Senator DeCamp.

SENATOR DeCAMP: Mr. President, members of the Legislature, I want to pass out something and while I am passing out I will read, that is if I can find anybody interested in passing out. You remember LB 120 was the bill of Senator Burrows that we passed having to do with mandamus actions and attorneys fees with respect thereto. We discovered or we felt, a number of people felt that the way the bill was drafted would cause all kinds of problems. We had several meetings. We kind of finally settled upon this as a solution and basically what it says is this, and in a mandamus action it says, "In addition to damages the court may also award costs and reasonable attorney fees. The costs and attorneys fees shall be paid by the governmental body represented by the public official or employee." So it would leave it up to the discretion of the court and, of course, the fees, if they were awarded, would revert back to the public body. There would be no personal liability for public officials of a political subdivision or the state itself. I would emphasize that there are already procedures available to remove any public official who acts in bad faith and so on and so forth. This is a discretionary, not mandatory. I would urge the members to adopt this. I think it corrects the problems that were envisioned as resulting from passage of LB 120 or the potential problems. You remember on LB 179 we did attempt a correction and we determined for whatever reasons that that correction was not a workable one and so that amendment was removed and this is the suggested solution at this time.

SENATOR CLARK: Senator Higgins.

SENATOR HIGGINS: Senator DeCamp, would you yield to a few questions on this?

SENATOR DeCAMP: Sure.

SENATOR HIGGINS: As I understand this bill, what we are going to do is create an insurance risk manager's job and the estimate the Claim Board makes from this new program and its director is about 55 thousand dollars. Now right now the state's life and health insurance is written by private enterprise. The auto liability is written by private enterprise and bonds are written by private enterprise. The state is self-insured when it comes to Workmen's Comp. Buildings and personal property are not insured and the several airplanes that the state owns are insured by private enterprise. Also in the legislative fiscal note here it says, "The risk management program potentially could result in significant long-term savings to the state, However, by consolidating such functions and providing funding

for three new funds there will be an increase of \$87,456 in general fund appropriations to the State Claim Board, 1981-82. And then on another page it says, "The effect of this bill is to create a new agency and incorporate it into the functions of the existing State Claims Board. There will be some duties transferred from the Department of Insurance. Some new functions have been created primarily the provisions for indemnification and defense of state employees and officers. The latter function includes the University of Nebraska and the four state colleges." In other words, we are going to indemnify all state employees against any errors or omissions they may make. My number one question, we are going to include the University of Nebraska. What about a doctor working for the university or an intern? I think as an attorney and all the attorneys here are well aware of how high a malpractice claim can go. Are we going to indemnify those interns and doctors at the University of Nebraska? Are we going to defend them? Pay any judgments against them?

SENATOR DeCAMP: Mr. President, if it would be okay, I would rather we address this portion of the questions you are raising, maybe on the bill itself. All I am doing with this amendment is dealing with that aspect of LB 120 and if we could just get that one over with, then I would go into the other if that is okay.

SENATOR HIGGINS: What aspect are you dealing with then, Senator?

SENATOR DeCAMP: Okay, the aspect here is to LB 120, liability of public officials. We passed it and then some people discovered what we had created apparently, according to the Attorney General, was personal liability so the various entities and individuals involved decided they would use this bill as the horse, so to speak, to carry through or on which to attach this corrective amendment and that is what I am offering now is just that little portion of it and if we could do that one, then I would be happy to get into the other.

SENATOR HIGGINS: Liability for public officials? That means elected officials?

SENATOR DeCAMP: Elected officials...

SENATOR HIGGINS: That includes us then.

SENATOR DeCAMP: That is right.

SENATOR HIGGINS: And LB 120 will provide free liability insurance for all public officials?

SENATOR DeCAMP: No, no, no. LB 120 was a bill we passed already, sent to the Governor. It was signed. After this occurred, after it was signed, put into effect, apparently an Attorney General's opinion came down and said, what you are doing, is you are making the public official personally liable for some, a very broad range of things and something called mandamus actions. And...and...

SENATOR HIGGINS: That was this year.

SENATOR DeCAMP: ...a number of people determined that would be an unworkable system...

SENATOR CLARK: You have one minute left.

SENATOR DeCAMP: ...and so instead we would use this bill to say the court "may" impose those costs and if the court does impose it, it would be up the subdivision to pick up the expenses which is the way they do it in most states that have even addressed this question and so I was just going to use the bill at this point for this particular amendment and then get into the other. That will give me four or five minutes to figure out all the answers to all those questions.

SENATOR HIGGINS: Okay, thank you.

SENATOR CLARK: Senator Koch.

SENATOR KOCH: Mr. Chairman, I rise to support Senator DeCamp. We recall that Senator Lamb attempted to solve the problem in LB 179. We also had two Attorney General's opinions, one by Senator Johnson requested by him and one by myself. Senator DeCamp is merely attempting to take the onus of the burden off of the public official because of error of mission and because of ambiguity of the law that may occur and the court could, not mandatorily, but by for good reason, assess a reasonable attorney's fees against the government where the action might have originated but I think it is only appropriate that the people elected to public office, whoever they might be, be protected against abuses which might occur by plaintiffs that may take you to the highest court in the state and as you know, those fees become many times very high and unreasonable for the public official. Therefore, I ask for the adoption of Senator DeCamp's amendment to LB 273.

SENATOR CLARK: Senator Marsh.

SENATOR MARSH: Mr. Chairman, I think it is very important that each of the persons in the Legislature read the handout

which was sent out by Senator DeCamp from the member of the National League of Cities. It so very clearly says with the adoption of this amendment there would be no personal liability for public officials of the political subdivision or the state itself. It should be emphasized that there are already procedures available to remove any public official who acts in bad faith in fulfilling his or her duties. Elected officials of political subdivisions are subject to recall while appointed officials and employees may be disciplined or dismissed. With those safeguards I want to support the amendment which is offered to us by Senator DeCamp.

SENATOR CLARK: I would like to announce that we have 45 students from Senator Wiitala's district. I don't know who is up there watching the store today, Senator Wiitala, they are all down here. They are from Bennington Public Schools. Mrs. Karle and Mrs. Licht are the teachers. Will you stand up and be recognized, please. Welcome to the Legislature. Senator Cullan is next. The question has been called for. Do I see five hands? I do. All those in favor of ceasing debate vote aye, opposed vote nay. Voting aye.

CLERK: Senator Clark voting aye.

SENATOR CLARK: Record the vote.

CLERK: 27 ayes, 0 nays to cease debate, Mr. President.

SENATOR CLARK: Debate has ceased. Senator DeCamp, do you wish to close?

SENATOR DeCAMP: Mr. President, just to clarify then. We passed LB 120. 120 said in cases of mandamus actions, a mandamus action is essentially when a citizen says, hey, Bernice, or hey, John, you are not enforcing the law. We bring this action to order you to enforce the law or follow the law, whether it is collecting taxes, whether it is a sheriff doing his job or whatever. Under LB 120 we said if a citizen brings that action against a public official saying, you aren't following the law in this or that respect, no matter how trivial it might be, and the public official might have a good reason he wasn't following it. He had a public opinion or he had an Attorney General's opinion or something saying he shouldn't. But in 120 we said, hey, if you are wrong, I mean if you are ordered to follow that law, in other words, if the citizen wins, then the public official has to pay for the costs of the attorneys and so on and so forth. And he has to do it personally. It would not be the public entity paying for it. What I am doing with

May 11, 1981

LB 273

this amendment is tempering, maybe tempering dramatically, that original LB 120. Number one, I am saying first of all, it is simply an optional thing with the court. They would look at all the facts and find out for example if there was willful not following of the law. If there was something grossly wanton, let's say, in the conduct of the public official, before they even decided who paid the damages. Acting in bad faith, let's say, the public official was. Then if they decided that and there were damages awarded and attorneys' fees had to be paid, the payment would be by the public entity, the subdivision of government rather than by the individual himself. So I am, quite frankly, I am changing 120 a tremendous amount and I don't want anybody to be confused on that point. All that is left of the original 120 then would be simply the possibility for a court to award damages or a a payment of attorneys' fees, just a possibility and they may do it and then the subdivision would do it. I urge you to adopt it.

SENATOR CLARK: The question before the House is the return of 273 for a specific amendment as explained by Senator DeCamp. All those in favor vote aye. All those opposed vote nay. Voting aye.

CLERK: Senator Clark voting yes.

SENATOR CLARK: Record the vote.

CLERK: 28 ayes, 0 nays, Mr. President, on the motion to return the bill.

SENATOR CLARK: The bill is returned. Senator DeCamp, on the amendment. Move adoption of the amendment. Is there any discussion?

SENATOR DeCAMP: Yes, move adoption.

SENATOR CLARK: If not, all those in favor vote aye. All those opposed vote nay. Record the vote.

CLERK: 31 ayes, 0 nays on adoption of the DeCamp amendment, Mr. President.

SENATOR CLARK: The amendment is adopted. Senator DeCamp.

SENATOR DeCAMP: Move it be advanced.

SENATOR CLARK: The motion is to readvance 273 to E & R. All those in favor say aye, opposed no. The bill is readvanced. Another motion.

May 11, 1981

LB 273

CLERK: Mr. President, I have a motion from Senator Chambers who is excused this morning until he arrives. I do have...

SENATOR CLARK: We will pass over that one.

CLERK: Mr. President, then Senator DeCamp would move to return the bill for a specific amendment, to add this section, a severability section, Mr. President. (Amendment can be found on page 1920 of the Legislative Journal.)

SENATOR CLARK: Senator DeCamp.

SENATOR DeCAMP: Mr. President, do I have the E clause on this? Already?

SENATOR CLARK: Pardon?

SENATOR DeCAMP: Do I have the E clause on it?

CLERK: Senator, you just put it on with the last amendment.

SENATOR DeCAMP: It was, okay, we put it on with the last one. Sorry I didn't tell you about that. Okay, I move...this is the severability clause and there was some wanted it on because LB 273 is, I guess, one of the Task Force's prime bills. It completely redoes, to answer Marge Higgins' questions, I think I had better address that just a trifle. At the present time, so it is argued, and from the information I get I have to believe it, at the present time the insurance situation of the State of Nebraska can be described as pure chaos. Some things we feel are insured twice. Some things are not insured. One person is going in this direction, another agency is going here. The University may be going another direction. We really don't know where we are. For example, you have got, I hate to even guess how expensive this building is here that we are sitting in, standing in, right in now. Yet we do not know the insurance situation on it at all. What we are doing is literally redoing the world in this state with respect to state handling of insurance. We are creating a centralized system and what is known as a risk manager. That is what insurance companies have. That is how they handle their business, whether it be a Mutual of Omaha or whoever. It is a boss at the top that has strictly got that responsibility to find out what the cheapest way to do things is, where you have insurance, where you don't need insurance, whether you should have a million dollar or two million dollar deductible on this building here, your whole picture. And then you would run it like a business instead of like a comedy which is the way we have been doing it. In the long term we expect it to save millions of dollars in insurance. As I say, right now we quite frankly don't know what is or isn't insured and some

May 11, 1981

LB 273

things may even be insured twice at high amounts. We are redoing the whole system. The reason I want the severability clause then is to make sure that if there is even a slight problem over this amendment we just put on or anything else, that we would have no problems in maintaining the bulk of the bill and holding everything together. So I would urge you to adopt the amendment and do understand that it is a complex thing and I can't exactly explain just how the medical liability would be. The essence of the system is, we are redoing everything.

SENATOR CLARK: Senator Higgins.

SENATOR HIGGINS: Mr. President, Senator John, I don't like to belabor this but I have had experience with a particular county that did exactly what the state is proposing to do and hire an insurance risk manager. I personally sent men and women down to apply for that job who had fifteen and twenty years experience. They ended up hiring a man who had twenty years experience selling nothing but life insurance. He didn't know doodley about liability. He knew nothing about Workmen's Comp. He didn't even know what an endorsement was. Is there anywhere, John, in the bill where they lay out the qualifications for the insurance risk manager? John, Senator DeCamp, do they lay out the requirements, what the man or woman's experience has to be? In other words, we could have a donnybrook here but we can have a risk manager who is nothing but another appointee who hasn't got the expertise to do what the state is proposing to do. Right now your liability insurance is with an insurance carrier. Not everybody knows this but when commercial companies buy insurance the insurance company automatically provides you with free advice, free safety engineers so that on your automobile liability insurance right now the state can get any advice they want from their auto insurance carrier free of charge. I say free of charge because it is built into the premium that you pay. The same with your life and health and accident so it would seem to me the only thing lacking is Workmen's Compensation which the state itself insured on. And I just question, you know, how good this is going to be when you get all through with it plus the fiscal reports on it showing the cost for this particular type of bill and the fact that we are going to.....according to the fiscal report here says we are going to indemnify the University of Nebraska employees. Again, I have to question since we are going to be self-insured on that. Are we going to stick our neck out and be personally responsible for every doctor and every nurse and nurse's aid and LPN that works for the University of Nebraska Hospital? That is really

and truly my concern, that, plus the fact I question what kind of an insurance risk manager we are going to end up with. Is it going to be somebody that puts some money into a campaign fund and has got some experience in some kind of insurance or is it going to be somebody that has really got experience and I am questioning why our own Insurance Department isn't capable of doing this? With all the people they have in the Insurance Department I would think they could break each one of these types of insurance down and put one man or woman in charge of each one, to be the risk manager for liability, for Workmen's Comp, for health and accident and life. We are creating a new bureaucracy, a new program and it is going to be very expensive. I agree, I think it needs to be studied but I think that the Insurance Department should be the ones to handle it and I think they should have people there capable enough of breaking all this down, John. Thank you.

SENATOR CLARK: The question before the House is the return of the bill for the amendment as explained by Senator DeCamp. All those in favor vote aye. All those opposed vote no.

CLERK: Senator Clark voting yes.

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

CLERK: 29 ayes, 0 nays.

SENATOR CLARK: The bill is returned. Senator DeCamp, on the amendment.

SENATOR DeCAMP: Mr. President, Senator Higgins raised a number of questions. I would like to just real quickly try to touch on them. Number one, Section 23 leaves out, it applies to everybody except the Board of Regents or the University of Nebraska so the University of Nebraska questions are answered there. The reason why it is not maintained under the Insurance Department is specifically because you would have a problem and a conflict. Our Insurance Department is set up to regulate, supervise, watch over the multitudes of insurance companies. What we are doing simply, is having somebody separate, watching over the State of Nebraska and our liability and exposure. Now that is not to say we are not going to insure everything ourselves at all. We will still maintain our same insurance but what we are going to do is make sure that we don't have, let's say the Game and Parks go in this direction, somebody else go in another direction, where we can consolidate and have one company bidding on a variety of things, we will do it. In other words, exactly the way you would run a business, we are going to start

doing it for the first time and hopefully we will save money, as I say, and know where we stand for the first time in this insurance question but that doesn't mean we are going to insure everything ourselves as I say. But I think that is most of the questions raised except for one. You asked what are the qualifications for this risk manager. There are none specified in the bill. What is directed is that this board that is created or using existing officials that is created to hire this man, I guess we would hope would sure find somebody qualified and it wouldn't be a political patronage thing or anything like that and I am sure that you, Marge, and I will promise you my close cooperation, we will be watching very closely over who is appointed and make sure that we don't duplicate the situation you described previously.

SENATOR CLARK: The motion is to adopt the severability clause. It is debateable. Senator Higgins.

SENATOR HIGGINS: Senator DeCamp, as I read Section 23, it just says that it does not apply to the Board of Regents of the University of Nebraska. Now, might somebody read this law and say, okay, just those men are excluded, not the doctors, not the people that work for the University?

SENATOR DeCAMP: No. What the situation is, a court decision a couple of years ago said, constitutionally the Board of Regents get to run the University. We had thought for example, I think in the appropriations bill that we could tell them this money goes specifically to this for this.... In other words, we thought we could run the University out of here and there was a conflict over it and it finally went to the Supreme Court and the Supreme Court said, hey, you can give them the money but you can't do just a heck of a lot more than that. They are, by the Constitution, set up to run the University and they get to run it. For that very reason, when we leave the Board of Regents to run it, it is up to them on this too.

SENATOR HIGGINS: So any time you mention Board of Regents in a law, you are including all of the employees of the University?

SENATOR DeCAMP: I couldn't tell about everything else. It would depend on the context and so on and so forth, so don't let me give you the impression that just saying Board of Regents....

SENATOR HIGGINS: Would you agree, John, that if the Insurance Department has to regulate insurance companies they must have some knowledge of insurance?

May 11, 1981

LB 273

SENATOR DeCAMP: Well, not disagreeing at all, no.

SENATOR CLARK: Senator Higgins, we are off the amendment. We are only on one specific amendment.

SENATOR HIGGINS: I understand, Mr. Speaker. I think we are speaking to the bill now, aren't we?

SENATOR CLARK: No, we are on one specific amendment.

SENATOR HIGGINS: I thought we already voted for the severability...

SENATOR CLARK: We cannot debate the bill on Final Reading.

SENATOR HIGGINS: I see. I apologize. I am sorry for bringing the matter up. Thank you, Mr. Speaker.

SENATOR CLARK: Thank you. The question before the House is the severability clause to be added as explained by Senator Decamp. All those in favor vote aye. All those opposed vote nay. Record.

CLERK: 33 ayes, 0 nays on adoption of the DeCamp amendment, Mr. President.

SENATOR CLARK: The motion is adopted. Senator DeCamp, what do you want to do with the bill?

SENATOR DeCAMP: Mr. President, I would move to advance it and I know Senator Higgins may want to discuss it further. I do have a little bit more information. We have a letter, a ruling from the attorneys that says that language in there does exempt the University exactly as I described. Second, it is not so much that we are creating something as we are consolidating. We are taking out of here. We are eliminating a cost and expense. Out of here we are eliminating one. We are going to be eliminating some personnel. We have costs for setting it up over here with one person and we may use somebody from the Insurance Department. That may be where their best pick is because they certainly do have expertise but if they are going to be effective they have to be as a separate overlooker, not part of a regulator of existing insurance companies. So, I would urge you to advance the bill and pass it on Final then when it comes up. It is a major change. It is, long term, I think a major savings and sure like anything, we are going to have to watch to make sure that whoever gets this job is qualified, that we stay on top of it and hopefully we will. And I know with Marge here, certainly that will happen. So as I say, I

May 11, 1981

LB 273, 273A

urge you to advance the bill and whatever.

SENATOR CLARK: The motion is to advance the bill to E & R. All those in favor say aye, opposed. The bill is readvanced. I would like to announce 9 students from Arcadia Public Schools, Senator Wagner's district. The teacher is Jill Lafleur. They are in the North balcony. Would you rise and be recognized, please. Welcome to the Legislature. The Clerk will now read LB 144(E). Oh, 273A. I'm sorry. We've got a motion on that one.

CLERK: Mr. President, Senator Warner would move to return LB 273A to Select File for a specific amendment. (Amendment may be found on pages 1920-1921 of the Legislative Journal.)

SENATOR CLARK: Senator Warner.

SENATOR WARNER: Mr. President, I move the bill be returned for the amendment. Inasmuch as the emergency clause has now been added, the bill would go into effect upon the signature of the Governor and the A bill as written reflected a July... assumed a July 1 implementation time and in order that the position will be funded and operational upon the signature, why the appropriation makes a '80-'81 appropriation as well. It is in the amount of \$5,000 for the salaries and the equipment for the location of the individual in this office. I move the bill be returned.

SENATOR CLARK: The motion is to return the bill to add the emergency clause. Senator DeCamp.

SENATOR DeCAMP: Just to concur with Senator Warner. Since we have added the E clause to the other one we have got to pay some money. To answer another question, now that I got an answer, Senator Higgins, the reason why you can't have it in the Insurance Department if you are going to set up this system is the Insurance Department, as I stated, is the regulator of the insurers. As the risk manager, he is going to have the obligation to try to get the best deal possible for the state. Therefore, he is going to be in a position of just absolute conflict, regulating and putting pressure on one end and saying I want the best deal over here. So that is why we had to separate them out.

SENATOR CLARK: The question is the return of the bill to add the emergency clause. All those in favor vote aye. All those opposed vote nay. Voting aye, Mr. Clerk. Record the vote.

CLERK: 32 ayes, 0 nays, Mr. President, on the motion to return the bill.

LB 118, 129A, 165, 181, 224, 234, 234A,  
273, 273A, 303, 326, 336, 360, 394,  
396, 411, 459A, 485, 551 - 554

May 12, 1981

favor vote aye. All those opposed vote nay.

CLERK: Senator Clark voting aye.

SENATOR CLARK: Have you all voted on the adoption of the committee amendments? Once more, have you all voted on the adoption of the committee amendments. Record the vote.

CLERK: 27 ayes, 4 nays, Mr. President, on adoption of the committee amendments.

SENATOR CLARK: The committee amendments are adopted. Now on the bill itself, Senator Maresh.

SENATOR MARESH: Mr. Chairman, I move that LB 118 be advanced to E & R Initial.

SENATOR CLARK: Is there any discussion on the advancement of the bill? If not, all those in favor vote aye. All those opposed vote nay.

CLERK: Senator Clark voting aye.

SENATOR CLARK: Record the vote.

CLERK: 25 ayes, 1 nay, Mr. President, on advancement of the bill.

SENATOR CLARK: The bill is advanced. The Clerk wants to read some things in.

CLERK: Mr. President, new A bill, 129A offered by Senator Nichol. (Read LB 129A for the first time.)

Mr. President, Miscellaneous Subjects gives notice of hearing for Tuesday, May 19 on LB 551, 552, 553 and 554. And that is signed by Senator Hefner as Chair.

Mr. President, I have a reference report from the Executive Board referring legislative resolutions for interim study. That will be referred to in the Journal. (See pages 1966 through 1973 of the Journal.)

Mr. President, your committee on Enrollment and Review respectfully reports that they have carefully examined and engrossed LB 165 and find the same correctly engrossed; 181, 224, 234, 234A, 273, 273A, 303, 326, 336, 360, 394, 396, 411, 459A, 485, all those reported correctly engrossed, Mr. President. (See pages 1974 through 1977 of the Legislative Journal.)

May 13, 1981

LB 529, 273

the Chair takes pleasure in introducing a guest of Senator Remmers, his pastor, Pastor Everett Brailey from rural Auburn. Will Pastor Brailey and Senator Remmers stand up and be recognized? Welcome, Pastor. We also have here in the North balcony from Senator Warner's District 22 fourth graders from Ceresco, five adults and Deborah Cook, the teacher. They are up here in the balcony. Wave to us up there and show us where you are. Welcome to your Legislature. Would Senator Lowell Johnson, Senator Hefner, Senator Warner, would you all show your presence? Senator Maresh. Senator Schmit. Senator Wesely. Senator Newell. Senator Chambers. Senator Newell, will you register your presence? Senator Wesely, we need Senator Wesely. I think Senator Wesely is the only one who is not here, Senator Chronister. He is on his way. Senator Chronister, do you wish to wait for Senator Wesely to come? He is on his way. He is the only one who isn't here.

SENATOR CHRONISTER: Could we start then and catch him when he arrives?

PRESIDENT: We can wait or we can start now. He is at the end of the alphabet anyway.

SENATOR CHRONISTER: Let's go.

PRESIDENT: So, commence to call the roll and those in favor of returning LB 529.

CLERK: (Roll call vote taken. See page 1986, Legislative Journal.) 22 ayes, 22 nays, Mr. President, on the motion to return the bill.

PRESIDENT: Motion fails. The next motion on agenda item #4 is LB...well, 529A is not part of it any more, so we go then to LB 273, Mr. Clerk.

CLERK: Mr. President, LB 273 has a motion by Senator Chambers to return for a specific amendment. (Read Chambers amendment as found on page 1986, Legislative Journal.)

PRESIDENT: The Chair recognizes Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, this is the form of the amendment that had been discussed on the high-speed chase bill. I had tried to get it amended into LB 76 but was unsuccessful because we had decided that this would be the bill that such a proposition ought to be attached to. So what it would do is deal with the situation where a person not involved in

the chase at all nevertheless is injured or killed or there may be great property damage. Often the person who is being chased has no means by which to respond in damages. In Omaha, there have been numerous cases where people not involved in the chase at all have been injured, killed and their property destroyed. Just the other day it happened not to have involved a third party, the Omaha Police showed that they got the message that the Legislature was sending them. They heard, they said, a guy speed away from a parking lot so they chased him down a busy street. Fortunately it was early in the morning and there was not a lot of traffic on the street at that time so a cruiser cut right in front of him. In trying to avoid the cruiser, he ran into three telephone poles and died. So I guess everybody is happy now because this is what should happen in those instances. I know the Omaha police are delirious with delight because they have shown the Legislature what they think of any proposition that comes through this body designed to bring rationality into the chases. This amendment that I am offering cannot touch that circumstance. It does not deal with the regulation of the chase. It simply deals with a provision of compensation for parties not involved in the chase who are injured, who are killed, or who suffer property damage as a result. There is nothing else that I can think of to say on the amendment so I am asking that you vote in favor or it.

PRESIDENT: The Chair recognizes Senator DeCamp.

SENATOR DeCAMP: Mr. President, I support the amendment, have no objection. I think probably this is the proper place to put the amendment. I guess maybe I think this is already a functional thing probably and this would clarify it and make sure that if an innocent third person is hurt we would have a system to make sure that they could recover damages. I think it is that simple.

PRESIDENT: Any further discussion? Senator Chambers, do you have any close? All right, no close. The question is the motion to return LB 273. Senator Beutler, did you have..your light came on just as I...

SENATOR BEUTLER: Mr. Speaker, just for purposes of clearing the record, I would ask for a ruling from the Chair on the question of germaneness.

PRESIDENT: This is on the risk management bill, right. This is on the bill that deals with setting up our whole risk management system, is that correct? Senator DeCamp,

May 13, 1981

LB 273

is that correct?

SENATOR DeCAMP: It deals with the entire risk management, changing the system, claims, liability of the state, the whole...we are just clarifying that liability exists in this area.

PRESIDENT: Liability of the state, the Claims Committee, the whole thing, yes, the Claims Board, the whole thing.

SENATOR DeCAMP: Yes. You would be more familiar than anybody. I think you are on it.

PRESIDENT: Yes, I think I would hold that it would be germane at this point, Senator, so we will proceed. Senator Chambers, I just ruled that it was germane so we will go ahead with the vote. Do you have anything further then? All right, the question is the motion to return. All those in favor vote aye, opposed nay. Have you all voted? The question is the return of LB 273 for the Chambers specific amendment. I might remind you, I believe the House is still under Call. No one raised the Call so everyone should be at your desks and either voting. Record the vote.

CLERK: 26 ayes, 0 nays on the motion to return the bill, Mr. President.

PRESIDENT: The motion carries. LB 273 is returned. Do you want to move to adopt the amendment, Senator Chambers. Motion to adopt the amendment. Any discussion now? Hearing none, Senator Chambers, I guess that is your opening and your closing. The question is the adoption of the Chambers amendment on LB 273. All those in favor vote aye, opposed nay. Record the vote.

CLERK: 27 ayes, 1 nay, Mr. President, on the adoption of the amendment.

PRESIDENT: Motion carries. The amendment is adopted. Senator Chambers, do you wish to move the bill back to E & R.

SENATOR CHAMBERS: Mr. Chairman, I move that the bill be readvanced to E & R.

PRESIDENT: Motion to readvance LB 273 to E & R for engrossment. Any discussion? All those in favor signify by saying aye, opposed nay. LB 273 is readvanced to E & R for engrossment. I believe that completes agenda item #4. Mr. Clerk, we are ready then for Final Reading. Again, as I say, every-

May 14, 1981

LR 182, 183  
LB 3, 273, 346, 404, 46

Mr. President, Senator Beutler would like to add his name as cointroducer to Request 2392 as an amendment to LB 3.

Mr. President, your committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 273 and find the same correctly engrossed; 346, correctly engrossed; 404, correctly engrossed. And I have an Attorney General's Opinion addressed to Senator Haberman regarding LB 46. (See pages 2030 through 2033 of the Legislative Journal.)

Mr. President, two new resolutions. LR 182 offered by Senator Cope and 46 other members. (Read LR 182 as found on page 2034 of the Legislative Journal.) Mr. President, LB 183 introduced by Senators Higgins, Labedz and the membership. (Read LR 183 as found on page 2034 and 2035 of the Legislative Journal.)

SPEAKER MARVEL: Now is she....will Mrs. DeCamp please come forward so we can wish her the best. There you are.

MRS. DeCAMP: I thank you very much.

SPEAKER MARVEL: Your speeches are a little shorter than your husband's. Senator Haberman, would you like to recess? Yes, he has already recessed....will you tell him to recess us until 1:30.

SENATOR HABERMAN: I move we recess until 1:30, Mr. President.

SPEAKER MARVEL: All those in favor of that motion say aye. Opposed no. The motion is carried. We are recessed until 1:30.

Edited by:

*Marilyn J. Zank*  
Marilyn J. Zank

May 21, 1981

LR 181, 182, 185, 186, 187  
LB 12, 273, 404

SPEAKER MARVEL PRESIDING

REV. MYRON J. PLESKAC: (Prayer offered.)

SENATOR NICHOL PRESIDING

SENATOR NICHOL: Would you record in please so we can get on with the show? Record please.

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

SENATOR NICHOL: Let's go to item #3 please.

CLERK: Mr. President, I have a Rules Committee report offered by Senator Wesely for the Legislature's consideration.

Mr. President, Senator Schmit would like to print amendments to LB 404.

Mr. President, I have a message from the Governor. (Read. See pages 2166 and 2167, Legislative Journal. Re: LB 12.)

SENATOR NICHOL: We are ready for #4 and we will go into Final Reading, LB 273 with the emergency clause.

CLERK: Mr. President, Legislative Resolutions 181, 182, 185, 186 and 187 are ready for your signature.

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: While the Legislature is in session and capable of transacting business, I am about to sign and do sign LR 181, LR 182, LR 185, LR 187. Okay we are ready for item #4, Final Reading. The Clerk will read LB 273 with the emergency clause attached.

CLERK: Mr. President, I have a motion on the desk. Mr. President, Senator Vickers moves to return LB 273 to Select File for specific amendment. The amendment reads as follows: (Read Vickers amendment found on page 2167, Legislative Journal.)

SPEAKER MARVEL: Senator Vickers.

SENATOR VICKERS: Yes, would you read that again, Pat. I want to make sure I have got the right lines here.

CLERK: (Reread amendment.)

May 21, 1981

LB 273

SENATOR VICKERS: Yes, thank you, Pat. Mr. President and members, I apologize for taking up the time to return this bill from Final Reading but I think there is a policy decision that we are making here this morning that we should be aware of and that policy decision is simply this. The State Claims Board of the State of Nebraska at the present time is made up of three elected officials, the Lieutenant Governor, the State Treasurer and the Auditor of Public Accounts. Now those are elected by the public and they serve on the State Claims Board that where members of the public can come in and ask for reimbursement if they feel they have a legitimate case against the state. Now we are changing that in LB 273 in Section 18, page 14, so that the State Claims Board will be made up of the Director of Insurance, the Commissioner of Labor and the Director of Administrative Services. Now I have got no argument with LB 273. I have got no argument with the idea that we are going to set up a risk management program and the State Claims Board can hire a risk manager. The rest of the bill is all right but I do have a problem with the fact that the State Claims Board will no longer be directly responsible to the public inasmuch as they will not be elected officials but instead be appointed officials and I think that is a bad policy decision that we are making and I urge the body's adoption of this amendment to go back to the present policy that we have where the State Claims Board is made up of those officials that have to face the electorate as they are right now. Now I think this is an important decision to be made and I would hope that the body would adopt this amendment, to pull 273 back for this specific amendment. Thank you, Mr. President.

SPEAKER MARVEL: Senator Rumery, do you wish to speak to the motion?

SENATOR RUMERY: Mr. President, members of the Legislature, I would like to see us support Senator Vickers on this motion. I think if we have any one fault in state government in Nebraska is that we have drifted away from giving responsibility to elected officials. I hope we can bring this back and make this correction.

SPEAKER MARVEL: Senator Maresh.

SENATOR MARESH: Mr. Speaker and members, I, too, support the Vickers amendment...I mean the motion to bring this back. We work with the Claims Board and we find them responsible people, elected officials, and I would hate to see going to appointed officials so I will support the Vickers motion.

SPEAKER MARVEL: Senator DeCamp.

SENATOR DeCAMP: Mr. President, I would respectfully oppose the motion. It is kind of interesting, this bill has been up here on Final Reading, and at various stages, and had a multitude of amendments, from almost the second week of the session. And you know it was one of the three or four top task force bills. It creates the whole risk manager system. I can give you the reasons why they want to do this way, to have an appointed board of, supposedly, experts in the area of claims, because when you are adjudicating or deciding millions of dollars of claims against the state, they believe you should have some experts in the field of maybe tort liability, whatever the various things are that the people would be claiming against, rather than simply a Lieutenant Governor, who may or may not be an expert, who may have delegated that responsibility to somebody else, so on and so forth. I support it will work either way, quite frankly. I am not going to say it won't. All I can say is the people that worked on the bill from the Insurance Department to the task force officials to representatives of the Governor's Office, so on and so forth, concluded that a better system would be to have supposedly experts in the field of claims appointed rather than just have people on that board merely as a result of their having been elected to a certain office. As I say, do what you want. I give you very simply the reasons why the bill is in the form it is and why it is not just elected officials. There were some people on the Claims Board currently, as I understand it, that were disgruntled about this one particular part of the bill and it is kind of obvious that they raised it at the last minute. I think they could have done it earlier. We discussed it with them. I think it would be wiser to go ahead and pass the bill as it is now.

SPEAKER MARVEL: The motion before the House is the return for specific amendment of Senator Vickers motion. Senator Vickers, do you want to close on your motion?

SENATOR VICKERS: Very briefly, Mr. President. Mr. President, members, in response to Senator DeCamp's comments, let me again apologize for just now catching that section in this bill. As Senator DeCamp says, I know it has been here before. All of the bills that get over to Final Reading have obviously been here before. Now maybe I am just not as quick a reader as some people are, maybe I just don't study them as much as some people do, but I just now caught it and I apologize for that but it does seem to me that it is a significant policy decision that we are making. I think we should all be aware of it. Senator DeCamp indicates that

they could be experts in the field. Well, I will suggest to you that perhaps the Director of Insurance, the Commissioner of Labor and the Director of Administrative Services might not necessarily be experts in the field of all these various claims that come before the state but I do think that the procedures set down in LB 273 where the board is authorized to hire a risk manager and the risk manager then runs the risk management system, there is where the expert is. I am not changing that. That is still there. But the policy decisionmakers in the end under the type of government that we have in the United States of America and the State of Nebraska should be the people that are in positions of responsibility should also be responsive to the voters. That is what I want to see happen. That is what I want to see left in there so I urge this body to continue down the same path that has kept this country great for over two hundred years, not turn any more decisions over to appointed officials. Keep them in the hands of those elected officials responsive to the public. So I urge the body's adoption of this motion to bring this bill back for this specific amendment.

SPEAKER MARVEL: All in favor of bringing the bill back vote aye, opposed vote no. Have you all voted? Have you all voted? Does anybody else want to vote? Senator Vickers.

SENATOR VICKERS: Mr. President, I realize we are supposed to be on Final Reading, and I hate to take up the time but I guess I would like everybody to check in and then have a roll call vote on this issue.

SPEAKER MARVEL: We are on Final Reading. All legislators, you need to check in, first of all. You should be where you can check in conveniently. Senator Nichol, will you record your presence? Senator Labedz, will you record your presence? Senator Warner, would you record your presence? Senator Kilgarin...Senator Kremer, Senator Lamb, Senator Goodrich. Senator Lamb and Senator Goodrich, Mr. Sergeant at Arms. We would appreciate it if you would accelerate things a little more rapidly so we can get some items out of the way. We spent twelve hours in here yesterday and we are going to start eating that up very rapidly. All legislators are to be in their seats. Senator Hoagland, will you please record your presence? Anybody else who has not recorded their presence. Okay, Senator Vickers, unless you object the Clerk is authorized to take call in votes. The only one absent and unaccounted for now is Senator Lamb. Do you want to proceed? You have five who are excused and one who is...Okay, call the roll. Senator Vickers.

May 21, 1981

LB 273

SENATOR VICKERS: Yes, would you have the Clerk read the amendment one more time please since many of these people were not here before you call the roll?

SPEAKER MARVEL: Yes, go ahead, read.

CLERK: (Reread Vickers motion and amendment.) (Roll call vote taken. See pages 2167 and 2168, Legislative Journal.)

SPEAKER MARVEL: All legislators are to be in their seats during Final Reading. It hasn't changed any.

CLERK: 26 ayes, 19 nays on the motion to return the bill, Mr. President.

SPEAKER MARVEL: The motion carried. The bill is returned. The motion is the adoption of the Vickers amendment. Senator DeCamp.

SENATOR DeCAMP: Mr. President, it would appear the Legislature, for whatever reasons, maybe without a complete understanding but for their own reasons has chosen to return this bill and apparently make this major change. I did not think there was any problem with the bill passage. I had agreed to carry it for the or the Banking Committee did for the task force of the Governor. I would submit to you that this wipes out one major portion of the bill. Walt Weaver is in the back having convulsions and a heart attack now because he can't believe you are really doing it and I have assured him those are real live votes up on the board that have now returned the bill. He managed to recover long enough, he may be dead by now, long enough to hand me this paper trying to briefly explain to you why they have this system. I tried to tell you originally you are creating a whole new insurance system. For the first time the state is going to treat their liability and exposure like insurance companies do, risk manager system, finding out which claims are supposedly valid and not valid and on and on. Anyway, it says, "Changes Made. Continuity with the risk manager system and the Attorney General. You use experts to obtain coverage for area where the claim occurs." Workmen's comp, you have an expert there, so on and so forth. "Three, coordination with Department of Labor Safety Program", which I think your committee has worked heavily on, "to", I wish people would write so I can read, "to 'something' workmen's compensation payments. All members of new Claims Board under the Governor's control with access to the Legislature..." Mr. President, for some reason or other they think it is very important that this doesn't go on.

May 21, 1981

LB 273

SPEAKER MARVEL: The motion is the adoption of the Vickers amendment. All those in favor of that motion...Senator Vickers.

SENATOR VICKERS: Mr. President, members, I just want to point out one more time that I am not changing the concept of the risk management program in the bill whatsoever. There is nothing to prevent the risk manager from being an expert in his field or hiring all the experts that he desires in these fields. As Senator DeCamp pointed out, it is necessary I suppose to have experts in various fields when you are dealing with these claims against the state but the bottom line is still this, the individuals that make the final determination based on the information given to them by those experts, who do we want them to be? Who do we, the representatives of the public, want making that final determination? Somebody that has been appointed or somebody that has been elected? It is that simple. That is the difference. Senator DeCamp says this is a major change. I submit to you the major change is in the bill. I am trying to leave the decision, the final decision, in the hands of elected officials just like it is right now and which I think the public wants. The public does not...I don't hear any hue and cry from the public telling us to turn the functions of government over to people that are appointed. I think the hue and cry from the public, and I don't care whether this came from the task force or out of somebody's fertile little mind, it makes no difference to me, I think the hue and cry from the public is to leave the hands of decisions in government in the hands of elected officials, people that are responsive to the electorate and I will not back down from that position. So I urge this body's adoption of this amendment.

SPEAKER MARVEL: Motion is the adoption of the Vickers amendment as explained. All those in favor vote aye, opposed vote no. Have you all voted? Senator Vickers.

SENATOR VICKERS: How many are absent?

SPEAKER MARVEL: Two excused.

SENATOR VICKERS: Well, let's have a record vote. I think it should be in the record at least.

SPEAKER MARVEL: Record. A record vote has been requested.

CLERK: (Record vote read. See page 2168, Legislative Journal.) 25 ayes, 22 nays, Mr. President, 2 excused and not voting on the adoption of the amendment.

May 21, 1981

LB 273

SPEAKER MARVEL: Motion carried. The motion is to readvance the bill. All those in favor say aye, opposed no. Motion is carried. The bill is readvanced.

CLERK: Mr. President, Senator Higgins now moves to return LB 273 to Select File for specific amendment. The amendment would read as follows: (Read Higgins amendment on page 2169, Legislative Journal.)

SPEAKER MARVEL: Senator Higgins.

SENATOR HIGGINS: Mr. President, Senators, the reason I have introduced this amendment is based upon experience within my own county. Now if we are going to have an insurance risk manager, we certainly don't want somebody who is going to be looking over all of the buildings that the state owns, all our workmen's compensation claims and all of our liability claims who has got thirty years experience selling life insurance, and this is exactly what has happened in one county in this state. They hired an insurance risk manager and I sat in a county board meeting when someone wanted to borrow the county's trucks, the board said, "Sure, they are insured. So he can go ahead and borrow it." But this man knew so little about insurance, he forgot to tell the county board that those trucks didn't carry any collision insurance, and when one rolled over, it was totally destroyed, the county was out \$15,000, because a life insurance salesman doesn't know a doodley darn about general liability. The same is true when you are going to insure a building. There is a lot of different forms you can put on a building when you insure it, and workmen's compensation can become an extremely complicated matter when it comes to handling claims. So for this reason I offer the amendment to guarantee the taxpayers that whomever they appoint as a director is going to be qualified to do the job. That is all. I am not saying anything about salary or anything. The Governor can pay him as much as he wants. I just want to be sure that the people are going to get what they are paying for and that we, the taxpayers, don't find out one day that where we thought we were self-insured or had purchased insurance for a certain type claim we don't have it because the individual hired to overlook our insurance didn't understand it. And the only reason this happened in the county I am speaking of is it was a political payoff. The man was appointed because he needed a job and his experience was nowhere near what it should have been for the job he had ahead of him. So this is strictly for the taxpayers. It isn't going to cost the state a penny more. There isn't going to be any fiscal impact on it. It is just a matter of whether or not you want to vote that the individual we hire

May 21, 1981

LB 273

as an insurance risk manager is qualified and I urge you to adopt this amendment. Thank you.

SPEAKER MARVEL: Senator DeCamp.

SENATOR DeCAMP: Well, Mr. President, I found out what I was supposed to say last time at least, if that helps now. Those elected officials that Senator Vickers was so concerned about that are making the final decision, guess who they are? They are us. All claims have to be approved by Senator Maresh, who just voted to give that authority away, so on and so forth. They have to be made by us. That is in the bill. We are the collected officials but I guess you don't figure we are smart enough so anyway we did that part. On this part I guess you are saying you don't trust the Governor, the personnel board, so on and so forth, to make decision as to who is qualified or not. Just use your own judgment but the bill leaves it up to the existing system, and if you believe the Governor who was elected by the people and the whole personnel board system is qualified to make and pick somebody, fine. If you believe that you need to write specifications into the statute, then you should vote for the amendment. They left the specifications out specifically to have some flexibility. I guess I can't say much more than that.

SPEAKER MARVEL: I would alert you to the fact that the agenda says Final Reading. If we continue along these lines, whatever we did yesterday is down the drain and we are talking about five days. I wish I knew how to impress that upon you but it doesn't seem to soak in somehow. This is not supposed to be set up for the purpose of simply expressing yourself. There is a time and a place for Final Reading and there is a time and a place for what you have taken up about forty-five minutes. Senator Nichol.

SENATOR NICHOL: Senator DeCamp, I voted with you a minute ago and I think I did wrong and the reason is the decision we made the other day, I voted one way and we decided the other way, and so maybe it would be a good thing to give our right away from this Legislature on the claims. I am only jesting.

SPEAKER MARVEL: Senator Vickers.

SENATOR VICKERS: Mr. President and members, I just rise to correct what I consider a misstatement made a little bit ago by Senator DeCamp. I don't think Senator Maresh gave our right away by voting for my amendment at all. Simply because the Claims Board stays the same does not mean that

May 21, 1981

LB 273

we are still not going to be able to approve or disapprove those claims. So I think that needs to be stated for the record that I didn't change that in any way, shape or form.

SPEAKER MARVEL: The motion is in regard to the Higgins amendment to the bill. Senator Maresh.

SENATOR MARESH: I guess I would just second what Senator Vickers just said. It is still the Legislature's prerogative to make the final determination, just as it is now, and I can't see any change in the Vickers amendment to do this. So I think Senator DeCamp didn't tell us the whole story here.

SPEAKER MARVEL: Senator Koch.

SENATOR KOCH: Mr. Speaker, I move the previous question.

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

CLERK: 36 ayes, 0 nays to cease debate, Mr. President.

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

SENATOR HIGGINS: Yes, and I will be brief. I just want to point out that this amendment that I just drew up this morning was because I thought it was going to be in the bill, the qualifications for the insurance director, and let me explain, I am not talking about somebody having thirty years experience in insurance. I am talking about an individual who has just ten years experience, at least, in all three of those fields, liability, fire and workmen's comp. If you want, you could include health and accident and life, since we purchase that, and I think that is only fair that we are assured we will get a qualified individual. It is that simple and it is not costing a dime. It is not changing the bill in any way, and as far as trusting the Governor and the Personnel Department, I trust them but we have qualifications for other jobs and I just want to make sure that the qualifications for this job say that the individual is qualified to handle multimillion dollars worth of insurance. Thank you, Mr. President.

SPEAKER MARVEL: The motion is to return the bill as proposed by Senator Higgins. Senator Higgins, have you closed? Okay, all those in favor of the Higgins motion vote aye, opposed vote no. Have you all voted? Senator Higgins.

May 21, 1981

LB 273

SENATOR HIGGINS: How many are excused today?

SPEAKER MARVEL: One.

SENATOR HIGGINS: I don't like to ask for a Call of the House. Is the House under Call right now, Mr. Speaker?

SPEAKER MARVEL: Yes, ma'am. It doesn't appear so but we technically are.

SENATOR HIGGINS: In that case, I will just ask for a check in and a roll call vote.

SPEAKER MARVEL: Okay, record your presence please. Senator Cullan, will you please record your presence? Senator Burrows, will you record your presence? Senator Koch, will you record your presence? Senator Wesely. Senator Wesely, record your presence. The House is under Call. Senator Vickers, the House is under Call. Everybody is accounted for except Senator Koch and he is in the back of the room. Are you ready to call the roll? Okay, call the roll.

CLERK: (Roll call vote taken. See page 2169, Legislative Journal.) 18 ayes, 28 nays, Mr. President, on the motion to return the bill.

SPEAKER MARVEL: Motion lost. While we are waiting for the next item, from Senator Dworak's District we welcome 31 sixth grade students and three adults, St. Isidore, Columbus, Nebraska, teachers, Sister Rosann, Mrs. Mary Lou Green, in the North balcony. Hold up your hands, will you, so we can....

CLERK: Mr. President, Senator Wesely would move to reconsider the Vickers amendment.

SPEAKER MARVEL: Okay, the first motion before the House is to reconsider our action on adopting the Vickers amendment and it is Senator Wesely's motion. Do you want to speak to that motion? Senator Wesely. Go ahead, Senator Wesely.

SENATOR WESELY: Yes, just very briefly, I think that I did vote for the amendment and I think on reflection that it has become clear that perhaps the arguments on behalf of Senator Vickers are probably not...weren't completely understood by everybody. What we were talking about is allowing the elected officials a say in the claims process, and as Senator DeCamp pointed out, the Legislature would be the court of last resort and we will be the elected officials which will determine whether or not claims are finally approved or disapproved, and so quite possibly there really isn't a point in which to

have these elected officials on the Claims Board any further and the move that is included in LB 273 to have the elected people that are listed there is probably a wiser step to take and, evidently, there are all kinds of problems if we do adopt and keep the Vickers amendment, so I move to reconsider that and just go with the bill. You realize, of course, this has been through three different versions on Final Reading so this would make the fourth version of this bill and it seems to me that it is probably time to go ahead and pass it and it is in pretty good form as it is. So I do move to reconsider the Vickers amendment.

SPEAKER MARVEL: Senator DeCamp and then Senator Vickers.

SENATOR DeCAMP: Just very briefly, Mr. President, I never claimed to understand the whole process that well. It has been explained to me once again here recently, the idea of the new system is you have a risk manager, just like insurance companies. He tries to assess using his experts where the state is exposed, so on and so forth. People would present claims to this group of people, experts in workmen's comp, experts in this and so on and so forth, whether it is three or four or whatever. They then present their findings and recommendations and suggestions to the Claims Committee which is the Labor Committee. In other words, the Labor Committee of the Legislature would be much more directly involved now under this system in making that final adjudication, elected officials right here, and if somebody disagrees, they could present it to the Labor Committee, but at that previous stage, you would have people that were experts in the field. I would think the Legislature would, quite frankly, want that. The way the system works now, it has no risk manager or anything else and you just have a Claims Board consisting of whoever happens to be the State Treasurer, I think it is, whoever happens to be the Lieutenant Governor, and whoever happens to be Auditor of Public Accounts. It makes more sense, if you are going to have this insurance system, so they argue, to have your experts, your people knowledgeable in the field, get the information and present that to the Legislature. So do whatever you want. No big shake with me.

SPEAKER MARVEL: Senator Vickers.

SENATOR VICKERS: Mr. President and members, I don't know how many times this morning I have to make the same argument but let me point out one thing to you. Senator DeCamp just got through talking about how all these great experts are going to be able to handle this. Read the bill. The bill says the Director of Insurance, the Commissioner of Labor, and

the Director of Administrative Services. I happen to serve on the Business and Labor Committee and I have got nothing against John Hanlon. I think he is a fine gentleman but John Hanlon, in my estimation at least, is not an expert in that field. He in turn hires experts. He is an appointed official by the Governor. If you want to use that analogy, then if everyone of our directors are experts in their fields, and I think that is a bunch of baloney, now I have got nothing against Mickey Stewart, the ex-Director of the Department of Agriculture, but Mickey Stewart was not an expert in the field of agriculture. He was an expert in handling people. He was an expert and he understood agriculture somewhat but that does not necessarily mean he was an expert in that field. He in turn got experts to work for him. The question is still fundamentally the same. Do you want the State Claims Board to be made up of appointed officials who, as I just go through telling you, are not necessarily experts. I do not think that every member of...a director of all of our administrative code agencies that the Governor appoints are all "experts". I think they are good old political cronies, that is normally what happens, that are able to in turn hire people to be experts. And I think the argument is still fundamentally sound and I urge this body's rejection of the Wesely amendment. We just got through adopting a policy course that says we are going to stay responsible through the electors' box to the people, and to revert from that course is just as wrong now as it was thirty minutes ago. Senator Marvel continues to tell us how we waste time and spin our wheels and I am just as guilty as anybody attempting to amend a bill on Final Reading, but as I pointed out to you originally, I did not catch it before. Many people seem to think, and I have heard the comment that certain individuals have gotten to me. That is not true. I read this this morning. I called my aide. He came up here and quickly scribbled the amendment out over here under the balcony. Nobody had talked to me about this issue. I think anybody that knows me well enough they should know that I do not operate that way anyhow. But I do think that this is a policy decision that we as representatives of the public should be very careful about. So I urge the body's rejection of the Wesely amendment.

SPEAKER MARVEL: Senator Higgins.

SENATOR HIGGINS: Would Senator Vickers yield to a question?

SENATOR VICKERS: Yes, ma'am.

SENATOR HIGGINS: Senator Vickers, after your speech, why

didn't you vote for my bill or my amendment now that required an expert?

SENATOR VICKERS: Because I still think that the people that are appointed by those individuals by the Governor, the Governor should be able to appoint people that in turn hire experts. I do not think the directors of the various agencies themselves have to be an expert. I think they have the ability to hire people that are experts. That is the way all the administrative agencies work at the present time.

SENATOR HIGGINS: It sounds contradictory. First you are talking about political cronyism and you are saying now it is all right then to hire a political crony, to use your words, to be the one then to determine who are the experts.

SPEAKER MARVEL: Do you have a question to pose?

SENATOR HIGGINS: That is my question. Are you agreeing with me or disagreeing.

SPEAKER MARVEL: Will you answer the question, Senator Vickers.

SENATOR VICKERS: The difference, however, seems to be to me that the individuals that are making the final determination should be elected officials, not necessarily the experts. Whether they are appointed or where they come from, I think they should be elected first of all.

SENATOR HIGGINS: Thank you. You have answered my question.

SPEAKER MARVEL: Senator Wesely, do you wish to close?

SENATOR WESELY: Yes, very briefly, Mr. Speaker. This is a motion to reconsider the Vickers amendment. Senator Vickers just said he wants elected officials to be the ones to make the decision. In fact through the claims process we have, the risk management process we would set up by this bill, the elected officials will make that last decision and that will be this body, the Legislature. We are hiring the risk manager through those administrators that we are going to put on this Claims Board. They will have the experts working for them and report to the Legislature and we, as elected representatives of the State of Nebraska, will make those claims decisions. So in effect, this process is already there with the bill and that we don't need the additional intrusion of the State Treasurer, State Auditor or the Lieutenant Governor and we can go to a process that the bill has in this form, third reading. We have had

May 21, 1981

LB 273

three different versions of the bill. We don't need to spend more time on it. It is ready to go. It is ready to be passed so I think we ought to take it back and get the Vickers amendment off.

SPEAKER MARVEL: Okay, will you read the motion, Mr. Clerk?

CLERK: Mr. President, the first motion would be to reconsider the adoption of the Vickers amendment to LB 273.

SPEAKER MARVEL: You have heard the motion. All those in... (Gavel) We are under Call which means that we are in our seats and the motion at the moment is the motion that the Clerk read. All those in favor of that motion vote aye, opposed vote no. It is a reconsideration of the original adopting of the Vickers amendment. Have you all voted? Record the vote.

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

SPEAKER MARVEL: Okay.

CLERK: Mr. President, Senator Wesely would now move to return LB 273 to Select File for specific amendment. The amendment being to strike the Vickers amendment.

SPEAKER MARVEL: Senator Wesely.

SENATOR WESELY: I so move.

SPEAKER MARVEL: All those in favor of this second motion...Senator Vickers.

SENATOR VICKERS: Mr. President and members, for those of you that maybe have not served on the Business and Labor Committee, let me assure you that if we have to be the State Claims Board and serve as the State Claims Board and have everybody that even thinks they have a claim against the state come before us in order to be able to come before an elected official, then I would suggest that we should be seriously considering changing the Business and Labor Committee to a committee that meets more than one day a week, because I can assure you that we are going to have to spend more time than what one day a week will allow us to do. Because as I think every member of the public that thinks they have a claim against the state is going to believe, and I think rightly so, that they have a right, whether rejected by the so-called State Claims Board or not, if it is not elected officials, to come before us on the Business Committee in order to have their day in court before an elected officials,

May 21, 1981

LB 273

I still think this is a bad policy decision but, undoubtedly I can also say I didn't used to believe in reincarnation until I came down in this body but this body is so wishy-washy we can make a decision one minute, five minutes later turn around and ten or fifteen people can change their minds and make another decision. I wished that this body would get on one side of the fence or the other and stay there and I think the public does too.

SPEAKER MARVEL: Would you read the second amendment?

CLERK: Mr. President, the motion is to return LB 273 to Select File for specific amendment, the amendment being to strike the Vickers amendment.

SPEAKER MARVEL: All in favor of that motion vote aye, opposed vote no. Have you all voted? Okay, record the vote.

CLERK: 26 ayes, 15 nays, Mr. President, on the motion to return the bill.

SPEAKER MARVEL: The motion is carried.

CLERK: Mr. President, Senator Wesely's amendment is to strike the Vickers amendment previously adopted.

SPEAKER MARVEL: You have heard the motion. All those in favor of this third motion vote aye, opposed vote no. Record the vote. Senator Vickers.

SENATOR VICKERS: I would ask for a record vote, please.

CLERK: (Record vote read. See page 2170, Legislative Journal.) 25 ayes, 17 nays, Mr. President.

SPEAKER MARVEL: The motion now is to readvance the bill. All those...excuse me. A machine vote has been requested. All those in favor of the motion vote aye, opposed vote no. Have you all voted? Record the vote.

CLERK: 32 (sic) aye, 9 nays, Mr. President,...33 ayes, 9 nays on the motion to readvance the bill to Final Reading.

SPEAKER MARVEL: Motion is carried. Okay, all legislators please return to your seats. We are ready to start Final Reading. The Clerk will read (Gavel). The rules state that on Final Reading all legislators are in their seats. Okay, Mr. Clerk.

ASSISTANT CLERK: (Read LB 273 on Final Reading.)

May 21, 1981

LB 273, 273A, 346

SPEAKER MARVEL: All provisions of law having been complied with, the question is, shall the bill pass with the emergency clause attached? Those in favor vote aye, opposed vote no. Have you all voted? Clerk will record the vote.

ASSISTANT CLERK: (Record vote read. See pages 2171 and 2172, Legislative Journal.) The vote is 42 ayes, 7 nays, 0 not voting.

SPEAKER MARVEL: The bill is declared passed on Final Reading. Before we continue, it is my privilege to introduce to you underneath the North balcony the Dean of the Iowa Legislature, Joseph Coleman representing Clare County, Iowa and he has been in the Legislature according to this information for 25 years. Let's give him a hand. We are now ready on Final Reading for the Clerk to read LB 273A with the emergency clause attached.

ASSISTANT CLERK: (Read LB 273A on Final Reading.)

SPEAKER MARVEL: All provisions of law having been complied with, the question is, shall the bill pass with the emergency clause attached? All those in favor vote aye, opposed vote no. LB 273A. Have you all voted? Clerk, record the vote.

ASSISTANT CLERK: (Record vote read. See pages 2172 and 2173, Legislative Journal.) The vote is 39 ayes. 9 nays, 1 present and not voting.

SPEAKER MARVEL: The bill is declared passed with the emergency clause attached. The Clerk will now read on Final Reading LB 346.

ASSISTANT CLERK: (Read LB 346 on Final Reading.)

SENATOR KOCH: There is considerable confusion over the popcorn stand and I can't hear the Clerk read and it is an important piece of legislation and I want to make sure I vote correctly.

SENATOR NICHOL PRESIDING

SENATOR NICHOL: Thank you, Senator Koch, we are just about through with the bill so if you will take your seats please. We are very close.

CLERK: (Final Reading of LB 346 continued.)

SPEAKER MARVEL PRESIDING

May 21, 1981

LB 389, 396A, 548, 556A,  
257, 257A, 273, 273A,  
346, 477, 477A, 497,  
529, 529A, 541, 541A, 561

389 and find the same correctly engrossed, 396A correctly engrossed, 548A correctly engrossed, 556A correctly engrossed. All signed by Senator Kilgarin.

Mr. President, your legislative bills 273, 273A, 346, 257, 477, 541, 541A, 497 are ready for your signature.

SPEAKER MARVEL: While the Legislature is in session and capable of transacting business I'm about to sign, and do sign, LB 273, re-engrossed LB 273A, re-engrossed LB 346, re-engrossed bill 257, engrossed LB 257A, engrossed bill 477, engrossed LB 477A, engrossed LB 541, engrossed LB 541A, engrossed LB 497, engrossed LB 529, engrossed 529A.

We are still under item number five, motions, and the Clerk will read the next motion.

CLERK: Mr. President, Senator Newell has the next motion, but he has not yet arrived.

Mr. President, Senator Fowler and Vard Johnson have a motion I understand they want to withdraw.

SPEAKER MARVEL: Senator Fowler.

SENATOR FOWLER: There will be an effort to return the claims bill so I think we will try that avenue again. So, I'll ask unanimous consent to withdraw this motion to override the veto on public transit.

SPEAKER MARVEL: Hearing no objections so ordered.

CLERK: Mr. President, the next one I have then is from Senator Chambers. Senator Chambers would move to override the Governor's line item veto of the ADC appropriation contained in LB 561.

SPEAKER MARVEL: Chair recognizes Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature this is an issue which we have discussed from time to time this session. It is one of those highly emotional matters and it is difficult to handle an emotional manner in an unemotional fashion. But on the chance that I may get carried away in trying to maintain my cool, I'm having sent around to you a one sheet statement of what it is that I am attempting to do. The amount of money which is involved and the

May 22, 1981

LR 188  
LB 179, 181, 252, 273, 273A, 303, 322,  
346, 376, 381, 384, 389, 441, 451, 470, 472A  
485, 497, 501, 543, 512, 552, 545, 553, 554.

Senator DeCamp. All those in favor vote aye. All those opposed vote nay. It takes 30 votes.

CLERK: Senator Clark voting no.

SENATOR CLARK: Have you all voted? Once more, have you all voted? Senator DeCamp.

SENATOR DeCAMP: How many are excused? Eleven?

SENATOR CLARK: Two.

SENATOR DeCAMP: Two? Okay, we still stand a shot, so I would ask for a Call of the House and take call in votes if that would be okay. But I would ask for a Call of the House first.

SENATOR CLARK: Call of the House has been requested. All those in favor of a Call of the House vote aye, opposed vote nay. Record the vote.

CLERK: 19 ayes, 3 nays to go under Call, Mr. President.

SENATOR CLARK: The House is under Call. All Senators will return to their seats, and if all Senators will check in, please. The Clerk would like to read some things while we are trying to get everyone registered in here.

CLERK: Mr. President, while we are recording our presence, I have a communique from the Governor addressed to the Clerk. Engrossed LBs 181, 252, 303, 381, 441, 451, 470, 485, 497, 543, 179, 346 and 384, 273, 273A, 501 and 545 were signed by me May 22 and delivered to the Secretary of State. Sincerely, Charles Thone, Governor.

Mr. President, I have an Attorney General's Opinion addressed to Senator Barrett on 376; one to Senator Hefner on 552. (See pages 2228 through 2233 of the Journal.)

Your Committee on Enrollment and Review respectfully reports they have carefully examined 406 and recommend that the same be placed on Select File with amendments; 551 Select File; 552, 553, 554 all on Select File with amendments. (See pages 2233 through 2234 of the Journal.)

Your Committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 322 and find the same correctly engrossed; 376, 389 and 512 all correctly engrossed.

Mr. President, new resolution, LR 188 by Senator Wagner.